

B. Reply of the Pakistan authorities

7. The response of the Pakistan authorities to each of the recommendations of the Special Rapporteur is as follows:<sup>6</sup>

<u>Recommendation</u>	<u>Comments and measures</u>
<p>Blasphemy as an offence against belief may be subject to special legislation. However, such legislation should not be discriminatory and should not give rise to abuse, nor should it be so vague as to jeopardize human rights, especially those of minorities. If offences against belief are made punishable under ordinary law, then a procedural guarantee must be introduced and a balanced attitude must be maintained. While protecting freedom of conscience and freedom of worship is clearly a necessity, applying the death penalty for blasphemy appears disproportionate and even unacceptable. The Special Rapporteur endorses the Government's proposal to amend procedural aspects of the blasphemy law and would encourage it not only to give effect to this proposal, but also to go further in amending the law on blasphemy and more generally on religious offences in accordance with the views expressed above. The Special Rapporteur believes that in any event some practical measures, especially administrative and educational, should be implemented pending more substantial constitutional and legislative changes</p>	<p>The Government of Pakistan agrees with the Special Rapporteur. Blasphemy law does not discriminate against Muslims and non-Muslims. It is applicable to all segments of the society and to all religious denominations in Pakistan. Those charged under it have been Muslims as well as non-Muslims. The Government is actively considering changes in the law to deter false and fabricated cases and to punish those indulging in false accusation. Through various administrative measures, such as converting the offence to a non-cognizable one where a case can be registered only after the approval of the Sessions Judge and not directly by the police, the number of cases reported under blasphemy laws has been greatly reduced. The National Commission for Minorities is already examining the issue raised by the Special Rapporteur. It is to be appreciated that the issue is a very delicate one and needs the greatest amount of caution and vision</p>

Recommendation

The Special Rapporteur recommends that the authorities should check that hudud ordinances are compatible with human rights and urges that hudud penalties, because they are exclusively Muslim, should not be applied to non-Muslims. He also recommends establishing legislation on non-discriminatory evidence and advocates a single electoral system, involving all citizens without distinction, especially based on religion

With regard to proselytizing, conversion and apostasy, the Special Rapporteur wishes to draw attention to the need to abide by international standards laid down in the field of human rights, including freedom to change religion and the freedom to manifest one's religion or belief, either individually or in community with others, in public or in private, subject only to limitations prescribed by law

The Special Rapporteur considers that no mention of religion should be included on passports, on identity cards, application forms or on any other administrative documents. Deletion of the statement required of Muslims regarding non-recognition of Ahmadis as Muslims in passport application forms is strongly recommended

Comments and measures

A committee headed by Justice Saad Saeed Jan is looking into the first point. The hudud laws and the procedure for such punishment is more humane than any other existing law. The standard of proof under the hudud laws form a part of public law which is applicable to all citizens equally. An extremely tough standard has been prescribed to prove offences under these laws. The system of separate electorates has been changed to accommodate the concerns of the Special Rapporteur. All Muslim and non-Muslim communities were able to participate in the national elections held in February 1997 through universal adult franchise

There is no restriction on the change of religion. The Ahmadis have converted to their faith from Islam. As far as a manifestation of one's belief is concerned, this is guaranteed in the Constitution of the country. The Constitution provides freedom to profess religion, manage religious institutions and educational institutions

There is no column on religion on the national identity cards. The entry with respect to religion is made in the passport to enable Muslims to go for Hajj

Recommendation

The Special Rapporteur has strongly recommended that all cases of abuse or rape against girls and women, especially those belonging to minorities, should be duly punished. In this respect, the duty of the police authorities to carry out lawful arrests and searches should be recalled and applied in practice. Similarly, police officers should be held personally responsible, under both civil and criminal law, for arbitrary arrest or detention. An indisputable record must be kept of any arrest/detention and the reason for it, while all legal proceedings and guarantees must be complied with

