HUMAN RIGHTS IN PAKISTAN

January 1987

Report of Karen Parker
Attorney at Law
Special Representative
HUMAN RIGHTS ADVOCATES, INC.
An organization with consultative status
(category II) at the United Nations
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The Law has a silver tongue;
Justice a golden one.
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INTRODUCTION

This report, by Karen Parker (an attorney who specializes in international law, human rights, and humanitarian law), is based on interviews, observations and evidence obtained during her visit to Pakistan; information submitted to the United Nations by United Nations Special Rapporteurs, human rights organizations, and governments; information obtained from United States Congressional offices and from other governments; information obtained from news articles in the Pakistani and international press; information obtained from interviews with and material supplied by Pakistanis in Pakistan, Canada, Switzerland, the United Kingdom, and the United States; and continued conversations and written communications with persons in and from Pakistan following her visit.

The author visited Pakistan from April 22 to May 9, 1986. She visited major cities (Karachi, Lahore, Islamabad, Peshawar) and numerous smaller towns and villages. She met with Pakistani government officials, including President Mohammad Zia-ul-Haq, Zain Noorani, the Minister of State for Foreign Affairs, and Munir Akram, Pakistan's Director General for United Nations Affairs of the Ministry of Foreign Affairs. She also met with U.S. Ambassador Deane Hinton and his staff in Islamabad, Lahore, and Karachi; and interviewed members of the diplomatic missions of Argentina, Canada, the Federal Republic of Germany, and the United Kingdom. She met with virtually hundreds of Pakistanis, including pro-government and opposition political leaders; leaders in the Supreme Court and High Court bars and other noted attorneys; retired justices; retired military leaders; leading journalists and writers; university professors and students; Islamic theologians, including Ahmadis; members of non-Islamic religious minorities; families of political prisoners; former political prisoners; businessmen and women; former police officials; and representatives of Pakistan's human rights community. She held press conferences in Lahore, and at the Karachi Press Club.
VIOLATION OF THE RIGHT TO DEMOCRACY

A. SUSPENSION OF DEMOCRATIC GOVERNMENT

The Universal Declaration of Human Rights (Annex 1) establishes:

"Whereas it is essential, if mankind is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."¹

A fundamental aspect of human rights under the rule of law is that the authority of government is the will of the people, expressed in genuine elections and in the right of any person to take part in government.²

In human rights law, the principle of rule by the consent of the governed found in Article 21 incorporates the corollary concept of popular participation.³ For purposes of Article 21, popular participation

"means that juridical and political structures should enable all citizens to participate, freely and actively, in laying the constitutional foundations of the political community, determining the scope and purpose of the various institutions, choosing their leaders, and governing the State."⁴

The existence of human rights violations in Pakistan at the present time is in large part inextricably linked to continued violation of this most basic civil right—the right of people to a government reflective of their will, and its corollary, the right to popular participation.

On July 5, 1977, government in Pakistan came under the almost total control of General Mohammad Zia-ul-Haq. On that date, General Zia proclaimed a state of martial law, proclaimed himself Chief Martial Law Administrator, suspended the legislature, suspended the fundamental rights of the Constitution and all proceedings in any court to enforce these rights, and granted himself and his appointed provincial governors unlimited powers to promulgate ordinances or other laws.⁵

¹Universal Declaration of Human Rights, 3d. preambular para.
²Id, art. 21, paras. 1 and 3.
⁴Id., at p. 22.
⁵Laws (Continuance in Force) Order (July 5, 1977).
Subsequent enactments banned all political parties and political activities, and gave General Zia-ul-Haq and his appointees exclusive powers to amend the Constitution.

B. INSTITUTIONALIZATION OF ZIA REGIME

Changes have been made to the government by the 1984 Referendum, the 1985 elections, by the Constitutional (Eighth Amendment) Act of November 11, 1985 (Annex 3), and by the "lifting" of martial law on December 30, 1985. These changes, however, have not as yet fully restored to the people of Pakistan their right to a government that derives its powers from their will.

1. The Referendum of 1984

The Referendum of 1984 can hardly be viewed as an expression of the will of the people as to how they are governed. The Referendum, formulated and presented by General Zia, merely asked approval of General Zia's efforts at Islamization and for a "smooth and orderly transfer of power to the elected representatives of the people." No notice of what that transfer would entail or when it would take place was provided. The extremely low voter turnout was an embarrassment to the Zia regime. The author was told that in some polling places, no one had appeared by 11:00 a.m., so the polls were closed down. Reliable estimates from Lahore indicate as few as 5% of eligible voters cast votes, even though prison terms were established for anyone encouraging a boycott. President Zia has repeatedly stated (to this author as well) that the Referendum granted to him another 5 years as President: he refers to himself as elected by the will of the people.

2. The Election of 1985

The election of 1985, to choose members of the regional and national legislatures, was also seriously deficient in meeting standards for the expression of the will of the people. The most glaring defects were that General Zia determined who could run and ensured that the legislative bodies to be elected would have little power. That electoral exercise brought no effective control over Zia's nearly unlimited powers.

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6 See, e.g., Martial Law Regulations No. 11, 18, 10, 24, and 33.

7 Provisional Constitutional Order (March 21, 1981), art. 16.

8 The full text of the Referendum is: "Whether the people of Pakistan endorse the process initiated by General Zia-ul-Haq, the President of Pakistan, for bringing the laws of Pakistan in conformity with the injunction of Islam as laid down in the Holy Qu'ran and Sunnah of the Holy Prophet (Peace Be Upon Him) and for the preservation of the ideology of Pakistan, for the continuation and orderly transfer of power to the elected representatives of the people."

9 Author's interview with General Mohammad Zia-ul-Haq, President of Pakistan, in Rawalpindi at Army House (May 5, 1986).
The procedures for the two elections and the activities of the regime during this period were characterized by extreme violations of rights. The author spoke with people who had been jailed without charge or had not been allowed to run because of their political party membership. Reliable figures presented to the author indicate as many as 1,000 persons were arrested and held during the February elections, many of them members of the Movement for the Restoration of Democracy (MRD), a coalition of opposition parties. Candidates were not allowed to indicate party affiliation.10

3. The Constitutional (Eighth Amendment) Act

The Constitutional (Eighth Amendment) Act of November 11, 1985, and the lifting of martial law on December 30, 1985, do little to restore the democratic exercise of civil and political rights, and in many respects make the situation worse. The most egregious flaw is evidenced by Part 19 of the Act which amends Article 270(A) of the Constitution to incorporate into the Constitution an affirmation of "[t]he [July 5, 1977] Proclamation, all Presidential Orders, Ordinances, Martial Law Regulations, Martial Law Orders, including the Referendum Order, [other Constitutional Orders] and all other laws made between the fifth day of July, 1977, and [November 11, 1985]." These laws are declared to have been "validly made by competent authority," and neither the affirmation clause nor the laws themselves are subject to judicial review. This amendment has dramatically altered the Constitution with no participation of the citizenry. On April 21, 1986, during the author's visit to Pakistan, a Sind High Court bench (Chief Justice Naimuddin and Justice Abdul Razzak Hatim) held that the validity of laws mentioned in the new Section 270(A) of the Constitution "cannot be questioned."11 The question of validity, however, is not settled in Pakistan, and remains entwined with the controversy over all the severe judicial impairments, to be discussed in more detail in the section on justice.

This Act institutionalizes, *inter alia*, many of Zia's decrees between July 5, 1977, and September 30, 1985, that deny the Pakistani people their right to participate, in their government. The Act's provision (Part 19, section 1) restricting General Zia's current decree making powers to issues relating to the revocation of the July 5, 1977 Proclamation is hollow because in the course of nine years of martial law rule, Zia had already limited or abrogated rights relating to participation in government and, by the Act, made such abrogations secure.

Since the December 31, 1985 lifting of martial law, power in Pakistan is purported to rest in the civilian Prime Minister, Mohammad Khan Junejo,

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responsible to the National Assembly (Majlis-i-Shoora), but appointed by General Zia under provisions of the Revival of the Constitution Order of 1985. General Zia also retains power to remove the Prime Minister at will. During the author's visit to Pakistan, most people interviewed indicated that power still rested largely with General Zia, not with the equally unpopular Junejo. The powers of the president, under the Zia-dictated Constitution, are so all-encompassing as to trivialize any parliamentary process. Martial law may be formally lifted, but many martial law decrees remain in force.

C. POST MARTIAL LAW POLITICS

Assessment of the effects of the lifting of martial law on political activity of the citizenry is difficult if not impossible at the present time because of the extraordinary events taking place following the return of Benazir Bhutto and her meteoric entry into Pakistan politics. No one is certain of the rules or whether, with more activity, martial law will be reimposed.12 Nonetheless the populace is openly, and in unprecedented numbers, demanding a restoration of popular participation in conformity with their rights.13 The Movement for the Restoration of Democracy and individual political parties were functioning relatively openly again during the author's visit, in spite of the provisions of the Constitutional (Eighth Amendment) Act.14 Sadly, however, current tensions between the Zia government and the opposition have led to violence. For example, at the end of May 1986, police opened fire on two student leaders of the Pakistan Peoples Party in Hyderabad. Faqir Iqbel Hisbani was killed and Jahanbarg Pathan remain in critical condition. The bullets shattered Pathan's spinal cord and he is partially paralyzed with serious lung trauma.


13 See, e.g., "Karachi Accords Unprecedented Reception to Benazir," The Muslim (Islamabad), May 4, 1986, p. 1. The Karachi reception for Ms. Bhutto (estimated at 2.5 million) is considered the largest reception for a political figure in the history of Pakistan, surpassing her earlier record in Lahore on April 10, 1986. For a report of the Lahore event, see, Z. Samdani, "Politics and People," Pakistan and Gulf Economist, April 19–25, 1986, at p. 8: "Even the extrovertly inclined over enthusiastic people of Lahore had never put on a show of such frenzy; people simply went delirious with joy... It was the greatest political show of Pakistan up to date." Ms. Bhutto's reception in Peshawar was described as "unprecedented in Peshawar's history." A. S. Yousofi, "Benzair Again Calls for Fresh Polls," Dawn (Karachi), April 22, 1986, p. 1. Similar accounts followed visits of Ms. Bhutto to Chungi, Amarsid, Mustafabad, Quetta, Multan, Kasur, Thatta, and scores of other cities and towns in Pakistan. The author observed a rally at Thatta and was frankly stunned by the sea of people conservatively estimated at 70,000. Newspapers were not allowed to give numerical crowd estimates, so crowd size was described in terms of the length of time necessary for Ms. Bhutto's procession to travel from one point to another, or by describing the size of the location of the rally.

14 See, Amjad Hussain, "Benazir in Lahore," Pakistan and Gulf Economist, April 19–25, 1986, at p. 12: "The Prime Minister... had now formed a political party of his own to run the Parliamentary system. He had not let the Eighth Amendment to the Constitution stand in the way."
The MRD's call for party-based elections has been met with severe repression. Political meetings and rallies were banned and over 10,000 MRD leaders and others were arrested between August 12 and 14, 1986, including opposition leader Benazir Bhutto, arrested August 14, 1986, Pakistan's Independence Day. More than 60 demonstrators were killed and several hundred wounded. Prime Minister Junejo claimed to be "cracking down on ... opponents to preserve national solidarity on the 39th anniversary of Pakistan's Independence from Britain." In Lahore, District Magistrate Hassan acknowledged holding 150 MRD members perhaps for as long as 15 days "even though the ban on political demonstrations imposed for Independence Day is to last only three days." Most of the arrested persons, including Ms. Bhutto, had been released by October. Long-time political prisoner Fazil Rahu, president of Awami Tehrik, was also released. Mr. Fazil Rahu was assassinated in early January 1987. A list of some of the persons killed between August 18 and August 27 follows lists of political prisoners as of October 1986 at the end of the section on political prisoners in this report.

