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# **“AS GOOD AS DEAD”**

THE IMPACT OF THE BLASPHEMY LAWS IN PAKISTAN

**AMNESTY**  
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# CONTENTS

|                                                                                         |           |
|-----------------------------------------------------------------------------------------|-----------|
| <b>CASE SUMMARIES</b>                                                                   | <b>7</b>  |
| <b>EXECUTIVE SUMMARY</b>                                                                | <b>9</b>  |
| <b>1. THE EVOLUTION OF PAKISTAN'S BLASPHEMY LAWS</b>                                    | <b>16</b> |
| 1.1 AMENDMENTS TO EXISTING LAW AND INTRODUCTION OF NEW LEGISLATION SINCE THE 1980S      | 17        |
| 1.2 SECTION 295-C AND THE FEDERAL SHARIAT COURT RULING                                  | 18        |
| 1.3 APPLICATION OF BLASPHEMY LAWS                                                       | 18        |
| <b>2. THE BROAD SCOPE FOR ALLEGATIONS</b>                                               | <b>21</b> |
| 2.1 BLASPHEMY ACCUSATIONS INSPIRED BY ULTERIOR MOTIVES                                  | 21        |
| 2.2 ACCUSATIONS OF BLASPHEMY AGAINST PEOPLE WITH MENTAL DISABILITIES                    | 23        |
| 2.3 BLASPHEMY ACCUSATIONS USED TO CURTAIL FREEDOM OF OPINION AND EXPRESSION             | 24        |
| <b>3. INADEQUATE SAFEGUARDS AGAINST ABUSES</b>                                          | <b>26</b> |
| 3.1 POLICE (MIS)HANDLING OF BLASPHEMY CASES                                             | 26        |
| 3.2 ROLE OF PROSECUTORS                                                                 | 31        |
| 3.3 INTIMIDATION OF DEFENCE LAWYERS                                                     | 34        |
| 3.4 HEARINGS IN BLASPHEMY CASES                                                         | 35        |
| 3.5 APPEALS, ACQUITTALS AND ONGOING SECURITY RISKS FOR INDIVIDUALS ACCUSED OF BLASPHEMY | 40        |
| <b>4. INADEQUATE SAFEGUARDS AGAINST ABUSES</b>                                          | <b>43</b> |
| 4.1 ATTACK AGAINST THE AHMADIYYA COMMUNITY OVER BLASPHEMY ALLEGATIONS                   | 44        |
| 4.2 ATTACK AGAINST CHRISTIAN COUPLE IN KOT RADHA KISHAN                                 | 46        |
| 4.3 ATTACK AGAINST CHRISTIAN NEIGHBOURHOOD OF JOSEPH COLONY, LAHORE                     | 47        |
| 4.4 CHAK 460 MAKKI                                                                      | 50        |
| 4.5 STATE RESPONSE TO MOB VIOLENCE                                                      | 51        |
| <b>5. INTERNATIONAL LAW AND STANDARDS</b>                                               | <b>52</b> |

|                                                  |           |
|--------------------------------------------------|-----------|
| 5.1 FREEDOM OF OPINION AND EXPRESSION            | 54        |
| 5.2 FREEDOM OF RELIGION OR BELIEF                | 55        |
| 5.3 THE RIGHT TO EQUALITY AND NON-DISCRIMINATION | 56        |
| 5.4 THE RIGHT TO LIFE                            | 57        |
| 5.5 THE RIGHT TO FAIR TRIAL                      | 58        |
| 5.6 THE PROHIBITION OF ARBITRARY DETENTION       | 59        |
| <b>6. RECOMMENDATIONS</b>                        | <b>60</b> |
| ANNEX: RESPONSE FROM PUNJAB GOVERNMENT           | 64        |

# GLOSSARY

| WORD                                 | DESCRIPTION                                                                                                                                                                                   |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>AHLE SUNNAT WAL JAMAAT (ASWJ)</b> | An anti-Shi'a Muslim religious group. Previously called Sipah-e-Sahaba (SSP), but renamed when organisation was outlawed in February 2002. ASWJ was banned in 2012 by the Pakistan government |
| <b>AHMADI</b>                        | A member of a religious community legally barred in Pakistan from calling themselves or their beliefs Muslim                                                                                  |
| <b>ATA</b>                           | Anti-Terrorism Act                                                                                                                                                                            |
| <b>BARELVI</b>                       | A Muslim movement following the Sunni Hanafi school of jurisprudence                                                                                                                          |
| <b>CHALLAN</b>                       | Report prepared by the police documenting the evidence collected during the course of their investigation                                                                                     |
| <b>CRPC</b>                          | Code of Criminal Procedure                                                                                                                                                                    |
| <b>CII</b>                           | Council of Islamic Ideology; a constitutional body mandated to advise the state on Islamic issues                                                                                             |
| <b>FATWA</b>                         | A religious edict                                                                                                                                                                             |
| <b>FIR</b>                           | First Information Report, contains the complainant's account of an offence that comes under police jurisdiction                                                                               |
| <b>FSC</b>                           | Federal Shariat Court, whose tasks include reviewing laws to ensure they conform to Islamic doctrine                                                                                          |
| <b>HANAFI SCHOOL</b>                 | Islamic school of legal thought; most widespread school in Islamic law, followed by roughly one-third of the world's Muslims                                                                  |
| <b>HRCP</b>                          | Human Rights Commission of Pakistan, a non-governmental organisation                                                                                                                          |
| <b>ICCPR</b>                         | International Covenant on Civil and Political Rights                                                                                                                                          |
| <b>IPC</b>                           | Indian Penal Code                                                                                                                                                                             |
| <b>JAMAAT-E AHLE SUNNAT</b>          | Moderate Sunni Muslim group belonging to the Barelvi sect of Sunni Muslims which venerates Sufis, embraces mysticism and celebrates religious events with fervour                             |
| <b>MQM</b>                           | Muttahida Quami Movement: a political party based in Karachi with representatives in the Federal and Sindh provincial parliaments                                                             |

| WORD     | DESCRIPTION                                                                                                                        |
|----------|------------------------------------------------------------------------------------------------------------------------------------|
| PIMH     | Punjab Institute of Mental Health                                                                                                  |
| PPC      | Pakistani Penal Code                                                                                                               |
| PPP      | Pakistan People's Party                                                                                                            |
| SUO MOTO | A Latin term meaning "on its own motion." It is used in situations where a government or court official acts of its own initiative |
| ULEMA    | Traditionally educated Muslim religious scholars                                                                                   |

# CASE SUMMARIES

Some of the names have been changed in order to protect the identities of the individuals.

- **Rimsha Masih**, a 14-year-old Christian girl with a learning disability, was charged with blasphemy following allegations by a Muslim cleric that she burnt pages of the Quran. A petition before the high court seeking to quash the charges was accepted and Rimsha was acquitted three months after her arrest in 2012. The judgment cited the lack of evidence as grounds for her acquittal and also noted that she had been falsely implicated in the case and her prosecution would have permitted the courts to be used as a tool for ulterior motive.
- **Four Ahmadiyya men** were specifically accused of disseminating “objectionable material” in Lahore which included a newspaper and a magazine, both printed and distributed exclusively by and for the Ahmadiyya Community. A trial court judgment that acquitted them noted that these men had been targeted because of their faith.
- **Aqib Saleem**, an Ahmadi man, was charged with blasphemy in 2014 and acquitted by the trial court in 2015. He was accused of posting a picture on Facebook of a naked woman sitting on the Kaaba, the most holy place of worship for Muslims. The allegations led to a mob attack on members of the Ahmadiyya community that resulted in the deaths of three individuals.
- **Veena Malik** and three others involved in a show broadcast on television were accused of blasphemy in 2014. Veena Malik re-enacted part of her wedding for a television program while drawing an explicit parallel with the wedding of Prophet Muhammad’s daughter. All four fled the country following the allegations while a court in Gilgit Baltistan convicted and sentenced them in absentia to 26 years in prison.
- **Akram Saeed (pseudonym)** was convicted and sentenced to death in 2009 in Punjab following allegations that he uttered “defiling words” against the Prophet Muhammad following charges filed by another Muslim under Section 295-C. His appeal is still pending in the high court. Akram Saeed’s case also demonstrates how judges are willing to convict someone despite no mention in the evidence presented at trial of the precise words allegedly uttered by the accused which form the basis of the charges against them.
- **Ahmed Khan (pseudonym)** was convicted and sentenced to death following allegations of blasphemy against the Prophet Muhammad. The complaint was filed over a month after he allegedly blasphemed. Prior to his arrest, Ahmed Khan was diagnosed with paranoid schizophrenia. This evidence was presented in court when bail was requested, but the judge rejected the petition on grounds that a medical board was needed if a mental health argument was going to be raised.
- **Fayaz Paracha (pseudonym)** was convicted and sentenced to death in Khyber Pakhtunkhwa in 2012 by a trial court following allegations that he blasphemed against the Prophet Muhammad during a quarrel

with some people in his village. In 2013, he was acquitted by the Peshawar High Court; the judgment also noted how Fayaz Paracha had taken a plea of “unsound mind” but he was not referred to the relevant authorities for an evaluation of his mental condition.

- **Asia Noreen**, also known as **Asia Bibi**, was convicted and sentenced to death in 2010 following allegations of blasphemy against the Prophet Muhammad. The high court upheld her conviction and death sentence in 2014. Since then, her appeal has been pending in the Supreme Court. The complaint in her case was made by a local cleric on the basis of what two women, who worked alongside Asia Noreen, reported to him.
- **Ayub Masih** was convicted on blasphemy charges by the trial court but acquitted on appeal by the Supreme Court in 2002 because the prosecution failed to prove its case beyond reasonable doubt. The Supreme Court judgment noted that an unexplained inordinate delay in lodging the complaint tarnishes its authenticity and is to be given significant consideration when the prosecution evidence is weak.
- **Usman Arsalan (pseudonym)** is a Christian man currently under trial in Punjab following allegations in 2013 that he wrote blasphemous words in a book. When allegations were made against Usman Arsalan and the police were unable to locate him, they detained his relatives without any legal basis and pressed them for Usman Arsalan’s whereabouts.
- **Hamza Javed (pseudonym)** was arrested in 2013 and is currently under trial in Punjab following allegations that he posted blasphemous material on Facebook. One of the lawyers who represented him was attacked by religious clerics in court after which he quit from the case.
- **Iqbal Hameed (pseudonym)**, a Christian man, was convicted and sentenced to death under Section 295-C by the lower court in 2007 after spending almost two years in detention. He was arrested following an argument at a musical gathering with the complainant who was a Muslim. In 2013, his appeal was heard at the Lahore High Court and he was acquitted and released seven and a half years after his arrest. The acquittal was made on the basis that the evidence was insufficient, consisting mainly of hearsay evidence and inconsistent witness testimonies from the prosecution.
- **Saira and Bilal Mumtaz (pseudonym)**, a Christian couple, were convicted of blasphemy in Punjab for pretending to be fake saints, possessing copies of the Quran and writing religious script on the walls in their home. Saira Mumtaz was also accused of pretending to be a Muslim and touching the Quran without ablution. Saira and Bilal Mumtaz were eventually acquitted on appeal by the Lahore High Court four years after their arrest.
- **Sawan Masih** was convicted and sentenced to death for blasphemy in Punjab in 2014 following allegations that he uttered derogatory remarks against the Prophet Muhammad. The allegations also led to a mob attack against the Christian neighbourhood where he resided. Most of the neighbourhood was burnt down but the residents survived because they fled their homes prior to the attack. Sawan Masih’s appeal is currently pending in the Lahore High Court.

# EXECUTIVE SUMMARY

**“The Majority of blasphemy cases are based on false accusations stemming from property issues or other personal or family vendettas rather than genuine instances of blasphemy and they inevitably lead to mob violence against the entire community.”<sup>1</sup>**

Supreme Court judgement in *Malik Muhammad Mumtaz Qadri v the State*, 7 October 2015.

