

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Barrister Dr. Muhammad Farogh Naseem
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Thursday, 8 November, 2018

Dear President Alvi and Ministers Khan and Naseem,

Re: Asia Bibi Blasphemy Case: Pakistan's duty to provide protection to Asia Bibi, lawyer Saif ul Mulook and Superior Court judges, Chief Justice Mian Saqib Nisar, Justice Asif Saeed Khosa and Justice Mazhar Alam Khan

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and other human rights defenders who promote international human rights, the rule of law, and the integrity of legal systems through advocacy, education and legal research. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

LRWC is gravely alarmed by the imminent danger of extra-judicial death faced by Asia Bibi, her lawyer Saif Ul Mulook and the judges in the Asia Bibi blasphemy case. LRWC calls on Pakistan to ensure that Asia Bibi and her family can leave Pakistan safely and immediately; and, put in place the security measures that would allow Saif ul Mulook to return to Pakistan; and, to provide adequate protection for the justices of the Supreme Court. LRWC also calls on Pakistan to suspend the death penalty for all offences, to repeal its blasphemy laws and to take steps necessary to educate the populace to accept the right of all to freedom of religion and expression.

Asia Bibi, a Christian agricultural worker, was sentenced to death by hanging in 2010 after being convicted of blasphemy under section 295-C of Pakistan Penal Code for "defiling the name of the Prophet Muhammad" after an argument broke out between herself and her Muslim co workers over a cup of water. The Lahore High Court upheld the conviction and the sentence in 2015.

The final appeal before the Supreme Court took place on 8 October 2018 before a three-member panel of the Supreme Court of Pakistan made up of judges: Chief Justice Mian Saqib Nisar, Justice Asif Saeed Khosa and Justice Mazhar Alam Khan Miankhel who reserved judgement until 31 October. The Supreme

Court overturned the conviction and ordered release of Asia Bibi ruling that ‘the prosecution has categorically failed to prove its case beyond reasonable doubt.’¹

Background:

Prior to publication of the Supreme Court judgement, religious hardliners had openly threatened the judges hearing the appeal and anyone involved in Asia Bibi’s case. Leader of the Islamist political party Tehreek-e-Labaik Pakistan (TLP) Pir Afzal Qaddri openly stated on video posted on social media that the judges who order Asia Bibi’s acquittal of charges of blasphemy “Must be killed because he is an absolute apostate” and that “only an apostate can pardon a blasphemer”.² Other statements made by TLP leaders threatened that if Asia Bibi were to receive clemency the Justices would meet a “horrible’ end.

12 October 2018 protest were carried out across the country by Tehreek-e-Labaik Pakistan (TLP) members demanding the execution of Asia Bibi and have threatened to paralyse the country and stage sit in if Asia Bibi is acquitted stating that they would continue the sit in until those responsible for her release were punished.³

31 October 2018 at 9:00 AM the verdict was officially announced. The Supreme Court overturned her conviction and Asia Bibi was to be released. The acquittal verdict by the Supreme Court triggered violent protest across the country and continued until 2 November when a deal with reached between Tehreek-e-Labaik Pakistan (TLP) and the government. Part of deal the government agreed to end the protest was not to oppose court petition to reverse the release of Asia Bibi, and to work in the meantime to prevent Asia Bibi from leaving the country by working on putting her on the Exit Control list (ECL).

Asia Bibi’s husband has called for protection. Ashiq Masih stated “The current situation is very dangerous for us. We have no security and are hiding here and there, frequently changing our location,” Masih said.⁴ Asia Bibi’s lawyer Saif Ul Mulook due to safety concerns has had to leave Pakistan. Mr. Mulook said he had decided to leave as it was "not possible" to continue living in Pakistan, adding: "I need to stay alive as I still have to fight the legal battle for Asia Bibi."⁵

Asia Bibi was released from prison on 7 November 2018. According to the foreign office, she has been moved to a safe location in Pakistan. She is reportedly seeking asylum in the Netherlands.