D. DEMISE OF THE RULE OF LAW

The long-term denial of popular participation in government in Pakistan brings into question whether the Zia regime has ever been legitimate, and, if so, under what circumstances, if any, that government has had the right to suspend popular participation or other human rights. The Constitution allows for suspension of rights by presidential order for up to two months or by presidential order with concurrent approval of both houses of the legislature for up to six months during a period of emergency rule.


"...not only for the reason that he stepped in to save the country at a time of grave national crisis and constitutional break-down but also because of the solemn pledge given by him that the period of constitutional deviation shall be of as short a duration as possible..."19

Zia's "solemn pledge" was to hold free elections in October, 1977, after which "power will be transferred to the elected representatives of the people" and that he would "not deviate from this schedule."20

Though the Court's decision in the Begum Nusrat Bhutto case regarding the initial validity of the Zia regime may be questionable in light of international law norms,21 the failure of Zia to honor his pledge within the promised timetable places the validity of Zia's regime after October, 1977 clearly outside the laws of Pakistan and international law. At that point, the use of emergency powers changed from being necessary to protect Pakistan to being necessary to protect Zia's rule. Zia's subsequent orders and proclamations were not to schedule an orderly transfer of power back to the people and their elected representatives, but to further consolidate power in himself. Because of basic principles of international law, the effect of such a state of emergency is that of a steady decline of the principle of legality.22 "The rule of law is transformed, so that at the end of the process, we are confronted with what amounts to an institutional and legal model of "deviant" states of emergency."23 In Pakistan, the violation of the right to democracy and popular participation has been so profound as to obliterate the rule of law.


20 Laws (Continuance in Force) Order (July 5, 1977). The Supreme Court of Pakistan, in the famous Begum Nusrat Bhutto case, ruled that General Zia's 1977 coup d'état was valid.

21 Derogation from human rights standards, including the people's right to determine their government, is only allowed in situations of war or internal disturbances or tensions sufficiently grave to threaten the existence of the State itself. See, e.g., International Covenant on Civil and Political Rights, art. 4.


23 Id., at 33.
VIOLATIONS OF THE RIGHT TO JUSTICE

A. DESTRUCTION OF THE JUDICIARY

The Universal Declaration of Human Rights requires that human rights be protected by the rule of law. An aspect of the rule of law is the right to legal recourse. Article 8 of the Universal Declaration provides:

"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

Article 9 of the Universal Declaration requires "a fair and public hearing by an independent and impartial tribunal, in the determination of . . . rights and obligations and of any criminal charge. . . ."

Inherent in the right to an effective remedy is a right to a legal system that functions independently of other branches of government. The international community has set out in more detail fundamental principles relating to justice in the Universal Declaration on the Independence of Justice, known as the Montreal Declaration. The Montreal Declaration provides that the judiciary must be independent of the executive and legislative branches of government. The executive may not control judicial function or have the power to close down or suspend the operation of courts. The power of courts may not be impaired.

The Constitution of Pakistan provides for many of the internationally protected human rights, including the right to judicial enforcement of rights. The Constitution guarantees that any act of government (law, usage or custom) that is inconsistent with human rights or principles of justice is legally void.

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1 Universal Declaration of Human Rights, 3d. preambular para.
3 Id., section 2.04: "The judiciary shall have jurisdiction, directly or by way of review, over all issues of a judicial nature."
4 Id., section 2.07: "(a) No power shall be so exercised as to interfere with the judicial process; (b) The Executive shall not have control over judicial functions; (c) The Executive shall not have the power to close down or suspend the operation of the courts; (d) the Executive shall refrain from any act or omission which pre-empts the judicial resolution of a dispute or frustrates the proper execution of a court decision."
5 Constitution of 1973, Part II.
6 Id., art. 8.
On July 5, 1977, General Zia suspended all fundamental rights of the Constitution and all pending or new proceedings in courts to enforce those rights. The judicial branch of government was brought almost totally under executive control by subsequent orders providing for:

1. Unreviewable presidential appointment and dismissal of High and Supreme Court judges;
2. Removal of the decision-making power of courts;
3. Establishment of a system of military courts, with the Chief Martial Law Administrator (General Zia) the judge of final appeal and with jurisdiction over non-military political and criminal cases as set out in military law orders or as otherwise specified by General Zia;
4. Denial of the right to appeal military court decisions in civilian courts; and,
5. Establishment of executive-controlled Shariat courts.

B. DEBILITATION OF JUDICIAL AUTHORITY

Many of the orders and ordinances promulgated by General Zia have contained provisions that nullify judicial authority. Even authority to decide on writs of habeas corpus has been curtailed: courts may not issue release orders for

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7 Laws (Continuance in Force) Order (July 5, 1977), arts. 3 and 4.
9 Most ordinances contain provisions such as "this law takes effect notwithstanding any order of the court."
11 Provisional Constitutional Order (March 21, 1981), art. 15(3).
12 Shariat court benches of the High Courts were established by President's Order 3 (1979). The Shariat court bench of the Supreme Court was established by the Constitutional (Amendment) Order (1981). One hundred fifty local Shariat courts and Qazis have also been established.
13 See, e.g., Martial Order 10: "If any question arises as to the correctness, legality or propriety of the exercise of any powers . . . , it shall be referred to Chief Martial Law Administrator [General Zia] whose decision thereon shall be final and shall not be questioned in any Court, Tribunal or other Authority, including the Supreme Court and a High Court." Martial Law Order 77: "this order shall have effect notwithstanding . . . any judgment of any Court, including the Supreme Court or a High Court."
anyone whose case has been registered at any police station. This type of provision acts to preclude court challenges to, inter alia, any of the orders denying the citizenry their rights to democracy, political belief and expression, a fair trial, and to freedom of religion. (The Anti-Ahmadi Ordinance (Ordinance XX), which violates freedom of religion rules and which contains the judicial bar, will be discussed separately.)

The lifting of martial law has apparently done little to rehabilitate the functioning of the judiciary. As already noted, the Constitution (Eighth Amendment) Act incorporates many of the Zia orders and ordinances containing judicial bars into the Constitution, and makes the Eighth Amendment Act also beyond the reach of judicial review. The author, (and American Ambassador Deane Hinton, who was present at that interview) asked General Zia whether citizens could bring a court challenge based on allegations of violations of constitutional rights. While he stated that the lifting of martial law had "fully restored" human rights and the Courts' authority, he conceded that citizens could not challenge government acts through the courts.

C. USE OF MILITARY COURTS FOR CIVILIANS

International standards of justice forbid the use of military tribunals to try civilians for civilian offenses. While certain derogations in the administration of justice are acceptable in times of great peril to the state, the jurisdiction of military tribunals are limited to military offenses alleged to have been committed by members of the armed forces. Therefore, all military court proceedings in Pakistan involving civilians have constituted a violation of human rights, even if the proceedings complied with the technicalities of the martial law orders. Persons sentenced and detained following such proceedings have been prima facie subjected to arbitrary detention in contravention of their human rights. Those detained...
following arrest for political activities, for religious activities, or the exercise of any protected human rights thus have their rights triply violated: not only have the arrests been illegal and arbitrary (the Pakistan government does not have the right under either domestic or international human rights law to suspend the rights), but the judicial proceedings themselves and subsequent detention have been violations. Persons detained because of otherwise criminal charges have had prima facie their rights to a fair trial in a civilian court violated. Those given the death penalty and executed have been subject to summary or arbitrary execution in violation of the right to life under Article 3 of the Universal Declaration of Human Rights.

The case of Abdul Razzaq Jharna, documented by Amnesty International, is one example of the estimated 1000 summary and arbitrary executions. Those currently under sentence of death following military court proceedings are at grave risk of violation of the right to life. These persons include Naeem-ud-Din, Muhammad Ilyas Munir Murabbi, Nasir Ahmad Qureshi and Rafi Ahmad Qureshi, whose cases will be discussed in the section on religious persecution of Ahmadi Muslims. No sentence issued by martial law courts in civilian cases has been legal.

The actual practices in military court proceedings involving civilians have been no better than the underlying legal defect. Even cases involving military personnel, theoretically subject to military courts, have been tainted with serious violations. The author's numerous discussions with lawyers and review of many records evidenced the same pattern of abuses reported by other commentators.

A typical example is the case of Rafiq Ahmed Safi, arrested for political activities (Mr. Safi was and is a member of the Pakistan Peoples' Party). Mr. Safi was arrested without warrant, held in incommunicado detention for two weeks, and subjected to intolerable conditions (including torture) for 92 days before being brought before a magistrate. At his military trial, held in camera before a major, specific charges were not stated. Cross examination of prosecution witnesses was severely curtailed, and the accused was not allowed to call material defense witnesses, including the American Ambassador. The prosecuting attorney addressed issues not before the court in the closing arguments, following which defense council was given 24 hours notice for defenses' closing argument. On appeal (also before military tribunal) copies of the trial and judgment were not provided the defendant. The sentence given was for a longer prison term than prescribed in the applicable Army Act. Higher courts were barred from hearing further appeals.

With the lifting of martial law, civilian courts have had some authority to review sentences restored in certain cases. Bar association presidents and officers attested that writs of habeas corpus and other appeals to civilian courts had resulted in the freeing of some persons tried and convicted by military tribunals. Some have been freed following "remission of sentence."


D. SHARIAT COURTS

Shariat courts rule on the Shari'a (the canon law) of Islam. Each sect of Islam has some rules unique to it. These differences frequently relate to the issue of the sources of Islamic law, generally consisting of the Qu'ran and the Sunnah (behavior codes). For example, some sects give greater interpretive weight to the hadis (the actions and sayings of Mohammad) than others. Needless to say, in an Islamic country with many sects of Islam there could not be a uniform body of opinion in Shariat courts. A Shariat court of the Shi'a sect would rule differently than a Sunni court on Ushr (a Muslim tax on agricultural products). The Shi'as use a tax called Khums, not Ushr.

The Shariat courts established by General Zia have been given authority to approve laws conforming to Islamic canon law and to invalidate laws that conflict with Islamic canon law. (Curiously enough, the former Chief Justice of the Supreme Court reports that Islamic family law, traditionally subject to shari'a has been excluded from the Shariat courts' jurisdiction.) As can be expected, theological dilemmas have beset the Shariat courts, even though the courts are heavily controlled by the executive. Also, if General Zia does not like a ruling, he can overturn it or, as he has done on occasion, fire the judge. Non-Muslims judges may not be appointed to Shariat benches and non-Muslim lawyers are not allowed to represent at these courts.

The most serious concern about government-empowered canon law courts with jurisdiction over state laws is that freedom of religion and right to democracy and popular participation are seriously jeopardized. As a minimum, religious groups, including sects of Islam not represented on a Shariat bench (or, as in the case of Ahmadi Muslims, not allowed to sit), may be subject to religious rules not part of their beliefs, in contravention of human rights protections. The current understanding of the relationship between religion and state does not preclude officially proclaimed state religions, but severely curtails the degree to which a state can be a religion. A state functioning as a religion automatically persecutes those not of the official religion or sect of a religion. A state's enforcing or imposing a religion is "an ugly concept inimical to the Universal Declaration [of Human Rights], the [human rights] Covenants and [the Declaration on Religious Intolerance]."