On 4 January 2011, Salmaan Taseer, the governor of Pakistan's Punjab province, was killed by one of his security guards, Mumtaz Qadri. He said he committed the murder because, “this is the punishment for a blasphemer.”<sup>2</sup> Salmaan Taseer had sought a presidential pardon for Asia Bibi, also known as Asia Noreen, a 45-year-old Christian farmhand and a woman with responsibility for five young children from the village of Ittan Wali, near the Punjabi city of Sheikhpura. In November 2010, Asia Bibi became the first Pakistani woman sentenced to death for blasphemy. Salmaan Taseer's support for her, and his view that Pakistan's blasphemy laws were “black laws”, were also cast as an act of blasphemy by supporters of the laws.<sup>3</sup>

Overnight, Mumtaz Qadri became a national hero for supporters of Pakistan's blasphemy laws. Religious parties brought tens of thousands of their followers on to the streets to demand Mumtaz Qadri's release.<sup>4</sup> A mosque was named after him and became so popular that funds were raised to create a new prayer hall.<sup>5</sup> Many lawyers wanted to represent him *pro bono* to reward him for what they saw as a justified killing.<sup>6</sup> Lawyers and religious clerics chanted slogans supporting him outside the court hearings. The Pakistan People's Party-led government of the time bowed to public pressure, vowing not to amend the blasphemy laws.

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<sup>1</sup> The Supreme Court of Pakistan judgment, *Malik Muhammad Mumtaz Qadri v. the State, Criminal Appeals No. 210 and 211 of 2015*, p. 26, available at [www.supremecourt.gov.pk/web/user\\_files/File/Cr.A.\\_210\\_2015.pdf](http://www.supremecourt.gov.pk/web/user_files/File/Cr.A._210_2015.pdf)

<sup>2</sup> “The Martyrdom of Pakistan's Advocate of Tolerance”, *Time Magazine*, 5 January 2011, available at <http://content.time.com/time/world/article/0,8599,2040792,00.html>

<sup>3</sup> “Taseer's remarks about the blasphemy laws”, *The Express Tribune*, 5 January 2011, available at <http://tribune.com.pk/story/99277/taseers-remarks-about-blasphemy-law/>

<sup>4</sup> “Pakistan mosque built to honour politician's killer to double in size”, *The Guardian*, 30 April 2014, available at [www.theguardian.com/world/2014/apr/30/pakistan-mosque-killer-mumtaz-qadri-salaman-taseer](http://www.theguardian.com/world/2014/apr/30/pakistan-mosque-killer-mumtaz-qadri-salaman-taseer)

<sup>5</sup> Aamir Yasin, “Suburban mosque named after Salman Taseer's assassin”, *Dawn*, 30 April 2014, available at [www.dawn.com/news/1103232](http://www.dawn.com/news/1103232)

<sup>6</sup> See Malik Asad, “Mumtaz Qadri's legal team outnumbers police presence at IHC”, *Dawn*, 28 January 2015, available at [www.dawn.com/news/1159926](http://www.dawn.com/news/1159926) and Shiraz Maher, “British Organisation Backing Religious Intolerance”, The Gatestone Institute, 26 January 2012, available at [www.gatestoneinstitute.org/2784/british-organization-backing-religious-intolerance](http://www.gatestoneinstitute.org/2784/british-organization-backing-religious-intolerance) and Pamela Constable, “A governor's assassination has delivered Pakistan to the extremists”, *The Washington Post*, 21 January 2011, available at [www.washingtonpost.com/opinions/a-governors-assassination-has-delivered-pakistan-to-the-extremists/2011/01/21/ABcxAKR\\_story.html?utm\\_term=.99f74d6dd0f5](http://www.washingtonpost.com/opinions/a-governors-assassination-has-delivered-pakistan-to-the-extremists/2011/01/21/ABcxAKR_story.html?utm_term=.99f74d6dd0f5)

On 2 March 2011, Shahbaz Bhatti, the only Christian member of the cabinet and the Minister for Minorities, was shot dead outside his mother's house in Islamabad. Shahbaz Bhatti was the only senior Pakistani official to back Salmaan Taseer's calls for the blasphemy laws to be amended. Before his death, he told the BBC that he was facing threats to his life for speaking out against the persecution of Christians and other minorities in Pakistan.<sup>7</sup>

On 7 October 2015, Mumtaz Qadri's death sentence was upheld by the Supreme Court, and on 29 February 2016 he was hanged. Following his execution, thousands of his supporters took to the streets of his hometown Rawalpindi to mark his funeral. In March 2016, thousands of Qadri supporters protested outside the National Assembly in Islamabad, setting fire to and damaging property, attacking journalists, and clashing with the police.<sup>8</sup>

At the time of writing, Asia Bibi remains imprisoned in Sheikhupura. On 13 October 2016, the Supreme Court was scheduled to hear her case in the ultimate stage of her appeal process. On the day, the Supreme Court adjourned the appeal hearing indefinitely. Earlier, on 22 July 2015, the Supreme Court suspended Asia Bibi's death sentence for the duration of the appeals process.

This report details how Pakistan's blasphemy laws violate human rights, both in their substance and their application – whether this is violations of human rights by the state, or abuses of the laws by non-state actors. The laws do not meet human rights standards and lack essential safeguards to minimise the risk of additional violations and abuses.

It is difficult to establish precise information on the number of blasphemy cases as there is limited available data. However, data provided by human rights groups the National Commission for Justice and Peace (NCJP) and the Human Rights Commission of Pakistan (HRCP) shows a large increase of cases since the 1980s. For example, according to NCJP, a total of 633 Muslims, 494 Ahmadis, 187 Christians and 21 Hindus have been accused under various provisions on offences related to religion since 1987.<sup>9</sup>

## EVOLUTION OF PAKISTAN'S BLASPHEMY LAWS

Offences relating to religion in Pakistan were introduced in the colonial era in British India – which included the territory that is now Pakistan – with the justification of preventing and curbing religious violence between Hindus and Muslims. These included Sections 295, 296, 297 and 298 which were introduced in 1860, and 295-A that was introduced in 1927.

Under the military government of General Zia-ul-Haq (1977-1988), additional laws were introduced against blasphemy that were specific to Islam, including laws explicitly targeting the minority Ahmadiyya Muslim community. These included sections 295-B (1982), 295-C (1986), 298-A (1980), 298-B and 298-C (both in 1984). Today, the most frequently invoked blasphemy laws in Pakistan's Penal Code are Sections 295-A (outraging religious feelings), 295-B (desecrating the Quran), 295-C (defiling the name of the Prophet Muhammad) and 298-A (defiling the names of the family of the Prophet Muhammad, his companion or any of the caliphs). When charges are levelled under most of these laws, the police have the authority to arrest the alleged offender without a warrant and can commence their investigation without orders from the magistrate's court.

During General Zia-ul-Haq's rule, the Federal Shariat Court was established in 1980, to "examine and decide the question whether or not any law or provision of law is repugnant to the injunctions of Islam."<sup>10</sup> Unless the

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<sup>7</sup> "Pakistan Minorities Minister Shahbaz Bhatti shot dead", *BBC News*, 2 March 2011, available at [www.bbc.co.uk/news/world-south-asia-12617562](http://www.bbc.co.uk/news/world-south-asia-12617562)

<sup>8</sup> "Mumtaz Qadri supporters rally in Islamabad after clashes", *BBC News*, 28 March 2016, available at [www.bbc.co.uk/news/world-asia-35909716](http://www.bbc.co.uk/news/world-asia-35909716)

<sup>9</sup> See Human Rights Commission of Pakistan, *State of Human Rights*, 2014, pp. 46-51 and "What are Pakistan's blasphemy laws?", *BBC*, 6 November 2014, available at: <http://www.bbc.com/news/world-south-asia-12621225>. See also Jinnah institute. *State of Religious Freedom in Pakistan*. 2015, p. 2, available at [http://jinnah-institute.org/wp-content/uploads/2016/01/Minority-Report-2016.pdf?\\_sm\\_au\\_=iVVM1S06v3Rt0QQs](http://jinnah-institute.org/wp-content/uploads/2016/01/Minority-Report-2016.pdf?_sm_au_=iVVM1S06v3Rt0QQs)

<sup>10</sup> Article 203D(1) of The Constitution of Pakistan, available at [www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf)

government lodges a successful appeal with the Shariat Appellate Bench of the Supreme Court, the Federal Shariat Court's rulings are binding.<sup>11</sup>

In 1990, the Federal Shariat Court, responding to a petition, ruled that the death penalty was mandatory under 295-C.<sup>12</sup> The government of the time, headed by Prime Minister Nawaz Sharif, withdrew an appeal and it became binding on all courts in Pakistan.

## ALLEGATIONS IN BLASPHEMY CASES

Pakistan's blasphemy laws violate the rights to life; freedom of thought, conscience, and religion or belief; and freedom of opinion and expression. While they purport to protect religious sentiments - mainly those of the Muslim majority - prosecutors, defence lawyers and human rights activists interviewed for this report expressed concerns over the use of the laws by individuals apparently for other motives. Such motives vary, but can include professional rivalry, personal or religious disputes, hostility towards religious minorities, and seeking economic gains such as money and land. These ulterior motives have been acknowledged by some courts in their judgments acquitting those accused of blasphemy or when quashing the charges levelled against them.

Amnesty International's investigation found that allegations arose from supposedly blasphemous verbal exchanges, text messages, content on social and mass media, distribution of religious pamphlets or books, and "desecration" of pages or books containing religious text. Research gathered for this report has shown that individuals with mental disabilities are at particular risk of being accused of blasphemy. In one such example, Rimsha Masih, a 14-year-old Christian girl with a learning disability, was arrested and charged with blasphemy in 2012, following allegations by a Muslim cleric that she had burned pages of the Quran. The High Court accepted the petition and quashed the case against her for lack of evidence. The judgment noted that she had been falsely implicated in the case and that if her case had proceeded with a trial, her prosecution "would allow the courts to be used as a tool for [an] ulterior motive."<sup>13</sup>

## INADEQUATE SAFEGUARDS AGAINST ABUSES

The blasphemy laws are incompatible with international human rights law and should be repealed. As an interim measure, leading up to repeal, a number of key safeguards must be introduced. For example, a wide range of people can register complaints with the police, including those who are not direct witnesses to the alleged blasphemy. In some cases, the delays between when the alleged incident occurred and when the case is registered with the police by the complainant raises questions about the credibility of the allegations, especially when coupled with weak evidence against the accused.

Additionally, following registration in most blasphemy cases (apart from those under Sections 295-A and 298), the police are permitted to arrest the accused and begin their investigation without a warrant. In some cases, police have even arbitrarily detained family members as an attempt to locate the accused when he or she could not be found. This is often due to pressure from the complainant and others in support of the blasphemy laws. Religious clerics wield significant power in the registration of blasphemy cases. Their opinions are frequently sought by complainants, and often also by the police as part of their investigation.

Faced with pressure from religious clerics and their supporters, the police may forward a case to the prosecutor on the basis of insubstantial evidence. In one such case, Hamza Javed (pseudonym) was arrested in 2012 and is currently under trial in Punjab following allegations that he posted blasphemous material on Facebook. The police obtained a religious edict as part of their investigation that stated the allegations against him amounted to blasphemy, enabling them to have a pretext for his prosecution. One of

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<sup>11</sup> Article 203F(3) of The Constitution of Pakistan, available at [www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf)

<sup>12</sup> Federal Shariat Court, *Muhammad Ismail Qureshi versus Pakistan through Secretary, Law and Parliamentary*, Shariat Petition No.6/L of 1987, (1990), available at <http://khatm-e-nubuwwat.org/lawyers/data/english/8/fed-shariat-court-1990.pdf>

<sup>13</sup> Islamabad High Court, *Rimsha Masih v. Station House Officer, Police Station Ramna, Writ Petition No.3172-Q of 2012*, (2012), para. 16, available at [www.ihc.gov.pk/Announcements/Judgements/Court1/W.P.%203172-Q-2012.pdf](http://www.ihc.gov.pk/Announcements/Judgements/Court1/W.P.%203172-Q-2012.pdf)

the lawyers who represented Hamza Javed was physically attacked by religious clerics in court after which he withdrew from the case.

Many people accused of blasphemy are forced to undergo a gruelling trial due to several factors: vaguely formulated laws, the low standard of evidence required for conviction, and the manner in which allegations are often uncritically accepted by the police, the prosecuting authorities, and even trial court judges, who may themselves also face threats and intimidation. Several prosecutors told Amnesty International that police investigations in blasphemy cases were frequently flawed and that complainants often have ulterior motives for filing cases. However, there were no cases among those reviewed by Amnesty International in which it could be seen that prosecutors exercised their authority to identify shortcomings in the police investigation and requested the court to withdraw the case. In addition to state prosecutors, many complainants are also represented by private lawyers who appear on their behalf in court, accompanied by a retinue of supporters, and have been known to threaten others involved in the proceedings. Less than a month before he was killed, the lawyer Rashid Rehman - who was defending a university lecturer accused of blasphemy - was warned by other lawyers in front of the judge in a Multan court room: "You will not come to court next time because you will not exist anymore."<sup>14</sup> Few lawyers are willing to defend people accused of blasphemy because of the serious risks involved.<sup>15</sup>

Trial hearings of blasphemy cases also routinely fall short of Pakistan's obligations to comply with international law and standards on fair trial. Both police and trial courts have frequently failed to exercise due diligence in preventing abuses in connection with these laws. The authorities' obligations to ensure safeguards applicable to pre-trial detention and the elements essential to a fair trial, as provided by Articles 9 and 14 respectively of the International Covenant on Civil and Political Rights (ICCPR), are often violated in blasphemy cases.

