

PAKISTAN

Insufficient protection of religious minorities

1. Introduction

“Sectarian hate mongers have no locus standi among the masses. ... No doubt they have over the years acquired a larger than life image, and their overblown power and influence has led to conjectures of a Taliban-style takeover in Pakistan. Needless to say, the religious extremists have a nuisance value, they have over the years emerged as ‘spoilers’ by acquiring a tacit veto power on major policy decisions. Don’t incur their displeasure, keep them in good humour, has been the overriding concern of the policymakers.”¹

These words summarize perceptions of Islamist groups and government responses to them which are widely held by observers in Pakistan. Less clearly perceived is the human rights cost of the upsurge of Islamist groups in Pakistan: the growing influence of Islamist groups is linked to growing religious intolerance in Pakistani society which manifests itself in hate speech against members of the minorities, particularly Ahmadis², boycotts depriving them of their social and economic rights, threats and use of violence including killings of members of minorities and the laying of religiously motivated criminal charges, under which many members of the religious minorities are detained as prisoners of conscience.³

The state has a duty under international human rights law as also under the Constitution of Pakistan, to protect minorities against such abuse. The Government of General Pervez Musharraf, in office since October 1999, has failed to live up to this obligation despite a professed agenda of protection and promotion of minority rights.⁴ The Government appears to have increasingly accommodated demands of Islamist groups with regard to religious minority issues and also to have allowed these groups to gain influence which itself has contributed to a deterioration of minority rights protection.

Many of the complex problems facing the present government are not of its own making but result from years of neglect, with successive governments exhibiting an overriding concern for

¹Khalid Mahmud: “Combatting sectarianism”, in: *The News*, 8 February 2001.

²A religious group who consider themselves Muslim but whom orthodox Muslims view as heretical. Ahmadis are sometimes also called ‘Qadianis’ as the movement was founded in the town of Qadian in North India, or ‘Mirzais’ following from the name of Mirza Ghulam Ahmad, the founder of the movement.

³For a detailed description of the laws see Appendix I, for the history of the laws see: *Pakistan: Use and abuse of the blasphemy laws*, AI Index: ASA 33/08/94.

⁴Amnesty International outlined suggestions for a reform agenda to restore human rights protection in Pakistan, including the protection of minorities in its *Open Letter to General Pervez Musharraf* on 20 October 1999, AI Index: ASA 33/28/99.

power rather than principle. In this process, institutions were weakened, religion was used for political ends and the rule of law callously disregarded. Human rights were violated with impunity: torture, deaths in custody resulting from torture, extrajudicial executions and state disregard for abuses suffered by women and children in the family and community have remained rampant for years. The protection of minority rights has been inadequate for a long time as the state condoned abuses by permitting discriminatory laws to remain on the statute book under which members of minorities were arbitrarily detained and by failing to ensure that private individuals responsible for abuses of minority rights were held to account.

The administration of General Musharraf presented a human rights agenda which took note of most of the human rights issues affecting ordinary people in Pakistan but it has not been able or willing to effectively tackle the increasing religious intolerance which is the background against which the human rights of minorities in Pakistan have been abused. It has failed to effectively prevent abuses of minority rights and to ensure legal redress for abuses suffered by members of the minorities.

Amnesty International is concerned that some members of the religious minorities in Pakistan have been held as prisoners of conscience solely for the peaceful exercise of their right to freedom of religion under laws that are clearly discriminatory. The organization is also concerned that members of religious minorities have been exposed to abuses perpetrated by private persons with the connivance or acquiescence of the government. In some instances, the criminal justice system has failed to provide members of minorities with adequate legal redress for abuses suffered.

To explain these concerns more clearly, this paper gives a detailed overview of the background against which the abuses occur; this includes a description of the government's stance towards the Islamist groups, the interwoven nature of domestic and foreign policy objectives, the scourge of sectarian violence mostly affecting the Shia and Sunni communities and the *madrassas* [Islamic seminaries] in which some Islamists are trained. It also looks at specific initiatives of the government since the military takeover in October 1999 and ends with a set of recommendations to the Government of Pakistan. An outline of the blasphemy laws of Pakistan is given in Appendix I.

2. The human rights situation of religious minorities in Pakistan

Despite official assurances of protection to the country's minorities, the human rights of minorities have been abused over the past year by both state agents and private individuals with the state apparently condoning such abuses. Particularly at risk of abuse are members of the Ahmadiyya community. Ahmadis, members of a religious group founded in the nineteenth century, consider themselves to be Muslim but orthodox Muslims regard them as heretical. In 1974, a constitutional amendment introduced by then prime minister Zulfikar Ali Bhutto declared

Ahmadis a non-Muslim minority. Subsequent legislation passed in 1984 (see below) has made it a criminal offence for Ahmadis to call themselves Muslim, and to profess, practice and propagate their faith as Muslims.

Both Ahmadis and Christians have been subjected to a wide range of abuses. A ready tool of discrimination and harassment are the country's blasphemy laws (see below for details) which have been consistently used to harass, intimidate and detain members of the minorities or members of the majority religion who in some way interpret, teach or debate their religion in a non-orthodox manner; usually the alleged blasphemer's motive is not taken into account.⁵ The blasphemy laws continue to be used under the present government to arbitrarily detain members of the minorities. Charges filed under those sections of the penal code which are specifically directed against Ahmadis and charges which entail trial by the special anti-terrorism courts -- which fail to provide a fair trial in accordance with international standards for fair trial -- appear to have increased in this period.

The blasphemy charges in all the cases known to Amnesty International and described below appear to be without basis. The apparent motives for bringing blasphemy charges are various: Charges against Ahmadis and Christians appear to have been brought solely because of their membership in these minority groups, i.e. because of their conscientiously held beliefs. Latent or overt hostility against religious minorities is often exacerbated by professional rivalry or quest for economic gain, particularly over land issues. A common feature of accusations of blasphemy in Pakistan is the manner in which they are uncritically accepted by members of the criminal justice system who themselves sometimes face threats and abuse if they do not accept them.

Amnesty International is concerned that the state not only permits the filing of charges which are manifestly unfounded, and involving the application of laws which openly discriminate against minorities in Pakistan, but that it has in the past year also consistently failed to protect the right of minorities against infringement by private individuals. Threats and use of violence against members of the minority communities by private persons or members of non-governmental groups are widely condoned by the state, and have led to a climate of fear for the minorities while perpetrators feel encouraged by the impunity with which they can abuse minority members. The abuse of inherently discriminatory laws, some of which involve the mandatory death penalty, and violence directed against them have led to members of the minorities being arbitrarily deprived of life and liberty, of a sense of security in which they can live their lives in dignity and safety and pursue their lives, including education and work in an environment free from discrimination and threat. Ahmadis and Christians are discriminated against in their work

⁵A motive was for instance not considered when a Sunni *moazzen* [caller to prayer] was sought to be charged with blasphemy in October 2000 after the Qur'an he was reciting was singed by a candle which fell on it. Police provided protection to him when 200 members of a religious party attacked the police station with stones and set a police van on fire. Police opened fire, killing one person and injuring six others.

situations, often face economic and social boycotts, are targets of hate speech and stopped from meeting with their co-religionists by people who oppose their faith, without the state taking any measures to correct this infringement of the minorities' rights.

3. Abuses of the blasphemy laws of Pakistan

3.a A typical blasphemy case described in detail

The case of **Riaz Ahmad** and his three relatives shows clearly how the blasphemy law under section 295C Pakistan Penal Code (PPC)⁶ can be misused to impose years of arbitrary detention, destruction of careers, disruption of lives as well as of fear and anxiety on members of minorities. It appears that the judiciary at various stages of the process ignored the evidence, denied bail and generally did little to protect the rights of the accused. The case is described in detail as it shows clearly the long standing apathy towards the protection of minority rights. It is at the same time one of the very few cases which under the present administration was finally resolved leading to the acquittal of the accused.

On 21 November 1993, a case of blasphemy under section 295C PPC was registered against four Ahmadis, Riaz Ahmad, Basharat Ahmad, Qamar Ahmad, and Mushtaq Ahmad of Chak 15/D, Mianwali district on the allegation that the men had insulted the name of the Prophet Mohammad; they were arrested at once. The background to the charge was a dispute over the headmanship in the village. Riaz Ahmad, the main accused, had been village headman [*numberdar*] for a long time when Muhammad Abdullah applied to the authorities to have him removed on account of his being an Ahmadi. When the Deputy Commissioner confirmed Riaz Ahmad in his post, and stated that there is no prohibition in law to an Ahmadi being a *numberdar*, Muhammad Abdullah brought the criminal charge against Riaz Ahmed and his relatives thereby effectively removing him from the post. Following their arrest on 21 November 1993, a bail application was filed in the court of the Additional Sessions Judge, Mianwali; on 7 December 1993, when the application was to be heard, the complainant along with a group of Islamists created a noisy scene outside the court, causing the judge to transfer the application to the court of the Sessions Judge. After several postponed hearings, a group of Islamists again assembled on 3 January 1994 when a decision was expected. The Sessions Judge rejected the bail application. The bail application was then sent to the Lahore High Court, where the judge hearing the application sent it up to the Chief Justice with the request to set up a larger bench to clarify some questions arising from the blasphemy law. The bench heard the case in April 1994 and upheld the law itself as a safeguard for the life and safety of the accused against arbitrary mob violence, without, however, reminding the state of its responsibility for

⁶Section 295C PPC criminalizes acts of defiling the name of Prophet Mohammad which are punished by the mandatory death penalty. For a detailed discussion see the section of this report on the blasphemy laws of Pakistan.

safeguarding the life and safety of the accused at liberty: “If the provision of section 295C [PPC] was repealed or declared *ultra vires* of the Constitution, the time old method of doing away with the culprits at the spot would stand revived.”

The bail application in May 1994 was again heard by the Lahore High Court; the argument of the Advocate General that the intention of the person accused of blasphemy was not relevant, was accepted and bail rejected. The bail application was moved in the Supreme Court on 20 July 1994 where the Chief Justice ordered a larger bench to hear it. For over one and a half years this did not happen; eventually in December 1997 the men were released on bail on orders of the Supreme Court, after over four years in Mianwali jail. Fearful for their lives, two of the accused, Basharat Ahmad and Qamar Ahmad left the country and sought safety abroad. Riaz Ahmad and Mushtaq Ahmad lived in other parts of Pakistan as they too were not safe in their village. The case continued to be heard.

On 9 September 2000, the four Ahmadi were declared not guilty; to ensure peace in the court room, a special unit of the police was called to guard the court premises. Judge Mian Khadim Hussain said in the judgment: “... this court has come to the conclusion that firstly, this is a case of no evidence, secondly that the complainant party have made the sentiment of the Muslims a tool for their worldly benefit and aim and also used the name of Hazrat Mohammad (Peace Be Upon Him) for this purpose. The evidence of the prosecution is based on previous enmity; ... interested and false witnesses are produced to prove this case of punishment of death ... the prosecution has also failed to prove the case beyond any shadow of doubt rather they have falsely implicated the accused persons in the present case. The accused while recording their statement under section 342 CrPC [Code of Criminal Procedure] have clearly mentioned that Mirza Ghulam Ahmad [the founder of Ahmadiyyat] was a servant of Rasool-e-Pak (the Holy Prophet of Islam) which has impressed this court positively to believe that in fact the accused have been involved by the complainant party for their worldly aim and they chose section 295C [PPC] for this purpose but failed to prove the same.”

3.b Abuses of the blasphemy laws since October 1999

Dozens of cases in which different religious offences are alleged are pending in the courts of Pakistan. Here the focus will be on three groups of cases:

1. cases brought since October 1999;
2. convictions handed down and punishments imposed since October 1999 in cases brought earlier;
3. cases of people currently serving their sentences who were convicted and sentenced before October 1999.

Amnesty International considers all the detainees mentioned here as prisoners of conscience, solely detained on grounds of their exercise of their right to freedom of religion. Amnesty International urges their immediate and unconditional release.

(1.) New cases brought since October 1999

Amnesty International is aware of some 60 people who were charged with religious offences in the year 2000 with about half of them detained at least for some time; they included the following:

On 15 December 1999, the Ahmadis **Dr Muhammad Nawaz, his two sons** and three other Ahmadis were charged under section 298C PPC⁷ after a neighbour and local clerics incited a mob to storm Dr Nawaz' house in Haveli Lakha, Okara district. The neighbour's motive seems to have been to intimidate the Ahmadi family when Dr Nawaz had acquired land he had wanted himself. Litigation had started earlier and the neighbour tried to give the issue a religious slant by claiming that Dr Nawaz was building an Ahmadiyya mosque on the plot. On 15 December 1999, when local authorities intended to make an on the spot assessment, loudspeakers of the surrounding mosques called people out to protest claiming it was a matter of religious war or *jihad* and that the building of an Ahmadi mosque had to be prevented. A mob then gathered, stormed Dr Nawaz' house extension under construction on the plot disputed by the neighbour and his residence and clinic next door, ransacking and looting both. Local police were aware throughout of the gathering mob but did not intercede to protect Dr Nawaz and his family. The family saved themselves by jumping from their roof onto a neighbour's house. Shortly afterwards police arrived to arrest Dr Nawaz, his two sons and three other Ahmadis on the charge of 298C PPC. They were later taken to Sahiwal Jail where they continued to be held.

Sometimes courts pursue cases against Ahmadis which appear on the evidence available to Amnesty International, to be baseless. In the case against the Ahmadis **Ghulam Mustafa, Hamid, Maqsud Ahmad** and **Mian Fazil** of Bharokay Kalan, Sialkot district, some of the accused were not even present at the place of the alleged offence. A complaint was registered against the men on 31 July 2000 under sections 298C and 295A PPC⁸ for injuring the feelings of Muslims by watching an Ahmadiyya television channel in a garage owned by an Ahmadi, the door of which was left open on account of the hot weather. One of the accused, Ghulam Mustafa, the head of the Daryapur Ahmadiyya community had never been to Bharokay but had been implicated in April 2000 in another case elsewhere. Another Ahmadi who was not among the accused was arrested along with the others. Subsequently fifty local men gave testimony in writing to the authorities that the allegations were false; supporting evidence was sent to the Director General of Police, the District Commissioner and others; finally the charge under

⁷Section 298C PPC makes it a criminal offence for Ahmadis to 'pose' as Muslim or to practice their faith as Muslims. For details see the section of this report on the blasphemy laws of Pakistan.

⁸Section 295A PPC makes it a criminal offence for anyone to 'outrage the religious feelings of any class of citizens'. For details see the section of this report on the blasphemy laws of Pakistan.

section 295A PPC was dropped but the charge under 298C PPC was maintained against two of the men who remained in detention.

In the case against the Ahmadis **Dr Khalid Mahmud, Manzur Qadir Khan, Muhamad Hayat** and **Muhammad Idrees Shahid** of Bhera, Sargodha district, the evidence showing that the complaint was ill-founded, was strong but also ignored. The four men were charged on 25 August 2000 with preaching and converting others to Ahmadiyyat under section 298C PPC. The supposed convert, Mohammad Suleman stated on oath before police and military intelligence that the complaint was false. He declared on several occasions before the religious congregation that he had not converted. The complaint was pursued nonetheless. Dr Khalid Mahmud, a medical doctor and Manzur Qadir Khan, a teacher and president of the Ahmadiyya community of Bhera, are government employees and were transferred away from Bhera but went into hiding to avoid arrest. All eventually obtained bail before arrest but on 31 October 2000 the bail for Manzur Qadir Khan and Muhammad Idrees Shahid was cancelled. Amnesty International does not know if they were subsequently arrested.

In some cases, the fact to which a complaint relates was not actually covered by the section of the PPC cited yet police officials went ahead to register complaints and arrest the persons accused. For instance, **Munir Ahmad**, a school teacher in village Chak 646 GB, district Faisalabad, was on 20 September 2000 charged under section 295B PPC⁹ at police station Landianwala on the allegation that he had torn a religious book based on the Qur'an and Sunnah - despite the fact that section 295B PPC only relates to defiling the Qur'an itself. Police accepted the application made by a non-Ahmadi who had incited the public about the torn book and led a procession to the local police station where the complaint was registered. Munir Ahmad was arrested. The Sessions Court rejected his bail application and he remained in detention.

In some cases simple observations of a religious nature are construed as blasphemy. The Ahmadis **Bashir Ahmad, Muhammad Ismail** and **Abdul Sami** of Sarai Sidhu, Khanewal district, were charged on 29 August 2000 under section 298C PPC for preaching Ahmadiyyat. The complainant, a member of the *Sipah-e Sahaba Pakistan* (SSP) a militant Sunni organisation, reportedly visited Abdul Sami's house on 18 August and in the course of the conversation, made derogatory remarks against the head of the Ahmadiyya community. When he declared that the leader had escaped in the face of persecution, Abdul Sami reminded him that Prophet Mohammad had also had to leave Mecca and go to Medina. This apparently annoyed his visitor who came back later with a number of supporters. Next day he lodged a complaint at the police station claiming that by using the words 'went to Medina' rather than

⁹Section 295B makes it a criminal offence to desecrate the Holy Qur'an. For details see the section of this report on the blasphemy laws of Pakistan.

'*hegira* to Medina' [or *hijra*, the term used for Prophet Mohammad's migration to Medina], Abdul Sami had insulted the Prophet. The Station House Officer issued orders to both parties to present themselves to the police station on 25 August, a Friday. During Friday prayers of that day, the local clerics claimed before the congregation that Islam was in danger. Three to four hundred agitated men then marched to the police station where they were assured by police that a case would be registered against the Ahmadis. On 29 August, First Information Report (FIR), the complaint which set in motion a police investigation) No. 336/00 was registered at police station Sarai Sidhu under section 298C PPC; the clerics, however, demanded that 295C and 295A PPC be added. A bail before arrest application was submitted to the Sessions Court but rejected by Additional Sessions Judge Khanewal on 8 September; the accused were then arrested by police. Their bail application was rejected by the magistrate and the sessions judge; the detainees are currently in District Jail Multan.

