

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** PAK17182  
**Country:** Pakistan  
**Date:** 3 February 2005

Keywords: Pakistan – Ahmadis – Employment – Education – State Protection

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Questions

- 1. Please provide information on the treatment of Ahmadis in Pakistan. In particular: are Ahmadis in Pakistan subject to discrimination in terms of employment, education and practice of their religion?**
- 2. Are Ahmadis subject to death threats by reason of their religion? If so, are the authorities of Pakistan willing and able to afford protection to Ahmadis whose lives are threatened?**

#### RESPONSE

- 1. Please provide information on the treatment of Ahmadis in Pakistan. In particular: are Ahmadis in Pakistan subject to discrimination in terms of employment, education and practice of their religion?**

A variety of sources provide information on the continuing mistreatment of the Ahmadiyya community in Pakistan. Reports from the US Department of State, the UK Home Office, international human rights agencies, and academics, amongst other sources, are attached, which note that the community has been subject to wide-ranging forms of discrimination affecting their rights to practice their religion, their access to education and equal employment opportunities (Khan, A. M 2003, 'Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations', *Harvard Human Rights Journal*, Volume 16, Spring <http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf> – Accessed 31 January 2005 – Attachment 1; US Department of State 2004, *Pakistan: International Religious Freedom Report 2004*, 15 September – Attachment 2; Human Rights Commission of Pakistan 2003, *State of Human Rights 2003*, Human Rights Commission of Pakistan website <http://www.hrcp-web.org/pdf/3-2.pdf> – Accessed 31 January 2005 – Attachment 3; Country and Information Policy Unit 2004, *Pakistan Country Report*, UK Home Office, October – Attachment 4).

Amjad Mahmood Khan's article, 'Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations', includes an historical account which surveys "the rise of religious persecution towards the Ahmadiyya community" and "its gradual legalization". Amongst other things, the article notes that constitutional amendments in 1974 and 1984 "deprived Ahmadis of their identity as Muslims" and solidified "the place of the *Shari'a* within the legal order". As a result of a 1984 amendment, in particular:

the Federal Shariat Court, accorded wide discretionary powers, became the state's legal instrument to legitimize subsequent criminal ordinances passed by parliament. These ordinances included five that explicitly targeted religious minorities: a law against blasphemy; a law punishing the defiling of the Qur'an; a prohibition against insulting the wives, family, or companions of the Prophet of Islam; and two laws specially restricting the activities of Ahmadis. On April 26, 1984, Zia-ul-Haq issued these last two laws as part of Martial Law Ordinance XX, which amended Pakistan's Penal Code and Press Publication Ordinance Sections 298-B and 298-C. Ordinance XX undercut the activities of religious minorities generally, but struck Ahmadis in particular. For fear of being charged with "indirectly or directly posing as a Muslim," Ahmadis could no longer profess their faith, either verbally or in writing. Pakistani police destroyed Ahmadi translations of the Qur'an and banned Ahmadi publications, the use of any Islamic terminology on Ahmadi wedding invitations, the offering of Ahmadi funeral prayers, and the displaying of the *Kalima* (the principal creed of a Muslim) on Ahmadi gravestones. In addition, Ordinance XX prohibited Ahmadis from declaring their faith publicly, propagating their faith, building mosques, or making the call for Muslim prayers. In short, virtually any public act of worship or devotion by an Ahmadi could be treated as a criminal offense...

Furthermore:

With the passage of the Criminal Law Act of 1986, parliament advanced Ordinance XX's severe restrictions. The "Blasphemy Law," as the Act came to be referred to, amended Section 295-C of the Pakistan Penal Code by raising the penalty against blasphemy from fine or imprisonment to death. Because the Ahmadi belief in the prophethood of Mirza Ghulam Ahmad was considered blasphemous insofar as it "defiled the name of Prophet Muhammad," Zia-ul-Haq and the Pakistani government institutionalized the persecution of Ahmadis in Pakistan with Section 295-C. The mere existence of practicing Ahmadi Muslims could be considered blasphemous and punishable by death (Khan, A. M 2003, 'Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations', *Harvard Human Rights Journal*, Volume 16, Spring <http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf> – Accessed 31 January 2005 – Attachment 1).