Victims should be informed as to the proceedings and guarantees provided by law

The Special Rapporteur considers that there is an urgent need to inculcate a spirit of tolerance and freedom in order to ensure that rights and liberties are enjoyed by all. The role of the State in this respect is fundamental and inescapable. There can be no real and lasting progress as regards tolerance while the greater part of the population remains illiterate and as long as the school system, the family, the media and religious practices (regardless of persuasion) are not called upon to make a fundamental effort to bring about a change of attitude and to ensure that the culture of tolerance is developed and strengthened. The

Comments and measures

Rape is a crime which is condemned irrespective of whoever is the victim. Prime Minister Nawaz Sharif has taken a very serious view of crimes committed against women. The election manifesto of his party called for the death sentence for those involved in gang rape. This severe punishment, which has now been legalized through a Presidential Ordinance, only highlights the extreme abhorrence towards this crime. Great attention is also being paid to the restructuring of the police force. A committee has been set up to present proposals to the Prime Minister to make the police more accountable. In the meantime, records, such as ones recommended by the Special Rapporteur, are already kept

This is already being done

The Government of Pakistan concurs with the Special Rapporteur and understands all too well the urgent need for fostering a culture based on tolerance and freedom. Pakistan has unfortunately become a target of terrorist activities. The Government is making all efforts to clean the country of this scourge. It requires a great deal of patience, firm handling and increasing the literacy levels. Efforts are being made on all these fronts. The point made regarding the mass media by the Special Rapporteur is well taken. Radio and television are now being used to spread the message of peace and tolerance

Recommendation

State could also play a more active role in making public opinion more aware of the culture of tolerance. With the encouragement of the State, mass communication media should help more effectively to combat all forms of intolerance based on religion or belief

The Special Rapporteur considers that it would be appropriate to implement the programme of advisory services to the Centre for Human Rights and recalls the recommendations contained in his report.<sup>3</sup> Suitable training of police and administrative staff in human rights, especially in the field of religious freedom, would be very welcome

With regard to religious extremism, in accordance with Commission on Human Rights resolution 1995/23,<sup>7</sup> the Special Rapporteur encourages the Government to restrain it and to take appropriate measures in conformity with the law

By adopting and applying appropriate legislation, the State should guarantee the neutrality of places of worship and shelter them from political excesses and ideological and partisan struggles

Comments and measures

The proposal is under active consideration. The police are given some training in human rights but the police reform exercise is expected to include implementation of suggestions of education in human rights and fundamental freedoms

Pakistan has suffered greatly at the hands of extremist elements. The Government is convinced that these elements must be restrained. Serious consideration is being given to the formulation of a strategy to deal with those elements that spread discord in the society

This is highly desirable. Such a legislation would require some time in view of the presence of legislators of all shades and persuasions. A tough approach could also be construed as an infringement on the right to religious freedom

Recommendation

Official educational policy should be set out in an appropriate framework legislation aimed at combating illiteracy more effectively and advocating values based on human rights and tolerance, with the purpose of achieving a balanced development of the personality, avoiding the extremes of domination and submission on the one hand and religious tendencies on the other

The legislation concerning political parties should ensure that long-standing religious values are not interfered with by short-term political interest

The Special Rapporteur requests that the authorities in all circumstances ensure the operation of justice by protecting the courts from the pressures of demonstrations and crowds.

Comments and measures

Efforts towards this end are being made

This under consideration by the new Government

The events over the past year have proved the independence and impartiality of the Courts and the judiciary.

Notes

<sup>1</sup> A/51/542/Add.1.

<sup>2</sup> General Assembly resolution 36/55 of 25 November 1981.

<sup>3</sup> See E/CN.4/1995/91.

<sup>4</sup> E/CN.4/1997/91/Add.1.

<sup>5</sup> A/52/542/Add.2.

<sup>6</sup> The report on the visit by the Special Rapporteur to Pakistan is contained in document E/CN.4/1996/95/Add.1.

<sup>7</sup> See Official Records of the Economic and Social Council, 1995, Supplement No. 23 (E/1995/23-E/CN.4/1995/176 and Corr.1-2 and Add.1), chap. II, sect. A.