

**TESTIMONY OF NINA SHEA, DIRECTOR
HUDSON INSTITUTE'S CENTER FOR RELIGIOUS FREEDOM
BEFORE THE
TOM LANTOS HUMAN RIGHTS COMMISSION
OF THE
COMMITTEE ON FOREIGN AFFAIRS
OF THE
US HOUSE OF REPRESENTATIVES**

PAKISTAN'S ANTI-BLASPHEMY LAWS

OCTOBER 8, 2009

Thank you, Mr. Chairman, for holding these timely and important hearings that go to the very heart of religious freedom and its denial in Pakistan. Just last week, Congress unanimously passed legislation authorizing \$7.5 billion over five years to support civilian social and economic development in Pakistan. The foreign policies that this bill aims to advance will be undermined if Pakistan continues to promote religious intolerance and extremism in its criminal justice system, particularly through its criminalization of blasphemy and apostasy.

Pakistan now enforces some of the world's strictest anti-blasphemy laws. Such laws oppress religious minorities, disfavored Muslims and others. They impede inter-faith harmony by fostering religious demagoguery and mass hysteria. And, they sanction and stoke religious extremism and violence, empowering militants to exert a degree of control over civil society.

Under Pakistan's law, any individual can bring blasphemy charges against another, relying only on circumstantial evidence that is often a bare accusation, with no requirement to prove intent, and with oral testimony often weighted in the claimant's favor. These laws can carry a life sentence or the death penalty for the convicted. Even in cases of acquittals, defendants must endure a harrowing ordeal of detention under poor, even life-threatening conditions during a multi-year judicial process. Extremist groups and vigilantes engage in witch hunts to murder the accused either before, during or after adjudication. While no one has yet been officially executed under the blasphemy laws, since the 1980s over 30 accused have been killed, some after they had been acquitted. Someone accused of blasphemy in Pakistan, whether or not a conviction ensues, typically cannot safely return home and is forced to flee, leaving behind family, friends, businesses, and property.

For the co-religionists and families of those accused of blasphemy, government action can be one of their smaller problems. An even greater threat to them is indiscriminate, extra-legal attacks, sometimes by vigilantes and sometimes by the police themselves. Lynch mobs, whipped up by accusations of blasphemy, have assaulted thousands of innocent people and attacked their houses of worship, homes, businesses and entire

villages. Often the police and security forces fail to take effective action to protect those under attack.

Archbishop Lawrence John Saldanha, the head of Pakistan's Catholic Church, recently denounced Pakistan's blasphemy laws as an "instrument of creating hatred, abuse of religion and law."

It should be noted that these draconian measures apply only to purported blasphemies against Islam, not against any other religion. Apart from the unfairness of protecting the reputation of one religious group and not others, criminalizing insults to Islam presents other problems of basic fairness and due process, as well.

First, there is a definitional problem. As severe as they are, Pakistan's vaguely worded statutes fail to define blasphemy clearly. Interpreting what falls under Pakistan's anti-blasphemy laws is essentially a theological question and, since there is no black-letter definition of the crime in the Quran or other authoritative Islamic sources, it is one that remains unsettled. Islamic scholars and courts vary in their judgments of what exactly constitutes blasphemy. This vagueness undermines due process and chills free speech.

Then, there are evidentiary and procedural problems with the blasphemy laws. In some cases, defendants are convicted although no evidence has been introduced to support the accusation -- in fact in some cases it could be considered blasphemy to introduce such evidence. Often the cases entail no more than the complainant's word against that of the defendant.

The definitional vagueness and low evidentiary standards invite many serious abuses of the law, which can be used against anyone, but are particularly a danger to non-Muslims, since their testimony can be given reduced weight in a court of law, if not ignored entirely.

