PAKISTAN:
Human Rights
After Martial Law

Report of a Mission

by

Judge Gustaf Petrén, Sweden
Mrs. Helen Cull, New Zealand
Mr. Jeremy McBride, United Kingdom
Mr. D. Ravindran, ICJ, Geneva

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Preface

In December 1986, the International Commission of Jurists (ICJ) sent a mission to Pakistan to study the process of return to a democratic form of government after eight years of martial law rule. Among the issues the mission was particularly asked to enquire into were the constitutional position, the electoral process, the position of political prisoners convicted by military courts under martial law, the independence of judges and lawyers, the impact of Islamisation on the rights of women, trade union rights and the situation of minorities and minority religious communities.

The four members of the mission were:

Judge Gustaf Petréns  Former Supreme Court Judge and former Ombudsman of Sweden; Honorary Member of the ICJ;

Mrs. Helen Cull  Member of the Bar of New Zealand and council member of the ICJ New Zealand national section;

Mr. Jeremy McBride  Lecturer in Law at the University of Birmingham, UK;

Mr. D.J. Ravindran  Legal Officer for Asia of the ICJ.

In order to extend the coverage of the mission, on leaving Karachi they worked in two pairs. One pair went to Hyderabad and Lahore, while the other pair visited Quetta and Peshawar. They then joined up again at Islamabad where they had meetings with the Minister of the Interior, the Minister for Law and Parliamentary Affairs, and the Minister for Religious and Minority Affairs. They also met with the Governor of the North West Frontier Province, as well as the Chief Justices and other members of the Supreme Court and of the High Courts of the Provinces.
Karachi the mission met with Cardinal Cordeiro of the Catholic Church and also the leader of the Pakistan People's Party, Miss Benazir Bhutto.

Before leaving Pakistan the members of the mission reached agreement upon their general conclusions, which are printed at the beginning of this report.

The International Commission of Jurists is very grateful to the Federal Government and Judiciary of Pakistan, as well as to the Governments and Judiciary of the provinces visited, for receiving the members of the mission and for their unfailing assistance and cooperation.

The Commission also wishes to thank the many persons who gave the mission information and provided administrative assistance. The mission is particularly indebted to Mr. A.K. Brohi, Fr. Arnold Heredia and Justice Dorab Patel. Others who helped considerably are Latif Afridi, Yahaya Bakhtiar, Iftikhar Gilani, Syad Afzal Haider, Asma Jahangir, Khalid Malik, Munir Malik, Rafiq Safi Munshey, Mujeeb-ur Rehman and Rashida Patel. The International Commission of Jurists is grateful to the following funding agencies whose grants made possible the mission: NOVIB and ICCO in the Netherlands, Danish Church Aid, and the Diakonisches Werk of the German Evangelical Church.

Niall MacDermot
Secretary-General

Geneva, April 1987

General Conclusions

agreed by the members of the ICJ mission to Pakistan
Karachi 17 December 1986

1) The lifting of martial law and the move to constitutional government is a positive development for democracy in Pakistan.

2) The Constitution in force is not the 1973 Constitution in full having been substantially amended during martial law.

3) There is a general lack of confidence that the Constitution in its present form can be effective in protecting human rights and in acting against a further imposition of martial law.

4) The information received by the mission confirmed the widespread violations of human rights during martial law that were reported by many international human rights organisations.

5) Aspects of martial law have been institutionalised. There are still some abuses of human rights and a number of freedoms are being curtailed.
Chapter VIII

Rights of Religious and Other Minorities

Many aspects of the problem of safeguarding human rights in Pakistan are inextricably linked with the position of the country's various religious, linguistic and cultural minorities. While many members of these minorities have suffered violations of human rights as individuals, their minority status has, in some cases at least, been a motivating factor and the very integrity of some minorities has also suffered from direct assaults. Certain of the difficulties faced by minorities antedate martial law, but for some they were exacerbated during it and in some respects this has been with lasting effect.

In carving the state of Pakistan out of Britain's Indian Empire it was possible to ensure that, at independence, most of the Muslims living in the areas where they constituted the majority community would not remain part of a sizeable, but nonetheless, minority group within the predominantly Hindu India. However, this motive for the creation of Pakistan did not mean that there was also the intention that this new state should be exclusively Muslim and indeed from the outset it has numbered amongst its citizens the adherents of several other religions, including Buddhists, Christians, Hindus, Parsis and Sikhs. Moreover the majority Muslim community was itself divided into three main sects; Sunni, Shia and Ahmadis. In the Objectives Resolution, adopted on 25 March 1949, the Constituent Assembly declared that in framing Pakistan's first constitution it should not only enable Muslims to order their lives in accordance with the requirements of Islam but should also make adequate provision for the non-Muslims freely to profess and practise their religion. In so according minority status to the non-Muslims it was intended to safeguard their position and not to make it essentially an inferior one. Although this approach has generally been followed in Pakistan's constitutions there has been a move to increase the separation of the minorities from the majority Muslim community, their property has been subjected to attack and they are being adversely affected by the Islamisation process. Furthermore, during martial law the followers of the Ahmadiyya sect (the Ahmadis), having been reclassified as a non-Muslim minority in 1974, began to be subjected to extensive restrictions on the manifestation of their faith. The ordinance by which these restrictions were imposed has proved to be the beginning of a series of measures, either instigated or tolerated by the government, which are having an extremely grave effect on the religious freedom of this sect and which seem to be leading to its total suppression.

In addition to this religious diversity, there are also significant cultural and linguistic differences to be found within the population of Pakistan. The four main groups are the Baluchis, Pashtoons, Punjabis and Sindhis. Of these, the Punjabis are both the largest and also the most dominant, having a disproportionate representation in all forms of public office. Each group has its own language and culture although Punjabi is very similar to Urdu, the official language. While the division of the country into four provinces partially reflects the distribution of the ethnic groups, there is a substantial Pashtoon population in Baluchistan and there has also been some migration by Baluchis and Pashtoons to Sind. Although the three smaller ethnic groups are far from satisfied that they are being treated fairly, campaigns by various parties for constitutional change have met with no success and indeed are being suppressed by the government.