There are frequent reports of the lack of independence by trial courts and sometimes even high courts, largely due to pressure exerted by complainants or others in support of the law. The accused are often presumed guilty and the burden is on them to prove their innocence rather than on the prosecution to prove their "guilt" beyond reasonable doubt. Several lawyers have asserted to Amnesty International that judges may disregard evidence in favour of the accused due to pressure exerted on the trial court by the complainant and their supporters. Judges are often suspected of employing delaying tactics in blasphemy cases out of reluctance to pass judgments exonerating the accused. Indeed, trials of people accused of serious charges, including blasphemy, can take many years to conclude in Pakistan's criminal justice system.

Many individuals have been convicted of blasphemy on the basis of a standard of proof below that of "beyond a reasonable doubt." This is particularly the case with charges filed under Section 295-C, because an individual can be convicted and sentenced to death solely on the basis of oral testimonies of a few prosecution witnesses. Furthermore individuals have been convicted, despite no mention at trial of the precise words they allegedly uttered and which form the basis of the charges against them. Akram Saeed (pseudonym) was convicted and sentenced to death in Punjab following allegations that he uttered words against the Prophet Muhammad. There was no mention in the evidence presented at trial of the precise words allegedly uttered. His appeal is still pending before the high court.<sup>16</sup>

The authorities often fail to mention the words allegedly used owing to a fear of being charged themselves for repeating them. In court, lawyers face the same risk if they repeat the words their client is accused of using. Defence lawyers also struggle to enlist witnesses willing to give evidence to help their case. Defence witnesses can be accused of abetting a blasphemous if they do so, a position that makes them vulnerable to charges of blasphemy against themselves.

Finally, Sections 295-A, 295-B, 295-C, 298-B and 298-C are non-bailable offences, which means bail is not a right but only granted at the court's discretion. Individuals facing such charges do have the statutory right

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<sup>14</sup> Human Rights Commission of Pakistan, "HRCP slams threat to lawyer representing blasphemy accused", 10 April 2014, available at <http://hrcp-web.org/hrcpweb/hrcp-slams-threat-to-lawyer-representing-blasphemy-accused/>

<sup>15</sup> See Zehra Abid, "Blasphemy in Pakistan: The case of Aasia Bibi", *Aljazeera*, 18 June 2015, available at <http://america.aljazeera.com/articles/2015/6/18/blasphemy-in-pakistan-the-case-of-aasia-bibi.html>

<sup>16</sup> Case citation withheld for security reasons.

to bail if their trials or appeals are not heard within a year.<sup>17</sup> Even so, individuals facing blasphemy charges can spend years in prison before they are granted bail. This is because applications are first filed in the trial courts and it is not until they are heard before the appellate courts that defendants may be granted bail.

Many people convicted of blasphemy by the trial courts are eventually acquitted by appellate courts, but only after years of incarceration and uncertainty. Appeals following convictions in criminal cases, including blasphemy, are filed in high courts, and in the Supreme Court if rejected by the high courts, but this process can take several years due to the large volume of appeals.

Iqbal Hameed (pseudonym), a Christian man, was convicted and sentenced to death under Section 295-C by the trial court in 2007 after spending almost two years in detention. He was arrested following an argument with the complainant who was a Muslim. In 2013, Iqbal Hameed's appeal was heard at Lahore High Court and he was acquitted and released more than seven years after his arrest. The acquittal was made on the basis that the prosecution evidence was insufficient, consisting mainly of hearsay evidence and inconsistent witness testimony.<sup>18</sup>

Whether a person is yet to be convicted, or even if they have been cleared on appeal, there is still a potential threat to their lives. For some people, the mere fact that a person has been charged with blasphemy can establish their guilt. For example, in 2010, the Civil Lines police in the central Punjabi city of Faisalabad registered a blasphemy case against Sajid and Rashid Emmanuel, two Christian brothers accused of distributing pamphlets containing blasphemous material. After the brothers appeared in court, a man killed them as they were being escorted back to the police station.<sup>19</sup> In April 2011, Maqsood Ahmed was sentenced to death for the murder of the two brothers.<sup>20</sup>

## VICTIMS OF MOB VIOLENCE

The blasphemy laws have created an environment in which some people, including complainants and their supporters in blasphemy cases, believe themselves entitled to take the law into their own hands, while the police stand aside. The laws have been used as a cover for perpetrators of mob violence. A striking feature has been the disproportionate number of victims of such vigilantism being from religious minority groups.

For example, Sawan Masih was convicted and sentenced to death for blasphemy in Punjab in March 2014 following allegations that he insulted the Prophet Muhammad.<sup>21</sup> The accusations were seized on by members of a neighbouring community and leaders of a local mosque, triggering a mob attack against the Christian neighbourhood where he lived in Lahore's Badami Bagh.<sup>22</sup> Instead of protecting the residents, the police told them to leave for their own safety. The next day, the attackers went door to door, dousing the homes in inflammable chemicals before setting them ablaze.<sup>23</sup>

In another incident, during August 2009, rumours that Christians in a central Punjabi village called Korian were tearing up the Quran swept through the town of Gojra.<sup>24</sup> After Friday prayers, a mob of hundreds amassed outside a local Christian community. A group of armed attackers went door to door looking for Christians, setting the homes on fire as the residents tried to flee in a panic. Nine people were killed while the local police declined to intervene.<sup>25</sup>

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<sup>17</sup> Section 497 of the Pakistan Code of Criminal Procedure 1898, available at [www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf](http://www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf)

<sup>18</sup> Case citation and information withheld for security reasons.

<sup>19</sup> "Pakistan city tense after 'blaspheming' Christians shot", *BBC*, 20 July 2010, available at [www.bbc.co.uk/news/world-south-asia-10696762](http://www.bbc.co.uk/news/world-south-asia-10696762)

<sup>20</sup> Bureau of Democracy, Human Rights and Labor, "2011 Report on International Religious Freedom", 30 July 2012, p. 19 available at [www.state.gov/documents/organization/193145.pdf](http://www.state.gov/documents/organization/193145.pdf)

<sup>21</sup> *The State v. Sawan Masih*, FIR 112/13. Serial No. 023772, (2013).

<sup>22</sup> "The Anatomy of an Attack on Christians in Pakistan", *Time Magazine*, 11 March 2013, available at <http://world.time.com/2013/03/11/the-anatomy-of-an-attack-on-a-christian-village-in-pakistan/>

<sup>23</sup> Muhammad Faisal Ali, "125 Christian houses burnt over blasphemy", *Dawn*, 9 March 2013, available at [www.dawn.com/news/791491](http://www.dawn.com/news/791491)

<sup>24</sup> "Pakistan: Who's Attacking the Christians?", *Time Magazine*, 5 August 2009, available at <http://content.time.com/time/world/article/0,8599,1914750,00.html>

<sup>25</sup> "Pakistan: Who's Attacking the Christians?", *Time Magazine*, 5 August 2009, available at <http://content.time.com/time/world/article/0,8599,1914750,00.html>

There is a lack of a consistent, robust and timely response by the authorities to situations of such violence. The lack of response, and the failure to prosecute rigorously and promptly those responsible, leads to a climate of impunity for perpetrators of further such attacks.

## INTERNATIONAL LAW AND STANDARDS

The principal legal framework for Pakistan's international obligations to respect and protect these rights is the International Covenant on Civil and Political Rights (ICCPR), which Pakistan has ratified. By becoming party to the ICCPR, Pakistan has made a commitment to respect, protect and fulfil these rights and to put in place the necessary legislative, judicial, administrative, and other measures, including by making changes to existing national laws and adopting such new laws or other measures as may be necessary to fulfil these obligations and give effect to the rights recognized in that treaty. These include in particular the rights to: life; freedom of opinion and expression; freedom of thought, conscience, and religion or belief; life and personal integrity; equality before the law and freedom from discrimination; fair trial; and the prohibition on arbitrary detention.

Pakistan's blasphemy laws violate its international legal obligations to respect and protect the rights to life; freedom of thought, conscience, and religion or belief; freedom of opinion and expression; equality before the law; and the prohibition on discrimination. The laws are vaguely formulated, and enforced by the police, prosecutors, and judiciary in proceedings that often violate the right to fair trial, including the fundamental principle of presumption of innocence. The laws have been used to bring criminal charges against people without the intention to commit an offence, including people with mental disabilities, and children.

In addition, death sentences have been imposed, in violation of international law, on people convicted of blasphemy. The vague formulation of these laws and the way they are implemented enables prosecutions to proceed on the basis of unfounded accusations by complainants.

## CONCLUSION AND RECOMMENDATIONS

In view of the incompatibility of the blasphemy laws with international human rights law, Amnesty International is calling on the authorities to work towards their abolition. At the same time, it is aware that this is a highly sensitive proposition in Pakistan and abolition will not be accomplished immediately. Pending such abolition, in view of the extremely serious consequences of accusations of blasphemy and the pattern of serious abuses against those accused, there is an urgent need for the government to put in place effective procedural and institutional safeguards at the investigative, prosecutorial and judicial levels to prevent the abusive use of these laws.

The government must make urgent reforms to the legal framework to ensure that in blasphemy cases, police, prosecutors and judges are able to carry out their functions impartially and without fear or intimidation. They must make it mandatory across all provinces and ensure the investigation in all blasphemy cases is conducted by an officer of at least the rank of a Superintendent of Police, with a view to preventing prosecutions based on false or malicious complaints and/or where there is insufficient evidence. Where it is already mandatory, as in the Punjab, the government must ensure effective implementation to ensure that this is the case in practice also. Additionally, the police should not be permitted to arrest people or investigate allegations without a warrant issued by a judicial magistrate and courts should not take cognizance of blasphemy cases unless complaints are made by the provincial or federal governments. The mandatory death penalty for blasphemy under Section 295-C must also be abolished without delay and all death sentences commuted. Cases where prisoners with mental or intellectual disabilities or disorders have been sentenced to death must immediately be reviewed. Finally, law enforcement authorities should ensure effective protection against violence in the name of religion, threats and intimidation against those accused of blasphemy, their families, lawyers and judges involved in their case, the places of worship of religious minorities, and any others who may be targeted in this way.

## METHODOLOGY

Amnesty International has been monitoring human rights violations stemming from blasphemy allegations in Pakistan for over two decades, and previously published reports on this issue in 1994 and 2001.<sup>26</sup> For this report, three visits were made to Pakistan between March and November 2015. Amnesty International delegates interviewed more than 100 individuals, including lawyers, prosecutors, judges, police and prison officials, individuals facing blasphemy charges, men and women who have been acquitted of blasphemy charges, family members of those accused of blasphemy, mental health experts, human rights activists, journalists, members of Pakistan's National Commission for Human Rights and non-governmental organizations, government officials and members of opposition parties.

A total of 16 judgments from trial courts, high courts and the Supreme Court were examined as well as six bail orders. Where there are security concerns for individuals interviewed or sources who shared official figures relating to blasphemy cases, their identities have not been disclosed and identifying information changed to ensure their security.

During the course of compiling this report, Amnesty International requested further information from the authorities in Pakistan, but at the time of finalizing the report, had only received a response from the government of Punjab. These responses are included in this report, with the case information and statistics they provided are reprinted in full in the annex to this report.

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<sup>26</sup> See Amnesty International, *Pakistan: Use and Abuse of the Blasphemy Laws* (Index: ASA 33/008/1994 and Amnesty International, *Pakistan: Insufficient Protection of Religious Minorities* (Index: ASA 33/008/2001).

# 1. THE EVOLUTION OF PAKISTAN'S BLASPHEMY LAWS

**“...those who are engaged in historical works, those who are engaged in the ascertainment of truth, and those who are engaged in bona fide and honest criticism of a religion shall be protected.”<sup>27</sup>**

Muhammed Ali Jinnah, first Governor General of Pakistan.

Offences relating to religion in Pakistan owe their provenance to the 1860 Indian Penal Code (IPC), during British colonial rule. The 1860 Penal Code included religious offences that are still in force throughout the subcontinent, including sections relating to defiling a place of worship (Section 295); disturbing a religious assembly (Section 296); trespassing on burial grounds (Section 297); and utterances wounding religious feelings (Section 298). It should be noted that these laws were not exclusive to any one religion but broad in their application across all faiths.