The government has considered amending the blasphemy laws to establish heavy penalties in the event of false accusations, but currently the testimony of a single Muslim is still sufficient to convict a non-Muslim. In 2005, in response to international pressure and in order to prevent further unwarranted blasphemy accusations, Pakistan's government enacted a law requiring senior police officials to probe all blasphemy charges before filing formal complaints. In view of the number of new blasphemy cases, this measure appears to be grossly inadequate.

At present, the blasphemy laws continue to be employed against political adversaries, personal enemies, business competitors, and unpopular minorities, and especially religious minorities. The U.S. Commission on International Religious Freedom (USCIRF) reports that the laws "are often used to intimidate reform-minded Muslims, sectarian opponents, and religious minorities, or to settle personal scores." Sometimes cases are even brought against those who may be mentally ill. Children as young as ten years old have been charged under the laws.

About half of those accused under the blasphemy laws are Sunni or Shiite Muslims, especially those who challenge entrenched ideas. But a vastly disproportionate number of accusations are leveled against religious minorities. Ahmadis and Christians, comprising 3% and 2% of the population respectively, have taken the brunt of the intimidation and punishment fostered by false blasphemy charges; Hindus, at 2%, also suffer disproportionately.

Pakistan's government asserts it does not have exact numbers of people charged under blasphemy laws, and other sources offer contradictory estimates. However, these sources provide some clues as to the scale of accusations and arrests. According to the US State Department, in the four years leading up to 2002, some 55 to 60 Christians a year were charged with blasphemy. According to data collected by Pakistan's Catholic National Commission for Justice and Peace, from 1986 to August 2009, at least 964 people were accused under these laws. Of these, 479 were Muslims, 119 Christians, 340 Ahmadis, 14 Hindus and ten of unknown religion. This Commission also reports that in the first six months of 2005, 60 people in Punjab alone suffered from blasphemy accusations: of these, 53 were charged. In 2005, 80 Christians were in prison accused of blasphemy. In that same year, 39 Ahmadis remained in detention awaiting trial on blasphemy charges alone and 11 were serving time.

Law Professor David Forte, in his seminal 1994 analysis of Pakistan's blasphemy laws, concluded: "The law against blasphemy raises the xenophobic fear of a tribal society against outside religions, it saps the legitimacy of competing traditions within Islam, it stiffs political dissenters, and undermines the very basis for democratic government."

The National Commission for Justice and Peace pointed to another effect that has risen to prominence in recent years. It observed that some forms of extremism are also rooted in Pakistan's anti-blasphemy laws:

"Extremism has its roots in the model of the state and religiously discriminatory policies. The establishment and the elected governments have failed to change laws such as blasphemy (Sections 295 B, C and 298 A, B, and C of Pakistan Penal Code) that provide severe punishments for 'offenses' of offering insult to holy personage, the book and prophet of Islam. The government of Pakistan has to think beyond military solution – the situation requires an overhauling of the entire state system – a socio political reforms package."

* * *

In 1947, independence leader Muhammad Ali Jinnah pledged that Hindus, Christians, Parsis or Zoroastrians, and other religious minorities would enjoy equality with the Muslim majority. Unfortunately, Pakistan has not embraced pluralism. In fact, in the past six decades Pakistan has moved away from many of its founders' principles. Successive governments have subjected much of Pakistan's public life to the vision of religious extremists, as shown in the following cases involving Pakistan's laws against blasphemy.

Ahmadis

Ahmadis, viewed by Pakistan’s government as Muslim heretics, have long endured severe persecution in Pakistan. Their mosques have been burned, their graves desecrated, and their very existence criminalized. Ahmadis are often attacked, their literature is frequently seized, and they are barred from being buried in Muslim graveyards or from going to Mecca. Ahmadis are among those disproportionately victimized by blasphemy or related charges. According to the heroic Pakistani human rights defender Asma Jahanjir, who heads the National Human Rights Commission, since 1984, 107 Ahmadi have been killed and 719 arrested on blasphemy charges; 12 Ahmadis have been killed in 2009 so far. Their attackers are rarely prosecuted or punished, and police complicity in attacks is ignored.