In a similar case a Sunni Muslim (name and details withheld for security reasons at the request of the detainee's family) was in early October 2000 charged by a member of the *Majlis-e-Khatam-e Nabuwwat* [Organization of the Finality of the Prophet, short: *Khatam-e Nabuwwat*], an organization that has harassed and criminally prosecuted many people or groups who they believe have diverged from the central Muslim belief that there can be no prophet after the Prophet Mohammad, with blasphemy under section 295C PPC for allegedly discussing religious issues during a lecture. His comments allegedly included the observation that the prophet of Islam was a non-Muslim before the age of 40 and that the Prophet's parents were non-Muslims as they had died before he declared his mission as the prophet of Islam. The complainants were not present during the lecture. The accused was arrested and reportedly attacked during a court appearance in October 2000 by members of the organization of the complainant. Police apparently did not take adequate measures to protect him. His glasses were broken in the attack. His bail application was rejected by the Lahore High Court in January 2001. He continues to be held in judicial custody.

Ashiq Masih, a Christian from Saeedabad who converted to Islam some three years ago, but apparently reverted to Christianity and attended church with his Christian neighbours, had an argument with a Muslim neighbour, associated with the *Lashkar-e-Taiba* [Army of the Pure], on 17 March 2000 about his conversion. According to some reports, a mob of 200 men later attacked the small Christian community in Saeedabad. The neighbour registered a case against Ashiq under section 295C PPC six weeks later on 2 May 2000, alleging that Ashiq had injured their religious feelings by his behaviour. The complaint was referred to the District Commissioner (DC) for perusal under then newly instituted procedures¹⁰; it was then passed on to police who registered the complaint. Ashiq Masih was arrested shortly afterwards. There

¹⁰In April 2000, a procedure was set up to scrutinize complaints before proceeding with a case; this was later revoked. See for details below in the section on the government's human rights agenda with regard to the minorities.

were no eye witnesses to the alleged offence; Ashiq Masih denied the allegations. A bail petition is pending. According to people who visited Ashiq Masih in District Jail Faisalabad, the detainee said that other detainees and prison wardens treated him harshly.

(2.) Convictions and sentences imposed since October 1999

Several members of religious minorities were convicted and sentenced to terms of imprisonment under the new government in cases brought before it came to power.

Attar Ullah Warraich, an Ahmadi from Chak 11, Sadar Chisti, Bahawalnagar district, Punjab province was sentenced to two years' imprisonment on 31 January 2000. He had been connected with the local mosque which was next to his house and was charged on 8 September 1999 under section 298B PPC on the application of members of the *Khatam-e Nabuwwat* for having built a minaret and a niche¹¹ in the mosque, for possessing a copy of the Qur'an and for having arranged teaching of Ahmadiyyat. He was arrested on the following day. His bail application was rejected first by the magistrate, then by the Additional Sessions Judge on 17 September 1999 then by the Bahawalnagar High Court bench on 5 November 1999. High Court Judge Justice Nazir Akhtar said in his order rejecting bail: "The present case does not involve commission of an ordinary offence against one or more individuals but is an exceptional case involving commission of an offence against the society as a whole which may have national as well as international repercussions." He added, "I feel that the interests of justice would be adequately met if the trial court is directed to conclude the case within a period of three months" and to "conduct proceedings on day to day basis". Although the accused declared that he had not had the mosque constructed, as the mosque had been there for several decades and that he did not own the land on which it stood and also that he was not its caretaker, the judge concluded that Attar Ullah Warraich had constructed the mosque in its current form and that a Qur'an had been recovered there along with Ahmadi literature. He concluded from the two facts: "So, the accused has committed offence u/s [under section] 298B." He continued, "anyhow, the accused is a first time offender. He is an illiterate farmer. He might have constructed the said ... [construction resembling an Islamic mosque] before the amendment of section 298C etc. [when such practices were declared a criminal offence]. He should have changed the shape of the mosque after the said amendment which he has not done. Therefore, the accused is convicted to rigorous imprisonment for two years along with a fine of Rs. 2,000 ..." Attar Ullah Warraich is being held at Bahawalnagar jail. A bail application was pending in the Supreme Court at the

¹¹The niche or *mihrab* indicates the direction of Mecca and is the central feature of any mosque. The niche itself is not sacred; it is the direction which it expresses which is sacred. Muslims ensure that privies, graves and even bedrooms are not aligned in the direction of Mecca to avoid inadvertent disrespect.

time the judgement was announced and became redundant with the announcement of the judgement.

In October 2000, three Ahmadis were sentenced to imprisonment apparently solely because of their religious beliefs: **Muhammad Yusuf**, accused in 1987 under section 298 PPC for displaying Islamic verses and the *Kalima* [the statement of the essential Muslim belief that God is one and Mohammad his Prophet] in his shop, was on 11 October 2000 sentenced to one year imprisonment by a magistrate in Qasur; the same magistrate sentenced **Mohammad Hussain** and his son, **Muhammad Sadiq** to one year imprisonment for displaying the *Kalima* on their house door.

On 12 May 2000, two Christian brothers, **Rasheed Masih** and **Saleem Masih** were each sentenced to 35 years' imprisonment and fine on blasphemy charges. On 29 May 1999, the two men, working as agricultural labourers, are alleged to have made derogatory remarks against the Prophet Mohammad to a street vendor in village Sabomahal in Pasroor, district Sialkot. Maqsoos Ahmed, an ice-cream street vendor, allegedly refused to allow the Christians to use the utensils of his shop and sent them away to get their own utensils. A scuffle ensued, and slaps were exchanged between the two parties. The ice-cream vendor claimed that the brothers had destroyed and snatched merchandise from him. After seeing the local cleric for advice, he filed a complaint with police alleging assault and beating by the two men; this application contained no reference to religious offences. He later came back to lodge a complaint about blasphemy. The Station House Officer (SHO, the officer in charge of a police station) made a note on the original application that the offence falls under section 298C PPC, an offence triable by a Magistrate's Court; this was later written over with section 295C PPC (triable by a Sessions Court).

Bail was rejected at different levels of the judiciary; after some six days in police custody the accused were sent to Central Jail Sialkot. The trial started in October 1999. On 20 January 2000, the Additional Sessions Judge Pasroor issued a special order that the offence did not fall under 295C but 295A PPC which is triable in a special court set up under the Anti-Terrorism Act (ATA) which contains provisions not in conformity with fair trial standards. The case was then referred back to the Sessions Judge in Sialkot who on 22 January 2000 admitted the case for hearing. In the next hearing, the Sessions Judge Sialkot held that the case falls under section 295C PPC and referred it back to Additional Sessions Judge in Pasroor. There charges were framed on 18 April and the trial concluded in less than a month with their conviction. According to the men's lawyers, the prosecution only relied on verbal testimony of the complainant and no circumstantial evidence has been provided to prove the allegation against the brothers. Their appeal is pending in the High Court.

Mohammad Yousuf Ali, a Sufi mystic, was convicted of blasphemy and sentenced to death on 5 August 2000 in Lahore, under section 295C PPC. He was also sentenced to 35 years' hard

labour and a fine of Rs. 200,000 under sections 295A, 298¹², 298A¹³, 505(2) [statement conducive to public mischief], 420 [cheating] and 406 [punishment for breach of trust] PPC. The complainant against Yousuf Ali is the secretary general of the *Khatam-e-Nabuwwat*.

In contravention of international fair trial standards, the trial of Yousuf Ali was conducted *in camera* and some of the Urdu media conducted a vilification campaign against him, which may have influenced the judge. The judgement shows little evidence to support the complainant's assertion that Yousuf Ali claimed he was a prophet. He denied making such claims and some of the prosecution witnesses have admitted that they did not fully understand what Yousuf Ali taught. Yousuf Ali's statements in court consistently expressed love and respect for Prophet Mohammad.

Amnesty International has received reports from those who have visited Yousuf Ali in Kotlakpat Jail in Lahore that he is quite ill; that he has difficulty speaking and using his fingers; is living in very unhygienic conditions and has been denied adequate access to doctors and medical treatment.

(3.) Detainees convicted before October 1999

Several people remain imprisoned following convictions on charges of blasphemy handed down before the change of government in October 1999. Because of the length of their sentence, the following cases are of particular concern:

Ghulam Mustafa, an Ahmadi from Dera Ghazi Khan, was on 20 March 1999 convicted of charges under section 298C PPC for allegedly preaching Ahmadiyyat and sentenced to 13 years' rigorous imprisonment and a fine of Rs. 100,000. Ghulam Mustafa had been charged under section 298C PPC on 10 December 1998 for preaching and was immediately arrested. His bail application was rejected in the Magistrate's Court; an Additional Sessions Court not only refused to grant bail but added section 295A PPC making the case triable by an Anti-Terrorism Court. The trial lasted less than a week. He is currently being detained in Multan jail; an appeal against his conviction and sentence is pending.

The Christian **Ayub Masih** (30) in village Chak 353/E.B, Arifwala, Sahiwal district, Punjab province was sentenced to death on 27 April 1998 on charges of blasphemy under section 295C PPC by a court in Sahiwal. On 14 October 1996, Ayub Masih was arrested following allegations

¹²Section 298 PPC makes it a criminal offence to wound anyone's religious feelings, see section on blasphemy laws in Pakistan below.

¹³Section 298A PPC makes it an offence to defile any person associated with the Prophet Mohammad, see below.

made by a Muslim that he felt offended when Ayub Masih told him that Christianity was 'right' and that he should read British author Salman Rushdie's 'Satanic Verses' and that they had scuffled after this alleged exchange. The Catholic Bishop of Faisalabad, Bishop John Joseph, pointed out that the allegations appeared to be motivated by a dispute over property between Muslim and Christian inhabitants of the village. Ayub Masih's family had applied for land under a government program allotting land to landless people for housing purposes. The local *zamindar* [landlord] and other local residents apparently resented this prospect as Christian families had been living on land provided by the landowners in exchange for labour, which considerably benefited the landowners. Several families were forcibly evicted and several Christians beaten by villagers following the filing of the complaint against Ayub Masih. The bishop also suggested that it was highly unlikely that the blasphemy allegations were based on fact: neither Ayub Masih nor the complainant can read English and would know little about the book. Bishop John Joseph committed suicide in May 1998 in protest against the imposition of the death sentence on Ayub Masih; the death sentence was followed by non-violent country-wide protests of Christian communities.

The defence lawyer for Ayub Masih has pointed out that the case against Ayub Masih rests on the verbal testimony of the complainant without any further corroborating evidence. An appeal against the death sentence was admitted in May 1998 by the Lahore High Court and has been pending since. An application for an early hearing of the appeal was filed on 12 December 1999 and also remains pending in the Lahore High Court. Ayub Masih is imprisoned in Multan. In January 1999 he was reportedly attacked and injured by four other people sentenced to death but no action appears to have been taken against his assailants. According to reports his health has significantly deteriorated since his arrest.

Dr Waheed Ahmad Sheikh, an Ahmadi homeopathic doctor from Badin, Sindh province, was convicted by an anti-terrorism court under section 295A PPC and sentenced to 10 years' imprisonment on 21 April 1998. It was alleged that he had falsely stated that 23 local illiterate people who he helped fill in their census forms, were Ahmadis. The complaint was registered on 12 March 1998, he was arrested on the following day and a month later the anti-terrorism court convicted him. Since then he has been detained in Hyderabad Central Jail. His health has deteriorated in jail and in September 1999 he was transferred to Karachi Central Jail and given medical attention for his heart condition. He was again seen by a cardiologist in January 2000 in Hyderabad Central Jail. In April 2000, Amnesty International was informed that the Sindh High Court had set aside Dr Waheed Ahmad Sheikh's conviction and that the case was remanded for retrial on account of some deficiencies in the original trial; the High Court found that the relevant documents of the census office had not been called and that the original trial court had had no jurisdiction. Dr Waheed continues to be detained in Hyderabad Central Jail, now as a detainee under trial. A petition for acquittal is pending before the Supreme Court.

4. Special targets of abuse: religious converts

The people who have perhaps been most relentlessly targeted for abuse are converts to Ahmadiyyat. Amnesty International has been informed of people who live with constant threats since their conversion became known, of some who have been forced to recant and some who have lived through weeks and months of harassment and fled their homes or been driven out. Fearing harassment, many Ahmadis keep their conversion secret, even from family members. Conversion is not an offence under the law and the Constitution of Pakistan. However, state officials have failed to provide protection to converts; in fact, police often connive in abuses by private persons against converts.

Dr. Noor A. Fazli, an Ahmadi homeopath from Nawa Kot, district Sheikhupura received an anonymous letter in Urdu which said inter alia, “you have become an apostate, no salvation is available for you. ... Remember, we shall cleanse the area of your foul presence. We are keeping track of you and you will disappear soon ... If you do not want to die a dog’s death, you will have to recant from Mirzaism and join Islam. Only then will we spare you, otherwise we shall despatch even your children to hell ...” Having earlier experienced the indifference of police to fears of the Ahmadiyya community in his district, Dr Fazli did not approach police but sought to privately increase the security for himself and his children.

Ghulam Rasul Alavi, a teacher working in Wah, converted to Ahmadiyyat in 1995. When he visited his family in village Drot, district Chakwal in August 2000, village elders sent him a message that he would not be tolerated in the village and should leave the next day. Fearing that police would not provide protection, he complied. Two weeks later, his uncle along with two members of the *Khatam-e Nabuwwat* visited him in Wah and threatened him with death if he did not recant. They said he was expelled from his entire family and that his wife, a non-Ahmadi, was now free to marry anyone else. They warned him not to contact them. Two days later, two members of the Ahmadiyya community visited his family in Drot; family members said their mail was being intercepted and opened and the children had been forbidden to attend school. Police had been informed but taken no action to protect the Ahmadis. The local cleric had earlier issued a *fatwa* [religious opinion] stating that Ghulam Rasul Alavi deserved to be killed for apostasy and that the entire family should suffer social boycott. The family were afraid that the two Ahmadis’ visit would become public knowledge and that the visitors might be harmed.

Others have been forced to recant under pressure. Shafi Mohammad of Bucha Band, district Umerkot, Sindh province, converted to Ahmadiyyat but was threatened by members of the *Khatam-e Nabuwwat* with violence if he did not recant; he first went into hiding, was traced and finally recanted. At the instigation of local clerics, six local Ahmadis were subsequently on 12 September 2000 charged under section 298C PPC, which criminalizes preaching the Ahmadis’ faith, in police station Shadi Pali for having persuaded Shafi Mohammad to convert. Mubashir Ahmad of Chak Sikander, district Gujrat, was similarly forced to recant by local clerics in late 2000; he was told by them that “Qadianis are going to meet worse treatment than at Ghatialian

and Takht Hazara [where 10 Ahmadis, including children, had been killed a month earlier], so that their future generations will remember it.” The fact that none of the perpetrators of these killings (see below) was held to account may have encouraged the clerics to make the statement.

Governmental failure to protect the rights of Ahmadis is also apparent in the harassment and expulsion of two Ahmadis by Islamists from villages in Azad Jammu and Kashmir, an area with its own Constitution and laws within the borders of Pakistan. Mansur Ahmad Zahid, a tailor in Dalial in Mirpur district, had already been repeatedly harassed by orthodox Muslims, when on 8 August 2000 a procession of clerics, other tailors and shopkeepers of the area shouting anti-Ahmadi slogans marched on his shop demanding that he close it or face death. By the intervention of a local respected person, the situation was diffused but the demonstrators subsequently handed a complaint to police alleging that Mansur Ahmad Zahid had shown Ahmadi television to non-Ahmadis and been instrumental in converting a man to Ahmadiyyat. Police questioned Zahid but eventually let him go.

On the next day, Hafiz Bilal, an employee of Zahid’s who had converted to Ahmadiyyat was accosted by the demonstrators of the day before and beaten and stabbed with a pair of scissors. Zahid and Hafiz Bilal then sought to lodge a complaint with police who instead insulted and detained them; Hafiz Bilal was reportedly harassed and beaten in the police station. On the same day, another Ahmadi, Aziz Ahmad, a government employee in the water supply department was beaten by non-Ahmadis; he, too, wished to lodge a complaint and was detained in the same police station as the two other Ahmadis.

On 10 August, more demonstrations were held and other Ahmadis were attacked. The victims included Iqbal and Abdul Aziz who were beaten and made to walk through the town with a string of shoes around their necks as a form of humiliation. The police and administration did not take any steps to protect the victims against the mob. Local notables interceded again and rescued the victims who fled the town.

In the afternoon of 10 August the three Ahmadis were released from police custody; they fled to a neighbouring town, Dolya Jattan in district Kotli. When they learned that clerics had announced their intention to set the Ahmadis’ houses in Dalial on fire on the following day, Ahmadis from Dolya Jattan rescued the remaining Ahmadis from Dalial during the night braving hostile pickets at risk to their own lives. When the escape of the Ahmadis to Dolya Jattan became known, Islamists alerted their colleagues in Dolya Jattan who beat up several Ahmadis and demanded that the Ahmadis from Dalial be handed over to them or leave the town. The Ahmadis from Dalial then fled to Mirpur where the Ahmadiyya community extended support to them. Meanwhile their households and businesses are left behind. Both Mansur Ahmad Zahid and Hafiz Bilal have sent their wives and children to relatives in Punjab as they fear for their safety.

5. Lack of state protection of minorities against threat and use of violence

State indifference to religiously motivated violence against members of the religious minorities has contributed to an increase of such abuse against Ahmadis and Christians, as opponents of these groups believe that they can carry out such attacks with impunity. More than 30 Ahmadis have been killed over the last five years in Pakistan, apparently by people who oppose their faith. The fact that only in the rarest of rare cases action is taken against the perpetrators of such abuses further consolidates this perception of official indifference if not implicit support. In most of the recent cases of violence against Ahmadis, such attacks were preceded by months of harassment, threats and attacks which officials did little to curb or prevent and thus appeared to be condoning.

