

PROFILE SERIES

PAKISTAN

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NOTE: This paper has been particularly written to address the information needs and issues of concern to U.S. Asylum Officers and other Immigration Officers. As such, it may not be exhaustive in its coverage of human rights issues within the country. To facilitate timely access, certain information has been repeated in several sections of this paper.

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Partial List of Acronyms, Explanations & Names

AJK	Azad Kashmir (Kashmir)
APNS	All-Pakistan Newspapers Society
Benazir Bhutto	....	Prime Minister (October 1993-present and 1988-1990)/Chair of the PPP
Zulfiqar Ali Bhutto	.....	Former Prime Minister (1971-1977)/Founder of the PPP
CIA	.....	Criminal Investigation Agency
CPNE	.....	Council of Pakistan Newspaper Editors
CrPC	.....	Criminal Procedure Code
FATA	.....	Federally Administered Tribal Areas
Hadood (Huddood, Hadd) Ordinance	.....	1979 ordinances mandating punishments for violating Islamic norms
IDA	.....	Islamic Democratic Alliance (of ex-Prime Minister Nawaz Sharif)
IJI	.....	Islami Jamhoori Ittehad (of ex-Prime Minister Nawaz Sharif)
Jeay Sindh	.....	a Sindi nationalist party
JKLF	.....	Jammu and Kashmir Liberation Front
Ghulam Ishaq Khan	.....	Former President of Pakistan (December 1988 - July 1993)
Khatme-Nubwwat	.....	an anti-Ahmadi organization
MNA	.....	Member of the National Assembly
M.O. - 16	.....	part of Pakistan Penal Code
MPA	.....	Member of the Provincial Assembly
MPO	.....	Public Order Ordinance
MQM	.....	Mohajir Quami Movement (also National Front)
National Front	.....	related to the Mohajir Quami Movement
NOC	.....	No Objection Certificate
PDA	.....	People's Democratic Alliance (allied with PPP)
PLB	.....	People's Labor Bureau
PPC	.....	Pakistan Penal Code
PPP	.....	Pakistan People's Party (Bhutto's party)
PTN	.....	Pakistan Television Network
Wasim Sajjad	.....	Interim President of Pakistan(July 1993 - present)
Shari'a	.....	Islamic Law
Nawaz Sharif	.....	Former Prime Minister(1990 - July 1993)
Moeen Qureshi	.....	Interim Prime Minister (July 1993 - October 1993)

I. CURRENT OVERVIEW OF PAKISTAN

UPDATE:

On April 18, 1993, President Ghulam Ishaq Khan dismissed the Government of Prime Minister Nawaz Sharif on charges of corruption and dissolved the National Assembly.

President Khan named a caretaker administration of four men, including members of Sharif's party and Benazir Bhutto's People's Party of Pakistan (PPP). Bulakh Sher Mazari, a long-time Parliament member, was appointed as interim Prime Minister. New elections were scheduled for July 1993.¹

On May 26, 1993, however, the Supreme Court of Pakistan ruled the President's actions unconstitutional and restored Prime Minister Nawaz Sharif, the National Assembly and the Cabinet to power. According to the Supreme Court, all steps taken pursuant to the order dated April 18, 1993 passed under Article 58 (2B) of the Constitution, such as the appointment of the caretaker Government, were without legal effect. All actions of the caretaker Government which were undertaken in accordance with the Constitution and which were required for the orderly running of the state were considered to be valid and legal.²

¹ Gargan, Edward A., "President of Pakistan Dismisses Premier and Dissolves Parliament," *New York Times* (New York: 19 April 1993), p. A3. See also: Anderson, John Ward, "Pakistani Government Ousted, Election Pledged," *Washington Post* (Washington, D.C.: 19 April 1993), p. A1. See also: Bourke, Gerald, "Pakistan PM Fights Sacking in Court," *Guardian Weekly* (London: 25 April 1993), p. 8. See also: "President Explains Decision to Dismiss Sharif and Dissolve Assembly," *British Broadcasting Corporation: Summary of World Broadcasts* (London: 20 April 1993) as reported on NEXIS.

² "Supreme Court Overturns President's Dismissal of Sharif," *Islamabad PTV Television Network* (Islamabad: 26 May 1993) as reported in the Foreign Broadcast Information Service [FBIS], *JPRS Report: Near East and South Asia*, 26 May 1993, p. 53. See also: Moore, Molly, "Pakistani Court Restores Premier," *Washington Post* (Washington, D.C.: 27 May 1993), p. A37.

Following several weeks of political turmoil and a threat by PPP Chairperson Benazir Bhutto to march on Islamabad with hundreds of thousands of supporters, the Army Chief, General Abdul Waheed, convinced the Pakistani President and Prime Minister to resign. On July 18, 1993, President Ghulam Ishaq Khan and Prime Minister Nawaz Sharif announced their simultaneous resignations. The National Assembly was dissolved and Moeen Qureshi, a former World Bank senior vice president, was sworn in as the caretaker Prime Minister. General elections were scheduled for October 6, 1993. The Chairman of the Senate, Wasim Sajjad, has been serving as Acting President. Caretaker provincial governments were also appointed and were headed by retired army officials, bureaucrats and judges.³

In a surprising turn of events during the October 6, 1993 election, former Prime Minister Benazir Bhutto and her People's Party of Pakistan (PPP) won, by a narrow margin, the majority of the contested seats in the 217-member National Assembly. The PPP won 86 seats; 72 seats were claimed by Bhutto's chief rival, Pakistan Muslim League leader and former Prime Minister Nawaz Sharif. As Bhutto did not win the 109-seat majority required for automatic selection as the country's premier, a National Assembly vote was taken on October 19th. Bhutto was elected Prime Minister (121 to 72) and returns to office as head of a minority Government.⁴ International observers pronounced the election, conducted under heavy military security, to be fair. Wasim Sajjad will continue to be Acting President until the

³ "Pakistan: A New Beginning," *Economist* (London: 24 July 1993), p. 34.

⁴ Moore, Molly, "Former Premier Bhutto Wins Narrow Plurality in Pakistan," *Washington Post* (Washington, D.C.: 7 October 1993), p. A29. See also: Gargan, Edward, "Benazir Bhutto Returns as Leader of a Poor and Troubled Pakistan," *New York Times* (New York: 19 October 1993). See also: "Bhutto's Nominees Win in Punjab/Sindh," *Kyodo News Service* (Tokyo: 20 October 1993) as reported on NEXIS.

National Assembly elects a new President. In important provincial elections in Sindh and Punjab, PPP nominees have been elected as chief ministers of both provincial assemblies.

1.1 Facts

Official Name: Islamic Republic of Pakistan

In 1947, British India was partitioned into two countries: India and Pakistan.

The country of Pakistan was composed of two parts: East Pakistan (now Bangladesh) and West Pakistan (now Pakistan). In the months immediately following the partition of the sub-continent, approximately fourteen million people crossed the borders between the newly-created countries. Eight million Muslims in India fled to East and West Pakistan and six million non-Muslims fled to India. This population movement resulted in the loss of thousands of lives.

In 1956, Pakistan (East Pakistan and West Pakistan: one country separated by a thousand miles of India) adopted its first Constitution and became an Islamic republic.

In 1971, East Pakistan separated from West Pakistan and became the country of Bangladesh. In 1971, West Pakistan changed its official name to the Islamic Republic of Pakistan.

Capital: Islamabad is part of the Federal Capital Area which is surrounded by the province of Punjab.

Population: 114,650,000

Regions:

Federal republic comprised of 4 provinces: Punjab, Sindh, North West Frontier Province (NWFP) and Baluchistan; and federally administered tribal and northern areas, and the federal capital area of Islamabad.

Political Structure: Federal Republic

Presidents:

Wasim Sajjad (interim president)	July 1993 - present
Ghulam Ishaq Khan	December 1988 - July 1993
Muhammad Zia ul-Haq	September 1978 - August 1988

Prime Ministers:

Benazir Bhutto	October 1993 - present
Moeen Qureshi (interim prime minister)	July - October 1993
Nawaz Sharif	November 1990 - July 1993
Ghulam Mustafa Jatoi	August 1990 - November 1990
Benazir Bhutto	December 1988 - August 1990

The President is the head of state and is indirectly elected for a five-year term by an electoral college consisting of members of the national and provincial assemblies and the Senate. Under the 1973 Constitution, the President must be a Muslim and must act on the advice of the Prime Minister. In November 1988, the Eighth Amendment to the Constitution radically altered this power relationship by giving the President the power to dismiss the National Assembly, Prime Minister and Cabinet. This power has been exercised by President Zia ul-Haq to dissolve the Junejo Government (1988), and by President Ghulam Ishaq Khan to dissolve Benazir Bhutto's Government (1990) and the Sharif Government (1993). The last dissolution, however, was ruled unconstitutional by Pakistan's Supreme Court.

The President may be impeached for violating the Constitution or for gross misconduct.

Religion: Islam 97% (with a Sunni majority)

Pakistan is an Islamic republic with a population that is 97 percent Muslim. The Constitution requires all laws to be consistent with Islam.⁵ Religious minorities include the Christians, Hindus, Zoroastrians, as well as the Ahmadis.

An increase in the influence of Islamic fundamentalism and politics is leading to a rise in sexual discrimination, religiously-motivated harassment, and related human rights violations.⁶ The Ahmadi sect, which considers itself to be Muslim while orthodox Muslims consider them to be heretics, has historically been the target of discriminatory legislation at the national level. In 1974, the Government of Prime Minister Zulfikar Ali Bhutto amended the Constitution to declare the Ahmadis a non-Muslim minority. In April 1984, the Government of President Zia ul-Haq banned the use of Muslim terminology and proselytizing by the Ahmadis.

Ethnic Groups:

Punjabi, Sindhi, Pashtun, Baluchi, as well as the Mohajirs.

⁵ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

⁶ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi, Vol. 33, No. 4, 1991), p. 107-114. See also: Amjad-Ali, Christine, "The Shariat Bill," *Al-Mushir* (Rawalpindi, Vol. 32, No. 4, 1990), p. 108-109, 115-116.

The Mohajirs are those Muslims who fled from the north-central region of India after partition. The Urdu word, 'mohajir,' means refugee and has a connotation of sacrifice for the cause of Pakistan.

The province of Sindh has a diverse ethnic make-up with the resultant ethnic tensions. The other provinces, however, have relatively homogenous ethnic populations.

Official Languages: Urdu and English

Urdu is spoken by only 8% of the population and English by 2%. Punjabi is spoken by 63% of the population.⁷

In addition, each ethnic group has its own language and numerous dialects are spoken.

For a chronology of the history/Governments of Pakistan, please refer to Appendix I.

⁷ Kurian, George Thomas, Ed., "Pakistan," *Encyclopedia of the Third World* (New York: Vol. II, Facts on File, 1992), p. 1471.

1.2 Human Rights and Politics in Pakistan

An objective analysis of the current human rights situation in Pakistan cannot be separated from the prevailing climate of lawlessness and violence, the politics between the national Government and its major opposition party, and the rise of Islamic fundamentalism.

In assessing these conditions, it should be recognized that a connection exists between these important political developments in Pakistan and the failure of the national Government, most recently under former Prime Minister Nawaz Sharif, to address the serious human rights problems facing the country.⁸

This paper discusses the basic human rights situation in Pakistan, particularly the situation of the Ahmadis, the People's Party of Pakistan (PPP) and the Mohajir Qaumi Movement (MQM). In addition, brief sections discuss religious minorities in Pakistan and gender-based violence against women.

1.2.1 The Ahmadis

The Ahmadis consider themselves to be a Muslim sect, but many orthodox Muslims consider Ahmadis to be heretics. This is a result of doctrinal differences: the Ahmadis call the founder of their movement al-Masih (the Messiah) and orthodox Muslims believe that this implies that Muhammad is not the final "seal of the prophets" or the prophet who carried the

⁸ Lawyers Committee for Human Rights, "Pakistan," *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1991* (New York: Lawyers Committee for Human Rights, July 1992) p. 253.

final message from God to humanity. As a result of these divergences, the Ahmadis have been declared by law to be a non-Muslim minority by the Pakistani Government and have reportedly been subjected to discrimination in employment and education, and harassment for the peaceful exercise of their religious beliefs.

The Islamization of Pakistan has brought about legislation which has rendered illegal several religious observances of the Ahmadis. It is important to recognize, however, that "[w]hile every Ahmadi can be prosecuted for continuing his/her normal daily behavior, not every Ahmadi is prosecuted."⁹

The situation of the Ahmadis is discussed in Chapter II of this paper.

1.2.2 The People's Party of Pakistan (PPP)

The People's Party of Pakistan (PPP) was founded, in 1967, by Zulfikar Ali Bhutto, Prime Minister from 1971-77. It is chaired by current Prime Minister Benazir Bhutto who previously served as Prime Minister from 1988-90. On August 6, 1990, her Government was dissolved by a Presidential Order on charges of alleged violations of the Constitution of Pakistan. Following the 1990 dismissal of her Government, the PPP became the main opposition party to the Government of Prime Minister Nawaz Sharif (1990-July 1993).

As a result of its opposition to the Sharif Government, members of the PPP have been subjected to mass arrest, detention, imprisonment and torture, including rape in Sindh

⁹ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK10351, 18 February 1992), p. 1.

Province.¹⁰ "Two main patterns of political detention have emerged during the past two years [1991-93] in Sindh: the arrest of individual opposition leaders, often through the use of successive detention orders based on apparently unrelated criminal charges, and mass arrests of opposition supporters."¹¹

In addition to its opposition to the Sharif Government, the PPP has been engaged in conflict with the Mohajir Qaumi Movement (MQM) which, until recently, has been the principal ally of the Government of Prime Minister Sharif (1990-July 1993). This ethno-political rivalry has turned into gun battles between PPP and MQM members.¹²

The situation of the People's Party of Pakistan (PPP) is discussed in Chapter III of this paper.

1.2.3 The Mohajir Qaumi Movement (MQM)

In 1947, British India was partitioned into two countries: India and Pakistan. The latter country had two parts: East Pakistan (now Bangladesh) and West Pakistan (now Pakistan). In the months immediately following the partition of the sub-continent, approximately fourteen million people crossed the borders between the newly-created countries. Eight million

¹⁰ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

¹¹ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990* (London: Amnesty International, ASA 33/03/92, June 1992), p. 8.

¹² "Suspicious Galore," *The Economist*, (London: 30 May 1992), p. 34. See also: "Sinful Sind," *The Economist*, (London: 11 April 1992), p. 36.

Muslims from India fled to East and West Pakistan and six million non-Muslims fled to India.¹³

The Muslim refugees who fled from the north-central region of India to West Pakistan are called Mohajirs. These urbanized, Urdu-speaking Mohajirs were instrumental in the movement to create Pakistan and continued to have a significant impact on the early political development of the new country. While the Mohajirs dominated Pakistan's Government and political institutions, the country's armed forces remained under the control of the native Punjabis (an ethnic group from the province of Punjab).

The Mohajirs gradually replaced the Sindhi (an ethnic group from the province of Sindh) businessmen of the Hindu and Sikh religions who fled to India following partition. As a result of their economic success in Sindh's trade, commerce, and banking industries, the Mohajirs became Pakistan's leading capitalists and industrialists in the early 1970s. Their economic influence was matched only by the native Punjabis.¹⁴

As a result of the settlement of approximately seven million Mohajirs, the province of Sindh experienced profound social and economic changes. This created increasing rivalry and clashes between the Mohajirs and the local native-born Sindhis over political influence, employment opportunities and other questions involving socio-economic status. "In order to

¹³ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 4.

¹⁴ Minority Rights Group, Ltd., "Governments and Tribesmen in Conflict," *The Baluchis and Pathans* (London: Minority Rights Group, Ltd., July 1987), p. 9. See also: Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 1-2, 4. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, September 1992), p. 3-6.

appease Sindhi nationalists, the Government of Zulfikar Ali Bhutto then introduced various measures designed to reduce the Mohajirs' advantages."¹⁵

The Mohajir Qaumi Movement (MQM) was founded in 1984. It is a nationalist movement which seeks official recognition of Mohajirs as the fifth ethnic/national group (the other four are the Punjabis, Sindhis, Baluchis and Pathans) of Pakistan. It seeks to protect the interest of the Mohajirs, particularly regarding the federal/provincial quota system which allegedly favors the local Sindhi population. The movement is supported by second-generation Mohajirs (born in Pakistan) whose claim to constituting an ethnic/national group is based on their linguistic and cultural differences from Pakistan's other ethnic groups.

In the last decade, the ethnic strife between the Mohajirs and the Sindhis has become increasingly intertwined with politics and has resulted in clashes with the PPP.¹⁶ Until recently, the MQM was the principal coalition partner of the Sharif Government, and a powerful political force in Sindh province and, to a lesser extent, in other parts of Pakistan. It has used this power against the political opposition, as well as against party dissidents and the Pakistani press. In May and June of 1992, the Pakistani army uncovered a chain of torture cells operated by the MQM where dissidents and political opponents were maimed or killed.¹⁷ In the months leading up to the July 1993 resignation of the President and Prime Minister, the

¹⁵Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 3-4.

¹⁶ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK8609, 20 June 1991), p. 1.

¹⁷ "Pakistanis Fear Chaos as Graft and Violence Rise," *New York Times* (New York: 2 August 1992). See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992*, (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162. See also: "The Clean-up," *The Economist* (London: 3 July 1992), p. 33.

alliance between the Sharif Government and the MQM had been weakening. The future political role of the MQM remains problematic.

The situation of the MQM is discussed in Chapter IV of this paper.