Almost seven decades later, in 1927, Section 295-A was introduced into the IPC by the British administration. It stated:

“Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty’s subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.”<sup>28</sup>

The same year, the Legislative Department of the Indian government drafted Section 295-A and referred it to a Select Committee that recommended including the words “with deliberate and malicious intention”

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<sup>27</sup> Speech delivered by Mohammad Ali Jinnah in the Central Legislature Assembly on 5 September 1927 on the Criminal Law Amendment Bill. See also Soli Sorabjee, “Insult to religion”, *The Indian Express*, 25 June 2006, available at <http://archive.indianexpress.com/news/insult-to-religion-/7214/>

<sup>28</sup> See Act No.XXV of 1927 (2) in Government of India Central Publication Branch, A Collection of Acts of the Indian Legislature for the year 1927, (1928), available at <http://lawmin.nic.in/legislative/textofcentralacts/1927.pdf>

because it was recognized that without qualification there was a risk that the law could cast the net too wide.<sup>29</sup>

Among the blasphemy laws, only Sections 295-A and 298 are non-cognizable offences. This means the police do not have the authority to arrest the alleged offender without a warrant and cannot begin their investigation into the allegations without an order from the Magistrate's Court.

Section 196 of the Code of Criminal Procedure (CrPC) also makes Section 295-A an offence against the state and does not permit any court to take cognizance of complaints filed under this Section unless done so by the central government or the provincial government or an authority designated by either of the two governments.

A further amendment was made to the CrPC in 1997 that authorizes a District Magistrate to order the police to conduct a preliminary investigation when allegations are made under Section 295-A.<sup>30</sup> This preliminary investigation is in addition to, and precedes the regular course of, an investigation. Additionally, anti-terrorism legislation was passed in 1997 which established special anti-terrorism courts and brought a range of offences, including blasphemy, included in Sections 295-A and 298-A (below) under the jurisdiction of those courts.<sup>31</sup> Amnesty International has previously commented on how fair trial rights are breached by anti-terrorism courts in Pakistan.<sup>32</sup>

## 1.1 AMENDMENTS TO EXISTING LAW AND INTRODUCTION OF NEW LEGISLATION SINCE THE 1980s

During the military government of General (later President) Zia-ul-Haq from 1977 to 1988, a large number of legislative changes were made to ensure that the existing laws conformed to the government's perception of Islamic law. Between 1980 and 1986, specifically, additional blasphemy laws were introduced that were specific to Islam and Muslim beliefs. As part of these measures, the Federal Shariat Court (FSC) was established in 1980 to "examine and decide the question whether or not any law or provision of law is repugnant to the injunctions of Islam."<sup>33</sup>

In 1980, Section 298-A (use of derogatory remarks in respect of holy personages) and in 1982 Section 295-B (defiling the Quran) were introduced. Instituted in 1984, Sections 298-B and 298-C made it an offence for members of the minority Ahmadiyya Muslim community to identify as Muslims, use religious descriptions or titles used by Muslims for religious places and figures, or preach or propagate their faith thereby depriving members of a religious community of their rights to religious belief and practice.<sup>34</sup>

Introduced in 1986, Section 295-C is the most severe of the blasphemy laws, for three reasons. First, the vague wording on what constitutes blasphemy against the Prophet Muhammad means that accusations under this law can be made in a wide range of circumstances. Second, as with Section 298-A, this section operates on the basis of strict liability and therefore does not require proof of specific intent by the accused. Establishing intent is essential with all ordinary criminal offences, but the fact that this is not required in order to prove allegations under blasphemy laws leaves the door open for potential further abuse.

Finally, as this law relates to the most revered of all the prophets in Islam, in some cases people who make allegations under this law have been excused by the police and even trial courts from repeating words which

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<sup>29</sup> Select Committee notes as cited in Naeem Shakir, "Islamic Shariah and Blasphemy Laws in Pakistan", in *The Round Table: The Commonwealth Journal of International Affairs*, 2015, p. 309.

<sup>30</sup> Section 196-B of the Pakistan Code of Criminal Procedure 1898, available at <https://www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf>

<sup>31</sup> See The Anti Terrorism Act 1997, (1997), available at [www.fia.gov.pk/en/ata1997.pdf](http://www.fia.gov.pk/en/ata1997.pdf)

<sup>32</sup> See Amnesty International, *Pakistan: New anti-terrorist courts breach fair trial norms* (Index: ASA 33/004/2002).

<sup>33</sup> Article 203D(1) of The Constitution of Pakistan, available at [www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf)

<sup>34</sup> The Ahmadiyya community consider themselves to be Muslims but are viewed as heretics by orthodox Muslims because they believe the founder of the religion, Mirza Ghulam Ahmad to be a messiah. In 1974, Pakistan's parliament adopted a law declaring people of the Ahmadiyya faith to be non-Muslims.

they allege have been spoken by the accused. In essence, this means a person faced with an accusation can be sentenced to death by a trial court that does not even hear the precise allegations against him or her.

## 1.2 SECTION 295-C AND THE FEDERAL SHARIAT COURT RULING

In 1990, a petition filed in the Federal Shariat Court (FSC) by lawyer Ismail Qureshi argued that the punishment of life imprisonment should be struck down. The FSC ruled “the penalty for the contempt of the Holy Prophet ... is death and nothing else” and deemed life imprisonment to be “repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah”.<sup>35</sup> The FSC directed the government to effect the necessary legal changes and added, “in case this is not done by 30 April 1991 the words ‘or punishment for life’ in Section 295-C shall cease to have effect on that date,” making the death penalty a mandatory punishment for blasphemy against the Prophet Muhammad.<sup>36</sup>

After the FSC judgment was passed on 30 October 1990, the federal government filed an appeal against it in the Supreme Court’s Shariat Appellate Bench.<sup>37</sup> The appeal was withdrawn before it was heard, on the orders of then Prime Minister Nawaz Sharif.<sup>38</sup> In the absence of a successful appeal, the FSC’s decision is binding on all courts in Pakistan. This raises concerns about the way in which Section 295-C is open to abuse, and that convictions can result in an automatic death sentence. This law is also in clear violation of the right to life, as stated in Article 6 of the International Covenant on Civil and Political Rights (ICCPR).

Although Section 295-C does not mention intent as an essential element of the offence, many religious scholars argue that intent is critical in establishing whether blasphemy has been committed. Tahir Ashrafi, a religious scholar and until January 2016 a member of the Council of Islamic Ideology, a constitutional body that advises the legislature on whether a certain law is “repugnant to Islam”,<sup>39</sup> told Amnesty International that intention is part of what constitutes an offence of blasphemy.<sup>40</sup> The absence of intention in an already vaguely formulated law, which automatically results in a death sentence, makes its application even more open to risk of state violations and abuse by non-state actors.

## 1.3 APPLICATION OF BLASPHEMY LAWS

It is difficult to establish precise information on the number of blasphemy cases as there is limited available data. Data provided by human rights groups the National Commission for Justice and Peace (NCJP) and the Human Rights Commission of Pakistan (HRCP) shows a large increase of cases since the 1980s. For example, according to NCJP, a total of 633 Muslims, 494 Ahmadis, 187 Christians and 21 Hindus have been accused under various provisions on offences related to religion since 1987.<sup>41</sup> The Legal Aid Society of Karachi reports that between 1953 and July 2012, “there were 434 offenders of blasphemy laws in Pakistan

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<sup>35</sup> Federal Shariat Court 1990, *Muhammad Ismail Qureshi v. Pakistan through Secretary, Law and Parliamentary* (Shariat Petition No.6/L of 1987) (1990), paras 32 and 2, available at <http://khatm-e-nubuwwat.org/lawyers/data/english/8/fed-shariat-court-1990.pdf>

<sup>36</sup> Federal Shariat Court 1990, *Muhammad Ismail Qureshi v. Pakistan through Secretary, Law and Parliamentary* (Shariat Petition No.6/L of 1987) (1990), para 69, available at <http://khatm-e-nubuwwat.org/lawyers/data/english/8/fed-shariat-court-1990.pdf>

<sup>37</sup> Federal Shariat Court. *Muhammad Ismail Qureshi versus Pakistan through Secretary, Law and Parliamentary* (Shariat Petition No.6/L of 1987) (1990), p.3-4, available at <http://khatm-e-nubuwwat.org/lawyers/data/english/8/fed-shariat-court-1990.pdf>

<sup>38</sup> The Blasphemy Law”, *Dawn*, 25 November 2010, available at [www.dawn.com/news/833038/the-blasphemy-law](http://www.dawn.com/news/833038/the-blasphemy-law)

and “Why Blasphemy Remains Unpardonable in Pakistan”, 27 March 2016, available at [www.dawn.com/news/1163596](http://www.dawn.com/news/1163596)

<sup>39</sup> The Council of Islamic Ideology is a constitutional body that advises the legislature whether or not a certain law is repugnant to Islam, namely to the Qur’an and Sunnah. For more information, see <http://cii.gov.pk/default.aspx>

<sup>40</sup> Amnesty International interview with Tahir Ashrafi in Pakistan, April 2015.

<sup>41</sup> See Human Rights Commission of Pakistan, *State of Human Rights*, 2014, pp. 46-51 and “What are Pakistan’s blasphemy laws?”, *BBC*, 6 November 2014, available at: <http://www.bbc.com/news/world-south-asia-12621225>. See also Jinnah Institute. *State of Religious Freedom in Pakistan*. 2015, p. 2, available at [http://jinnah-institute.org/wp-content/uploads/2016/01/Minority-Report-2016.pdf?\\_sm\\_au\\_=iVVM1S06v3Rt0QQs](http://jinnah-institute.org/wp-content/uploads/2016/01/Minority-Report-2016.pdf?_sm_au_=iVVM1S06v3Rt0QQs)

and among them were 258 Muslims (Sunni/Shia), 114 Christians, 57 Ahmadis, and 4 Hindus.”<sup>42</sup> Another report states that between 1987 and August 2012 there were 247 blasphemy cases.<sup>43</sup>

## Blasphemy Offences

| PAKISTAN PENAL CODE                     | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | PENALTY                                          | YEAR ENACTED |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|--------------|
| <b>S-298</b>                            | Uttering words, etc., with deliberate intent to wound religious feelings                                                                                                                                                                                                                                                                                                                                                                                                                                       | One year imprisonment, or fine, or both          | 1860         |
| <b>S-298A</b>                           | Use of derogatory remarks etc., in respect of holy personages                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Up to three years imprisonment, or fine, or both | 1980         |
| <b>S-298B</b>                           | Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places                                                                                                                                                                                                                                                                                                                                                                                                              | Up to three years imprisonment and fine          | 1984         |
| <b>S-298C</b>                           | Person of Quadiani group, etc., calling himself a Muslim or preaching or propagating his faith                                                                                                                                                                                                                                                                                                                                                                                                                 | Up to three years imprisonment and a fine        | 1986         |
| <b>S-295</b>                            | Injuring or defiling place of worship, with intent to insult the religion of any class                                                                                                                                                                                                                                                                                                                                                                                                                         | Up to two years imprisonment, or fine, or both   | 1860         |
| <b>S-295A</b>                           | Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs                                                                                                                                                                                                                                                                                                                                                                               | Up to ten years imprisonment, or fine, or both   | 1984         |
| <b>S-295B</b>                           | Defiling, etc., of Holy Qur'an                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Imprisonment for life                            | 1982         |
| <b>S-295C</b>                           | Use of derogatory remarks, etc., in respect of the Holy Prophet                                                                                                                                                                                                                                                                                                                                                                                                                                                | Punished with death                              | 1986         |
| <b>S-196 OF CRIMINAL PROCEDURE CODE</b> | Prosecution for offences against the State. No Court shall take cognizance of any offence punishable under Chapter VI or IXA of the Pakistan Penal Code (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 295A or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Central Government, or the Provincial Government concerned, or some officer empowered in this behalf by either of the two Governments. |                                                  |              |
|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                  |              |

<sup>42</sup> The Supreme Court of Pakistan judgment, *The State v Muhammad Qadri, Criminal appeals No. 210 and 211 of 2015*, (2015) p. 26, available at [www.supremecourt.gov.pk/web/user\\_files/File/CrI.A.\\_210\\_2015.pdf](http://www.supremecourt.gov.pk/web/user_files/File/CrI.A._210_2015.pdf)

<sup>43</sup> Mohammad Nafees, “Blasphemy laws in Pakistan: A historical overview”, Centre for Research and Security Studies, Islamabad, 2013, p. 44, available at [www.csi-int.org/fileadmin/Files/pdf/2014/blasphemylawsinpakistan.pdf](http://www.csi-int.org/fileadmin/Files/pdf/2014/blasphemylawsinpakistan.pdf)

| PAKISTAN<br>PENAL CODE | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                   | PENALTY | YEAR<br>ENACTED |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------------|
| <b>S-196B</b>          | Preliminary inquiry in certain cases. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3) |         |                 |
| <b>S-156A</b>          | Investigation into cognizable case. (1) Any officer incharge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial                                                                                         |         |                 |

## 2. THE BROAD SCOPE FOR ALLEGATIONS

**“It is an unfortunate fact which cannot be disputed that in many cases registered in respect of the offence of blasphemy false allegations are leveled for extraneous purposes and in the absence of adequate safeguards against misapplication or misuse of such law by motivated persons the persons falsely accused of commission of that offence suffer beyond proportion or repair.”<sup>44</sup>**

Supreme Court judgement *State v. Mumtaz Qadri*, 2015.

