Policing Belief

THE IMPACT OF BLASPHEMY LAWS ON HUMAN RIGHTS

FREEDOM HOUSE

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Pakistan

INTRODUCTION

The issue of blasphemy laws and other restrictions on freedom of expression in Pakistan consistently garners headlines, with controversial decisions ranging from a May 2010 ban on access to the social-networking website Facebook and the video-sharing site YouTube to the imposition of death sentences for blasphemy convictions.[1] Minority leaders and human rights groups have long criticized the country's blasphemy laws for being unduly harsh, arguing that they are regularly exploited by extremists to target and discriminate against minority groups, and misused by others to settle petty disputes or exact personal vengeance.

The blasphemy laws can be found in the Pakistan Penal Code (PPC), Section XV, Articles 295–298. They address a number of offenses, including defiling a place of worship, damaging the Quran, and what amounts to apostasy. Perpetrators face possible fines, short-term or life imprisonment, and even the death penalty; while several individuals have been sentenced to death for blasphemy, no one has yet been executed for the crime.[2] The majority of cases of blasphemy filed in Pakistan fall under Articles 295 or 298 of the PPC. These are the most stringent provisions in Section XV, and the least compatible with international legal standards.

According to data compiled by nongovernmental organizations (NGOs) and cited by the U.S. State Department, a total of 695 people were accused of blasphemy in Pakistan between 1986 and April 2006. Of those, 362 were Muslims, 239 were Ahmadis, 86 were Christians, and 10 were Hindus.[3] The Pakistani daily newspaper *Dawn* has reported that some 5,000 cases were registered between 1984 to 2004, and 964 people were charged with blasphemy. The religious breakdown of the defendants was similar to that cited by the State Department.[4] The population of Pakistan is estimated at 173 million people,[5] and according to the

1998 census, 97 percent of the population is Muslim; most are Sunni Muslims, with Shiite Muslims accounting for about 20 percent. The remaining 3 percent of the population is made up of Hindus, Christians, Ahmadis, Parsis, and Baha'is.[6]

From these figures, it is clear that Pakistan's blasphemy laws are used prolifically and applied disproportionately to non-Muslims. Although many other countries have laws against blasphemy, the situation in Pakistan is unique in its severity and its particular effects on religious minorities.

BACKGROUND

Over the past several decades, Pakistan has undergone a process of Islamization in law and society and a decline in respect for pluralistic ideals. The country was formed as a Muslim homeland in 1947, following the end of British colonial rule in the Indian subcontinent. Since independence, it has seen considerable political instability, with frequent changes in government through democratic elections as well as military coups. Though it was formed as a state for Muslims, Pakistan was not initially an Islamic state in the strictest sense. However, the political landscape has been heavily influenced by the ulama, or Muslim clerical elite, who have sought to bring Pakistani law into compliance with their interpretations of Shari'a (Islamic law).[7]

The Objectives Resolution, passed in 1949 by newly independent Pakistan's Constituent Assembly to help guide the process of drafting a constitution, officially proclaimed that the "principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed." The document also emphasized and defended pluralism, minority rights, and freedom of expression and belief.[8]

In 1956, Pakistan's first constitution was adopted, and though it did declare Pakistan to be a state "based on Islamic principles of social justice," it did not make any explicit reference to Shari'a as the authoritative source for Pakistani law. The constitution included a "repugnancy" clause, stipulating that "no law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah," but no governmental body was established to enforce this.[9] The 1956 constitution was dissolved after two years when the military seized power. A new constitution adopted in 1962 did not include a repugnancy clause and had fewer references to Pakistan as an Islamic state.

Mounting pressure from the ulama and others in favor of the Islamization of Pakistan's laws led to constitutional amendments in 1964, including the addition of a new, stricter repugnancy clause: "No law shall be repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah, and all existing laws shall be brought into conformity therewith."[10] An Advisory Council of Islamic Ideology was established to implement this clause.[11]

In 1973, following a war in which East Pakistan broke away to form what is now Bangladesh, a new civilian government took power in Pakistan and a new constitution was drafted. Under this charter, the Advisory Council of Islamic Ideology was renamed the Council of Islamic Ideology, and its mandate was expanded to include the task of advising Parliament and provincial governments on "whether or not a certain law is repugnant to Islam, namely the Quran and Sunnah."[12] In 1974, the constitution was amended to add a provision that defined "Muslim" to exclude groups that were seen as heretical,[13] such as Ahmadis, who consider themselves Muslims despite their heterodox beliefs.[14]

General Muhammad Zia ul-Haq, who ruled from 1977 to 1988, continued and arguably accelerated the Islamization process as he sought to secure support among religious radicals and the middle classes.[15] During this period, the PPC and the Code of Criminal Procedure underwent a series of changes, including the imposition of the Hudood Ordinance, which allows harsh Shari'a punishments for extramarital sex, theft, and violations of the prohibition of alcohol. Five ordinances were added to the PPC that explicitly targeted religious minorities and criminalized blasphemy. In addition, Shari'a benches were introduced into Superior Courts through a constitutional amendment. These benches were soon replaced by the Federal Shari'a Court, whose mandate includes reviewing all Pakistani laws, with the exception of the constitution, for compliance with Shari'a.[16]

Though the PPC had always featured provisions addressing offenses to religion, the Islam-specific articles were adopted only in 1982. And the punishments for blasphemy and other religious offenses were amended during the Zia administration to include the possibility of life imprisonment and the death penalty. Most of these changes were made by presidential decree.

The drift away from pluralism in Pakistan has had severe consequences for minorities and religious freedom in general. It has created an atmosphere that encourages intolerance and violence, and the increased influence of religious extremists in the political system has compromised the ability of lower-level judges, police, and government officials to uphold pluralistic values. As one commentator pointed out, "It is…the responsibility of the elected politicians to provide the law

and order without which no judiciary can work. Today, for instance, a judge in the districts dare not release the victims of blasphemy for fear of being harmed by violent mullahs."17 The influence of religious extremists has also prevented both elected and unelected governments from working to amend or repeal harmful laws in any substantive way. Former Prime Minister Benazir Bhutto and former military ruler Pervez Musharraf both expressed their commitment to amending the religious laws, but backtracked in the face of demonstrations by extremists and pressure from Muslim clerics.[18] Under Musharraf, who ruled from 1999 to 2008, a new amendment required police to investigate blasphemy allegations before making an arrest, but this rule is rarely observed in practice.

In February 2010, Minister of Minority Affairs Shahbaz Bhatti told the media that he expected a change in the blasphemy laws by the end of the year.[19] The proposed amendments would require judges to investigate cases of blasphemy before they are registered, and would impose punishments equivalent to those faced by blasphemers for false accusations.[20] At the European Parliament in May 2010, Bhatti reiterated his confidence that the laws would be amended by the end of 2010, and stated that Pakistani authorities have "made a commitment to amend these laws."[21]

At the same time, Pakistan's government has consistently supported UN Human Rights Council resolutions on "defamation of religions," which aim to protect religions as such from insult or offense. This effort has been condemned by human rights groups as a threat to freedom of expression and other fundamental rights.[22] Since Pakistan introduced the first resolution in 1999, it has actively advocated for the "defamation of religions" concept in other UN forums as well, including the Durban Review Conference; the Ad Hoc Committee on Complementary Standards; and the 2008 Office of the High Commissioner for Human Rights Conference on Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR).

BLASPHEMY LAWS

The blasphemy laws in Section XV of the PPC are quite expansive. In addition to prohibiting expression that is intended to wound "religious feelings," and deliberate or malicious acts intended to "outrage religious feelings of any class by insulting its religion or religious beliefs," the blasphemy laws specifically prohibit defiling the Quran and insulting the prophet Muhammad or any of his wives, fam-

ily, or companions. The "misuse of epithets, descriptions, and titles, etc." that are reserved for "holy personages or places" is also prohibited. These laws were added to the PPC between 1980 and 1986, with the most stringent amendment being adopted in 1986. Article 295(C) made it an offense punishable by life imprisonment or death to use any derogatory language about the prophet Muhammad. In 1991, the Federal Shari'a Court ruled that the punishment for this offense should be harsher, and Article 295(C) was amended to make the death penalty mandatory for individuals convicted of making derogatory remarks about the prophet.[23]

Incompatibility with International Law

Pakistan's blasphemy laws are incompatible with international human rights standards not only because they impose undue restrictions on freedom of expression, freedom of religion, and other human rights, but also because they are discriminatory in their effect. Moreover, they lack the necessary safeguards against abuse, providing no clear definition of what constitutes blasphemy, weak evidentiary standards for convictions in lower courts, and no *mens rea* (criminal intent) requirement.[24] This makes it possible for the laws to be exploited to persecute minorities or exact revenge in personal disputes. The blasphemy laws have also been invoked to instigate and justify sectarian or communal conflict, with allegations of blasphemy often serving as the trigger for mob violence that has in some cases been implicitly, if not explicitly, condoned by police and government officials.