The press attache of the Embassy of Pakistan in Washington in a letter to the *Washington Times* on 22 November 2000 said: "Incidents of violence against minorities occur, as in any other country but these are random acts for which the state is not responsible. The blasphemy law originated from British colonial times and is not aimed at any particular community; Muslims also can be prosecuted under this law. However, the due process of law has ensured against misuse of this statute." This statement clearly makes the link between the existence of the blasphemy law and violence against members of minorities; however, it fails to recognize the responsibility of the state for the continuing high level of violence against members of the minorities. The state in Pakistan has connived in such private abuses of members of the minorities, as when police have passively stood by during attacks on Ahmadis. In many more instances it has failed to exercise due diligence in protecting members of minorities from imminent attack and to investigate and prosecute attackers in cases where it could not or did not prevent the abuse. Whenever there is reasonable evidence for such failure, the state of Pakistan is responsible for the abuses by private persons against members of minorities.

Killing of Ahmadis in October 2000

In the autumn of the year 2000, two mob attacks on Ahmadi mosques led to the deaths of ten Ahmadis. On 30 October 2000, five members of the Ahmadiyya community in village Ghatialian, Sialkot district, were killed by several unidentified gunmen as they left their mosque after early morning prayers. Among the victims was a 16-year-old boy. Six others were injured. Police later claimed that the incident could be the outcome of an earlier incident in which a non-Ahmadi was killed by an Ahmadi, but the Ahmadiyya community has clarified that the murdered man was a friend of some Ahmadis and no Ahmadi has been charged with the murder.

Amnesty International has been informed of the long history of tension in Sialkot district which preceded the killings on 30 October. Between March and September 2000 alone, five criminal cases, mainly involving allegations of religious offences, were brought against 23 Ahmadis

district. In the previous year, eight cases involving religious offences implicating 21 Ahmadis had been brought. The cases in 2000 include:

- On 22 March, three Ahmadi men and three Ahmadi women were charged by the non-Ahmadi parents of Khalid Javed, who were encouraged by a local cleric, with having abducted him; they were arrested but the women were subsequently released. A writ petition was moved on behalf of the missing person. On 31 March, Khalid Javed appeared in court - after the court room was cleared since the non-Ahmadis were accompanied by a large number of unruly Islamists - and stated that no one had abducted him but that he had secretly converted to Ahmadiyyat in 1999 of his own free will and that he had left the village and gone into hiding out of fear of harm by opponents of his faith when his conversion had become known. The case was then withdrawn and the Ahmadis released. According to reports, the young man continues to be at risk to his life as his parents and others have threatened to kill him on account of his conversion; he is in hiding as police have not provided protection.
- On 27 April, four Ahmadis of Bhakku Bhatti were charged under section 295A PPC for preaching Ahmadiyyat.
- on 28 April, six Ahmadis in Daryapur were charged under section 295A PPC for having built a minaret and prayer niche in their own mosque after local mullahs threatened to occupy the building.
- on 31 July, four Ahmadis were charged in Bharokay Kalan under section 298C and 295A PPC for watching an Ahmadiyya religious television program in one of their homes; charges against two accused were subsequently dropped (see above).
- on 19 September, Asad Zahur, an Ahmadi of Luddhar was charged under sections 298B and 298C PPC for addressing the head of the Ahmadiyya community in a private letter as *amir-ul-mominin*, i.e. leader of the faithful. Asad Zahur is reportedly mentally imbalanced. He was beaten up by local people at the time of arrest in September 2000 while police did nothing to protect him against attack; his bail application was rejected by the magistrate and subsequently on 4 November 2000 by the Additional Sessions Judge in Sialkot; he continues to be detained in Sialkot jail.

Of the 23 accused, three were in detention at the end of the year 2000, the others are free on bail; all cases are pending in various stages of proceedings. Two other Ahmadis accused of religious offences are in detention in Sialkot district since September 1999. In the same district, several mosques of Ahmadis have been demolished, attacked, and handed over to non-Ahmadis; in six instances, renovation work to Ahmadi mosques had been stopped.

In the village of Ghatialian itself, religiously motivated tension stretching over years, had calmed down when a truce between minority and majority group was reached in 1999; however, Islamist groups continued to instigate random acts of violence against Ahmadis. The local authorities had reportedly taken no action to halt these intermittent attacks.

Killings of Ahmadis in November 2000

Only ten days after the killing of October 2000 in Ghatialian, another five Ahmadis, including two children, were killed by a mob shouting anti-Ahmadi slogans in village Takht Hazara in Sargodha district. In the early hours of 10 November, a local mullah led a mob to the Ahmadi mosque; people inside it phoned police for protection - but none came. As a scuffle broke out, the mob swelled quickly and broke into the mosque where they attacked and killed four Ahmadis, including a 15-year-old boy, and mutilated their bodies with axes. They then ransacked the building and set it on fire. One of the injured persons, a 14-year-old schoolboy later died of his injuries inflicted during the incident. The police arrived after the incident.

The killings in Takht Hazara were likewise preceded by about two years of anti-Ahmadi actions apparently driven by a local cleric. In September 2000 he had reportedly instigated the desecration of Ahmadi graves. On several occasions, he had led believers through the streets shouting anti-Ahmadi slogans. Ahmadis who approached the authorities were told to remain calm but no preventive or protective steps were taken. The cleric also sought to deprive the community of their mosque but the court decided in the Ahmadis' favour.

Following international and some national protests against the two incidents of killings, three persons were arrested in connection with the killing at Ghatialian, a fourth suspect reportedly fled. With respect to the killings at Takht Hazara, two First Information Reports (FIR) were filed; one by the Ahmadis against their attackers, the other by the opponents of the Ahmadis against 51 Ahmadis, including five who were complainants in the first and witnesses of the killing. Police proceeded against these five Ahmadis under sections 365 [abduction], 324 [attempted murder], 148 [rioting], 149 [participation in unlawful activity of a group] and 295A PPC and arrested them. An anti-terrorism court subsequently denied bail to the five arrested Ahmadis. Ahmadis have pointed out that despite the incident involving a sectarian killing, section 295A PPC which relates to outraging the religious feelings of any group, has not been applied against the Islamists who attacked the Ahmadis. They also reported that the accused Ahmadis in Takht Hazara faced great difficulties in finding lawyers to defend them reportedly out of fear of the clerics.

An official announcement by the Punjab government that the incident at Takht Hazara would be subjected to a judicial inquiry was welcomed by Amnesty International; however, the organization was subsequently informed that the District Commissioner had appointed an Assistant Commissioner to hold an inquiry, limited to the murders themselves without taking their antecedent circumstances into account. The Assistant Commissioner was to have submitted his report in seven days. The terms of reference of the report were not made known. Amnesty International is not aware whether the report had been submitted by early 2001.

Other killings of Ahmadis

The killing of 10 Ahmadis in two attacks were not the only targeted killings of Ahmadis in the year 2000. Other killings and attacks on Ahmadis were reported which were like the killings at Ghatialian and Takht Hazara, preceded by threats which police ignored. On 17 January 2000, a leading orthopaedic surgeon of Faisalabad, the Ahmadi Dr. Shamsul Haq Tayyar, was shot dead; he had left the Sahil Hospital at 10 pm and within a few hundred metres of the hospital his car was intercepted by armed gunmen who forced their way into the car. Outside the town, the car hit a stationary truck; the armed men fled the car leaving behind the doctor who was critically injured. According to reports, an eyewitness said that one of the fleeing gunmen fired a shot at Dr Tayyar's head. The driver of the truck and local people reported that the doctor had his hands and feet tied with ropes. Relatives lodged a complaint at Khurrianwala police station; according to police sources reported in the local media, two police teams were to look into the case, one headed by the Deputy Superintendent of Police, the other by the Additional Superintendent of Police. According to Ahmadi sources, threats had been received by Dr Haq earlier and he had informed police of the likelihood of imminent attack. No action was taken, however, and despite some police investigation after the murder, no one is known to have been arrested in connection with the murder.

Similarly in Bhauru, Sheikhpura district, an Ahmadi, Abdul Latif, was shot dead on 8 June 2000 following months of anti-Ahmadi agitation in village Chak 18 which the authorities had ignored. Ten days before the murder, the clerics Allah Year Arshad, Akram Toofani and Shahkoti had been invited by local clerics to deliver anti-Ahmadi speeches in the area. On the day of the incident, some youths attacked a young Ahmadi man; the victim's mother tried to help him but was abused and intimidated. When other Ahmadis of the village came to their help, young Islamists opened fire and killed Abdul Latif and injured three other Ahmadis. Ahmadis returned fire and injured some of the attackers. The police arrived after the incident. Several complaints were lodged; one by Ahmadis against their attackers, and one against 31 Ahmadis under various sections of the PPC on the accusation of the local leader of the *Khatam-e Nabuwwat*. Seven Ahmadis, including the president of the local community were arrested and subsequently transferred to judicial custody; in November 2000 the Sessions Judge Sheikhpura rejected their bail application. To Amnesty International's knowledge, the persons who attacked the Ahmadis, incited to violence against them and shot Abdul Latif continue to be free.

Police in Bhauru had apparently during the months preceding the incident ignored religiously motivated harassment and threats of violence against Ahmadis broadcast from mosques and registered a number of criminal complaints against Ahmadis which were subsequently found to be without substance. Much of the trouble began when the Ahmadiyya community in March 1999 demolished its mosque to make room for a larger one; Islamists objected at the time and threatened they would not permit the construction of a minaret and a niche in the mosque. They formed a local chapter of the *Khatam-e Nabuwwat* which began distributing anti-Ahmadi literature and inviting the organization's speakers to address the local anti-Ahmadi

congregations. This was ignored by the authorities. Harassment on religious grounds was also reported. In late June 1999, little pieces of paper, carrying Islamic words were found strewn in Bhauru village streets; clerics claimed that Ahmadis were behind the sacrilege and urged people through the mosque loudspeakers to bring such pieces of paper to the mosque. The Ahmadi district president contacted the Superintendent of Police who sent a police team to investigate. Senior non-Ahmadi village residents told the team that Ahmadis could not have carried out the sacrilege and the accusation was dropped.

Clerics then agitated that the words *Bismillah* [literally 'in the name of God'] and the *Kalima* be removed from Ahmadi residences. The magistrate asked the Ahmadis to comply - which they refused to do, saying the government should implement its own orders. The magistrate announced an ultimatum asking the Ahmadis to remove the *Kalima* or face the consequences. When clerics applied to police to register the complaint that four Ahmadis had Islamic words affixed to their homes and that this hurt the Muslims' feelings, police ordered the Ahmadi families to remove the words. They refused again, and offered that police could carry out what they themselves considered a sacrilege; a police inspector then instructed a constable to efface the words which he refused. The inspector then bought paint in the market and commandeered a poor street vendor and ordered him to paint over the *Kalima* but even this poor man refused to do it. Police on 21 June 1999 arrested one of the Ahmadis, Nasir Ahmad Mahla, under section 295C PPC; three other Ahmadis implicated in the same case escaped arrest and obtained provisional bail before arrest in Sheikhpura. Two other implicated Ahmadis went into hiding. During investigation the complaint was found false and was dropped. Subsequently police painted over the *Kalima* on the houses of the Ahmadis.

Again on 11 October 1999, another complaint was filed against five Ahmadis in Bhauru after a quarrel initiated by non-Ahmadis. Clerics had announced over loudspeakers that some Ahmadis had murdered non-Ahmadis and urged that their houses be put to the torch. Non-Ahmadis interceded and prevented the use of violence but no one was arrested for the incitement to violence and tension persisted.

Several other Ahmadis were attacked in other parts of Pakistan but escaped death. These included Mohammad Akram who was shot in Mustang on 3 April 2000 as he was leaving the town on the orders of the District Commissioner who expelled him from the district at the urging of local clerics. No action was taken against the attackers. On 29 September 2000, Allah Yar, leader of the Ahmadiyya community in village Chak 163 W.B., district Vehari, was shot at by armed gunmen who then sped away on a motorbike. He survived his injuries and has received religiously motivated threats since then on the phone. He has informed the police of the threats, and an investigation of the attack was begun but to Amnesty International's knowledge no one has been arrested.

Attacks on Christians

Christians have also suffered infringements of their physical integrity and have not been protected by the state nor been assisted in gaining legal redress. In August 2000, a Christian couple were publicly beaten by the Muslim landlord in Sheikhpura district for whom they worked. The woman was then stripped naked and her hair was shaved off to humiliate her. No official action was known to have been taken against the landlord.

Violent attacks on Christians by private individuals frequently occur with police failing to come to their aid to protect them. Several cases of attacks on Christians, some leading to their deaths have been reported since October 1999. On 24 October 1999 a young Christian man was killed by a Muslim youth in Gujranwala reportedly after he told him to stop teasing and molesting Christian girls. To Amnesty International's knowledge, no one was arrested in connection with the murder. Also in October 1999, a Christian pastor, Ejaz Masih was shot dead at point blank range when he came to the door of his house to answer a call. Amnesty International is not aware of any action being taken subsequently to hold the murderer to account.

Christian women are very vulnerable to abuse and least likely to obtain state protection after suffering abuses; they are the objects of multiple forms of discrimination. Many Christian girls and women join the work force to support their families; in a society where this is not the norm, such women are often looked at with suspicion and considered easy prey for exploitation, humiliation and sexual advances, often leading to rape and other forms of sexual abuse. The following case of the rape of eight young Christian girls and women in a village in Punjab arose in this context of multiple discrimination, relating to religion, gender and low social status. The state has been extremely reluctant to assist the victims in obtaining legal redress and has taken some action only under pressure from media and human rights groups.

Around midnight of 3 May 2000, eight young unmarried Christian women aged between 14 and 22 were travelling on a bus after long working hours in a bed linen stitching factory located about 10 km from their home in village Chak 44, about 15 km north of Lahore. Near a railway crossing the bus was stopped by five Muslim men. According to the victims' testimony, the armed and masked attackers tied up the driver and three other passengers, then called out the young women from the bus one by one and raped them at gunpoint. The only young woman spared from rape, Nazia, was accompanied by her brother who negotiated with the rapists to spare her. Both were beaten. Several of the other women were also badly beaten when they resisted. Subsequently, the attackers searched the victims' bags for valuables and released the driver who took the women home.

The Christian community in this area is very poor; while the men usually work as contract labourers, many families need the income earned by the women and girls who work in the textile industry. The factory where the victims worked employs some 400 women who earn around Rs. 2,000 to 3,000 per month [about £ 30-40]. The factory ensures that the women are picked up around 7 am and dropped back when the work is finished, theoretically at 8 pm but more often

than not well after midnight. A dozen contracted buses transport the women to and from the factory. The bus used on the night of 3 May transported some 55 women; by the time it reached Chak 44, only the eight Christian women and three other passengers were on the bus.

The families of the victims initially did not know what to do after the crime; the leader of the Christian community, Inayat said, "We were trying to hide our shame as the whole village had discovered what had happened to our girls". The elders consulted the local influentials who advised them to keep quiet about the incident. Used to their powerless status, unaware of their rights and the legal process and ashamed of what had happened to the girls, the Christians did not at first approach police. A local journalist picked up the news which on 8 May appeared in the Urdu press. It was picked up by other media and women's rights groups and caused the local administration to take some action. The Christians then sought to have the complaint registered but were refused. An Assistant Sub-Inspector of police summoned the Christian elders of the village and warned them that pursuing legal redress in rape cases was extremely difficult, would cause local enmities and reflect negatively on the victims and their families.

Meanwhile, the driver of the bus on 5 May registered a complaint with police at Ferozewala police station alleging a minor robbery on 3 May. However, when more journalists and human rights groups obtained testimonies from the victims and published their findings, state authorities finally took more decisive action. The Christian Liberation Front of Pakistan (CLFP) office in Muridke which had investigated the incident through its headquarters in Lahore lobbied the media, the Punjab Governor and contacted the army monitoring team; the latter sent a team which ensured that the women were medically examined. The medical report established that rape had taken place. The army team also suspended police who had refused to register the complaint of rape. The FIR was amended to include charges against the five men under sections 392 PPC [armed robbery] and gang-rape under section 10/7/79 of the Zina Ordinance. The driver was charged under section 109 PPC for abetment but subsequently obtained bail. The five accused men were arrested. All the eight victims recorded their statements before police and finally, after a long delay, police submitted its inquiry report (challan) to judicial authorities in the last week of November 2000. The trial before an Anti-Terrorism Court in Lahore has begun; on 20 December 2000, the judge ordered the recording of the statements of the victims and the witnesses and adjourned the hearing till 15 January 2001. Observers present at the hearing in December reported that the court room was packed with relatives of the defendants who had threatened and cajoled the victims and their families to drop the case. Members of the *Lashkar-e-Taiba* are reportedly helping the accused in pressurising the victims. Ashiq Masih, a local Christian community leader who has supported the victims throughout, was beaten up by unknown people in November 2000. There are allegations by local observers that police have sought to mediate between the victims and the culprits and their families and to have offered compensation if the victims drop the charge. The women, however, appear set to pursue the matter to the end - possibly because they have nothing to lose after the rape - their reputation and their chance to return to a normal life being ruined.

Discrepancies about the motives for the crime remain. Police declared that the gang-rape had been intended as a revenge by the main accused whose alleged affair with another Christian girl he believed to have been revealed by the girls attacked on the bus. Eyewitnesses believed that the rape had been planned. Some people have also pointed out that there were in fact several other women in the bus as well but only the Christian girls were singled out for rape. The CLFP inquiry meanwhile indicates the religiously motivated angle to the rape: According to its findings, male Muslim colleagues had made sexual advances to the Christian women but had been rebuked and their advances had been reported to management. The men then threatened to punish them for not complying with their wishes and sought the patronage of the *Lashkar-e Taiba*. The organization turned the case into a religious issue claiming that the girls had had sexual relationships with Muslim men and had themselves used the rape story to cover up their wrongdoings.

It can be assumed that without the pressure from the media and human rights groups, the gang-rape would not have been pursued by police; social inequality, religious and gender bias would have contributed to the crime and the victims being ignored by the state. One of the villagers is reported to have pointed out that, had the Christians been voters in an egalitarian election system (see below for details of the system) their problem would have been taken seriously by their local legislator. "Social conventions, power relations on the ground and the legal system will, in all probability, conspire to ensure that these victims will never get justice", a Pakistani news magazine¹⁴ predicted. The victims meanwhile have stopped going to work - although their families need their income - and confine themselves to their homes. One of the victims, an orphan who supports her two younger siblings with her work, has left the village to live with relatives. The marriage prospects of the other victims are in jeopardy in a society where most women must marry for social, economic and cultural reasons and virginity is crucial for a women's marriage prospects.