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22 See, M. Munir, From Jinnah to Zia, 2d ed. (Lahore 1980) at 139: "The question is 'which Islam'--the Islam of the Shi'as, of Jamaat-i-Islami, of Jamiatul Ulama-i-Islam, of Brevis or of Deobandis."

23 General Zia attempted to make the Sunni rule of Ushr apply to all Muslims. On protest from the sizeable Shi'a sect, Shi'as were made exempt.

24 M. Munir, op. cit., at 142.


An example of how the Shariat courts have abused the rights of Pakistani citizens to religious freedom is the court challenge to the Anti-Ahmadi Ordinance (Ordinance XX). When the Ahmadi community brought suit in Civilian Courts, the government removed the case to the Shariat bench. Because Ahmadi lawyers may not represent cases in the Shariat courts, a leading Ahmadi civil rights lawyer, Mujeeb-ur-Rahman, became the plaintiff, and as plaintiff was able to argue in proper. Not surprisingly, the High Court Shariat Bench found Ordinance XX in conformity with the Islamic canon law of Zia's sect. The ruling is under appeal at the Supreme Court, but also before that court's Shariat Bench.

The Shariat court system has not only overly encroached into State governance, but it has established what the Zia regime calls traditional punishments such as flogging, amputation, and stoning. Several of the Shariat offenses, especially Zina (adultery) and Qazaf (false accusation of adultery) have serious impact on the human rights of women. Most importantly, international human rights law prohibits "torture, cruel, inhuman and degrading treatment or punishment." Many of the Shariat punishments violate this provision of human rights. The author was told by many persons in Pakistan that members of the medical profession had refused to perform Shariat amputations. Fortunately, there are apparently only a few cases where women are under sentence of stoning. Flogging, however, appears commonplace.

E. OPPRESSION OF JUDGES AND LAWYERS

Individual judges and lawyers have been as severely oppressed as the system of justice during the Zia regime. Many judges have resigned or have been fired, including Supreme Court Justices Dorab Patel and Fakhruddin Ibrehim, West Pakistan High Court Justice Mohammad Ali Sayeed, Lahore Justices Mukhtart Husani and A.R.M. Samadani, Baluchistan Justices Khuder Bux Marri and A. Rasheed, and Sind Justices A. Hafeez Memon and G.M. Shah.

Since 1981, all judges have been required to swear to uphold the Zia-promulgated Provisional Constitution that, as shown, restricted judicial authority.

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29 The Prohibition (Enforcement of Hadood) Order (1979); The Offense of Zina [Adultery] Order (1979); The Offense against Property Ordinance (1979); The Offense of Qazaf [false accusation of adultery]; The Execution of Punishment of Whipping Ordinance (1979); the Code of Criminal Procedure Amendment Ordinance (1979): all referred to as the Enforcement of Hadood or Hadd: punishments set out in the Qur'an and the Hadis. There is considerable theological dispute over what punishments are in fact allowable in Islam. See, M. Munir, op. cit., pp. 119-132: "Punishment in Islam."

30 Universal Declaration of Human Rights, art. 5.

31 The author was presented the cases of 17 Supreme and High Court judges.
Refusal to swear can mean not only loss of position, but a two year bar on law practice or government service.\(^32\)

The bar associations and individual attorneys have protested the destruction of justice in Pakistan for a number of years. Many of the attorneys who have protested as well as those who have represented victims of human rights violations (including political prisoners) have been arrested and convicted of crimes under martial law orders and ordinances. A number have served long prison terms. Up to 400 bar association members, including presidents and other officers, were arrested in 1983 alone.\(^33\) Seven leading attorneys who represent political prisoners, interviewed by the author in Lahore, had all been jailed for their legal activities. Investigation and interviews in other locations revealed similar data. Some of the attorneys' activities, such as hunger strikes and boycotts of the military tribunals, have been widely reported. Several attorneys commented on the lack of public information in Pakistan on the detention of lawyers and judges, although protests in certain cases has resulted in the release of prominent jurists.

Since the lifting of martial law at the end of 1985, some attorneys have been released, in part due to a partial restoration of the right of civilian courts to review certain military court proceedings.\(^34\)

\(^{32}\) Provisional Constitutional Order (1981), art. 15.

\(^{33}\) Author's interviews with current and former presidents and officers of Lahore and Karachi bars and other attorneys released from jail, in Lahore and Karachi (April 23–May 9, 1986).

PERSECUTION OF AHMADI MUSLIMS

A. ORDINANCE XX

Ordinance XX of 26 April 1984 (Annex 4), issued by President Mohammad Zia-ul-Haq, provides prison terms of up to three years and unlimited fines for any member of the Ahmadiyya Movement in Islam, the "Lahori group" or the "Quadiani group" (hereinafter jointly referred to as Ahmadis) who uses certain words of address, who calls his or her place of worship a "masjid" (mosque), who recites the "azan" (the Muslim form of prayers), who "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. . . ."¹ Ordinance XX also provides for banning of Ahmadi publications.² Finally, the Ordinance provides for its being effective "notwithstanding any order or decision of any court."³

The Ahmadiyya Movement in Islam is a sect of Islam. Ahmadis believe themselves to be Muslim and act and worship as Muslims. They have some doctrinal differences from other sects of Islam, which is why they are a separate sect. There are between 3.5 and 4 million Ahmadis in Pakistan, making the sect relatively small among Pakistan's many Islamic sects.⁴

Ordinance XX was promulgated during the period (5 July 1977–31 December 1985) in which President Zia-ul-Haq governed under martial law powers. However, the lifting of martial law on 30 December 1985 did not result in the revocation of Ordinance XX. Instead, Ordinance XX remains in effect because of the Constitution (Eighth Amendment) Act, which provides that all the President's orders and ordinances are "affirmed, adopted and declared, notwithstanding any judgement of any court, to have been validly made by competent authority and, notwithstanding anything contained in the Constitution, shall not be called in question in any court on any ground whatsoever. . . ."⁵ (Annex 3.)

It is beyond dispute that Ordinance XX violates the freedom of religion of Ahmadis. The Universal Declaration on Human Rights (Annex 1), the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (hereinafter Declaration on Religion) (Annex 2), and other international instruments and commentary provide very clear standards for religious freedoms and freedoms of conscience and expression. Articles 18 and 19 of the Universal Declaration provide:

¹Ordinance XX, part II.
²Id., part IV.
³Id., part I.2.
⁴The former Chief Justice of Pakistan cites 73 sects while Shaikh Abdul Qadir claims more than 150. M. Munir, From Jinnah to Zia, 2d ed. (Lahore 1980) at p. 140.
⁵Constitution (Eighth Amendment) Act (1985).
Article 18. 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 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 6 of the Declaration on Religion provides for the protection of the freedoms:

Article 6 (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
(b) To establish and maintain appropriate charitable or humanitarian institutions;
(c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
(d) To write, issue and disseminate relevant publications in these areas:
(e) To teach a religion or belief in places suitable for these purposes;
(f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
(g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
(h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
(i) To establish and maintain communications in matters of religion and belief at national and international levels.

The Universal Declaration of Human Rights allows for certain limitation of freedoms to better protect rights as a whole and to "meet[] the just requirements of morality, public order and the general welfare in a democratic society." In the area of freedom of religion, a distinction has been made between freedom to maintain or change religion or belief and freedom to manifest religion. The freedom to maintain or change belief is universally accepted as absolute. The freedom to manifest religion and belief may be subject to limitations. The Ahmadi's

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6 Universal Declaration of Human Rights, art. 29.

beliefs and the "posing as a Muslim" practices curtailed by Ordinance XX's criminal sanctions, however, may not be subject to limitation. While Governments may forbid certain religious practices altogether (such as amputation under Shariat law because it violates the non-derogable human rights rules prohibiting torture, cruel, inhuman or degrading treatment or punishment); or limit certain others (such as by requiring permits for religious processions), Governments may not deny persons the rights to name their religion or the right to pray, observe holidays, display objects of faith or name their clergy as they wish.

The Government of Pakistan defends Ordinance XX by maintaining the limitations on the religious beliefs and practices of Ahmadis are acceptable under the "public order and morality" exceptions. President Mohammad Zia-ul-Haq made the same claim to the author. However, the gravamen of their assertion is that Ahmadis affront the religious sentiments of other Muslims by the mere fact that Ahmadis consider themselves Muslims. The Memorandum states "[I]t was found necessary to specify and identify, in Ordinance XX, those practices of the Ahmadi which portray them as Muslims and, when publically manifested, cause grave affront to the religious sentiments of Muslims (to say nothing of the confusion they create in their minds.)" President Zia told the author, "Ahmadis offend me because they consider themselves Muslim ... Ordinance XX may violate human rights but I don’t care."

Ordinance XX not only violates human rights rights in the area of religious freedoms: by providing for arrests and imprisonment of persons for the exercise of protected rights, the Ordinance also violates the right to liberty and the right to freedom from arbitrary arrest and detention. For purposes of human rights law, arrest or detention is arbitrary if incompatible with the right to liberty and the free exercise of other human rights. The fact that the arrest or detention is under provision of national "law" is irrelevant for purposes of international law. An arrest or detention under national law "may nevertheless be arbitrary."

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9 Author's interview with General Mohammad Zia-ul-Haq, President of Pakistan, in Rawalpindi at Army House (May 5, 1986).

10 Memorandum, p. 6.

11 Author's interview of May 5, 1986 (note 9).

Ordinance XX also violates international human rights law because it bars any judicial remedy, now compounded by the bar to judicial remedy contained in the Constitution (Eighth Amendment) Act. International human rights law requires "an effective remedy by the competent national tribunals for acts violating the fundamental rights...."

The United Nations Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities (hereinafter United Nations Sub-Commission), in its resolution 1895/21 (Annex 5), found, inter alia, that Ordinance XX constitutes a prima facie violation of the "rights to liberty and security of the person, the right to freedom from arbitrary arrest or detention, the right to freedom of thought, expression, conscience and religion, the right of religious minorities to profess and practice their own religion, and the right to an effective legal remedy." 14

Ordinance XX has received continued condemnation at the United Nations. At the 1986 Session of the Commission on Human Rights, many governments non-government organizations addressed this issue under agenda item 23 (religious intolerance) and agenda item 12 (gross violations). 15

Recent action in the United States Congress supports the United Nations' finding that Ordinance XX is a prima facie violation of human rights. In introducing House Concurrent Resolution 370 (Annex 6) condemning Pakistan for persecution of Ahmadis and other human right violations, the bill's author, Congressman Tony Hall, stated:

On its face, this ordinance violates international standards of freedom of religion, the right to non-discrimination, freedom from arbitrary arrest or detention and deprivation of property, and the right to equality before the law. 16

13. Universal Declaration on Human Rights, art. 8. See also, section on Justice, this report.


B. THE DEATH PENALTY CASES

Four Ahmadi Muslims are currently under sentence of death in Pakistan: Naeem-ud-Din and Muhammad Ilyas Munir Murrabi (Ilyas Munir) are held in Sahiwal (the Sahiwal case); two brothers, Nasir Ahmed Qureshi and Rafi Ahmed Qureshi are held in Sukkur (the Sukkur case). These cases illustrate not only persecution of Ahmadis but also profound judicial abnormalities. The convicted are at grave risk of imminent violation of the right to life.