Non-Muslim Religious Minorities

The intention proclaimed in the Objectives Resolution that, despite Pakistan's overwhelming Muslim majority, the religious freedom of all of its citizens should be safeguarded is reflected in a number of the provisions of the 1973 Constitution. Thus, although Islam is "the State religion of Pakistan" (Art. 2), everyone has the right to profess his religion and religious denominations and sects have the right to establish, maintain and manage their religious institutions (Art. 20), no one can be compelled to pay taxes in support of religions other than his own (Art. 21), there is to be freedom of religious education, both as regards its provision and its receipt (Art. 22), there is a guarantee of equality before the law (Art. 25) and a prohibition of discrimination on grounds of religion with respect to
employment in the public services or access to places of "public entertainment or resort" (Arts. 26 and 27). All these guarantees were brought back into force by the Revival of the Constitution of 1973 Order and are generally being observed as far as the non-Muslim minorities (other than the Ahmadis) are concerned. Indeed in one respect at least their position has been improved because the recent adoption of a policy favouring private education has meant that schools can once again be established by religious institutions. As part of this policy there is also a willingness on the part of the government to hand back schools, but no colleges and universities, that had previously been nationalised. There are, however, a number of problems that are currently being faced by members of the non-Muslim minorities (other than the Ahmadis) on account of their particular religions. They arise out of a number of administrative and legislative restrictions that are directly or indirectly affecting the practice of their faiths, together with the growing impact of the Islamisation process, and are also partly the result of an increasing number of attacks on their temples and churches by private individuals which do not appear to be being adequately dealt with by the police. Although such problems do not at present amount to a substantial interference with their religious freedom they have nonetheless had the effect of making their position feel much less secure than that of Pakistan's Muslim citizens.

They find it difficult, for example, to obtain planning permission to build new places of worship. Although this might be open to challenge in a clear case, the difficulty in overcoming obstruction at the local level is apparent from the continued failure to implement the decision of a Martial Law Administrator in 1984 that compensation should be paid after the civil administration in Bahawalpur (following protests by Muslims) had stopped the completion of a church on which extensive work had already been carried out and for which permission had been granted. The public discussion of their faiths is also closely circumscribed. Thus the access which the non-Muslim religions are given to the public broadcasting services is very limited and when it is permitted during religious holidays certain religious images, such as that of Jesus Christ, cannot be shown. Furthermore, it is virtually impossible for a non-Muslim publicly to engage in missionary work or in any other way to seek the conversion of Muslims because of the fear of falling foul of s.295A of the Pakistan Penal Code which imposes a penalty of up to two years' imprisonment for outraging the religious feelings of any class of citizens. This offence inhibits but does not actually prevent conversions to any of the minority religions taking place. There would, however, be a total prohibition on any conversion from Islam to any other religion if proposals to make that a capital offence are adopted by Parliament. Despite the existence of a constitutional prohibition on discrimination in public employment, few non-Muslims succeed in obtaining senior positions and there is an increasing reluctance to apply for them.

The Islamisation process has been an increasing source of concern for those belonging to the non-Muslim religions. Although the declared aim of the ordinances for the enforcement of Hudood, which were introduced in 1979, was to bring the law into conformity with the injunctions of Islam and this has led to them being described as Islamic Criminal Laws, they are for the most part applicable to non-Muslims as well as Muslims. Thus, for example, non-Muslims are liable to suffer the penalties of amputation, whipping or death for the various theft offences, whipping for sexual intercourse outside marriage ('zina'), death where that intercourse was without true consent ('zina-bil-jabr') and whipping for a false imputation of 'zina' ('qazf'). However, the ordinance prohibiting the drinking of intoxicants is not applicable to non-Muslims if they are using an intoxicating liquor as part of a religious ceremony. Although the mission was only informed of one instance in which any of these ordinances had been applied and in that case the penalty of whipping for adultery was the subject of an appeal to the Federal Shariat Court, these laws are imposing an exclusively Islamic Code on non-Muslims even in cases where the victims are not Muslims. Moreover this is not being done on an entirely even-handed basis since Muslims can give evidence against non-Muslims but not vice-versa and, while the presiding officer in a trial of a non-Muslim for any of the offences other than 'qazf' must also be a non-Muslim, an appeal to the Federal Shariat Court will be heard by exclusively Muslim judges. At least in some respects, therefore, these ordinances may offend against the constitutional guarantees of religious freedom and equality before the law, but they are possibly immune from constitutional challenge because of the validation given to all the ordinances made by the President during Martial Law through the introduction of Article 270A(3) into the Constitution by the Revival of the Constitution of 1973 Order. Whether or not this is so, there is undoubtedly anxiety amongst those belonging to the non-Muslim religions that their position will become even worse with the adoption of the Constitution (Ninth Amendment) Bill. Under that amendment the "injunctions of Islam as laid down in the Holy Quran and Sunnah shall be the supreme law and source of guidance", and any law held by the Federal Shariat Court to be repugnant to those injunctions will cease to have effect. Although this power is not supposed to extend to any provisions in the Constitution, including the guarantees of religious freedom, there is no confidence that this will ultimately be prove to be so.
Their concern stems partly from the existing application of Islamic criminal laws to non-Muslims but also from the fact that, when the Objectives Resolution was incorporated as an annex to the Constitution by the Revival of the Constitution of 1973 Order, the word 'freely' was omitted from the clause concerning adequate provision for minorities to profess and practise their religions. This unexplained omission leads them to fear that there will be further encroachments on their religious freedom with the development of Islamisation.

The lack of confidence on the part of non-Muslims with respect to their position has also been exacerbated by their constitution into separate electorates for the National and Provincial Assemblies. They had previously been able to take part, together with Muslim citizens, in the direct elections to the Assemblies, whether as candidates or voters. In addition they had had special representatives chosen by the directly elected members of the particular Assembly. The amendment of the Constitution during martial law, so that they could only vote for their representatives in special national constituencies, not only made the representation of their interests more difficult but also set them apart as communities both from each other and from the Muslim citizens of Pakistan. At the very least the effect of this separation has been to contribute to the feeling on the part of non-Muslims that they are less than equal citizens.