Police failure to act on threats of violence

Police have in a number of instances refused to protect members of minorities including Ahmadis and Christians under threat of violence who approached them for help. In village Chak 22, district Bahawalpur there are only three Ahmadi families; when they received threats by members of the *Sipah-e-Sahaba*, police ignored their request for protection. In mid-2000, an armed man repeatedly visited the home of Faiz Ahmad, an Ahmadi and threatened to kill him if the family did not turn over to him the annexe of their house for a public meeting to be addressed by the village cleric. The Ahmadis informed Ahmadi officials in Bahawalpur who informed the Deputy Inspector of Police, the Deputy Superintendent of Police and the Inspector of Police - who advised them to arrange armed escorts for the Ahmadis in village Chak 22 and

¹⁴*The Herald*, June 2000.

to tell them to sleep in different locations to evade attack. Similarly, Malik Munawwar Hussain did not receive adequate protection against attackers. On 11 June 2000, he went to his ancestral house in Rangpura, Sialkot district which he had rented out. Local anti-Ahmadis caught hold of him and beat him severely. His son who had accompanied him, escaped and alerted police. Although they rescued him from his attackers, police refused to register a case against them. They warned him that his attackers had plans to kill him and advised him to go away and forget the incident. Fearing for his life, he did not pursue redress.

Following the killings at Ghatialian and Takht Hazara, tension in several towns and cities, especially in Hyderabad and Faisalabad, increased as some local clerics announced more such incidents would take place. For instance, in Hyderabad in November 2000, anti-Ahmadi slogans appeared on city walls, stones were thrown at the Ahmadi mosque and loudspeaker spread anti-Ahmadi slogans, whereas earlier Hyderabad had no history of anti-Ahmadi agitation.

Particularly in Punjab province, militant anti-Ahmadi bodies have sprung up. The *Khatam-e Nabuwwat* in the summer of 2000 formed a new *Mujahideen Force*. Its representative Mullah Allah Yar Arshad was quoted as saying: “*Sipah Khatam-e Nabuwwat* has been established to block the illegal activities of Qadianis [Ahmadis]. Two hundred youths have already joined. They have filled in the enrolment forms with their blood. Units of the *Sipah Khatam-e Nabuwwat* will be established all over the country.”¹⁵ Maulana Manzoor Ahmad Chinioti announced the establishment of the *Danda Force* [Baton Force] to implement by force an earlier resolution of the Punjab Assembly to change the name of the town of Rabwah where Ahmadis have their centre but whose name has a Muslim connotation, to ‘Chenabnagar’ [town on the river Chenab]. He threatened that unless all the signboards were changed accordingly, they would be pulled down. He said his patience was running out; if the government was not doing the needful, the ‘dervishes’ would take the task into their iron hands and “do things whose mere thought will upset the rulers”.¹⁶ The government ignored these public statements inciting violence against Ahmadis.

The government’s unwillingness or inability to control militant Islamist groups targeting minorities was further evident in early 2000 when the Resident Magistrate informed the Ahmadiyya community in Rabwah that “about 20 Afghanistan trained boys belonging to different Jihadi organizations and different parts of Punjab/NWFP [North West Frontier Province] had a meeting in Chiniot to start a campaign to assassinate Qadianis. These boys had come to Rabwah to eliminate Ahmadis”. The magistrate asked the Ahmadiyya community to take appropriate security measures for all “prominent and security risk persons of your community as well as

¹⁵*Jang*, 24 May 2000.

¹⁶*Ausaf*, 22 May 2000.

places of worship". Local police forces were alerted to prevent clashes but no action was taken to identify and punish those threatening violence.

The Government of Pakistan also appears to have ignored a rash of slogans inciting hate against minorities and encouraging violence particularly against Ahmadis; they have appeared in the print and audiovisual media, as graffiti on walls and were broadcast by loudspeakers of mosques.

In April-May 2000, graffiti in village Kasran, district Attock included: "Mirzais [Ahmadis] are traitors of Islam, Mirzais must be killed, Mirzais are infidels." In September 2000, slogans appeared on walls in Punhor Colony in Mirpurkhas, Sindh province, which included "Qadianis are infidels, Qadianis are *wajibul Qatl* [deserve death]". Such slogans can be found anywhere in Pakistan, especially in and around Rabwah where Ahmadis are exposed to them every day. Given that such sentiments have frequently served as an incitement to violence, the government's failure to curb calls for violence against Ahmadis makes them complicit in any resulting attacks.

Published materials advocating violence against Ahmadis have not been restricted by the authorities nor their authors censured. In September 2000, a pamphlet issued by the *Khatam-e Nabuwwat* and widely circulated in Sialkot and other parts of Punjab, said inter alia, "Mirza Ghulam Ahmadi Qadiani, the founder of Ahmadiyyat, was a great apostate, deserving death ... the Muslim nation demands from the Government of Pakistan that Ahmadi apostates be given an ultimatum of three days to revert to Islam ... Ahmadis who do not become Muslims within three days should then be made to stand in lines and their killing should start and continue till all Ahmadis are killed ..."

Hate letters began to be used to threaten the Ahmadiyya community. In June and July 2000, letters issued by the *Khatam-e Nabuwwat* which described Ahmadis as infidels and apostates whose due penalty is death, were widely circulated in Karachi. They urged readers to cut off social relations with Ahmadis and not even to talk to them. The letters identified a number of Ahmadis in Karachi to make it easier to find them.

Sermons in mosques have been used to incite violence against Ahmadis. Mullah Manzoor Chinioti, the General Secretary of the *Khatam-e Nabuwwat* organization on 24 August 2000 was the main speaker in the Central Mosque of New Garden Town, Multan; he was introduced to the congregation as the 'Conqueror of the Ahmadis'. In his sermon he said inter alia: "*our anti-Qadiani training program is an atomic bomb against them ... If you find any Qadiani man or woman preaching their creed, beat them up with your shoes, then have them locked up in a police station ... apply to the Deputy Commissioner if you find someone preaching. Arrange two witnesses; Qadianis will not be released up to the High Court level ... Qadianis are anti-Jihad, this proves their falsehood ... Our constitution forbids*

Qadianis to preach...” Similar offers to assist in bringing false criminal charges against Ahmadis have also been reported from district Jhang in Punjab and several town in Sindh.

Similarly, the *Khatam-e Nabuwwat* invited Mulla Allay Wassayo to address the congregation in Data, district Mansehra, just when several attacks on Ahmadis, including children, had created a tense atmosphere in the small town. On 8 September 2000 he preached the Friday sermon there, and on 10 September publicly issued *fatwas*, including calling for a boycott of Ahmadi shops, and called on people not to work on Ahmadi land, not to provide water for Ahmadi lands and not to share a house with Ahmadis. Besides instigating social and economic boycott, he declared Ahmadis *wajbul qatal* [those who must be killed]. The *fatwas* and calls to violence were spread by the loudspeaker of the mosque. Neither police nor any other authorities took any action of them.

Much of the incitement to violence is very specific. Mullah Abdul Hadi announced over the loudspeaker of his mosque in Rabwah on 10 November 2000 that ‘if Qadianis cast an evil eye on our maulvis [clerics], I shall pull their eyes out of their sockets’. In Rajanpur, clerics at the Friday prayer in June 2000 demanded a promise from the congregation to cut off the nose and ears of the district president of the Ahmadiyya community.¹⁷

The calls to active violence are often carried by loudspeakers and covered in the print and electronic media increasing their outreach considerably. On 30 December 1999, on prime time state-run television, derogatory remarks against Ahmadis, particularly the founder of the movement, were made by a cleric, Malik Ghulam Murtaza. On 9 and 10 May 2000, Islamists were seen on television expressing their satisfaction over the government’s assurances that Ahmadis would continue to be treated as ‘infidels’. The Urdu language press has been particularly hostile to Ahmadis. Following the murder of Maulvi Yusuf Ludhjanvi in May in Karachi, Urdu media openly accused Ahmadis of the murder, without any evidence and without any comment from the authorities.

6. Official indifference to other abuses of minority rights

Other forms of abuse of rights of minorities grounded in religious discrimination have included the arbitrary denial of social and economic rights and the rights to preach, practice and propagate minority beliefs. Such abuses are often instigated or reinforced by clerics and clothed

¹⁷In Rajanpur, police torture has in the past included instances of cutting of a nose or an ear and in the context of domestic violence this form of abuse has also been reported.

in the form of a *fatwa* or religious opinions which their congregations unquestioningly follow and which the state has consistently ignored.¹⁸

Denial of social and economic rights

Social and economic boycott of Ahmadis is in many places openly practised without any restraint imposed by the government. In many villages in which Ahmadis form small minorities they have lost their jobs and income and have been forced to move to places where other Ahmadis may be able to support them. An Ahmadi school teacher, Mushtaq Ahmad in Jatoi, district Muzaffargarh, faced a total boycott in the course of the year 2000. His children were not allowed to drink water from any public water tap. The education department initiated an inquiry against him and he was finally transferred to another village -- where he was received with a public demonstrations and death threats against Ahmadis. Ahmadi journalists are particularly at risk of harassment and of laying of false criminal charges as much of the substance of their papers is considered heretical; some journalists have dozens of charges pending against them. Shops in some localities have ceased to serve Ahmadis, workers sometimes refuse to work for them.

Christians are subject to a wide range of harassment and humiliation partly on account of their low social status, compounded by disregard for their religious beliefs. Segregation of and discrimination against the Christian minority have been reported at different institutional levels where employment and promotion are not always neutrally handled; this, together with the low educational standard of Christians, may contribute to the high level of unemployment of Christian men. At the work place whether it be as domestic workers, in factories or farms, Christians are disadvantaged by their Muslim employers and complaints are met by religiously motivated harassment. In November 1999, Riaz Masih, a Christian agricultural labourer was beaten to death by the landlord for whom he worked when he dared ask for his arrears in wages. To Amnesty International's knowledge, the suspect is free on bail. Bias is also reflected in textbooks and state school syllabi. Christians are frequently portrayed as unreliable, morally unsound and as enemies of Islam in the electronic and print media, including those controlled by the state.

¹⁸“So we have dissenting fatwas on foreign policy, murderous fatwas against the United States, threatening fatwas against various women and human rights NGOs, etc. ... In essence, such fatwas are attempts to silence dissenting opinion by inciting the public to violence against the target. Unfortunately, our courts have rarely demonstrated the same courage vis a vis such fatwas as the Bangladesh high court. Nor has the Pakistani state successfully learned to cope with the phenomenon of fatwas, some of which have damaged the credibility of the country and served to create a ‘negative’ image abroad by encouraging violent vigilantist practices and undermining the writ of the state.” “Leaf from Bangladesh”, in: *The Friday Times*, 12-18 January 2001.

Social and economic discrimination against Ahmadis is sometimes openly perpetrated by the authorities. The Housing and Physical Planning Department in Jhang auctioned a large number of residential plots in the Muslim colony area of Rabwah. It advertised the auction in the Urdu daily *Jang* on 31 August 2000. It says:

As per Order No 3-(1) 76-HM II

Dated 7.6.1976 of the Government of Punjab, Qadianis/Ahmadis/Mirzais are not eligible to participate in the auction of the plots in Area Development Scheme (Muslim Colony) Chenab Nagar.

Participants in the auction will declare on oath that they believe that Hazrat Muhammad is the Prophet of Latter Days, and that they are not linked with Ahmadi/Qadiani/Mirzai denomination.

Awardees of plots in this scheme will never be permitted to transfer their plot to an Ahmadi/Qadiani/Mirzai. If so, their allotment will be cancelled and their plot along with the building and paid up sum will be confiscated by the government.

Denial of religious rights

Amnesty International has received dozens of reports of destruction and desecration of places of worship of Ahmadis and Christians, often in the presence or with the knowledge of local authorities. Christians have been prevented from building churches on their own land or had them barred. In a village in Gujranwala, Punjab province, which has a sizable Christian community, the local administration stopped the building of a church and also barred their using their community centre as a place of worship. Particular forms of decorations of mosque and residences of Ahmadis, particularly those expressing the *Kalima* have been another cause of friction between Ahmadis and their opponents.

Clerics have for a long time objected to Ahmadis being buried in graveyards along with other Muslims; several such instances were also reported in 2000. In August 2000, an Ahmadi was buried in a common graveyard in Faisalabad but local clerics complained that their religious feelings were hurt by this action; they approached the city magistrate who ordered police to remove the body which the Ahmadis had to take elsewhere for reburial.

Ahmadis have often not been allowed to hold their religious conventions. Punjab authorities have not permitted the Ahmadis' annual gathering in their centre at Rabwah for over a decade now. By contrast, anti-Ahmadi groups have obtained permission to hold meetings in Rabwah during which anti-Ahmadi slogans are loudly broadcast throughout the town where over 95% of inhabitants are Ahmadis. The *Khatam-e Nabuwwat* was permitted by the Punjab government to hold its annual conference in Rabwah on 12 and 13 October 2000; speakers at the meeting publicly called for the extermination of Ahmadis. Schoolboys and college students walked in

processions through the town shouting anti-Ahmadi slogans. They were accompanied by police. Government officials were present in some of these meetings.

Christians have also been restricted in the exercise of their right to profess and propagate their faith by agents of the state or have not been adequately protected by the state against such infringement by private persons. On 11 January 2001, the Christians Khalid Masih and Nasir Masih, were arrested in Jacobabad, a small town in Northern Sindh with some 100 Christian families most of whom are very poor, for having distributed some religious pamphlets among the Christian community. Some Muslims who were passing by had asked for copies of the pamphlet and taken them to local clerics. The two young men were arrested and charged under section 108 PPC relating to abetment. Even after their arrest, street agitation continued and a delegation of clerics reportedly approached the District Commissioner urging him to have criminal charges instituted also against the local Christian pastor and the president of a Protestant social organization who were amongst the Christians distributing the leaflets. In the following days, violence in Jacobabad did not cease; there was firing at the Christian educational institute on 14 January and on the following day a Christian church was broken open. Meanwhile the pastor went into hiding and posters were put up by clerics urging Muslims to withdraw their children from the Christian school. Local newspapers reportedly contributed to the atmosphere of violence. Police have failed to intercede and protect the minority families in Jacobabad.

7. Bias of the members of the criminal justice system against minorities

Both police and members of the judiciary have failed to adequately support members of the minorities in obtaining legal redress for grave abuses suffered by them. If states systematically fail in their duty to exercise due diligence in preventing abuses and ensuring that abuses, once they have occurred, are prosecuted and punished, they share responsibility for the abuses under international human rights standards. The instances shown here indicate that the state of Pakistan bears international responsibility for abuses suffered by minorities as it has systematically failed to prevent abuses and ensure legal redress to victims of private abuse.

Police bias against minorities

Police reluctance to file complaints from Ahmadiis who have been attacked or threatened and their willingness to register complaints against and not on behalf of the attacked Ahmadiis, indicate an apparent indifference to the obligation under national and international law and the Constitution of Pakistan to provide equal protection of law to all citizens of Pakistan, without distinction.

Several examples of police bias have been given above. On 26 August 1998 several hundred armed people led by local clerics attacked the Ahmadi mosque in Naukot, district Mirpurkhas, Sindh. Several Ahmadiis were injured and their religious books, the mosque and adjacent shops

of Ahmadis set on fire. This incident had been preceded by an incident on 22 August when orthodox Muslims objected to an old mosque being pulled down by several Ahmadis on their own land where they wanted to erect a new one. Police refused to register the complaint of the Ahmadis attacked on 26 August. Instead they registered two complaints against Ahmadis: one under section 295A and 295B PPC against five Ahmadis, including 14-year-old Nazir Ahmad Baloch, who had helped pull down the old building on 22 August; and one against 14 Ahmadis under sections 295A and 295C PPC who were present in the incident in Naukot, for having the *Kalima* displayed in their mosque. All 15 Ahmadis were arrested and continue to be in detention pending trial. Two weeks after the incident, a complaint was registered with police against the attackers on orders of the High Court which had been approached by the Ahmadis. However, no one has been arrested in connection with this complaint.

Judicial officers' bias against minorities

Judges, too, often appear to reflect the bias of society at large though their office requires them to rise above such prejudice and to provide justice without distinction. Criminal cases in Pakistan usually take years to complete; this fact accounts for the huge backlog of cases numbering in the hundreds of thousands and long delays in hearings. Many lawyers in Pakistan have told Amnesty International that cases involving religious offences take even longer than other criminal cases as judges often feel threatened by the presence of Islamists in the court room and thus tend to adjourn hearings. They are sometimes believed to transfer cases out of their jurisdiction so as not to have to hear them and make a judgement. Some judges are believed to have delayed making the judgement even after completing the hearings when they anticipated violence by Islamists. The targeted killing of Justice Bhatti in 1997 made the danger of such decisions clear to members of the judicial and legal community.¹⁹

While all trials in Pakistan take years to conclude, the trial of the Ahmadi Mirza Mubarak Ahmad stretching over 11 years, appears to have been a particularly heavy burden in terms of time, money, energy and anxiety for the accused.

Mirza Mubarak Ahmad of Mirpur Khas, Sindh province was arrested on 14 January 1989 on the complaint by Mullah Ahmad Mian Hammadi for having used Islamic terminology forbidden to Ahmadis when he distributed religious leaflets which also contained the *Kalima*. On 15 January 1989, while in the police lockup at police station Tando Adam, the detainee offered his prayers in the fashion which orthodox Muslims and Ahmadis share: he prostrated himself facing

¹⁹ The then retired judge of the Lahore High Court, Arif Iqbal Bhatti was shot dead in October 1997 at point blank range in Lahore. Two years earlier he had acquitted two Christians, Salamat Masih and Rehmat Masih, sentenced to death for blasphemy, amidst protests by Islamist groups. He had received threatening letters after the verdict. No one has been arrested in connection with his murder.