1. The Sahiwal case.

According to the facts admitted by both prosecution and defense, this case involves the deaths of two companions of Abdul Latif (the complainant), who along with about 30-40 other "orthodox" Muslims went to an Ahmadi mosque at 4:45 a.m. to verify that the Ahmadis were violating Ordinance XX by giving the call to prayer and by having an Islamic inscription (kalima) on the building. Latif's group also had a bucket of blue paint and brushes which they used to paint over the kalima on the outer gate of the mosque. The group then entered the mosque compound and began painting over other Islamic inscriptions. The caretaker of the compound, Naeem-ud-Din, tried to urge them to leave, finally firing a warning shot from his gun. The mob turned on him, and he fired several more shots—one hitting Qari Bashir Ahmed and the other hitting Azhar Rafiq. Both men died as a result of the gun-shot wounds. The prosecution also admitted that the Latif's group came from Jamia Rashida, seven kilometres from the Ahmadi building, and that they considered Ahmadis "infidels who should be beheaded."

Eleven Ahmadis were arrested and charged with murder and unlawful assembly (the unlawfully assembly charge being necessary to make each vicariously liable for the acts of others). No one in Latif's group was charged. Mohammad Din, Lutfur Rahman, Mohammad Ishaq, Shahid Naseer and Hafiz-ud-din, all accused, were not present at the mosque. Ilyas Munir and Professor Tufail were at the mosque but not present at the scene. Charges against several defendants were dropped after the Sahiwal Bar Association passed a protest resolution.

The case was tried by Special Military Court No. 62 in Multan, Judge Lt. Col. Munir-ur-Rehman presiding. On June 16, 1985, that court acquitted Mohammad Ishaque, and found the remaining six defendants guilty. Ilyas Munir and Naeem-ud-Din were sentenced to death; Abdul Qadir, Muhammad Nasar, Muhammad Hazaq Rafique Tahir, and Mohammad Din were sentenced to seven years.

The Martial Law Administrator (Punjab), Lt. General Ghulam Jilani Khan, revised the order on October 8, 1985 because "the complainant party appears to have taken the law in its own hand" and that while Naeem-ud-Din had "exceeded the right to self defense," the murder convictions were based on "doubtful evidence" and "not legally sustainable."

On remand, the Multan Special Military Court, with no review of the evidence as mandated by the Martial Law Administrator, upheld the death sentences and increased the sentences of the other defendants to life imprisonment.

President Zia, acting under powers as Chief Martial Law Administrator, confirmed the sentences in February 1986. Although martial law had been lifted in December, 1985, the Martial Law (Pending Proceedings) Order 107 (1985) gives the
President the authority to continue as the tribunal of final appeal, thus technically acting as Chief Martial Law Administrator. In that role, Zia, without explanation, changed the conviction record from PPC 149 (illegal assembly) to PPC 302 (abettment of murder) in conjunction with PPC 302 (murder). Petitions challenging the convictions have been filed with President Zia, who, as yet, has not decided.

2. The Sukkur Case

This case arises from a bombing of a mosque on May 23, 1985, in Sukkur in which two persons were killed and twelve persons injured. At least 25 Ahmadis were immediately arrested, including women and children who were sent to a detention camp.

There had been much anti-Ahmadi activity in Sukkur: the previous year the head of the Ahmadi community (the father of the two Qureshis given the death sentences) and another Ahmadi had been murdered. (Shortly after the author's visit in May, 2 more Ahmadis were murdered in Sukkur.) Five other Ahmadis were murdered in surrounding areas of Sind province during the same period. Additionally, a number of Ahmadi mosques had been defaced and many Ahmadis arrested for wearing Muslim insignia.

Most persons originally arrested were released within a week, but Nasir Ahmad Qureshi, Rafi Ahmad Qureshi, Mahmood Ahmad Qureshi, Mohammad Ayub, Hameedullah Khalid, ZafurrAh Alvi and Muzaffar Ahmad Malik were held for trial before Special Military Court No. 33.

At the trial, presided over by Lt. Col. Ilyas and which did not begin until November, 1985, the prosecution produced two "eye witnesses" who swore that the two Qureshis had not thrown the bomb. At a prior identification parade, these same two eye witnesses had identified Muzaffar Ahmad and Mohammad Ayub as being the bomb throwers. The defense counsel indicated that these eye witnesses had been shown the defendants prior to the identity parade, a fact that seriously taints all their testimony. Review of the trial record and other documents of this case evidences violations of all of the principles of justice.

On March 3 1986, the defendants were notified, by means of a warrant issued by the Martial Law Administrator, that Muzaffar Ahmad and Mohammad Ayub and three other defendants were acquitted while the Qureshis were convicted and given death sentences. (Note: as of December 30, 1985, there are no more martial law administrators.) This conviction is impossible by law: the Qureshis could only be convicted under vicarious liability, but there could be no vicarious liability if the other defendants were acquitted. Nonetheless, the death sentences had apparently already been upheld by President Zia-ul-Haq, and the defendant were given 30 days to file a petition under Martial Law Order 107 to "annul, set aside and acquit." The defendants' had not been provided the court findings (if any), revision of sentence orders (if any), and confirmation of sentence (if any).

The international community has rightly expressed grave concern over these cases. The United Nations Special Rapporteur for Summary and Arbitrary Executions has indicated in his report that in Pakistan there are allegations of arbitrary executions and imminent risk of arbitrary executions in contravention of
the right to life. A telegram was sent by him to the government of Pakistan in March, 1986 regarding the Sahiwal and Sukkur cases. Shortly thereafter, the European Community transmitted a document to President Zia urging clemency. The author made a personal appeal to Zia, joined by U.S. ambassador Deane Hinton. Zia told them he had "no sympathy for murderers.... [He] will not grant clemency, but will review the cases as the judge and issue [his] decree accordingly." The Resolution introduced in United States Congress (Annex) expresses concern that "religious persecution" may be a factor in these cases and calls on Pakistan to "provide that any trial of civilians by military courts be reviewed by civilian courts."

C. ARBITRARY ARRESTS AND DETENTION OF AHMADIS

Since the promulgation of Ordinance XX, Ahmads in all areas have been subject to government persecution in the form of arrest and detention for acts such as wearing religious insignia (kalima), and including a prayer on a wedding invitation in violation of the terms of the anti-Ahmadi Ordinance. Additionally, the government has arrested many people under other laws such as the West Pakistan Maintenance of Public Order Ordinance (1960). These arrests clearly illustrate the government's position that the mere presence of Ahmadis "acting like Muslims" would cause "real" Muslims to be "legitimately" offended and, more ominously, give them "legitimate" grounds for violent retaliation. The following sample cases clearly show the arbitrary nature of Ahmadi arrests and detention in contravention of human rights law.

1. The Sukkur Case

Twenty-seven Ahmads from Sukkur and the surrounding areas were arrested as a result of the bombing of the mosque on May 23, 1985. All were released by the first week of June, except for the seven tried by the Special Military Court.

2. The Kunri District (Sind) Kalima Case

Between April and May, 1985, 101 Ahmads were arrested for displaying the kalima and otherwise expressing their belief in Islam. The complaining parties were generally part of a religious faction that was able to persuade the police to make the arrests. Lists provided to the author include the names, village, and date of arrest for each person. Separate bail and quashment of proceedings applications were made before the Senior Civil Judge of Umer Kot. All the Ahmads were subsequently acquitted.

3. The 13 Prominent Ahmadis Case

Between April 26 and May 1, 1985, 13 Ahmadi leaders in Tharparker (Sind) were arrested under the West Pakistan Maintenance of Public Order Ordinance of 1960 and ordered held for 30 days. The orders and memoranda of grounds, issued by District Magistrate Rasool Bakhsh Baloch, charges that the Ahmads courted arrest


18 Author's May 5, 1986, interview.
by wearing the kalima, "which is hurting the feelings of Muslims." Those detained were: Muhammad Saleem, Monawer Ahmad Bhatti, Mirza Mohammad Rafi, Dr. Nisar Ahmad Morani, Abdul Karim, Naseer Ahmad Zahid, Syed Sayeed Ahmad, Malik Nazeer Ahmad, Mubasher Ahmad, Abdul Sharoor Mubasher, Malik Ghulam Ahmad, Nasir Ahmad, and Ehsan Ullah. All have now been released.

4. The First Model Colony Case (Karachi)

On May 20, 1984, Nadeem Ahmad, 17 years old, son of (s/o) Muhammad Iqbal Minas, Wassim Ahmad, 20, s/o Nasir Ahmad and Khalid Mahmood, 16, s/o Syed Mehmoon were arrested for displaying the kalima. Bail was granted by the Karachi Session Judge, but apparently these cases are still pending.

5. Drigh Road Cases (Karachi)

These cases involve five separate cases (Raja Nasir's case, Forty-one Persons Case, Five Persons Case and Model Colony Case 2, Raja Nasir's Second Case) arising out of the display of Islamic insignia at the Ahmadi mosque on Drigh Road. Raja Nasir was arrested on February 22, 1985, for injuring the feelings of Muslims. At 3:00 a.m. that night, the Police, in the company of a Sub-Division Magistrate, entered the mosque and arrested the 41 persons, on grounds that they were "likely to commit a breach of peace." The 5 persons were charged with preparing a Friday congregation. Subsequently Raiz Ahmad Saeed and Tanveer Ahmad were arrested at Model Colony for breach of peace because they were distributing photocopies of the newspaper (The Daily Jang) containing the statement of Hanif Ramay of Jamaat-i-Ulama-Islam. Raja Nasir Ahmad was arrested again, and charged with breach of peace for inscribing the kalima back on the mosque. Bail has been granted by the Sessions Judge, but the cases are still pending.

6. The Sargodha Case

Between March 8–11 and March 16–26, 1986, 26 Ahmadis were arrested in Sargodha (Punjab) for wearing the kalima. Nasir Ahmad was arrested at the school where he is a teacher for failure to stop students from wearing the kalima. Muslim clergy from other sects entered the school and attacked Mr. Ahmad. When the police came, rather than arrest the clergy for battery or other similar charge, the police arrested Mr. Nasir.

In another incident, Nasir Mohammad, age 65, (the caretaker of the Ahmadi mosque) was originally seized by Muslim clergy of other sects, physically removed from his mosque and beaten. Two boys who tried to help were also attacked by these clergy. The boys tried to get help from the police to no avail. The clergy dragged the caretaker to the police station where the caretaker was arrested. Dentist Owais Ahmad was abducted by clergy of other sects as he was sitting in his office. He was dragged to the police station where he too was arrested. Mohammad Amjad was abducted as he was leaving the premises of the district court and dragged to police headquarters. The others were arrested in similar circumstances. Many were placed in "restricted" cells where access of attorneys, families is limited.

A number of the Sargodha defendants were seriously mistreated while in custody: Tariq Javed and Mohammad Khalid had been particularly singled out for abuse treatment. Eyewitnesses not only observed the beatings at the hands of the Muslim clergy, on occasion under view of the police, but also observed direct
beatings at the hands of the police. Several Ahmadis were rearrested soon after they were released on bail. For example, Shaib Ahmad was ordered released on bail by the court. The next day he was rearrested at his lawyer's chambers at the court premises. The Sargodha prisoners are apparently all released on bail, but their cases have not yet been heard.