1.2.4 Women/Gender-Based Violence

In both the public and familial spheres, women in Pakistan continue to be discriminated against due to their gender. This gender inequality has been exacerbated by the particular interpretation of Islam in Pakistan. While women's rights groups have argued that Islam does not have to be inconsistent with gender equality, women remain in a subordinate position in all spheres of Pakistan's public life: social, economic, and political.¹⁸

Human rights violations against women, particularly "invasions of the basic human right to bodily and sexual integrity," have generally been considered to be outside the realm of human rights/torture because these violations are part of the private/familial sphere rather than the public sphere. It should be recognized, however, that systematic rape/sexual abuse is considered to be torture and, therefore, is prohibited under international law.¹⁹

In Pakistan, this particular form of gender-based violence against women has been frequent. As detailed in Section 1.4 of this paper, a woman who reports a case of rape to the authorities can find herself charged with adultery under the Haddood Ordinances. As a result

¹⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1170.

¹⁹ Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 2, 19-20. See also: Appendix VI in this paper.

of this legal quandary and the accompanying social taboos, most women do not report sexual abuse and rape. Those who have the courage to report the rape are usually unable to provide four male, Muslim witnesses to the act of penetration and, therefore, are jailed for adultery. In detention, the women are subjected to sexual abuse and rape (as a form of torture). The U.S. Department of State, Amnesty International, Human Rights Watch and the Pakistan-based Women's Action Forum have all documented a continuation of the sexual abuse and rape (as a form of torture) of women in police custody. It is reportedly sanctioned and perpetrated by Pakistan's law enforcement agencies.²⁰ Since 1990, the issue of rape (as a form of torture) and violence against women has entered into the public arena. The change is due to the cases of the rape/sexual abuse of PPP members (some of whom were closely linked with PPP Chairperson Benazir Bhutto) which were reported and gained widespread media attention.²¹ These cases, which will be discussed in Section 3.1.2 of this paper, are not isolated incidents.

The situation of women and the issue of gender-based violence are discussed in Chapter V and the treatment of rape under international law is covered in Appendix VI.

1.2.5 Religious Minorities

²⁰ Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan*, (New York: Human Rights Watch, 1992), p. 2. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161. See also: Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 19-20. See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combatting Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

²¹ Amnesty International USA, *Amnesty International Report 1992* (New York: Amnesty International, 1992), p. 207-208. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1550-1551. See also: "Pakistan: Peccaverunt," *The Economist* (London: December 1991), p. 45. See also "Pakistani Women Speak Out," *The Middle East* (April 1992), p. 45 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 18, 28 April-4 May 1992.

Pakistan, an Islamic republic with a population that is 97 percent Muslim, was founded on the principle of religious freedom and the full participation of all citizens. Yet, the rights of religious minorities have been gradually eroded through legislation and social intolerance.

Religious minorities include the Christians, Hindus, Zoroastrians and the Ahmadis (who will be discussed in considerable detail in Chapter II of this paper). According to the U.S. Department of State, "...members of minority groups [other than the Ahmadis] may practice their own religion openly, maintain links with co-religionists in other countries, and travel for religious purposes."²² The Christian Study Centre in Pakistan, however, is concerned about the "...tremendous deterioration in the status of minorities...and a proportionate growth in the violations of their fundamental human rights...."²³

The 1973 Constitution of Pakistan guaranteed minorities the right to vote in the general elections as full citizens in a joint electorate. As a result of changes to the Constitution, however, minority participation in the political system is currently limited to the election of special representatives on the basis of separate electorates. "Under this system, minority representatives are a means of separating the minorities out from the Muslim mainstream and thus emphasizing the Islamic nature of the State."²⁴

²² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

²³ Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 122. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 108.

²⁴ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 135-36. See also: Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 119-122.

The influence of politics has contributed to the Islamization of Pakistan. The Sharif Government which has been "fearful of antagonizing influential religious leaders, has...[been] openly courting them with the imposition of strict new regulations based on [S]hari'a, or Islamic law."²⁵ In practice, the imposition of Islamic law in Pakistan may be fueling religious persecution:²⁶

- ▶ In October 1990, a Shari'a Court decision made the death penalty mandatory for anyone who is convicted of intentionally uttering contemptuous remarks or offering insult to the Prophet Muhammad.²⁷ According to Asma Jahangir, an attorney and Secretary General of the Human Rights Commission of Pakistan, the new law is being used to exploit and intimidate people in the name of religion.²⁸
- ▶ On October 13, 1992, the Government of Prime Minister Sharif announced that national identity cards would include a new column for the holder's religion.²⁹ Human rights activists, Christians and other religious minorities have held several protests to

²⁵ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²⁶ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi, Vol. 33, No. 4, 1991), p. 107-114. See also: Amjad-Ali, Christine, "The Shariat Bill," *Al-Mushir* (Rawalpindi, Vol. 32, No. 4, 1990), p. 108-109, 115-116.

²⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1991), p. 1554.

²⁸ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²⁹ "Pakistan: Identity Cards to Give Religion of Holder," *The Middle East Economic Digest* (30 October 1992) as reported on NEXIS.

demonstrate their concern that the new religious column will foster systematic discrimination against non-Muslims. Enabling legislation which would bring the national identity cards into force has not yet been passed.³⁰

Secular-minded Muslims and human rights organizations are concerned that the imposition of Shari'a law will have continuing repercussions on Pakistan's development.³¹

1.3 Criminal Violence and Opposition Politics

In the last few years, Pakistan has been faced with a situation of increasing violence which has been generated by a complex combination of criminal/terrorist activities, ethnic tensions, political rivalries, and the misuse of police powers. "...[A] tide of lawlessness [has been] sweeping the country...bombs ha[ve] exploded in Peshawar and Rawalpindi, adding to the fear generated by a series of mass murders in Punjab province."³²

³⁰ Macartney, Jane, "Pakistan Defends Move to Identify by Religion," *The Reuter Library Report* (London: 9 November 1992) as reported on NEXIS. See also: Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992) p. A29. See also: Amjad-Ali, Christine, "Update on Minority Issues: Religious Column on Identity Cards," *Al-Mushir* (Vol. 34, No. 3, 1992), p. 85-89. See also: Baker, Barbara, "Pakistan Government Waffles on Identity Card Issue," *News Network International* (Santa Ana, California: 29 January 1993), p. 22. See also: Baker, Barbara, "Pakistan's Christian Minority Protests ID Card Amendment," *News Network International* (Santa Ana, California: 25 November 1992), p. 44.

³¹ Amjad-Ali, Christine, "The Shariat Bill," *Al-Mushir* (Rawalpindi: Vol. 32, No. 4, 1990), p. 109-143.

³² "In the Eye of a Storm," *Asiaweek* (Hong Kong: 2 August 1991) p. 59 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 7, 13-19 August 1991. See also: "6 Killed, 35 Injured in Police-Dacoit Clash in Pakistan," *The Xinhua General Overseas News Service* (Beijing: 28 February 1992) p. 19 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media*

The situation has been particularly disturbing in Pakistan's southern province of Sindh. "Sindh has been wracked by kidnappings, day-light street robberies in the provincial capital, Karachi, and hold-ups of passenger trains over the past few months. Heavily-armed criminal gangs roam the countryside and the streets of Karachi."³³ During the week of January 9, 1992, armed robbers kidnapped approximately 250 persons and killed 24 of them.³⁴ To prevent increasing attacks on trains, the railways ministry announced, in March 1992, that all trains traveling through Sindh would be equipped with two machine guns and have twelve law enforcement officers on board.³⁵

The police with their limited gun-power and man-power have not been able to control the spiralling violence. The Sharif Government blamed anti-social elements, criminals, armed robbers, and terrorists for the violence.³⁶ Yet, an investigative report by the *Herald*, an Islamabad-based journal, indicated that Sindh's police force and Crime Investigation Agency

Review, Vol. III, No. 8, 18-24 February, 1992.

³³ "Pakistan: Soldiers in Sindh Amidst Charges of Rights Abuses," *Inter Press Service* (London: 3 June 1992) as reported on NEXIS.

³⁴ "24 Killed, 250 Kidnapped in Pakistan," *The Xinhua General Overseas News Service* (Beijing: 18 January 1992) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 3, 15-20 January 1992.

³⁵ "Trains To Be Armed With Machine Guns," *The Xinhua General Overseas News Service* (Beijing: 16 March 1992) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 11, 10-16 March 1992. See also: "Three Killed in Rocket Attack on Pakistani Train," *Agence France Presse* (Paris: 14 March 1992) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 11, 10-16 March 1992.

³⁶ "Pakistan: Soldiers in Sindh Amidst Charges of Rights Abuses," *Inter Press Service* (London: 3 June 1992) as reported on NEXIS.

have themselves been perpetrators of violence, including kidnapping, extortion, torture, and rape.³⁷

In addition, much lawlessness and violence has been related to the PPP and the MQM. It has been attributed to the lack of consensus between the Sharif Government and its major opposition party (PPP), and is also a result of historical, ethno-political conflict between the PPP and the MQM.³⁸ "The MQM and native Sindhis [represented by the PPP] have been locked in a bloody ethnic struggle in the past two years with the worst clash being the massacre of about 60 Mohajirs in Hyderabad...in May [1991]."³⁹ As both the MQM and the PPP are reportedly well-armed, their political rivalry has turned into gun battles.⁴⁰ PPP Chairperson Benazir Bhutto "...claimed that a militant wing of the [MQM]...[has been] responsible for hundreds of politically-motivated killings in Sindh in the last few years. She accused the MQM of killing workers from her People's Party and robbing banks."⁴¹

³⁷ Tahir, Salim, "Inside the CIA," *The Herald* (Islamabad: October 1991), p. 22-26. See also: Tahir, Salim, "The CIA: True Confessions?," *The Herald* (Islamabad: March 1992), p. 40b-41.

³⁸ "Hundreds Arrested for Rioting During 3-day Strike in Pakistan," *Agence France Presse* (Paris: 4 November 1991) as reported on NEXIS.

³⁹ "Suspicious Galore," *The Economist* (London: 5 June 1992) p. 67 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 22, 26 May-1 June 1992. See also: "An Army Swoop in Sind," *Asiaweek* (Hong Kong: 5 June 1992), p. 65 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 22, 26 May-1 June 1992.

⁴⁰ "Hundreds Arrested for Rioting During 3-day Strike in Pakistan," *Agence France Presse* (Paris: 4 November 1991) as reported on NEXIS.

"A *Globe and Mail* article reports the kidnapping of 100 students by rival student groups (5 Feb. 1990). The article also reports a Sindh Province government spokesman's accusation that the MQM was behind the kidnapping of these students who were PPP supporters and who were released after being tortured (Ibid). However, the MQM Chairman accused 'pro-Bhutto student groups' for the kidnapping..." (Immigration and Refugee Board Documentation Centre, Response to Information Request, PAK8609, June 20, 1991).

⁴¹ "Opposition Backs Army Crackdown in Pakistan," *United Press International* (New York: 22 June 1992) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III,

The violent events in Sindh have seriously and directly affected the status of the PPP. PPP Chairperson Bhutto has alleged on several occasions that the security forces have been harassing the members of her party.⁴² In waves of mass arrests, "[t]housands...have been picked up in the wake of violent events which the [Sharif] Government has blamed on the PPP without carrying out any investigation" and when there appears to be no evidence linking them with the events.⁴³ Amnesty International has documented that the Sharif Government has been 'relentlessly harassing' the PPP in Sindh province through mass police round ups, a series of detentions, and widespread torture, including rape.⁴⁴ The provincial Sindh government has been controlled by the IJI party and has had the backing of the Sharif Government. According to the Lawyers Committee for Human Rights, "...Prime Minister [Sharif] did not take action against the massive arrests and harassment of the political opposition there."⁴⁵

On May 23, 1992, Prime Minister Nawaz Sharif and President Ghulam Ishaq Khan ordered the army to launch Operation Blue Fox in an attempt to restore law and order in

No. 25, 16-22 June 1992.

⁴² "Pakistan: Soldiers in Sindh Amidst Charges of Rights Abuses," *The Reuter Library Report* (London: 3 June 1992), p. 9 as reported on NEXIS.

⁴³ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

⁴⁴ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

⁴⁵ Lawyers Committee for Human Rights, "Pakistan," *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1991* (New York: Lawyers Committee for Human Rights, July 1992), p. 253.

Sindh and deployed a paramilitary force of 18,000 in a special six-month operation.⁴⁶ While the army maintained that it had not targeted particular political groups, the U.S. Department of State's 1992 report indicated that the Sindh "... law and order operation also sparked charges of human rights violations by the army units involved and of selective targeting of certain political elements in Sindh."⁴⁷

- ▶ On June 5, 1992, nine villagers in Tando Bhawal were killed in a massacre by the army. The army alleged that the villagers were terrorists. After journalists produced evidence that the victims were farmers involved in a land dispute, the army assumed responsibility for the deaths by convicting and sentencing the involved soldiers and senior officers.⁴⁸
- ▶ According to the *Herald*, an Islamabad-based journal, the army operation had a significant initial impact in reducing crime in the province of Sindh. Subsequent raids conducted by army units, however, have been frequent. The relatives and friends of those who belong to targeted political parties or groups have allegedly being tracked down, interrogated, taken into custody and tortured by the security forces.⁴⁹

⁴⁶ "An Army Swoop in Sind," *Asiaweek* (Hong Kong: 5 June 1992), p. 65 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 22, 26 May-1 June 1992.

⁴⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1160.

⁴⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1160.

⁴⁹ Bakhtiar, Idrees, "Trial by Torture," *The Herald* (Islamabad: November 1992), p. 21-25.

Most human rights observers expected the army to crackdown on Sindhi members of the PPP while sparing the MQM which had been a partner in the ruling coalition in the national and provincial governments. In a June 1992 surprise move, however, the army arrested MQM members, seized weapons, and uncovered MQM torture cells.⁵⁰

Operation Blue Fox was initially undertaken for six months and was to have been reviewed by the Sharif Government in 1993. As a result of the recent change in Government, however, the status of the operation remains uncertain.⁵¹

⁵⁰ "The Clean-up," *The Economist* (London: 3 July 1992), p. 2 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. IV, No. 1, 30 June-6 July 1992. See also: "MQM Leader Arrested on Murder, Other Charges," *The Frontier Post* (Peshawar: 24 June 1992) as reported in the Foreign Broadcast Information Service, *JPRS Report: Near East & South Asia*, 10 July 1992, p. 14-15. See also: "Pakistan: Army Clears Political Debris in Sindh Province," *Inter Press Service* (29 June 1992) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 26, 23-29 June 1992, p. 78-79.

⁵¹ "Sharif on Sindh Operation, Kashmir, U.S. Ties," *PTV Television Network* (Islamabad: 10 January 1993) as reported in the Foreign Broadcast Information Service, *Daily Report: Near East & South Asia*, 12 January 1993, p. 80.

1.4 The Rise of Islamic Fundamentalism

Pakistan is an Islamic republic with a population that is 97 percent Muslim. Religious minorities include the Christians, Hindus, and Zoroastrians, as well as the Ahmadis (who consider themselves to be a Muslim sect, but have been declared a non-Muslim minority by a 1974 constitutional amendment).⁵² According to the U.S. Department of State, "...members of minority groups [other than the Ahmadis] may practice their own religion openly, maintain links with co-religionists in other countries, and travel for religious purposes."⁵³ The Christian Study Centre in Pakistan, however, is concerned about the "...tremendous deterioration in the status of minorities...and a proportionate growth in the violations of their fundamental human rights...."⁵⁴

The influence of politics has contributed to the rise of Islamic fundamentalism and the Sharif Government, "...fearful of antagonizing influential religious leaders, has...[been] openly courting them with the imposition of strict new regulations based on [S]hari'a, or Islamic law."⁵⁵ Shari'a is derived from the Qur'an (or Koran), the holy book of Islam, and from the Sunnah, the sayings and practices of the Prophet Muhammad. All Muslims consider

⁵² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

⁵³ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

⁵⁴ Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 122. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 108.

⁵⁵ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

the Qur'an to be the literal words of God as conveyed to the Prophet Muhammad by the Archangel Gabriel. As such, the Qur'an is the fundamental root of Islamic law and has a significant impact on Muslim society.⁵⁶

The Constitution of Pakistan requires all laws to be consistent with Islam. Islamic law (or Shari'a, Qur'anic law, Koranic law) may not inherently be inconsistent with international human rights norms. In practice, however, the imposition of Islamic law in Pakistan may be fueling human rights violations, sexual inequality, and religious persecution.⁵⁷

- ▶ The Hadood (or Hudood, Hadd) Ordinances, promulgated in 1979 by the Government of General Zia ul-Haq, mandate punishments for violating Islamic norms. Punishment under the Hadood Ordinances is usually imprisonment; however, it can include flogging or other punishments which are considered to violate international human rights standards. For example, a 1990 Federal Shari'a Court decision called for the Islamic concepts of Qisas (an 'eye for an eye') and Diyat (blood money) to be made part of the Pakistani Penal Code and Code of Criminal Procedure. To comply with this ruling, President Khan promulgated the Qisas and Diyat Ordinance which redefines several categories of bodily hurt and their punishments under the Pakistan Penal Code. According to Amnesty International, these new forms of punishment are considered

⁵⁶ Vogel, Frank, *Human Rights and Islam* (Harvard Law School Course Syllabus, Spring 1991), p. Q-1.