Because my two distinguished co-panelists will testify in detail on the Ahmadi situation, I will only briefly summarize some of the examples of persecution they face.

According to the US State Department, since 1999, 316 Ahmadis have been formally charged in criminal cases, including blasphemy cases, because of their religion. Their offenses include wearing an Islamic slogan on a shirt, removing anti-Ahmadi stickers, planning to build an Ahmadi mosque in Lahore, and distributing Ahmadi literature in a public square. For example, in July 2002, Zulfiqar Goraya was arrested and charged for “posing as a Muslim,” based on greeting cards he had sent out that included a Quranic verse and Islamic salutations. And in October 2006, police charged Mohammed Tariq with blasphemy for allegedly tearing off anti-Ahmadi stickers inside a bus. There are hundreds of such incidents.

In addition, before Pakistani Muslims (non-Muslims are exempt) can obtain a passport, they are required to formally denounce the Ahmadis in writing, as show, below:

23. DECLARATION FOR MUSLIMS ONLY

I, _____ s/o, d/o, w/o _____
(Name of applicant) (Name of father or husband)
aged _____ adult Muslim, resident of _____ hereby solemnly
declare that:

A. I am a Muslim and believe in the absolute and unqualified finality of the Prophet hood of Hazrat Muhemmed (peace be upon him) the last of the Prophets.

B. I do not recognize any who claims to be a prophet in any sense of the word or any description whatsoever, after Hazrat Muhemmed (peace be upon him) or recognize such a claimant as a prophet or a religious reformer as Muslim.

C. I consider Mirza Ghulam Ahmad Qadiani to be an impostor nabi and also consider his followers whether belonging to the Lahori, Qadiani or Mirzai groups, to be non-Muslims.

(Signature of the applicant)

Christians

Examples of Christian persecution under the anti-blasphemy laws and in the environment that these laws foster are plentiful.

One of the most brutal attacks against Pakistani Christians triggered by blasphemy accusations took place just two months ago in Punjab, resulting in at least seven Christians being burned alive and over 50 houses torched. It began at a wedding on July 30, in the village of Korian, home to around a hundred Christian families. A Muslim mob, armed with guns and explosives, used trucks to break through walls and gasoline to start fires. Two days later, similar rumors of blasphemy were directed against the neighboring town of Gojra. A fact-finding report by the independent Human Rights Commission said the Gojra riot was pre-planned and the police had information that an attack was brewing but did nothing to prevent it. It found that announcements had been made from mosques the previous night calling upon people to make "mincemeat" of local Christians for their "blasphemous" acts of desecration of the Quran. There are credible reports that extremist groups linked to al Qaeda were involved. After Gojra, the Christian community has held protests, including closing the country's Christian schools for three days, to demand an investigation. This week, Gojra villagers rejected US embassy food packets as a sign of protest.

The Gojra incident is not an anomaly. Other violent rampages against both Christian and Ahmadi communities have taken place over the past two decades, such as that which occurred in 1997 in the predominantly Christian village of Shanti Nagar. That attack too was triggered by speeches on mosque loudspeakers, falsely accusing the Christians of having burned a copy of the Quran. Despite the presence of 300-400 police, a mob tens of thousands-strong burned 326 houses and 14 churches.

On June 30, 2009, road rage turned into another violent mob attack. Following a minor traffic dispute between a Christian and a Muslim, a mob of some 600 people attacked some hundred Christian homes with petrol bombs, torched cars, and stole valuables in the Punjab village of Bahmani. The attack was instigated by a cleric in a local mosque who accused the Christians of blasphemy after the Muslim in the traffic incident said that the Christian involved had blasphemed. A committee of six Christians and Muslims met to deal with the issue and smooth relations between the two communities.