Articles 298-B and 298-C of the Pakistan Penal Code read as follows:

**298B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places.**

(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 'Ameerul Mumineen', 'Khalifa-tui-Mumineen', 'Khalifa-tul-Muslimeen', 'Sahaabi' or 'Razi Allah Anho'

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him) as '*Ummul-Mumineen*'

(c) (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*'; or

(d) refers to, or names, or calls, his place of worship as '*Masjid*'; shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves Ahmadis or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as '*Azan*' or recites *Azan* as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**298C. Person of Qadiani group etc., calling himself a Muslim or preaching or propagating his faith.**

Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), who, directly or indirectly, poses himself as 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 of either description for a term which may extend to three years and shall also be liable to fine (Government of Pakistan 1984, *ORDINANCE NO. XX OF 1984*, 26 April, The Persecution website <http://www.thepersecution.org/50years/paklaw.html> – Accessed 31 January 2005 – Attachment 5).

The latest US Department of State report on religious freedom in Pakistan provides additional advice. As noted:

The Constitution specifically prohibits discriminatory admission to any governmental educational institution solely on the basis of religion. Government officials state that the only factors affecting admission to governmental educational institutions are students' grades and home provinces. However, students must declare their religion on application forms. Muslim students must declare in writing that they believe in the unqualified finality of the Prophethood of Mohammed, a measure designed to single out Ahmadis, who do not adhere to this tenet of Sunni and Shi'a Islam. Non-Muslims must have their religion verified by the head of their local religious community. Many Ahmadis and Christians reported discrimination in applying to government educational institutions due to their religious affiliation. Christians and Ahmadis reportedly have been denied access to medical schools, and societal discrimination against Ahmadis persists at many universities. For example, at the Agricultural University in Faisalabad, students of other religions reportedly refuse to eat with Ahmadis...

In May 2002, under increasing pressure from fundamentalist leaders, the Government reinstated a column on the voter registration form that required Muslims to take an oath accepting the finality of the Prophethood of Mohammed. When joint electorates were restored in January 2002, this oath was removed from voter registration forms, but religious leaders protested because voter lists no longer identified Ahmadis. In June 2002, the Election Commission announced that it would accept challenges from members of the public to the voting status of Ahmadis who registered to vote as Muslims. Voters with objections filed against them are required either to sign an oath swearing to the finality of the Prophethood of Mohammed or be registered as non-Muslims on the voter list. In protest the Ahmadi

community notified the President in September 2002, that it would boycott the October 2002 elections. No Ahmadis are known to have voted, but there has been no change in the Government's policy.

The Government designates religion on citizens' passports. To obtain a passport, citizens must declare whether they are Muslim or non-Muslim; Muslims also must affirm that they accept the unqualified finality of the Prophethood of Mohammed, declare that Ahmadis are non-Muslims, and specifically denounce the founder of the Ahmadi movement.

The Government does not ban formally the public practice of the Ahmadi faith, but the practice is restricted severely by law. A 1974 constitutional amendment declared Ahmadis to be non-Muslims because they do not accept Mohammed as the last prophet of Islam. However, Ahmadis consider themselves to be Muslims and observe Islamic practices. In 1984 the Government added Section 298(c) into the Penal Code, prohibiting Ahmadis from calling themselves Muslims or posing as Muslims; from referring to their faith as Islam; from preaching or propagating their faith; from inviting others to accept the Ahmadi faith; and from insulting the religious feelings of Muslims. This section of the Penal Code, commonly referred to as the "anti-Ahmadi law," has caused problems for Ahmadis, particularly the provision that forbids them from "directly or indirectly" posing as Muslims. This vague wording has enabled mainstream Muslim religious leaders to bring charges against Ahmadis for using the standard Muslim greeting form and for naming their children Mohammed. The constitutionality of Section 298(c) was upheld in a split-decision Supreme Court case in 1996. The punishment for violation of this section is imprisonment for up to 3 years and a fine. This provision has been used by the government and anti-Ahmadi religious groups to target and harass Ahmadis. Ahmadis also are prohibited from holding any public conferences or gatherings, and since 1983 they have been denied permission to hold their annual Ahmadi conference. Ahmadis are banned from preaching or adopting social practices that make them appear to be Muslims. Their publications also are banned from public sale; however, they publish religious literature in large quantities for a limited circulation.