Mecca. At the instigation of the same Mullah, the police instituted another complaint (FIR 13/1998) against the detainee, alleging that by offering his prayers like a Muslim he had posed as a Muslim and thereby injured the feelings of Muslims, an offence under section 298C PPC. Mirza Mubarak Ahmad was released on bail after 94 days in detention. This case was heard for over 11 years in different locations (Tando Adam, Sanghar and Hyderabad; it was referred to the Sindh High Court three times), necessitating long travel times and expenses for Mirza Mubarak Ahmad and his legal counsel. The accused maintained a meticulous record of the trial. He said in January 2000 that he had by then travelled 98,840 kilometres to appear in various courts. The prime prosecution witness died during the period, another witness admitted that he only decided to appear as a witness at the urging of Mullah Hammadi. On 20 May 2000, the Judicial Magistrate in Hyderabad convicted Mirza Mubarak Ahmad under section 298C PPC to imprisonment equal to the time he had already served as a detainee under trial in 1989, and a fine.

The Judicial Magistrate declared in the judgment that “no doubt offering prayer by any person as per his own faith is no offence but when hurt has been caused [to] the feelings of other persons then it becomes an offence” - without however, referring to any objective standard of such hurt. He further stated that not only the public but also the private performance of prayers by Ahmadis in the Muslim fashion constitutes a criminal offence. “There is nothing in this section [of law, i.e. section 298C PPC] that if a person of above group [Ahmadis] poses himself as Muslim in private place then it is no offence. The person of Qadiani and Ahmadi group if poses himself as Muslims, irrespective of public or private place, then it is an offence U/S [under section] 298C PPC.”

Over the last year, members of the judiciary have on several occasions added section 295A PPC to existing charges; section 295A makes it a criminal offence to ‘outrage the religious feelings of any class’. This addition means that such cases are tried before courts set up under the Anti-Terrorism Act (ATA) of 1997. The courts were set up by then Prime Minister Nawaz Sharif, partly with the intention to curb sectarian violence by providing quick trials and deterrent punishments. Their accelerated procedures curtail the right to present a full defence and usually do not permit bail.

The addition of section 295A PPC often appears to be arbitrary and not to bear any relation to the offence alleged to have taken place, but it usually takes months during which the accused continues to be detained, for the lawyers to have the irrelevant section removed and to obtain bail. Intiaz Ahmad Bajwa of Pasroor, district Sialkot, was charged under section 298C PPC on 3 March 1999 for preaching his faith; he had become an Ahmadi only two years earlier. A bail before arrest application was sent to the judicial magistrate who rejected it; the Inspector Legal added section 295A PPC to the charge sheet although no aspect of the allegation appears to justify the inclusion of this section. The case was then sent to the ATA court. The addition of 295A PPC and the transfer to an ATA court was challenged before the ATA court; the judge

agreed and sent the case back to the Additional Sessions Court in Pasroor. A bail application was then filed but before it could be heard, the complainant appealed in the High Court against the ATA court decision denying jurisdiction; proceedings in the Additional Sessions Court were stayed pending a decision on the High Court. The High Court agreed with the ATA court decision and took a favourable view of the bail application which was sent again to the Sessions Judge who sent it to the Additional Sessions Judge who granted bail. Bajwa was released on bail after nine months in detention which was clearly prolonged because of the arbitrary addition of section 295A PPC. The case under section 298C PPC is pending.

In several cases reported to Amnesty International, Ahmadis suffer long months in pre-trial detention while their lawyers argue before the courts that section 295A PPC be removed as the cases do not warrant the inclusion of this section of the penal code.

Lawyers representing cases of Ahmadis charged under section 295A PPC have pointed out to Amnesty International that the reference of cases involving section 295A PPC to ATA courts is inappropriate as the link to terrorist acts -- which ATA courts are empowered to try -- is lacking. In the schedule of offences to be tried by ATA courts, section 295A PPC is listed but ATA courts have jurisdiction over such offences only if there is a link between the offence and terrorism as defined in the Anti-terrorism Act of 1997. The definition of terrorist acts contained in the original Anti-terrorism Act²⁰ was amended in April 1999 by ordinance; the new definition²¹ makes it easier to link offences under section 295A PPC to terrorism and to ensure that they fall within the jurisdiction of the Anti-Terrorism courts.

²⁰Section 6: "Whoever, to strike terror in the people, or any section of the people, or to alienate any section of the people or to adversely affect harmony among different sections of the people, does any act or thing by using bombs, dynamite or other explosive or inflammable substances, or fire-arms, or other lethal weapons or poison or noxious gases or chemicals or other substances of a hazardous nature in such a manner as to cause, or to be likely to cause the death of, or injury to, any person or persons, or damage to, or destruction of, property or disruption of any supplies of services essential to the life of the community or displays fire-arms, or threatens with the use of force public servants in order to prevent them from discharging their lawful duties, commits a terrorist act."

²¹Section 6 adds to the definition of a terrorist act also the commission of "a scheduled offence the effect of which will be, or is likely to be, to strike terror, or create a sense of fear and insecurity in the people, or any section of the people" and includes through section 6(d) within the scope of the previous definition the concept of 'civil commotion' which is defined in section 7A as "creation of internal disturbances in violation of law, commencement or continuation of illegal strikes, go-slows, lockouts, vehicle snatching, damage to or destruction of state property, random firing to create panic, charging bhatha [illegal commission], acts of criminal trespass, ... distributing, publishing or pasting of a handbill or making graffiti or wall-chalking intended to create unrest or fear or create a threat to the security of law and order or to incite the commission of an offence punishable under Chapter VI of the Pakistan Penal Code [offences against the state] ..."

In some cases, the new definition of terrorist acts appears to be applied to offences allegedly committed before the new definition became operative although this amounts to a retrospective application which is prohibited in law. For instance, two Ahmadis from Pattoki, Punjab province were charged with offences under section 295A PPC in June 1997 for exhibiting the *Kalima* in their shop. The case was sent to an ATA court though no link between the offence under section 295A PPC and a terrorist act could be made out. Lawyers representing the case are of the opinion that it should have been rejected by the ATA court where it is pending; its being tried there assumes that the new definition of terrorist acts of April 1999 was in force at the time of the commission of the offence.

According to the Code of Criminal Procedure in section 196²², no court, whether an anti-terrorism court or a regular court, may try any case under section 295A PPC unless the complaint is filed by the national or provincial government or anyone authorized by either. Lawyers representing Ahmadis charged under 295A PPC have pointed out to Amnesty International that this requirement has often not been fulfilled: Ahmadis are charged under section 295A PPC on the basis of private complaints. Legal opinion appears to be divided on this issue which appears to have arisen from inconsistent law making; while the state holds that the Anti-Terrorism Act overrides the Code of Criminal Procedure, the Supreme Court in the 1998 Mehram Ali case²³ held that the Code of Criminal Procedure overrides the Anti-Terrorism Act. A petition seeking clarification has been pending in the Supreme Court of Pakistan for some time.

Sometimes even the highest judiciary does not appear to give Ahmadi defendants adequate scope to present their cases. In November 1999, the Supreme Court dismissed a petition filed by Ahmadis against some earlier decisions concerning the community's centenary celebrations and the conviction of four Ahmadis from Quetta by claiming that the petitioners had not pursued their case properly. Ahmadi lawyers have pointed out that the advocate on record for the case had died and that the petitioner had applied to the Supreme Court that time be allowed to appoint another advocate on record; this was accepted by the Supreme Court Registrar who issued orders accordingly. However, the court office set a date for hearing before an advocate had been appointed, leading to the dismissal of the petition for alleged non-pursuance of the case.

²²Section 196: "Prosecution for offences against the State: No Court shall take cognizance of any offence punishable under ...section 295-A ... of the same Code [PPC], unless upon complaint made by order of or under authority from, the Central Government or the Provincial Government concerned, or some officer empowered in this behalf by either of the two Governments." In practice this means that a private complainant will get his complaint filed in a police station as a provisional complaint; this will be referred to the provincial home secretary who will decide if a case is to be filed and authorize the registration of an FIR.

²³PLD 1998 SC 1445.

Some judges, even at high levels of the judiciary, are reported to have clearly voiced their bias against members of religious minorities. These include Justice Nazir Akhtar of the Lahore High Court about whom the Urdu papers *Insaf* and *Khabrain* reported on 28 August 2000: “The Ghazi Ilm Din Shaheed law is available to respond to any blasphemy against the prophet’ - Justice Nazir Akhtar”.²⁴ Shortly afterwards the daily *Din* reported: “‘We shall slit every tongue that is guilty of insolence against the Holy Prophet’ – Justice Mian Nazir Akhtar”. The judge is reported in the media as having said that if the laws are inadequate to protect against the supposed impudence of anyone against the Prophet Mohammad, then such tongues should be chopped off.²⁵ In a public lecture on 18 November 2000, Justice Akhtar reportedly asserted that the blasphemy law provides protection to the accused under the law as otherwise the masses would kill him. “The restraint and carefulness shown by the government in this regard can be judged through the fact that not even a single person has been sentenced since the enforcement of this law.” He described critics of the law who sought its amendment as ‘agents of anti-Islam forces’ who did not understand it. He said the blasphemy law had emerged from the will of a sovereign parliament and as such had to be respected. Neither the higher judiciary nor the executive branch of government are known to have responded to these statements.

The view that the blasphemy law protects the lives of the accused has been expressed on other occasions as well. In 1994, the Lahore High Court commenting on the bail application of the four blasphemy accused from Mianwali (see case description above) said, “If the provisions of section 295C PPC was repealed or declared *ultra vires* of the Constitution, the time old method of doing away with the culprit at the spot would stand revived”. This view of sections of the judiciary is reflected in a letter Amnesty International received from the High Commission of Pakistan in London that those accused of blasphemy are taken into custody for their own protection to ensure that they do not fall victim to mob violence (see below).

Amnesty International believes that while the protection of those are at risk of violence is clearly a duty of the state, holding those accountable who threaten or use violence is equally part of the state’s obligation. Freedom from punishment for the resort to violence only serves to perpetuate violence. In the cases reported to Amnesty International, people threatening or using violence against those accused of blasphemy are never punished. Moreover, in the cases known to Amnesty International, the accused are not held for merely a few days in ‘protective custody’ as asserted until the immediate threat of violence recedes; instead the full force of the law is used against them. They are arrested and tried for criminal offences related to religion, often on flimsy grounds which appear to be related solely to the person’s minority religious beliefs, or as

²⁴Ilm Din was a Muslim who in the early part of the 20th century murdered a Hindu who committed blasphemy.

²⁵*Dawn*, 28 August 2000.

a consequence of malicious accusations by those seeking personal advantage. Many accused are tried over a period of years, often without grant of bail, convicted and sentenced to imprisonment. Many others are acquitted after spending years in detention. All live with the constant fear of further violence and without assurances of the protection of the state. The blasphemy laws cannot be construed as providing protection. Indeed, human rights activists in Pakistan have argued that the fact that section 295C PPC involves the mandatory death penalty fosters a climate in which Islamists consider themselves entitled to impose the death penalty non-judicially.

Despite the heavy backlog of cases and the overcrowding of Pakistani jails, judges very rarely grant bail to members of the minorities accused of religious offences, even when the accused are very old or young. A number of Supreme Court and High Court judgments have emphasized that in cases where the likely punishment is below 10 years' imprisonment, bail should be granted and a denial of bail should be the reasoned exception. However, in cases of Ahmadis in detention under charges of 298B and 298C PPC, which both carry a maximum imprisonment of three years, bail is very rarely granted.

Though issues relating to liberty, including *habeas corpus* petitions and bail applications have precedence over other issues, courts often permit delays in such hearings in cases involving minority accused. In the case of Attar Ullah Warraich (see above) the bail application had reached the Supreme Court which at the time was sitting in Lahore; the Advocate General of Punjab requested to be heard which led to an adjournment of hearing to 3 January 2000 but the case was then not listed for the day's hearings. It was adjourned to be heard on 7 January 2000. On that day, due to the absence of a judge, the benches were reconstituted and Warraich's bail application again not heard. Since this was the last day of the Supreme Court hearings in Lahore, the next hearing of the application was fixed for 10 April 2000. While the bail application was pending, Attar Ullah Warraich was sentenced to two years' imprisonment on 31 January 2000.

Despite the fact that the PPC provides for punishment for deliberate false accusations and falsifying evidence,²⁶ the judiciary in Pakistan has to Amnesty International's knowledge not pursued this remedy to punish people who deliberately bring false charges of blasphemy against members of minorities. Detainees who have been released after years of trial and detention have not pursued this remedy as they fear further harassment and count themselves lucky to have been released.

8. The government's human rights agenda with respect to minorities

²⁶For instance when leading to a conviction for a capital offence and imprisonment of more than seven years or the death penalty, sections 194 and 195 PPC.

This chapter chronologically follows statements and policies developed by the government of General Musharraf.

Assurances of protection of minority rights

The Government of General Musharraf - unlike earlier governments - set out an agenda which acknowledged that minority rights were inadequately protected and that religion had often been used by those in power for political ends. The declared intention of the Government was to uphold human rights conferred by the Constitution of Pakistan despite its suspension under the proclamation of emergency on 14 October 1999. Among the rights listed in the Constitution which remain in force are rights relating to religious freedom. Article 20 says:

*“Subject to law, public order and morality -
(a) every citizen shall have the right to profess, practice and propagate his religion; and
(b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.”*

Article 21 provides safeguards against taxation for purposes of any particular religion and Article 22 contains safeguards as to educational institutions in respect of religion.

Only days after the military takeover, General Musharraf said in his first speech to the nation on 17 October 1999: “And now a few words on exploitation of religion. Islam teaches tolerance not hatred, universal brotherhood and not enmity, peace and not violence, progress and not bigotry. I have great respect for the Ulema [religious scholars] and expect them to come forth and present Islam in its true light. I urge them to curb elements which are exploiting religion for vested interests and bringing a bad name to our faith. I would like to reassure our minorities that they enjoy full rights and protection as equal citizens in the letter and spirit of true Islam.” He pledged that “religion will not be allowed to be used for political purposes and sectarian violence will not be permitted to poison society.” A possible reorganization of the country’s *madrassas* to bring them into the mainstream of education and the minorities’ appeal for joint electorates were discussed in the following weeks. It appeared that verbal assurances would be followed by action soon but subsequent statements and actions followed an uneven course.

In November 1999, in an apparent move to reassure the Islamists that the status of Ahmadis, declared non-Muslim in 1974, remained unchanged, the Chief Secretary of Punjab instructed commissioners: “A perception appears to have been created in small sections of society that the Government is perhaps unmindful of the status of Ahmadis as a non-Muslim minority. Such a perception is, obviously, without basis. It is therefore necessary to dispel such impression. I, therefore, urge you that, in all administrative decisions, due regard and respect should be

accorded to the religious sentiments of fellow Muslims ...”²⁷ At the same time, Religious Affairs Minister Dr Abdul Malik Kazi when addressing clerics in the four provinces and Azad Jammu and Kashmir declared that despite the suspension of the Constitution, Ahmadis continued to be non-Muslim for the purposes of the law and the Constitution. He stated categorically that the government has no intention of amending the blasphemy laws.

In January 2000, the Punjab government announced the setting up of a 40 member Minority Advisory Council for a period of three years to assist the provincial Ministry of Human Rights and Minority Affairs in identifying and redressing issues affecting the religious minorities.

At the same time, appeasement of Islamists with regard to the status of Ahmadis continued in early 2000. In February, a spokesperson of the Ministry of Law affirmed that Ahmadi continued to be non-Muslim and that Ordinance XX was still in force (see below); this was reiterated by Dr Mahmood Ahmed Ghazi, member of the National Security Council in early March. He also said that inquiries had shown that three members of the current administration alleged to be Ahmadis were found not to be Ahmadis. A member of the *Khatam-e Nabuwwat* at the time declared that the country would have been engulfed in civil war if the government had not clarified its stance on the status of the Ahmadis.

Procedural changes to the blasphemy laws

Hopes by the country’s minorities received a boost on 21 April 2000 when General Musharraf in his inaugural speech at the Convention on Human Rights and Human Dignity in Islamabad said: “I firmly believe that this Convention will serve as a starting point for formulation of a much belated national human rights policy. Such a policy indeed needs to be entrenched in the values of human dignity, justice and equality, enshrined in Islam. Islam upheld these rights more than fourteen centuries ago. It ordained equality among all human beings, without distinction or discrimination. These teachings being universal truths are also mirrored in the founding principles of the United Nation’s Universal Declaration of Human Rights. All these aim at ensuring freedom and dignity of the individual and achieving justice and equality between all peoples. It shall be the endeavour of my government to facilitate the creation of an environment in which each Pakistani can find an opportunity to lead his life in dignity and freedom. I said this in my first address to the nation when I promised to rebuild national confidence and morale in order to restore honour, dignity and respect [for Pakistan] in the comity of nations.”

After these more general acclamations, he announced that with respect to the country’s blasphemy laws, procedural changes would be introduced. “In order to prevent the abuse of the blasphemy laws, an administrative procedure has been instituted to ensure that a First Information Report (FIR) is registered only after a preliminary investigation and scrutiny by the

²⁷Memorandum D.O. 212/99.

Deputy Commissioner.” Under the Code of Criminal Procedure, people accused of blasphemy can be arrested without warrant once the police are informed of the alleged commission of the offence. The proposed change would have meant that a complaint would be scrutinised by the highest district official before police could register the complaint and arrest the accused.²⁸

Most human rights organizations and representatives of minorities in Pakistan advocate the abolition of the blasphemy laws and some, including Amnesty International, have argued that pending abolition, procedural changes should be introduced to prevent the abuse of the laws. Amnesty International in its report in 1994 said that before laying charges, a thorough scrutiny of the allegation should take place and that the malicious laying of false charges of blasphemy should be made a criminal offence. The government of Benazir Bhutto in 1994 considered such changes but abandoned them when Islamists threatened members of government and issued a *fatwa* against the then law minister. In 1999, under the government of Nawaz Sharif, the Ministry of Religious Affairs reportedly intended to create peace committees to review blasphemy allegations before police would take action on them but such committees did not become operative and blasphemy charges continued to be registered directly with police, without prior scrutiny.