Although there were no allegations of interference with any of the religious services held by non-Muslims, the mission was told about a number of attacks on Hindu temples and a Christian church that had occurred during and since the lifting of martial law. These attacks, which were said to have been perpetrated by Muslims and which resulted in the destruction of these places of worship, took place in Jacobabad, Rahimyar Khan and Sukkur in the provinces of Punjab and Sind. While it was not suggested that these attacks had in any way been officially orchestrated, it was claimed that on every occasion the authorities had failed to take any action to force the attackers to desist and indeed that the local police had appeared to turn a blind eye to what was happening. The subsequent payment of compensation by the government was, therefore, entirely inappropriate and has helped to undo some of the effects of these attacks. No such payment can, however, remove the resulting sense of insecurity which many non-Muslims feel, particularly as no prosecutions have been brought against those responsible for the attacks.

The Ahmadis

The Ahmadiyya Movement was founded in 1889 by Mirza Ghulam Ahmad and it has become a missionary movement with adherents throughout the world. Pakistan has always been the centre of its activities and there are some four million Ahmadis in that country. Mirza Ghulam Ahmad claimed to have received revelations that in his person the Mahdi had become present and that he was

"also the Promised Messiah and was indeed the Prophet whose advent had been foretold in the principal religions of the world."

In addition he claimed that, contrary to the general Muslim view that Jesus Christ had been raised to heaven alive and would descend to earth again, it had in fact been foretold that another person with Jesus Christ's attributes would appear and that he was that person. His views on the permissibility of jihad were much more restrictive than those of other Muslims, although the common perception that he was in favour of a total ban appears to be incorrect. Mirza Ghulam Ahmad saw himself as having been appointed by God for the revival and support of the true faith of Islam and his followers continue to worship Allah in much the same way as other Muslims, with the faithful being summoned to prayer five times a day and the same rites and rituals being followed. However, despite seeing themselves as part of the broader Islamic movement and having been treated as such under Pakistan's constitutions since independence, other Muslims have repeatedly declared the Ahmadis to be heretics. It is that latter view which the Parliament and successive governments of Pakistan have eventually come to adopt. Since 1974 Ahmadis have found themselves to be officially classified as non-Muslims and during martial law substantial restrictions began to be imposed on their religious practices. These restrictions have continued after the lifting of martial law and indeed have been extended. Moreover Ahmadis have experienced discrimination in employment and the denial of other civil and political rights and no action seems to have been taken to prevent physical attacks on themselves and their places of worship or to prosecute those responsible.

The main reason given for regarding Ahmadis as heretics is the claim by their founder to be a prophet which is said by other Muslims to be incompatible with accepting the finality of the Prophethood of the Prophet Muhammad. Ahmadis, however, deny that they are calling this finality into question as their founder was a prophet without a new law
and was, therefore, only claiming to be the inspired interpreter of the Quranic message and to be bringing the message of rebirth and renewal of the one true religion. This distinction has not, however, been readily accepted by other Muslims and they maintain that the religious practices of the Ahmadis constitute a grave affront to their religious sentiments. The hostility felt by some of these Muslims towards the Ahmadis and their agitation against them has resulted in widespread rioting on two occasions since independence – March to April 1953 and May 1974. Following the riots in May 1974 the opposition parties demanded that the government should re-classify Ahmadis as non-Muslims and a general strike was organised in support of their demands. Zulfikar Ali Bhutto, then Prime Minister, took the issue to the National Assembly which, on 30 June 1974 turned itself into a Special Committee to decide whether the Ahmadis should be officially regarded as Muslims. Its deliberations were kept secret but on September 7 it unanimously adopted the Constitution (Second) Amendment Act 1974. This added Ahmadis to the list of religious minorities for whom additional seats were to be reserved in the Provincial Assemblies (Art. 106(3)) and included the following declaration in Article 260 ('Definitions'):

"A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him) the last of the Prophets or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law."

It was thus unambiguously established that henceforward Ahmadis were no longer to be treated as Muslims. However, this constitutional change did not have any significant impact on them as the decision of the Lahore High Court in Abdur Rahman Mabsahir v. Amir Ali Shah (1978 P.L.D. 113) subsequently made clear. It was held in that case that non-Muslims (which now included Ahmadis) still remained completely "free to profess and practise their religion and enjoy complete autonomy in regard to their religious tenets and institutions" and that the constitutional amendment had not established any ground on which the court could issue an injunction to restrain Ahmadis from calling their place of worship a mosque (Masjid) or from using the traditional form of the call to prayer (Azan) in it or from offering their prayer in the manner laid down by Islam. There was, therefore, no legal obstacle to the Ahmadis continuing to profess their faith in the same way as they had prior to the amend-

ment. However, there were instances where applicants for university courses were held to have been properly refused admission because they had misrepresented their religion, having written "Islam (Ahmadi)" instead of "non-Muslim".

The first real consequence flowing from the re-classification of the Ahmadis as non-Muslims came with the constitution in 1978 of Muslims and religious minorities into entirely separate electorates for the National and Provincial Assemblies (see supra). In order to take part in elections, whether as candidates or voters, Ahmadis would thereafter have to seek registration on the electoral rolls for non-Muslims and this they have refused to do since they regard that as amounting to a denial of their faith in Islam. They were, therefore, effectively disenfranchised and this position has survived the lifting of martial law as a result of the amendments made to the Constitution by the Revival of the Constitution of 1973 Order, 1975.

Two years after the creation of separate electorates, there was an attempt to restrict the use of certain epithets, descriptions and titles relating to holy personages. Ordinance 44 of 1980 added s.298A to the Pakistan Penal Code and this provided a penalty of up to three years' imprisonment for anyone who

"by words, either spoken or written or by visible representation or by any imputation, innuendo or insinuation, directly or indirectly"

defiled the names of these personages. These were epithets, descriptions and titles that would be used in relation to Muhammad, his wife, family and successors, such as Khalifat-ul-Muslimeen and Ummul-Mumineen, and which Ahmadis would normally use in relation to Mirza Ghulam Ahmad, his wife, family and successors on the basis that he was a manifestation of the Holy Prophet. It was clearly intended to stop the Ahmadis from continuing to use them. However, the offence was not aimed specifically at them and it did not give rise to any serious problems.