Since Gojra, several reports have been made of Muslims tearing out pages of the Quran and leaving them on church property, including at the Associated Reformed Presbyterian Church in another Punjab village on September 4, 2009, in apparent attempts to ignite more religious violence. In these cases dialogue has helped ease the crises.

Nevertheless, since Gojra, blasphemy prosecutions against Christians have continued. A 22 year old Christian man, Robert Danish, in Sialkot village, also in Punjab, was accused of desecrating the Quran by his Muslim girlfriend's mother, who had disapproved of the relationship. Danish was found dead in police custody on September 15, a few days after his arrest; according to area Christians, he had been tortured to death, though officials say

he committed suicide. The blasphemy allegation led to calls from mosque loudspeakers to punish Christians, prompting a mob to attack a church building and beat several of the 30 families forced to flee their homes. Sialkot police opened fire on mourners at his funeral as they tried to take his casket to another site.

There have been many hundreds of individual cases of blasphemy prosecuted in the courts, often accompanied by extra-judicial violence.

One that received considerable attention concerned Ayub Masih (*Masih is a common Christian surname in Pakistan referring, in Arabic, to the Messiah*). After a dispute with a Muslim neighbor in 1996, Masih was accused of speaking favourably of Salman Rushdie, author of *The Satanic Verses*, who himself had been condemned to death by a fatwa from Iran's Ayatollah Khomeini. On November 6, 1997, one of the complainants, Mohammad Akram, shot and wounded Masih outside the court. Despite eyewitness testimony, the police refused to register a complaint against Akram. Many of the Muslim defense lawyers and judges in the case also received death threats. On April 27, 1998, a court in the Punjab town of Sahiwal sentenced Ayub to death for alleged blasphemy, based solely on the complainants' statement. Eventually, Ayub's lawyer was able to prove that Akram had used the conviction to force Ayub's family off their land and to acquire control of it himself. After a six year ordeal behind bars, Ayub was acquitted by the Supreme Court, which ordered his immediate release from the high-security cell in the Multan New Central Jail where he had been awaiting execution. Faced with ongoing death threats, Ayub quietly left Pakistan in 2002.

In an especially peculiar accusation, Aslam Masih of Faisalabad, an illiterate Christian man in his mid 50's, was arrested in November 1998 on charges that he had dishonored the Quran by hanging verses from the book in a charm around a dog's neck. Court testimony indicates that some local Muslims resented seeing a Christian as a successful farmer and so refused to pay him for animals he had sold them. Subsequently, they stole all of his animals and filed a blasphemy case. Some locals then beat him and handed him over to police custody, where he faced further abuse. When his case was finally heard nearly four years later, a mob gathered outside the courtroom while the prosecution produced only hearsay evidence against him. Nevertheless, he was found guilty in May 2002 and given two life-sentences. He was often placed in solitary confinement and regularly beaten by other prisoners; he became traumatized and suffered memory loss. After four and a half years in prison, during which his family was allowed to visit him only three times, on June 4, 2003, Aslam was finally acquitted by the Lahore High Court.

On April 1, 2001, police in the Sialkot District, Punjab, registered a blasphemy case against Pervez Masih, who was then jailed. The charge against Pervez, who owned a private school, was filed at the behest of Mohammad Ibrahim, owner of a nearby, less successful, private school. Police beat Masih with rifle butts, kicked him until he almost lost consciousness, and demanded that he convert to Islam. He was tortured and imprisoned in a 6- by 4-foot cell, in which daytime temperatures sometimes soared above 122 degrees Fahrenheit.

Another Christian, Younis Masih, 29, was arrested and charged with blasphemy in September 2005 near Lahore, after locals told police he made derogatory remarks against Islam and the Muslim Prophet Muhammad. Shahbaz Bhatti, then head of the All Pakistan Minorities Alliance, who now serves as Minister of Minority Affairs in the Pakistan government, explained Masih's offense: Younis had told Bhatti that dozens of Muslims attacked him when he asked them not to sing loudly because his nephew had died, and his body was still lying at home. On May 30, 2007, Younis Masih was sentenced to death. His appeals continue.