Pakistan formally ratified the ICCPR in June 2010, pledging its commitment to the treaty's protections. Many of the rights violated by Pakistan's blasphemy laws are also enshrined in the Universal Declaration of Human Rights, and are nominally protected by the Pakistani constitution and other domestic legislation.

Lack of Clarity

Despite their harsh penalties, the blasphemy laws provide no clear guidance on what constitutes a violation. This determination is left to police and judicial officials to make, often relying on their own personal beliefs and interpretations of Islam. As one commentator has argued, "interpreting what falls under Pakistan's anti-blasphemy laws is essentially a theological question and, since there is no black-letter definition of the crime in the Quran or other authoritative Islamic sources, it is one that remains unsettled."[25] The vagueness of the laws lend to their utility for settling personal vendettas and targeting religious minorities at will.

In addition, Pakistan's blasphemy laws fail to consistently distinguish between malicious, deliberate acts of blasphemy and unintended ones—a distinction nor-

mally provided for in criminal law. While Articles 295 and 295(A) specify the criminalization of "deliberate and malicious" acts, or acts intended "to insult the religion of any class," the other articles in Section XV of the PPC do not include any such language.

The effects of this shortcoming in the law are apparent in the case of Anwar Kenneth, a Pakistani Christian who was arrested and charged with blasphemy in 2001 for distributing a Christian pamphlet and declaring that Muhammad was a false prophet, one of the most serious forms of blasphemy in Pakistan.[26] Kenneth also claimed he was a reincarnation of Jesus Christ, and that he had received revelations from God.[27] According to a number of sources close to the case, he suffered from severe psychiatric problems.[28] His lawyer, Saadia Khalid, reportedly requested an exam to determine whether he was mentally fit to stand trial, but the request was denied. The judge argued that Kenneth's mental status was irrelevant as he had already admitted to declaring that Muhammad was a false prophet.[29] Khalid reportedly insisted that the allegedly blasphemous statements were not "the hateful sacrilege of an infidel, but the demented ravings of a sick man."[30] Nevertheless, in July 2002 Kenneth was sentenced to death.[31] Authoritative interpretations of international law since 1999 have stipulated that the death penalty should not be applicable to persons suffering from mental retardation, mental disorder, or limited mental competence.[32]

Lack of Safeguards to Prevent Abuse

Pakistan's blasphemy laws are routinely used to exact revenge, apply pressure in business or land disputes, and for other matters entirely unrelated to blasphemy. Critics ranging from academics to civil society activists and journalists have argued that in most instances, charges of blasphemy are leveled for ulterior motives.[33]

In September 2006, police refused to register a case of alleged theft by Shahid Masih and Mohammad Ghaffar due to insufficient evidence provided by the complainant, Arshad Khan.[34] According to the Asian Commission for Human Rights, police advised Khan to instead lodge a complaint of blasphemy against them.[35] He subsequently filed a police report alleging that the two men had stolen and burned an Islamic religious text. Despite knowing that the charges were fabricated, the police arrested Masih and Ghaffar for blasphemy under Section XV of the PPC.[36] Both men were eventually acquitted of the charges and released.[37] In another case, Parvez Masih, the headmaster of a Christian high school in Sialkot, was arrested in 2001 for alleged blasphemy under Article 295(C).[38] According to

numerous reports, Mohammed Ibrahim, the owner of another school in the area, fabricated the accusation due to his displeasure with the competition created by Masih's school.[39]

The low evidentiary threshold required to register cases of blasphemy, coupled with the sensitive nature of the crime, exacerbates the laws' potential for abuse. Until 2004, when a legal amendment began requiring a senior police official to conduct an investigation before arresting a suspect on blasphemy charges, an individual could be charged and arrested based solely on the accusation of a reliable person.[40] In a positive ruling in 2007, the Punjab High Court found a blasphemy case against defendant Muhammad Sharif to be inadmissible, citing the failure of the police to investigate and substantiate the allegations.[41] However, this appears to have been an exception rather than the norm. In some cases, police officers may lack the resources necessary to carry out effective investigations. There have also been reports of a lack of willingness to investigate the allegations. Police officers have allegedly been harassed and intimidated by Islamic radicals who demand the arrest of suspected blasphemers regardless of whether the accusations have been substantiated.

This kind of pressure was reported in the case of Robin Sardar, who was arrested on blasphemy charges in 2008. His accuser had tried to set up a shoe stall outside of Sardar's medical practice but was told to remove it. He then filed a complaint claiming that the doctor had blasphemed against the prophet Muhammad and threatened to burn down Sardar's house and kill his family if police did not arrest him. Sardar was then arrested and charged without any preliminary investigation.[42]

In another example from January 2009, five members of the Ahmadiyya community were arrested in Punjab for allegedly writing the name of the prophet Muhammad on a bathroom wall at a mosque.[43] Several reports on the incident have indicated that there was no evidence implicating the arrested individuals, and police did not carry out any investigation prior to their arrest. According to the Asian Human Rights Commission (AHRC), militant Islamists pressured police to detain the five Ahmadis, threatening to "close down the whole city and attack the houses of Ahmadi sect members."[44]

Intimidation by Islamic extremists takes place at the trial stage as well. Lawyers who have refused to prosecute cases of alleged blasphemy have been harassed, threatened, and even subjected to violence. As a result, judicial officials have been known to take complaints of blasphemy at face value, demanding no investigation or critical assessment of the facts by authorities and effectively violating the rights

to a fair trial and due process. The serious punishments at stake in such cases make the procedural shortcomings even more problematic.

Disproportionate Penalties

The penalties for violating Pakistan's blasphemy laws are excessively severe, giving rise to a range of possible human rights violations. As noted above, Pakistan's Federal Shariat Court ruled in 1991 that the punishment for blaspheming against the prophet Muhammad is "death and nothing else."[45] Many defendants have been sentenced to death on blasphemy charges, and although none have yet been executed for this crime, several remain on death row.

The death penalty has not been banned by international law, but the United Nations has set important and necessary limitations on its application, reserving it only for "the most serious crimes."[46] The UN Human Rights Council has routinely interpreted "the most serious crimes" to mean those offenses that result in loss of life.[47] The UN Human Rights Committee's General Comment 6 similarly states that the committee "is of the opinion that the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure."[48] The UN special rapporteur on extrajudicial, summary or arbitrary executions has found that under no circumstances and for no offense is a mandatory death penalty ever compatible with international human rights law.[49] In the same study, the special rapporteur cited instances in which the Human Rights Council has articulated its concern that crimes carrying the death penalty are "excessively vague," "loosely defined," and "couched in terms so broad that the imposition of the death penalty may be subject to essentially subjective criteria."[50] Article 295(C) of the PPC suffers from all of these shortcomings. And as the former special rapporteur for freedom of religion or belief has stated, "applying the death penalty for blasphemy appears disproportionate and even unacceptable."[51]

As described above, due process and fair trial protections are often lacking in blasphemy cases, and the UN member states have made clear that such guarantees are essential when dealing with the death penalty: "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights."[52]

IMPACT ON THE ENJOYMENT OF HUMAN RIGHTS

Freedom from Discrimination

The overarching human rights violation resulting from Pakistan's blasphemy laws is discrimination based on religion or belief. The laws serve to legitimize discriminatory practices, enabling extremists and opportunists to use the forces of the state against members of minority faiths. As the Institute on Religion and Public Policy has argued, "they give the spirit of intolerance a means to an end."[53] Moreover, the discrimination is multilayered. The laws as written are themselves discriminatory (specifically against Ahmadis), they are misused to target religious minority groups for their beliefs, and those facing blasphemy accusations encounter further hostility from society as a result of the stigma associated with the charge.

As noted above, the ratio of Muslims to non-Muslims among blasphemy defendants illustrates the extent to which these laws are used to persecute religious minorities. Pakistan's minister for minority affairs, Shahbaz Bhatti, has publicly argued that "the blasphemy law is being used to terrorize minorities in Pakistan."[54] Ahmadis are the most affected, followed by Christians.