As noted Pakistan’s blasphemy laws are incompatible with international law and standards, leaving the risk of violations (by the state) and abuses (by individuals or groups). Prosecutors, defence lawyers and human rights activists involved in blasphemy cases who were interviewed for this report expressed concerns over the broad scope for false accusations to be made. This chapter outlines some of the main areas of concern:

### 2.1 BLASPHEMY ACCUSATIONS INSPIRED BY ULTERIOR MOTIVES

The cases described in this section illustrate the range of circumstances that can lead to an accusation of blasphemy, including false accusations, apparently for ulterior motives. Allegations stemming from ulterior motives have also been acknowledged by some courts in judgments acquitting the accused or quashing the charges levelled against them.

For example, on 16 August 2012, police in Islamabad registered a blasphemy case under Section 295-B against Rimsha Masih, a 14-year-old Christian girl with a learning disability. The complainant in the case was a Muslim cleric who lived nearby and who claimed he saw Rimsha Masih with a bag containing burned

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<sup>44</sup> The Supreme Court of Pakistan, *The State v Muhammad Qadri*. Criminal appeals No. 210 and 211 of 2015, pp. 25 – 26, available at [www.supremecourt.gov.pk/web/user\\_files/File/Crl.A.\\_210\\_2015.pdf](http://www.supremecourt.gov.pk/web/user_files/File/Crl.A._210_2015.pdf)

pages of the Quran. Before Rimsha Masih's case could go to trial, her lawyers filed a petition before the Chief Justice of the Islamabad High Court seeking to quash the First Information Report (FIR) against her.<sup>45</sup>

Several grounds were cited in the petition, including Rimsha Masih's innocence, age and mental state, lack of eyewitnesses to the incident, the complainant's use of false evidence, and his alleged motive to expel the Christian community in the area where Rimsha Masih lived (views he had expressed during a religious sermon). The High Court accepted the petition and quashed the case against her for lack of evidence. The court stated that "allowing the petitioner to be grilled through a trial in the given circumstances would amount to allow the courts to be used as a tool for [an] ulterior motive."<sup>46</sup>

The Ahmadiyya community, in particular, are more vulnerable to such laws. In April 2013, a case was filed against four Ahmadiyya men under Sections 295-B and 298-C of the Pakistan Penal Code. It is illegal under Sections 298-B and 298-C for the Ahmadiyya community to propagate their faith openly, distribute material relating to their religion, and identify themselves as Muslims. However, these laws clearly then violate the right of members of the Ahmadiyya community to freedom of religion or belief.

The four men were accused of disseminating "objectionable material" in Lahore, which included the newspaper *al-Fazal* and the magazine *Ansar*, both printed and distributed exclusively by, and for, people of the Ahmadiyya community.<sup>47</sup> A trial court judgment recognized that these men had been targeted because of their faith and acquitted them more than a year after the case was registered. The judgment stated:

**"As far as the complainant is concerned, it appears that he has prejudice and ill-will against the accused ... In light of the evidence discussed above, the charge framed against the accused is not proved as the prosecution has miserably failed to prove the charge beyond reasonable doubt rather it is proved on record that the prosecution case registered against the accused person is result of malice, ill-will, malafide and prejudice of the complainant and witnesses against the accused persons on the basis of their sect/faith. It is proved before this court that the complainant is habitual of getting cases registered against 'Ahmadis' to satisfy his ego."**<sup>48</sup>

In a different case, a Christian woman was acquitted by a trial court following allegations that she had uttered derogatory remarks against the Prophet Muhammad. She had wanted to return some butter she had purchased from the prosecution witness (a Muslim) because it was substandard. She stated that the prosecution witness refused to accept the butter because it was being returned in a pot used by a Christian. The judgment noted that the complainant belonged to a religious organisation and "had tried to implicate the present accuse[d] in this case due to his own ulterior motive and reasons."<sup>49</sup>

In another trial that concluded during 2016 in Sindh province, three men underwent trial for blasphemy under Sections 295-A, and 298-A. They were specifically accused of possessing booklets published by a Shia-owned printing press that allegedly contained "objectionable sentences" relating to the Prophet Muhammad's companions and nephew.<sup>50</sup> All three individuals were acquitted of the charges in February 2016, more than four years after their arrest. Referring to the evidence presented by the prosecution, the trial court stated "It seems that photo state copies have been foisted on the accused with some ulterior motive."<sup>51</sup> In light of such cases, police must be required in the course of their investigations to proactively investigate whether such motives exist and whether cases should proceed to court.

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<sup>45</sup> Islamabad High Court. *Judgment on writ petition No. 3172-Q of 2012*, (FIR 303), (2012), para. 16.

<sup>46</sup> Islamabad High Court, *Judgment on writ petition No. 3172-Q of 2012*.

<sup>47</sup> "Timeline: Accused under the Blasphemy Law", *Dawn*, 18 August 2013, available at [www.dawn.com/news/750512](http://www.dawn.com/news/750512)

<sup>48</sup> *The State v Khalid Ashfaq* (FIR 510/13), (2013) pp. 8, 10.

<sup>49</sup> Sessions Case No. 22 of 2010, P.S Alipur Chatha Wazirabad.

<sup>50</sup> Case citation withheld for security reasons.

<sup>51</sup> Case citation withheld for security reasons.

## 2.2 ACCUSATIONS OF BLASPHEMY AGAINST PEOPLE WITH MENTAL DISABILITIES

As previously noted, the blasphemy laws do not meet international standards and existing safeguards are weak and poorly enforced. As such, those with mental disabilities are especially vulnerable to violations of this law or potential abuses of it by third parties. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that the execution of people who are mentally disabled is a violation of a norm of customary international law.

The Pakistan Penal Code exempts from criminal prosecution those who “by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law”.<sup>52</sup> However, the burden to prove “unsoundness of mind” is on the accused, the difficulty of which is compounded within a context of general stigma and lack of awareness relating to people with mental illnesses in Pakistan.<sup>53</sup> A mental health expert, who has assessed several prisoners accused of blasphemy in Sindh, told Amnesty International that in order to assess the mental competence of individuals accused of blasphemy:

**“There must be a robust psychiatric assessment of every blasphemy defendant to ensure that individuals with mental illness are not being prosecuted for behaviours over which they have no control, and for which they cannot be held responsible. Such defendants need treatment and not punishment in any fair and humane social system.”<sup>54</sup>**

Lawyers can request the court to provide a mental health assessment for their client and to refer him or her to a government appointed medical board. For example, in Punjab, defendants may be referred to the Punjab Institute of Mental Health (PIMH). A member of the medical board at the PIMH told Amnesty International, “We get 10 to 12 [blasphemy] cases [referred by the court] a year. We find that a majority of people referred to us are mentally ill. Many suffer from schizophrenia or bi-polar disorder.”<sup>55</sup> However, one lawyer told Amnesty International that even where there is evidence that someone suffers from mental illness, some doctors are unwilling to put themselves at risk by confirming that evidence.<sup>56</sup> These considerations can go unnoticed or even be ignored by the courts, as illustrated in the cases of Ahmed Khan (pseudonym) and Fayaz Paracha (pseudonym) below.

Ahmed Khan (pseudonym) was convicted and sentenced to death under Section 295-C. The complainant in his case was a tenant with whom he had a dispute shortly before the blasphemy charges were registered against him. The tenant reported to the police that Ahmed Khan had written letters which contained blasphemous statements.

Prior to Ahmed Khan’s arrest, he had been diagnosed with paranoid schizophrenia. Even though this evidence was presented in court when bail was requested, the judge rejected the petition on grounds that a medical board was needed if a mental health argument was going to be raised. Ahmed Khan’s lawyer told Amnesty International, “After extensive arguments to try and get a medical board convened the judge finally agreed. But the doctors writing the reports were intimidated by protesters outside the hospital and concluded Ahmed Khan suffered ‘only’ from depression.”<sup>57</sup>

Following these concerns attempts were made to find an independent panel to assess Khan. The lawyer continued that they were able to find one private doctor, but “we were refused permission from the jail authorities, the trial court and the Punjab Home Department on the false ground that only government

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<sup>52</sup> Section 84 of the Pakistan Penal Code, available at [www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf](http://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf)

<sup>53</sup> See Moham Javid, “Pakistan’s mental health problem”, *Al Jazeera*, 7 October 2015, available at <http://america.aljazeera.com/opinions/2015/10/pakistans-mental-health-problem.html>

<sup>54</sup> Email from medical expert to Amnesty International, November 2015.

<sup>55</sup> Amnesty International interview with medical expert in Lahore, March 2015.

<sup>56</sup> Email to Amnesty International from lawyer, October 2015.

<sup>57</sup> Email to Amnesty International from lawyer, March 2016.

doctors were allowed to visit a prison.”<sup>58</sup> There is no basis for this assertion either in the law or statute. The trial court therefore disregarded the evidence presented by his lawyers of Ahmed Khan’s mental health, including his prior diagnosis, and declared him to be mentally competent for trial and conviction under charges that carry the death penalty. Ahmed Khan’s conviction and death sentence are at the time of writing under appeal to the high court.

Fayaz Paracha (pseudonym) was convicted and sentenced to death by a trial court in Khyber Pakhtunkhwa in 2012 following allegations that he blasphemed against the Prophet Muhammad during a quarrel in his village. In 2013 he was acquitted by the Peshawar High Court; the judgment noted that Fayaz Paracha had “taken the plea of fits and mental disorder and unsound mind...The learned trial Court did not referred (sic) the accused to Civil Surgeon of the District to checkup (sic) his mental condition.”<sup>59</sup> The judgment found that Fayaz Paracha’s mental health defence was not factored in as a consideration by the trial judge.

In other cases, however, the courts have appeared to take note of the accused’s mental disability, as in the case above of Rimsha Masih, a 14-year-old Christian girl with a learning disability (see Section 2.1). On 16 August 2012, the police in Islamabad registered a blasphemy case against her under Section 295-B for allegedly desecrating pages of the Quran. As noted in the judgment by the Islamabad High Court that quashed the case before the trial could commence, one of the prosecution witnesses asserted that evidence of the burned pages had been planted on Rimsha Masih. The High Court took this factor into account as part of its decision to quash the complaint against her but also took note of her learning disability. The court asserted that a medical examination of Rimsha Masih confirmed that “she appears un-educated and her mental age appears below her chronological age.”<sup>60</sup>

## AMENDMENT TO THE SINDH MENTAL HEALTH ACT 2013

In Sindh, there is potentially a positive development in the treatment of defendants with mental health issues. On 10 April 2015, the Sindh Assembly passed an amendment to the Sindh Mental Health Act 2013 stipulating that a person “accused of blasphemy shall be assessed by an approved psychiatrist and if found to be suffering from a mental disorder shall be treated appropriately.”<sup>61</sup> The 14-member mental health authority required to implement the Sindh Mental Health Act 2013 is, however, yet to be constituted.<sup>62</sup>

## 2.3 BLASPHEMY ACCUSATIONS USED TO CURTAIL FREEDOM OF OPINION AND EXPRESSION

In May 2014, at least 10 cases were registered in response to a programme broadcast on Geo television, Pakistan’s most widely watched channel.<sup>63</sup> In the programme, the actress Veena Malik re-enacted her wedding against the backdrop of a *qawwali* (a form of devotional music) about the wedding of the daughter

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<sup>58</sup> Email to Amnesty International from lawyer, March 2016.

<sup>59</sup> Case citation withheld for security reasons.