Whereas members of the minorities welcomed the announcement of the Chief Executive in April 2000, its rejection by the religious parties was quick and total. Some clerics announced country-

²⁸It is unclear if the proposed change could effectively curb the abuse of the blasphemy laws. Ahmadis have alerted Amnesty International to the fact that District Commissioners (DCs) have occasionally instituted cases or otherwise assisted in the persecution of Ahmadis. In March 2000, a false complaint of murder was brought against an Ahmadi in Chak 6/11-L district Sahiwal. The police found no evidence against the accused and did not pursue the charge. However, when the complainant threatened agitation, the DC in the interest of law and order had the complaint registered and transferred the relevant police officer. The daily *Insaf* on 25 March 2000 commented, “Authorities bow to the protests of Majlis Khatam-e Nabuwwat – all demands accepted”. Again, in April 2000, in a case against 10 Ahmadis in Daryapur, district Sialkot, section 295A was added to the complaint at the initiative of the DC. On the other hand, Amnesty International learned of a case in Thatta in February 2000 in which an allegation against a Christian was dropped following scrutiny by the DC. On 15 February 2000, a complaint under section 295C was brought before police, alleging that a Christian, Shad Masih had defiled the name of the Prophet Mohammad. He was taken into custody but when a preliminary inquiry showed the complaint to be connected with a business dispute, police publicly declared this to be a false case and the DC reportedly directed that the case be dropped. Shad Masih was released after two weeks in police custody. The scrutiny of an allegation by a DC thus may in some cases prevent a miscarriage of justice, but the protection of human rights must never be dependent on subjective and arbitrary conditions.

wide strikes,²⁹ one said that this measure would lead to individuals taking the law into their own hands³⁰ and another said that it would increase the vulnerability of the minorities.³¹

Also in April 2000, Interior Minister Moinuddin Haider said, following a bomb blast in Attock believed to have been triggered by a religious group, the government would ban religious groups indulging in violence: "Three or four sectarian parties have been found involved in terrorism and violence prone activities". He did not identify the parties concerned by name. Since many religious groups maintain or support a militant wing or private army, this statement appears to have caused considerable apprehension amongst them. Around the same time, the government appealed to the Taliban to close down training camps of Pakistani religious groups on Afghan soil. Plans were announced to subject the transit trade through Pakistan to Afghanistan to greater Pakistani state control.

Religious leaders may have seen all these separate measures as part of a strategy directed against them for religious parties, divided by doctrinal differences and following different and sometimes mutually hostile leaders, formed a resistance front against the government. It met on 8 May 2000 in Lahore and agreed to countrywide protest action with strikes and violent agitation against the procedural changes relating to the blasphemy laws. Another convention of several religious parties in Karachi on 12 May threatened a nation-wide strike if the change were not reversed immediately: they said no change in the blasphemy law would be accepted, adding that they were ready for any sacrifice to protect the sanctity of Islam.

Retraction of proposed changes to the blasphemy laws

As the outcry of Islamists against the government's agenda on human rights protection of minorities grew louder and more united, the government retracted the announced changes. Already in late April 2000, General Musharraf during a visit to Kabul called his pledge a 'testing the opinion of *Ulema*'. On 16 May, General Musharraf formally withdrew the procedural change to the blasphemy laws announced less than a month earlier: "As it was the unanimous demand of the Ulema, Mashaikh [religious community leaders] and the people, therefore, I have decided to do away with the procedural change in registration of FIR under the blasphemy law." He added: "No one can even think of changing it [section 295C PPC]. No change was ever brought into this law." Henceforth, complaints of blasphemy would again be registered directly with a Station House Officer of a police station without any prior scrutiny. He announced the government would consult religious scholars on Islamic issues: "I have been thinking since long

²⁹The daily *Pakistan*, 25 April 2000.

³⁰*Jang*, 24 April 2000.

³¹*Nawa-i Waqt*, 24 April 2000.

to have a dialogue with them [religious scholars] so that we all move along together. I intend to contact them directly in future.”³²

The government’s retraction of the procedural amendment to the blasphemy laws was seen as ominous by many observers in Pakistan who anticipated that it would encourage extremist groups to push for further changes in the government’s human rights agenda in general and reduce the protection of minority rights in particular. The sincerity and commitment to human rights protection of the government were questioned as well: “The question then is whether the retreat on the issue of blasphemy law is just a tactical retreat, or is it an indication of the continuing strategic alliance between the military and the religious forces. It is of no mean significance that the demand of this alliance have been termed as ‘public opinion’ by the Chief Executive. It is strange that those who have never been able to show public support for their agenda through any noteworthy electoral victories, have suddenly become the voices of public opinion.”³³

Members of government defended the law saying that it had “actually helped to prevent communal/religious violence” and did not militate against the country’s minorities. Officials claimed in a communication to Amnesty International: “The change in procedure generated misgivings on the part of a large section of the population who objected to ... [it] on the ground that the issue of blasphemy was so emotive that the time taken for the scrutiny of the complaint would jeopardise the life of the accused as he would not be in protective custody. Keeping in view the possibility of the danger to the life of the accused, it was decided to revert to the old system whereby the accused is immediately taken into preventive custody and a case is registered.”³⁴

Meanwhile, despite the government’s retraction of the amendment, a countrywide strike organized by Islamists went ahead on 19 May, with an expanded catalogue of demands, including shifting the weekly holiday to Friday, making Islamic provisions of the Constitution of Pakistan part of the Provisional Constitutional Order of October 1999, closing down non-governmental organizations seen as spreading ‘Western decadence’, establishing an Islamic interest-free economy and full implementation of *shariah* [Islamic law].

Appeasement with respect to the status of Ahmadis continued meanwhile. Advisor to the Governor of Punjab, Allama Tahir Ashrafi, in June 2000 publicly said that Ahmadis should

³²AFP, 17 May 2000.

³³Hina Jilani: “The craven retreat” in: *Newsline*, June 2000.

³⁴Letter from the Pakistan High Commission in London to Amnesty International, 10 November 2000.

restrict themselves to the framework of the law or face handling by an ‘iron hand’.³⁵ During his visit to Chiniot and Rabwah where he met local anti-Ahmadi groups, he is reported to have declared that no one who denies the finality of prophethood is a member of the present government and that accusations that the government had a pro-Ahmadi position were unfounded. He reiterated that there was no change in the status of Ahmadis.

On 15 July 2000, the President of Pakistan promulgated the Provisional Constitutional (Amendment) Order, 2000, which “has been deemed necessary for the removal of doubts ... to reaffirm the continuity and enforcement of the Islamic provisions contained in the Constitution of the Islamic Republic of Pakistan. It is considered expedient in the public interest to remove all such doubts.” The Order incorporates with retrospective effect from the date of the promulgation of the first Provisional Constitutional Order in October 1999, the Islamic elements of the Constitution in it; these include Articles 2 (Islam being the state religion on Pakistan), 2A (introduced by General Zia-ul Haq, making the Objectives Resolution a substantive part of the Constitution), 31 (laying down the Islamic way of life), 203A to 203J (regulating the functioning of the Federal Shariat Court), 227 (provisions relating to the Holy Qur’an), 228 to 231 (functioning of the Council of Islamic Ideology) and 260(3) (defining Muslims and declaring Ahmadis non-Muslim).

The promulgation of the second Provisional Constitutional Order was widely welcomed by religious parties as a triumph over secular forces; indeed the leader of the *Jamiat-e-Ulema-e-Islam* (JUI), Maulana Fazlur Rehman, had in an interview with the newspaper *Dawn* welcomed the step days before it was announced.³⁶ Secular and liberal voices deplored it as a further “concession to religious forces”³⁷ made when “there was no pressure, if by pressure something tangible or real is meant, which could deflect the military government from its chosen path. There was only a chorus of ill-trained voices raising the bogey of Islam in danger.”³⁸

³⁵*Jang*, 26 June 2000.

³⁶*Dawn*, 4 July 2000.

³⁷*The News*, 19 July 2000.

³⁸“The (further) closing of the Pakistani mind” in: *Dawn*, 21 July 2000. Similarly, a commentator said, “... on the Islamic injunctions ..., even a critical level of protest did not seem to be needed. The government seems to have caved in on its own volition, citing what was a virtually non-existent situation of doubts about the government’s commitment to include Islamic provisions in the PCO.” “Signs of the times”, in: *The News*, 19 July 2000. Commenting on the Islamists’ response to the spectre of secularism, the article continued: “The Pakistani clergy can stand anything: the ignorance and poverty of the people, the country’s involvement in dubious foreign adventures, the country’s entrapment in humiliation at the hands of outsiders. The nation’s iron begging bowl moves it not. But show it the rag of secularism and all hell breaks loose.”

In November 2000, the Chief Executive reportedly issued directives to the law and interior ministries to address all complaints about lack of protection of minorities and to reinforce police in sensitive areas to protect minorities so that they would feel secure. Media reports said that these actions were taken after the government received letters on behalf of human rights organizations asking the authorities to take concrete steps to protect religious minorities.³⁹ The directives did not have a perceptible impact.

In late 2000, the government apparently also complied with the demands of Islamists on further anti-Ahmadi measures. Maulvi Fazeer Mohammad, information secretary of the *Khatam-e Nabuwwat* urged the Department of Education in the Government of Pakistan to remove the name of the only Nobel laureate of Pakistan, Professor Abdus Salam, an Ahmadi, from physics text books where he is mentioned as a Muslim scientist. The Ministry of Education reportedly directed the Punjab Text Book Board to delete Abdus Salam's name from the new edition of physics books listing Muslim scientists of the world, as confirmed in a circular letter reportedly issued by the deputy education advisor.

In December 2000, federal Minister for Religious Affairs, Dr Mahmood Ahmad Ghazi said that the blasphemy law protected the non-Muslims of Pakistan but that the government was considering the introduction of a provision of stern action against anyone filing false cases of blasphemy so as to prevent misuse of the law. No further action is known to have been taken.

Joint versus separate electorates

Members of the religious minorities in Pakistan have for some time campaigned to end the system of separate electorates⁴⁰ whereby they elect their own minority representatives to parliament; they claim that it in fact separates them from the mainstream of national life, enhances religious divisions, increases discrimination and marginalizes minorities. Moreover, they assert, the minority representatives in the national and provincial assemblies have all the members of the relevant minority within the national and provincial borders respectively as their constituency; these constituencies are much too vast to allow adequate representation. If

³⁹*Pakistan Political Perspectives*, December 2000, p.10.

⁴⁰Constitutional amendment Order 14 of 1985 introduced a separate electorate system in Pakistan; Pakistanis were classified according to religion as Muslims, and four non-Muslim groups, viz. Christians, Hindus, Ahmadis and, placed together in a single category, Sikhs, Buddhists and Parsis. Members of each group are confined to voting for a candidate from their own community. In the National Assembly, 10 of a total of 217 seats are reserved for the minorities; in the four provincial assemblies, 23 of 483 seats. Of the 10 national assembly seats, four are reserved for Christians, two for Ahmadis, two for Hindus and two for the three other smaller communities together.

members of religious minorities were to be represented by their local parliamentarian, that person would understand minority interests and be able to represent them, it is held.

Islamists oppose the notion of joint electorates; they argue that the notion of separate electorates is inherent in the notion of the Islamic state. Moves to change the system are therefore frequently portrayed by them as un-Islamic or anti-Islamic.

The government of General Pervez Musharraf prevaricated on this issue, initially holding out to the minorities that their concern would be considered but by May 2000, the Chief Election Commissioner said that the Election Commission had made no proposal to the government in favour of a joint electorate. In early August 2000 a joint meeting of the National Security Council, the federal cabinet, the provincial governors and other government authorities decided that the separate electorate system would be maintained. General Musharraf said that this was the only way to guarantee that religious minority would be represented in parliament.⁴¹

In accordance with a government plan for devolution of power and a sequence of elections at different levels, local body elections, as the lowest administrative level, began on a non-party basis in 18 of 106 districts in December 2000, maintaining the separate electorate system.⁴² Members of the minorities appear to have boycotted elections in most places.⁴³

9. The context of abuses of minorities' rights: the upsurge of Islamist groups

⁴¹The press attache of the Embassy of Pakistan in Washington in a letter to the Washington Times on 22 November 2000 spelled this out: "Separate electorates are meant to guarantee representation of the minorities – not to disenfranchise them. During the Muslim struggle for Pakistan against British colonial India, a separate electorate was a demand of the Muslims. Hence we have great value for this mechanism to ensure representation of the minorities. Moreover, the government recently announced that whenever the percentage of a minority community in any electoral ward reaches 10 percent there will be a seat reserved for the community."

⁴²According to a government communication received from the High Commission in London in December 2000, the Local Government Plan 2000 reserved five per cent of seats to the minorities in all the three tiers of the local government; in addition, if the population of minorities exceeds 10% of the total population of a district, tehsil or union, reserved seats will be allocated in a manner prescribed by the provincial government. "Such a system [of guaranteed representation] ensures that representation of minorities in the policy-making organs commensurate with the size of their population."

⁴³The total number of minority seats to be filled in 18 districts in the December 2000 elections was 962; of these, 146 seats were filled by minority candidates who were declared successful unopposed; only 88 seats were contested by minority candidates. 728 seats remained vacant as no candidate stood for them. Local observers add that the status of the 146 unopposed candidates may be doubtful as it is not clear if their candidature was entirely voluntary.

*“The vast majority of our people across the social strata are still moderate in their outlook, but they are rapidly being marginalised by the rising tide of the politico-religious forces, whose agenda goes well beyond their role in Kashmir and Afghanistan. A highly disturbing aspect of religious extremism is the growing polarization along sectarian lines, which has the potential of destroying the fabric of our society.”*⁴⁴ Religious hardliners, emerging from the country’s religious seminaries or *madrassas* and inspired by the easy victory of the Taliban movement in Afghanistan, are increasingly holding the majority to ransom and moving into the current political vacuum in Pakistan. They seek to impose their creed on the majority and in this process undermine tolerance for minorities.

A political vacuum

The upsurge of Islamist forces is facilitated by a political vacuum following the military takeover in October 1999. According to Afrasiab Khattak, chairman of the non-governmental Human Rights Commission of Pakistan, “we have a very serious crisis in our country, a crisis of governance. ... This crisis is creating a vacuum and the vacuum is being filled by extremist religious forces. ... These are new fascist forces who want to impose their values with the gun. They are against all forms of modernity, especially women’s rights.”

In fact, the vacuum is manifold and feeds from different sources. The vacuum created by the crackdown on corrupt politicians together with the internal disarray of the two main political parties, the Pakistan People’s Party (PPP) and the Pakistan Muslim League (PML) which have alternated in power during the last decade and whose leaders are in exile, and the ban on public political activities in March 2000 has provided an opportunity for Islamist groups to take on a political role in a way not circumscribed by legal or constitutional terms or channelled through statutory bodies nor commensurate with their past performance at the polls.⁴⁵

There appears to be a political vacuum also in the sense of no party adequately representing the vast disadvantaged sections of society and providing a vision for their amelioration. This vacuum of advocating the cause of the disadvantaged appears to now being filled by the religious parties. Moreover, the large political parties have failed to present a coherent program for Pakistan; here too, the Islamists are stepping into a vacuum. “There is not a single [secular] political party that

⁴⁴Talat Masood: “Facing up to the menace of militancy”, in: *Dawn*, 6 February 2001.

⁴⁵“The absence of elections, party work and legal and constitutional framework of public activity has left the field to religious militants. It is often complained that the state has tied the hands of society and made it vulnerable to the muscle power of the so-called holy warriors.” Mohammad Waseem, “What chance Talibanization?”, in: *Dawn*, 18 February 2001.

exists today with any ideology at all. The Islamists have a vision for Pakistan, and they've been working, slowly, to execute it."⁴⁶

Whereas Zia-ul Haq (1977 to 1988) attempted to use Islam to achieve popular acceptance for his military regime, the present military government has explicitly rejected the use of Islam for political gains.⁴⁷ It has, however, not sufficiently and consistently curbed the violence some Islamist groups have resorted to and has retracted some reform proposals under pressure from them. The government's apparent willingness to accommodate Islamists' demands has been sharply criticised by liberal forces in the country who fear a shift towards and imposition of, an interpretation of Islam which contravenes majority beliefs. "If the military government continues to believe that it needs these fundamentalist forces for its external policies as well as to keep a check on the emergence of an alternative domestic politics, it should wake up to the fact that it is playing with fire. These fundamentalist militias are now openly declaring a *jihad* to be waged against the Muslim majority population in Pakistan in order to impose their narrow, backward versions of Islam. If left unchecked, this is nothing short of an invitation to civil war."⁴⁸

Others have questioned the government's ability to rein in Islamist groups in view of possible street agitation this may evoke and the response by civil society opposed to draconian methods. "Taking on radical Islamic groups in a political vacuum will align all others opposed to the government to make common cause with the latter, which could lead to the destabilisation of the regime."⁴⁹ The ability of the government to take on religious issues and groups, restrict the use

⁴⁶Women's rights activist Nighat Khan quoted in *Newsweek*, 19 February 2001.

⁴⁷"Pakistani rulers have made extensive use of Islam as a means of legitimizing their power. The fact that many of these rulers came to power through extra-constitutional means and lacked legal legitimacy, made them more dependent on Islam as a handy source of legitimacy. This instrumental use of Islam at the level of the state created an environment in which the religious groups could claim an equal legitimacy to use Islam for their own particularistic, sectarian purposes." Dr Mumtaz Ahmad, *Hearing on Religious Freedom in India and Pakistan*, United States Commission on International Religious Freedom, Senate Foreign Relations Committee, 18 September 2000.

⁴⁸Rashed Rahman, "Defying the state" in: *The News International*, 17 January 2001. Similarly the editorial column of *Newsline* in January 2001 noted: "Instead of adopting a tough stance against such blackmailing tactics, Musharraf's administration is negotiating from a position of weakness. Religio-political groups, that have had an abysmal showing at the hustings, are beginning to draw sustenance from the government's inaction and obvious lack of courage. They are displaying a boldness and brazenness not seen before. In fact they have become a law unto themselves. And the government seems unwilling or unable to rein them in. Meanwhile, the jihad groups continue to proliferate and supply mercenaries to the rest of the world, despite protestations of friendly neighbouring countries."