However, Muslims are not exempt. Almost half of all blasphemy cases lodged over the last two decades have been against Muslims, including both Sunnis and Shiites. The Human Rights Commission of Pakistan (HRCP) reported in 2006 that while minority groups were often victims of false blasphemy accusations, "the number of instances in which [blasphemy laws] were abused to settle petty scores with other Muslims had risen sharply over the past years."[55] Shiite Muslims are a religious minority in their own right, and they have faced periodic attacks by Sunni extremists.[56] However, the use of blasphemy laws against Sunni and Shiite Muslims does not appear to be based on sectarian differences so much as personal disputes.

Regardless of the motives behind their charges and the outcome of their cases, those accused of blasphemy are subject to job discrimination, ostracism from their communities and neighborhoods, and even physical violence and murder at the hands of angry mobs, forcing many to live in fear.[57] The case of Anwar Masih, a Christian in Lahore who was charged with blasphemy in 2003, provides an example of such stigmatization. In 2004, following his trial proceedings, Masih was acquitted of all charges and released from jail, but he was forced to go into hiding as a result of death threats.[58] In 2007, he was fired from his job at a factory, reportedly because his employer was threatened by religious extremists for hiring

a blasphemer.[59] According to the NGO International Christian Concern, Masih was then compelled to move from village to village out of safety concerns, and faced serious difficulties in finding employment.[60] In a separate case, two Christians who were charged with blasphemy in 1999 and eventually acquitted in 2006 reportedly faced poverty and unemployment as a result of their ordeal.[61]

Such discrimination is experienced not only by the accused blasphemers, but also by their families, who in some cases have been forced to flee their homes and go into hiding. The experience of physiology professor Younus Shaikh, described in detail in the box below, is a case in point. Following his acquittal on blasphemy charges and release from jail, Shaikh reported receiving numerous death threats from the clerics who had been involved in bringing the charges against him. Fearing for his safety, he was forced to flee to Europe and ultimately secured asylum in Switzerland. Parvez Masih, the Christian headmaster, was also forced to live in hiding following his acquittal on blasphemy charges. According to the U.S. State Department, Masih told ASSIST News Service, "I am forced to stay in hiding. I cannot move in any public place. Fearing attacks by the fundamentalist Muslims, even my relatives have abandoned me and they no longer entertain me."[62] In another example, Shahid Masih, who along with Mohammad Ghaffar was falsely accused of defiling a religious text, was released on bail four months after his arrest and while his trial was still ongoing. He was reportedly unable to live with his family during his trial for fear that their house would be attacked by Muslim extremists.[63] The AHRC reported that following the accusations against Masih and his codefendant, angry mobs besieged their houses and threatened their families.[64] According to the U.S. Commission on International Religious Freedom, "in virtually all cases those acquitted have been forced into hiding or even exile, out of fear of attacks by religiously motivated extremists."[65]

Freedom of Expression

While they are not the only provisions in Pakistan's legal system that impose restrictions on freedom of expression, the blasphemy laws found in Section XV of the PPC clearly breach the free expression guarantees found in Article 19 of the Universal Declaration of Human Rights and Articles 19 and 20 of the ICCPR.[66] The explicit purpose of the laws is to restrict certain forms of speech and expression, and they are used to justify the banning of books, movies, and other media, creating an environment conducive to intolerance and sectarian tension.[67]

Writer Mohammed Younus Shaikh published a book entitled *Satanic Cleric* in which he argued that death by stoning as a punishment for adultery was not

THE CASE OF YOUNUS SHAIKH

The case of Younus Shaikh, which drew much international attention, serves as a striking example of the broad range of human rights violations that result from Pakistan's blasphemy laws. Shaikh, a professor at a medical college in Islamabad, was arrested and detained on charges of blasphemy in October 2000. He was accused by one of his students of violating Article 295(C) of the Pakistani Penal Code by making derogatory remarks about the prophet Muhammad. Shaikh spent three years in detention while his case unfolded, including two and a half years in solitary confinement.[68]

During his detention, Shaikh articulated his belief that the case was not really about any blasphemous remarks, but rather was a result of his political views on Kashmir, the disputed territory that remains divided between Pakistan and India.[69] According to the International Humanist and Ethical Union and a letter written by Shaikh from prison, he had attended a meeting of the South Asian Union just days before his arrest on blasphemy charges. At the gathering, which was addressed by an official from Pakistan's military intelligence service, Shaikh expressed his view that the line of control between India and Pakistan in Kashmir should be recognized as the permanent international border.[70] Two days later, one of Shaikh's students, who was also a Foreign Office employee at the meeting, prepared the blasphemy case against him and took it to a Muslim cleric, who added further details and filed the case with the police.

The lower court that first heard the case found the cleric's evidence to be hearsay and uncorroborated, and the student who initiated the complaint was found to have been absent on October 2, the day of the lecture in which Shaikh supposedly made the blasphemous remarks. However, two other students then came forward and claimed that they heard the remarks. Shaikh presented evidence to show that he did not give any lectures at the stated time on October 2, arguing not only that the incident never took place, but also that there was no evidence to prove that any of his remarks at any time were blasphemous.

Nevertheless, Shaikh was found guilty of violating Article 295(C) and sentenced to death. He and others have described the severe intimidation by religious extremists that took place during the trial. His lawyers were reportedly threatened so much that the proceedings had to be moved to the central jail in Rawalpindi. Shaikh appealed the verdict, and a retrial was ordered. In November 2003, following two hearings of his retrial, he was acquitted of all charges and released from jail. Fearing for his safety, the judge ordered that his release take place in secret, and he was offered a police bodyguard. Shaikh lived in hiding in Pakistan for several months before securing asylum in Switzerland.

mentioned in the Quran and allegedly insulted historical imams by describing them as Jews. He was arrested in August 2005 and charged him with blasphemy, and was eventually convicted and sentenced to life in prison. He appealed the verdict but his case was still pending in 20.[71]

The blasphemy laws have also been used to censor journalists.[72] Munawar Mohsin, a subeditor for the Pakistani daily the *Frontier Post*, was charged with blasphemy in 2001 and sentenced to life in prison for printing a letter containing blasphemous material on the editorial page of the paper. The letter was reportedly entitled "Why Muslims Hate Jews" and included derogatory remarks about the prophet Muhammad. Police also arrested six other staffers from the *Frontier Post*, but Mohsin was singled out in a judicial investigation as the person responsible for printing the letter.[73] It is noteworthy that the investigation came only after the seven arrests. Mohsin became the focus of the case despite a doctor's finding that he was unfit for trial due to his mental state. He had been released from Peshawar Mental Hospital days before the incident,[74] which marked the first time he was tasked with selecting letters and articles to appear on the editorial page.[75] The other six defendants in the case were acquitted.[76]

In May 2010, a Pakistani court applied the blasphemy laws to online content, ordering a ban on the popular websites Facebook and YouTube.[77] The block on Facebook was triggered by a page promoting a competition to draw the prophet Muhammad, which some Muslims consider blasphemous.[78]

Freedom of Religion

Although Pakistan was created as a state for Muslims, it was not an Islamic state at the time of its independence in 1947. The country's founding father, Mohammed Ali Jinnah, emphasized the importance of freedom of religion in his speech to the opening session of the Constituent Assembly of Pakistan:

> "You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed that has nothing to do with the business of the State…. We are starting in the days where there is no discrimination, no distinction between one community and another, no discrimination between one caste or creed and another. We are starting with this fundamental principle that we are all citizens and equal citizens of one State."[79]

In today's Pakistan, however, intolerance is endorsed and even encouraged by stringent laws that discriminate against religious minorities and even criminalize the religious practices of the Ahmadiyya community.

Because the blasphemy laws are so open to abuse and are disproportionately

used to target religious minorities, members of minority faiths are unable to practice openly and freely without fear of persecution. However, while Shiites are a minority, they are a significantly larger one than the Christians, Hindus, Ahmadis, and other groups, and they do not appear to face the same degree of discrimination as the others when it comes to the blasphemy laws. Shiites are sometimes prosecuted in cases instigated by Sunni extremists, but in many instances the laws are invoked by fellow believers in the context of personal disputes.