⁵⁷ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi, Vol. 33, No. 4, 1991), p. 107-114. See also: Amjad-Ali, Christine, "The Shariat Bill," *Al-Mushir* (Rawalpindi, Vol. 32, No. 4, 1990), p. 108-109, 115-116.

cruel and degrading by international human rights standards. In some instances, this requires that the offenders be punished with a hurt similar to that inflicted on their victim. Authorized medical officers are required to perform these punishments. The Diyat section of the Ordinance permits the payment of compensation to a victim's family in lieu of punishment.⁵⁸ The Pakistan-based Women's Action Forum has expressed its concern that the law of Qisas and Diyat may have damaging repercussions in intra-family murder cases as the concepts of Qisas and Diyat lose their meaning within a family context. This has particular implications for Pakistani women: the most common form of intra-family violence is the killing of a female member by the male head of the family. The Women's Action Forum has publicly questioned whether the State is abdicating its responsibility, through this legislation, to control violence within the family.⁵⁹

- ▶ While the Haddood Ordinances are applicable to both Muslims and non-Muslims, these laws perpetuate gender-based violence against women. In Pakistan, a woman who reports a case of rape to the authorities can find herself charged with adultery under these Ordinances. All extramarital sexual relations (consensual or non-consensual) are considered to be adultery and a violation of the Haddood Ordinances. As a result of this legal quandary and the accompanying social taboos, most women do not report sexual

⁵⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162-64. See also: Amnesty International, *Pakistan: New Forms of Cruel and Degrading Punishment* (London: Amnesty International, March 1991), p. 1-2.

⁵⁹ Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

abuse and rape. Those who have the courage to report the rape are usually unable to provide four male, Muslim witnesses to the act of penetration and, therefore, are jailed for adultery. The Committee for the Repeal of the Hadood Ordinances estimates that over 2,000 women are in jails in Pakistan awaiting trial under these Ordinances.⁶⁰

"[T]he predominantly male police force reportedly uses the Hadood Ordinances to threaten people on the basis of personal and political animosities. The U.S. Department of State, Amnesty International, Human Rights Watch and the Pakistan-based Women's Action Forum have all documented a continuation of the sexual abuse and rape (as a form of torture) of women in police custody. It is reportedly sanctioned and perpetrated by Pakistan's law enforcement agencies.⁶¹

Human rights violations against women, particularly "invasions of the basic human right to bodily and sexual integrity," have generally been considered to be outside the realm of human rights/torture because these violations are part of the private/familial sphere rather than the public sphere. It should be recognized, however, that systematic

⁶⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162. See also: Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 34. See also: Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan*, (New York: Human Rights Watch, 1992). See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

⁶¹ Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan* (New York: Human Rights Watch, 1992), p. 2. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161-62. See also: Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 19-20. See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

rape/sexual abuse is considered to be torture and therefore, is prohibited under international law.⁶² Appendix VI discusses rape under international law.

- ▶ Other Islamic laws appear to have resulted in an increase in instances of religious persecution. In October 1990, a Shari'a Court decision made the death penalty mandatory for persons convicted of intentionally uttering contemptuous remarks or offering insult to the Prophet Muhammad.⁶³ According to Asma Jahangir, an attorney and Secretary General of the Human Rights Commission of Pakistan, the new law is being used to exploit and intimidate people in the name of religion.⁶⁴ For example, PPP Chairperson Benazir Bhutto alleged that her life was in danger when she was accused of blasphemy, in August 1992, under this new law.⁶⁵

In response to continuing pressure from the Islamic groups which helped place Prime Minister Sharif into power, the Sharif Government announced, on October 13, 1992, that

⁶² Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 2.

⁶³ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1554.

⁶⁴ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

⁶⁵ "Bhutto Fears for Life After Blasphemy Charge," *New York Times* (New York: 12 August 1992), p. A2.

national identity cards would include a new column for the holder's religion.⁶⁶ According to Abdul Sattar Khan Niazi, Religious Affairs Minister, the action was taken to facilitate identification of Ahmadis.⁶⁷ The Director of the Human Rights Commission of Pakistan, as well as "[s]everal leading bishops have said the religious column is tantamount to apartheid and will [also] relegate Christians to the status of second class citizens."⁶⁸ Enabling legislation which would bring the national identity cards into force has not yet been passed.

As evidenced by the legislation passed in the last 15 years, Islamic fundamentalists have been slowly increasing their pressure on the national Government to incorporate Islamic principles into the day-to-day functioning of Pakistan. These efforts culminated in the introduction of legislation to make Shari'a the supreme law of the land. "The Enforcement of Shari'ah Act 1991, adopted by parliament in May [1991], proclaimed the supremacy of Shari'ah (Islamic) law and ordered the state to ensure the Islamization of every sphere of life...."⁶⁹

⁶⁶ "Pakistan: Identity Cards to Give Religion of Holder," *The Middle East Economic Digest* (30 October 1992) as reported on NEXIS.

⁶⁷ Macartney, Jane, "Pakistan Defends Move to Identify by Religion," *The Reuter Library Report* (London: 9 November 1992) as reported on NEXIS.

⁶⁸ Macartney, Jane, "Pakistan Defends Move to Identify by Religion," *The Reuter Library Report* (London: 9 November 1992) as reported on NEXIS. See also: Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

⁶⁹ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 206. See also: Lawyers Committee for Human Rights, "Pakistan," *Critique: Review of the U.S. Department of State's Country Report on Human Rights Practices for 1991* (New York: Lawyers Committee for Human Rights, July 1992), p. 256.

Secular-minded Muslims and human rights organizations are concerned that the imposition of Shari'a law will have continuing repercussions on Pakistan's development. The U.S. Department of State reported that:

...the religious legislation has [already] encouraged an atmosphere of religious intolerance which has led to acts of violence directed at Ahmadis and Christians. In the wake of the destruction of the Babri mosque in Ayodhya, India [December, 1992], angry mobs attacked Christian and Hindu homes and places of worship at several places in Pakistan. The [Sharif] Government promised compensation to the victims, but human rights monitors believe it could have taken stronger measures to protect the minorities.⁷⁰

1.5 Politics and the Judicial Process

The Pakistani civil judicial system provides for an open trial, cross-examination, representation by an attorney, and appeal of sentences. It is comprised of a supreme court, four provincial high courts, district and session courts at the district level, and conciliation courts at the village level.⁷¹

As evidenced by the creation of a system of special courts, however, the judicial system has reacted to and been influenced by the violence in Sindh, discord between the

⁷⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

⁷¹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1163. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: Country Overview* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, January 1990), p. 17.

Sharif Government and the PPP, and the rise of Islamic fundamentalism. Human rights groups have expressed concern about the procedures in these special courts. Amnesty International has stated that "the setting up of special courts whose procedures significantly differ from those of regular courts violates the right to be tried by the established legal procedures of one's country."⁷²

1.5.1 Special Courts

Introduced as a temporary measure in 1987, the Special Courts for Speedy Trial and the Special Courts for the Suppression of Terrorist Activities have been continued through a confusing series of parliamentary acts, constitutional amendments, and Presidential Ordinances which have lapsed and been re-promulgated to allow the courts to remain operational.

The Special Courts were set-up to combat increasing crime and violence, particularly those cases involving sabotage, subversion, kidnapping, and terrorism. National and international human rights groups recognized the Sharif Government's urgent need to reduce crime and restore law and order, but human rights monitors continue to be concerned about the Special Courts. "These circumstances do not...justify the suspension of basic human rights such as the right to a fair trial...In its effort to provide speedy justice the present legislation, however, falls short of internationally recognized norms of fair trial. Amnesty International is

⁷² Amnesty International, *Pakistan: Special Courts for Speedy Trial* (London: Amnesty International, ASA 33/23/91, September 1991), p. 11.

concerned that the Special Courts for Speedy Trial may try persons for political offenses, pass the death sentence and impose severe sentences such as stoning to death and amputation [and may] violate the right of such defendants to a fair trial."⁷³ In addition, Amnesty International has been concerned that the Special Courts violate Principle 5 of the United Nations Basic Principles on the Judiciary.⁷⁴

As the constitutional amendment which established certain Special Courts for Speedy Trial will be repealed and cease to form a part of the Constitution, some courts will cease to function in July 1994.⁷⁵

1.5.2 Special Accountability Courts/Tribunals

Following the dismissal of Benazir Bhutto's Government in 1990, President Ghulam Ishaq Khan established special accountability/disqualification tribunals to try members of the previous federal and provincial governments on criminal and corruption charges. According to the U.S. Department of State, "[o]nly members of the Bhutto Government, all of whom belong to the PPP, were charged with corruption and misconduct, while no members of other

⁷³ Amnesty International, *Pakistan: Special Courts for Speedy Trial* (London: Amnesty International, ASA 33/23/91, September 1991), p. 11.

⁷⁴ Amnesty International, *Pakistan: Special Courts for Speedy Trial* (London: Amnesty International, ASA 33/23/91, September 1991), p. 11.

⁷⁵ Amnesty International, *Pakistan: Special Courts for Speedy Trial* (London: Amnesty International, ASA 33/23/91, September 1991), p. 3.

political parties were brought to trial."⁷⁶ The Canadian legal observer to the special court proceedings in Pakistan stated that "...the `accountability trials' do not meet minimum standards of due process...the trial procedures could prevent the accused from presenting a full defense, restrict the right against self-incrimination, and impose an unfair standard of proof...a finding of guilty would result in a serious penalty...[and] the respondent should be entitled to the full protection of an accused in a criminal trial."⁷⁷ According to the Lawyers Committee:

...the courts have been employed by the...[Sharif] Government as a means of continually harassing PPP leader Benazir Bhutto and other top PPP officials. The trials are being conducted very slowly and carry not only possible criminal punishment, but also a seven-year ban on running for the national assembly. The result is that indicted PPP leaders must devote considerable energy to the proceedings against them and face the continual threat of being barred from politics.⁷⁸

Despite the concerns of human rights monitors, some Pakistani attorneys and judges maintain that the actual conduct of the tribunals has been balanced and fair.⁷⁹

⁷⁶ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1554.

⁷⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1555. See also: Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 7.

⁷⁸ Lawyers Committee for Human Rights, "Pakistan," *Critique: Review of the U.S. Department of State's Country Report on Human Rights Practices for 1991* (New York: Lawyers Committee for Human Rights, July 1992), p. 254.

⁷⁹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1164.

1.5.3 The Shari'a Courts

The Federal Shariat Courts were instituted and operate as appeals courts for cases relating to the enforcement of the 1979 Hadood Ordinances which mandate punishment for those convicted of violating Islamic norms. These courts also rule on whether laws are offensive to Islam.⁸⁰ "Cases referred to the Shari'a courts are heard jointly by Islamic scholars and judges from the civilian court system who usually employ ordinary criminal procedures. Both judges and attorneys must be Muslim and be familiar with Islamic law. Defendants in the Shari'a courts are entitled to bail and lawyers of their choice."⁸¹

1.6 **Politics and the Media**

Freedom of the press is guaranteed by the Constitution. The press enjoys a remarkable degree of freedom to debate issues, however, harassment, intimidation, and violence against the press has been frequent.

"A government-owned press trust still controls two newspapers, an English-language daily and an Urdu daily. Other holdings of the National Press Trust have been privatized,

⁸⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1554. See also: Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK9730), p. 1.

⁸¹ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1554.

however, as the Government of Prime Minister Sharif moved to fulfill its promise to disband it. One of the two main wire services is controlled by the Ministry of Information. Other newspapers are privately owned and their circulation far exceeds that of the government-owned press."⁸²

"Since 1985, there has been relatively free discussion of Government policies and open criticism of the Government in the privately-owned press. The press routinely reports remarks critical of the Government made by opposition politicians, and editorials reflect a broad spectrum of views...."⁸³ As newspapers are dependent on government advertising for much of their revenue, however, the Government of Prime Minister Sharif has used this tool to influence editorial policy. In June 1992, government advertising in a national daily was abruptly halved in response to the first of a series of articles critical of the Sharif Government. As the paper was warned that all such advertising would be withdrawn, it stopped the series, but continued printing stories critical of the Government.⁸⁴

In addition, government officials often provide informal `advice' which is usually followed. The *Friday Times* has frequently been a sharp critic of the Sharif Government and has ignored this `advice.' While this weekly receives no government advertising, its editor, publisher and their children have been threatened with violence, including rape and

⁸² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U. S. Government Printing Office, February 1993), p. 1165.

⁸³ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1166. See also: "Bold Words in Pakistan," *Asiaweek* (Hong Kong: 23 August 1991).

⁸⁴ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1166. See also: "Bold Words in Pakistan," *Asiaweek* (Hong Kong: 23 August 1991).

kidnapping. In September 1992, sedition charges were brought against the reporter, editor-in-chief, and editor of Pakistan's largest English-language newspaper, *The News*, for publication of a poem sharply critical of the Sharif Government. The Government remanded the case to a Special Court for Speedy Trial; however, universal condemnation from the press and political leaders caused it to withdraw the case.⁸⁵

In the last few years, newspaper reporters have been repeatedly harassed, threatened and beaten, newspapers have been confiscated or burned and the offices of newspapers have been burned. These attacks are reliably reported to have been mounted by extremist political groups in order to intimidate and silence some newspapers.⁸⁶ "In 1990 alone, at least four journalists are known to have been murdered, four narrowly escaped death, and three others were kidnapped. Twenty newspaper offices were attacked."⁸⁷ Amnesty International has reported the torture or ill-treatment of several journalists who were arrested while covering the

⁸⁵ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1166. See also: "Pakistan: Sedition Charges Dropped After Nationwide Press Protests," *Inter Press Service* (1 October 1992) as reported on NEXIS.

⁸⁶ *Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.: May 1993), p. 1-4.

⁸⁷ "The Press in Pakistan is Unwell," *Index on Censorship* (London: July 1991), p. 26 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 2, 9-15 July 1991. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1166. See also: "The Penalties of Truth," *The Economist* (London: 6 April 1991), p. 33. See also: "Pakistan: Sedition Charges Dropped After Nationwide Press Protests," *Inter Press Service* (1 October 1992) as reported in the Immigration and Refugee Board, Documentation, Information, and Research Branch *Indexed Media Review*, Vol. IV, No. 14, 29 September - 5 October 1992. See also: "Pakistani Journalists Protest Violence," *Washington Post* (Washington, D.C.: 30 September 1991) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 13, 24-30 September 1991. See also: "Post's Stringer in Karachi is Stabbed After Threats," *Washington Post* (Washington, D.C.: 24 September 1991), p. A12. See also: "Pakistan: Media Ruffled by Wave of Attacks on Journalists," *Inter Press Service* (13 November 1991) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 20, 12-18 November 1991.

PPP's November 1992 'long march.' According to the 1992 Department of State report, "[t]he lack of government action in response to these events, coupled with public criticism of the press by high government officials, led to concern that the [Sharif] Government was not doing enough to prevent violence against the press."⁸⁸

In the province of Sindh, the violence has been particularly disturbing as the press has been caught in the crossfire between the MQM and the local Sindhis.⁸⁹ "Much of the violence [against the press] has been attributed to the Mohajir Qaumi Movement, which dominates Karachi, and... Islamic fundamentalists intolerant of political criticism."⁹⁰

⁸⁸ Amnesty International, *Pakistan: Arrests and Torture of Political Activists* (London: Amnesty International, ASA 33/01/93, January 1993), p. 1. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1166. See also: Rashid, Ahmed, "Pakistan's Press Booming But Is Target for Attack," *The Independent* (London: 23 November 1991), p. 113 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 21, 19-25 November 1991. See also: "The Penalties of Truth," *The Economist* (London: 6 April 1991), p. 33.

⁸⁹ "The Penalties of Truth," *The Economist* (London: 6 April 1991), p. 33. See also: "Pakistan News Industry Strikes Today," *The Xinhua General Overseas News Service* (Beijing: 29 September 1991) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 13, 24-30 September 1991. See also: "Police Release Detained Pakistani Journalist," *Agence France Presse* (Paris: 7 November 1991) as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 19, 3-11 November 1991.

⁹⁰ Rashid, Ahmed, "Pakistan's Press Booming But Is Target for Attack," *The Independent* (London: 23 November 1991), p. 113 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. II, No. 21, 19-25 November 1991.

II. AHMADIS

2.1 Background on the Ahmadi Community

The Ahmadiyya movement was founded in the late nineteenth century by Mirza Ghulam Ahmed, who is regarded as a prophet by Ahmadis. Ahmadis consider themselves to be Muslims, but many orthodox Sunni Muslims consider Ahmadis to be heretics. This is the result of doctrinal differences: the Ahmadis call the founder of their movement al-Masih (the Messiah). Orthodox Muslims believe that this implies that Muhammad is not the final "seal of the prophets" or the prophet who carried the final message from God to humanity. According to Ahmadis, their faith does not involve the denial of the Prophet Muhammad's status because Mirza Ghulam Ahmed did not claim to bring a new revelation of divine law which could add to, replace or supersede the Koran. Mirza Ghulam Ahmed considered himself amahdi, a reappearance of the Prophet Muhammad, and thought it his task to revive Islam. As a result of these divergences, Ahmadis have reportedly been subjected to discrimination in employment and education and harassment for the peaceful exercise of their religious beliefs in some Muslim countries, notably Pakistan.⁹¹

⁹¹ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 1-2.

2.1.1 Conflict with Orthodox Muslims

Ahmadis cannot be distinguished from other Pakistanis by their physical characteristics or dress. The conflict between the Ahmadis and orthodox Muslims is based on religious rather than ethnic or socio-economic grounds. According to the Canadian Immigration and Refugee Board Documentation Centre, this conflict has existed since the creation of Pakistan in 1947. This conflict should be seen in the context of an on-going disagreement between modernist and traditionalist Muslims who disagree over the role of Islam in a secular state. "In the 1950s this hostility evolved into widespread anti-Ahmadi violence which broke out again in the 1960s and the early 1970s."⁹²

A 1974 constitutional amendment which effectively declared the Ahmadis to be a non-Muslim minority, as well as subsequent legislation, has been "...generally interpreted as a response to pressure from orthodox Muslim groups to circumscribe the activities of the Ahmadis."⁹³ In May 1974, anti-Ahmadi students held demonstrations in Rabwah which is in the province of Punjab. These demonstrations resulted in violent country-wide clashes where Ahmadis, their property, and their institutions were attacked. Religious parties, such as the fundamentalist Jama'at-i-Islami, demanded that the Rabwah incidents be debated in the National Assembly and that Ahmadis be declared a minority. Prime Minister Zulfikar Ali

⁹² Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State, *Ahmadis in Pakistan* (Washington, D.C.: U.S. Government Printing Office, October 1992), p. 1.