A more direct interference with the religious beliefs and practices of the Ahmadis came with the adoption, also during martial law, of the Anti-Islamic Activities of Quadiani, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance (No. 20 of 1984). [The Lahori Group are the followers of those who seceded from the Ahmadis shortly after Mirza Ghulam Ahmed’s death in 1908. They do not accept the latter’s prophethood but they do adhere to his views regarding Jihad and the death of Christ and are always included in the legislation directed at the Ahmadis.] This ordinance, through the introduction of sections 298B and 298C
into the Pakistan Penal Code, made Ahmadis liable to a penalty of up to three years' imprisonment for a range of activities which identified their faith with the Islamic faith or involved its propagation. Thus, they were thenceforth prohibited from using the various epithets, descriptions and titles discussed above in referring to or addressing any person other than those listed in the ordinance and could no longer refer to their place of worship as Masjid (s.298B(1)). Nor could they thereafter refer to the mode or form of call to prayers followed by their faith as Azan or recite Azan as used by Muslims (s.298B(2)). Furthermore any Ahmadi 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"

is also liable to imprisonment (s.298C). In addition the ordinance amended the Press and Publications Ordinance, 1963 so that provincial governments could seize any books or matter which contravened the new prohibitions and also forfeit any security that had been deposited by the press responsible for printing the materials involved.

The effect of these additions to the Pakistan Penal Code has been to impose stringent limitations on the religious freedom of the Ahmadis. Not only are they prevented from using many of the Islamic forms that have been part of their traditional religious practices, but they are also expected to repudiate a central tenet of their beliefs as a result of the prohibition on associating themselves or their faith in any way with Islam. Also they can no longer seek converts from other Muslims as a result of provisions relating to propagation. Some of the offences are also framed in such broad and subjective terms that considerable discretion is left to the courts, and it is scarcely possible to know in advance whether the section is being transgressed. This is particularly true of the prohibitions on posing, directly or indirectly, as a Muslim and on outraging 'in any manner whatsoever' the religious feelings of Muslims, and the range of activities caught by them has indeed proved to be extensive.

Since the adoption of the Ordinance criminal proceedings against Ahmadis for breach of its provisions have been numerous. Thus the mission was informed of many cases where Ahmadis have been charged or convicted for having in some way displayed extracts from the Quran. For example, Mohammad Idress in Peshawar (8 September 1986), Javed and Shabir Ahmad in Mardan (17 September 1986) and Munawar Khahmed in Quetta (21 September 1986) for displaying in their shops the Kalima Tayyaba (meaning there is no God but Allah and Prophet Muhammad (peace be upon him) is his Messenger (Prophet)) and other Islamic sayings: Rana Karamatullah, Abdul Qadir, Rana Mubashir Ahmed and Aziz Qadir in Mansehra (24 and 25 October 1986) for having printed a verse from the Quran on a wedding card; and Abdul Majid, Mohammad Hayat, Rafi Ahmed and Zaheeruddin Qureshi in Quetta (10 July 1986) for wearing a Kalima Tayyaba badge. In addition there have been charges laid for preaching (Rashid Ahmed, Peshawar, 25 October 1986); for offering prayers in a mosque (Sharif Ahmad and Mohammad Yousef, Mardan, 27 July 1986); and for calling to prayers (22 people in Mardan, 17 August 1986). There were also reports of prosecutions for having used the Muslim form of greeting (Assalam-o-Alaikum) and for sitting in Ifitakf, that is, retiring into seclusion during Ramadan. In some cases the convictions have subsequently been quashed because of jurisdictional defects arising out of attempts to bring charges for more than one offence in relation to the same behaviour and thus increase the period of imprisonment beyond the maximum of three years which can be imposed for a single offence. However, there seems to have been little doubt in those cases that a conviction would have been entirely proper if the accused had been correctly charged and they have been remanded for retrial.

In addition to these prosecutions, numerous books and publications relating to the Ahmadiyya faith have also been banned and seized following the amendments made by the Ordinance to the Press and Publications Ordinance. These include translations of the Quran by Ahmadis, commentaries and other religious writings and individual issues of Ahmadi journals such as Ansarullah and Tahrik Jaddel. Moreover the declaration of the Ahmadi daily newspaper Aljazal was cancelled in December 1984 and its press has been sealed since then. Attempts to challenge the legality of this action, which is possibly vitiated by procedural defects, have been met by the repeated adjournment of the proceedings in the Lahore High Court and the case had still not been heard at the time of the mission's visit.

The scope of the Ordinance, particularly the offence of posing as a Muslim, is thus extremely broad and has been used to penalise Ahmadis who are practising fundamental aspects of their faith. There is, moreover, very serious anxiety amongst Ahmadis that an attempt may be made in the future to prosecute them for other Islamic practices such as offering Namaz, paying Zakat, performing Hajj or keeping fast (Roza) or even for wearing the clothing that is associated with Muslims. Certainly it appears sufficient from the cases that have already been decided for an
Ahmadi to be regarded as posing as a Muslim if he engages in any practice which other (non-Ahmadi) Muslims would carry out and it is irrelevant that it is part of his own religious observance. Moreover, insofar as the reference in s.298C to outraging the religious feelings of Muslims is a separate element in the offence, it seems always to be satisfied by the fact of engaging in the religious practice and evidence is not adduced of any disorder or any other signs of outrage. Because of the breadth of the offence Ahmadis in some towns have felt obliged to paint out all signs from the outside of their mosques in order to avoid the risk of prosecution. Their concern appears to have been justified in view of the order issued under the Criminal Procedure Code, s.144 by the District Magistrate of Quetta, and subsequently executed by him, that the Kalima Tayyaba be erased from the outside of the Ahmadis' mosque. A similar notice was served on Mujibur Rehman and others by the Assistant Commissioner, Rawalpindi on 29 December 1986 by which they were required to remove the Kalima Tayyaba from the outside of their mosque in the Murree Road within 15 days or face prosecution under s.298C. It is now feared that this threat will be used to require the removal of any features which make the Ahmadi places of worship mosque-like, namely, arches (mehrab), minarets and pulpit (minber), particularly in view of the demands of groups such as Tehrik-e-Khatam-e-Nabuwwat that the government demolish them and in view of the attacks on Ahmadis mosques (see below).

There can be little doubt, therefore, that Ordinance 20 of 1984 has resulted in a substantial curtailment of the freedom of Ahmadis to practise and profess their religion. An attempt to challenge its validity was made in the case of **Mujibur Rehman v. Federal Government of Pakistan** (1986 F.S.C. 1051). The Federal Shariat Court was asked in that case to exercise its jurisdiction under Article 203D of the Constitution and rule that the Ordinance was contrary to the injunctions in the Quran and the Sunnah of the Holy Prophet. The Court, having stated that Parliament had acted within its authority in declaring Ahmadis to be non-Muslims given the doctrinal differences between them and Muslims, went on to hold that there

"was no bar Constitutional, legal or Shari against the right of a non-Muslim to declare the unity of Allah, to acknowledge the Holy Prophet (P.B.H.) as truthful in his claim, to acknowledge the Quran as furnishing a good way of life and to act upon its injunctions" (p.1145).