There are a few particularly notable blasphemy cases involving non-Sunni Muslim defendants. In 1998, Ghulam Akbar, a Shiite, was arrested and convicted of blasphemy for allegedly using the name of the prophet Muhammad in vain during an altercation at a Sunni-owned restaurant in 1995.[80] He received a mandatory death sentence, reportedly making him the first Muslim to face this penalty for blasphemy.[81] He appealed the verdict but remains in jail while his case makes its way through the courts.[82] In another case, Sufi Muslim spiritual leader Mohammed Yusuf Ali was convicted of blasphemy in 2000 for allegedly claiming to resemble the prophet. His religious teachings were deemed by Islamist groups to be "working against Islam."[83] In 2002, Ali was shot dead in Lahore's Kotlakpat Jail, where he was awaiting his death sentence. His killer was identified as a member of the banned Sunni militant group Sipah-e-Sahaba, which has been responsible for numerous attacks on non-Sunni Muslims.[84]

While Pakistan's blasphemy laws affect the religious freedom of all minority groups, Ahmadis are singled out in Articles 298(A) through 298(C), which equate Ahmadi beliefs and practices with blasphemy against Islam. These provisions are frequently referred to as the anti-Ahmadi laws. Though they consider themselves to be Muslims and worship accordingly, Ahmadis are explicitly barred from referring to their places of worship as mosques or worshipping in any non-Ahmadi mosques or public prayer rooms. Similarly, they are prohibited from using the Muslim call to prayer, quoting the Quran, participating in the pilgrimage to Mecca or the activities associated with the holy month of Ramadan, proselytizing, holding gatherings, or distributing any Ahmadiyya-related literature. Moreover, an individual's religion must be identified on all government forms, such as passport applications and voter registration documents, and there is no Ahmadi option. Anyone wishing to be listed as Muslim is required sign a declaration denouncing the founder of Ahmadiyya.[85]

Human Rights Watch has concluded that "the persecution of the Ahmadiyya community is wholly legalized, even encouraged, by the Pakistani government."[86] In a seminal case in 1993, the Pakistani Supreme Court upheld the anti-Ahmadi

legislation, arguing that if an Ahmadi were allowed to worship in public as a Muslim, he would be exposed to extremist violence. The court asked, "Can the administration in that case guarantee his life, liberty and property, and if so, at what cost?"[87] Many members of the Ahmadiyya community have been arrested under the anti-Ahmadi laws, and they face extralegal persecution even if charges are dropped or they are released on bail. For example, according to the U.S. State Department, in January 2008 an Ahmadi in Punjab was arrested on charges of distributing Ahmadiyya-related pamphlets. He was granted bail three months later, but received a series of death threats and was forced to leave the area.[88]

Freedom from Arbitrary Arrest and Detention

Pakistan's blasphemy laws and their implementation in practice lead to routine violations of the right not to be held in extended arbitrary detention, as provided for in Article 9 of the Universal Declaration of Human Rights and the ICCPR. Despite the 2004 amendments requiring a police investigation prior to an arrest, individuals accused of blasphemy are routinely arrested and detained without any preliminary inquiry. Furthermore, the lower courts issue convictions based on minimal evidence, often in the context of intimidation and threats by religious extremists. This has led to accused blasphemers spending years in jail before higher courts overturn their convictions and clear them of all charges.[89] According to one commentator, it takes approximately eight years for a convicted defendant to be exonerated by the Supreme Court.[90]

In one case, alleged blasphemer Ayub Masih was detained for six years before being acquitted. He was arrested in October 1996 after one of his neighbors, with whom he reportedly had a dispute, claimed to have heard Masih utter praise for author Salman Rushdie's *Satanic Verses*, a book that was considered blasphemous by many Muslims. This was reported to police, who arrested and detained Masih.[91] In April 1998, he was sentenced to death for insulting the prophet Muhammad. In 2001, the UN Working Group on Arbitrary Detention issued an opinion on Masih's case, finding a violation of his right not to be arbitrarily detained and his right to a fair trial.[92] He was eventually acquitted and released in 2002, after his lawyer was able to show that the sole complainant in the case, Masih's neighbor, had forced Masih's family off the disputed land and taken it as his own.[93] Similarly, Younus Shaikh, the physiology professor who eventually secured asylum in Switzerland, was imprisoned for three years before being acquitted and freed. Two and a half of those years were spent in solitary confinement due to threats on his life by religious extremist inmates.

Though bail is allowed for blasphemy charges, judges typically deny bail motions out of fear for the suspect's safety as well as their own.[94] According to the U.S. Stated Department, "lower courts frequently delayed decisions [on bail], experienced intimidation, and refused bail for fear of reprisal from extremist elements."[95] In January 2009, Hector Aleem, the country director of the Christian human rights organization Peace Worldwide, was arrested and detained on charges that he had sent a blasphemous mobile-phone text message to a Muslim cleric. Aleem's lawyers from the Centre for Legal Aid, Assistance, and Settlement (CLAAS) were able to prove that the messages were not sent from his phone, and the blasphemy charges were dropped. However, he was instead charged with abetting blasphemy, and his bail request was denied.[96] His lawyers petitioned for his release in light of the reduced charges, but Aleem was remanded into custody "'for his own protection' after a religious extremist lawyer threatened his life in a court hearing."[97] Aleem remained behind bars at the time of writing, and his family has been persistent in calling international attention to his case.[98]

Right to Due Process

Blasphemy trials in almost all cases lack essential safeguards to ensure that the accused enjoy due process and a fair hearing. Muslim extremists reportedly attend these trials en masse, harassing and intimidating both judges and defendants.[99] According to the NGO Christian Solidarity Worldwide, defense lawyers also face death threats and physical assault.[100] In the case of physiology professor Younus Shaikh, defense lawyers received so many threats that the trial had to be moved to the Rawalpindi Central Jail for their safety.[101] In January 2006, religious extremists attacked and beat human rights lawyer Parvez Aslam Choudhry, reportedly because of his work defending blasphemy suspects.[102] Choudhry has also reported receiving numerous threatening phone calls, some of which have included death threats.[103] In some cases, even the worst threats have been carried out. A Lahore High Court judge, Arif Hussain Bhatti, was killed in 1996, reportedly by Muslim extremists angry with his decision to acquit a blasphemy defendant.[104]

Ayub Masih has said that during his trial, "Islamic extremists packed the courtroom and shouted loud threats against me, my lawyer, and the judge."[105] The UN Working Group on Arbitrary Detention also raised serious questions about the fairness of his trial, finding that the accusation and subsequent verdict were based on the testimony of "a single, biased witness,"[106] and that extremists issued threats against Masih and his lawyer during the trial, creating a hostile atmosphere. In addition, the Working Group argued that Masih had not been

provided with "any documentary or other evidence against him," preventing him from preparing an adequate defense.[107] The Working Group concluded, "These serious deficiencies in proceedings where capital punishment is provided by law not as an alternative penalty, but as a mandatory one if the accused is found guilty, basically strips the procedure of its requisite fair character."[108]

Younus Shaikh has also described disturbances surrounding his trial, reporting that "the religious students of the claimant clerics of Deeni Madrassa used to demonstrate against me."[109] The International Humanist and Ethical Union, which was heavily involved in campaigning for his release, stated that Shaikh's trial "took place in a hostile courtroom packed with Islamic fundamentalists who warned the defense lawyers: 'think of your families and children.'"[110] In the case of Shahid Masih, who was unexpectedly acquitted of all charges by a lower court, religious extremists attending the trial were reportedly angered by the verdict. Compass News Direct quoted Masih's lawyer, Khalil Tahir as saying that "there were about 100 fanatics inside and outside the courtroom who were astonished when their own witnesses claimed that the accused were innocent. They were very, very angry."[111] These kinds of conditions make it virtually impossible for persons accused of blasphemy to enjoy a fair trial.