⁴⁹Talat Masood, "Facing up to the menace of militancy", in: *Dawn*, 6 February 2001.

of the blasphemy laws and provide proactive support for religious minorities⁵⁰ may also be limited by doubts regarding its legitimacy since it assumed power in a coup - despite a Supreme Court judgement confirming the validity of the takeover under the doctrine of necessity.

'Talibanization' of Pakistan?

Many people in Pakistan have told Amnesty International that Islamist groups have consistently gained low votes in elections and that therefore an Islamist takeover is unlikely or impossible - but as one observer put it succinctly: "the religious militants, be they 10 per cent or any other figure, are not taking the electoral route to achieve their aims."⁵¹ Many of the gains of Islamists are not easily visible to urban elites as the 'Talibanization' of Pakistani society occurs in a space removed from that occupied by the state elite, thus presenting a problem of comprehension and appreciation. "It is in the narrow lanes, back streets, dark rooms and open spaces where a new social and cultural ambience is taking birth.... The state elite is not convinced about the imminent Talibanization of society, largely because this process is not part of its every day life or experience. ... That is hearsay, overreaction, even hallucination, claims the state elite. Nothing untoward happens in the corridors of power where the administration is able to follow the established rules of the game."⁵²

Militant Islamist groups are increasingly active as vigilantes, as self-appointed guardians of public morality, leading violent mobs instigated by them, who are known on several occasions to have attacked anyone wearing western style of clothes⁵³ or voicing views considered influenced by 'the West' or espousing a secular agenda. "Intolerance has conditioned the collective conduct of many segments of our society and the opportunities for a rational debate on sensitive issues are getting restricted."⁵⁴

Sectarian violence is not merely a law and order problem but a human rights issue. It is based on a culture of intolerance and sometimes religious hatred targeting people who hold religious

⁵⁰"Not legislating Islamic laws is only being a negligent Muslim, but abrogating these laws once they are legislated is 'blasphemy' and will provoke the wrath of the religious groups, which a military regime, already faced with a crisis of legitimacy, can hardly afford." Dr. Mumtaz Ahmad, *Hearing on Religious Freedom in India and Pakistan*, United States Commission on International Religious Freedom, Senate Foreign Relations Committee, 18 September 2000.

⁵¹Rashed Rahman: "Jihadism: the crucial rollback", in: *Dawn*, 16 February 2001.

⁵²Mohammad Waseem: "What chance Talibanization?", in: *Dawn*, 18 February 2001

⁵³For instance during protests against sectarian killing in Karachi in January 2001.

⁵⁴Ghazi Salahuddin, "Tolerating intolerance", in: *The News*, 29 January 2001.

beliefs and follow practices not approved or tolerated by Islamist groups and who are as a consequence, harassed, threatened and often subjected to violence.

Sectarian violence between Shia and Sunni groups⁵⁵ -- “a threat to peace, security and stability of the people and the country”⁵⁶-- has cost hundreds of lives in recent years, mostly Shia. It is a legacy which the present government has inherited from successive earlier governments which either failed to decisively tackle the problem, either due to indecision or fear of backlash, or tried to use religious groups for their own political ends and so fed sectarian violence. After several weeks of relative calm after the military takeover, sectarian killings resumed in late 1999 and have since then remained at a consistently high level.

The pattern most often observed involves prominent members of one of the religious communities or organizations⁵⁷ being shot dead by gunmen riding by on motorbikes; subsequently, especially around the time of the burial and other ceremonies for the deceased revenge killings take place, carried out by violent mobs which lead to further revenge killings. At this stage civilians of either community are frequently killed as attacks turn indiscriminate.

The state appears to have been unable or unwilling to prevent religiously motivated violence. During sectarian clashes, police frequently stand by or only appear on the scene when people have been injured or killed and property destroyed. Following the shooting of Maulana Yusuf Ludhianvi, a well-known Sunni scholar at the Binori Town seminary, along with his driver near his home in Karachi on 18 May 2000, the city was virtually under the control of Islamist groups and public life almost came to a standstill. Despite the ban on political meetings imposed in March 2000, police and the paramilitary Rangers, withdrew and allowed demonstrators a free hand, resulting in immense loss of property and dozens of people being injured. “The strike, the killing and the events thereafter point to one thing clearly: the law enforcement agencies have completely failed to become pro-active. The terrorists or criminals, call them what you may, can strike at will and get away with it.”⁵⁸

⁵⁵Shia make up some 15% of Pakistan’s 156 million people.

⁵⁶Khalid Mahmud, “Combatting sectarianism” in: *The News*, 8 February 2001.

⁵⁷The main antagonists are the *Tehrik-e-Jafariya-e-Pakistan* (TJP), established in the late 1980s to promote the interest of Pakistan’s Shia minority in the wake of an Islamization drive by Zia-ul Haq that furthered Sunni thinking. A *Jamiat-e-Ulema-e-Islam* cleric, Nawaz Jhangvi, subsequently established the *Sipah-e-Sahaba Pakistan* [Army of the companions of the Prophet] to uphold Sunni Muslim interests. Dozens of smaller sectarian groups have sprung up around these two groups.

⁵⁸“Pakistani Taliban take control of Karachi” in: *The Friday Times*, 27 May 2000.

The state appears also to have been unable or unwilling to ensure legal redress after violent sectarian incidents. The fact that police only rarely arrest those responsible for sectarian killings is partly due to police training deficiencies but also to the fact that witnesses are afraid to come forward and testify in the absence of adequate witness protection programs. Following the targeted killing in Karachi of four Shia men, a doctor and his three patients, in May 2000, police arrested scores of suspects but all were released within a day as no witnesses came forward to testify. Fears of retaliation are well-founded as key witnesses of sectarian crimes as well as lawyers, prosecutors and judges have been murdered in revenge acts by the community of the accused. Consequently, cases of high profile sectarian killings remain pending for years as judges, lawyers and witnesses fear for their lives.

After prevaricating for some time, the government in late 2000 took some action to stop sectarian violence. In December 2000, the Punjab Inspector General of Police said that a special task force would be established to tackle sectarian violence and terrorism. A month later during a meeting with Islamic groups in Islamabad, Interior Minister Moinuddin Haider announced the setting up of Ulema Committees tasked to promote sectarian peace and intercede in case of tension. Observers have pointed out that such committees have failed in the past to promote peace because clerics, often responsible for sectarian violence, had been included in them.⁵⁹ At the same time Haider announced a survey to register all mosques in the country to prevent further forcible occupation by other religious groups, a context in which violence had often flared up.

Impact of foreign relations on domestic Islamic forces

The rise in Islamist militancy in Pakistan has both historical roots in, and, conversely, affects the country's foreign relations. Many observers regard the growth of Islamist groups as an almost inevitable consequence of Pakistan's Afghan policy involving the fostering of an Islamist counterweight to the Soviets by military and intelligence groups, and the encouragement of the *jihadi*⁶⁰ movement in the Indian state of Jammu and Kashmir, the former of which was

⁵⁹Rashed Rahman, "Defying the state", in: *The News International*, 17 January 2001.

⁶⁰*Jihad* is the struggle against injustice enjoined on Muslims. See for further discussions of the notion below.

reportedly supported and funded by the US in the Cold War context.⁶¹ Several groups currently engaged in militant activities in these two regions are believed to have their bases in Pakistan.⁶²

Islamist groups in Pakistan have openly recruited for the *jihad* in Afghanistan and the Indian state of Jammu and Kashmir for years. Graffiti on walls in towns and cities and pamphlets distributed in mosques call for contributions to *jihad* in Kashmir, Afghanistan, Central Asia and Chechniya.⁶³

The groups committed to *jihad* outside the country and sectarian groups within Pakistan have emerged from the same *madrassas*, camps and clerical bureaucracies, share the same ideology and follow the same religious leaders. Logically, the gains of one have affected the other; the easy Taliban victory in Afghanistan is seen by many observers to have contributed to the strengthening of domestic sectarian groups. Besides, many of the groups engaged in Afghanistan or Kashmir, spend only a limited period of time there and on their return to Pakistan have begun to carry out similar activities in their own communities, aiming at their 'Talibanization'. They form domestic vigilante groups seeking to ensure strict adherence, often by violent means, to what they believe to be the correct reading of the Qur'an.⁶⁴

⁶¹"The Jihad culture is a legacy of the Zia [ul Haq] era as the first 'international jihad' was conceived, promoted and patronized by the Americans to fight the Soviet Union during the Afghan war. The blunder that successive governments in Pakistan have committed was not to disband the Jihadi groups after the withdrawal of the Soviet troops from Afghanistan." Afzaal Mahmood, "What price jihad culture?", in: *Dawn*, 15 January 2001. The US and Saudi Arabia reportedly funnelled several billion dollars into Afghanistan and Pakistan when they developed a *jihad* force to counter the Soviets in Afghanistan.

⁶²The US Coordinator for Counter-Terrorism, Michael A. Seehan, in a testimony to the House International Relations Committee said in July 2000 that "numerous Kashmiri separatist groups and sectarian groups involved in terrorism use Pakistan as a base", a base in which they are prepared for their task and to which they return after action.

⁶³Handbills circulated in Karachi in December 2000, of which Amnesty International has seen copies, asked people to donate money on the occasion of *Ramadan*, the holy month celebrating the revelation of the Qur'an, to the *jihad* in Kashmir and list costs for various activities of fighters of the *Lashkar-e-Taiba*, for example, launching cost per *Mujahideen* [fighters in the holy war] with training: 140,000 rupees, one Kalashnikovs: 20,000 rupees, training cost only per *Mujahideen*: 50,000 rupees, travel expenses per *Mujahideen* to and from Karachi: 1,500 rupees. Despite the wide and open distribution of the pamphlets, no action is known to have been taken against those calling for violence.

⁶⁴For instance, the Jamiat-i-Ulema-i-Pakistan (Sami-ul-Haq group) in mid-November 2000 announced it would start at the end of the month of *Ramadan* (starting on 27 November 2000) a countrywide movement on the pattern of the Taliban, with tens of thousands of students from *madrassas* 'enforcing Islamic culture', fighting obscenity and the 'threat of the NGO [non-governmental organizations] mafia to Pakistan's security'. *Ausaf*, 16 November 2000.

Given the high cost of sectarian violence to social peace, law and order and human rights protection, local observers have concluded that the interests of Pakistan and those of the Islamist groups are no longer compatible⁶⁵ and, in fact, contrary. Supporting Islamists to wage *jihad* abroad and limiting their domestic activities has proved unmanageable.⁶⁶ Moreover, some religio-political parties are perceived as conducting foreign policy agendas of their own which may only be supported by sections of the official establishment. They appear to liaise with foreign governments or declare war on other states⁶⁷ on their own terms effectively undermining the writ of the state.⁶⁸

The upsurge in religious militancy, especially if practised outside the country, has adversely affected Pakistan's foreign relations, both regionally and internationally as the country is viewed as 'exporting terrorism'.⁶⁹ General Musharraf has publicly distinguished between *jihad* and terrorism but the distinction has become blurred.⁷⁰ Several Western powers, also Central Asian

⁶⁵"Some deeni madrassas ... which send volunteers to Kashmir also issue anti-Shia fatwas, with the result that the Kashmir jihad has indirectly transformed sectarian differences into serious social and political conflict with dangerous implications for civil society and governmental authority in Pakistan." Afzaal Mahmood, "What price jihad culture?", in: *Dawn*, 15 January 2001.

⁶⁶"By facilitating the activities of the irregulars in Kashmir, the Pakistani government is inadvertently promoting internal sectarianism, supporting international terrorism, weakening the prospect for peace in Kashmir, damaging Pakistan's international image, spreading a narrow and violent version of Islam throughout the region, and increasing tensions with India -- all against the interests of Pakistan as a whole." Jessica Stern, "Pakistan's Jihad culture", in: *Foreign Affairs*, November/December 2000.

⁶⁷Recent events in the Middle East have given new vigour to the Islamists' cause and united many rival groups on a common platform of *jihad*. In October 2000, an alliance of Jamiat-e-Ulema-i-Islam (F), JUI (S), Tehrik-e-Jafria Pakistan, Sipah-i-Sahaba, Tanzeem-e-Islami, and Jamiat-e-Ahl-e-Sunnat asserted that *jihad* against Israel had become obligatory for all Muslims.

⁶⁸*Dawn*, 14 February 2001.

⁶⁹The US State Department said in early 2000 that South Asia had replaced the Middle East as 'the leading locus' of terrorism in the world.

⁷⁰Local observers have challenged the notion that the objectives in Afghanistan and Kashmir can legitimately be called *jihad*; for instance in Afghanistan, the "fratricidal conflict has degenerated into a pure struggle for power between competing groups of Muslims. ... The struggle in Kashmir has been communalized over time by some fundamentalist groups fighting there. ... Jihad in Islam is a far more elevated concept than can be encompassed by these events." Rashid Rahman, "Jihadism: the crucial rollback", in: *Dawn*, 16 February 2001. Others have pointed out that the targeting of unarmed civilians in Kashmir has undermined militant groups' claims to waging a 'just war'. Islam explicitly prohibits terrorism and enjoins *jihad*, the struggle against injustice, on Muslims as a religious obligation.

states and China, view religious extremism in Pakistan and its international dimension with concern and have formed strategic alliances against it.⁷¹ Pressure on the Government of Pakistan to curb Islamist militants has accordingly increased. Then US Assistant Secretary of State for South Asia, Karl Inderfurth in January 2000 stated: “We hope that the government of Pakistan will take steps against such extremist groups which carry out acts of violence inside Pakistan as well as in the region ... We believe that the presence and activities of these groups give Pakistan a bad international reputation in the world community and thus works against Pakistan’s national interest.”⁷²

Curbing Islamist militants, whether on grounds of their domestic impact or because of their international activities, is difficult for any government in Pakistan as such a move may be viewed as anti-Islamic and anti-national in intent and hence cause a violent backlash. While numerous observers have pointed to the nexus between internal and external activities of sectarian forces in Pakistan and its impact on the rule of law within Pakistan⁷³, few have acknowledged that these factors directly contribute to undermining the protection of minorities’ rights which the Government of Pakistan is obligated to ensure.

Islamists’ demands to introduce *shariah*

Several events at the end of the year 2000, including the pardoning of the former prime minister, new sanctions imposed by the Security Council on Afghanistan, the beginning of local body elections and external developments including the deepening of the Middle East crisis, leadership changes in the US and Israel and the bombardment of Bagdad have contributed to accelerated

⁷¹The international response against Islamic militancy has included the grouping of the ‘Shanghai Five’ including Russia, China and the three Central Asian republics Kazakhstan, Kyrgyzstan and Tajikistan and is marked by a convergence of views and willingness to cooperate between the US, Russia, China, India and Iran. As Talat Masood has pointed out, “ironically, Russia and the US, erstwhile adversaries in Afghanistan, have formed an unusual alliance to combat what they perceive as a common menace emerging from the misguided policies of the Taliban who are closely linked to some of Pakistan’s radical elements.” Talat Masood, “Facing up to the menace of militancy”, in: *Dawn*, 6 February 2001.

⁷²Tanveer Ahmed Khan, a former foreign secretary and chairman of the Institute of Strategic Studies in Islamabad was reported to comment: “Curbing these groups is a dangerous course whichever way you look at it. Pakistan cannot turn itself into another Algeria”. He believed that Inderfurth’s “much too public message could further complicate the situation as a crackdown would be seen to be driven by US pressure”. “US turns the screw on Pakistan over Islamic militants”, in: *Financial Times*, 2 February 2000.

⁷³“The nexus between so-called jihad culture, sectarian wars and the generally poor state of law and order has been visible for some time. The military cannot shrug off its responsibility for contributing a major share to the emergence of this nexus over the last two or three decades.” Rashed Rahman, “Jihadism: the crucial rollback”, in: *Dawn*, 16 February 2001.

Islamist alliance building and the emerging demand to introduce *shariah*. The presidential pardon in December 2000 of former prime minister Nawaz Sharif and his family's exile in Saudi Arabia, ostensibly on 'humanitarian grounds', was condemned by the leader of the *Jamaat-e-Islami*, Qazi Hussain, who appealed to army officers to remove General Musharraf who, he said, had become a "security risk" who "jeopardized the country's security and honour".⁷⁴

The announcement of the new sanctions regime against Afghanistan met with stiff and united resistance from Islamist groups. While the Government of Pakistan agreed to cooperate with the requirements of the new sanctions regime⁷⁵ which came into force in January 2001,⁷⁶ some 35 religio-political parties and groups jointly asked the government to oppose them and threatened countrywide boycotts of US products. At the United Islamic Conference on 10 January 2001 at Akora Khattak in the North West Frontier Province,⁷⁷ its leader Maulana Samiul Haq said the government would face stiff resistance if it tried to enforce the sanctions.⁷⁸ Participants also warned that tribal leaders would prevent any UN observers from monitoring the sanctions implementation along the border with Afghanistan. In meetings of 18 Islamist groups in Islamabad on 13 January 2001, attended by the Minister for the Interior and in Karachi days later, participants threatened US installations in Pakistan and announced protests in all major cities.

In the wake of the controversy over the Sharif exile and sanctions, the government came under intense pressure from Islamist groups to introduce *shariah* in the country, a demand for which there is reportedly no popular support in the country. The Musharraf administration had not

⁷⁴*Newsline*, January 2001. Observers concur that the pardon and exile resulted from pressure exerted by Saudi Arabia, Pakistan's largest bilateral donor, and other Gulf States reportedly with US backing for Sharif's release.

⁷⁵Some commentators have pointed to the "potentially schizophrenic character of our national security policies that we profess to abide by the sanctions after allowing the Talibanization of so much of our polity and the establishment." Ghazi Salahuddin, "Tolerating intolerance", in: *The News*, 29 January 2001.

