



NEWS & STORIES

PAKISTAN SUPREME COURT DELAYS RULING ON ASIA BIBI CASE AS ISLAMIST PRESSURES MOUNT

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warned of reprisals for a possible acquittal in Pakistan's highest profile blasphemy case, the country's Supreme Court today delayed ruling on an appeal against the death sentence given to Christian mother of five Aasiya Noreen.

The ruling on the death sentence given to Noreen, commonly known as Asia Bibi, was postponed when one of the judges recused himself. Justice Iqbal Hameedur Rehman announced the recusal at the beginning of the hearing on grounds that that he was part of the bench that heard the case of the assassination of former Punjab Province Gov. Salmaan Taseer, who was gunned down in 2011 after speaking in favor of Noreen. "I was a part of the bench that was hearing the case of Salmaan Taseer, and this case is related to that," Rehman said, urging the chief justice of Pakistan to form a new bench to hear the case.

Up to 3,000 policemen had been deployed in the Pakistani capital of Islamabad ahead of the appeal hearing as several Islamist groups, including the Pakistan Sunni Tehreek and ultra-Islamist Shuhada Foundation of the Lal Masjid (Red Mosque), had vowed severe repercussions if the court acquitted Noreen, 51, of the charge. About 100 police in riot gear were stationed outside the Supreme Court premises to thwart possible Islamist protests.

Taseer's assassin, Malik Mumtaz Qadri, was hanged on Feb. 29 in a step liberals hailed as progressive, but which brought hardliners into the streets calling for Noreen's death.

The Supreme Court, headed by Justice Mian Saqib Nisar, did not immediately set a new date for Noreen's appeal.

Pakistan Interfaith League (PIL) Chairman Sajid Ishaq told Morning Star News that Noreen's case was a test of the government's resolve to establish its writ in face of religious extremism rampant in the country.

"It's very unfortunate that a poor Christian woman has been made to suffer in jail for six years over a petty dispute over water," he said, "but now that the case is before the highest judicial forum of the country, it is imperative that the government enforces its writ and take action against religious groups which are intimidating the judiciary and the government with threats of violent protests and 'serious consequences.'"

Before the hearing, Noreen's lawyer, Saiful Malook, accompanied by her husband, Ashiq Masih, told reporters outside the court that he was "very hopeful" that the court would admit their stance and order her freedom.

Malook also said that he has been receiving threats.

Following the indefinite adjournment, Ghulam Mustafa Chaudhry, counsel for the complainant against Noreen, said, "We are not pressurizing the court; we are ready to accept the court's decision."

Chaudhry said that he wanted the case to be decided "on merit and not on any foreign pressure."



Noreen was convicted and sentenced to death by hanging in 2010 after an argument with a Muslim woman over a bowl of water. Although international attorneys note that lower courts did not consider which of three statements attributed to her were “blasphemous” nor prove the intent to blaspheme necessary for conviction, the courts upheld her conviction. If the Supreme Court bench upholds it, her only recourse would be a direct appeal to the president for clemency.

If the sentence is upheld, she would become the first person in Pakistan to be executed for blasphemy.

Observers and rights activists have called the case a battle for Pakistan’s soul as the state walks a line between upholding human rights and appeasing hardliners.

Zohra Yusuf, chairperson of the independent Human Rights Commission of Pakistan, said in a press statement that the appeal delay was “regrettable,” noting that Noreen was already being held in solitary confinement due to security concerns.

The judges may be “apprehensive,” she said, adding that after the Supreme Court announced its decision to uphold Qadri’s death sentence, justices had to sneak out the back door of the court.

“It’s a sensitive case,” Yusuf said. “I think they [the judges] have realized that if Asia Bibi [is] acquitted, they may be putting their own lives on the line.”

Islamists Threaten Violence

The Shuhada Foundation, which was formed after Pakistani security forces raided the ultra-extremist Lal Masjid (Red Mosque) in 2007, has said in a statement that its supporters would take to the streets and keep the government from functioning if Noreen were released.