Freedom from Torture and Cruel, Inhuman, or Degrading Treatment & Right to Life and Security of the Person

Pakistan's human rights record is marred by numerous reported incidents of abuse that amount to violations of the prohibition on torture and other cruel, inhuman, or degrading treatment. According to Human Rights Watch, "torture by Pakistan's police and the military's intelligence services continues to be routine."[112] Individuals accused of blasphemy are not exempt from this pattern, and some have alleged that they were tortured or mistreated in detention, either by fellow inmates or by police and prison guards. Security forces have also allegedly stood by while extremist vigilantes took blasphemy accusations into their own hands. The newspaper *Dawn* has reported that 32 people accused of blasphemy were the victims of extrajudicial killings between 1984 and 2004.[113]

In July 2009, Imran Masih (also reported as Imran John), a shopkeeper in Faisalabad, was accused by a neighboring shopkeeper of burning pages of the Quran and desecrating it.[114] After the accuser informed nearby vendors, they proceeded to beat and torture Masih. Police then arrived at the scene and arrested Masih for blasphemy. None of his attackers were detained. Masih was found guilty and sentenced to life imprisonment in January 2010.[115] In another incident, Hindu

Blasphemy-related vigilante violence in the town of Gorja, Punjab province, in August 2009 resulted in the destruction of more than 50 houses. At least seven Christians were burnt alive in the attacks, and 18 others were injured.[116] The assault was first reported to have been triggered by allegations that some Christians had desecrated the Quran. However, according to the HRCP, which investigated the incident, the violence was planned in advance, police were aware of it, and the blasphemy allegation was simply a pretext.[117] Several days before the attack, announcements made from mosques in the area reportedly called on Muslims to "make mincemeat of the Christians."[118] The HRCP's investigation also showed that the violence was organized and methodical, that perpetrators were well equipped with gasoline and other flammable chemicals, and that a police contingent in the area did nothing to prevent or stop the assault.[119] A government inquiry similarly concluded that police and local officials had failed to take any preventive action or intervene once violence broke out.[120]

factory worker Jagdish Kumar was beaten to death in April 2008 by coworkers who alleged that he had made blasphemous remarks about the prophet Muhammad.[121] Police were summoned but did little to intervene or protect Kumar. The three leaders of the attack were arrested—not for murder, but for failing to report a case of blasphemy.[122] Some policemen were eventually suspended for their lack of action in the incident.[123]

In July 2010, two Christian brothers accused of blasphemy were shot and killed as they were leaving a hearing at a Faisalabad courthouse. They were accused of writing a pamphlet that was critical of the prophet Muhammad, but church supporters, government officials, and the Pakistan Minorities Democratic Foundation said it appeared that the men had been set up.[124] Their deaths sparked violent clashes between Muslims and Christians in their community.[125]

The death of another blasphemy suspect, Robert Fanish (also reported as Robert Danish and Fanish Masih), took place in police custody. Fanish, a Pakistani Christian, was arrested on blasphemy charges in August 2009. On September 15, the 22-year-old was found dead in his cell in the Sialkot Central Jail.[126] The death was initially reported as a suicide by hanging, but many questioned this assessment,[127] and witnesses reportedly stated that Fanish's body bore signs of torture.[128] Shahid Masih and Mohammad Ghaffar, the two men who were falsely accused of blasphemy after their accuser's theft complaint was rejected for lack of evidence, were also allegedly tortured while in police custody.[129]

In July 2010, two Christian brothers accused of blasphemy were shot and killed as they were leaving a hearing at a Faisalabad courthouse. They were ac-

cused of writing a blasphemous pamphlet critical of the Prophet Mohammed, but church supporters and the Pakistan Minorities Democratic Foundation said the men had been set up and arrested on trumped up charges.

Detained blasphemy suspects face other forms of cruel, inhuman, and degrading treatment. Several have reported being held in solitary confinement, allegedly for their own safety. Younus Shaikh has written about his experience as a death-row inmate convicted of blasphemy: "I was held in solitary confinement, in a very small death cell in the Central Jail, Rawalpindi, a dark and dirty death cell…. I remained constantly under threat of murder by Islamic inmates in jail for murder and gang rape, and by some religiously-minded prison wardens."[130] Parvez Masih said he was held in a six foot by four foot cell that reached temperatures of over 120 degrees Fahrenheit.[131]

The prolonged detention of individuals accused of blasphemy coupled with the threat of being sentenced to death, or with an actual sentence of death, may also amount to cruel, inhuman, and degrading treatment. In Soering v. UK, the European Court of Human Rights ruled that extraditing an individual to the United States, where he would most likely be sentenced to death, would amount to a breach of Article 3 of the European Convention on Human Rights because of the lengthy and complex postsentencing procedures involved. The court stated that as a result, "the condemned prisoner has to endure for many years the conditions on death row and the anguish and mounting tension of living in the ever-present shadow of death."[132] As described above, individuals facing death sentences in Pakistan for blaspheming the prophet Muhammad have been detained for several years during the trial and appeals process.

CONCLUSION

Pakistan's blasphemy laws foster an environment of intolerance and impunity, and lead to violations of a broad range of human rights, including the obvious rights to freedom of expression and freedom of religion, as well as freedom from arbitrary arrest and detention; the right to due process and a fair trial; freedom from torture and cruel, inhuman, and degrading treatment; and the right to life and security of the person. The country is unique in the severity of abuses arising from the application of its blasphemy laws, and in the frequency with which the laws are invoked to prosecute individuals and justify vigilantism. The overall effect is a serious erosion of the rule of law itself, with police and courts seemingly

at the mercy of Islamist extremists and other extralegal forces. Basic injustices are meted out not just to religious minorities and Muslims with dissenting views on Islam, but also to ordinary people whose personal disputes, opinions, or weaknesses make them ready fodder for the broader conflicts that trouble Pakistani society.

[80] International Federation for Human Rights, Steadfast in Protest: *2006 Annual Report of the Observatory for the Protection of Human Rights Defenders* (Paris: International Federation for Human Rights, March 2007), http://www.fidh.org/IMG/pdf/FIDH-EN-ASIA.pdf.

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[1] YouTube and Facebook were blocked for about two weeks in May 2010 due to allegedly blasphemous content directed at the prophet Muhammad. See "Pakistan Blocks YouTube over 'Blasphemous' Material," *Dawn*, May 20, 2010, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/03-pakistan-blocks-youtube-over-blasphemous-material-ss-01.

[2] Steve Czajkowski, "Pakistan to Revise Blasphemy Laws: Report," Jurist (University of Pittsburgh School of Law), February 7, 2010, http://jurist.law.pitt.edu/paperchase/2010/02/pakistan-to-revise-blasphemy-laws.php.

[3] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *International Religious Freedom Report 2006* (Washington, DC: U.S. Department of State, September 2006), http://www.state.gov/g/drl/rls/irf/2006/71443.htm.

[4] Mansoor Raza, "The Unholy War," *Dawn*, January 19, 2010, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/02-the-unholy-law-02.

[5] U.S. Department of State, "Background Note: Pakistan," June 9, 2010, http://www.state.gov/r/pa/ei/bgn/3453.htm.

[6] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *International Religious Freedom Report 2009* (Washington, DC: U.S. Department of State, October 2009), http://www.state.gov/g/drl/rls/irf/2009/127370.htm.

[7] David F. Forte, "Apostasy and Blasphemy in Pakistan," *Connecticut Journal of International Law* 10 (Fall 1994): 31–32.

[8] Pakistan Constitution, ANNEX, Article 2(A): The Objectives Resolution, available at http://www.pakistani.org/pakistan/constitution/annex_objres.html. It should be noted that at the time of its adoption in 1949, the resolution stated that "adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures." When the resolution was made a substantive part of the Pakistani constitution by Presidential Order No. 14 of 1985, the word "freely" was dropped.

[9] Forte, "Apostasy and Blasphemy in Pakistan."

[10] First Amend., Act I of 1964 (amending Pak. Const. of 1962), cited in Forte, "Apostasy and Blasphemy in Pakistan."

[11] Pakistan Constitution of 1962, Part X, Chapter 1, Article 204, available at http://www.cii.gov.pk/docs/con1962.pdf.

[12] Website of the Council of Islamic Ideology, available at http://www.cii.gov.pk/. See also Pakistan Constitution of 1973, Articles 227–230, available at http://www.cii.gov.pk/docs/constitution.pdf.

[13] Pakistan Constitution of 1973, Part XII, Miscellaneous, Chapter 5: Interpretation, Article 260(3): "In the Constitution and all enactments and other legal instruments, unless there is anything repugnant in the subject or context: (a) 'Muslim' means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and (b) 'non-Muslim' means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Quadiani Group or the Lahori Group who call themselves 'Ahmadis' or by any other name or a Bahai, and a person belonging to any of the Scheduled Castes."

[14] The Ahmadiyya community is a religious group with about 600,000 adherents in Pakistan. They consider themselves Muslims and worship as Muslims, but are seen as apostates by many Sunni Muslims because of their belief that Mirza Ghulam Ahmed, who founded the sect in the 19th century, was the Mahdi, the prophesized redeemer of Islam. As a result, they suffer severe discrimination and persecution in Pakistan. For more information on Ahmadiyya, see the official website at http://www.alislam.org/.

