

PAKISTAN

The 1947 Partition of India led to the creation of the Dominion of Pakistan, a sovereign Islamic state that would become further divided after the secession of Bangladesh in 1971 to form what we know today as the Islamic Republic of Pakistan. The history of Pakistan has been marked throughout by political and social instability. It was not until 2013 that the country ceded power from one democratically elected government to another for the first time in its history,¹ an indication of the rocky times through which the country would pass.

With nearly 193 million inhabitants, Pakistan is the world's sixth most populous country. 95% profess some form of Islam, with Sunnis making up between 85-90% of the total population.² Notable among the non-Sunni groups are the Ahmadiyya, a group originating from Pakistan and principally residing in the Punjab region. The Ahmadiyya have been discriminated against for many years by the Sunni majority. Since 1974, Ahmadis who observe Islamic practices can be considered to be 'posing' as real Muslims, which exposes them to possible charges of blasphemy.³ Those who are detained face poor detention conditions, in part due to the overcrowding of many of the country's prisons.

The country's other religious minorities are also frequently targeted for (alleged) blasphemy, discrimination, violence, and other forms of attack⁴.

The 2015 Annual Report of the U.S. Commission on International Religious Freedom contains a list of prisoners detained for activities allegedly blasphemous or religiously insulting. Contravening the blasphemy laws can result in death sentence or life imprisonment as it is mentioned in Section 295-A, B, C and 298-A, B, C of the Penal Code. In practice people sentenced to death are not put to death but incarcerated indefinitely.

The use of blasphemy laws has created an environment where some religious fanatics believe that they are entitled to take law into their own hands. There have been many instances where the local administration and police have either colluded with perpetrators or have stood by and done nothing to assist the accused, fearing the crowd. The use of the blasphemy laws has become a quick way of resolving disputes arising from business rivalry, honor disputes, disputes over money and property. The accused are often lynched or languish for years in jail without trial because lawyers are too afraid to defend them. Judges have previously been attacked in

¹ The Economist, Democracy in Pakistan: A First

² Central Intelligence Agency, World Factbook: Pakistan

³ US Commission for International Religious Freedom, 2016 Annual Report

⁴ The 2016 Easter bombing perpetrated by a Taliban splinter group at a children's park in Lahore is but one tragic example. More than seventy people were killed, the majority women and children. Although the target was Christian families celebrating Easter, most of the victims were Muslims (Al Jazeera, Lahore bombing: Pakistan mourns and death toll rises: <http://bit.ly/1pFtd4e>).

Pakistan for acquitting blasphemy defendants and two politicians who discussed reforming the law were shot dead.

Christians Sentenced to the Death Penalty but Indefinitely Kept in Prison

Asia Bibi

Asia Bibi is a Catholic mother of five from the Punjab in Pakistan. In June 2009, she was labouring in the fields with a number of Muslim women. She was asked to go and fetch water for herself and her colleagues. Her colleagues complained, claiming that as a Christian she was unfit to touch the bowl and would dirty the drinking water of the Muslims. A row ensued, and a few days later a cleric was made aware of the event and opened blasphemy charges against Bibi.⁵

In 2010, she was convicted of those blasphemy charges and sentenced to death. The sentence was confirmed by the High Court in Lahore in October 2014 but temporarily suspended in July 2015.⁶ Her conviction set off heated debate and violence across the country⁷.

Other Christians of various denominations sentenced to death and kept indefinitely in prison are:

Mohammad Zulfiqar ALI

Muhammad ASGHAR

Malik Muhammad ASHRAF

Amoor AYUB

Qaisar AYUB

Asia BIBI (Protestant)

Shafqat EMMANUEL and Shaguftah EMMANUEL (husband and wife)

Abdul HAMEED

Soofi Mohammad ISHAQ

Anwar KENNETH

Muhammad Shafeeq LATIF

LIAQAT

Savan MASIH

Wajihul HASSAN

⁵ The Guardian, Pakistani Christian woman sentenced to death for blasphemy files appeal.

⁶ British Broadcasting Corporation, Pakistan Supreme Court suspends Asia Bibi death sentence.