The Constitution provides for the "freedom to manage religious institutions." In principle the Government does not restrict organized religions from establishing places of worship and training members of the clergy. However, in practice Ahmadis suffer from restrictions on this right. Several Ahmadi mosques reportedly have been closed; others reportedly have been desecrated or had their construction stopped. For example, the police stopped construction of an Ahmadi mosque in a village in Sargodha in January. An Ahmadi mosque was seized at Ahmadnagar in October 2003, and a mosque in Sayedwala was attacked and destroyed in 2001 by a large group of persons led by the village mullahs. The Government has not given the Ahmadis permission to rebuild it. Ahmadis also are prohibited from being buried in Muslim cemeteries. According to press reports, the authorities continued to conduct surveillance on the Ahmadis and their institutions.

The Federal Ministry of Religious Affairs issues registration documents to pilgrims for their pilgrimage to Mecca. In July 2003, it added a new section to the documents in which the applicant has to certify on a printed oath that the founder of the Ahmadiyya movement, Mirza Ghulam Ahmad Qadiani, was a "cunning person and an imposter."

The "blasphemy laws" are contained in Sections 295, 296, 297, and 298 of the Penal Code and address offenses relating to religion. Section 295(a), a colonial-era provision, originally stipulated a maximum 2-year sentence for insulting the religion of any class of citizens. In 1991 this sentence was increased to 10 years. In 1982 Section 295(b) was added, which stipulated a sentence of life imprisonment for "whoever willfully defiles, damages, or desecrates a copy of the holy Koran."

In 1986 another amendment, Section 295(c), established the death penalty or life imprisonment for directly or indirectly defiling “the sacred name of the Holy Prophet Mohammed.” In 1991 a court ruled invalid the option of life imprisonment for this offense. Section 296 outlaws voluntary disturbances of religious assemblies, and Section 297 outlaws trespassing on burial grounds. Section 298(a), another colonial-era provision, forbids the use of derogatory remarks about holy personages. Personal rivals and the authorities have used these blasphemy laws, especially Section 295(c), to threaten, punish, or intimidate Ahmadis, Christians, and Muslims. No person has been executed by the Government under any of these provisions; however, some persons have been sentenced to death, or have died while in official custody.

Bail in blasphemy cases is almost always denied by original trial courts on the logic that since defendants are facing the death penalty, they are likely to flee. Defendants can appeal the denial of bail (and many do), but bail rarely is granted by the High Court or the Supreme Court in advance of the trial...

Ahmadis charge that they suffer from restrictions on their press. On July 19, 2003, Tanvir Ahmed Asif and Abdul Qadir were charged with blasphemy, as well as violating the anti-Ahmadi law, for writing a book called “Religious Dalits of Pakistan,” which explained the situation of Ahmadis around the country...

Ahmadis report severe discrimination in the civil service. They contend that a “glass ceiling” prevents them from being promoted to senior positions and that certain government departments have refused to hire or retain qualified Ahmadis...