[15] Forte, "Apostasy and Blasphemy in Pakistan."

[16] Pakistan Constitution of 1973, Article 203D.

[17] "State of the Judiciary," *Daily Times* (Pakistan), July 7, 2009, http://www.dailytimes.com.pk/default.asp?page=2009\07\07\story_7-7-2009_pg3_1.

[18] "Religious Intolerance in Pakistan," Pakistan Newswires, December 11, 2002; "Pakistan's Blasphemy Law U-Turn," British Broadcasting Corporation (BBC), May 17, 2000, http://news.bbc.co.uk/1/hi/world/south_asia/751803.stm.

[19] "Pakistan Minister Sees Blasphemy Law Revision This Year," Agence France-Presse, February 7, 2010.

[20] "Pakistan: Pak Blasphemy Laws Used to Justify 'Murder,'" Rights Vision News, May 22, 2010.

[21] Ibid.

[22] Becket Fund for Religious Liberty, "Defamation of Religions," Issues Brief (condensed version), June 2008, http://www.becketfund.org/files/87155.pdf.

[23] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *1994 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, February 1995), available at http://dosfan.lib.uic.edu/ERC/democracy/1994_hrp_report/94hrp_report_sasia/Pakistan.html.

[24] U.S. Commission on International Religious Freedom (USCIRF), "Pakistan," in *2009 Annual Report* (Washington, DC: USCIRF, May 2009), http://www.uscirf.gov/images/AR2009/pakistan.pdf.

[25] Nina Shea, "Testimony of Nina Shea, Director of Hudson Institute's Center for Religious Freedom, before the Tom Lantos Human Rights Commission of the Committee on Foreign Affairs of the US House of Representatives: Pakistan's Anti-Blasphemy Laws," Hudson Institute, October 8, 2009, http://www.hudson.org/files/documents/SheaPakistan108.pdf.

[26] Asian Human Rights Commission, "Pakistan: Another Person Sentenced to Death under Blasphemy Law," news release, August 1, 2002, http://www.ahrchk.net/ua/mainfile.php/2002/286/.

[27] Paul Watson, "A Deadly Place for Blasphemy," *Los Angeles Times*, August 5, 2002, http://articles.latimes.com/2002/aug/05/world/fg-blasphemy5/4.

[28] This has been reported by the police, Kenneth's lawyer, and a Christian human rights worker who was involved in his case. See ibid.; "Pakistani Christian Sentenced to Death," BBC, July 18, 2002, http://news.bbc.co.uk/1/hi/world/south_asia/2136291.stm; "Pakistani Court Condemns Catholic to Death for Blasphemy," Agence France-Presse, July 18, 2002.

[29] Watson, "A Deadly Place for Blasphemy."

[30] Ibid.

[31] "Pakistani Christian Sentenced to Death," BBC.

[32] See UN Economic and Social Council Resolution 1989/64, "Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty" (ESC/RES/1989/64), May 1989 [This resolution recommended "eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence"]; UN Commission on Human Rights Resolution, "Question of the Death Penalty," (E/CN.4/RES/1999/61), April 28, 1999, and UN Commission on Human Rights Resolution, "The Question of the Death Penalty," (E/CN.4/RES/2000/65), April 27, 2000 [These resolutions urge states to refrain from imposing the death penalty "on a person suffering from any form of mental disorder," a term that includes both the mentally ill and the mentally retarded]. See also Human Rights Watch, *Beyond Reason: The Death Penalty and Offenders with Mental Retardation* (New York: Human Rights Watch, 2001), 18, http://www.hrw.org/en/reports/2001/03/05/beyond-reason.

[33] Raza, "The Unholy War"; Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *International Religious Freedom Report 2009*; "Pakistani Christian Sentenced to Death," BBC; "'Blasphemy Laws' Used to Jail Elderly Christian in Pakistan," Compass Direct News, June 29, 2010, http://www.compassdirect.org/english/country/pakistan/22092/.

[34] Masih is a common Pakistani Christian surname. Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2007 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, March 2008), http://www.state.gov/g/drl/rls/hrrpt/2007/100619.htm.

[35] Asian Human Rights Commission, "Pakistan: Torture of Two Men After Being Falsely Charged under Blasphemy Law," news release, October 10, 2006, http://www.ahrchk.net/ua/mainfile.php/2006/2021/.

[36] Ibid.

[37] "Christian Unexpectedly Acquitted of Blasphemy," Compass Direct News, September 18, 2007, http://wwrn.org/articles/26288/.

[38] Ibid.; "Pakistani Group Demands Repeal of Blasphemy Laws," Agence France-Presse, June 15, 2001.

[39] Asian Human Rights Commission, "Pakistan: Death Threats to Minorities by the Fundamentalists," news release, April 27, 2001, http://www.ahrchk.net/ua/mainfile.php/2001/95/; Shea, "Testimony of Nina Shea."

[40] International Crisis Group, *The State of Sectarianism in Pakistan* (Brussels: International Crisis Group, April 2005), http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/095_the_state_of_sectarianism_in_ pakistan.ashx.

[41] "Pakistan Authorities Held Up for False Blasphemy Case," Press Trust of India, December 13, 2007.

[42] Centre for Legal Aid, Assistance, and Settlement, "A 55 Year Old Pakistani Christian Doctor Jailed on Blasphemy Charges," May 9, 2008, http://www.claas.org.uk/bcase_detail.aspx?ID=162; "Is There an End?" *Dawn*, August 6, 2009, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/18-is-there-an-end-am-01.

[43] The five suspects included four teenagers, reportedly ranging in age from 14 to 16. See Satinder Bains and Maqbool Ahmad, "Ahmadi Children Arrested on False Charges in Pakistan, Alleges Indian Ahmadiyya Community," Punjab Newsline, February 10, 2009, http://www.punjabnewsline.com/content/view/15239/38/; Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2009 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, March 2010), http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136092.htm.

[44] Bains and Ahmad, "Ahmadi Children Arrested on False Charges in Pakistan." For another, more recent case, see "'Blasphemy Laws' Used to Jail Elderly Christian in Pakistan," Compass Direct News, June 29, 2010, http://www.compassdirect.org/english/ country/pakistan/22092/; "73 Years Old Pakistani Christian Arrested under Blasphemy after Dialogue on Religion," *Pakistan Christian Post*, June 25, 2010, http://www.pakistanchristianpost.com/headlinenewsd.php?hnewsid=2076; Aftab Alexander Mughal, "Christian and Shia Men Facing Blasphemy Charges in Pakistan," FaithFreedom.org, June 26, 2010, http://www.faithfreedom.org/features/news/christian-and-shia-men-facing-blasphemy-charges-in-pakistan/.

[45] Amnesty International, Pakistan: *The Death Penalty* (London: Amnesty International, September 1996), http://asiapacific.amnesty.org/library/Index/ENGASA330101996?open&of=ENG-333.

[46] Article 6(2), ICCPR: "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court."

[47] UN Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir: Addendum—Summary of Cases Transmitted to Governments and Replies* (A/HRC/7/10/Add.1), February 28, 2008, paragraph 199, available at http://www2.ohchr.org/english/bodies/hrcouncil/7session/reports.htm.

[48] UN Human Rights Committee, General Comment 6 (HRI/GEN/1/Rev.1), 1982, paragraph 7.

[49] The report states: "Making the death penalty mandatory for certain crimes, in such a way that a judge is prohibited from taking the circumstances of an individual accused person into account in sentencing, is illegal under international human rights law. This is not to say that countries which retain the death penalty are unable to apply that penalty in the majority of cases involving a most serious crime, but they are obligated to at least provide for the possibility that a judge might find a death sentence impermissible in a particular individual's case because of extenuating circumstances of one kind or another." UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston* (A/HRC/4/20), January 29, 2007, paragraph 66, available at http://www2.ohchr.org/english/bodies/hrcouncil/4session/reports.htm.

[50] Ibid., paragraph 51.

[51] UN Commission on Human Rights, *Report Submitted by Mr. Abdelfattah Amor, Special Rapporteur, in Accordance with Commission on Human Rights Resolution 1995/23: Addendum—Visit by the Special Rapporteur to Pakistan* (E/CN.4/1996/95/Add.1), January 2, 1996, paragraph 82, available at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=780.