⁷ In 2011 Punjab Governor Salmaan Taseer was murdered by his bodyguard Mumtaz Qadri for speaking against the conviction of Bibi and of the blasphemy laws. Despite being hanged in February 2016, his name has been used as an invocation for the religious right in Pakistan in resisting changes to the blasphemy laws and in calling for the fulfillment of Bibi's death sentence. Protests arising first from the conviction of Bibi and those surrounding Qadri's trial and hanging have caused widespread upheaval.

Within the religious establishment are many who see Qadri as a hero of the faith. When Qadri first entered the court days after the killing, some in the courtroom showered him with rose petals. Following the trial, the judge who had first convicted him was forced to flee the country due to a multitude of death threats. In addition, as support for his act has intensified, so too has the backlash against the Christian community.

Murshid MASHI
Javed NAZ
RAFLQ
Abdul SATTAR
Muhammad SHAFIQ
Hazrat Ali SHAH
Anjam Naz SINDHU

Ahmadiyya Sentenced to the Death Penalty but Indefinitely Kept in Prison

Abdul Shakoor

Eighty-one-year-old Ahmadi Adbul Shakoor, also known as Shakoor Bhai, is a bookseller and optician from Rabwah in the Pakistani Punjab. In December 2015, he was arrested in his bookshop for keeping and selling Ahmadi texts, illegal under the blasphemy laws in the Pakistani Penal Code. The arrest was recorded by a number of locals on their mobile phones and posted on social media websites. Shakoor's shop was apparently a popular one, and he was respected even outside of his own Ahmadi community. His store manager Mazhar Sipra, a Shi'a, was also arrested and faced similar though reduced charges.⁸

Despite Pakistan's notoriously slow and laborious legal system, Shakoor was sentenced to a total eight years in prison and a fine of Rs. 150,000 (nearly €1,300) and Sipra was sentenced to five years in prison and fined Rs. 100,000. Five of the eight years of Shakoor's sentence are under the Pakistani Penal Code and the other three under the 1997 Anti-Terror Act for inciting 'sectarianism' and 'religious hatred,' both concepts considered anathema in the Ahmadi faith.⁹

In the wake of this arrest, both local and domestic organisations advocating for Ahmadi and human rights in relation to religious freedom have called for the release of Shakoor, including the organisation The Persecution of Ahmadis (TPA) and the United States Commission on International Religious Freedom.

Other Ahmadis sentenced to death and kept indefinitely in prison are: **Tahir Mahdi IMTIAZ** and **Qamar Ahmed TAHIR**.

It is also worth mentioning Sunni Muslim **Jahanzaib KHASKHELI** and Shia **Mazhar SIPRA**.

The full list of documented cases of FoRB prisoners for each denomination is available on the USB key attached to this report and on our website: <http://hrwf.eu/forb/forb-and-blasphemy-prisoners-list/>.

⁸ The Persecution of Ahmadis: Unjust sentence of long imprisonment to an Ahmadi book-seller

⁹ US Commission for International Religious Freedom, 2016 Annual Report

Laws Used to Criminalize Religious Activities

Constitution of the Islamic Republic of Pakistan¹⁰:

Article 2: Islam shall be the State religion of Pakistan.

The constitution of Pakistan intends to protect religious minorities, although this protection is conditioned by the privileged place that Muslim believers hold in Pakistani society. For instance, blasphemy laws address insults to Islam, even though these have been leveraged in local contexts to justify personal vendettas against someone of a particular religious identity.

In the period before the enactment of Section 295-C (1927-1986), fewer than ten cases of blasphemy were reported; however, a study done by the World Council of Churches¹¹ suggests that there have been as many as 4000 since then¹²:

Out of these 4000 cases, under blasphemy laws, 49% are against Muslims, 26% against Ahmadis, 21% against Christians. Hindus were involved in lesser percentage. In ratio, of total population, the blasphemy cases against non-Muslims are almost 50%, which shows the indiscriminate use or abuse of the laws.

Since 1990, 52 people accused of blasphemy have been killed extra-judicially: 25 were Muslims, 15 were Christians, 5 were Ahmadis, one was Buddhist and one was Hindu.¹³ It is also important to note that two-third of the cases are in Punjab, where 80% of the Pakistani Christians live¹⁴.