⁷⁶Security Council resolution 1333 came into force on 19 January 2001; 13 of 15 member of the Security Council voted for and none against the resolution; it is aimed at curbing Taliban officials' travel and representation abroad and bans arms supplies to the Taliban in response to the Taliban's failure to turn over Osama bin Laden to face charges of bombing two US embassies in 1998, halt drug production and to close terrorist camps. Earlier, more comprehensive sanctions, imposed in November 1999, remain in force.

⁷⁷The meeting was hosted at the Darululoom Haqqania, the madrassa in which current senior Taliban leaders had obtained their training. The meeting also decided to set up the Council for Afghan Affairs which is to assist in the reconstruction of Afghanistan and persuade the Northern Alliance of Afghanistan to lay down arms.

⁷⁸*Friday Times*, 19 January 2001.

pursued further the 15th constitutional amendment proposed by former Prime Minister Nawaz Sharif which was to make *shariah* the basic law of the country and to provide vast powers to the executive in the pursuit of its implementation. The initiative had been rejected by human rights and minority rights groups and political parties as an ill-disguised attempt to enhance executive powers.

The *Tanzeemul Ikhwan*, an Islamist organization claiming some 300,000 members, dominated by retired army personnel and apparently enjoying some sympathies among middle ranks of serving army staff, threatened in December 2000 to march on Islamabad to compel the enforcement of *shariah*. The long march was repeatedly postponed amid conciliation efforts by the government. On 24 December, the federal Minister for Religious Affairs reportedly agreed to the enforcement of *shariah* but when no action was taken, pressure mounted again. At the Islamabad meeting on 13 January 2001, attended *inter alia* by all the provincial ministers for religious affairs, Interior Minister Moinuddin Haider reportedly in response to demands by participants, promised the government would consider amending the Constitution to make the Qur'an and Sunnah the supreme law of the land. A committee for the implementation of *shariah* was to be set up in which the *Tanzeemul Ikhwan* leader Akram Awan was to be included. Awan threatened that his organization would form a 'separate Islamic state' within Pakistani territory if *shariah* was not implemented by 7 March 2001. Human rights activists and minority groups have long expressed apprehension that the introduction of *shariah* could lead to further discrimination and marginalization of minorities.

Efforts to limit possession of arms

When after weeks of comparative sectarian calm, new incidents of violence were reported in late 1999, Interior Minister Moinuddin Haider proposed an initiative to hand over arms to the authorities. "Weapons have become a status symbol in our society. We now have hundreds of thousands of guns, Kalashnikovs, assault rifles, everything. In a civilized society you don't take these weapons to political rallies or religious gatherings or marches."⁷⁹ A ban announced in February 2000 on issuing gun licences, prohibited public display of arms and an amnesty for the registration of illegal arms was, however, not enforced; nobody was held accountable for its breach and sectarian violence continued.

Appeals to stop public display of arms yielded no results. In the January 2001 meeting with Islamist groups at Islamabad, Interior Minister Moinuddin Haider, referring to the presence of hooded men in camouflage gear carrying automatic weapons at the earlier meeting at Akora Khattak, appealed to religious groups to shed their militant image. Participants rejected such appeals, however, arguing that the arms display had been aimed at the USA which, they said,

⁷⁹'Generals target arms bazaar' in: *The Guardian*, 15 December 2000.

had declared war on Islam. Sectarian killings, they claimed, were instigated by intelligence agencies, not religious groups.

When appeals did not bear fruit, the Interior Minister on 12 February 2001 banned the public display of arms and collection of funds from the public by Islamist organizations for the *jihad*. He said, "No one will be allowed to display arms whether he belongs to a jihadi or religious group or force people to give donations for the purchase of weapons in the name of jihad. ... There is no jihad going on in Karachi or in Pakistan that these organizations [should] be allowed to do whatever they like to do."⁸⁰ He also ordered the removal of banners, many carrying pictures of Kalashnikovs, asking for funds for *jihad*. While these steps, considered 'long overdue'⁸¹ were welcomed in the English language press, it also questioned if the government would have the will and the institutional strength to enforce the ban with regard to political groups which 'have discovered their strength'.⁸² Earlier, media reports indicated that Islamist groups had taken to visiting government schools in Rawalpindi urging students to join them and become fighters for Islam; they had asked students to use their summer holidays for military training. Collection boxes for the *jihad* have reportedly been put up in petrol pumps, bazaars and shops.⁸³

In mid-February 2001 Crisis Management Cells, so far only existent at the federal level, were extended to the provincial and district level to report to the Interior Ministry on Islamist organizations and their funding. At the same time the Interior Ministry reportedly instructed the provincial governments to take strict action against anyone violating the ban on display of arms or encouraging people to armed struggle; *jihadi* organizations were admonished to remain strictly within the ambit of law.⁸⁴

⁸⁰AFP, 13 February 2001.

⁸¹Dawn, 14 February 2001.

⁸²"One only hopes that the government is aware of the enormity of the task that confronts it, given the religious parties' assertive spirit and organizational strength. ... They are not adverse to flexing their military muscle in pursuit of their objectives or when obstructed. ... Given their religious power, backed now by trained armed activists, the religious parties often resort to violence and take the law into their own hands. ... In fact, the entire national scene now seems to be coming under the lengthening shadow of Taliban-like elements." Dawn, 14 February 2001.

⁸³"Reining in misplaced zealotry", in: Dawn, 19 February 2001.

⁸⁴Jang, 17 February 2001.

Islamist groups said they would defy the bans which in their opinion lie outside the government's writ.⁸⁵ "We collect funds for the holy cause and display arms only in jihad. No one can stop us collecting funds", said *Lashkar-e-Taiba* leader Mohammad Saeed who called the Interior Ministry orders a "challenge to Islamic forces". The Pakistan Ulema Council, an alliance of clerics, threatened to force the Interior Minister's resignation if he were to pursue the announced steps, amidst media speculation if the ban was backed by the Chief Executive. The *Lashkar-e-Taiba* has started organizing an alliance of Islamist groups to oppose the ban. In February 2001, a writ petition was filed in the Peshawar High Court challenging the legality of the order issued to police to shoot people publicly displaying arms. The Governor of Punjab province subsequently reportedly said that in Punjab money was not extorted but voluntarily given for the *jihad* and hence there was no question of banning it. The Urdu language media have described the Interior Minister as bowing to Western pressure in forbidding money collections for *jihad*.⁸⁶

The need to modernize madrassas

Amidst growing political presence of the Islamists in late 2000, some steps were undertaken by the government to mainstream the country's Islamic seminaries or *madrassas*.⁸⁷ Despite a recognition that some *madrassas* provide arms and arms training to students joining militant groups,⁸⁸ the government had earlier found it difficult to bring about a reform of the schools.

Madrassas serve a useful function in a society where poorer sections cannot afford any other schooling for their children and where attendance in *madrassas* goes back generations. Tuition, food and lodging - many *madrassas* are residential schools - are usually free.⁸⁹ *Madrassas* curricula focus on religious, usually Arabic, texts pertaining to the schools of Islamic thinking

⁸⁵Reported in several newspapers, including *Ausaf* of 14 February 2001.

⁸⁶For instance, daily *Ausaf*, 15 February 2001.

⁸⁷The *madrassas* are variously estimated at between 8,000 and 15,000, perhaps even 20,000 in number, with up to a million students studying and about 35,000 to 40,000 students graduating every year. Their reported annual budget at some 1.5 billion rupees surpasses the total budget of the entire tertiary education sector in Pakistan.

⁸⁸According to a report cited in *The News*, there were in 1998 at least 751 schools in Punjab province engaged in religious training of which 810 graduates had been charged with violent crime but who were absconding. Khalid Mahmood, "Combatting sectarianism", in: *The News*, 8 February 2001.

⁸⁹In some poor areas of Punjab, the *Sipah-e-Sahaba Pakistan* (SSP) reportedly pays parents if they send their sons to SSP *madrassas*. Jessica Stern, "Pakistan's Jihad Culture", in: *Foreign Affairs*, November/December 2000.

of their founders, with little or no schooling in science or other subjects taught in state schools. Consequently, students leaving *madrassas* are rarely able to find work other than becoming teachers in *madrassas* or turning to *jihad*. Students in all-male *madrassas* are removed from the family context and do not interact with women in a capacity as brothers or sons; this gender insulation may serve to foster hostility against women.

Often children studying in *madrassas* are taken to the *jihad* without their parents' knowledge or consent;⁹⁰ some parents have even gone to court to ensure their sons' return but others believe that they are fighting a just war and reap religious merit if they die in *jihad*. Religious parties and groups are known to compensate parents for the loss of a son and to celebrate the 'supreme sacrifice'.

Shortly after assuming office, government officials declared that *madrassas* were preaching sectarianism and preparing young people for militant activities and announced that their activities would be controlled, their curricula modernized, the institutions registered and their financial sources be made transparent. Massive protests ensued: Mufti Mohammad Naeem of Jamia Binnoria in Karachi charged the Interior Minister with 'character assassination' of religious leaders and a desire to create hatred against religion. A meeting of heads of some 250 *madrassas* in Karachi on 22 May 2000 warned the government against 'mischievous propaganda' and declared that since the *madrassas* were the 'citadels of Islam'; they could not be interfered with by the government. They stated that Pakistan is an ideological state and as such Islam is 'the ultimate fate of the country' which 'vested interests' needed to be prevented from changing. It called the Taliban the 'heros of Islam' and reiterated full support for their cause. The government move was then suspended.

In June and July 2000, the government sent out registration forms prepared by the federal Education Ministry to over 15,000 *madrassas*, requiring them to register, disclose their sources of income, stop sending students to military training camps and review their syllabi to include 'modern' subjects. Only about 10% of the *madrassas* responded and they continued to send students to training camps. No action was taken against *madrassas* which refused to cooperate. Religious leaders publicly declared their opposition to the initiative. The governmental Islamic Education Centre reiterated that the "registration move has no ulterior motive and is basically aimed at equipping the *madrassas* students with latest educational skills". It said it would provide textbook to *madrassas* free of charge, pay salaries of science teachers and train existing teaching staff.

A high level committee in July 2000, headed by the National Security Council (NSC) was informed by NSC member Dr Mahmood Ahmed Ghazi that recommendations to introduce a

⁹⁰Particularly the Sindhi press has reported the disappearances of adolescents taken from *madrassas* often without knowledge or permission of their parents to fight in Afghanistan or Kashmir.

common syllabus including modern sciences had “been prepared after lengthy deliberations, analyses and interaction with those running the madrassas, by a select committee of educationists and scholars ... Religious scholars have realized the need to include science, mathematics, vocational training and computer courses in the syllabi.”⁹¹ In September 2000, the government announced a new charter for *madrassas* to bring them into the mainstream. Accordingly, federal Minister for Education, Zubaida Jalal, in late January 2001 announced government assistance to 150 *madrassas* in the next fiscal year in the form of computers, specially designed courses and teacher training. Some 7,000 seminaries had registered with her ministry and some 11,000 with the Ministry for Religious Affairs. The Ministry for Education was also consulting with the University Grants Commission to establish equivalence of certificates issued by the Wifaq-ul-Madaris, the board of the religious seminaries. The possibility of setting up model *madrassas* with modern education was also under consideration by the Ministry for Religious Affairs, she said.

10. Conclusions and recommendations to the Government of Pakistan

The patterns, methods, causes and consequences of abuses of minority rights described in this report are rooted in religious discrimination and fostered by an atmosphere of intolerance which has perceptibly grown over the last year. In order to be effective, therefore, any measures to combat such abuse have to address its causes. Abuses of religious minorities, whether by bringing false charges leading to long periods of arbitrary detention, threats and the use of violence by Islamists which the state ignores or condones, and the denial of legal redress by the criminal justice system to victims of abuse are fundamental violations of the right to freedom of religion and to a life free from discrimination.

Amnesty International calls on the Government of Pakistan to fully ensure fundamental rights of minorities laid down in the Constitution of Pakistan and in international human rights standards. The Universal Declaration of Human Rights (UDHR) says in article 1: “All human beings are born free and equal in dignity and rights....” Article 2 specifies: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...” Article 7 states: “All are equal before the law and are entitled without discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.” Article 18 lays down: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Article 29(2) lays down the only permissible limitations of this freedom: “In the exercise of his rights and freedoms, everyone shall be subject only to such

⁹¹ Amir Mir, “Modernizing the madrassas” in: *Newsline*, November 2000, p. 41.

limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare of a democratic society.”

The blasphemy laws of Pakistan, while purporting to protect Islam and the religious sensitivities of the Muslim majority of Pakistan, are vaguely formulated and arbitrarily enforced by the police and judiciary; as such they permit, even invite, abuse and harassment and persecution of minorities in Pakistan.

Amnesty International frequently calls for the abolition or amendment of laws under which people can be held as prisoners of conscience. The organisation is aware that under the provisions of the Constitution of Pakistan, the Government of Pakistan cannot abolish the death penalty for the offence of blasphemy or do away with sections of the PPC relating to religious offences altogether. However, Amnesty International calls on the Government of Pakistan to take all possible measures to prevent the abuse of the blasphemy laws while they remain in force. While the blasphemy laws remain on the statute book of Pakistan, the Government of Pakistan can do much to prevent abuse by strengthening institutional and legal safeguards and, as a first step, make the abuse of the laws itself an offence.

The blasphemy laws have contributed to an atmosphere of hostility towards religious minorities in Pakistan which has been understood by some people to permit them to take the law into their own hands and to threaten or use violence against them. Amnesty International calls on the Government of Pakistan to clearly and publicly condemn such acts, to ensure that every reported act of violence against minorities is promptly investigated, that those responsible are brought to justice and that adequate measures are taken to prevent a recurrence.

Perhaps the most important measure of all is to stop discrimination on grounds of religion against anyone. To this end a comprehensive program of education, at all levels of society should be put in place which teaches the values of tolerance and peace and creates an atmosphere in which dialogue amongst a diversity of beliefs is not only permitted but encouraged and cherished. Of particular urgency is the thorough and continuing training of police and the judiciary in the area of human rights so that they are equipped to prevent abuses of members of the minorities and to provide legal redress for abuses suffered by them. Amnesty International in this context also appeals to the international community to extend all possible assistance to Pakistan to achieve these ends.

Appendix 1: Offences relating to religion under the Pakistan Penal Code

The Pakistan Penal Code (PPC) of 1860 dates from the British colonial period; sections 295 and 298 of the PPC relating to religious offences date back to that period and were intended to

prevent and curb religiously motivated violence. The offences listed include defiling a place of worship (section 295 PPC), disturbing a religious assembly (section 296 PPC), trespassing on burial grounds (section 297 PPC) and utterances wounding religious feelings (section 298 PPC). These sections have in common that the intention of the offender to hurt religious susceptibilities of others is considered integral to the offence; they have universal application whereby hurting the religious feelings of any group is made an offence.

Section 295 reads: *“Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of people is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment ... for a term which may extend to two years, or with fine, or with both.”*

Section 298 reads: *“Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment ... for a term which may extend to one year or with fine, or with both.”*

Still during the colonial period, in 1927, section 295A PPC was added which reads: *“Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens ..., by words, either spoken or written, or by visible representations insults the religion or the religious beliefs of that class, shall be punished with imprisonment ... for a term which may extend to two years, or with fine, or with both.”*

Under Zia-ul-Haq, several new sections were inserted in the PPC in the 1980s; they differ significantly from earlier laws relating to religious offences in at least four ways: They do not specifically mention malicious intent to wound religious sensitivities as a condition for an action amounting to a criminal offence, and they provide vastly increased penalties. Moreover, they make specific reference to Islam whereas the earlier laws were intended to protect the religious sentiments of ‘any class of people’. There is also a distinct shift in emphasis discernible: the newly introduced sections of the PPC do not make it a criminal offence to hurt the religious feelings of Muslims but rather define the offences in terms of an insult or affront to Islam itself. The offences consist in defiling or insulting the prophet of Islam, his companions and family members and desecrating the Qur’an.

In 1980, section 298A PPC was added which makes the defilement of any persons close to the prophet and revered in Islam by the use of *“words, whether spoken or written, or by visible representation or by any imputation, innuendo or insinuation, directly or indirectly”* an offence punishable with up to three years of imprisonment or with fine or with both.

Section 295B was added in 1982 and reads: *“Whoever, wilfully defiles, damages or desecrates a copy of the holy Koran or an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punished with imprisonment for life.”*

In 1986, defiling the name of the Prophet Mohammad was made a criminal offence and section 295C added to the PPC. It reads: *“Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.”* In October 1990, the Federal Shariat Court ruled that *“the penalty for contempt of the Holy Prophet ... is death and nothing else”*. It also noted that *“no one after the Holy Prophet ... exercised or was authorized [to exercise] the right to reprieve or pardon.”* It directed the Government of Pakistan to affect the necessary legal changes and added, *“in case this is not done by 30 April 1991 the words ‘or punishment for life’ in section 295-C, PPC, shall cease to have any effect on that date.”* Decisions of the Federal Shariat Court are binding on the government. As the Government of Pakistan did not appeal against the decision within the stipulated period and did not pass relevant legislation, the words ‘or punishment for life’ continue to appear in section 295C of the PPC but do not have legal force. The only punishment available for anyone convicted of blasphemy under section 295C PPC is death.

In April 1984, President Zia-ul Haq promulgated Ordinance XX which inserted sections 298B and 298C into the PPC which made it criminal offences for Ahmadis to call themselves Muslims, to employ nomenclature and appellations associated with Islam, to use Muslim practices of worship and to propagate their faith.

Section 298B reads: *“(1) Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written or by visible representation*

- (a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him) as ‘Ameer-ul-Mumineen’ ...;
- (b) refers to, or addresses, any person, other than the wife of the Holy Prophet Muhammad (peace be upon him) as Ummul-Mumineen;
- (c) refers to or addresses any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him) as Ahle-bait;
- (d) refers to, or names, or calls, his place of worship as Masjid;

shall be punished with imprisonment ... for a term which may extend to three years and shall also be liable to fine.

(2) any person of the Qadiani group ... who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayer as ‘Azan’ or recites Azan as used by the Muslims, shall be punished with imprisonment ... for a term which may extend to three years and shall also be liable to fine.”

Section 298C PPC reads: “Any person of the Qadiani group ... who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment ... for a term that may extend to three years and shall also be liable to fine.”