[52] Office of the UN High Commissioner for Human Rights, "Safeguards Guaranteeing the Rights of Those Facing the Death Penalty, Approved by Economic and Social Council Resolution 1984/50 of 25 May 1984," http://www2.ohchr.org/english/law/protection.htm.

[53] Institute on Religion and Public Policy, *Religious Freedom in Pakistan* (Washington, DC: Institute on Religion and Public Policy, September 2008), available at http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRPKStakeholdersInfoS2.aspx.

[54] "Hate Engulfs Christians in Pakistan," *New York Times*, August 2, 2009, http://www.nytimes.com/2009/08/03/world/asia/03pstan.html.

[55] Human Rights Commission of Pakistan, *State of Human Rights in 2006* (Lahore: Human Rights Commission of Pakistan, January 2006), 141, http://www.hrcp-web.org/pdf/Archives%20Reports/AR2006.pdf.

[56] Declan Walsh, "Pakistan Blames Islamists Linked to Al-Qaida for Attack on Christians," *Guardian*, August 3, 2009, http://www.guardian.co.uk/world/2009/aug/03/pakistan-christian-attack-islamists-blamed; "Bomb Attack on Shia March in Pakistani City of Karachi," BBC, December 28, 2009, http://news.bbc.co.uk/1/hi/world/south_asia/8432409.stm.

[57] Benedict Rogers and Joseph Laconte, "Blasphemy in Pakistan: The Law That Breeds Terror," *Daily Standard* (Weekly), April 2, 2008, http://www.weeklystandard.com/Content/Public/Articles/000/000/015/016osxyq. asp?page=2

[58] Asif Shahzad, "Militants Threaten Christian Man in Pakistan After His Acquittal in Blasphemy Case," Associated Press, January 27, 2005.

[59] "Is There an End?" *Dawn*.

[60] International Christian Concern, "Christian Cleared of Blasphemy Charges Fired from Job, Facing Death Threats," news release, February 22, 2008, http://www.persecution.org/suffering/ICCnews/newsdetail.php?newscode=7202&title=christian-cleared-of-blasphemy-charges-fired-from-job-facing-death-threats.

[61] Massoud Ansari and Michael Hirst, "Pakistan's Blasphemy Laws Used to Persecute Non-Muslims," *Sunday Telegraph* (London), June 25, 2006.

[62] Christian Solidarity Worldwide, *Briefing—Pakistan: A Submission to the United Nations Human Rights Council Universal Periodic Review* (Surrey, UK: Christian Solidarity Worldwide, January 2008), available at http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRPKStakeholdersInfoS2.aspx.

[63] "Christian Unexpectedly Acquitted of Blasphemy," Compass Direct News.

[64] Asian Human Rights Commission, "Pakistan: Torture of Two Men After Being Falsely Charged under Blasphemy Law."

[65] USCIRF, "Pakistan," in *2009 Annual Report*.

[66] The Universal Declaration of Human Rights is available at http://www.un.org/en/documents/udhr/index.shtml. The ICCPR is available at http://www2.ohchr.org/english/law/ccpr.htm.

[67] Karin Karlekar and others, eds., "Pakistan," in *Freedom of the Press 2010* (New York: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), http://freedomhouse.org/template.cfm?page=16.

[68] International Humanist and Ethical Union, "Pakistani Blasphemy Law," news release, May 4, 2005, http://www.iheu.org/node/1304.

[69] "Pakistan Doctor on Trial for Blasphemy," BBC, May 19, 2001, http://news.bbc.co.uk/2/hi/south_asia/1339792.stm.

[70] Karin Karlekar and others, eds., "Pakistan," in *Freedom of the Press 2010* (New York: Freedom House, 2010), http://freedomhouse.org/template.cfm?page=16.

For more information on this case, see:
M. Younus Shaikh, "Blasphemy—My Journey through Hell," Mukto-Mona, no date, http://www.mukto-mona.com/Articles/Younus_Sheikh/blasphemy.htm.

[71] Amnesty International, "Pakistan: Fear for Safety/Prisoner of Conscience (POC), Mohammed Younus Shaikh," news release, August 19, 2005, http://www.amnesty.org/en/library/asset/ASA33/023/2005/en/dc8bb567-d4b7-11dd-8a23-d58a49c0d652/asa330232005en.html; Human Rights Commission of Pakistan, *State of Human Rights in 2007* (Lahore: Human Rights Commission of Pakistan, March 2008), 82, http://www.hrcp-web.org/pdf/Archives%20Reports/AR2007.pdf.

[72] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2004 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, February 2005), http://www.state.gov/g/drl/rls/hrrpt/2004/41743.htm.

[73] Committee to Protect Journalists, "Journalist Sentenced to Life in Prison for Blasphemy," news release/letter to Pakistani prime minister, July 10, 2003, http://cpj.org/2003/07/journalist-sentenced-to-life-in-prison-for-blasphe.php.

[74] "Blasphemy Conviction: Journalist Assured of Legal Assistance," *Daily Times* (Pakistan), July 11, 2003, http://www.dailytimes.com.pk/default.asp?page=story_11-7-2003_pg7_32; Amnesty International, "Pakistan: Further Information on Fear for safety," news release, July 15, 2003, http://www.amnesty.org/en/library/asset/ASA33/007/2003/en/26af5df9-d6b3-11dd-ab95-a13b602c0642/asa330072003en.html.

[75] Pakistani Press Foundation, "Four Journalists Held Responsible for Publication of Blasphemous Letter," International Freedom of Expression eXchange (IFEX), March 9, 2001, http://www.ifex.org/pakistan/2001/03/12/four_journalists_held_responsible/.

[76] Amnesty International expressed serious concerns about the fairness of Mohsin's trial. The High Court and the District Court Bar Associations reportedly passed resolutions stating that their members would not defend any of the accused individuals, and Mohsin had to be represented by a junior attorney. See Amnesty International, "Pakistan: Further Information on Fear for Safety."

[77] "Pakistan Blocks YouTube Over 'Blasphemous' Material," *Dawn*, May 20, 2010, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/03-pakistan-blocks-youtube-over-blasphemous-material-ss-01.

[78] Ibid.; "Pakistani Court Orders Facebook Blocked in Prophet Row," BBC, May 19, 2010, http://news.bbc.co.uk/1/hi/world/south_asia/8691406.stm.

[79] Mohammed Ali Jinnah, "Mr. Jinnah's Presidential Address to the Constituent Assembly of Pakistan, August 11, 1947," Pakistani.org, http://www.pakistani.org/pakistan/legislation/constituent_address_11aug1947.html.

[80] "Pakistani Court Sentences First Muslim to Death for Blasphemy," Associated Press, September 10, 1998.

[81] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *1999 Country Reports on Human Rights Practices* (Washington, DC: U.S. Department of State, February 2000), http://www.state.gov/g/drl/rls/hrrpt/1999/441.htm.

[82] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *International Religious Freedom Report 2004*, (Washington, DC: U.S. Department of State, 2004), http://www.state.gov/g/drl/rls/irf/2004/35519.htm.

[83] Zaffar Abbas, "Pakistani 'Prophet' Sentenced to Death," BBC, August 5, 2000, http://news.bbc.co.uk/1/hi/world/south_asia/867449.stm.

[84] "Is There an End?" Dawn.

[85] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2009 Country Reports on Human Rights Practices*.

[86] Human Rights Watch, "Pakistan: Pandering to Extremists Fuels Persecution of Ahmadis," news release, May 6, 2007, http://www.hrw.org/en/news/2007/05/05/pakistan-pandering-extremists-fuels-persecution-ahmadis.

[87] Dard v. Pakistan, No. 149/89, (Sup. Ct. of Pak., July 3, 1993), as cited in Forte, "Apostasy and Blasphemy in Pakistan."

[88] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *International Religious Freedom Report 2009*.

[89] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2009 Country Reports on Human Rights Practices*.

[90] "State of the Judiciary," *Daily Times*.

[91] "Is There an End?" *Dawn*.

[92] UN Working Group on Arbitrary Detention, "Opinion No. 25/2001 (Pakistan)," in *Opinions Adopted by the Working Group on Arbitrary Detention* (E/CN.4/2003/8/Add.1), 22, available at http://ap.ohchr.org/documents/dpage_e.aspx?m=117.

[93] Shea, "Testimony of Nina Shea."

[94] Akbar S. Ahmed, "Pakistan's Blasphemy Law: Words Fail Me," *Washington Post*, May 19, 2002, http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A36108-2002May17&notFound=true.