Ahmadis suffer from societal harassment and discrimination. Even the rumor that someone may be an Ahmadi or have Ahmadi relatives can stifle opportunities for employment or promotion. Most Ahmadis are home-schooled or go to private, Ahmadi-run schools. Ahmadi students in public schools often are subject to abuse by their non-Ahmadi classmates. The quality of teachers assigned to predominately Ahmadi schools by the government reportedly is poor. In 2002, in response to a question from Islamic clerics, President Musharraf (who has been accused of favoring Ahmadis) declared that he believed Ahmadis are “non-Muslims.” (US Department of State 2004, *Pakistan: International Religious Freedom Report 2004*, 15 September – Attachment 2)

The latest report on the state of human rights in Pakistan by Pakistan’s Human Rights Commission provides more information on how Ahmadiyyas are discriminated against in the areas of education and employment. As stated in the Commission’s 2003 report:

Ahmadis...faced discriminatory action by the government itself. On June 27 [2003], the Punjab education department dispatched a ‘top priority’ registered letter to the management of three schools in Faisalabad, run by members of the Ahmadi community. In the letter, the schools administrations were advised to declare their institutions as ‘Qadiyani’ (a widely used alternative name for members of the Ahmadi community) schools, and to state this in their advertisements, on their letterheads and brochures. According to reports from Faisalabad, since June the police, education department officials, military intelligence personnel and police special branch officials had repeatedly visited the schools, all of which enjoyed a good reputation. Staff had been harassed, and as a result of the steps taken, some parents, fearing a possible closure of the schools, had withdrawn their children...

Ahmadi students, and even school children, also continued to face problems. Under the arrangements of the Punjab education department, Ahmadi children from three local schools assembled at a government high school at Rabwah in March [2003] to sit the final school examinations. After they had assembled, an unexpected lecture was delivered by examination

staff about the finality of the Prophethood of Hazrat Muhammad (Peace Be Upon Him), and the school children informed that anyone who differed from these views was an infidel.

More instance of harassment at the workplace were reported...

In...[one] incident reported from Pasrur, Awais Ayub Butt, an Ahmadi who had been appointed lecturer at a Government Degree College in the town, was dismissed in September, with no solid reasons given for his dismissal. He believed e had faced such action only because of his faith, and filed an appeal before the LHC [Lahore High Court]. The Court, a few months later, gave a decision in his favour and Butt was accordingly appointed once more to the college. However, when he reported to join, the college principal did not allow him to do so. Sermons against Ayub were meanwhile delivered from mosques in the area. A day later, the college principal handed the lecturer a letter stating that in view of the clerics opposition and the sentiments of college staff against Qadianis, he should seek appointment elsewhere. The letter bore the signature and official seal of the college principal...

Other similar complaints by Ahmadis came in from across the country, with some reporting they had been declined jobs at banks, private firms and businesses, solely on the basis of their faith (Human Rights Commission of Pakistan 2003, *State of Human Rights 2003*, Human Rights Commission of Pakistan website <http://www.hrcp-web.org/pdf/3-2.pdf> – Accessed 31 January 2005 – Attachment 3).

## **2. Are Ahmadis subject to death threats by reason of their religion? If so, are the authorities of Pakistan willing and able to afford protection to Ahmadis whose lives are threatened?**

The latest US State Department report on religious freedom in Pakistan notes that in 2004 “there were instances in which the Government failed to intervene in cases of societal violence directed at minority religious groups” and that “the lack of an adequate government response contributed to an atmosphere of impunity for acts of violence and intimidation against religious minorities” (US Department of State 2004, *Pakistan: International Religious Freedom Report 2004*, 15 September – Attachment 2).

Furthermore:

There have been instances in which police have used excessive force against individuals because of their religious beliefs and practices; however, sometimes it was difficult to determine whether religious affiliation was a factor in police brutality. The police also have failed to act against persons who use force against others because of their religious beliefs. The Government admits that police brutality against all citizens is a problem. However, both the Christian and Ahmadi communities have documented instances of the use of excessive force by the police and police inaction to prevent violent and often lethal attacks on members of their communities...