⁹³ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 1-2.

Bhutto initially resisted the demands but, under continued pressure, his Government passed the 1974 constitutional amendment.⁹⁴

After the overthrow of Prime Minister Zulfikar Ali Bhutto in a 1977 military coup, President Zia-ul-Haq:

...introduced a policy of Islamization with the declared intent of turning Pakistan into a truly Islamic society. In imposing restrictions on the Ahmadiyya community, President Zia was seen by some observers as responding to pressure from fundamentalist Islamic groups upon whom he was considered to rely for support to his Government. In early 1984, fundamentalist mullahs (clergymen) had reportedly declared that if further action were not taken against Ahmadis by 30 April 1984 and if the 1974 constitutional amendment were not rigorously enforced, Ahmadi places of worship would be attacked and members of the community become the targets for attacks.⁹⁵

As a result, the President promulgated Ordinance XX of 1984, discussed in Section 2.3.1, which prohibits Ahmadis from, *inter alia*, referring to themselves as Muslims.

According to Ahmadi and human rights groups, the situation of the Ahmadis did not improve, under the Governments of former Prime Minister Benazir Bhutto (1988-1990) or former Prime Minister Nawaz Sharif (1990-July 1993), because of the influence of Islamic fundamentalists who continue their pressure to make Pakistan a more conservative Islamic state.

⁹⁴ Immigration and Refugee Board Documentation Centre, *Cultural Profile: The Ahmadiyya* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, June 1991), p. 17.

⁹⁵ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 2.

2.2 Legal and Religious Barriers Against Ahmadis

The Ahmadis in Pakistan face legalized discrimination. It is important to recognize, however, that "[w]hile every Ahmadi can be prosecuted for continuing his/her normal daily behavior, not every Ahmadi is prosecuted. Prosecution largely depends on whether a neighbor, colleague or someone who is not on good terms with an Ahmadi reports his/her 'violation of law' to the police department. Hence, the area in which Ahmadis live and the circumstances (hostile or non-hostile) under which they live determine whether prosecution will take place."⁹⁶ According to the U.S. Department of State:

[a]vailable information suggests that enforcement of Ordinance XX has been uneven and in many cases, perhaps in most, has been the result of interest group pressure (i.e., fundamentalist Muslim clerics) on susceptible police authorities, particularly in rural areas, or personal bigotry on the part of the police. While there are credible reports that some Ahmadis have been denied equal protection of the laws or worse, (e.g., police indifference to or connivance in harassment of Ahmadis by fundamentalist Muslims in rural areas), many Ahmadis occupy important positions in Pakistani society, particularly in business and the professions.⁹⁷

⁹⁶ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK10351, 18 February 1992), p. 1.

⁹⁷ Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State, *Ahmadis in Pakistan* (Washington, D.C.: U.S. Government Printing Office, October 1992), p. 2.

2.2.1 Ahmadis: Legislative Restrictions on Freedom of Religion/Speech

Amnesty International is concerned that Ahmadis continue to be charged, tried, convicted, and sentenced to prison terms solely for the peaceful exercise of their religious beliefs.⁹⁸

On September 7, 1974, a constitutional amendment was passed by the Zulfikar Ali Bhutto Government which declared the Ahmadis to be non-Muslim.⁹⁹ Subsequent legislation, as summarized in Appendix II, has also affected the status of Ahmadis in Pakistan. Through the enactment of this series of legislation, certain religious practices of Ahmadis have been made illegal and, thereby, punishable by fines, imprisonment, or death. As a result, generally recognized international standards of freedom of worship are often violated when prosecutions are brought under Ordinance XX. According to Ordinance XX, Ahmadis are prohibited by law from the following:

- referring to themselves as Muslims or to their founder as a prophet
- referring to their places of worship as "mosques"
- using the traditional Muslim form of greeting ("assalaam-o-alaikum")
- using the Muslim call to prayer (the "azan")
- using the Koran and observing Islamic rites/traditions

⁹⁸ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 1.

⁹⁹ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK2881, 16 November 1989), p. 1.

- using words, either spoken or written, or by visible representation, which "outrages the religious feelings of Muslims," including wearing, posting, printing or translating Koranic verses.

Ordinance XX of 1984 provides for fines and prison terms (up to three years) for Ahmadis committing any of the above-mentioned acts. "[A] number of Ahmadis have reportedly been charged and sometimes sentenced, usually to imprisonment of around one year, for wearing badges with Kalima inscriptions (inscriptions of Koranic verses), for uttering the common greeting assalaam-o-alaikum, or for using Muslim phrases of greeting on greeting cards."¹⁰⁰ For example, the 1992 Department of State report describes the following incident: "...the Lahore High Court reserved judgement on several bail applications for a family, including a 9-month old child, against whom a case had been registered for using Islamic phrases on a wedding invitation...The father of the bride-to-be has been jailed since May 17 [1992]."¹⁰¹

"The Ahmadis' reference to the Prophet Mohammad is by orthodox Moslems considered to be defiling his name."¹⁰² Under the blasphemy laws of August 1991, the death penalty is the mandatory punishment for defiling the name of the Prophet Muhammad.

¹⁰⁰ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 1-2. See also: Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State, *Ahmadis in Pakistan* (Washington, D.C.: U.S. Government Printing Office, October 1992), p. 2.

¹⁰¹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1168.

¹⁰² Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 1.

2.2.2 Ahmadis: Discrimination In Employment/Education

According to 1990/91 reports of the U.S. Department of State, the Canadian Immigration and Refugee Board Documentation Centre, and the Pakistan Human Rights Commission, discrimination against Ahmadis continues in employment and education.¹⁰³

In particular, Ahmadis may have limited choices for advancement in the public sector.¹⁰⁴ Due to fundamentalist pressure to remove Ahmadis from key positions, it is difficult, if not impossible, for Ahmadis to attain a rank above major in the army or above section chief or assistant secretary in public administration.¹⁰⁵ During the 1980s, for example, Ahmadis could lose their jobs because of their religious beliefs. Following the adoption of Ordinance XX in 1984, government officials in some provinces stated that Ahmadis should not occupy important positions, and that high-level Ahmadi officials should be dismissed. A memo calling for the removal of Ahmadis from government posts was circulated. Despite constitutional guaranties, Ahmadis in public service were fired or denied promotions. In February 1989, for example, the Advisor to the Federal Ministry for Religious Affairs stated that several Ahmadis would be dismissed from their functions.¹⁰⁶

¹⁰³ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1564. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: Country Overview* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, January 1990).

¹⁰⁴ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1564.

¹⁰⁵ Ahmadiyya Movement in Islam, Inc., "American Ahmadis Denounce New Wave of Persecutions in Pakistan," (Washington, D.C.: Ahmadiyya Movement in Islam, Inc., 17 April 1992).

¹⁰⁶ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK5342, 23 April 1990), p. 1.

A similar situation occurs in institutions of higher education, particularly in faculties which must apply strict admission quotas. Simply "...being an Ahmadi is enough to exclude a candidate, except in cases where admission criteria (academic results) leave no latitude for discretionary decisions and where the integrity of the selection board is not influenced by fundamentalist pressure."¹⁰⁷ For example, applicants for a general nursing course in Lahore must submit a statement, with their applications, that they are not Ahmadi.¹⁰⁸ And, students registering for university were refused access to post-secondary studies when they indicated that their religion was "Islam (Ahmadi)" instead of "Non-Muslim."¹⁰⁹

Ahmadi leaders in Punjab believe, however, that the incidence of discriminatory acts against Ahmadi has declined.¹¹⁰

2.2.3 Freedom of the Ahmadi Press

According to Amnesty International, Ahmadi newspapers and magazines are frequently banned when their articles are considered to offend the religious feelings of orthodox Muslims. In 1990, the publication of their daily newspaper, Al-Fazal, and several of

¹⁰⁷ Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, February 1992), p. 4.

¹⁰⁸ Ahmadiyya Movement in Islam, Inc., "American Ahmadis Denounce New Wave of Persecutions in Pakistan," (Washington, D.C.: Ahmadiyya Movement in Islam, Inc., 17 April 1992).

¹⁰⁹ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK3917, 2 February 1990), p. 1.

¹¹⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1564.

their journals was reportedly prohibited for varying lengths of time. In August and September 1990, criminal cases were said to have been instituted against the editor, publisher, and printer of a journal for preaching the Ahmadi faith and posing as Muslims.¹¹¹

2.2.4 Ahmadis: Voting/Electoral/Assembly Rights

The 1973 Constitution of Pakistan specified a joint electorate with no discrimination in terms of either religion or sex. It stipulated universal adult franchise and direct election of representatives. Women and minorities voted in the general elections as full citizens while also having special representation (a.k.a. reserved seats) as socially disadvantaged groups.¹¹² The 1974 constitutional amendment which declared the Ahmadis to be non-Muslim led to a change in their voting status in the country. Article 106 (3) of the 1973 Constitution which provided for the special representation of religious minorities was amended to include the Ahmadis.¹¹³

In 1978, as a consequence of the re-classification of Ahmadis as non-Muslims, two separate electorates, one for Muslims and one for religious minorities, were created for the

¹¹¹ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9. See also: Ahmadiyya Movement in Islam, Inc., "American Ahmadis Denounce New Wave of Persecutions In Pakistan," (Washington, D.C.: Ahmadiyya Movement in Islam, Inc., 17 April 1992).

¹¹² Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 135-36. See also: Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 119-122.

¹¹³ Immigration and Refugee Board Documentation Centre, *Cultural Profile: The Ahmadiyya* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, June 1991), p. 17.

National and Provincial Assemblies. As a result of this change, which was later incorporated into the Constitution through the Eighth Amendment of 1985, minority participation in the political system was limited to the election of special representatives. Minorities no longer had the right to vote in the general elections as full citizens in a joint electorate. Instead, their "...representatives were directly elected from a country-wide constituency on the basis of separate electorates. Under this system, the minority representatives were no longer a means of compensating for the social disadvantages faced by minorities, but rather a means of separating the minorities out from the Muslim mainstream and thus emphasizing the Islamic nature of the State."¹¹⁴ Since Ahmadis would not accept the official designation of themselves as non-Muslims, they refused to use the seats allocated to them; as a result, they were precluded from participation in both national and provincial elections.¹¹⁵

The Ahmadis' right to assembly has been frequently curtailed by the Government. For example, their annual meeting has been banned since 1984.

¹¹⁴ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 135-36. See also: Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 119-122.

¹¹⁵ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK9279, 22 August 1991), p. 1. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, February 1992), p. 2.

2.2.5 Entry/Return

To obtain a passport, Pakistanis must declare their religious adherence on the passport application form. If they declare themselves to be Muslim, they must sign the declaration for Muslims (see Appendix IV) which states, *inter alia*, that Mirza Ghulam Ahmad, founder of the Ahmadiyya movement, is an imposter and that his disciples are not Muslims.

While the Immigration and Refugee Board Documentation Centre (DIRB) has indicated that Ahmadis may be faced with legal action or communal ostracism when applying for a passport, the U.S. Department of State has indicated that this is not accurate. According to the DIRB report, an Ahmadi who signs the passport declaration may be charged, under Section 6 of the Passports Act of 1974, with making a false statement by claiming to be a Muslim when Ahmadis have been legally declared non-Muslims. An Ahmadi who checks the box for religious minorities may be ostracized by the Ahmadi community for declaring himself/herself a non-Muslim.¹¹⁶

The U.S. Department of State's Bureau of Human Rights and Humanitarian Affairs (BHRHA), however, has indicated that BHRHA has seen hundreds of Ahmadi asylum applications with attached copies of the passport. While the documentation in the asylum file indicated that the applicants were Ahmadis, approximately 50% of the passports declared the religion of the holder to be Islam/Muslim. According to BHRHA, most Ahmadis check the Muslim box and sign the passport declaration; these Ahmadis do not want to draw attention to

¹¹⁶ Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, February 1992), p. 7.

their Ahmadi faith and do not consider the passport declaration to be religiously binding. In addition, BHRHA has stated that Ahmadis who declare themselves to be Muslim to obtain

a passport are neither ostracized by the Ahmadi community nor arrested by the Pakistani authorities for falsely declaring themselves to be Muslims.¹¹⁷

2.2.6 Ahmadis: Conclusions

While the effect of the discrimination against Ahmadis can vary greatly in individual cases, the cumulative effect is that many religious practices of Ahmadis are legally prohibited and subject to prosecution, imprisonment or a death sentence. As a result, the Ahmadiyya Movement in Islam, Inc. and various human rights groups maintain that this discrimination can reach a level which can be defined as persecution.

Spokespersons for the Ahmadiyya community have stated to Amnesty International that often Ahmadi victims of human rights violations do not register cases with the authorities as they do not expect justice to be done to them or because they fear retaliation from the Muslim majority of Pakistan.¹¹⁸

For a chronology of acts of violence against Ahmadis, please refer to Appendix III.

¹¹⁷ *Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.: May 1993), p.1(b).

¹¹⁸ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9-10.

2.3 Verification of an Applicant's Status as an Ahmadi

Ahmadis cannot be distinguished from other Pakistanis through physical characteristics, except for the unique manner in which they fold their arms when praying. On request, the Washington D.C.-based Ahmadiyya Movement in Islam, Inc., therefore, will issue official certification of an applicant's status as an Ahmadi in bona fide cases.¹¹⁹

The U.S. Department of State's Office of Asylum Affairs, drawing on information supplied by Ahmadi representatives, has noted an apparent increase in the submission of false documentation by non-Ahmadis who have sought asylum in the U.S. and Canada. A number of these applicants produced false documentation which was supposedly signed by authorized officials of the Ahmadiyya Movement in Islam. In response to these concerns, the President of the Ahmadiyya Movement in Islam in the U.S. has stipulated the following procedures for the verification of the genuineness of Ahmadis filing for political asylum:

1. Only certain officials of the Ahmadiyya Movement of Islam are authorized to issue certificates/verifications to applicants filing from their various jurisdictions in the U.S. (see Appendix V for list of authorized officials).

¹¹⁹ *Letter from Allah B. Chaudhry, Secretary, Ahmadiyya Movement in Islam, Inc. to David T. Hopper, Former Director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State (Washington, D.C.: 5 December 1990), p. 1.*

2. Each certification/verification must be on official stationery and be embossed with the seal of the Ahmadiyya Movement in Islam, Inc. to authenticate the validity of the document.
3. A copy of each certification will be forwarded to the Human Rights Committee of the Ahmadiyya Movement in Islam for record-keeping.
4. In case of doubt about the genuineness of the applicant, the matter will be referred to the Human Rights Committee of the Ahmadiyya Movement in Islam prior to issuance of certification.

As requested by the Ahmadiyya Movement in Islam, USINS Asylum Officers who doubt the authenticity of an applicant's claim to be an Ahmadi should accept only the above-mentioned official documents as verification of the applicant's status as an Ahmadi. Receipts of financial contributions to the Ahmadiyya Movement or other papers/documents should not be accepted by Asylum Officers.

All Ahmadis, however, will not have such documentation. Should a question arise concerning the applicant's status as an Ahmadi, the documentation should be requested by the Asylum Officer.

Asylum Officers who have questions concerning the validity of documentation presented by an asylum applicant should contact the authorized representative of the Ahmadiyya Movement in Islam within their jurisdiction (see Appendix V) or:

Human Rights Committee
Ahmadiyya Movement in Islam, Inc.
2141 Leroy Place, N.W.,
Washington D.C. 20008
Tel: 202 232-3737
Fax: 202 232-8181

Attention: Allah B. Chaudhry, Zafar A. Sarwar, Shakura J. Nooriah.

III. PEOPLE'S PARTY OF PAKISTAN

3.1 The People's Party of Pakistan (PPP)

The People's Party of Pakistan (PPP) was founded, in 1967, by Zulfikar Ali Bhutto, Prime Minister from 1971 to 1977. It is chaired by Prime Minister Benazir Bhutto, who previously served as Prime Minister from 1988 to 1990 and was the first woman leader of an Islamic country. The PPP's organizational base is in the province of Sindh, and its membership is largely derived from the rural areas of Sindh.

On August 6, 1990, the Bhutto Government was dissolved by a Presidential Order on charges of alleged violations of the Constitution of Pakistan, including corruption, nepotism, "horse-trading," ineptitude, and failure to maintain law and order. Bhutto "...called the dissolution of her government 'totally illegal' and a 'constitutional coup,' but a Lahore High Court verdict of October 1990 confirmed that the President's dismissal of her government had been legal and constitutional. The Lahore High Court found that the PPP government had failed, among other things, to pass any substantive legislation, to call a meeting of the Council of Common Interest involving the four provincial governments, and to maintain law and order in Sindh province."¹²⁰

Following the dismissal of Benazir Bhutto's Government, the PPP became the main opposition party to the Government of Prime Minister Nawaz Sharif (1990-July 1993).

¹²⁰ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 6.

3.1.1 Politically-Motivated Arrests/Imprisonments of PPP Members

As a result of its opposition to the Sharif Government, members of the PPP have been subjected to mass arrests, detention, and imprisonment.¹²¹ "Two main patterns of political detention have emerged during the past two years in Sindh: the arrest of individual opposition leaders, often through the use of successive detention orders based on apparently unrelated criminal charges, and mass arrests of opposition supporters."¹²² In the first instance, human rights monitors have not been in a position to ascertain whether the criminal charges brought against senior PPP leaders are justified. These organizations have been concerned, however, that these opposition leaders have been charged due to their political affiliation and that their trials may not be fair.¹²³ In the second instance, PPP supporters have been arrested solely for the peaceful exercise of their political and civil rights, including the right to freedom of association and the right to freedom of expression.¹²⁴

In reports by Amnesty International, the U.S. Department of State, Freedom House, and the Lawyers Committee for Human Rights, the following issues appear to be of crucial importance. First, the evidence collected by these organizations suggests that "...in a large

¹²¹ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

¹²² Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990* (London: Amnesty International, ASA 33/03/92, June 1992), p. 8.

