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**Racism, racial discrimination, xenophobia and related
forms of intolerance, follow-up and implementation
of the Durban Declaration and Programme of Action**

Written statement* submitted by European Centre for Law and Justice, The / Centre Européen pour le droit, les Justice et les droits de l'homme, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.

REQUESTING THAT THE U.N. PROTECT CHRISTIANS AND OTHER MINORITIES IN PAKISTAN FROM VIOLENCE AND BLASPHEMY LAWS

1. INTRODUCTION

In its previous report to this Council, the ECLJ highlighted three cases of major concern that involved serious human rights violations under Pakistan's blasphemy laws, abuse of young Christian and Hindu girls at the hands of the Muslim majority, and exploitation due to the continued practice of bonded labour. We bring two of those cases again to this Council's attention with one new case. All three of these cases require immediate intervention as Pakistani authorities have utterly failed to provide justice.

2. BACKGROUND

Pakistan has continuously violated human rights by failing to protect Christians who are targeted for abuse and inadequately responding to crimes against Christians. The cases of which the ECLJ has direct knowledge, because of its affiliate in Pakistan, are just a sample of the persecution faced by Christians in Pakistan. The facts of the above mentioned cases are included to refresh this Council's recollection.

3. VIOLATIONS

An important case that we highlighted in our August 2021 report was of M.J., a missing Christian child. In this case, our affiliate is representing a Christian couple, James Masih and his wife, whose fourteen-year-old daughter, M.J., disappeared from her home in September 2020. To date, M.J. is still missing, the prime suspect is still loose, the police are doing nothing to find M.J., and the Supreme Court of Pakistan has recently denied James' appeal in which he requested the Court to order the police to find his daughter. As discussed below, the Court's decision is in clear violation of the statutory law and Court's own precedents.

As we mentioned in our previous report, M.J.'s cell phone record showed that the family's forty-five-year-old Muslim neighbour, Muhammad Adnan, had been in contact with M.J. two days prior to her disappearance. There were about forty-two calls and several SMS messages on M.J.'s phone from Adnan, mostly on the day she disappeared. Yet, even after initially arresting Adnan, the police forced M.J.'s father to sign an affidavit exonerating Adnan. The police also promised that if James signed the affidavit, they would find M.J. Based on the affidavit, Adnan was granted bail, but the police then refused to do any further investigation to find M.J.

A petition was filed in the Lahore High Court under the Constitution of Pakistan. Instead of ordering the police to find M.J., the High Court dismissed the petition because James had given an affidavit in favour of the suspect.

When our affiliate became involved, we discovered that kidnapping offenses are non-compoundable, which means that any affidavit of compromise is immaterial. Because the High Court had erroneously dismissed the petition, our affiliate appealed the decision before the Supreme Court. The Supreme Court heard the appeal after four months' delay and dismissed it on the basis of the affidavit, disregarding the clear statute which renders the affidavit null and void and, as such, irrelevant to the Court's authority to order the police to find M.J. Moreover, during oral argument, the three-judge panel surprisingly asked for the location where M.J. was unlawfully held and then they would order the police to recover her. Remarkably, the Court disregarded its own case law in which it had condoned even the delays in filing appeals in matters (such as dowry and employment) that are of much less importance than the life and liberty of a minor girl. Yet, the court dismissed the appeal in clear violation of statutory law and contradicting its own precedents.

Moreover, the Pakistani government recently instituted a system called Zainab Alert, after a minor Muslim girl was kidnapped, raped, and murdered. A complaint has been filed with the department that runs Zainab Alert. Yet, to date, no alert has been sent out.

Having exhausted all domestic remedies, we request that this Council hold Pakistan accountable to its international commitments, especially the ICCPR, CEDAW, and CRC, which provide for due process, protection of life and liberty, and rights of the child. Pakistan's blatant lack of action is a clear indication that this innocent young Christian girl's disappearance, and life, are of no concern to the Pakistani government, which is not only a violation of its international commitments, it's shameful.