<sup>60</sup> Islamabad High Court, *Rimsha Masih v. Station House Officer, Police Station Ramna, Writ Petition No.3172-Q of 2012*, (2012), para. 9, available at [www.ihc.gov.pk/Announcements/Judgements/Court1/W.P.%203172-Q-2012.pdf](http://www.ihc.gov.pk/Announcements/Judgements/Court1/W.P.%203172-Q-2012.pdf)

<sup>61</sup> See Amendment in section 49 of Act No. L of 2013 in the Sindh Mental Health Act, 2015 as amended by the Sindh Assembly on 10 April 2015, available at [www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.XIX%20of%202015.pdf](http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.XIX%20of%202015.pdf)

<sup>62</sup> Faiza Ilyas, “Sindh govt yet to establish mental health authority”, *Dawn*, 10 October 2015, available at [www.dawn.com/news/1212028](http://www.dawn.com/news/1212028) and email from mental health expert in Sindh in April 2016. In April 2016, Amnesty International wrote to the Sindh authorities and requested clarification on the steps taken to ensure the accused is “treated appropriately” and the qualifications of “an approved psychiatrist” as per the Act but by the time of finalizing this report in [October 2016], had not received any response.

<sup>63</sup> “IHC issues notices to Geo, ARY, Amjad Sabri in blasphemy case”, *Dawn*, 19 May 2014 available at [www.dawn.com/news/1107292](http://www.dawn.com/news/1107292)

of the Prophet Muhammad.<sup>64</sup> Following a campaign by a rival news channel, where one talk show host accused Veena Malik and Geo of blasphemy, protests erupted around the country.<sup>65</sup>

One of the blasphemy cases registered against Geo's employees was by a member of the officially banned but freely operating religious group known as Ahlat-e-Sunnat Wal Jamaat in Gilgit. The case was registered against Veena Malik, her husband, Asad Malik, the owner of Geo television, Shakil ur Rehman and the host, Shaista Wahidi.<sup>66</sup> In November 2014, all four were convicted and each sentenced in absentia to 26 years in prison by a court in Gilgit-Baltistan.<sup>67</sup> A sessions courts in Nankana Sahib, Punjab also ordered the police to register blasphemy cases against owners of five other private television channels for airing news about the blasphemy allegations against employees of Geo television.<sup>68</sup>

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<sup>64</sup> Saroop Ijaz, "Pakistan's blasphemy law strikes Bollywood", *Al Jazeera*, 15 December 2014, available at <http://america.aljazeera.com/opinions/2014/12/pakistan-s-blasphemy-law-goes-bollywood.html>

<sup>65</sup> "Demonstrations against Geo's controversial morning show" *Samaa TV*, 16 May 2014, available at [www.samaa.tv/pakistan/2014/05/demonstrations-against-geo-s-controversial-morning-show/](http://www.samaa.tv/pakistan/2014/05/demonstrations-against-geo-s-controversial-morning-show/)

<sup>66</sup> Ahlat-e-Sunnat Wal Jamaat (ASWJ) is known for violent activities against the minority Shia sect of Islam. Amnesty International identified two additional blasphemy cases filed by ASWJ. One was a case in 2013 in Sindh province against five members of the Shiite community and the second was in 2014 in Punjab province against 68 lawyers, some of whom also belonged to the Shiite sect. For more information, see [www.humanrights.asia/news/ahrc-news/AHRC-STM-038-2013](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-038-2013) and [www.humanrights.asia/news/ahrc-news/AHRC-STM-089-2014](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-089-2014)

<sup>67</sup> Jamal Nagri, "Gilgit court hands 26 years' jail to Geo TV owner", *Dawn*, 26 November 2014, available at [www.dawn.com/news/1146959](http://www.dawn.com/news/1146959)

<sup>68</sup> Blasphemy allegations were also leveled against, Amjad Sabri, a musician who performed during the show. Amjad Sabri was shot and killed in Karachi on 22 June 2016. At the time of finalizing this report it was not clear if the blasphemy accusations were linked to his killing. See "Case against five channels for repeated telecast of blasphemous content", *The News International*, 5 July 2015, available at [www.thenews.com.pk/archive/print/638958-case-against-five-channels-for-repeated-telecast-of-blasphemous-content](http://www.thenews.com.pk/archive/print/638958-case-against-five-channels-for-repeated-telecast-of-blasphemous-content)

# 3. INADEQUATE SAFEGUARDS AGAINST ABUSES

**“Once you accuse someone of blasphemy, they’re as good as dead.”<sup>69</sup>**

Lawyer representing an individual accused of blasphemy.

Defendants accused of blasphemy are forced to endure the ordeal of a trial. There are specific factors associated with blasphemy trials which foster a climate in which abuses of the process are highly likely. This includes factors such as the vaguely formulated laws, low standards of evidence required for conviction of the accused, and the manner in which allegations are often uncritically accepted by the police, prosecuting authorities and even judges - who may themselves face threats and intimidation.

This section illustrates violations or abuses that can, and have occurred, through the various stages of proceedings, from case registration, to police investigation, trials and appeals. The section shows how safeguards applicable to pre-trial detention and the elements essential to a fair trial, as provided by Article 9 and Article 14 of the ICCPR respectively, are violated in blasphemy cases. Further, this section also demonstrates that some safeguards exist in Pakistan’s domestic laws which, if implemented properly, could address some of the abuses linked to the blasphemy laws.

## 3.1 POLICE (MIS)HANDLING OF BLASPHEMY CASES

The police play a significant role in how blasphemy laws are implemented as their investigation forms the basis of a trial. Additionally, the police also register the complaint, arrest the accused and are also responsible for the security of the accused whilst in police custody. The police also play a significant role in preventing vigilantism, particularly mob violence. As one High Court judgement on a blasphemy case stated

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<sup>69</sup> Referenced in Rana Tanveer, “Delaying tactics: Judge washes hands of blasphemy case”, *The Express Tribune*, 9 April 2013, available at <http://tribune.com.pk/story/533013/delaying-tactics-judge-washes-hands-of-blasphemy-case/>

“we have seen the failure, inefficiency and incompetency of the Investigating Officer in handling the present case with all its consequences.”<sup>70</sup>

## CASE REGISTRATION

A person who accuses another of a criminal offence, including blasphemy, must initially register a First Information Report (FIR) by lodging a complaint at a police station. An FIR contains the complainant’s account of an offence that comes under police jurisdiction. An FIR can be filed by the person against whom the offence has been committed, or by an eyewitness or any other person who has knowledge of an offence that is alleged to have been committed.

In blasphemy cases, allowing such a wide range of people to file an FIR - including those who claim to have knowledge that an offence may have been committed, has in some cases enabled accusations resulting in trials and convictions on the basis of hearsay and sometimes fabricated evidence.

### CASE: ASIA NOREEN

**Asia Noreen** was convicted under Section 295-C in 2010 and is currently on death row with her appeal pending in the Supreme Court. Her case began when an FIR was registered against her in Sheikhpura, Punjab, by a religious cleric, Qari Muhammad Salaam. Salaam filed an FIR against Asia Noreen for allegedly making derogatory comments about the Prophet Muhammad; this FIR eventually led to her trial, conviction and death sentence. He was not an eyewitness to the events described in the FIR but his account was based on what two sisters who worked alongside Asia Noreen had told his wife.

Clerics such as Qari Muhammad Salaam can exert pressure on the police to register blasphemy cases because they are perceived by many as being authoritative on religious matters. In Asia Noreen’s case, there are media reports that the police came under pressure from clerics and a mob to register the case against her.<sup>71</sup>

Concerns over delays were also raised by the Supreme Court in the case of Ayub Masih, who was convicted on blasphemy charges by the trial court in 1998 but acquitted on appeal by the Supreme Court in 2002. The complainant in the case alleged that Ayub Masih “exalted Christianity, maligned Islam, uttered derogatory words about the Holy Prophet (p.b.u.h)” and suggested reading the book *Satanic Verses* by Salman Rushdie.<sup>72</sup> The FIR in the case was lodged only six hours after the alleged incident occurred. The Supreme Court considered this to be significant in light of other circumstances in the case, including the presence of other witnesses, described as “elders” by the Supreme Court, at the time of recording the FIR.<sup>73</sup>

In its judgment, the Supreme Court stated: “Unexplained inordinate delay in lodging the FIR is an intriguing circumstance which tarnishes the authenticity of the FIR, cast[s] a cloud of doubt on the entire prosecution case and is to be taken into consideration while evaluating the prosecution evidence ... In the present case

<sup>70</sup> *Muhammad Mahboob v The State* (PLD 2002 Lahore 587), (2002), para. 30, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf)

<sup>71</sup> See “Christian in Pakistan Sent to Prison for ‘Blasphemy,’ in Spite of Accuser’s Retraction”, *Morning Star News*, 13 July 2013, available at <http://morningstarnews.org/2013/07/christian-in-pakistan-sentenced-to-life-in-prison-for-blasphemy-in-spite-of-accusers-retraction/>; “Christian woman sentenced to death in Pakistan ‘for blasphemy’”, *The Telegraph*, 9 November 2010, available at [www.telegraph.co.uk/news/religion/8120142/Christian-woman-sentenced-to-death-in-Pakistan-for-blasphemy.html](http://www.telegraph.co.uk/news/religion/8120142/Christian-woman-sentenced-to-death-in-Pakistan-for-blasphemy.html); “Asia Bibi’s appeal delayed; 150 Islamic leaders call for her to hang, whatever the outcome”, *World Watch Monitor*, 13 October 2016, available at [www.worldwatchmonitor.org/2016/10/4678103/](http://www.worldwatchmonitor.org/2016/10/4678103/)

<sup>72</sup> The Supreme Court of Pakistan, *Ayub Masih v The State* (PLD 2002, Supreme Court 1048), (2002), p. 2, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf) and Amnesty International, *Pakistan: Blasphemy acquittal welcome but law must be amended* (Index: ASA 33/026/2002)

<sup>73</sup> The Supreme Court of Pakistan judgment, *Ayub Masih v The State* (PLD 2002, Supreme Court 1048), (2002), para. 12, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf)

the delay in lodging the FIR has assumed great significance in as much as the prosecution story is doubtful from outset and the prosecution evidence is remarkable in weakness only.”<sup>74</sup>

## ARRESTS, DETENTION AND RISKS IN POLICE CUSTODY

In cognizable blasphemy cases (other than Sections 295-A and 298) the police are permitted to arrest the accused without a warrant. The relatives of individuals charged with blasphemy also risk arbitrary detention by the police. An example can be seen in the case of Usman Arsalan (pseudonym), a Christian man from Punjab currently charged under Sections 295-A, 295-B and 295-C. According to his family, in 2013 he went into hiding as soon as he heard an FIR had been lodged against him by a man, believed by them, and Usman Arsalan’s lawyer, to have links with the banned organisation Jamat ud Dawah.<sup>75</sup>

Usman Arsalan’s relatives were also arrested by police without any legal basis and questioned about his whereabouts. His brother said, “My aunty and uncle were arrested by the fourth day when the police could not find my brother. A few days after their arrest, they also detained me and my mother. We were detained for 32 days until they found and arrested Usman. Sometimes when I was asleep the police would wake me up hurling abuses and asked if I thought I was in my mother’s house. They beat me up frequently and asked me to tell them where Arsalan was. Sometimes they told me I should be burnt and killed.”<sup>76</sup>

Once the accused is in police custody, there remains the risk of an attack by a mob, even if the police make efforts at protection. For example, on 3 July 2012, a Muslim man, Ghulam Abbas was being held at Chanigot police station near Bahawalpur in Punjab, accused by local residents of burning a copy of the Quran. A local police chief stated that Ghulam Abbas was mentally unstable and “was not aware of even the location of his residence.”<sup>77</sup>

A mob of hundreds gathered and surrounded the police station, threatening to kill Ghulam Abbas.<sup>78</sup> The police refused to hand him over, and the mob attacked the police station. Officers using tear gas tried unsuccessfully to disperse the violent crowd and several policemen were reportedly injured in the attack. The crowd broke in and seized Ghulam Abbas and dragged him to the location where he had allegedly desecrated the Quran. He was beaten to death before his body was set on fire.<sup>79</sup> The station house officer said that two FIRs against more than 1,000 people had been registered in connection with the attack.<sup>80</sup> In response to inquiries from Amnesty International, we were informed by the government of Punjab that in total 178 people were accused. Of those, 32 were arrested. At the time of writing, the remaining accused are still at large.<sup>81</sup>

It is important to note that those accused can also face attacks by the police themselves. On 5 November 2014, a Shia Muslim accused of blasphemy, Haider Tufail Naqvi, was hacked to death by a police officer at the station in Gujrat, Punjab. Haider Tufail Naqvi had been taken into police custody following allegations that he was making blasphemous remarks about companions of the Prophet Muhammad and that he continued to do so in police custody. Media reports suggested that Haider Tufail Naqvi suffered from mental health problems.<sup>82</sup> A police officer, Khurram Shehzad, said that his colleague, Fareed Naveed “could not control his emotions. He went into his cell, brought an axe, entered the lock up and hit Haider’s throat

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<sup>74</sup> The Supreme Court of Pakistan judgment, *Ayub Masih v The State* (PLD 2002, Supreme Court 1048), (2002), para. 12, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Supreme-Court-1048.pdf)

<sup>75</sup> Jamaat-ud-Dawa is a banned religious organisation in Pakistan and included in the United Nations’ list of terrorist organisations.