[95] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2009 Country Reports on Human Rights Practices*.

[96] "Bail Denied to Christian Activist for His Own Safety, Judge Also Under Fire," Compass News Direct, May 6, 2009, available at http://www.religionnewsblog.com/23451/muslim-lawyer-threatens-christian.

[97] This case is also an example of harassment and intimidation by religious extremists. According to one report, the prosecuting lawyer stated, "If the judge does not punish Aleem according to the law, then [we] will kill him ourselves." The judge's decision was reportedly heavily influenced by these threats. See "Bail Denied to Christian Activist for His Own Safety, Judge Also Under Fire," Compass News Direct; Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2009 Country Reports on Human Rights Practices*.

[98] See Hector Aleem's blog, maintained by his daughter Mehwish Aleem, at http://hectoraleem.blogspot.com.

[99] USCIRF, "Pakistan," in *2008 Annual Report* (Washington, DC: USCIRF, May 2008), http://www.uscirf.gov/images/AR2008/pakistan.pdf.

[100] Christian Solidarity Worldwide, *Briefing—Pakistan*.

[101] M. Younas Shaikh, "Living Among the Believers," International Humanist and Ethical Union, November 28, 2001, http://www.iheu.org/node/1166.

[102] Bureau of Democracy, Human Rights, and Labor, "Pakistan," in *2007 Country Reports on Human Rights Practices*.

[103] "Is There an End?" *Dawn*; Christian Solidarity Worldwide, *Briefing—Pakistan*.

[104] "Is There an End?" *Dawn*; Franciscans International, "Blasphemy Laws Claim More Victims in Pakistan," news release, no date, http://www.franciscansinternational.org/node/3006.

[105] Ayub Masih, "Death Sentence: Ayub Masih," Jubilee Campaign, no date, http://www.jubilee-campaign.co.uk/features/just-right/155-death-sentence-ayub-masih.

[106] UN Working Group on Arbitrary Detention, "Opinion No. 25/2001 (Pakistan)."
[107] Ibid.
[108] Ibid.
[109] M. Younas Shaikh, "Living Among the Believers."
[110] International Humanist and Ethical Union, "Younus Shaikh Free!" news release, January 23, 2004, http://www.iheu.org/node/271.
[111] "Christians Unexpectedly Acquitted of Blasphemy," Compass News Direct.
[112] Human Rights Watch, "Pakistan," in *2009 World Report* (New York: Human Rights Watch, January 2010), http://www.hrw.org/en/node/87399.
[113] Raza, "The Unholy War."
[114] Shea, "Testimony of Nina Shea."
[115] Fareed Khan, "Faisalabad, Young Christian Sentenced to Life Imprisonment for Blasphemy," AsiaNews.it, January 18, 2010, http://www.asianews.it/news-en/Faisalabad,-young-Christian-sentenced-to-life-imprisonment-for-blasphemy-17374.html#.
[116] Tariq Saeed, "Seven Burnt Alive in Gojra Violence," *Dawn*, August 2, 2009, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/06-six-christians-die-in-riots-with-muslims-rs-05.
[117] Asma Jahangir, "Gojra Admin Knew About Pre-Planned Attacks," Human Rights Commission of Pakistan, August 4, 2009, http://www.hrcp-web.org/showprel.asp?id=83; Nirupama Subramanian, "Communal Clashes: Focus on Blasphemy Laws in Pakistan," *The Hindu*, August 6, 2009.
[118] Jahangir, "Gojra Admin Knew About Pre-Planned Attacks."
[119] Ibid.
[120] "Gojra Report Proposes Amending Blasphemy Laws," *Daily Times* (Pakistan), December 7, 2009, http://www.dailytimes.com.pk/default.asp?page=2009\12\07\story_7-12-2009_pg7_3.
[121] Imran Ayub, "Factory Worker Lynched for 'Blasphemy,'" *Dawn*, April 9, 2008, http://www.dawn.com/2008/04/09/top8.htm.
[122] Qaiser Felix, "Killed for 'Blasphemy,' Now His Family Is at Risk," AsiaNews.it, April 28, 2008, http://www.asianews.it/index.php?l=en&art=12121&geo=2&size=A.
[123] Shea, "Testimony of Nina Shea."
[124] Ghulam Mohiuddin, "Clashes in Faisalabad as 'Blasphemers' Shot Dead," *Express Tribune*, July 20, 2010, http://tribune.com.pk/story/29024/clashes-in-faisalabad-as-%E2%80%98blasphemers%E2%80%99-shot-dead/; "Two Christians Killed Outside Court Over 'Blasphemy,'" *Daily Times*, July 20, 2010, http://www.dailytimes.com.pk/default.asp?page=2010\07\20\story_20-7-2010_pg1_4.
[125] Muhammad Saleem, "Blasphemy Accused Killed on Court Premises," *Dawn*, July 20, 2010, http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/two-brothers-killed-for-alleged-blasphemy-jd-01.
[126] "Pakistan: Alleged Suicide of Christian Boy Condemned," *Daily Pak Banker*, published in *Hindustan Times*, August 17, 2009.
[127] Waqar Gillani and Sabrina Tavernise, "Pakistan Rights Group Seeks Answers on Christian's Death," *New York Times*, September 16, 2009, http://www.nytimes.com/2009/09/17/world/asia/17pstan.html.
[128] Ibid.; "Christian Held for Blasphemy Dies in Pakistan Custody: Officials," Agence France-Presse, September 15, 2009.
[129] Asian Human Rights Commission, "Pakistan: Torture of Two Men After Being Falsely

Charged under Blasphemy Law,"
[130] M. Younus Shaikh, "Blasphemy—My Journey through Hell," Mukto-Mona, no date, http://www.mukto-mona.com/Articles/Younus_Sheikh/blasphemy.htm.
[131] Shea, "Testimony of Nina Shea."
[132] European Court of Human Rights, *Soering v. UK*, App No. 14038/88, July 7, 1989, http://www.echr.coe.int/echr/en/hudoc/.

POLAND

[1] Bureau of Democracy, Human Rights, and Labor, "Poland," in *International Religious Freedom Report 2009* (Washington, DC: U.S. Department of State, October 2009), http://www.state.gov/g/drl/rls/irf/2009/127330.htm.
[2] U.S. Department of State, "Background Note: Poland," June 30, 2010, http://www.state.gov/r/pa/ei/bgn/2875.htm.
[3] U.S. Holocaust Memorial Museum, "Poles: Victims of the Nazi Era," http://www.ushmm.org/education/resource/poles/poles.php?menu=/export/home/www/doc_root/education/foreducators/include/menu.txt&bgcolor=CD9544.
[4] U.S. Department of State, "Background Note: Poland."
[5] Ibid.
[6] Article 114 of the 1921 constitution declared that Catholicism was the chief religion of the state. See Daniel H. Cole, "Poland's 1997 Constitution in its Historical Context," *Saint Louis-Warsaw Transatlantic Law Journal* (1998): 6, available at http://indylaw.indiana.edu/instructors/cole/web%20page/polconst.pdf.
[7] Article 25.1 and Article 25, Constitution of Poland (1997), http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.
[8] Ibid., Article 25.5.
[9] Bureau of Democracy, Human Rights, and Labor, "Poland," *International Religious Freedom Report 2009*.
[10] Ibid.
[11] Article 25.2, Constitution of Poland.
[12] European Commission for Democracy Through Law (Venice Commission), A*nnexe II: Analysis of the Domestic Law Concerning Blasphemy, Religious Insult and Inciting Religious Hatred in Albania, Austria, Belgium, Denmark, France, Greece, Ireland, the Netherlands, Poland, Romania, Turkey, United Kingdom, on the Basis of Replies to a Questionnaire* (Strasbourg: Council of Europe, 2008), 72, available at http://www.venice.coe.int/docs/2008/CDL-AD%282008%29026add2-bil.asp [hereafter: Venice Commission Survey].
[13] "Norwegian Good," *Warsaw Voice*, March 7, 2004.
[14] "Norwegian Artist Accused of Offending Polish Catholics," Agence France-Presse, February 16, 2004.
[15] Venice Commission Survey.
[16] Ibid.
[17] "Prosecutor's Office Launches Investigation Against *Wprost* Weekly," PAP News Wire, September 6, 1994.
[18] "Prior Not to Take Stand on Dropping Investigation Against Weekly," PAP News Wire, October 16, 1994.