Another case brought to this Council's attention in August 2021 was of Shahzad Masih, a young Christian man, who is waiting for the District and Sessions Court to hear final arguments in a baseless blasphemy case. Shahzad's crime was to tell a Muslim co-worker that his father's friend passes derogatory remarks against the Prophet Muhammad. This was said in a religious conversation that the Muslim co-worker started. It does not constitute blasphemy even under Pakistan's overbroad blasphemy laws. Otherwise, every complainant who informs the police of someone's blasphemy would be charged with committing the crime himself, as well as court stenographers and even judges who record and restate that testimony.

In Shahzad's case, the investigating officer stated in his report that an eye-witness did not observe any insult for the Prophet Muhammad, and the officer concluded that Shahzad was not guilty. Nonetheless, the prosecutor's office brought charges and the court began the trial. During trial, all witnesses testified that Shahzad had said his father's friend uses derogatory remarks against the Prophet Muhammad. Yet, the court did not accept a motion to dismiss charges for lack of evidence. Further, even though Shahzad was seventeen when he was charged and arrested, the trial court refused to try him as a juvenile.

Over four years have passed and the trial is still not concluded. Although the evidence was concluded over six months ago, the court has rescheduled several hearings for the closing statements.

We urge this Council to intervene with the Pakistani authorities on Shahzad's behalf. An innocent young man has spent more than four years in prison and is now facing the risk of being convicted and sentenced to death for something that is not a crime, even under the prosecution's version of the facts. It is widely known that Pakistani trial courts commonly convict those accused of blasphemy due to social pressure. If convicted, Shahzad would spend another four years in jail until the High Court hears his appeal.

In another blasphemy case, the ECLJ's affiliate is representing one of two Christian brothers on death row over an allegation that they published blasphemous material on the internet. The case began in June 2011 when a Muslim man "stumbled upon" a website that contained sacrilegious content against Islam and its Prophet Muhammad. Interestingly, the website's main page also contained one of the Christian brothers' name, an office address, and a phone number. Based on this information and without reaching out to the website company to find out who in fact published the material, the police registered a case against Qaiser and his brother Amoon. Amoon (our affiliate's client) was implicated simply because the phone number and the office address provided on the website were registered under his name.

During trial, the prosecution did not present any evidence that Qaiser Ayub and/or Amoon Ayub (the Christian brothers) authored and uploaded the blasphemous content on the alleged website. Yet, without necessary evidence to prove the case beyond reasonable doubt, the trial court sentenced both brothers to death in December 2018.

In today's world, it is common knowledge that anyone can create a website, post anything on a blog, and even provide anyone's name and address. It is also common knowledge that, in the cyber world, it is not difficult to trace the origin of the published information. Yet, the investigation did not attempt to uncover who "uploaded" the alleged content on the website

in question. The trial court reasoned instead that the presence of the Ayub brothers' contact details on the blasphemous blog and the absence of any effort on their part to approach the administrator of the website to remove their contact information "clearly lead to the conclusion that [the Ayub brothers] were responsible for creating the blog". The court claimed that "the facts speak for themselves". Except these are not facts; they are merely conjectures.

The High Court is ready to schedule a date to hear arguments on appeal. While higher courts in Pakistan have recently handed down some good decisions in blasphemy cases, there is still much to be done. Justice should not be limited to the few cases courts have decided recently and innocent Christians should not have to lose years of their life wrongfully sitting in jail.

4. REQUEST

Pakistan supported the adoption of the UDHR. Pakistan is also a party to the ICCPR, CEDAW, and CRC, inter alia, and is, thus, obligated to provide due process of law, protection of fundamental rights, including life and liberty, to all of its citizens, especially the vulnerable groups such as women and minorities. We request that this Council remind the Government of Pakistan of its national and international obligations, and to follow through on its commitment to protect all its citizens, including its minorities.