However, it rejected the submission that the prohibition against Ahmadis calling themselves Muslims or posing as such amounted to turning them out of their religion, namely Islam, since the Ordinance merely "restrains them from calling themselves what they are not". Furthermore, while maintaining that the Muslim Sharia afforded full protection to the practice of religion by non-Muslims as well as to its profession, the Court then went on to justify the need for the provisions in the Ordinance in their entirety.

In the view of the Federal Shariat Court the prohibition on posing as Muslims was necessary because the Ahmadis had not accepted the obligation to call themselves non-Muslims which had been created by the amendment to Article 260 of the Constitution in 1974 and because of the threat to law and order posed by the hostility of Muslims to Ahmadis. Thus, the Court considered that the Ahmadis should after the amendment to Article 260

"have refrained from directly or indirectly posing as Muslims but they obstinately persevered in trying the patience of the Muslim Ummah by acting contrarily"

and because of this persistence it became necessary to prevent Muslims from being deceived into thinking Ahmadis were Muslims. This aspect of the Ordinance was thus justified in the first place as being in implementation of the 1974 amendment to the Constitution. It was, however, also justified because Ahmadis

"by posing themselves as Muslims try to propagate their religion to every Muslim they come across. They outrage his feelings by calling Mirza Sahib [Mirza Ghulam Ahmad] a Prophet because every Muslim believes in the finality of prophethood of Muhammad (P.B.H.). This creates a feeling of resentment and hostility among the Muslims which gives rise to law and order problems. His claim of being a promised Messiah and Mehdi was also resented".

The existence of a law and order problem was supported by references to the disorders that occurred during the life of Mirza Ghulam Ahmad and also afterwards (notably the riots in 1953 and 1974) but there was no indication of the existence of any problems at the time when the Ordinance was adopted other than the statement that

"Section 298C of the Pakistan Penal Code ... furnishes proof of the restlessness and anger of the Muslims on matters ultimately prohibited by the Ordinance".
As far as the prohibition on Ahmadis calling Azan was concerned, this was said to be justified on the basis that this was a distinguishing feature (Shia'ar) of Islam and under the Islamic Sharia it was within

"the legislative power of the Islamic State to provide punishment for the non-Muslim who does not abstain [sic] himself from adopting the shia'ar of Islam as has been provided in the impugned ordinance"

and a similar justification was given for the prohibition on Ahmadis using the word 'masjid' to describe their places of worship. Finally, with respect to the ban on propagation, the Court held that the Quran did not support any right for non-Muslims to propagate or preach among Muslims but nonetheless it was for

"the Islamic State to allow the non-Muslims to preach their religion as has been done in Article 20 of the Constitution but this can be allowed if the non-Muslims preach as non-Muslims and not by passing off as Muslims".

Furthermore, the Court yet again emphasised the importance of law and order and took the view that the restriction imposed by the Ordinance on propagation fell within the 'law, public order and morality' limitation on freedom of religion in Article 20 of the Constitution.

This judgment seeks to give the impression that the Ordinance's provisions, while imposing restrictions that are no more than necessary, do not involve any real interference with the freedom of Ahmadis to practise their religion or to worship in their places of worship according to its dictates. However, it is evident from the many prosecutions brought against Ahmadis since the judgment of the Federal Shariat Court was given in August 1984 that this is far from so; they have been prosecuted for offering prayers, for the rite of calling their followers to prayer and for using the Quran itself, to say nothing of having their translation of the Quran proscribed. The prohibitions created by the Ordinance and now being enforced clearly strike at the heart of the practice of the Ahmadiyya faith and the Court itself explained why this must be so: the Ordinance was said to be necessary because the Ahmadis would not deny that in which they believe, namely, that their faith is part of the broad spectrum of Islam.

The other justification for taking these particular measures against one of an estimated 150 sects in Islam was a concern to maintain law and order. This is undoubtedly a factor to be balanced against the exercise of freedom of religion as Article 20 of the Constitution itself provides. However, the Court's explanation as to why there is any threat is solely in terms of the outrage, resentment and hostility which non-Ahmadi Muslims are said to feel towards Ahmadis practising their faith; there was certainly no suggestion by the Court that the Ahmadis were themselves seeking to instigate disorder. It is not clear, therefore, why the State should be justified in backing the refusal of some Muslims to tolerate the religious practices of others anymore than it would be in supporting an assailant against his victim.

Moreover the claim that public order considerations lie behind the restrictions that are imposed on the Ahmadis does not rest easily with the way in which the government itself appears to encourage the resentment felt by some Muslims towards Ahmadis. Thus, all official references to Ahmadis employ the perjorative term Qadiani and an application form for a passport requires all Muslims to declare that they believe in the finality of the prophethood of Muhammad, that they do not recognise any person who claims to be a prophet after Muhammad as a Muslim and that they "consider Mirza Ghulam Ahmad Qadiani to be an imposter nabi and also consider his followers ... to be non-Muslim". A similar declaration is required when applying for government employment. In addition, many members of the government have been reported as making speeches which are extremely hostile towards Ahmadis. For example, President Zia in a message to the International Khâmt-e-Nabuwat conference in London (August 1985) referred to the measures taken against Ahmadis and said "We will, Insha’Allah, persevere in our effort to ensure that the cancer of Qadianism is exterminated"; Mr. Ghulam Dastgir, Federal Minister for Labour was reported in the Daily Wifaq (20 May 1984) as saying that Ahmadis should be removed from their jobs and were said to be pagans and to be against Islam; and Mr. Malik Khuda Buksh Tiwana, Provincial Minister for Auqaaf was reported in Mashraq (28 February 1986) as saying that the Qadianis in Pakistan would be made impossible and the Ulema were urged "to guide the Government for the eradication of this issue". Even more hostile remarks by private citizens in the press and on the broadcast media pass unchallenged despite the prohibitions in the Pakistan Penal Code on promoting enmity between different religious groups (s.153A) and on outraging the religious feelings of any class by insulting its religion or religious beliefs (s.295A). No action was taken, for example, after a broadcast on Pakistan Television (16 November 1986) in which Dr. Mujeeb-ur-Rehman said "anyone who makes a claim of prophethood in any form and shape is a liar ... and an Islamic Government ...
is bound to order that either he should enter the fold of Islam or he be killed. There can be little doubt that such statements only help to inflame tensions and this seems rather reckless, particularly as the number of assaults on and murders of Ahmadis where the victim's religion was a motivating factor appears to be increasing. For example, both Dr. Aqeel and Babu Abdul Ghaffar, had their throats cut while they were the head of the Ahmadiyya community in Hyderabad.