<sup>76</sup> Amnesty International interview with witness, March 2015.

<sup>77</sup> “Pakistan man beaten to death for ‘blasphemy’”, *Aljazeera*, 9 July 2012, available at [www.aljazeera.com/news/asia/2012/07/201275184028355807.html](http://www.aljazeera.com/news/asia/2012/07/201275184028355807.html)

<sup>78</sup> Shahzeb Jillani, “Pakistan mob burns man to death for ‘blasphemy’”, *BBC*, 4 July 2012, available at [www.bbc.co.uk/news/world-asia-18713545](http://www.bbc.co.uk/news/world-asia-18713545)

<sup>79</sup> “Pakistan man beaten to death for ‘blasphemy’”, *Aljazeera*, 9 July 2012, available at [www.aljazeera.com/news/asia/2012/07/201275184028355807.html](http://www.aljazeera.com/news/asia/2012/07/201275184028355807.html)

<sup>80</sup> Kashif Zafar, “Bahawalpur mob justice: ‘Blasphemer’ burnt alive by mob as police looked on”, *Express Tribune*, 4 July 2012, available at <http://tribune.com.pk/story/403534/blasphemy-mob-burns-man-alive-for-burning-holy-quran/>

In April 2016, Amnesty International wrote to the Punjab government and made inquiries relating to the number of people arrested, prosecuted and convicted in connection with this incident but at the time of finalizing this report received no response.

<sup>81</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016. See Annex of report, Ghulam Abbas Case (Bahawalpur), FIR 191, p. 67.

<sup>82</sup> See for example: “Pakistan police officer kills ‘blasphemer’ with axe”, *BBC*, 6 November 2014, available at [www.bbc.co.uk/news/world-asia-29933125](http://www.bbc.co.uk/news/world-asia-29933125)

several times.”<sup>83</sup> Mohammad Amir, head of Gujrat city's Civil Lines police station, said that Fareed Naveed had been “arrested for the killing.”<sup>84</sup> On 27 February 2016, the accused Faraz Naveed was handed down a double death sentence and a fine of Rs 10 lakh (the equivalent of 9540 USD). There is currently an appeal pending in the Lahore High Court.<sup>85</sup>

## POWER OF RELIGIOUS CLERICS IN REGISTERING CASES

Religious clerics can wield significant power in blasphemy cases because of their perceived authority on Islam. Out of 10 FIRs obtained by Amnesty International relating to ongoing blasphemy trials in Lahore alone, seven were filed by religious clerics. Pressure from religious clerics can push the police to accept the FIR and conduct a swift investigation. For example, in July 2014, police officers in Sheikhpura, Punjab, said they registered a blasphemy case under Section 295-A against five members of the same family to placate a mob demonstrating outside their police station. The mob was joined by a religious cleric who claimed that he managed to have the FIR registered.<sup>86</sup>

Clerics exercise considerable clout when it comes to complaints filed by others. For example, court records show that the complainant in Sawan Masih's case said in his FIR filed in March 2013, “After consulting *ulema* <sup>87</sup> I have today given the application for the registration of a case against him.”<sup>88</sup> Court records in Akram Saeed's (pseudonym) case also show that in July 2008, the complainant told the police he brought the matter before them “after consulting religious scholars and not taking the law into my own hands.”<sup>89</sup>

## FLAWS IN POLICE INVESTIGATIONS

Police investigations are flawed for several reasons: in many cases police have proceeded due to pressure from religious clerics or complainants; they do not properly check accusations and because they may be under pressure of mobs.

A key concern regarding police investigations in blasphemy cases is a reliance on religious edicts, known as *fatwas*, from local clerics on whether the allegations amount to blasphemy. The police practice of collecting *fatwas* as part of their investigation was confirmed to Amnesty International by a prosecutor involved in several blasphemy cases and has also been acknowledged in a high court judgment.<sup>90</sup> *Fatwas* can be used as evidence gathered by the police to confirm that the alleged statement or act was indeed blasphemous even though they have no legal evidentiary value unless the author of the *fatwa* is brought to court to testify. According to one lawyer who frequently represents individuals accused of blasphemy, by placing a *fatwa* on record, the police convey to the court that a person of religious standing supports the assertion of the complainant that the facts alleged amount to blasphemy.<sup>91</sup>

This happened in the case of a Muslim man, Hamza Javed (pseudonym), accused of posting blasphemous material on Facebook.<sup>92</sup> The police obtained a *fatwa* as part of their investigation report. Hamza Javed's lawyer told Amnesty International that the *fatwa* “enabled the police to have a pretext for prosecution.”<sup>93</sup>

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<sup>83</sup> Mubasher Bukhari, “Pakistani police officer axes man to death over blasphemy”, *Reuters*, 6 November 2014, available at [www.reuters.com/article/2014/11/06/us-pakistan-blasphemy-idUSKBN0IQ15220141106](http://www.reuters.com/article/2014/11/06/us-pakistan-blasphemy-idUSKBN0IQ15220141106)

<sup>84</sup> “Pakistan police officer kills ‘blasphemer’ with axe”, *BBC*, 6 November 2014, available at [www.bbc.co.uk/news/world-asia-29933125](http://www.bbc.co.uk/news/world-asia-29933125)  
In April 2016, Amnesty International wrote to the Punjab government and inquired about the status of the case against the police officer, if other arrests were made connection with the incident and the current status of the case against the officer and anyone else alleged to be involved in the incident.

<sup>85</sup> This information is based on the response provided by the Government of the Punjab on 2 June 2016.

<sup>86</sup> Rana Tanveer, “Inhospitable antics: Iftar hosts beaten, accused of blasphemy”, *The Express Tribune*, 27 July 2014, available at <http://tribune.com.pk/story/741470/inhospitable-antics-iftar-hosts-beaten-accused-of-blasphemy/>

<sup>87</sup> Ulema are traditionally educated Muslim religious scholars.

<sup>88</sup> *The State v. Sawan Masih*, FIR 112/13. Serial No. 023772, (2013).

<sup>89</sup> Case citation withheld for security reasons.

<sup>90</sup> Interviews with witness in April 2015.

<sup>91</sup> Email from lawyer to Amnesty International, January 2015.

<sup>92</sup> Email from lawyer to Amnesty International, January 2015.

<sup>93</sup> Email from lawyer to Amnesty International, January 2015. The *fatwa* obtained from lawyer, January 2015. The *fatwa* reads: “It is clear that the mentioned statements come under disrespect and blasphemy in Shariah. In fact, in some statements even God has been disrespected and blasphemy done against him. And in some statements insulted the last Prophet (PBUH) and messenger of God.... The man who has made the statements has definitely committed blasphemy of God and the Prophet (PBUH), his wives and companions.”

There is another incentive for the police to expedite the investigation: once the investigation is completed, the case is forwarded to the prosecutor's office, allowing the police to shift the accused person out of their custody and to a district jail until the conclusion of the trial.<sup>94</sup> As one police officer involved in several blasphemy cases told Amnesty International, "the police want to get rid of the case as quickly as possible", referring specifically to their desire to shift responsibility for the security of the accused person by moving him or her out of their custody.<sup>95</sup>

This pressure can result in weak evidence gathered as part of investigations into allegations of blasphemy. For example, in the case against a married couple, Saira and Bilal Mumtaz (pseudonyms), the Lahore High Court that acquitted them on appeal noted that no date and time of the alleged offence was mentioned in either the complaint or the crime report by the police.<sup>96</sup> In another case filed against four Ahmadiyya men some of the allegations levelled against them were under Section 295-B that criminalizes the desecration of the Quran. However, there was no Quran, or any part thereof, presented by the police as part of their investigation, and nor was there any suggestion by the prosecution that the Quran may have been destroyed by the accused.<sup>97</sup>

Additionally, the veracity of testimonies from prosecution witnesses is questionable when no corroborating evidence of the alleged offence is obtained in accusations under Section 295-B of desecrating the Quran. For example, in cases such as those of the four Ahmadiyya men mentioned above, the evidence relating to the Quran should have been investigated and recovered before the police forwarded the case to the prosecution.

Pending abolition of the blasphemy laws, it may be possible to prevent many allegations from entering the legal system if measures are put in place to alleviate pressure on individual investigating officers. For example, this might be possible if there is an investigation team that includes senior police officers, district commissioner officers and/or district provincial officers not local to the district where the investigation in question is to take place and the investigation is overseen by senior officers from a government body.

## DISREGARD FOR EXISTING SAFEGUARDS

In 2005, Section 156-A was inserted into the Code of Criminal Procedure (CrPC). It requires that no police officer below the rank of superintendent should investigate allegations under Section 295-C of the Pakistan Penal Code.<sup>98</sup> However, according to lawyers, human rights activists and a senior police official interviewed by Amnesty International, the superintendent of police commonly leaves it to the discretion of junior police officers to investigate the allegations.<sup>99</sup> Acceptance by trial courts of this procedural breach makes it easier for the police to disregard it. For example, Akram Saeed's (pseudonym) case was not investigated by the superintendent and the trial court judgment that convicted and sentenced him to death under Section 295-C stated: "It would suffice to say that conduct of investigation by an unauthorized person is just an irregularity which does not vitiate trial of any accused."<sup>100</sup>

Another safeguard that is frequently not implemented is that Section 196 of the CrPC does not permit courts to take cognizance of complaints filed under Section 295-A (trials which take place in anti-terrorism courts) unless done so by the central government or the provincial government or an authority designated by either of the two governments. An additional safeguard is that the judicial magistrate can exercise his or her authority under Section 196-B of the CrPC and order the police to conduct preliminary enquiry into the proceedings. One high court judgment noted that Section 196 CrPC "is enacted in order to eradicate the possibility of false implication as the same is not uncommon due to sectarian feelings in our society."<sup>101</sup>

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<sup>94</sup> Or the central jail if the district jail has no space.

<sup>95</sup> Amnesty International interview with police officer, July 2015.

<sup>96</sup> Case citation withheld for security reasons.

<sup>97</sup> Case citation withheld for security reasons.

<sup>98</sup> Pakistan Criminal Law, Islamabad. Amendment Act, (2005), p. 4, available at [www.na.gov.pk/uploads/documents/1321335436\\_690.pdf](http://www.na.gov.pk/uploads/documents/1321335436_690.pdf)

<sup>99</sup> Shahzada Irfan Ahmed, "The burden of procedures", *TNS*, 6 April 2014, available at <http://tns.thenews.com.pk/burden-procedures-blasphemy-laws/#.VIMd8nbhDct> and Amnesty International interview with police official.

<sup>100</sup> Case citation withheld for security reasons.

<sup>101</sup> Case citation withheld for security reasons.

However, if one looks at the Punjab district alone, there are no cases where a preliminary inquiry was requested in order to assess the veracity of the claims being made.<sup>102</sup>

Out of seven court judgments that did address breaches of Section 196, six noted that government authorization to proceed was not obtained. These six judgements - two from a trial court and four from high courts - were taken into consideration by the trial court in the case of Aqib Saleem, an Ahmadi man charged and acquitted of posting a picture on Facebook of a naked woman sitting on the Kaaba, the most holy place of worship for Muslims. The seventh judgment was from the Supreme Court of Pakistan, where it was stated that Section 196 CrPC does not apply to proceedings before anti-terrorism courts.<sup>103</sup>

## FORWARDING THE CASE TO THE PROSECUTOR

Once the police have completed their investigation of any crime, they inform the prosecutor of the results. If the police find sufficient evidence to prosecute the accused then they submit a report identifying individuals whom they recommend should stand trial. This is known as a *challan* and is supposed to document the evidence collected by the police and the reasons for their decision.<sup>104</sup> Or, if the police find there is insufficient evidence for the individual/s to be prosecuted, they submit a report to the prosecutor with a recommendation that the court should cancel the FIR.