The 2014 Annual Report of the U.S. Commission on International Religious Freedom has released a list of 17 people on death row and 19 people sentenced to life imprisonment for alleged activities considered blasphemous or religiously insulting in Pakistan.

Pakistan Penal Code Sections 295 A, B, and C and Section 298 A, B, and C¹⁵

295-A. Whoever, with deliberate and malicious intention of outraging the 'religious feelings of any class of the citizens of Pakistan, by words, either spoken or written, or by visible representations insults the religion or the

¹⁰ National Assembly of Pakistan, Constitution of the Islamic Republic of Pakistan

¹¹ Blasphemy Law in Pakistan: Historical Perspectives and Disastrous Effects/ Background Resources in Misuse of the Blasphemy Law and Religious Minorities in Pakistan (Commission of the Churches on International Affairs, World Council of Churches (2013)

¹² Between 1998 and 2005, 647 persons were charged on the grounds of blasphemy.

¹³ Centre for Research and Security Studies (CRSS), a research group based in Islamabad

¹⁴ More than half of them live in seven districts of Central Punjab: Lahore, Faisalabad, Kasur, Sheikhpura, Sialkot, Gujranwala and Toba Tek Singh.

¹⁵ Legislative Council, Pakistan Penal Code (Act XLV of 1860)

religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both.

295-B. Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

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

298-A. Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of any wife (Ummul Mumineen), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulafa-e-Rashideen) or companions (Sahaaba) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

298-B (1) Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation,

(a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as 'Ameer-ul-Mumineen,' 'Khalifa-tul-Mumnineen', 'Khalifa-tul-Muslimeen', 'Sahaabi' or 'Razi Allah Anho';

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

(c) refers to, or addresses any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him), as Ahle-bait; or

(d) refers to, or names, or calls, his place of worship as 'Masjid':

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

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

298-C Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

It is by virtue of these sections that much of the prosecution of Ahmadis has taken place. The charge against them is that of *posing* as Muslims and thereby insulting the religion itself. The Ahmadi faith is seen as an affront to traditional Islamic belief, particularly the notion that another prophet has come after Muhammed. In particular, 298-C restricts the right of Ahmadis to propagate and profess their religion, a right which is guaranteed under the constitution.

Anti-Terror Act, 1997¹⁶:

Article 11W - (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes or any form of data, storage devise, FM radio station or by any visible sign or by written photographic, electronic, digital, wall chalking or any other method or means of communication which glorifies terrorists or terrorist activities or incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation.

It was under this article in addition to the blasphemy laws that Abdul Shakoor was charged. Due to the religious enmity aspect of charges levelled against Ahmadis and Ahmadi publishers in particular, legislation intended to stop the spread of religiously motivated terror has been used against these peaceful persons.

National Standards for Detention Conditions

Constitution of the Islamic Republic of Pakistan¹⁷

Article 14 (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence.

¹⁶ National Assembly of Pakistan, The Anti-Terror Act, 1997

¹⁷ National Assembly of Pakistan, Constitution of the Islamic Republic of Pakistan

Pakistan has also ratified the Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR) in June 2010.¹⁸ Provisions of the CAT were to be harmonised with national legislation through the Torture, Custodial Death and Custodial Rape Bill of 2015.

The Prisons Act 1894¹⁹

Article 29 Solitary confinement — No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Article 31 Maintenance of certain prisoners from private sources — A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself and to purchase or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the [Director of Prisons].

Article 37 (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

Article 47 The Superintendent may examine any person touching any such offence, and determine thereupon and punish such offence by (9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the [Provincial Government]; (10) cellular confinement for any period not exceeding fourteen days; or (12) whipping, provided that the number of stripes shall not exceed thirty.