On November 11, 2005, Yousuf Masih, a Christian, won several thousands rupees in a card game with his Muslim neighbor. The neighbor subsequently informed the police that Yousuf had set fire to a copy of the Quran. On February 18, 2006, the neighbor withdrew the charge and Yousuf was released on bail. However, by this time, local Muslim clerics had called on their followers to "avenge the insult." An infuriated mob of over 2,000 attacked the town's minority Christian community, set fire to three churches, and vandalized a Catholic convent and a Christian elementary school.

In July 2009, Imran John, a Christian living in Faisalabad, was accused of having desecrated the Quran. While cleaning his fruit and vegetable shop, Imran had collected waste paper and burned it in the street. A nearby shop-owner accused him of burning pages of the Quran, and called this to the attention of other Muslims, who proceeded to beat and torture Imran. Saved by police intervention, Imran was then detained and formally charged with blasphemy.

Hindus

Hindus in Pakistan have also suffered as a result of blasphemy allegations. One example took place in July, 2001. A Hindu, Ram Chand, who lived in Chack, Bahawalpur district, was constructing a bathroom floor for Mohammed Safdar. Safdar accused Chand of defiling the name of the Prophet by carving it on a brick, and took the brick to the head of the village. Deeply offended by this, local Muslims attacked homes and other property belonging to Hindus; they also beat Hindu women and children. Meanwhile, the police arrested Chand and his son, Ram-Yazman, charging them with blasphemy. Local Muslims reacted to these charges even more vindictively, blocking the road for several hours and demanded that all Hindus be expelled from the area. Police arrested twenty Muslims for attacking Hindus.

On April 9, 2008, in the Karachi Korangi Industrial Area, factory employees beat to death a Hindu coworker, Jagdesh Kumar, after he allegedly made blasphemous comments against Islam. Factory guards attempted to save Jagdesh by taking him into protective custody, and a small contingent of police responded to the incident, but they did little to intercede. Later, the Karachi police superintendent suspended the police officers after it was determined that they did not take appropriate action.

Sunni, Sufi and Shiite Muslims

While charged proportionally less than religious minorities, Shia, Sufis and Sunni reformers are defendants in over half the cases prosecuted under Pakistan's anti-blasphemy laws. Adherents of the Deobandi school of Islam, from which the Taliban sprang, and which has been increasing its strength throughout much of Pakistan, have been carrying out a largely under-reported violent campaign against Pakistani Shias and Sufis.

Mohammed Yousuf Ali, of Lahore, a Sufi mystic, was charged with blasphemy based on accusations that he claimed that he was a prophet. Ali denied the charge and several of the prosecution witnesses admitted that they did not fully understand what he was actually teaching. Nevertheless on August 5, 2000, he was convicted of blasphemy and sentenced to death. Ali was kept in Kotlakpat Jail in Lahore under poor conditions, and he became ill, developing difficulty in speaking and in using his fingers. He was denied adequate access to medical treatment.

Probably dozens of Pakistani educators have been accused of blasphemy by their students. One is Dr. Mohammad Younas Shaikh, a university professor who taught at the medical college in Islamabad. In 1990, he had formed a humanist organization called "The Enlightenment," a society of like-minded Pakistanis who discussed Islam in a modern context. On October 2, 2000, in response to a student's question, Shaikh said that, before he was 40, Muhammad was neither a prophet nor a Muslim, since there was at that point no Islam. Shaikh insists that his intention was not to ridicule or reject the prophet. On the contrary, like many Muslims grappling with issues of modernity, he engaged with his students on questions of interpretation. That night one of the students complained to a cleric that the doctor had blasphemed. The Movement for the Finality of the Prophet, well-known for pursuing those it regards as blasphemers (usually Ahmadis), filed a criminal complaint against the doctor and sent a mob to the college and the local police station, threatening to set them on fire. Dr. Shaikh was arrested for blasphemy. He says, "Even my solicitors were harassed with a fatwa of apostasy and they were threatened with the lives of their children." In 2001, he was found guilty and sentenced to death. Dr. Shaikh spent two years in solitary confinement before he was finally acquitted on November 21, 2003. He fled to Europe.