¹ Supreme Court acquits Asia Bibi, orders immediate release, Haseeb Bhatti, Dawn, 31 October 2018. Available at <https://www.dawn.com/news/1442396>

² Farahnaz Ispahani, *Why Pakistanis must speak up against blasphemy laws*, Daily O, 10 October 2018. <https://www.dailyo.in/variety/asia-bibi-blasphemy-laws-religious-extremism-religious-fundamentalism-salman-taseer/story/1/27149.html>

³ Mahmood Idrees, *TLP warns of country wide sit-in if SC acquits Asia Bibi in blasphemy case*, Daily Pakistan, 13 October 2018. <https://en.dailypakistan.com.pk/pakistan/tlp-warns-of-countrywide-sit-ins-if-sc-acquits-asia-bibi-in-blasphemy-case/>

⁴ *Asia Bibi’s husband calls for her protection, criticizes govt deal with protestors*, Dawn, 3 November 2018. <https://www.dawn.com/news/1443333/asia-bibis-husband-calls-for-her-protection-criticises-govt-deal-with-protesters>

⁵ *Asia Bibi: Lawyer flees Pakistan in fear of his life*, BBC News, 3 November 2018. <https://www.bbc.com/news/world-asia-46082324>

The Government of Pakistan has an obligation to protect and ensure the safety of Asia Bibi, her family, lawyer Saif Ul Mulooks, along with his family and the three judges Chief Justice Mian Saqib Nisar, Justice Asif Saeed Khosa and Justice Mazhar Alam Khan Miankhel stemming from Pakistan's international and domestic law obligations.

We would like to remind the Government of Pakistan that it must comply with its international law obligations to protect the personal and professional safety of lawyers by putting in place and maintaining effective measures to protect the right to life of lawyers. Pakistan as a member of the United Nations has an obligation to protect the right to life guaranteed by the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR). On 16 October 2017, Pakistan was elected to the United Nations Human Right Council. As a member of Council, Pakistan has agreed, and is mandatorily obliged to "uphold the highest standards in the promotion and protection of human rights."

The UN Basic Principles on the Role of Lawyers sets out international norms obliging states to provide lawyers the personal and professional protection necessary to enable them to carry out their professional duties free from fear of reprisals. Article 16 states part of that duty as follows:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Further, the Basic Principles on the Role of Lawyers states at section 17, "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."

The *Constitution of the Islamic Republic of Pakistan* states in Article 9 that "No person shall be deprived of life or liberty save in accordance with law." .

LRWC calls on the Government of Pakistan:

1. To immediately provide protection and ensure the safe passage of Asia Bibi and her family out of Pakistan
2. To immediately provide protection and ensure the safety of Asia Bibi's lawyer Saif Ull Mulook so he can continue to carry out his work without threat or intimidation or fear for his life, along with his family who still according to recent reports still remain in Pakistan;
3. To immediately provide protection and to implement strict measures to ensure the safety of Chief Justice Mian Saqib Nisar, Justice Asif Saeed Khosa and Justice Mazhar Alam Khan Miankhel who despite public threats being made to murder them, carried out their important duties and stood for justice and principle;
4. Prosecution and trials of the suspected perpetrators of these threats of murder;
5. For the Government of Pakistan to unequivocally publicly denounce and immediately take action against those who have publicly called for the murder of the judges and Asia Bibi's lawyer Saif Ul Mulook;
6. To comply with all relevant provisions of the UDHR, ICCPR and Basic Principles;

7. To repeal the criminal blasphemy laws and bring criminal laws regarding freedom of thought conscience and religion into compliance with Pakistan's international human rights obligations.

Please advise LRWC of the actions that the Government of Pakistan is taking to provide protection and ensure the safety of all those mentioned in this letter. Thank you.

Sincerely,



Hanna Bokhari, LRWC Pakistan Monitor

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