Furthermore the government appears to be either ignoring unprovoked attacks on Ahmadi places of worship or allowing public order to be used as a pretext for stopping acts of worship. Thus their mosque in Mardan, North West Frontier Province was ransacked and then reduced to rubble shortly after the police, on Eid day, 17 August 1986, had arrested all the Ahmadis gathered there for prayers. While many of the Ahmadis were prosecuted or charged under S298C of the Pakistan Penal Code (see above), no proceedings have been brought against those involved in the demolition of the mosque despite an information being laid and the pictures of many of those involved being published in newspapers. The government has not awarded the Ahmadis in Mardan any compensation for the destruction of their mosque and indeed the Daily Nawa-i-Waqt printed on 8 September 1986 a report of an agreement between the government and the International Majlis Tahafuzz-e-Khatm-e-Mubawwat that the mosque would not be allowed to be rebuilt. An Ahmadi mosque in Rahwali has also been destroyed and the mosques in Bhakar, Jhang and Sadar have been set on fire.

A number of Ahmadi mosques have also been sealed up on the instructions of local officials. For example, the mosque in Quetta was closed down and put under police guard on 9 May 1986 when a mob arrived outside and threatened to take it over. There had been advance warning of possible trouble, both in threatening letters and newspaper reports of various groups declaring that they would take action if the government did not change the mosque-like shape of the Ahmadis's place of worship by demolishing the meharab, minarets and minbar. The District Magistrate was contacted for help but only a handful of police came at first and they did not direct the mob away from the mosque. When the Deputy Commissioner arrived he requested the Ahmadis to leave and then, after they had refused to do so, he directed their dispersal under s.144 of the Criminal Procedure Code. Everyone inside the mosque, other than the children was then arrested and detained for four days. They were ultimately acquitted on the charge of disobeying the order of a public servant (Pakistan Penal Code, s.188). Meanwhile the mosque was sealed up and put under police guard. Although the arrest and dispersal of the Ahmadis in this way might be an adequate response to a difficult policing situation, there has been no explanation for the failure either to take appropriate preventive action against the mob which had initiated the threat to public order or to bring proceedings against those who took part. Moreover it is doubtful whether the maintenance of public order was the real consideration underlying the official intervention since the mosque was still under police guard during the visit of the mission seven months later. Attempts to challenge this continued sealing of the mosque have so far proved unsuccessful and, as there has been no response to requests for an alternative place to offer prayer, the Ahmadis at present have to pray in a garage. It is scarcely credible that it is not possible for the police to guarantee the members of a religious group the freedom to worship in their own mosque but there seems to be no intention of trying to do so. Ahmadi mosques have also been sealed up in Gujrat, Musewala and Sahiwal on the orders of the District Magistrate.

Further measures to control the activities of Ahmadis have been, or are in the process of being, adopted. Thus, in February 1986 the government established a committee with a brief to monitor the implementation of the laws concerning Ahmadis and to consider suggestions as to how to restrain them from presenting themselves as Muslims. In October 1986 Parliament passed the Criminal Law (Amendment) Act, 1986 which added s.295C to the Pakistan Penal Code. This provides that

"Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine".

This new offence of blasphemy, with its extremely severe penalty, is likely to make it even more difficult for Ahmadis to pursue their faith as the application of the previous legislation has already established the way in which their teachings are viewed. There can be little doubt that the specific claim to prophethood for Mirza Ghulam Ahmad, whatever the qualifications applied to it, will inevitably be regarded as a defilement of the Holy Prophet but almost any other tenet of the Ahmadi faith or even an admission of being an Ahmadi could be regarded as amounting to defilement by "imputation, innuendo or insinuation".

Having set up a committee in September 1986 to scrutinise and check the periodicals and other literature which were being published by Ahmadis, the government has introduced a Bill into Parliament which
would further extend its power to suppress their publication. National Assembly Bill 13 of 1986 is intended to become the Publication of the Holy Qur'an (Elimination of Printing Errors) (Amendment) Act and was introduced, according to its statement of objects and reasons, in order "to provide for the punishment of a non-Muslim author who translates, interprets or comments upon an Ayah of the Holy Qur'an contrary to the belief of Muslims as also the printer or publisher of such translation, interpretation or commentary". The only defence will be that the impugned translation, etc., occurred as a result of a printing or mechanical error and the penalty for any contravention of the Act will be up to three years' imprisonment. Although Ordinance 20 of 1984 has proved effective in securing the suppression of many publications produced by Ahmadis, including the Quran, this new criminal offence has the potential for suppressing anything about their faith with which non-Ahmadi Muslims disagree. The fact that many of these developments have emanated from the Council of Islamic Ideology has strengthened the fear of many Ahmadis that another of its proposals will in its turn be adopted, namely that there should be an offence of apostasy, under which any Muslim renouncing Din-i-Islam or any of its essentials (such as the finality of the prophethood of Muhammad) would be punished with death.