7. **Assalamo Alaikum** Cases

A number of Ahmadis have been arrested for using the Muslim greeting assalamo alaikum, used by Pakistanis, non-Muslim and Muslim, for "hello." One arrest occurred in Mansehra on June 5, 1984, when a shopkeeper gave the greeting to passers-by.\(^{19}\) This person was convicted and given a six month prison sentence. Several similar cases occurred just prior to the author's visit to Pakistan. The FIRs (First Information Report) in these cases indicate that the complaints were lodged by non-Ahmadi Muslim clergy. Persons recently arrested have been released on bail, but have not yet appeared for trial.

8. **Mardan Case**

The Daily Jang, September 19, 1986, reports that Mr. Shah Husain Afridi, Assistant Commissioner, has sentenced two Ahmadis to 5 years rigorous imprisonment and 50,000 Rupees fine even though Ordinance XX carries a maximum sentence of 3 years.

9. **Toba Tek Singh Cases**

Nine Ahmadis were in district jail in August 1986 for displaying the Kalima. On August 11, 1986, four more were arrested and sent to Jahn jail for displaying the Kalima at their mosque. Around the same time, the city magistrate released two other Ahmadis on bail for the same offense.

10. **The September 1986 Sargodha Case**

Three Ahmadis were sentenced to 2 years rigorous imprisonment for wearing the Kalima. City magistrate Zahir Khan handed down the sentence under P.C. Section 298-C.

11. **The Ahmadi Tailor Case--Peshawar**

This case began with a FIR filed September 9, 1985, at Hashtnagri Police Station, Peshawar. Mohmmadm Idress was accused of displaying the Kalima in his tailor shop. After nearly one year, the case was decided on September 8, 1986, by Magistrate 1st Class Khudadad Khan Mehsood, who sentenced Mohammad Indress to 10 years rigorous imprisonment and 10,000 Rupees fine. The Magistrate indicated that posing as a Muslim was a cognizable offense under Ordinance XX but gave no explanation why his sentence exceeded the three year prison term provided for in Ordinance XX.

The proceedings were attended by Maulana Rehmat Hadi, Maulana Mohammad Amir and 35 other ulema. Maulana Rehmat Hadi apparently urged the

\(^{19}\) This case was reported in Jang (Rawalpindi), June 6, 1984.
same punishment for other "anti-Islam elements." According to the Frontier Post, September 9, 1986, the ulema led a crowd gathered outside in anti-Ahmadi slogans.

D. CENSORSHIP OF AHMADI PUBLICATIONS AND BANNING OF AHMADI MEETINGS

The Government of Pakistan, in its reply to numerous allegations made by governments and human rights organizations at the United Nations Commission on Human Rights 1986 session, claimed that while Ahmads "offend orthodox Muslims" thereby making it "necessary to restrain certain Ahmadi practices," nonetheless "Ahmads enjoy all rights, including those of worship, assembly and expression; they [Ahmads] issued 13 separate publications." Such is not the case: the Ahmadi Community has been subjected to egregious violations of freedom of expression and the press as well as freedom of assembly.

1. Censorship of Ahmadi Publications

The Ahmadi daily newspaper Alfazal has been shut down since December 12, 1984 when the press was sealed. (The District Magistrate's order to seal the press was not actually issued until January 23, 1985.) Prior to the time that the press was sealed, the newspaper had received notice of a need to submit Rs.30,000 as a surety, and had had virtually all editions severely censored. Most issues simply received prohibition orders reading "entire contents," with the explanation that the material is "likely to create or excite feelings of enmity, ill-will and hatred." According to The Daily Jang (Karachi), September 18, 1986, the government of Pakistan has set up a committee to review all publications of Ahmads. The committee is composed of Maulana Abdul Kadir Azad, of Khatib Baudshahi Mosque, Lahore; the Secretary of Information of the government of Punjab; and the Joint Secretary of the Federal Ministry of Information and Broadcasting. Habibur-Rahman, Director of the Ministry of Religious Affairs is the Secretary of the Committee.

Monthly publications of the Ahmadi women's and youth groups have also been banned. The monthlies Khalid, Ansarullah, Misbah, Tash-hizul Azhan, and Review of Religions have frequently been proscribed. Review of the orders banning these publications reveals claims that the publications are likely to offend Muslims.

In addition to periodicals, a number of books published by Ahmads or descriptive of their faith have been banned, including 4 translations of the Qu'ran. (One document in the author's possession lists 40 titles; another lists 20.)

2. Violations of Freedom of Assembly

Pakistan's representatives at the United Nations human rights meetings have regularly asserted to the author that Ahmads were free to worship and in fact held their annual meeting at Rabwah (Punjab), their headquarters city, without

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interference from the Government. In spite of those assertions, the Government has banned the Ahmadi annual meeting and the head of the Ahmadi community, who lived in Rabwah, has fled the country. During the author's tour of the Rabwah site, documentation and discussions with remaining leaders of the Ahmadi community verified that the meetings have been banned for several years.

Rabwah's population is overwhelmingly Ahmadi (conservative estimates indicate 90%). The site where the annual meetings were held is owned by the Ahmadies, as are all the surrounding residential areas. Food preparation centers and housing for the annual crowd of 400,000 people were all in Rabwah, on Ahmadi property. The non-Ahmadi mosques in the city are at a considerable distance from the site of the Ahmadi assemblies, thereby making a complaint of noise from loudspeakers unreasonable. Banning these Ahmadi assemblies is in clear violation of the right to freedom of assembly.

E. GOVERNMENT INCITEMENT OF INTOXERANCE TOWARD AHMADIS

The Government of Pakistan has not only persecuted Ahmadi Muslim by promulgating Ordinance XX and by subsequent arrests and arbitrary detention of Ahmadies and curtailment of protected rights: government officials persist in public incitement of anti-Ahmadi sentiment. By these actions, the Government violates the international human rights law standards requiring it to "take effective measures to prevent discrimination . . . in all fields of civil, economic, political, social and cultural life," to "rescind legislation where necessary . . . and to take appropriate measures to combat intolerance." The Government officials and the Government itself also violates section 153A of the Pakistan Penal Code, which provides, in pertinent part:

"(a) Whoever . . . by words . . . promotes or incites on grounds of religion . . . disharmony or feelings of enmity, hatred or ill-will between religious groups or communities, or (b) commits, or incites any other persons to commit any act which is prejudicial to the maintenance of harmony between different religious groups . . . on any ground whatsoever . . . shall be punished with imprisonment of up to 5 years."

Two particularly odious ways the Government has incited intolerance has been through public speeches and anti-Ahmadi oaths.

1. Public Speeches

In a public speech on December 7, 1984, President Zia proudly displayed his own intolerance toward Ahmadies and stated "There is no place for Infidels in Pakistan. . . . If a man's honor is attacked he does not even hesitate from committing murder. . . . If someone is put against him (the prophet Mohammad),

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22 Declaration on Religious Intolerance, art. 4.
what should be the reaction of the people." 23 President Zia, as head of State, has even taken his intolerance beyond Pakistan's borders. For example, in August 1984, he sent the following message to an international conference in London:

"In the last few years, in particular, the Government of Pakistan has taken several stringent administrative and legal measures to prevent the (Ahmadi) from masquerading as Muslims, and from practising various (Islamic rites). We will . . . persevere in our efforts to ensure that the cancer of (the Ahmadi faith) is exterminated." 24

Prime Minister Junejo has also publically incited religious intolerance. In a speech on November 27, 1985, televised nationwide, he said "No one can claim himself a prophet after [Mohammad] and he who claims is a liar. . . . We have taken strong measures in Pakistan to undo this problem."

Government incitement of religious intolerance has also permeated judicial proceedings. For example, in the Federal Shariat Court in which the Ahmadis sought to challenge Ordinance XX, the Deputy Attorney General stated:

"Death is the penalty for those who do not believe in the finality of prophethood and in Islamic countries it is a heinous crime. It is not necessary that the Government should take action but on the contrary any Muslim can take the law in his own hands." 25

Official incitement has made the small anti-Ahmadi faction quite bold. For example, in a television broadcast in January, 1986, Allama Tahir-ul-Qadri, a pro-Zia "religious" scholar urged that those disrespectful of Mohammad should be killed instantly—after much discussion that Ahmadis are disrespectful of Mohammad. According to Tahir-ul-Qadri, citizens have no need to call in authorities but can act on their own. In an equally ugly incident, attorney Muhammad Ismail Quairshi attempted to disrupt the annual Pakistan Bar Association meeting by demanding that a banner provided by an Ahmadi businessman be removed from the hall and that Ahmadi lawyers be dis-barred. The Bar Association voted down the proposal with only two dissenting votes.

2. Mandatory Anti-Ahmadi Oaths

Religious intolerance can also be abetted by government requirements that private citizens engage in intolerant or discriminatory acts in order to receive

23 The Pakistan Times, December 8, 1984.


a government benefit. The Government of Pakistan requires that other Muslims sign an oath denouncing Ahmadis in order to get a passport or obtain government employment. The standard passport form issued by the Government both in Pakistan and in other countries now contain the denunciation paragraph. (The author obtained a Pakistan passport application form in England.)

F. MURDERS OF AHMADIS

A tragic outcome of the concerted anti-Ahmadi campaign of the Government is that 12 Ahmadis have been murdered in recent years for sectarian reasons. Two murders occurred just after the author left Pakistan: Qamrul Haq and Khalis Suleman were knifed and axed to death in broad daylight in Sukkur on May 11, 1986. (Mr. Haq's brother, a Sukkur attorney, had narrowly escaped death in January, 1985 in a similar attack.) In addition to these murders, the following cases remain unsolved:

1. Abdul Hakim Abru, murdered April, 1983; no arrests;
2. Chaudry Abdul Hamid, president of the Ahmadi Community in Mehrabpur, April 1984; no arrests;
3. Qureshi Abdul Rehman, president of the Ahmadi Community in Sukkur, stabbed to death; no arrests;
5. Rehman Anwar, murdered March 15, 1985 in Sukkur; no arrests;
6. Abdul Razzaq, president of Ahmadi Community, Nawab Shah, murdered April 7, 1985; no arrests;
7. Dr. Agil-bin-Abdul Qadir, murdered June 9, 1985 in Hyderabad; no arrests.

Sheikh Nasir Ahmed was murdered September 18, 1985 in Okara (Punjab). An arrest was made and the trial is now in progress. Dr. Abdul Qadir was stabbed to death June 16, 1984 in Hyderabad. An arrest was made and the accused was convicted and sentenced to life imprisonment. Rana Sultan Mahmood was murdered in Jhelum, November 28, 1984. An arrest was made and the proceedings are ongoing.

Chaudhry Munawar Ahmad, president of the Ahmadi Community in Khaipur, was stabbed April 24, 1985; Anwar Ahmad was shot February 28, 1985 in Sukkur. Suspects in each case are now being tried for attempted murder.