¹²³ Amnesty International, *Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 18.

¹²⁴ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990* (London: Amnesty International, ASA 33/03/92, June 1992), p. 1.

number of cases the detained persons were political prisoners: that is, persons who are detained or imprisoned when the motivation of the detaining authorities may be political or when the acts or motivation for which a person is detained or imprisoned may be political.¹²⁵

Secondly, PPP members were arrested on a massive scale. "The first wave of mass arrests occurred...less than a week after the dismissal of the PPP government [of Benazir Bhutto]."¹²⁶

In continued waves of mass arrests, "[t]housands...have been picked up in the wake of violent events which the [Sharif] government has blamed on the PPP without carrying out any investigation" and when there appears to be no evidence linking them with the events.¹²⁷ The following incidents have been reported by Amnesty International:¹²⁸

- ▶ In June 1991, approximately 600 PPP members were reportedly arrested after the murder of Nabi Sher Junejo who was the judge trying the case of Benazir Bhutto's husband, Asif Ali Zardari. Most of those arrested were subsequently released.

¹²⁵ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 1.

¹²⁶ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

¹²⁷ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

¹²⁸ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 19-20, 25-26. This report provides very specific examples (with names and dates) of persons who have been arrested and should be referred to for detailed information. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 6-9. See also: Amnesty International USA, *Amnesty International Report 1992* (New York: Amnesty International USA, 1992), p. 207.

- ▶ In August 1991, more than 30 PPP members were reportedly arrested in Karachi in connection with the murder of a Criminal Investigation Agency (CIA) officer working on the Asif Ali Zardari case.

- ▶ On August 4, 1991, several hundred PPP members were arrested in Islamabad during a peaceful national hunger strike organized by the PPP to protest the establishment of the new Special Courts for Speedy Trial. Most of those arrested were released after a few days.¹²⁹

- ▶ In late November 1991, several hundred PPP activists were arrested and detained on charges of breach of the peace. Most of those arrested were released by early 1992.

- ▶ "The Sindh government has on several occasions publicly identified the PPP and its student and youth organizations, the People's Youth and the People's Student Federation, with a shadowy terrorist organization, the Al-Zulfikar Organization (The Sword [of Imam Ali] Organization, AZO)."¹³⁰ The PPP maintains that it has never

¹²⁹ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 7.

¹³⁰ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 4.

had an affiliation with the AZO and that the AZO has been defunct for several years.¹³¹ "In the first months of 1992, the Sindh government detained hundreds of opposition activists, mostly from the PPP, accusing them of being [AZO] `terrorists'. Many of the detained PPP workers were held for long periods of time without charge or were falsely implicated in criminal cases. Some of them, however, were charged with what observers considered to be legitimate criminal counts."¹³²

Additionally, opposition party leaders/members have been arrested/detained to stop them from campaigning or demonstrating.¹³³

- ▶ Following the dismissal of Benazir Bhutto's Government in 1990, several prominent PPP members were arrested and charged with criminal offenses, including Ms. Bhutto and her husband, Asif Ali Zardari.¹³⁴ By mid-1993, the courts had handed down acquittals on ten of the original twelve charges against Asif Zardari. Two charges remain pending. While reserving judgement as to whether the charges were justified,

¹³¹ Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service (Washington, D.C.: May 1993), p. 1-4.

¹³² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162.

¹³³ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 8.

¹³⁴ Freedom House, *Freedom in the World: Political Rights and Civil Liberties 1991 - 1992* (New York: Freedom House, 1991), p. 359. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1164-1165. See also: Amnesty International, *Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/93, June 1992), p. 6-8.

Amnesty International expressed concern that the charges were politically motivated.¹³⁵ As discussed in Section 1.3 of this paper, the PPP leaders have been tried in Special Accountability Courts whose procedures violate international standards of fair trial.¹³⁶

Other PPP leaders have reportedly been subjected to repeated arrest and detention. According to Amnesty International, these arrests/detentions have often been politically-motivated and constitute arbitrary detention in violation of national and international law.¹³⁷

- ▶ On May 14, 1992, Bhutto claimed that authorities arrested about 3,000 of her party members to stop their protests against alleged vote-rigging in a recent provincial election.¹³⁸

- ▶ In November 1992, Bhutto announced that she and her supporters would embark on a 'long march' (between the twin cities of Rawalpindi and Islamabad) to demand the

¹³⁵ Amnesty International, *Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 18.

¹³⁶ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, 1 June 1992), p. 8.

¹³⁷ Amnesty International, *Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/93, June 1992), p. 24. See also: Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK10913, 20 May 1992), p. 1.

¹³⁸ "Bhutto Says 3,000 Followers Arrested," *The Washington Times* (Washington, D.C.: 15 May 1992), p. A2. See also: Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 1.

resignation of Prime Minister Nawaz Sharif. Despite giving permission for the march and rally, the Sharif Government issued an order, on November 16th, banning assemblies of five or more persons and prohibiting the bearing of arms by private citizens. The order was imposed only in Islamabad and its immediate environs. To prevent the march and rally, barbed wire was erected on access roads to the capital, bridges on the outskirts of Islamabad were blown-up, convoys of supporters were blocked, travelers were subjected to road checks, and bus services were canceled.¹³⁹ The government's position has been that the 'long march' was motivated by a desire to bring down the Government by force and violence and therefore, would not be tolerated.¹⁴⁰

On November 17, 1993 (the day before the 'long march'), police and paramilitary forces reportedly arrested several thousand PPP members on a nationwide basis.

According to the U.S. Department of State, most "...detainees were never charged with an offense, nor were legal justifications for their detention provided. Detainees were

¹³⁹ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 7, 12. See also: "Bhutto's New Challenge," *The Economist* (London: 21 November 1992), p. 83. See also: "Opposition March in Pakistan's Capital," *British Broadcasting Corporation* (London: 20 November 1992) as reported in the Immigration and Refugee Board, Documentation, Information, and Research Branch *Indexed Media Review*, Vol. IV, No. 22, 24-30 November 1992.

¹⁴⁰ *Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.: May 1993), p.1-4 See also: *Letter from U.S. Senator Claiborne Pell, Chairman of the U.S. Senate Committee on Foreign Relations to His Excellency Prime Minister Nawaz Sharif, Islamic Republic of Pakistan* (Washington, D.C.: 18 November 1992), p. 1.

held for extended periods ranging up to 3 weeks."¹⁴¹ In a January 1993 report focused on the event and its aftermath, Amnesty International expressed its concern that "[s]everal hundreds of those arrested were believed to be prisoners of conscience held solely for the peaceful exercise of their right to express their political opinions or membership in an opposition party. Other prisoners of conscience arrested before and during the demonstration included several journalists and 12 members of a human rights organization who were monitoring the events and not taking part in the demonstrations. Scores of demonstrators were injured by the police and several opposition members and journalists covering the arrests were reportedly subjected to torture."¹⁴² The Lawyers Committee for Human Rights has expressed its concern that human rights abuses against opposition supporters are no longer confined to the province of Sindh, but have been occurring in other parts of Pakistan.¹⁴³

¹⁴¹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162. See also: Amnesty International, *Pakistan: Arrests and Torture of Political Activists* (London: Amnesty International, January 1993), p. 1-2.

¹⁴² Amnesty International, *Pakistan: Arrests and Torture of Political Activists* (London: Amnesty International, January 1993), p. 1-2. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 13. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162.

¹⁴³ "Comments on May 1993 Alert Series on Pakistan," *Letter from Elisa Massimino, Lawyers Committee for Human Rights to John Evans, Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.: 21 May 21 1993), p. 1.

In addition, "[t]he Federal and Northwest Frontier Province (NWFP) governments issued externment orders to prevent Bhutto from entering Islamabad-Rawalpindi and the NWFP for a period of 30 days beginning November 18. She was forcibly detained and flown out of the capital area. The orders were lifted on November 26."¹⁴⁴

In late November 1992, Benazir Bhutto and her supporters continued their 'long march' by boarding the Khyber Mail Express for Lahore.¹⁴⁵ On 5 December 1992, PPP members stormed the Provincial Assembly in Lahore, broke down the gate of the building, and burned the doors. Police managed to control the crowd with tear gas.¹⁴⁶

The U.S. Department of State's Bureau of Human Rights and Humanitarian Affairs indicated, in June 1993, that no mass arrests or detentions have occurred since the beginning of the year.¹⁴⁷

¹⁴⁴ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The People's Party of Pakistan* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 13. See also: "Benazir's Challenge: Pakistan's Fiery Opposition Leader Picks a Fight With Nawaz Sharif," *Time* (New York: 30 November 1992), p. 74 as reported in the Immigration and Refugee Board, Documentation, Information, and Research Branch *Indexed Media Review*, Vol. IV. No. 22, 24-30 November 1992.

¹⁴⁵ "Bhutto the Avenger," *Asiaweek* (Hong Kong: 4 December 1992), p. 90 as reported in the Immigration and Refugee Board, Documentation, Information, and Research Branch *Indexed Media Review*, Vol. IV, No. 24, 8-14 December 1992. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 13.

¹⁴⁶ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 13.

¹⁴⁷ *Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.:

The government's authority to detain/arrest PPP supporters has been derived from Article 10(3-9) of the Constitution of Pakistan which provides for administrative detention for a period of up to three months. This can be extended to eight or twelve months by a review board taking into account the grounds of detention. Administrative detention legislation, the body of laws that permits executive government authorities to detain people without charge or trial, has often been used to circumvent the usual judicial process and to silence political prisoners and prisoners of conscience.¹⁴⁸

- ▶ "Over the past two years [1990-91], PPP members have been arrested, often for corruption or for open opposition to the...Government, under the Maintenance of Public Order Ordinance (1960), the Suppression of Terrorist Activities Act (1975), the Parliament and Provincial Assemblies (Disqualification for Membership) Rules of 1990 or the Prevention of Anti-National Activities Act 1974. The Maintenance of Public Order Ordinance (MPO) allows anyone suspected of acting 'in any manner prejudicial to public safety or the maintenance of public order' to be held without trial for up to three months."¹⁴⁹
- In 1991, the MPO was used to arrest hundreds, perhaps thousands, of PPP

May 1993), p. 1-4.

¹⁴⁸ Amnesty International, *Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/93, June 1992), p. 41.

¹⁴⁹ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 6.

activists.¹⁵⁰ "The Suppression of Terrorist Activities Act gives federal and provincial governments the right to exercise exclusive jurisdiction over offenses committed by 'political prisoners.' According to the Parliament and Provincial Assemblies (Disqualification for Membership) Rules of 1990, based on a 1977 Act, those convicted of 'misconduct' may be denied the right to hold public office or stand for election for a period of seven years."¹⁵¹

The 1992 Department of State report indicated that "[t]he overt repression of political opponents, a particular problem in Sindh, lessened [in 1992] but nonetheless remained an issue of concern. [In addition, the] selective prosecution of opposition political leaders continued."¹⁵²

3.1.2 Rape (as a form of torture) of PPP Members

¹⁵⁰ Freedom House, *Freedom in the World: Political Rights and Civil Liberties 1991 - 1992* (New York: Freedom House, 1991), p. 359.

¹⁵¹ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 6.

¹⁵² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1160.

According to Amnesty International, the U.S. Department of State and Freedom House, "[t]here continues to be persuasive evidence of misuse of police powers....Police and jailers often use force to coerce confessions and to compel detainees and prisoners to incriminate others. Beating, whipping the soles of the feet with rubber whips, sexual assault, and prolonged isolation occur in Pakistani jails. When deaths occur, suicide is the most commonly offered explanation."¹⁵³ The Amnesty International and Department of State reports specifically indicate that PPP members have been subjected to abuse and torture. "Many political prisoners in Sindh have been held in unacknowledged detention and many are reported to have been subjected to torture, including rape, and other forms of cruel, inhuman and degrading treatment."¹⁵⁴

As has been discussed in Section 1.4 of this paper, a Pakistani woman who reports a case of rape to the authorities can find herself charged with adultery under the Hadood Ordinances. As a result of this legal quandary and the accompanying social taboos, most women do not report sexual abuse and rape. Since 1990, the issue of rape (as a form of torture) and violence against women has entered into the public arena. The change is due to the following cases of the rape/sexual abuse of PPP members (some of whom were closely

¹⁵³ Freedom House, *Freedom in the World: Political Rights and Civil Liberties 1991 - 1992* (New York: Freedom House, 1991), p. 359. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161. See also: Amnesty International USA, *Amnesty International Report 1992* (New York: Amnesty International, 1992).

¹⁵⁴ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 8.

linked with PPP Chairperson Benazir Bhutto) which were reported and gained widespread media attention:¹⁵⁵

- ▶ In September 1990, Aasia Ayub alleged that she had been physically and sexually assaulted while being held overnight for questioning in a stationhouse in Rawalpindi. As her case gained the support of the media and various social organizations and politicians, the Government requested the suspension of the involved officers.

- ▶ In December 1990, Rahila Tiwana, a member of the People's Student Federation was arrested by the CIA in Karachi and allegedly tied with ropes and hung upside-down to force her to incriminate Benazir Bhutto and others. A medical examination substantiated her allegations. Nearly two weeks after her arrest, she was charged with possession of illegal weapons and with involvement in a 1987 murder case. She was released on bail in June. No known action was taken against the alleged torturers.

- ▶ On November 27, 1991, Farhana (Veena) Hyat, a close friend of PPP Chairperson Benazir Bhutto, was allegedly gang-raped in her home in Karachi. According to press statements made by her father, the rape was allegedly ordered by the police and the

¹⁵⁵ Amnesty International USA, *Amnesty International Report 1992* (New York: Amnesty International, 1992), p. 207-208. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1550-1551. See also: "Pakistan: Peccaverunt," *The Economist* (London: December 1991), p. 45. See also "Pakistani Women Speak Out," *The Middle East* (April 1992), p. 45 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 18, 28 April-4 May 1992. See also: Bakhtiar, Idrees, "The Politics of Rape," *The Herald* (Islamabad: January 1992), p. 37-54.

Sindh Chief Minister's advisor on Home Affairs, Irfanullah Marwat (son-in-law of former president Ghulam Ishaq Khan). She was also interrogated about PPP members and their activities.¹⁵⁶

- ▶ In November 1991, Khurshid Begum, the wife of an arrested PPP activist, was allegedly stripped and sexually abused in a police station in Karachi. By the end of the year, no action had apparently been taken against those responsible.

In a paragraph on the "overt repression of political opponents," the 1992 Department of State report indicated that "[t]he arbitrary detention, arrest, torture, and other abuse of prisoners and detainees continued to be a serious problem...and responsible authorities did little to prosecute or punish those responsible for abuses."¹⁵⁷

3.1.3 Internal Flight

The Canadian Immigration and Refugee Board Documentation Center reported that:

[i]t is hard to determine whether coordination between federal and provincial judicial systems is effective enough to negate internal flight possibilities....According to several sources, it is generally impossible to evade

¹⁵⁶ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 132-133. See also: Bakhtiar, Idrees, "The Politics of Rape," *The Herald Annual* (Islamabad, January 1992), p. 38-39, 44-45. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 7.

¹⁵⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1160.

Pakistani justice, despite its inefficiencies, mainly because the provincial and federal governments have been controlled by the IDI [Islamic Democratic Alliance] since 1990. If the justice system searches for an individual actively enough and an arrest warrant is issued, the accused normally cannot evade arrest in any part of the country. Conditions, however, vary from case to case. The only way to escape justice for certain would be to stay underground. According to two sources contacted, the police are fairly ineffective, but can become a powerful weapon in searching for a person, especially in Sindh and the Punjab. Information sharing systems do exist, even though they are not computerized; for example, the district commissioner usually maintains regular contact with local stations. Moreover, a person can legally be arrested and extradited from one province to another to be brought to justice, since arrest warrants are valid outside the province in which they were issued.¹⁵⁸

The U.S. Department of State's Bureau of Human Rights and Humanitarian Affairs, however, has indicated that the Islamic Democratic Alliance (IDA) Government of former Prime Minister Nawaz Sharif was not more efficient in pursuing criminals and political suspects than previous Governments. In addition, the Bureau states that the provincial governments have not been controlled solely by the IDA party; since 1990, non-IDA coalition governments have existed, from time to time, in the provinces of NWFP and Baluchistan.¹⁵⁹

¹⁵⁸ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 14-15.

¹⁵⁹ *Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service* (Washington, D.C.: May 1993), p. 1-4.

3.1.4 Ethno-Political Violence Between the PPP and the MQM

In 1979, General Zia ul Haq declined to stay the execution of former Prime Minister Zulfikar Ali Bhutto who was given the death sentence following his conviction on a charge of conspiracy to commit homicide. According to the U.S. Department of State, many foreign Governments requested commutation of the court's judgement on humanitarian grounds, but to no avail.¹⁶⁰ Mr. Bhutto, the founder of the PPP, was a Sindhi. In 1983, growing Sindhi nationalism led to a revolt and General Zia sent the predominantly Punjabi army in to crush the militants. He also quietly encouraged the growth of the Mohajir Qaumi Movement as an armed force against the PPP. In time, this ethno-political rivalry "...turned into gun battles between Mohajirs, Sindhis, Pathans and Punjabis."¹⁶¹ As the ethnic strife between the Mohajirs and the local Sindhis continued, it became increasingly intertwined with politics.

In the previously-scheduled November 1988 elections which followed Zia's assassination, Prime Minister Benazir Bhutto formed her minority Government. The election was followed by the "...worst ethnic strife in Sindh's history - [M]ohajirs and [S]indhis attacked each other at will; people fled en masse from the countryside to the towns in search of safety; cities came to be divided into [M]ohajir and [S]indhi fortresses."¹⁶²

¹⁶⁰ Letter from Roger Brewin, U.S. Department of State, Bureau of Human Rights and Humanitarian Affairs to Resource Information Center of the U.S. Immigration and Naturalization Service (Washington, D.C.: May 1993), p. 1-4.