Apart from being subjected to restrictions on the practice and profession of their faith, Ahmadis are also being denied other civil and political rights. Thus the mission was told of various incidents where Ahmadis appeared to lose their jobs or were denied promotion because of their faith. Some of these appear to have been simply the reaction of private employers to the adoption of Ordinance 20 of 1984 but there has also been some official prompting; some provincial officials have indicated to employers that Ahmadis should not hold 'key' positions and they have been removed as a result. This form of discrimination should not happen in the public service as it is specifically prohibited by Article 27 of the Constitution but the mission received information about cases of appointments and promotions in the armed forces, the civil service and the judiciary being denied because the applicant was an Ahmadi. Furthermore the growing interest in whether or not public office-holders are Ahmadis suggests that they are likely to be the object of increased discrimination in the future. Thus, in May 1986 the Federal Government received updated lists from the provincial governments of all the Ahmadis who held 'key' government posts following the demand of the Majlis-e-Khatme Nabuwaat that they be removed from their posts and a committee was established by the North West Frontier Provincial Assembly on 3 July 1986 to look into the appointment of Ahmadis to high posts in the province. The re-classification of Ahmadis as non-Muslims in itself means that they are no longer eligible for certain posts such as the Presidency or membership of the Shariat Appellate Bench of the Supreme Court and of the Federal Shariat Court. Moreover Ahmadi lawyers cannot argue before the latter court when it is exercising its jurisdiction to decide whether or not a law is repugnant to the injunctions of Islam (Art. 203E(4)). This is likely to prove a serious handicap if this particular jurisdiction is extended in the manner proposed by the Constitution (Ninth Amendment) Bill, although they have not been prevented from being a party in any proceedings to test the repugnancy of a law.

Furthermore, as has already been indicated, Ahmadis are now effectively disenfranchised because the creation of separate electorates means that they can only vote and stand for election if they accept that they are not Muslims, in other words they must repudiate a central tenet of their faith in order to vote. There has also been the repeated refusal to allow the Ahmadis to hold the annual meeting of their faith at its headquarters in Rabwah. It is claimed that this refusal is for public order reasons even though the overwhelmingly majority of the people living there are Ahmadis and most of the land is theirs. Moreover non-Ahmadi Muslims have been allowed to hold meetings there. A final indignity has been the redesignation of where Ahmadis can be buried and the exhumation and reburial of those already interred. The new cemeteries may be a considerable distance away from the original ones and as a result more difficult for relatives to visit. This has happened both in Punjab and Sind provinces.

It is only the non-Muslim religions that are formally recognised by the government and the Constitution as constituting minorities and for whom any special, albeit not entirely favourable, arrangements are considered appropriate. The only way in which the interests of the various linguistic and cultural groupings in the provinces can be protected, therefore, is through the constitutional provisions establishing provincial governments and assemblies. However, the impression gained by the mission was that many of these groupings considered that the present constitutional arrangements were by no means adequate to safeguard their interests and indeed that their position was being subordinated to that of the majority Punjabi community. Moreover their attempts to campaign for the Constitution to be amended, so that there would be a much greater degree of provincial autonomy than at present and as a result more protection for their interests, are not being tolerated by the government.
Ethnic Minorities

It should also be noted that the mission received a number of allegations in the Punjab province about attacks on Shia Muslims by the majority Sunni Muslims. The allegations were that several of their places of worship had been set on fire and their religious processions had been disrupted. Although, these alleged attacks did not appear to be widespread, there was some concern about the controversy being stirred between these two Muslim sects by the fundamentalists and a fear that the much smaller Shia sect would suffer similar restrictions to those of the Ahmadis.

The grievances of many of the people that the mission met in the provinces of Baluchistan, North West Frontier and Sind were quite wide-ranging but were essentially concerned with securing the preservation of their cultural identity and obtaining a guarantee of equality, both in the provision of resources and of opportunity. Thus, for example, it was contended that the educational facilities in Baluchistan were grossly inferior to those in other provinces and this affected the employment opportunities of the people from the province. It was also argued that it was unfair for central government to have so much control over resources, natural gas and minerals, when similar control was not being exercised over the agricultural resources of the other provinces. Moreover the royalties paid back to Baluchistan’s provincial government were regarded as an unfair share of the profits which left the province without sufficient funds for its future development. In both Baluchistan and North West Frontier provinces there was a strong sense of grievance on the part of the persons met by the mission about the continued failure to stop refugees from Afghanistan occupying the pastures that they had used to graze their cattle and establishing and taking over businesses in the towns. The mission also received complaints about the serious under-representation of citizens from all three provinces in the armed forces and the federal government service and about the fact that even many key positions in their provincial government services were occupied by people from the Punjab. It was also considered that the cultural identity of the Baluchs and the Pashtoons was being undermined because the Provincial Assemblies would not permit the use of Baluchi or Pashtu as a medium of instruction but only Urdu and English. In Sind the mission heard complaints that the government had handed over agricultural land to retired army officers and civil servants from the Punjab. Finally there was a suggestion that the present provincial boundaries were simply a continuation of the colonial arrangements made by the British and did not reflect the actual distribution of some of the cultural groupings. In particular it was felt that the northern part of Baluchistan should be united with North West Frontier Province as the people living there were also Pashtoons.

Although these grievances are not shared by everyone in the three provinces and the extent to which they are well-founded could not be fully established, it was clear to the mission that those complaining lacked any confidence in being able to secure effective redress under the existing distribution of power between the federation and the provinces. As a result they were seeking either substantial autonomy for the provinces or their complete separation as the states of Azad Baluchistan, Pakhtoonistan and Sindhudesh. Certainly at present there is very little autonomy left to the provinces under the Constitution. Thus, although there are a number of areas in which they have legislative competence this is only exclusive in respect of those matters which are not enumerated in the two very extensive lists of what is solely for the Federal Parliament and of what that body can legislate upon concurrently with the Provincial Assemblies (Art. 142). In those latter areas Federal legislation will always take precedence (Art. 143). The executive authority of the provinces must be exercised so as not to impede the exercise of the executive authority of the Federation and, although they may have delegated authority to act on behalf of the latter, they are also subject to its directions in a range of matters including public order and the economy (Arts. 137 and 145-149). Although the provinces do have some powers of taxation, they mainly depend upon the allocation of federal taxes and other grants-in-aid as determined by the President on the recommendation of the National Finance Commission, a body comprising the Federal and Provincial Finance Ministers (Arts. 160 and 163). Furthermore, following a declaration of emergency by the President, the Federation can take over both the legislative and executive functions of the Provinces (Art. 232).

The limited nature of the autonomy left to the provinces antedates martial law but it was further undermined by the enhanced executive role given to the Governor, a Presidential appointee, as part of the amendments made when the 1973 Constitution was brought back into force in 1985. Thus, the executive authority of each province is now vested in the Governor and not just exercised in his name (Art. 129); he can require bills and ministerial decisions to be reconsidered before their adoption (Arts. 116 and 131); he is able until 1988 to determine which person commands the confidence of the Provincial Assembly and should be appointed as Chief Minister (Art. 130); and he can dissolve the Assembly, with the prior approval of the President, where he considers that a situation has arisen in which the government of the province cannot be carried on in accordance with the Constitution and an appeal to the electorate is neces-
Sary (Art. 112).