G. OTHER ISSUES RELATING TO PERSECUTION OF AHMADIS

1. Employment Discrimination

Ahmadis have been denied employment or discharged or demoted from employment, dismissed from the military, and dismissed from schools. The author has a number of confidential memos verifying this. In one, a notice dated March 4, 1985, signed by Group Captain J. M. Nasir, Pakistan Air Force (No. 102 Maintenance Unit) Ahmadi airmen were warned:

"It has been reported that you have changed your religion from Islam to Ahmadiat. This you have done inspite of the fact that
Ahmadies have been declared as non-Muslims by the Government of Pakistan... Thereby you have created a situation which has spoiled the otherwise cordial atmosphere of your squadron, and caused annoyance and indignation to personnel professing Islamic faith... severe disciplinary action will be taken which may involve you [sic] dismissal from service."

In another, issued June 24, 1984, by Section Officer Syed Tassaduq Hussain, of the Irrigation and Power Department (Punjab), chief engineers were directed to identify Ahmadis "in employment grade BS-16 and above... within three days positively." In a June 6, 1984, letter from the Assistant Commissioner (Sadar), B. A. Farooqi, an employer was ordered to remove an Ahmadi and to "send a compliance report for the information of the Deputy Commissioner, D.G. Khan." In an April 15, 1986 letter from the High Court of Sind, Karachi, district and sessions judges were requested to submit information on Ahmadi employment in the province. (A similar request was made regarding Parsis, Hindus and Christians.) While such requests may be viewed as purely statistical, past requests have resulted in the demotion and dismissal of Ahmadis.

Recently, the Parliamentary Assembly of the Northwest Frontier Province formed a committee to "look into the appointment of Qadianis (Ahmadis) on high posts in the province."26

2. Attacks on and Defacement of Ahmadi Mosques

Ahmadi mosques have been attacked and defaced, frequently with Government participation. As an example, just as the author was leaving Pakistan, the Ahmadi mosque in Quetta (Baluchistan) was attacked. According to the May 9, 1986 order of Anwar Saleem Ahmad, the District Magistrate, there was "an agitated and violent crowd of over 700 people (Maulvis) led by Ulema (Muslim clergy) who are violently claiming possession of the... Ibadat-Gah (place of worship)." The order required the Ahmadis to turn over their mosque to the Government. None of the "violent crowd" was arrested. However, all 85 of the Ahmadis, who were at a prayer service at the time of the attack, were arrested.27 Four Ahmadis were injured, one seriously.

In mid-August 1986, the Ahmadi mosque in Mardan was attacked by a large mob, including police and the Assistant Commissioner. 90 Ahmadis who were at the mosque for Eid (a holy day) prayers were arrested. The mob spent from 8 a.m. to 4:30 p.m. tearing down the mosque and burning books at the site. Maulana Azizur Rahman, International Spokesman for Majlis Tahafuzz-e-Khatm-e-Nabuwat, announced that an agreement with the Government had been reached. The mosque will not be allowed to be rebuilt and the government will not take any action against persons who demolished the mosque, including the members of the National and Provincial Assemblies who participated.28

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27 See, Dawn (Karachi), May 10, 1986.
There have been numerous similar incidents in other locations. For instance, on May 4, 1984, the Ahmadi mosque in Gujrat was seized by a mob of 200 in the presence of police. The mosque was subsequently sealed by the Government and then given to non-Ahmadi Muslims. Mosques in Nawabshah, Skrund and Moro have been sealed. Defacement of Ahmadi property is even more prevalent. Documentation, including court orders, shows that as many as 100 mosques and many Ahmadi businesses have been defaced.
ARBITRARY ARREST AND DETENTION: POLITICAL PRISONERS

A. ILLEGAL GROUNDS FOR ARREST AND DETENTION

A common attribute of a government that is imposed on a people without their consent in violation of principles of democracy and popular participation is that dissent is severely suppressed.\(^1\) Indeed, an imposed government cannot allow unfettered participation or expression of the people because the people would instantly demand a return to democratic government. The outcome is that as long as the imposed government controls the military or police forces, peaceful return to democratic rule is impossible unless the imposed regime steps aside voluntarily.

A useful measure of the illegitimacy of a regime is the number of persons arrested and jailed for exercise of internationally protected human rights, particularly, the right of freedom of expression; the right to hold any political, religious, or other belief or opinion; or the right to participate in government. Any person detained for engaging in protected acts is subject to arbitrary arrest or detention and can be characterized a political prisoner.\(^2\)

Governments hide behind such terms as "national security," or "state of emergency" and frequently establish "martial law" regimes to attempt legal justification for the arrests and detention of political prisoners. These regimes often argue that "stability" takes precedence over human rights. While such arguments may seem superficially appealing to a war and strife torn international community, they have been rejected; the superiority of human rights norms is beyond dispute. Certain fundamental rights may not be suspended even in "emergencies."\(^3\) In addition, an imposed regime may not be entitled to suspend derogable rights, particularly when it is only defending itself, not the State. (A government is merely co-guardian of the State: the people share power as co-guardians.) Finally, the suppression of human rights is itself violence.

Since 1977, Pakistan has arrested and detained thousands of persons for acts protected by international human rights law. For the periods governed by martial law, the martial law orders allowed for detention of 90 days (extendable for up to two years) for acts "prejudicial to the regime."\(^4\) These provisions kept many opposition leaders behind bars or under "house arrest" for years. Ordinance XX has resulted in hundreds of Ahmadis being subjected to arbitrary arrest and detention, making them too, political prisoners. Highly publicized "political sweeps" occurred during the referendum in December 1984 and the election in February 1985 when as many as 1000 political opponents of Zia were arrested and detained.

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\(^1\) Study on States of Emergency, (Violation of the Right to Democracy, footnote 21) at p. 39.


\(^3\) See, e.g., International Covenant on Civil and Political Rights, art. 4.

Attorneys trying to defend political prisoners have become political prisoners themselves. As already noted, more than 400 attorneys had been arrested in 1983 and subjected to military court proceedings. Protests of the Lahore and Karachi Bar Associations, and smaller local bars have resulted in the release of some political prisoners. Nonetheless, arrests of attorneys have continued, with some attorneys being arrested, then released, then arrested again, then released again. Karachi and Lahore Supreme and High Court advocates attest to the continual harassment of members of the legal community who defend political prisoners.

The lifting of Martial Law on December 30, 1985 does not seem to have checked the government's tendency to remove opponents by mass arrests. Mass arrests of Ahmadis have continued unabated. Between August 12 and 14, 1986, over 1000 members of the Movement for the Restoration of Democracy (MRD), including Benazir Bhutto of the Pakistan Peoples' Party, were arrested following attempts to hold political rallies calling for elections.5

The total number of current political prisoners is difficult to assess because of recent mass arrests of Ahmadis and political opponents. However, the author was able to obtain reliable lists of persons, including some of those recently arrested, still held in jails in Sind and Baluchistan as of October 10, 1986 and supplies them at the end of this section. Other recent reports have included lists of political prisoners in Punjab.6

B. TORTURE AND INHUMAN TREATMENT OF DETAINENES

The standard treatment of political prisoners in Pakistan jails was described by a leading High Court advocate as being "somewhere between unbearable and inhuman." For some prisoners the treatment has constituted torture. A recent change is that public concern is now at least modestly reported in the newspapers and in broadcast media. For example, the author's meeting with representatives of the political prisoners defense groups was reported in a Pakistani paper.7 Statements of political leaders regarding prisoners have also been reported.8 Several of the many examples of abuse amounting to torture are:


7 The Muslim (Islamabad), May 1, 1986: "The representatives appraised Ms. Karen Parker of the gross violations of human rights . . . even after lifting of Martial Law. In this connection they particularly mentioned persons convicted and sentenced by military courts for holding political views different from those held by the rulers."

8 See, e.g., "Benazir Pays Tribute to Jailed PPP Workers," The Muslim (Islamabad), May 1, 1986.
1. Azizullah Marri

Azizullah Marri is a member of the Movement for the Restoration of Democracy, arrested in 1983 during a demonstration at which he was shot in the leg by the police. He was denied medical care, and the injury, which broke his kneecap, did not heal properly. He is able to walk somewhat with a crutch, but is denied one in jail. Consequently, he crawls in order to move around.

2. Fazil Rahu

Fazil Rahu, president of Awami Tehrik, had been in jail since 1983. At Landhi Jail he was very ill with ulcers, but was nonetheless kept in isolation with no doctor. After an appeal for a doctor, a prisoner in jail for unpayment of debts (Note: Article 11 of the International Covenant on Civil and Political Rights forbids imprisonment for debts) gave him several pills that made Rahu very ill. He was shifted to Sukkur jail, where he was notified his son, a member of the MRD, was being sought on a warrant. The son was seriously ill at that time, but stayed in hiding where he died for lack of medical attention. Mr. Rahu was released from jail but was assassinated in early January, 1987.

3. Anwar Shah

Anwar Shah was sentenced to prison and 80 lashes. After receiving the 80 lashes, he was barely alive, but was nonetheless put in triangular bar fetters (these tie the hands to a foot bar and make walking very difficult. He fell on his face and broke his jaw, but did not receive proper medical. The jaw did not heal properly, and he has difficulty eating.

4. Jam Saqi

The case of Jam Saqi is probably the best known in and out of Pakistan. Jam Saqi is a prominent opposition leader who has been in jail since 1978. In one proceeding before a military court, Jam Saqi was acquitted, but in another he was convicted for 10 years rigorous imprisonment.

While in prison, he has been kept in solitary confinement, and subjected to physical and mental torture. He has been forcibly drugged, and subsequently developed neurological complications, heart disease and diabetes. He has lost his memory and has fits from time to time, frequently not recognizing his family. (His wife committed suicide several years ago out of fear and despair: a colleague jailed with him, Nazir Abbasi, died while in detention.)

Doctors from the Medical College, Jamshoro and the Fatima Mental Hospital, Hyderabad have recommended urgent treatment and hospitalization at the Jinnah Post Graduate Centre. Political and community leaders throughout Pakistan have spoken out for the release of Jam Saqi and for proper medical care for him. While the author was in Pakistan, Benazir Bhutto, the Punjab Women Lawyers' Association, the Political Prisoners Release and Relief Committee, the Council for Civil Liberties, the Ghulam Jilani Foundation, the Womens Action Forum
and individuals such as Aitzaz Ahsan called for his release.\textsuperscript{9} The author made a personal appeal to President Zia on behalf of Jam Saqi.

5. Ghulam Shabir Shar

Ghulam Shabir Shar was arrested July 29, 1980 with Nazir Abazzi, who died in the hands of Pakistani officials on August 9, 1980. At the present time, Mr. Shar is kept incommunicado in Central Jail Sukkur (Sind). From November 12, 1986, to at least the end of December, 1986, Mr. Shar was kept in a punishment ward in triangular bar fetters and has been threatened with more torture if his brother, an advocate, pursues legal remedies before the Sind Circuit Bench (Sukkur) on behalf of Mr. Shar and other prisoner suffering a similar fate. Mr. Shar's fate and the fate of other prisoners at Sukkur is to be considered exceptionally precarious and should be carefully monitored.