“Lal Masjid will become a centre for the anti-government movement if Asia Masih is released,” foundation spokesman Hafiz Ehtesham Ahmad said. “We are seriously concerned at the efforts for the release of blasphemous Asia Masih and will consider those blasphemous who defend her, whoever they are and on whichever position they are working.”

Ahmad also threatened “serious consequences” if Noreen is allowed to go abroad. He said some foreign diplomats have urged Noreen’s release.

The Pakistan Sunni Tehreek (PST), a religio-militant Islamist group, has also vowed violent protests across the country if the court releases Noreen. Thousands of PST activists had laid siege in the capital Islamabad after the hanging of Qadri, assassin of Taseer, demanding immediate execution of Noreen and all others accused of blaspheming against Muhammad.

In a verbal decree, the top scholars of PST also suggested that all those who might rescue those accused of blasphemy or who assist in trying to rescue them should be killed.



in an interview with a local newspaper a few days before the much anticipated hearing, Noreen's husband said that he had not informed his wife about the hearing date.

"We haven't told her about the hearing in the Supreme Court yet," Masih told the *Express Tribune*. "In the prison where she lives alone, it is very dangerous to lose hope."

Noreen, who has two children from Masih and is stepmother to three others from his previous marriage, often asks her husband when she is going to get out of prison and be with her family.

"She asks us to get things done fast, but we have done whatever we could do," he reportedly said, adding that Noreen's daughter Esha was 10 years old, and her sister Esham only 9, when their mother was sentenced to death. "They have grown up without seeing their mother every day."

International Attorneys' View

Basic religious and free speech rights that Pakistan's blasphemy laws violate aside, the case against Noreen reflects a poor justice process, according to the Geneva, Switzerland-based International Commission of Jurists (ICJ).

A day before the hearing of Noreen's final appeal, the ICJ released "Questions and Answers" about the case:

What are the allegations against Asia Bibi, and when was she convicted?

Asia Bibi was convicted for blasphemy under section 295-C of the Pakistan Penal Code for allegedly defaming Islam's prophet Muhammad. The offense carries mandatory death penalty under Pakistani law.

The allegations against Asia Bibi are that she made three "defamatory and sarcastic" statements about Muhammad on June 14, 2009, during an argument with three Muslim women while the four of them were picking fruit in a field.

The prosecution also claims Asia Bibi "admitted" making these statements at a "public gathering" on June 19, 2009 and asked for forgiveness.

A trial court convicted Asia Bibi for blasphemy in November 2010 and sentenced her to death. The Lahore High Court (LHC) upheld her conviction and confirmed her death sentence in October 2014.

The Supreme Court (SC) admitted her appeal in July 2015. The first hearing of the appeal before the SC was scheduled to take place on October 13, 2016.

What was the evidence in support of the allegations against Asia Bibi?

The prosecution presented seven witnesses to support the allegations of blasphemy against Asia Bibi.

Two eyewitnesses, Mafia Bibi and Asma Bibi, claimed they heard Asia Bibi make the allegedly blasphemous remarks, and later "admit" to making the statements during a "public gathering" a few days later.



got a criminal complaint for blasphemy registered with the police; three police officers who registered and investigated the case; and a local resident, Muhammad Afzal, who alleged he heard Asia Bibi admit to making “blasphemous remarks” and seek pardon at the “public gathering.”

What was Asia Bibi’s defense?

Asia Bibi stated she had a “quarrel” with Mafia and Asma on June 14, 2009, over their refusal to drink water brought for them by Asia Bibi because she was Christian.

She claimed “some hot words were exchanged” during the argument, after which Mafia and Asma, alongside Qari Muhammad Salaam and his wife (who taught Asma and Mafia the Quran), fabricated the blasphemy case against her.