¹⁶¹ "Suspicious Galore," *The Economist* (London: 30 May 1992), p. 34. See also: "Sinful Sind," *The Economist* (London: 11 April 1992), p. 36.

¹⁶² "Sinful Sind," *The Economist* (London: 11 April 1992), p. 34.

In the wake of this violence, the MQM and PPP negotiated and entered into an alliance. In May 1989, the alliance "...collapsed after the resignation of three MQM ministers following increased ethnic violence in Sindh. The MQM stated that it had not received sufficient support from Prime Minister Benazir Bhutto and that the PPP had gone back on promises to release MQM detainees."¹⁶³ As a result, the MQM moved its support to the Islamic Democratic Alliance of then-Prime Minister Nawaz Sharif.¹⁶⁴

In early 1990, political strife between the PPP and the MQM in Sindh reached a peak. Clashes between the two parties and government security forces resulted in arrests and deaths.¹⁶⁵ For further information on this issue, please refer to Section 4.3.1 of this paper.

3.1.5 Uncertain Prospects

"In December 1992, the opposition continued its demonstrations, denouncing the corruption of Nawaz Sharif's Government and calling for its resignation."¹⁶⁶ In early 1993, Prime Minister Sharif and PPP Chairperson Bhutto appeared to have been edging towards conciliation and possible future co-operation. The July 1993 resignation of President Ghulam

¹⁶³ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 3.

¹⁶⁴ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 3.

¹⁶⁵ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK8609, 20 June 1991), p. 1.

¹⁶⁶ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Pakistan People's Party* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, February 1993), p. 15.

Ishaq Khan and Prime Minister Nawaz Sharif, and the recent election of Benazir Bhutto as Prime Minister, however, may signal a real change in Pakistan's opposition politics.

IV. THE MOHAJIRS/MOHAJIR QAUMI MOVEMENT

4.1 The Mohajirs

In 1947, British India was partitioned into two countries: India and Pakistan. The latter country had two parts: East Pakistan (now Bangladesh) and West Pakistan (now Pakistan). Its approximately 100 million Muslims, who comprised more than twenty-five percent of the population of British India, "...were divided into three unique and geographically distinct communities, namely, those located in the northwest, the northeast, and the north-central regions. The northwest and northeast regions, in which Muslims comprised 60 and 50 percent of the population respectively, became Pakistan. The north-central provinces, in which Muslims were a small minority of 20 percent of the total population, remained in India."¹⁶⁷ In the months immediately following the partition of the sub-continent, approximately fourteen million people crossed the borders between the newly-created countries. Eight million Muslims from India fled to East and West Pakistan and six million non-Muslims fled to India.¹⁶⁸

The Muslims who fled from the north-central region of India to West Pakistan are called Mohajirs. The Urdu word, 'mohajir,' means refugee and "...has a connotation of sacrifice for the cause of Pakistan." As refugees, the Mohajirs abandoned their

¹⁶⁷ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 1.

¹⁶⁸ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 4.

homes/property and "...adopted the Urdu tongue to embrace the ideal of a great Muslim state in south Asia."¹⁶⁹ The Mohajirs were instrumental in the movement to create Pakistan and continued to have a significant impact on the early political development of the new country. While the Mohajirs dominated Pakistan's Government and political institutions, the country's armed forces remained under the control of the native Punjabis (an ethnic group from the province of Punjab).

Despite their varied Indian origins, the Mohajirs "...are united in part by language and by their social and economic distinctiveness, which sets them apart from indigenous Pakistanis. However, they do not constitute one ethnic group with common customs and traditions, but include Muslims belonging to different ethno-cultural and religious communities."¹⁷⁰ The three distinct groups of Mohajirs are the Memons, Khojas and Bohras.¹⁷¹

¹⁶⁹ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 2.

¹⁷⁰ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 1.

¹⁷¹ For detailed information regarding the historical background, religious beliefs/practices and community organization of these three Mohajir groups, please refer to Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992).

4.2 Ethnic Strife

Initially, the Mohajirs were assisted by "...certain government measures designed to ease their settlement in Pakistan, in particular property allocation policies, privileged investment programs and recognition of Urdu...as the official language of the new state. These measures progressively alienated the region's other ethnic groups. The Mohajirs gradually replaced the Sindhi (an ethnic group from the province of Sindh) businessmen of the Hindu and Sikh religions who fled to India following partition. By the early 1960s, they had taken over most of the province's professional and commercial sectors."¹⁷² As a result of their economic success in Sindh's trade, commerce and banking industries, the Mohajirs became Pakistan's leading capitalists and industrialists in the early 1970s. Their economic influence was matched only by the native Punjabis.¹⁷³

"As a result of the settlement of nearly seven million Mohajirs, Sindh has experienced profound social and economic changes and upheavals during the past forty years."¹⁷⁴ Prior to partition, the Sindh province was predominantly non-Muslim with no indigenous middle class. After partition, the urban population in Sindh consisted primarily of Mohajirs. The

¹⁷² Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 3-4.

¹⁷³ Minority Rights Group, Ltd., "Governments and Tribesmen in Conflict," *The Baluchis and Pathans* (London: Minority Rights Group, Ltd., July 1987), p. 9. See also: Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 1-2, 4. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, September 1992), p. 3-6

¹⁷⁴ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 6.

economic success of the Mohajirs created increasing rivalry and clashes between their community and the local native-born Sindhis over political influence, employment opportunities and other questions involving socio-economic status.¹⁷⁵ By 1951, the Mohajirs comprised 25% of Pakistan's population and more than 46% of the population of its nineteen largest cities. In the 1950s, substantial numbers of Pathans and Punjabi workers began to migrate into the cities of Sindh. As a result, Sindh is now a multi-ethnic province with the resultant ethnic tensions.¹⁷⁶

"In the early 1970s, riots broke out in Sindh, for Sindhis demanded recognition of their mother tongue [Sindhi] rather than Urdu as the official language in their province. In order to appease Sindhi nationalists, the Government of Zulfikar Ali Bhutto then introduced various measures designed to reduce the Mohajirs' advantages."¹⁷⁷ According to the Canadian Immigration and Refugee Board Documentation Center:

Bhutto's government, in power from 1971 to 1977, enacted a law protecting the use of Sindhi in the province of Sindh. After Bangladesh's war of secession in 1971, it adopted federal and provincial quota systems designed to ensure fair regional representation in education and employment in the government. These systems restricted access to education and employment for Mohajirs....The Mohajirs then began to be displaced by Punjabis in the secondary and tertiary

¹⁷⁵ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 6. See also: Immigration and Refugee Board, Documentation, Information, and Research Branch, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, May 1989), p. 3-6.

¹⁷⁶ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 6-7.

¹⁷⁷ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 3-4.

sectors in the cities of Sindh, and by Pathans in the transport sector in particular....The quota system [which is still in effect] is based predominantly on determination of residence. According to the Sindh Permanent Residence Certificate Rules of 1971, a person's domicile is determined on the basis of his father's place of residence, his place of birth and education and length of residence in the province. Mohajirs complain about this system because, in their view, it gives an advantage to Sindhis who fraudulently obtain rural residence certificates and thus have better access to education and employment in the public service. Mohajirs are reluctant to accept this quota system which, if it does not target them directly, still affects them predominantly because their community is almost entirely urban.¹⁷⁸

The government quota system, the social rejection of the Mohajirs by 'native' Pakistanis, and the social problems that have emerged in overflowing Karachi, the capital of the province of Sindh, have combined to fuel inter-ethnic hatred. Karachi is an overpopulated metropolis which has grown at an alarming rate. As a result, it is plagued with insufficient housing (nearly 50% of the population lives in squats or temporary shelters), inefficient municipal services, traffic problems, an inadequate transport system, and a high youth unemployment rate. It has been particularly affected by the inter-ethnic violence which has grown to alarming proportions in the last decade and which claimed over 1,000 lives in 1986.¹⁷⁹

¹⁷⁸ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 3-4.

¹⁷⁹ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 3-4.

4.3 The Mohajir Qaumi Movement (MQM)

The Mohajir Qaumi Movement (MQM) is a nationalist movement which seeks official recognition of Mohajirs as the fifth ethnic/national group (the other four are the Punjabis, Sindhis, Baluchis and Pathans) of Pakistan. The movement is supported by second-generation Mohajirs (born in Pakistan) whose claim to constituting an ethnic/national group is based on their linguistic and cultural differences with Pakistan's other ethnic groups. While Mohajirs speak other languages, the Urdu language is the mother-tongue of the first and second generation Mohajirs. "By deliberately using Urdu as the common ethnic bond, the movement tries to formulate an over-arching ethnicity which, for political purposes, would unite the ethnically and religiously divided Mohajirs."¹⁸⁰

In the 1970s, the Mohajir Student Federation was founded to counter the rising ethnic militancy of Sindhi students against the Mohajirs. The Mohajir Qaumi Movement (MQM) was founded in March 1984 through the union of Karachi University student groups and began to dominate the political scene in urban Sindh after a huge rally on the Karachi University campus in August 1986. It is headquartered in a Mohajir neighborhood of Karachi and has been headed by Altaf Hussain since its founding.¹⁸¹

¹⁸⁰ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 8.

¹⁸¹ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 4.

"The party is supported by the middle class and by young Mohajirs who are unemployed or whose access to education has been restricted."¹⁸² The MQM was founded to protect the interests of Mohajirs, particularly regarding the federal/provincial quota system. The MQM has called "... for an increase in employment quotas in the province of Sindh, recognition of Mohajir nationality, [and] investigation into the fraudulent practices of other non-Sindhi groups that use false residence certificates to bend quota rules...."¹⁸³

4.3.1 Ethno-Political Violence Between the MQM and PPP

As detailed in Section 3.1.4 of this paper, the ethnic strife between the Mohajirs and the local Sindhis became increasingly intertwined with politics. In early 1990, political strife between the PPP and the MQM in Sindh reached a peak. Clashes between the two parties and government security forces resulted in arrests and deaths.¹⁸⁴

According to the 1990 Department of State report, "...persons from one ethnic group were killed in indiscriminate attacks by rival groups. There were repeated allegations, which are difficult to verify, that law enforcement agencies favored the PPP followers and caused the deaths of innocent persons while attempting to bring the violence under control or by standing by and refusing to intervene. In May [1990], a number of civilians were killed in

¹⁸² Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 5.

¹⁸³ Immigration and Refugee Board Documentation Centre, *The Mohajirs of Pakistan* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, May 1989), p. 5.

¹⁸⁴ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK8609, 20 June 1991), p. 1.

Hyderabad by the police or the paramilitary Pakistani Rangers. Allegations were made against the PPP federal and provincial governments, charging that a police 'clean-up operation,' reportedly intended as a crackdown on illegal weapons, was in reality an attack on rival MQM activists. The PPP denied the allegations.¹⁸⁵ As documented by Amnesty International, the ensuing riots resulted in the death of about one hundred people, leading to further violence in other parts of Sindh.¹⁸⁶ "As a result of this, and previous incidents, the Prime Minister and the Sindh Chief Minister and Governor asked the military for assistance. The Pakistan Army was deployed in Sindh to help civilian authorities restore law and order..." and several thousand people were reportedly arrested.¹⁸⁷

In the summer of 1991, the violence continued with fighting between the PPP and the MQM, as well as between rival MQM factions. "Gun battles in June and July claimed several lives."¹⁸⁸ Recent reports indicate that rival factions/dissidents have been known to exist within the MQM; however, the reports do not indicate the basis of rivalry.

¹⁸⁵ U.S. Department of State, *Country Reports on Human Rights Practices for 1990* (Washington, D.C.: U.S. Government Printing Office, February 1991), p. 1593-1594.

¹⁸⁶ Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 4.

¹⁸⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1990* (Washington, D.C.: U.S. Government Printing Office, February 1991), p. 1593-1594. See also: Amnesty International, *Pakistan: Arrests of Political Opponents in Sindh Province, August 1990 - Early 1992* (London: Amnesty International, ASA 33/03/92, June 1992), p. 4.

¹⁸⁸ Freedom House, *Freedom in the World: Political Rights and Civil Liberties 1991 - 1992* (New York: Freedom House, 1992), p. 358.

4.3.2 Torture of Party Dissidents/Political Opponents by MQM

During May and June 1992, the Pakistani Government deployed the army through Operation Blue Fox to restore law and order in Sindh. "In the course of the operation, the army uncovered a chain of torture cells operated by the party, where dissidents and political opponents were maimed or killed, the army said."¹⁸⁹ In July 1992, the *Economist* quoted the Pakistani army:

...Karachi is now a free city. 'It has been freed from the clutches of terrorists,' said a brigadier. The terrorists he was referring to are muhajirs....Before dawn on June 19th [1992] the party offices of the Muhajir Qaumi Movement (MQM) in east and central Karachi were attacked. Nine muhajirs were killed and dozens wounded. The attacks were carried out by a rival MQM faction, egged on by the army. Later the army arrested 50 MQM members, seized a cache of weapons and showed reporters 17 'chambers' used by the movement to torture opponents. Since then the movement's vice-president, Salim Shazad, a member of the federal parliament, has been arrested along with other leaders. The movement...[was] an important ally of the [former] governing coalition led by the prime minister, Nawaz Sharif. The movement also provides the backbone to Muzaffar Shah's provincial government in Sindh (27 members out of a coalition of 63 in a house of 110). Why then did the army seek to crush a party so important to the rulers of Pakistan? The [former] army chief, General Asif Nawaz, told the BBC that the people of Karachi 'are fed up with the atrocities' committed by the MQM. The army had been ordered by the government to 'clean-up' Sindh, and it would not spare terrorists and law-breakers, irrespective of party affiliations....The army expects it will take at least six months to clean up Sindh. Hundreds of MQM militants as well as Sindhi extremists have gone underground with their weapons.¹⁹⁰

¹⁸⁹ "Pakistanis Fear Chaos as Graft and Violence Rise," *New York Times* (New York: 2 August 1992), p. 1. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162.

¹⁹⁰ "The Clean-Up," *The Economist* (London: 3 July 1992), p. 33.

As documented in Section 1.6 of this paper, the MQM not only used its political power against party dissidents and political opponents, but intimidated, threatened, and harmed the Pakistani press.

According to the 1992 Department of State report, "[m]any observers credibly maintain that the use of torture was common knowledge but that the [Sharif] Government had previously deferred action against the MQM for fear of losing its political support."⁹¹

Documentation of specific incidents or methods of torture, however, is currently unavailable.

¹⁹¹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162.

V. WOMEN/GENDER-BASED VIOLENCE

5.1 Background

In both the public and familial spheres, women in Pakistan continue to be discriminated against due to their gender. This gender inequality has been exacerbated by the particular interpretation of Islam in Pakistan. While women's rights groups have argued that Islam does not have to be inconsistent with gender equality, women remain in a subordinate position in all spheres of Pakistan's public life: social, economic and political.¹⁹²

In theory, civil and religious laws protect women's rights in, *inter alia*, inheritance and divorce. In practice, however, women do not receive their due share of inheritances and can be divorced by their husbands, at his will, by his oral and unwitnessed statement of divorce.¹⁹³

Women in Pakistan are neither protected from public nor private torture and abuse. The U.S. Department of State and human rights organizations have documented a continuation of the rape (as a form of torture)/torture and sexual abuse of women in police custody, as well as the "murder [of women] perpetrated by husbands or in-laws."¹⁹⁴

¹⁹² U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1170.

¹⁹³ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1170.

¹⁹⁴ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161-62, 1171.

5.2 Rape: Torture Under International Law

Human rights violations against women, particularly "invasions of the basic human right to bodily and sexual integrity," are generally considered outside the realm of human rights/torture because these violations are part of the private/familial sphere rather than the public sphere. It should be recognized, however, that systematic rape/sexual abuse is considered to be torture and therefore, is prohibited under international law.¹⁹⁵ Appendix VI discusses the treatment of rape under international law.

In Pakistan, this particular form of gender-based violence against women is frequent. As detailed in Section 1.4 of this paper, a Pakistani woman who reports a case of rape to the authorities can find herself charged with adultery under the Haddood Ordinances. As a result of this legal quandary and the accompanying social taboos, most women do not report sexual abuse and rape. Those who have the courage to report the rape are usually unable to provide four male, Muslim witnesses to the act of penetration and, therefore, are jailed for adultery. In detention, the women are subjected to sexual abuse and rape (as a form of torture). The U.S. Department of State, Amnesty International, Human Rights Watch, and the Pakistan-based Women's Action Forum have all documented a continuation of the sexual abuse and rape of women in police custody.¹⁹⁶

¹⁹⁵ Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 2, 19-20. See also: Appendix VI in this paper.

¹⁹⁶ Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan*, (New York: Human Rights Watch, 1992), p. 2. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161. See also: Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 19-20. See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combatting*

According to the U.S. Department of State, "[t]here were continuing credible reports that women in police custody, or those who went to a police station to file a report or inquire after a detainee, were sexually abused."¹⁹⁷ Asia Watch and the Women's Rights Project have documented that more than 70% of women in police custody are subjected to physical and sexual abuse. Reported abuses include beating, the insertion of foreign objects (including police batons and chili peppers) into the victim's vagina and rectum, and gang rape.¹⁹⁸

The Committee for the Repeal of the Hadood Ordinances estimates that over 2,000 women are in jails in Pakistan awaiting trial under this law.¹⁹⁹ These violations are reportedly sanctioned and perpetrated by Pakistan's law enforcement agencies. The Women's Action Forum, a Pakistan-based human rights organization, has been concerned about the increase in the direct involvement of the police in perpetrating violence against women.²⁰⁰ According to

Violence Against

Women (New York: International League for Human Rights, March 1993), p. 10-11.