**POLITICAL PRISONERS--SIND PROVINCE**

**A. SPECIAL PRISON NARA HYDERABAD**

<table>
<thead>
<tr>
<th>Name</th>
<th>Year imprisoned</th>
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<tbody>
<tr>
<td>Ashfaq Ahmad Kolachi</td>
<td>1983</td>
</tr>
<tr>
<td>Dr. Dodo Maheri</td>
<td>1984</td>
</tr>
<tr>
<td>Umeruddin Zardari</td>
<td>1984</td>
</tr>
<tr>
<td>Nazir Ahmed Tunio</td>
<td>1984</td>
</tr>
<tr>
<td>Gul Muhammed Jakharani</td>
<td>1984</td>
</tr>
<tr>
<td>Abdul Sattar Moriyo</td>
<td>1984</td>
</tr>
<tr>
<td>Iqbal Tunio</td>
<td>1984</td>
</tr>
<tr>
<td>Younis Khoso</td>
<td>1986</td>
</tr>
<tr>
<td>Fattah Samejo</td>
<td>1986</td>
</tr>
<tr>
<td>Shafi Muhammed Karnani</td>
<td>1986</td>
</tr>
</tbody>
</table>

**B. DISTRICT JAIL LARKANA**

<table>
<thead>
<tr>
<th>Name</th>
<th>Year imprisoned</th>
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</thead>
<tbody>
<tr>
<td>Baggan Khaskhelly</td>
<td>1985</td>
</tr>
<tr>
<td>Iqbal Mahessar</td>
<td>1986</td>
</tr>
<tr>
<td>Asghar Shah</td>
<td>1986</td>
</tr>
<tr>
<td>Khalid Jatoi</td>
<td>1986</td>
</tr>
<tr>
<td>Nisar Mastoi</td>
<td>1986</td>
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<tr>
<td>Saddar Mastoi</td>
<td>1986</td>
</tr>
<tr>
<td>Mandhal Karra</td>
<td>1986</td>
</tr>
<tr>
<td>Rasul Chando</td>
<td>1986</td>
</tr>
<tr>
<td>Ghulam Rasul Chando</td>
<td>1986</td>
</tr>
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</table>

**C. CENTRAL PRISON HYDERABAD**

<table>
<thead>
<tr>
<th>Name</th>
<th>Year imprisoned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jam Saqi (hospitalized JPM?)</td>
<td>1978</td>
</tr>
<tr>
<td>(may be in Landhi Jail)</td>
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</tr>
<tr>
<td>Mohisin Raza</td>
<td>1979</td>
</tr>
<tr>
<td>Ramzan Moughul</td>
<td>1981</td>
</tr>
<tr>
<td>Zahid Hussain</td>
<td>1983</td>
</tr>
<tr>
<td>Sikander Mirabahar</td>
<td>1984</td>
</tr>
<tr>
<td>Ali Gul Keeriyo</td>
<td>1984</td>
</tr>
<tr>
<td>Zameer Rajpar</td>
<td>1985</td>
</tr>
<tr>
<td>Ahmed Samo</td>
<td>1986</td>
</tr>
<tr>
<td>Bakhat Khuhawar</td>
<td>1986</td>
</tr>
<tr>
<td>Hyder Lashari</td>
<td>1986</td>
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<tr>
<td>Sattar Rajpar</td>
<td>1986</td>
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<tr>
<td>Mir Ahmed</td>
<td>1986</td>
</tr>
<tr>
<td>Abdul Qadir Jarwar</td>
<td>1986</td>
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<td>Shahmeer Lund</td>
<td>1986</td>
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<td>Nooruddin Abassy</td>
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<td>Ejaz Ali Solangi</td>
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<td>Ahmed Hingoro</td>
<td>1986</td>
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<td>Abdul Latif Lighari</td>
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<td>Marood Ahmed Jaat</td>
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<td>Ejaz Ahmed Ghaman</td>
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<td>Nazir Ahmed Arain</td>
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<td>25</td>
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<td>Sayed Iqbal Shah</td>
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<td>Pir Muhammad Lohar</td>
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<td>Muhammad Ishaque Samo</td>
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<td>30</td>
<td>Wahid Dino Moughul</td>
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<td>75</td>
<td>Anwar Manganhar</td>
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<td>108</td>
<td>Saleem Memon</td>
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<tr>
<td>109</td>
<td>Ghulam Nabi Panhwar</td>
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<td>110</td>
<td>Mukhtiar Khushik</td>
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<td>111</td>
<td>Mehtab Shah</td>
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<td>Hakim Ali Veessar</td>
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<td>113</td>
<td>Kehar Bozdar</td>
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<td>114</td>
<td>Javed Memon</td>
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<tr>
<td>115</td>
<td>Rashid Chandio</td>
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<td>116</td>
<td>Gul Muhammad Sangrani</td>
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<tr>
<td>117</td>
<td>Bahadur Dawachh</td>
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<td>118</td>
<td>Manthar Jatoi</td>
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<tr>
<td>119</td>
<td>Haibat Noohani</td>
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<tr>
<td>120</td>
<td>Iqbal Chandio</td>
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<td>121</td>
<td>Niaz Chandio</td>
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<tr>
<td>122</td>
<td>Rahim Babbar</td>
</tr>
<tr>
<td>123</td>
<td>Qamar Khoso</td>
</tr>
</tbody>
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D. CENTRAL PRISON SUKKUR

1. Rafiq Memon 1979
2. Shabir Shar 1980
3. Ahmed Kamal Warsi 1980
5. Wali Muhammad Sahto 1981
7. Muhammed Jatoi 1983
8. Azizullah Mari 1983
9. Muhammad Rafi Qureshi 1985
10. Nasir Qureshi 1985
11. Ejaz Kamariyo 1986
13. Israr Khushik 1985
15. Noor M. Chachar Pathan 1986
16. Abdul Waheed Shaikh 1986
17. Yaquooob Shaikh Pathan 1986
18. Bashir Shah 1986
19. Iqbal Maheswar 1986
20. Quresh Quman 1986
21. Allandho s/o Ismail Markhi (presumed dead) —
22. Mehran Gadhi (presumed dead) —
23. Rano Dharej (presumed dead) —
24. Manathar Shar (presumed dead) —
25. Ghulam Abass Chandio (presumed dead) —
26. Mir Muhammad Jisskanani (presumed dead) —

E. CENTRAL PRISON KHAIRPUR

1. Mujeeb Mahar 1981
5. Sabir Shah 1981
6. Abdul Ghani Jatoi 1981
8. Imdad Chandio 1981
9. Sher Muhammad Mangerio 1981
10. Ghansham Parkash 1982
11. Younis Khorkhani 1986
12. Muhammad Daud Khorkhani 1986
15. Nazir Dharejo 1986
16. Bashir Khaskhely 1986
17. Muhammed Chandio 1986
18. Moumin Shar 1986
20. Sachal Metlo 1986
H. JUDICIAL LOCKUP SHAHDAPUR

1. Abdul Sattar 1986
2. Anwar Ali 1986
3. Zulfiqar Ali 1986
4. Liaquat Ali 1986
5. Aftab Ali 1986
6. Ghulam Qadir 1986
7. Khan Muhammad 1986
8. Salam Ali 1986
10. Sher Muhammad 1986
11. Muhammad Ali 1986
12. Gul Hassan 1986
13. Jarro 1986
14. Mitho 1986
15. Yagood 1986
16. Malook 1986
17. Khamiso 1986
18. Anwar 1986
19. Muhabat 1986
20. Qurban 1986
21. Ayoob 1986
22. Muhabat alias Qazi 1986
23. Ali Gul 1986
25. Hussain 1986
26. Uris 1986
27. Haji 1986
28. Noor Hassan 1986
29. Mir Hassan 1986
30. Allah Warayo 1986
31. Abdul Karim 1986
32. Ghulam Muhammad 1986
33. Rabdino 1986
34. Haimlu 1986
35. Soglu 1986
36. Bariyo 1986
37. Shakar 1986
38. Kochhat 1986
39. Shaggan 1986
40. Ganessu 1986
41. Autumdass 1986
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<thead>
<tr>
<th>No.</th>
<th>Name</th>
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<td>Faqir Muhammad Qureshi</td>
<td>Mehar (Shahpanjo Sultan village)</td>
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<td>Asghar Waggan</td>
<td>Tando Adam</td>
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<td>33</td>
<td>Abdul Raham Pathan</td>
<td>Kiyamarri, Karachi</td>
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<td>34</td>
<td>Ali Gohar Solangi</td>
<td>Village Muhammad Sadik Machi, Mehar</td>
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<tr>
<td>35</td>
<td>Wali Muhammad Shidi</td>
<td>Village Hussrri, district Hyderabad</td>
</tr>
<tr>
<td>36</td>
<td>Shamsuddin Narejo</td>
<td>Village Thariri Muhabat, district Dadu</td>
</tr>
<tr>
<td>37</td>
<td>Muhammad Yousif Abassy</td>
<td>Thatta</td>
</tr>
<tr>
<td>38</td>
<td>Allahdino Junejo</td>
<td>Badin</td>
</tr>
<tr>
<td>39</td>
<td>Abdul Sattar Khatti</td>
<td>Badin</td>
</tr>
<tr>
<td>40</td>
<td>Muhammad Yousif Panhwar</td>
<td>Thatta</td>
</tr>
<tr>
<td>41</td>
<td>Zameer Hussain Chachar</td>
<td>Ubawirro City, district Sukkur</td>
</tr>
</tbody>
</table>
A. THE INTERNATIONAL BILL OF HUMAN RIGHTS

1. Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and science and should act towards one another in a spirit of brotherhood.

Article 2

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 opinion, national or social origin, property, birth, other status.

Furthermore, no distinction shall be made on the ground of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any 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 8

Everyone has the right to an effective remedy by competent national tribunals for acts violating the fundamental rights granted him by the constitution or law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.
Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

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 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right to equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such 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 in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to
17. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

Proclaimed by the General Assembly of the United Nations on 25 November 1981 (resolution 36/35)

The General Assembly,

Considering that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief,

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

Considering that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

Convinced that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

Noting with satisfaction the adoption of several, and the coming into force of some, conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief,

Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

Article 1

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to
have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Article 2

1. No one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs.

2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Article 3

Discrimination between human being on grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

Article 4

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Article 5

1. The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

5. Practices of a religion or beliefs in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

Article 6

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

(a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;

(b) To establish and maintain appropriate charitable or humanitarian institutions;

(c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;

(d) To write, issue and disseminate relevant publications in these areas;

(e) To teach a religion or belief in places suitable for these purposes;

(f) To solicit and receive voluntary financial and other contributions from individuals and institutions;

(g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;

(h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;

(i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Article 7

The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

Article 8

Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.
ACT NO. XVIII OF 1985

An Act further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Constitution (Eighth Amendment) Act, 1985.

(2) It shall come into force at once, except section 19 which shall come into force on the day on which the Proclamation of the fifth day of July, 1977, is revoked.

2. Amendment of Article 48 of the Constitution.—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 48,—

(a) in clause (1),—

(i) for the commas and words "the Prime Minister, or appropriate Minister" the words "or the Prime Minister" shall be substituted; and

(ii) for the proviso the following shall be substituted, namely:—

"Provided that the President may require the Cabinet or, as the case may be, the Prime Minister to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.";

(b) in clause (2), after the words "do so", at the end, the words "and the validity of anything done by the President in his discretion shall not be called in question on any ground whatsoever." shall be added;

(c) clause (3) shall be omitted; and

(d) in clause (5), in paragraph (a), for the words "one hundred", the word "ninety" shall be substituted.

3. Amendment of Article 51 of the Constitution.—In the Constitution, in Article 51, in clause (4), for the word "second" the word "third" shall be substituted.

4. Amendment of Article 56 of the Constitution.—In the Constitution, in Article 55, for clause (3) the following shall be substituted, namely:—

"(3) At the commencement of the first session after each general election to the National Assembly and at the commencement of the first session of each year the President shall address both Houses assembled together and inform the Majlis-e-Shoora (Parliament) of the causes of its summons.