Asia Bibi also stated that she had “great respect and honor for Muhammad and the Holy Quran” and never made the alleged blasphemous remarks.

What are some of the problems with Asia Bibi’s conviction?

In its judgment in Asia Bibi’s case, the LHC conceded “the defense has not defended its case with the required seriousness...”

Yet, despite acknowledging possible violations of the right of a fair trial, particularly the right to an adequate defense, the court went on to uphold Asia Bibi’s conviction and death sentence.

Further, the trial court used Asia Bibi’s statement as an admission of guilt, finding that the “hot words” exchanged between her and “the Muslim ladies” were “switched into a religious matter,” and concluding that the “hot words” must have been “nothing other than the blasphemy.”

Curiously, however, the trial court rejected the notion that the altercation over water was a possible motive for the prosecution eyewitnesses to falsely implicate Asia Bibi for blasphemy.

The LHC too did not probe further into Asia Bibi’s statement, and held that there was no possible “ill will” between the eyewitnesses and the accused for them to fabricate the blasphemy allegations.

Both courts also disregarded discrepancies in the accounts of the witnesses regarding the “public gathering” where Asia Bibi allegedly “admitted” her guilt. These discrepancies included significant differences in the number of people allegedly present at the “public gathering” (ranging from 100 to 2,000 in the different testimonies); how Asia Bibi was brought to the “public hearing,” and how long the “hearing” lasted.

The courts also failed to apply “*tazkia-tul-shahood*” (inquiry undertaken by the court to establish the credibility of witnesses), without which defendants cannot be convicted or punished in *hadd*(capital punishment) cases for certain offenses under Pakistani law.

During the entire course of the proceedings, neither court considered which of the three statements attributed to Asia Bibi were “blasphemous” and why, or what was the



intentional or reckless wrong.

Additionally, both courts did not consider whether Asia Bibi possessed the requisite criminal intent to commit the crime of blasphemy, despite the Federal Shariat Court's ruling that blasphemy is an "intentional or reckless wrong."

The prosecution's failure to prove all elements of the offense, including the requisite intent to defame Prophet Muhammad, calls into question the convictions by the trial court and LHC.

How does the application of blasphemy laws violate Pakistan's human rights obligations?

The application of Pakistan's blasphemy laws has been denounced for a variety of reasons.

Last year, the Supreme Court of Pakistan held that individuals accused of blasphemy "suffer beyond proportion or repair" in the absence of adequate safeguards against misapplication or misuse of such blasphemy laws.

Confirming the SC's findings, ICJ's 2015 study on the implementation of blasphemy laws in Pakistan found that more than 80 percent of convictions by trial courts are overturned on appeal, very often because appellate courts find evidence and complaints fabricated based on "personal or political vendettas."

The ICJ further found the following systematic and widespread fair trial violations in the application of the blasphemy laws, which also apply in Asia Bibi's case:

Intimidation and harassment of judges and lawyers that impede on the independence of the judiciary and the right to a defense;

Demonstrable bias and prejudice against defendants by judges during the course of blasphemy proceedings and in judgments;

Violations of the right to effective assistance of counsel;

Rejection of bail and prolonged pretrial detention;

Incompetent investigation and prosecution that do not meet due diligence requirements under the law;

The prosecution and detention of people living with mental disabilities;

Inhumane conditions of detention and imprisonment, including prolonged solitary confinement; and

Vaguely defined offenses that undermine the rule of law because they leave the door open to selective prosecution and interpretation.

In its statement, the ICJ opposed the criminalization of the exercise of the rights to freedom of expression and religion or belief in Pakistan in the shape of the blasphemy laws.



International Christian Response

thought, conscience and religion; freedom of expression; and equal treatment before the law,” it stated. “Furthermore, mandatory death sentence – including under 295-C of the Penal Code – violates Pakistan’s obligations to respect the rights to life, to a fair trial, and to prohibit torture and other cruel, inhuman or degrading treatment or punishment.”

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