¹⁹⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161.

¹⁹⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161-62. See also: Amnesty International, *Women in the Front Line* (New York: Amnesty International, March 1991), p. 34. See also: Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan* (New York: Human Rights Watch, 1992). See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

¹⁹⁹ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1162.

²⁰⁰ Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

the U.S. Department of State and Human Rights Watch, police officials are not subjected to criminal penalties for such abuse.²⁰¹

Since 1990, the issue of rape/violence against women has entered into the public arena. The change is due to the cases of the rape/sexual abuse of PPP members (some of whom were closely linked with former Prime Minister Benazir Bhutto) which were reported and gained widespread media attention.²⁰² These cases, which have been discussed in Section 3.1.2 of this paper, are not isolated incidents.

5.3 Bride Burnings

Pakistani women's groups have expressed their continuing concern about bride burnings. In these incidents, women are burned to death in alleged kitchen stove accidents. In actuality, "[m]any of these murders are believed to be perpetuated by husbands or in-laws," but few of these cases are seriously investigated.²⁰³

²⁰¹ Asia Watch and the Women's Rights Project, *Double Jeopardy: Police Abuse of Women in Pakistan* (New York: Human Rights Watch, 1992), p. 2. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1161-62, 1170-71.

²⁰² Amnesty International USA, *Amnesty International Report 1992* (New York: Amnesty International, 1992), p. 207-208. See also: U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1550-1551. See also: "Pakistan: Peccaverunt," *The Economist* (London: December 1991), p. 45. See also "Pakistani Women Speak Out," *The Middle East* (April 1992), p. 45 as reported in the Immigration and Refugee Board Documentation Centre *Indexed Media Review*, Vol. III, No. 18, 28 April-4 May 1992.

²⁰³ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1171. See also: Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combating Violence Against Women* (New York: International League

The Pakistan-based Women's Action Forum has expressed its concern that the laws of Qisas (an `eye for an eye') and Diyat (bloodmoney), which have been discussed in Section 1.4 of this paper, may have damaging repercussions in intra-family murder cases, as the concepts of Qisas and Diyat lose their meaning within a family context. This has particular implications for Pakistani women: the most common form of intra-family violence is the killing of a female member by the male head of the family. The Women's Action Forum has publicly questioned whether the State is abdicating its responsibility, through this legislation, to control violence within the family.²⁰⁴

for Human Rights, March 1993), p. 9.

²⁰⁴ Shaheed, Farida, "Violence Against Women: The Experience in Pakistan," *Combatting Violence Against Women* (New York: International League for Human Rights, March 1993), p. 10-11.

VI. RELIGIOUS MINORITIES

6.1 Background

Pakistan was founded on the principle of religious freedom and the full participation of all citizens, yet, the rights of religious minorities have been gradually eroded through legislation and social intolerance. In his oft-quoted speech on August 11, 1947, Mohammad Ali Jinnah (the founder of Pakistan) explicitly emphasized the secular nature of the new State: "...You are free, you are free to go to your temples. You are free to go to your mosques or any place of worship in this State of Pakistan. You may belong to any religion or cast or creed -- that has nothing to do with the business of the State. We are starting in the days when there is no discrimination, no distinction between one community and another, no discrimination between one caste or creed or another. We are starting with this fundamental principle that we are all citizens and equal citizens of one state."²⁰⁵

6.2 Islamization and Subsequent Legislative Restrictions

Pakistan is an Islamic republic with a population that is 97 percent Muslim. Religious minorities include the Christians, Hindus, Zoroastrians and the Ahmadis (who are discussed in Chapter II of this paper). According to the U.S. Department of State, "...members of minority

²⁰⁵ Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 123-124.

groups [other than the Ahmadis] may practice their own religion openly, maintain links with co-religionists in other countries, and travel for religious purposes.²⁰⁶ The Christian Study Centre in Pakistan, however, is concerned about the "tremendous deterioration in the status of minorities...and a proportionate growth in the violations of their fundamental human rights...."²⁰⁷

The 1973 Constitution of Pakistan explicitly protected the rights of minorities and specified a joint electorate with no discrimination in terms of either religion or sex. It stipulated universal adult franchise and direct election of representatives. Minorities and women voted in the general elections as full citizens while also having special representation (a.k.a. reserved seats) as socially disadvantaged groups.²⁰⁸ In 1978, two separate electorates, one for Muslims and one for religious minorities, were created for the National and Provincial Assemblies as part of General Zia Ul Haq's campaign of Islamization. As a result of this change, which was later incorporated into the Constitution through the Eighth Amendment of 1985, minority participation in the political system was limited to the election of special representatives. Minorities no longer had the right to vote in the general elections as full citizens in a joint electorate. Instead, their "...representatives were directly elected from a country-wide constituency on the basis of separate electorates. Under this system, the

²⁰⁶ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

²⁰⁷ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 122. See also: Bhutto, Benazir, "Minorities, Women and the Political Processes," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 108.

²⁰⁸ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 135-36. See also: Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 119-122.

minority representatives were no longer a means of compensating for the social disadvantages faced by minorities, but rather a means of separating the minorities out from the Muslim mainstream and thus emphasizing the Islamic nature of the State.²⁰⁹

The influence of politics has continued to contribute to the Islamization of Pakistan and the Sharif Government, "...fearful of antagonizing influential religious leaders, has...[been] openly courting them with the imposition of strict new regulations based on [S]hari'a, or Islamic law."²¹⁰ Shari'a is derived from the Qur'an (or Koran), the holy book of Islam. All Muslims consider the Qur'an to be the literal words of God as conveyed to the Prophet Muhammad by the Archangel Gabriel. As such, the Qur'an is the fundamental root of Islamic law and has a significant impact on Muslim society.²¹¹

Islamic law (Shari'a, Qur'anic law, Koranic law) may not inherently be inconsistent with international human rights norms. In practice, however, the imposition of Islamic law in Pakistan may be fueling religious persecution.²¹² In October 1990, a Shari'a court decision made the death penalty mandatory for anyone who is convicted of intentionally uttering contemptuous remarks or offering insult to the Prophet Muhammad.²¹³ According to Asma

²⁰⁹ Amjad-Ali, Christine, "Opening the Curtains: Minorities and Women in Pakistan," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 135-36. See also: Amjad-Ali, Charles, "Constitutional Rights for Minorities," *Al-Mushir* (Rawalpindi: Vol. 33, No. 4, 1991), p. 119-122.

²¹⁰ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²¹¹ Vogel, Frank, *Human Rights and Islam* (Harvard Law School Course Syllabus, Winter 1991), p. Q-1.

²¹² Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²¹³ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1554.

Jahangir, an attorney and Secretary General of the Human Rights Commission of Pakistan, the new law is being used to exploit and intimidate people in the name of religion.²¹⁴

- ▶ In January 1992, a Christian schoolteacher, Naimat Ahmer, was stabbed to death by a young Muslim who alleged that his victim had blasphemed the Prophet. Despite lack of evidence of the alleged blasphemy, the murderer has been hailed as a hero.²¹⁵

- ▶ Tahir Iqbal, a Christian paraplegic confined to a wheelchair, was imprisoned for 19 months without bail on charges of desecrating the Koran and blaspheming the Prophet. In July 1992, he was allegedly poisoned in a Lahore prison cell. The Chief Justice of the High Court has requested an inquiry. As requests for an autopsy were denied, it is expected that the body will be exhumed to determine the cause of death. The results of the inquiry are currently unavailable.²¹⁶

²¹⁴ Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²¹⁵ Baker, Barbara, "Inquiry Stalemate in Pakistani Prisoner's Death," *News Network International* (Santa Ana, CA: 21 August 1992), p. 3-4. See also: Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29. See also: Mohammed, Khan, "Day of the Bigot," *Herald* (Islamabad: February 1992), p. 92.

²¹⁶ Baker, Barbara, "Inquiry Stalemate in Pakistani Prisoner's Death," *News Network International* (Santa Ana, California: 21 August 1992), p. 3-4. See also: Baker, Barbara, "Lahore Court Inquiry Moves at Snail's Pace," *News Network International* (Santa Ana, California: 25 November 1992), p. 20.

- ▶ According to the News Network International, several Christians have been accused of blasphemy under the new laws and have been imprisoned without bail. The penalty for a blasphemy conviction is death. Three other Christians remain accused and on trial.²¹⁷
- ▶ Chand Barkat has been acquitted on blasphemy charges. The state may file a case of malicious prosecution against his accuser and his attorneys are filing for damages.²¹⁸
- ▶ In a case that has generated worldwide attention, Gul Masih has been convicted and sentenced to death on the sole evidence of his accuser. An appeal has been filed by his attorneys.²¹⁹
- ▶ Dr. Akhter Hameed Khan, one of Pakistan's well-known social workers, has been accused of blasphemy because of a children's story book which he has written.²²⁰

²¹⁷ Baker, Barbara, "Muslim Militants Press Another Blasphemy Charge in Pakistan," *News Network International* (Santa Ana, California: 26 February 1993), p. 10. See also: Baker, Barbara, "Pakistani Lawyer Takes Case of Imprisoned Christian Evangelist," *News Network International* (Santa Ana, California: 26 February 1993), p. 29. See also: Baker, Barbara, "Inquiry Stalemate in Pakistani Prisoner's Death," *News Network International* (Santa Ana, California: 21 August 1992), p. 3. See also: Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992), p. A29.

²¹⁸ Baker, Barbara, "Karachi Christian Acquitted on Blasphemy Charges," *News Network International* (Santa Ana, California: 29 January 1993), p. 4.

²¹⁹ Amnesty International, *Pakistan: Prisoner of Conscience/Unfair Trial/Death Penalty/Gul Masih* (Nederland, Colorado: Amnesty International, "UA 344/92," 9 November 1992), p. 1. See also: Baker, Barbara, "Pakistani Christians Rally Support for Gul Masih's Appeal," *News Network International* (Santa Ana, California, 29 January 1993), p. 35-36. See also: Baker, Barbara, "Pakistani Christian Prisoner Moved to Death Row," *News Network International* (Santa Ana, California, 25 November 1992), p. 6-7. See also: Baker, Barbara, "Pakistani Christian Sentenced to Hang for Blasphemy," *News Network International* (Santa Ana, California, 10 November 1992), p. 2.

²²⁰ Khan, Akhter Hameed, "This is Not a Fight Against the Maulvis," *The Herald* (Islamabad: April 1992), p. 79-82.

While Christian leaders and human rights groups have expressed their concern about the continued use of the new blasphemy law against Christians and other religious minorities, additional information is currently unavailable.

In response to continuing pressure from the Islamic groups which helped place former Prime Minister Sharif into power, the Government announced, on October 13, 1992, that national identity cards would include a new column for the holder's religion.²²¹ According to Abdul Sattar Khan Niazi, Religious Affairs Minister, the action was taken to facilitate identification of Ahmadis. The Director of the Human Rights Commission of Pakistan, as well as "[s]everal leading bishops have said the religious column is tantamount to apartheid and will [also] relegate Christians to the status of second class citizens."²²² An ID Card is necessary for voting, opening a bank account, obtaining a driver's license, and applying to college. Human rights activists, Christians, and other religious minorities have held several protests to demonstrate their concern that the new religious column will foster systematic discrimination against non-Muslims. Enabling legislation which would bring the national identity cards into force has not yet been passed.²²³

²²¹ "Pakistan: Identity Cards to Give Religion of Holder," *The Middle East Economic Digest* (30 October 1992) as reported on NEXIS.

²²² Macartney, Jane, "Pakistan Defends Move to Identify by Religion," *The Reuter Library Report* (London: 9 November 1992) as reported on NEXIS.

²²³ Macartney, Jane, "Pakistan Defends Move to Identify by Religion," *The Reuter Library Report* (London: 9 November 1992) as reported on NEXIS. See also: Moore, Molly; Ward, John, "Imposition of Strict Islamic Law is Transforming Once-Moderate Pakistan," *Washington Post* (Washington, D.C.: 21 October 1992) p. A29. See also: Amjad-Ali, Christine, "Update on Minority Issues: Religious Column on Identity Cards," *Al-Mushir* (Vol. 34, No. 3, 1992), p. 85-89. See also: Baker, Barbara, "Pakistan Government Waffles on Identity Card Issue," *News Network International* (Santa Ana, California: 29 January 1993), p. 22. See also: Baker, Barbara, "Pakistan's Christian Minority Protests ID Card Amendment," *News Network International* (Santa Ana, California: 25 November 1992), p. 44.

As evidenced by the legislation passed in the last 15 years, Islamic fundamentalists have been slowly increasing their pressure on the national Government to incorporate Islamic principles into the day-to-day functioning of Pakistan. These efforts culminated in the introduction of legislation which would make Shari'a the supreme law of the land. "The Enforcement of Shari'ah Act 1991, adopted by parliament in May [1991], proclaimed the supremacy of Shari'ah (Islamic) law and ordered the state to ensure the Islamization of every sphere of life...."²²⁴

Secular-minded Muslims and human rights organizations are concerned that the imposition of Shari'a law will have continuing repercussions on Pakistan's development.²²⁵

The U.S. Department of State reported that:

...the religious legislation has [already] encouraged an atmosphere of religious intolerance which has led to acts of violence directed at Ahmadis and Christians. In the wake of the destruction of the Babri mosque in Ayodhya, India [December, 1992], angry mobs attacked Christian and Hindu homes and places of worship at several places in Pakistan. The Government promised compensation to the victims, but human rights monitors believe it could have taken stronger measures to protect the minorities.²²⁶

²²⁴ Amnesty International, *Pakistan: Government Opponents Face Harassment Through Arrests, Detentions and Torture* (London: Amnesty International, ASA 33/05/92, 3 June 1992), p. 206. See also: Lawyers Committee for Human Rights, "Pakistan," *Critique: Review of the U.S. Department of State's Country Report on Human Rights Practices for 1991* (New York: Lawyers Committee for Human Rights, July 1992), p. 256.

²²⁵ Amjad-Ali, Christine, "The Shariat Bill," *Al-Mushir* (Rawalpindi: Vol. 32, No. 4, 1990), p. 109-143.

²²⁶ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

APPENDICES

APPENDIX I: Chronology²²⁷

▶ 1947

British India partitioned into three parts: India, East Pakistan (now Bangladesh) and West Pakistan (now Pakistan).

Pakistan founded by Mohammad Ali Jinnah.

- ▶ In the months immediately following the partition of the sub-continent, approximately fourteen million people cross the borders between the newly-created countries. Eight million Muslims in India flee to East and West Pakistan and six million non-Muslims flee to India.²²⁸ This population movement results in the loss of thousands of lives.

- ▶ Pakistan and India fight two wars (1947-48, 1956) over the province of Kashmir (currently divided between the two countries into 'Azad Kashmir' and the Indian state of Jammu & Kashmir).

²²⁷ Freedom House, *Freedom in the World: Political Rights & Civil Liberties, 1991-1992* (New York: Freedom House, 1992), p. 357.

²²⁸ Immigration and Refugee Board, Documentation, Information, and Research Branch, *Pakistan: The Mohajirs* (Ottawa, Canada: Immigration and Refugee Board, Documentation, Information, and Research Branch, September 1992), p. 4.

- ▶ 1956
Pakistan becomes an Islamic republic.

- ▶ 1971-1977
Pakistan headed by Prime Minister Zulfikar Ali Bhutto, founder of the People's Party of Pakistan.

- ▶ 1971
East Pakistan became Bangladesh as a result of a third war between Pakistan and India.

- ▶ 1977
Zulfikar Ali Bhutto deposed by a military coup led by General Zia ul-Haq.

- ▶ September 1978 to August 1988
General Zia ul-Haq is President of Pakistan:
 - 1978: Political parties outlawed; martial law imposed.
 - 1979: Bhutto hanged following conviction on murder charges.
 - 1985: Political parties allowed; martial law repealed.
 - 1988: Zia (and top aides/US ambassador) killed in airplane crash; Benazir Bhutto (daughter of Zulfikar Ali Bhutto) elected Prime Minister.

- ▶ December 1988 to August 1990

Pakistan headed by Benazir Bhutto, Prime Minister and PPP Chairperson:

1990: Dismissal of Government of Prime Minister Benazir Bhutto, by President Ghulam Ishaq Khan, on charges of alleged corruption, nepotism and abuse of authority; dissolution of National Assembly.

Nawaz Sharif elected Prime Minister.

- ▶ December 1988 to July 1993

Ghulam Ishaq Khan is President of Pakistan.

- ▶ November 1990 to July 1993

Pakistan headed by Nawaz Sharif, Prime Minister and leader of the Islamic Jamhoori Ittehad (IJI) Party.

- ▶ April 1993 to present

April 1993: Dismissal of Government of Prime Minister Nawaz Sharif by President Ghulam Ishaq Khan; appointment of an interim caretaker Government with members of Prime Minister Sharif's party and the PPP (main opposition party of former Prime Minister Benazir Bhutto).

May 1993: Supreme Court rules President's dismissal of Government and National Assembly unconstitutional on May 26, 1993. Prime Minister Nawaz Sharif, the National Assembly and the cabinet restored to power.

July 1993: President Ghulam Ishaq Khan and Prime Minister Nawaz Sharif announce their simultaneous resignations; the National Assembly is dissolved.

Moeen Qureshi sworn in as the caretaker Prime Minister; Chairman of the Senate, Wasim Sajjad, serves as Acting President; caretaker provincial governments appointed.

October 1993: In the October 6, 1993 election, former Prime Minister Benazir Bhutto and her People's Party of Pakista

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In a subsequent National Assembly vote taken on October 19th. Bhutto is elected (121 to 72) Prime Minister and returns to office as head of a minority Government.²²⁹

Wasim Sajjad continues as Acting President until the National Assembly elects a new President.

In important provincial elections in Sindh and Punjab, PPP nominees elected as chief ministers of both provincial assemblies.