5. Amendment of Article 58 of the Constitution.—In the Constitution, in Article 58,—

(a) in clause (1), in the Explanation, for the words "resolution for a vote of no-confidence has been moved" the words "notice of a resolution for a vote of no-confidence has been given" shall be substituted; and
(b) for clause (3) the following shall be substituted, namely:

"(3) When the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment, by the Provincial Assembly, by the votes of the majority of the members of the Provincial Assembly present and voting, it shall be again presented to the Governor and the Governor shall not withhold assent therefrom."

16. Amendment of Article 130 of the Constitution.—In the Constitution, in Article 130,—

(a) after clause (3), the following new clause shall be inserted, namely:

"(2A) Notwithstanding anything contained in clause (2), after the twentieth day of March, one thousand nine hundred and eighty-eight, the Governor shall invite the member of the Provincial Assembly to be the Chief Minister who commands the confidence of the majority of the members of the Provincial Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution:

Provided that nothing contained in this clause shall apply to a Chief Minister holding office on the twentieth day of March, one thousand nine hundred and eighty-eight, in accordance with the provisions of the Constitution;"

(b) in clause (3), after the brackets and figure "(2)"; the words, commas, brackets, figure and letter "or, as the case may be, invited under clause (2A)" shall be inserted; and

(c) for clause (5) the following shall be substituted, namely:

"(5) The Chief Minister shall hold office during the pleasure of the Governor, but the Governor shall not exercise his powers under this clause unless he is satisfied that the Chief Minister does not command the confidence of the majority of the members of the Provincial Assembly, in which case he shall summon the Provincial Assembly and require the Chief Minister to obtain a vote of confidence from the Assembly."

17. Amendment of Article 144 of the Constitution.—In the Constitution, in Article 144, clause (2) shall be omitted.

18. Omission of Article 152A of the Constitution.—In the Constitution, Article 152A shall be omitted.

19. Substitution of Article 270A of the Constitution.—In the Constitution, for Article 270A the following shall be substituted, namely:

"270A. Affirmation of President's Orders, etc.—(1) The Proclamation of the fifth day of July, 1977, all President's Orders, Ordinances, Martial Law Regulations, Martial Law Orders, including the Referendum Order, 1984 (P.O. No. 11 of 1984), under which, in consequence of the result of the referendum held on the nineteenth day of December, 1984, General Mohammad Zia-ul-Haq became the President of Pakistan on the day of the first meeting of the Majlis-e-Shoora (Parliament) in joint sitting for the term specified in clause (7) of Article 41, the Revival of the Constitution of 1973 Order, 1985 (P.O. No. 14 of 1985), the Constitution (Second Amendment) Order, 1985 (P. O. No. 20 of 1985), the Constitution (Third Amendment) Order, 1985 (P. O. No. 24 of 1985), and all other laws made between the fifth day of July, 1977, and the date on which
ISLAMABAD, THURSDAY, APRIL 26, 1984

PART I

Acts, Ordinances, President’s Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 26th April, 1984

No. F. 17 (1) 84-Pub.—The following Ordinance made by the President is hereby published for general information:

ORDINANCE No. XX of 1984

AN

ORDINANCE

to amend the law to prohibit the Quadiani group, Lahori group and Ahmadis from indulging in anti-Islamic activities

WHEREAS it is expedient to amend the law to prohibit the Quadiani group, Lahori group and Ahmadis from indulging in anti-Islamic activities:

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action:

(73)

Price: Ps. 30

[3046 Ex. Gaz.]
Now, therefore, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

**PART I.—PRELIMINARY**

1. **Short title and commencement.**—(1) This Ordinance may be called the Anti-Islamic Activities of the Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984.

   (2) It shall come into force at once.

2. **Ordinance to override orders or decisions of courts.**—The provisions of this Ordinance shall have effect notwithstanding any order or decision of any court.

**PART II.—AMENDMENT OF THE PAKISTAN PENAL CODE**

(ACT XLV of 1860)

3. **Addition of new sections 298B and 298C, Act XLV of 1860.**—In the Pakistan Penal Code (Act XLV of 1860), in Chapter XV, after section 298A, the following new sections shall be added, namely:

   "298B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places.—(1) Any person of the Quadiani group or the Lahori group (who call themselves 'Ahmadies' 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', 'Khalifa-tul-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) refers to, or addresses, any person, other than a member of the family (Ahelpers) of the Holy Prophet Muhammad (peace be upon him), as Ahelpers; 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 Quadiani group or Lahori group (who call themselves 'Ahmadies' 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 Quadiani group, etc., calling himself a Muslim or preaching or propagating his faith.—Any person of the Quadiani group or the Lahori group (who call themselves 'Ahmadies' or by any other name), 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 of either description for a term which may extend to three years and shall also be liable to fine.

PART III.—AMENDMENT OF THE CODE OF CRIMINAL PROCEDURE 1898 (ACT V OF 1998)

4. Amendment of section 99A, Act V of 1898.—In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, in section 99A, sub-section (1),—

(a) after the words and comma "of that class. ", the words, figures, brackets, letter and commas "or any matter of the nature referred to in clause (jj) of sub-section (1) of section 24 of the West Pakistan Press and Publications Ordinance, 1963," shall be inserted: and

(b) after the figure and letter "295A", the words, figures and letters "or section 298A or section 298B or section 298C" shall be inserted

5. Amendment of Schedule II, Act V of 1898.—In the said Code, in Schedule II, after the entries relating to section 298A, the following entries shall be inserted, namely:

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<td>&quot;298B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places. Ditto Ditto Not bailable Ditto Imprisonment of Ditto either description for three years, and fine.</td>
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<td>298C. Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith. Ditto Ditto Ditto Ditto Ditto Ditto Ditto</td>
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PART IV.—AMENDMENT OF THE WEST PAKISTAN PRESS AND PUBLICATIONS ORDINANCE, 1963 (W. P. ORDINANCE No. XXX or 1963)

6. Amendment of section 24, West Pakistan Ordinance No. XXX of 1963.—In the West Pakistan Press and Publications Ordinance, 1963 (W. P. Ordinance No. XXX of 1963), in section 24, in sub-section (1), after clause (j), the following new clause shall be inserted, namely:—

"(jj) are of the nature referred to in section 298A, section 298B of section 298C of the Pakistan Penal Code (Act XLV of 1860), or".

GENERAL.

M. ZIA-UL-HAQ.
President.

PRINTED BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD.
PUBLISHED BY THE MANAGER OF PUBLICATIONS, KARACHI.
1985/21 The situation in Pakistan 81/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles of the United Nations Charter, the Universal Declaration of Human Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 82/

Bearing in mind the Proclamation of Teheran in which the International Conference on Human Rights proclaimed that the gross denials of human rights arising from discrimination on grounds of religion outrage the conscience of mankind and endanger the foundations of freedom, justice and peace in the world, 83/

Recognizing that the independence of the judiciary and judicial review, as general principles of law of civilized nations, are an essential element of the effective legal remedy required of all nations,

Taking into account Commission resolution 1985/40 of 13 March 1985 in which the Sub-Commission is requested, inter alia, to keep in mind the relationship between violations of human rights and mass exoduses,

1. Expresses its grave concern at the promulgation by Pakistan of Ordinance XX of 28 April 1984 which, prima facie, violates the right to liberty and security of the persons, the right to freedom from arbitrary arrest or detention, the right to freedom of thought, expression, conscience and religion, the right of religious minorities to profess and practise their own religion, and the right to an effective legal remedy;

2. Further expresses its grave concern that persons charged with and arrested for violations of Ordinance XX have been reportedly subjected to various punishments and confiscation of personal property, and that the affected groups as a whole have been subjected to discrimination in employment and education and to the defacement of their religious property;

3. Requests the Commission on Human Rights to call on the Government of Pakistan to repeal Ordinance XX and to restore the human rights and fundamental freedoms of all persons in its jurisdiction;

4. Alerts the Commission on Human Rights of the situation in Pakistan which is one with great potential to cause a mass exodus, especially of members of the Ahmadi community.

81/ Adopted at the 37th meeting, on 29 August 1985, by 10 votes to 2, with 6 abstentions. See chap. VI.

82/ General Assembly resolution 36/55 of 25 November 1981.

83/ Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968 (United Nations publication, Sales No. E.68.XIV.2) chap. II para. 11.
Expressing the sense of the Congress with respect to repression by the Government of Pakistan of individuals known as Ahmadis.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1986

Mr. HALL of Ohio submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to repression by the Government of Pakistan of individuals known as Ahmadis.

Whereas Ahmadis are individuals who profess their religion to be Islam, but have certain distinctive religious beliefs (as do other sects of Islam);

Whereas the Government of Pakistan and some of the people of Pakistan are discriminating against Ahmadis because of the religious beliefs of the Ahmadis;

Whereas there are approximately 3,500,000 Ahmadis living in Pakistan;

Whereas Pakistan is obligated under the United Nations Universal Declaration of Human Rights and the United Nations
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

Whereas Article 20 of the Constitution of Pakistan provides that every citizen and religious sect has the right to practice and propagate religions and to establish religious institutions;

Whereas, in April 1984, the Government of Pakistan established Ordinance XX by presidential decree;

Whereas, notwithstanding the Constitution of Pakistan, Ordinance XX provides that any Ahmadi may lose the right to his or her property, be fined, and be imprisoned for 3 years, if the Ahmadi involved publicly suggests that Ahmadis are Muslims;

Whereas, in a message to the International Khatm-E-Nabuwwhat Conference (an international meeting of Muslims) in London in August 1985, President Mohammad Zia-ul-Haq of Pakistan stated that the Government of Pakistan has taken several emphatic measures in recent years to prevent Ahmadis from practicing the Islamic faith, and that the Government of Pakistan will exterminate the Ahmadi faith;

Whereas the imposition of death sentences and lengthy prison terms on Ahmadis, including civilians, by special military courts in Pakistan in certain cases indicates that religious persecution may be a factor in the decisions of courts in Pakistan;

Whereas trying civilians in military courts is a violation of internationally recognized legal principles;

Whereas hundreds of Ahmadis have been arrested for wearing Muslim religious insignia;

Whereas Ahmadis have been discriminated against with respect to admissions to educational institutions and the civil and armed services of Pakistan;
Whereas the Government of Pakistan has encouraged the people of Pakistan to commit acts of persecution against Ahmadis, including murder, attacks on mosques used by Ahmadis, and defacement of religious property;

Whereas Ahmadis have fled Pakistan and have sought political asylum in other countries because of religious persecution;

Whereas 2 organizations in the United States, the Lawyers Committee for Human Rights and Human Rights Advocates, have determined that Ahmadis are being subjected to systematic and extensive discrimination on the basis of religious belief; and

Whereas, in August 1985, the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights determined in resolution numbered 1985-21 that Ordinance XX violates the right of religious minorities to profess and practice their own religion, and called on the Government of Pakistan to repeal Ordinance XX: Now, therefore, be it

1 Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Government of Pakistan should—

1 (1) repeal Ordinance XX;

2 (2) cease persecution of, and discrimination against, Ahmadis;

3 (3) provide that any trial of civilians by military courts be reviewed by civilian courts; and

4 (4) restore all internationally recognized human rights to all of the people of Pakistan.
Sec. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President with the request that such copy be transmitted to the Government of Pakistan.