On July 7, 2002, during mosque prayers, Faraz Jawad, an American Navy Engineer who was visiting his family in Jaranwala, raised objection to the imam's political speech, which cursed the Pakistani government and Americans. Jawad said to the imam, "Instead of cursing America, you should teach us Islam." The imam, Hafiz Abdul Latif, demanded those in the mosque to kill Jawad on the spot since he was an American and, as such, an enemy of the Muslims. Jawad managed to escape from the mosque with his relative Mohammed Naeem. In response, dozens of people attacked Naeem's house, armed with iron rods, sticks and other weapons. Naeem called the police, who dispersed the mob, but only after promising the rioters that Jawad would be charged for committing blasphemy. Jawad contacted the US Embassy at Islamabad, which intervened. Police subsequently charged the imam and 12 villagers for their violent actions.

On July 30, 2007 the Anti-Terrorism Court of Karachi, led by Judge Syed Saghir Hussain Zaidi, sentenced author Younus Shaikh to life imprisonment for blasphemy. The judge claimed that Shaikh had written “a book against the Islamic laws deviating from the teachings of the Quran. The accused had negated the punishment of *Rajam* (stoning to death in the case of adultery) in his book.”

Najam Sethi is the chief editor of one of Pakistan’s most respected English newspapers, *Daily Times*, and a recipient of the Committee to Protect Journalists’ International Press Freedom award. He is well known for his paper’s stance against Islamic extremism. In July 2008, he received death threats, including a picture of a man whose throat had been slit, for publishing a cartoon of Umme Hassan, the director of a radical women’s madrasa, teaching her students to wage jihad. Hassan, as well as local clerics from the Red Mosque, condemned the cartoon as blasphemous and in so doing, according to Mr. Sethi, “have provoked people to kill me and my staff.”

* * *

Pakistan is now working to universalize its anti-blasphemy laws. On behalf of the Organization of the Islamic Conference, it has pushed for the past decade for the UN to adopt an international ban on defaming religions. This measure would curb the freedom not only of Danish cartoonists but also of scholars, dissidents, religious reformers, human rights activists, religious minorities and anyone at all anywhere in the world who challenges prevailing interpretations of Islam. The cases above show how dangerous such a ban would be. As the USCIRF concluded about Pakistan’s UN resolution: “The backers of the resolution claim that their aim is to promote religious tolerance, but in practice such laws routinely criminalize and prosecute what is often deemed – capriciously by local officials in countries where such laws exist – to be “offensive” or “unacceptable” speech about a particular, favored religion or sect.”

A key U.S. policy goal is to help Pakistan, a country of great strategic importance, eliminate the threat to it from religious extremism and related instability. Pakistan’s support of anti-blasphemy laws – both national and international – thwarts this goal.

President Asif Ali Zardari has taken some helpful steps, including the appointment of the first cabinet-level official on religious minorities, Minister Shahbaz Bhatti, who has been a courageous champion of religious freedom for over ten years. In the glare of publicity surrounding the Gojra attacks, Pakistan’s government has vowed to review or reform the anti-blasphemy laws. The governor of Punjab, site of many of the minority cases, has called for their repeal. The U.S. must make a priority of supporting this effort. It serves both our human rights ideals and our national security interests to do so.

Nina Shea is testifying in her capacity as director of the Center for Religious Freedom of the Hudson Institute in Washington, D.C. She also serves as a Commissioner on the U.S. Commission on International Religious Freedom, an independent federal agency.