²²⁹ Moore, Molly, "Former Premier Bhutto Wins Narrow Plurality in Pakistan," *Washington Post* (Washington, D.C.: 07 October 1993), p. A29. See also: Gargan, Edward, "Benazir Bhutto Returns as Leader of a Poor and Troubled Pakistan," *New York Times* (New York: 19 October 1993). See also: "Bhutto's Nominees Win in Punjab/Sindh," *Kyodo News Service* (Tokyo: 20 October 1993) as reported on NEXIS.

APPENDIX II: Legislation relating to the status of Ahmadis

- ▶ September 17, 1974

Amendment of Article 260 of the Constitution of Pakistan

"A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad...is not a Muslim for the purposes of the Constitution or law."

Effect of this legislation:

As Ahmadis do not believe in the absolute and unqualified finality of the Prophethood of Muhammad, this effectively declared the Ahmadi community a non-Muslim minority.

- ▶ 1980

Amendment of the Pakistani Penal Code, Section 298 (a), Ordinance XLIV

"Use of derogatory remarks, etc, in respect of holy personages...shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

- ▶ April 26, 1984

Amendment of the Pakistani Penal Code, Sections 298 (b) and (c), Ordinance XX

298 (b): "Misuse of epithets..."

298 (c): "Person of Qadiani group, etc., calling himself a Muslim ..."

Effect of this legislation:

Makes it a criminal offense for Ahmadis to call themselves Muslims, employ nomenclature and appellations associated with the Prophet, use Muslim practices in worship or propagate their faith.

Amendment of West Pakistan Press and Publications Ordinance of 1963, Section 24, Sub-Section E

Effect of this legislation:

Allows provincial governments to seize any published material which contravenes Ordinance XX.

- ▶ 1986

Promulgation of National Assembly Bill 13

Effect of this legislation:

Tightens control of Ahmadi publications by providing a maximum of three years in prison for any non-Muslim convicted of having translated, interpreted or commented on any extract of the Koran in violation of the beliefs and traditions of traditional Islam.

Criminal Law Amendment Act, Section 295 (c) added to Pakistan Penal Code

"Use of derogatory remarks, etc., in respect of the Holy Prophet:...shall be punished with death, or imprisonment of life, and shall also be liable to fine."

Effect of this legislation:

Provides the death penalty or life imprisonment for defiling the name of the Prophet Muhammad.

- ▶ May 1991

Institution of Islamic law in Pakistan

- ▶ August 2, 1991

Amendment of the Pakistani Penal Code, Section 295 (c)

"Use of derogatory remarks, etc., in respect of the Holy Prophet:...shall be punished with death, and shall also be liable to fine."

Effect of this legislation:

Removes the alternative punishment of life imprisonment and makes the death penalty the mandatory punishment for defiling the name of the Prophet Muhammad.

- ▶ 1991

Amendment of the Pakistani Penal Code, Section 295 (a)

Effect of this Legislation:

Increases the maximum punishment for outraging the religious feelings of any group from two to ten years.

- ▶ October 13, 1992

Inclusion of religion on every citizen's national identity card. Enabling legislation has not been passed.

APPENDIX III: Chronology of Anti-Ahmadi Activity

▶ April 1954

Muslim fundamentalist hostility toward Ahmadis leads to riots and bloodshed.²³⁰

▶ May 1974

Large-scale agitation against the Ahmadiyya community leads to violence. A group of students belonging to the Jamaat-e-Islami (a fundamentalist movement hostile to the Ahmadis) provokes riots at the Rabwah train stations in the province of Punjab and in other Pakistani cities. These riots result in the death of twenty-seven Ahmadis, as well as the destruction of ten Ahmadi mosques and numerous stores and houses.²³¹

▶ 1983-85

Approximately twelve Ahmadis are reportedly murdered for their religious beliefs and Ahmadi property and mosques are defaced or destroyed.²³²

²³⁰ Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return* (Ottawa, Canada: February 1992), p. 2. See also: Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 2.

²³¹ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK3917, 2 February 1990), p. 1. See also: Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 2. See also: Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return* (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, February 1992), p. 2.

²³² Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK2308, 5 October 1989), p. 1.

► April 12, 1989

Social relations between Orthodox Muslims and Ahmadis are influenced by the increasing Islamic fundamentalism and are worsened by the Salman Rushdie affair in early 1989.²³³

The Ahmadiyya Mosque of Nankana Saheb and forty Ahmadi houses burned to the ground and ransacked by armed individuals.²³⁴

"Although there are problems, the law of Pakistan does not condone mob sectarian violence against Ahmadis. The issue is the ability or inability of the government to guarantee the Ahmadis their civil and religious rights and safety."²³⁵ According to Amnesty International, "...the law enforcement authorities do not appear to provide adequate protection or redress to Ahmadis who have been subjected to assault, attack or provocation by non-Ahmadis."²³⁶

²³³ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK5342, 23 April 1990), p. 1.

²³⁴ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK2880, 14 November 1989), p. 1. See also: for corroboration, a fax sent by the Canadian Embassy in Islamabad through the Ministry of Foreign Affairs of Canada to the Immigration and Refugee Board Documentation Centre in Ottawa, dated 10 August 1989. The *Pakistan Times* of Lahore, although considered to be "pro-government," also reported the Nankana Sahib incident [Reprinted in: International Ahmadiyya Movement in Islam, *The Situation of Ahmadi Muslims: After the Dawn of Democracy in Pakistan* (London: IAMI, 1989), p.21].

²³⁵ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK3201, 4 December 1989), p. 1.

²³⁶ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9.

► July 16, 1989

A serious outbreak of anti-Ahmadi violence in the village of Chak Sikander, Punjab province. In a clash between Muslim fundamentalists and Ahmadis, four people are killed (including three Ahmadis), approximately thirty Ahmadi homes are attacked/burned, and all Ahmadis are evacuated from the village.²³⁷

Amnesty International is concerned "...by reports that police failed to take action to protect the lives of those attacked. It also notes with concern that police did not impartially provide for redress to both Ahmadis and non-Ahmadis. After the incident at Chak Sikander two cases were registered under Section 302 (murder) in connection with the deaths of the four persons killed in the unrest on 16 July. While 17 Ahmadis were arrested [for the murder of one Muslim] and held in police custody for two weeks before being sent to judicial custody, no arrests were made in the case registered by the Ahmadis for the murder of three members of their community. To Amnesty International's knowledge the Punjab government did not investigate the killings at Chak Sikander and the apparent failure of local police to protect the Ahmadiyya community."²³⁸ The United States Department of State, the International Commission

²³⁷ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK2880, 14 November 1989), p. 1.

²³⁸ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9.

of Jurists, and the Pakistan Human Rights Commission also state that the police failed to offer protection to Ahmadi victims.²³⁹

"In situations of ethnic or religious conflict the authorities have a particular responsibility to safeguard the fundamental rights of minorities, including security of the person. Failure to take effective steps to protect these rights may create the impression that the authorities acquiesce in crimes committed against them."²⁴⁰

As of early December 1989, the Ahmadi evacuees have not been allowed to return to the village, but do appear to be in danger of further violence.²⁴¹ Amnesty International indicates that the Punjab provincial authorities did not take specific steps to ensure that the Ahmadis who fled their homes in Chak Sikander could return in safety.²⁴² By March 1991, however, all the expelled Ahmadis have been able to return to their village.²⁴³

²³⁹ U.S. Department of State, *Country Reports on Human Rights Practices for 1989* (Washington, D.C.: U.S. Government Printing Office, 1990), p. 1534 **and** Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK5896, 11 June 1990), p. 1.

²⁴⁰ Amnesty International, *Pakistan: Human Rights Safeguards* (London: Amnesty International, May 1990), p. 9.

²⁴¹ Immigration and Refugee Board Documentation Centre, Response to Information Request (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, PAK2880, 14 November 1989), p. 1.

²⁴² Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9.

²⁴³ U.S. Department of State, *Country Reports on Human Rights Practices for 1991* (Washington, D.C.: U.S. Government Printing Office, February 1992), p. 1564.

In its 1991 report, Amnesty International states that it had received new reports (which had not been independently verified) of assaults on Ahmadis. In these cases, it appears that the authorities were unwilling to accept charges by Ahmadis against non-Ahmadis or to make arrests. Spokesmen for the Ahmadiyya community interviewed by Amnesty International indicated that Ahmadi victims of human rights violations may not register cases with the authorities as they do not expect justice to be done to them or because they fear retaliation from the Muslim majority of Pakistan.²⁴⁴

► 1990

The police continue closing down Ahmadi places of worship throughout 1990 and attacks on individual congregations are reported.²⁴⁵ In May 1990, Ahmadi students are attacked (beaten, robbed, and their possessions burned), and in November, a prominent Ahmadi is shot to death.

According to Amnesty International, the desecration of Ahmadi places of worship and attacks on private houses of Ahmadis is a recurrent phenomenon. On 3 August 1990 in Orangi Town, Karachi, the Ahmadi place of worship is reportedly ransacked and an adjacent missionary building is reportedly set on fire.²⁴⁶

²⁴⁴ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 9-10.

²⁴⁵ U.S. Department of State, *Country Reports on Human Rights Practices for 1990* (Washington, D.C.: U.S. Government Printing Office, February 1991), p. 1598.

²⁴⁶ Amnesty International, *Pakistan: Violations of Human Rights of Ahmadis* (London: Amnesty International, ASA 33/15/91, September 1991), p. 8.

On May 19, 1990, a group of approximately forty orthodox Muslim students attack ten Ahmadi students of the Allama Iqbal Medical College in Lahore. The latter students are evicted from their hostel and several students were beaten and robbed. The college administration reportedly place notices on the doors of the evicted students' rooms barring occupation. The incident was apparently sparked when the Koran of an Ahmadi student was allegedly found in a dustbin (an act of sacrilege); certain observers have suggested that the Koran may have been planted in the dustbin by fundamentalist students to create an anti-Ahmadi incident. According to information available to the Office of Asylum Affairs in the U.S. Department of State, neither the provincial government of Punjab nor the national Government intervene on behalf of the Ahmadi students.²⁴⁷ In the end, however, most of the students are able to return.

²⁴⁷ Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State, *Ahmadis in Pakistan*, October 1992.

▶ 1992

The U.S. Department of State reports that "[p]olice continued to close down Ahmadi places of worship....A number of attacks on individual congregations were reported.

Early in 1992, police raided an Ahmadi house of worship in Kotri (Sindh), arresting all the worshipers at their prayers. Some of those detained were reportedly beaten and abused at the police station."²⁴⁸

²⁴⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 1992* (Washington, D.C.: U.S. Government Printing Office, February 1993), p. 1167.

APPENDIX IV: Pakistani Passport Declaration

Passport Declaration in Case of Muslims²⁴⁹

I, s/o [son of] aged.... years, adult Muslim, resident of hereby solemnly declare that;

(i) I am a Muslim and believe in the absolute and unqualified finality of the prophethood of Muhammad (peace be upon him) the last of the prophets.

(ii) I do not recognize any person who claims to be a prophet in any sense of the word or of any description whatsoever after Muhammad (peace be upon him) or recognize such a claimant as a prophet or a religious reformer as a Muslim.

(iii) I consider Mirza Ghulam Ahmad Qadiani to be an imposter nabi [prophet] and also consider his followers whether belonging to the Lahori or Qadiani group, to be non-Muslim.

Date..... Signature or thumb impression

²⁴⁹ Immigration and Refugee Board Documentation Centre, *Pakistan: Treatment of Ahmadis Who Return*, Question and Answer Series (Ottawa, Canada: Immigration and Refugee Board Documentation Centre, February 1992), p. 16.

APPENDIX V: Representatives of the Ahmadiyya Movement in Islam ²⁴⁸

#	NAME	TITLE	ADDRESS/PHONE	JURISDICTION
1	Mr. Mubasher Ahmad	Missionary SE Region	4406 Garrison Blvd. Baltimore, MD 21215 (301) 664-2747	MD, DE, FL, PA
2	Mr. Mukhtar A. Cheema	Missionary NE Region	86-17 Palo Alto St. Hollis, NY 11423 (718) 479-3345	NY, NJ, CO, MA, ME
3	Syed Shamshad A. Nasir	Missionary Mid-West Region I	637 Randolph St. Dayton, OH 45408 (513) 268-5512	OH, MI, IN, KY
4	Mr. Mohammad A. R. Yahya	Missionary Mid-West Region II	2-5510 Rte. 53 Glen Ellyn, IL 60137 (312) 790-0804	IL, MO, WI
5	Mr. Azhar Hanif	Missionary West Coast Region I	520 Pacifica Ave. Pittsburg, CA 94565 (415) 458-9098	CA, WA, ID, OR, NV
6	Mr. Inamul Haq Kauser	Missionary West Coast Region II	11941 Ramona Ave. Chino, CA 91710 (714) 627-2252	CA, AR, NM
7	Mr. Mirza Mahmood Ahmad	Missionary South Region	20031 Ft. Bowie Ct. Katy, TX 77449 (713) 579-1803	GA, TX, LA, OK
8	Mr. Zatar A. Sawar	Missionary Washington, HQ	2141 Leroy Pl. NW Washington, DC 20008 (202) 232-3737	DC, VA, NC, SC and all jurisdictions not served by other missionaries
9	Mr. Allah Bakhsh Chaudhry	National Sec. Public Affairs	2141 Leroy Pl. NW Washington, DC 20008	All jurisdictions not covered

²⁴⁸ Letter from Allah B. Chaudhry, Secretary, Ahmadiyya Movement in Islam, Inc. to David T. Hopper, Former Director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, U.S. Department of State, (Washington, D.C.: 5 December 1990), p. 1.

APPENDIX VI: Rape: Torture Under International Law

The issue of gender-based violence and human rights violations against women has been explicitly addressed by the United Nations and the international community.

- ▶ The United Nations World Conference on Human Rights in Vienna explicitly recognized that violence against women is a human rights violation.²⁴⁹
- ▶ In Paragraph 88 of his report on the situation of human rights in the territory of the former Yugoslavia, the Special Rapporteur of the United Nations Commission on Human Rights stated:

Many women have sought refuge outside the territory of Bosnia and Herzegovina. While each application for refugee status should be considered on its merits, it should be clearly stated that a well-founded fear of rape is a well-founded fear of "persecution" within the definition of refugee contained in the Convention relating to the Status of Refugees of 1951 and the 1967 Protocol thereto if the persecution is due to the victim's "race" or "nationality."²⁵⁰

²⁴⁹ International Human Rights Law Group, *The 1993 World Conference on Human Rights: A Critical Analysis* (Washington, D.C.: International Human Rights Law Group, June 1993), p. 6-7.

²⁵⁰ United Nations Economic and Social Council, Commission on Human Rights, "Situation of Human Rights in the Territory of the Former Yugoslavia," *Report on the Situation of Human Rights in the Territory of the Former Yugoslavia, Submitted by Mr. Tadeusa Mazowiecki, Special Rapporteur of the Commission on Human Rights, Pursuant to Commission Resolution 1992/S-1/1 of 14 August 1992*, 10 February 1993, "E/CN.4/1993/50," p. 19, 73-74.

In Paragraph 89, he further states:

Article 27, paragraph 2, of the Fourth Geneva Convention states: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault." Rape in this context is a grave breach of the Fourth Geneva Convention (art. 147) and as such, a war crime (Additional Protocol I).²⁵¹

- ▶ In March 1993, the Chairperson of the Canadian Immigration and Refugee Board issued ground-breaking guidelines for *Women Refugee Claimants Fearing Gender-Related Persecution* which have important implications for women fleeing gender-based persecution and violence. These guidelines explicitly recognize that women can face such persecution irrespective of their own actions and solely because of their membership in a particular social group: women.²⁵²
- ▶ Human rights organizations have specifically addressed the issue of rape and sexual abuse in custody/detention as a form of persecution. According to Amnesty International, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel,

²⁵¹ United Nations Economic and Social Council, Commission on Human Rights, "Situation of Human Rights in the Territory of the Former Yugoslavia," *Report on the Situation of Human Rights in the Territory of the Former Yugoslavia, Submitted by Mr. Tadeusa Mazowiecki, Special Rapporteur of the Commission on Human Rights, Pursuant to Commission Resolution 1992/S-1/1 of 14 August 1992*, 10 February 1993, "E/CN.4/1993/50," p. 19, 73-74.

²⁵² Immigration and Refugee Board, *Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act: Women Refugee Claimants Fearing Gender-Related Persecution* (Ottawa, Canada: Immigration and Refugee Board, 9 March 1993), p. 1-20.

Inhuman or Degrading Treatment or Punishment prohibit all acts of torture and cruel, inhuman or degrading treatment or punishment, which includes rape and sexual abuse by government agents.²⁵³

- ▶ In their 1992 report, *Rape and Sexual Abuse: Torture and Ill-Treatment of Women in Detention*, Amnesty International specifically stated:

In countries around the world, government agents use rape and sexual abuse to coerce, humiliate, punish and intimidate women. When a policeman or a soldier rapes a woman in his custody, that rape is no longer an act of private violence, but an act of torture or ill-treatment for which the state bears responsibility. International law obliges governments to protect all men, women and children from torture and ill-treatment, and requires that allegations of torture be promptly and impartially investigated.²⁵⁴

²⁵³ Amnesty International, *Rape and Sexual Abuse: Torture and Ill Treatment of Women in Detention* (New York: Amnesty International, January 1992), p. 11.

²⁵⁴ Amnesty International, *Rape and Sexual Abuse: Torture and Ill Treatment of Women in Detention* (New York: Amnesty International, January 1992), p. 1.

APPENDIX VII: Map²⁵⁵

²⁵⁵ "Administrative Divisions of Pakistan," *The Cambridge Encyclopedia of India* (Cambridge, England, Cambridge University Press, 1989), p. 202.

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