Ahmadi individuals and institutions long have been victims of religious violence, much of which is instigated by organized religious extremists. Ahmadi leaders charge that militant Sunni mullahs and their followers sometimes stage marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual center in central Punjab. Backed by crowds of between 100 and 200 persons, the mullahs reportedly denounce Ahmadis and their founder, a situation that sometimes leads to violence. The Ahmadis claim that police generally are present during these marches, but they do not intervene to prevent violence. In 2001, a mob destroyed an Ahmadi mosque in Sheikhpura; authorities did not stop the violence, and later they arrested 28 Ahmadis for civil disorder. The Ahmadis were released quickly, but there

have been no steps to prosecute the offenders or compensate Ahmadis for the loss of the mosque.

Ahmadis are willing to rebuild the mosque with private funds; however, the Government has not given them permission to do so. There were also reports that when Ahmadis displayed the kalima (the Muslim declaration of faith) in their homes or mosques, they were torn down or defaced. In August 2003, Ahmadis in Karachi were told that they had to mark out the kalima from their mosque. After the Ahmadis refused, the authorities painted over the kalima.

In February 2003, Mian Iqbal Ahmed, a lawyer and District President of the local Ahmadi community, was killed at his home in Rajanpur by unknown gunmen. In 2002, Maqsood Ahmed was killed in Faisalabad. Rashid Ahmed, a medical doctor, was killed at his clinic in Rahim Yar Khan in 2002. Abdul Waheed was killed in 2002, in Faisalabad. Two persons were accused, apprehended, and tried. One was acquitted while the other was found guilty and sentenced to death. His appeal is pending in the High Court. All of these killings appeared to have been motivated by anti-Ahmadi sentiment. At the close of the period covered by this report, there was no further information on these cases.

In August 2003, Munawwar Ahmad, former chief of the district organization of Ahmadi elders, was shot and wounded by attackers when he answered his door. Police opened an investigation; however, there were no developments during the period covered by this report (US Department of State 2004, *Pakistan: International Religious Freedom Report 2004*, 15 September – Attachment 2).

Pakistan's Human Rights Commission provides additional advice. As indicated in their 2003 report:

The Ahmadi community confronted violence, widespread discrimination, harassment, and in some cases death due to the beliefs it adhered to. Alarming, the threat came not only from orthodox forces in society but also from official quarters.

Anti-Ahmadi laws remained in place, while orthodox clerics were able to deliver sermons calling on Muslims to persecute or even kill Ahmadis, without any action taken against them under the law....

Ahmadis continued to face violence of various kinds, including beatings, verbal assault and even murder. Alarming, the number of such cases during the year was higher than in 2002, with the trend of accelerating anti-Ahmadi violence seen over the decade continuing... (Human Rights Commission of Pakistan 2003, *State of Human Rights 2003*, Human Rights Commission of Pakistan website <http://www.hrcp-web.org/pdf/3-2.pdf> – Accessed 31 January 2005 – Attachment 3).

## List of Sources Consulted

### Internet Sources:

Google search engine

UNHCR

REFWORLD

UNHCR Refugee Information Online

### Databases:

Public

FACTIVA

Reuters Business Briefing

DIMIA

BACIS

Country Information

REFINFO

IRBDC Research Responses (Canada)

RRT

ISYS

RRT Country Research database, including

Amnesty International, Human Rights Watch,



### List of Attachments

1. Khan, A. M 2003, 'Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations', *Harvard Human Rights Journal*, Volume 16, Spring.  
(<http://www.law.harvard.edu/students/orgs/hrj/iss16/khan.pdf> – Accessed 31 January 2005)
2. US Department of State 2004, *Pakistan: International Religious Freedom Report 2004*, 15 September.
3. Human Rights Commission of Pakistan 2003, *State of Human Rights 2003*, Human Rights Commission of Pakistan website. (<http://www.hrcp-web.org/pdf/3-2.pdf> – Accessed 31 January 2005)
4. Country and Information Policy Unit 2004, *Pakistan Country Report*, UK Home Office, October.
5. Government of Pakistan 1984, *ORDINANCE NO. XX OF 1984*, 26 April, The Persecution website. (<http://www.thepersecution.org/50years/paklaw.html> – Accessed 31 January 2005)