Such an increase in the control that can be exercised directly or indirectly by the Federal Government, of course, runs counter to the campaign for greater provincial autonomy by bodies such as the Sindh Baluch Pashtoon Front. However, the prospects for it being allowed to campaign freely for an expansion of the powers of the provinces, let alone for anyone seeking complete separation, look remote despite the lifting of martial law. This is because, having been excluded from the non-party elections of 1985, it is increasingly unlikely that the Front's candidates will be allowed to stand for election, either at the national or provincial level, if subsequent elections are held on a party basis. They are likely to be barred since the government takes the view that the campaign for provincial autonomy, which necessarily involves criticism of the Army and of the Punjab's domination of the other three provinces, amounts to sedition (Pakistan Penal Code, s.124A). Under this offence advocacy of change by lawful means is not a defence if hatred, contempt or dissatisfaction is excited against the Federal or Provincial governments and this is apparently considered to be the likely result of the complaints being made. During the visit of the mission several leaders of the Sindh Baluch Pashtoon Front, were in detention pending their trial on such a charge. Those who support a more radical remedy, namely, the provinces becoming separate states, are likely to fall foul of s.123A of the Pakistan Penal Code which prohibits anyone advocating "the curtailment or abolition of the sovereignty of Pakistan in respect of all or any of its territories" and indeed the police in Mirpur Bathoro registered a charge under this section against 35 people calling for the creation of Sindhudesh on 11 December 1986. Again this is a charge which will stifle the advocacy of change even though it is intended that it should be achieved by constitutional means. There appears, therefore, to be no possibility of lawfully seeking a revision of the constitutional arrangements concerning the provinces as a remedy for the grievances felt by many who live in Baluchistan, Sind and North West Frontier Province.

Conclusions

Despite the lifting of martial law there continue to be serious interferences with the freedom of religious minorities, to a very considerable extent in the case of the Ahmadis but also significant as regards the non-Muslim minorities. As far as the latter are concerned the return of schools to religious control is clearly a welcome development. Nevertheless the members of these minorities and their churches are experiencing some difficulties, particularly with local administration, and the failure to prevent attacks on their churches and temples is extremely disturbing. Their political freedoms have been adversely affected by the institution of separate electorates and they are also in a state of uncertainty as to the impact that the Islamisation process will have on their religious observances. It is vital, therefore, that the non-Muslim minorities be assured by the government that the present constitutional guarantees with respect to religious freedom and equality are not going to be eroded and that strenuous efforts are made to ensure that they are respected at all levels. Equally it is important that steps be taken to safeguard their temples from future attacks. Finally, if it is not possible to replace the system of separate electorates, perhaps with the representation of the concerns of minorities alongside other special interests in the Senate, the government ought to reconsider the use of nationwide constituencies for election to the National Assembly.

The Ahmadis have suffered a relentless decline in their religious freedom ever since measures began to be taken during martial law in pursuance of the 1974 amendment to the Constitution that re-classified them as non-Muslims. Although they are assured by the government that their religious freedom will be respected, this is only on the basis that they cease to perform essential rites of the religion and no longer worship in buildings designed and decorated to reflect their belief in the Quran. In effect, therefore, the religious freedom they are offered is for a religion which is not their own. Moreover, while there are public order concerns arising out of the hostility of some Muslims to Ahmadis, these are not being instigated by the Ahmadis. On the contrary, they are suffering violence both to their person and their places of worship with no serious attempt being made to afford them protection. Indeed, members of the government have encouraged the feelings of hostility. The measures against the Ahmadis which were introduced during martial law have been added to since the restoration of civilian rule and it seems improbable that, if these and others planned are implemented, Ahmadis will be able to follow their faith without risking their life or prolonged imprisonment. Moreover Ahmadis appear to be suffering extensive discrimination on account of their faith. There are undoubtedly substantial doctrinal differences between the Ahmadiyya and other Muslim sects but the recognition of Islam as the state religion and the maintenance of public order do not require the persecution which the Ahmadis are currently enduring. The government should, therefore, reverse the measures which it has been taking against the Ahmadi community and take steps to ensure that they
do not suffer unlawful discrimination or attacks on their person and places of worship. It should also seek to prevent similar hostility to that engendered against the Ahmadis from being stirred up against the Shia Muslims.

The mission encountered a strong sense of grievance on the part of Pakistan's cultural and linguistic minorities and, while it was not possible to verify all the claims, it was apparent that they are facing serious problems in simply campaigning for redress. The present balance of power between the Federation and the Provinces is clearly weighted in favour of the former and, although this is capable of being justified, it is regrettable that those who wish to change the balance as a way of securing redress for these minorities should be regarded as criminals, even though they wish to proceed by entirely constitutional means. It is to be hoped, therefore, that the government will remove the various obstacles which prevent the groups representing these cultural and linguistic minorities from taking part in the political life of Pakistan.

Chapter IX

The Impact of Islamisation on the Rights of Women

Pakistan – An Islamic State

That Pakistan is an Islamic State is unequivocally stated in the title, preamble and clause one of the 1973 Constitution - “The Constitution of the Islamic Republic of Pakistan”. As the preamble states, the Constitution represents a "faithful[ness] to the declaration made by the Founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, that Pakistan would be a democratic State based on Islamic principles of social justice; Dedica-
tion to the preservation of democracy achieved by the unremitting struggle of the people against oppression of tyranny; inspired by the resolve to protect ... national and political unity and solidarity by creating an egalitarian society through a new order ...”, and Chapter IX of the Constitution contains the "Islamic provision", which includes the means for laws to be brought in conformity with the injunctions of Islam, and the establishment of the Council of Islamic Ideology to recommend legislative changes to Parliament and Provincial Assemblies.

The principles of an Islamic ideology based on democracy and social justice were envisaged at the very beginning of the establishment of Pakistan as an independent nation; and Muslim men and women alike believed that they would be equal before the law.

This belief is reflected in Article 25 of the 1973 Constitution:

"(1) All citizens are equal before law and are entitled to equal protection of law."