Article 53 Whipping (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

¹⁸ Human Right Council Working Group on the Universal Periodic Review, Second review: Pakistan (2012)

¹⁹ Legislative Council, The Prisons Act of 1894

It should be noted that while only prolonged or indefinite solitary confinement is officially considered to be cruel and inhuman treatment, there have been initiatives to have all forms of these listed as such. In addition, Article 1 of the CAT defines torture as the deliberate infliction of pain for purposes including punishment by officials. As such, the provisions for whipping under Articles 47 and 53 are in breach of this international standard.

2016 Action Plan for Human Rights ²⁰

(Paragraph 3) [...] the effective enforcement of laws and vibrant institutional mechanisms are needed for protection of human rights which will eventually pave the way for elimination of extrajudicial killings, torture, rape, poor prison conditions, arbitrary arrest and lengthy pre-trial detention, violations of due process, harassment, limits on freedom of association, religion and movement. (Paragraph 5 (iv)) [This Action Plan will aim to] improve the training and SOPs of the police, prison staff and lower and midlevel judiciary.

The Action Plan's focus is indeed a step forward, strengthening not only the rule of law and human rights mechanisms in order to combat abuse but also education and capacity-building for the future. At the same time, the action plan recognises the challenges to implement these reforms at every level. The plan is to be monitored by the National Commission for Human Rights; however, this office has not yet become fully operational.²¹

International Reports on Prison Conditions in Pakistan

US State Department Report on International Prison Conditions, 2013 ²²

[...] human rights organizations in Pakistan reported police sometimes tortured and mistreated those in custody with methods that included beating with batons and whips, burning with cigarettes, whipping the soles of feet, prolonged isolation, electric shock, denial of food or sleep, hanging upside down and forced spreading of the legs with bar fetters.

World Organisation Against Torture for the United Nations High Commissioner for Human Rights, 2015 ²³

²⁰ Ministry of Human Rights, Action Plan for Human Rights.

²¹ The Express Tribune. "Govt to make National Commission for Human Rights fully operational: minister".

²² U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Report on International Prison Conditions.

²³ Office of the High Commissioner for Human Rights, Written statement submitted by the World Organization Against Torture

(Paragraph 1) Police brutality and torture are endemic in Pakistan. Police rely upon confessions obtained through torture as the primary form of evidence and therefore, routinely abuses, arbitrarily detains and forcibly disappeared civilians. Through its research and by representing torture victims, the World Organization against Torture (OMCT) and the Justice Project Pakistan (JPP) have observed that laws and police practice foster arbitrary detention and forced disappearance thereby facilitating systematic torture and impunity for such acts. As a result, (i) torture is accepted as an inevitable part of policing in Pakistan, and; (ii) perpetrators of torture are granted impunity through a combination of socio-cultural acceptance, lack of independent oversight, widespread powers of arrest and detention, procedural loopholes and ineffective safeguards, including Pakistan's failure to criminalize torture.

Pakistan's religious minorities have been noted to suffer consistently worse prison conditions than the majority of inmates. This is especially true of the Christian and Ahmadiyya communities, who are also disproportionately susceptible to physical and mental abuse and other forms of torture.²⁴ This is compounded by already poor conditions in many of the prison facilities in operational use. Reports of overcrowding, inadequate food and poor medical care are also common.

Conclusions

Pakistan is a large and diverse country as well as home to many violent religious extremists. The country's blasphemy laws have fostered a climate of impunity for religiously motivated crimes, leaving minorities and individuals vulnerable to the caprice of local law enforcement and weak judiciaries. In this atmosphere, blasphemy laws have become a quick way to resolve disputes between feuding citizens. The accused can easily become the victims of mob violence or remain in jail for many years. The situation is worsening year after year. Undoubtedly, Pakistan's blasphemy laws need to be subjected to serious review if the country is to treat its citizens fairly and with justice.

One potential bright spot could be the country's Action Plan in view of strengthening human rights and the rule of law. This is an historic opportunity for Pakistan to improve conditions, not just in word but also in reality. However, this will require broad reform at every level and a program of education in support of a human rights culture. For this to become fully realized the National Commission for Human Rights needs to become fully operational and have the unwavering support at the highest levels of government.

²⁴ See US Commission for International Religious Freedom 2016 Annual Report and UK Home Office. "Country Information and Guidance Pakistan: Prison conditions". Section 2.1.4