Five prosecutors interviewed for this report stated that the collection of evidence by police in blasphemy cases is often flimsy because there is pressure on them to complete the investigation.<sup>105</sup> Court orders obtained by Amnesty International for this report also show that evidence that forms the basis of the prosecution is often weak. For example, out of five convictions in blasphemy cases that were appealed and heard by high courts, four resulted in acquittals due to insufficient evidence gathered by the police and presented by the prosecution.

Rather than using weak evidence to issue a *challan* that can result in years of incarceration for the accused - who is likely to be acquitted by the end of the appeals process - the police can, and should, exercise their authority to recommend cancellation of the FIR where, upon investigation, the allegations are found to be malicious, or founded on error of fact or of law.<sup>106</sup>

## 3.2 ROLE OF PROSECUTORS

Prosecutors have a significant role to play in blasphemy cases; they can halt or withdraw prosecutions and are less likely than the police to come under pressure if they choose to do so. Prosecutors and lawyers whom Amnesty International interviewed, told of two reasons why they enjoy a greater degree of protection from pressure and mob violence. First, by the time the case is forwarded to them from the police, the complainant's initial anger may have cooled. Second, when the case reaches the prosecutor, it has proceeded to the next step in the criminal justice system, thus signalling to complainants a long period of detention for the accused.<sup>107</sup>

When the police send the *challan* to the prosecutor's office, the prosecutor has three to seven days to scrutinize the investigation before either advising the police on where further investigation is needed, or forwarding the case to a court with an opinion.<sup>108</sup> Prosecutors in all provinces can exercise their authority to

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<sup>102</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016.

<sup>103</sup> The Supreme Court Pakistan judgment, *The State v. Javed Iqbal & Khizar Hayat. Criminal appeals No. 24 & 25 of 2010*, (2010), pp. 10-11, available at [www.supremecourt.gov.pk/web/user\\_files/File/CrI.A.\\_24\\_2010.pdf](http://www.supremecourt.gov.pk/web/user_files/File/CrI.A._24_2010.pdf)

<sup>104</sup> Standard Operating Procedures: 3.1. Effective Police-Prosecutor Co-operation in the province of Punjab, (2011), available at <http://prosecution.punjab.gov.pk/system/files/Police%2520Prosecution%2520Cooperation.pdf>

<sup>105</sup> Amnesty International interviews in Pakistan between March and July 2015.

<sup>106</sup> The Prosecution Manual for Punjab, 3.5.2 Cancellation of report, available at [http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20\(2\).pdf](http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20(2).pdf)

<sup>107</sup> Amnesty International interview with three prosecutors and one lawyer between March and July 2015.

<sup>108</sup> This depends on the province. For example: It is three days in Punjab and seven days in Sindh.

identify shortcomings in the police investigation and withdraw the case with consent of the court. Additionally, prosecutors in Punjab have specific guidelines informing them of their duties.<sup>109</sup> For example, the Prosecution Manual for Punjab specifically states they are under a duty not to initiate a prosecution, or a duty to stop a prosecution, where an investigation shows the charges to be unfounded. This is in line with the UN Guidelines on the Role of Prosecutors which state they should not initiate or continue a prosecution, or should make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.<sup>110</sup>

## TESTS REQUIRED FOR CONVICTION

There are two tests that prosecutors are required to apply when reviewing police reports in criminal proceedings. They are applicable during all stages of blasphemy proceedings. The first is an evidential test, and the second is a public interest test. These should initially be applied during a review of the police investigation report and the prosecutor must remain satisfied by the evidence at all times.

For the evidential test, the prosecutor must have evidence on every element of an offence and conclude that it is more likely than not that the accused will be convicted by the trial court. A charge will not be brought if there is no realistic prospect of conviction. However, five out of seven blasphemy cases reviewed by Amnesty International show that the appellate courts acquitted individuals convicted by trial courts because of insufficient evidence against the accused. This shows that not only the trial court, but also some prosecutors failed to apply the evidential test in these blasphemy cases.

Five senior prosecutors involved in blasphemy cases told Amnesty International that police investigations were frequently flawed.<sup>111</sup> For example, in the case of married couple Saira and Bilal Mumtaz (pseudonyms), the complainant alleged that they pretended to be “fake saint[s]”, had copies of the Quran, wrote religious script on walls, and that Saira Mumtaz pretended to be a Muslim and touched the Quran without ablution. The complainant also alleged that both Saira and Bilal Mumtaz had a Bible and were “involved in abracadabra, which squarely falls within the ambit of disgracing the Holy Prophet and Holy Quran.”<sup>112</sup> The prosecutor did not scrutinize the allegations and evidence gathered even though the police report was flawed in that it contained no mention of the date or time of occurrence relating to the allegations.

Although Saira and Bilal Mumtaz were eventually acquitted on appeal by the Lahore High Court, this was four years after their arrest. The High Court stated in its judgment that “there were a number of doubts in the prosecution’s story.”<sup>113</sup> If trial prosecutors on the case had been diligent in their scrutiny of the police investigation and exercised their authority to withdraw the case, the couple would have been spared the prolonged period of incarceration.

In Punjab province, there also exists a Standard Operating Procedure (SOP) for effective co-operation between the police and prosecutors and to identify areas of improvement. The SOP gives special focus to a list of 17 categories of offences, including those “relating to religion/blasphemy.”<sup>114</sup> The SOP calls for the development of a checklist for use by investigating police officers and district prosecutors to review the investigation process and strengthen the “trial worthiness” of cases.<sup>115</sup> Amnesty International has not seen such a checklist, but if it were robust, requiring the presentation of a high standard of evidence, then it could prevent certain prosecutions from going forward to trial.

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<sup>109</sup> The Prosecution Manual for Punjab, 3.5.2 Cancellation of report available at [http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20\(2\).pdf](http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20(2).pdf)

<sup>110</sup> Guidelines on the Role of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, para. 14, available at [www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx)

<sup>111</sup> Interviews in Lahore, March, April, June and July 2015

<sup>112</sup> Case citation withheld for security reasons.

<sup>113</sup> Case citation withheld for security reasons.

<sup>114</sup> Standard Operating Procedures: 3.1. Effective Police-Prosecutor Co-operation in the province of Punjab, (2011), p. 8, available at <http://prosecution.punjab.gov.pk/system/files/Police%2520Prosecution%2520Cooperation.pdf>

<sup>115</sup> Standard Operating Procedures: 3.1. Effective Police-Prosecutor Co-operation in the province of Punjab, (2011), p. 8, available at <http://prosecution.punjab.gov.pk/system/files/Police%2520Prosecution%2520Cooperation.pdf>

The second test requires that all prosecutions must be in the public interest. One of the factors against prosecution under the public interest test as specified in the Prosecution Manual for Punjab is whether before, or during trial, the accused suffered from a significant serious mental or physical illness.<sup>116</sup>

If prosecutors are satisfied the case should not be prosecuted, they can discharge the accused before the trial court takes cognizance of the case. If the prosecutor is of the view that the case should not be prosecuted due to insufficient evidence after the trial court takes cognizance, then he or she can request the court to withdraw the case.<sup>117</sup> However, in the Punjab, in contrast to cases registered under other laws, there is not one example of a blasphemy case withdrawn because of a lack of insufficient evidence resulting in a decision by the court to discharge or acquit the accused.<sup>118</sup>

## PRIVATE LAWYERS REPRESENTING THE COMPLAINANT

In 12 blasphemy cases reviewed by Amnesty International, the complainants were represented by privately hired lawyers, rather than state prosecutors, who appeared on their behalf in court. In addition to state prosecutors, in 12 blasphemy cases reviewed by Amnesty International, complainants have been represented by privately hired lawyers who appear on their behalf in court.<sup>119</sup> Many lawyers stated this is not an unusual practice in blasphemy prosecutions. The presence of these lawyers can have an intimidating effect on other people involved in the proceedings, as the examples below demonstrate.

The most prominent group of lawyers pursuing blasphemy cases is known as Khatam-e-Nabuwat Lawyers Forum (KNLF), who claim to provide free legal assistance in blasphemy cases throughout Pakistan.<sup>120</sup> The best known example is that of Asia Noreen, in which the President of KNLF, Ghulam Mustafa, privately represented the complainant during the high court appeal. Witnesses told Amnesty International that Ghulam Mustafa, along with at least eight other members of KNLF, exerted pressure on the court by chanting prayers to interrupt defence lawyers during their arguments. The court did not attempt to silence or eject them.<sup>121</sup>

In Hamza Javed's (pseudonym) case, as many as six privately hired lawyers acting for the complainant attended his trial proceedings in 2014.<sup>122</sup> Amnesty International observed a hearing in a different blasphemy case in June 2015 at a high court during which privately hired lawyers appeared on behalf of the complainant. When the case was called, at least five such lawyers stood up and gathered behind the state prosecutor to demonstrate their support for the complainant's case. The state prosecutor later told Amnesty International he did not know any of the lawyers and was taken by surprise when they stood behind him.<sup>123</sup> The impact of their presence on the case was difficult to assess as the hearing was brief and adjourned to later date, but the state prosecutor told Amnesty International that they were present in order to show the judge that the complainant had support.<sup>124</sup>

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<sup>116</sup> In April 2016, Amnesty International contacted the Punjab Prosecutors Department and requested information relating to blasphemy cases in which prosecutors have taken into consideration the mental or physical illness of the accused when applying this test but at the time of finalizing this report did not receive a response. See Article 4.3(b)(iv) in The Prosecution Manual for Punjab, 3.5.2 Cancellation of report, available at [http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20\(2\).pdf](http://prosecution.punjab.gov.pk/system/files/The%20Prosecution%20Manual%20(2).pdf)

<sup>117</sup> Section 494 of the Pakistan Code of Criminal Procedure 1898, available at [www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf](http://www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf)

<sup>118</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016.

<sup>119</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016.

<sup>120</sup> For more information, see Khatm-e Nabuwat Lawyers Forum, available at <http://khatm-e-nubuwwat.org/lawyers/index.htm>

<sup>121</sup> Amnesty International telephone interview with witness, February 2016.

<sup>122</sup> Email from lawyer to Amnesty International, November 2015.

<sup>123</sup> Case information withheld for security reasons

<sup>124</sup> Interview information withheld for security reasons

### 3.3 INTIMIDATION OF DEFENCE LAWYERS

**“Threats are so high that no one is willing to defend a blasphemy accused, whereas there would be 100 people willing to defend a killer of a blasphemy accused.”<sup>125</sup>**

Asad Jamal, lawyer and human rights activist.

International law and standards on fair trials guarantees each person the right to a lawyer of their choice; this right is also guaranteed under Pakistan’s Constitution.<sup>126</sup> However, few lawyers are willing to defend people accused of blasphemy because of the serious risks involved. One lawyer told Amnesty International, “Even if I am asked to work on a [blasphemy] case where I think the accused is innocent, I will not take it because of the pressure.”<sup>127</sup>

The father of Hamza Javed told Amnesty International about his difficulties in trying to hire a lawyer to represent his son:

**“The day after Hamza Javed’s arrest, I went to the courts looking for a lawyer for him. I showed a newspaper article about the allegations to a lawyer and asked who could help with getting him bail. The lawyer told me to get up and leave from his office. Then I managed to hire a lawyer who I paid one lakh of rupees upfront to get my son bail. At the first bail hearing there were about 50 religious clerics and they physically attacked the lawyer in court. They pulled his coat off and tore his shirt. He ran away and quit from the case. He also kept all the money.”<sup>128</sup>**

Some lawyers who have been willing to take the risk of representing someone accused of blasphemy through the course of a trial have then been themselves threatened by privately hired lawyers representing the complainant. One law firm that represents people accused of blasphemy told Amnesty International that they regularly receive threats. Regarding one ongoing blasphemy case, a lawyer from the firm told Amnesty International, “We received phone calls in which the caller would threaten us to drop the case. Four staff members were followed while working on the case and had to stop work as a result.”<sup>129</sup>

To mitigate the risks involved, many lawyers request the presiding judge to shift the location of the trial to a court within jail premises. This is known as a jail trial, and means that only those who are directly involved with the case proceedings can attend the hearings. While this does reduce the level of direct public pressure on defence lawyers, witnesses and judges, the risks remain.

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<sup>125</sup> Referenced in Zehra Abid “Blasphemy in Pakistan: The case of Aasia Bibi”, *Aljazeera*, 18 June 2015, available at <http://america.aljazeera.com/articles/2015/6/18/blasphemy-in-pakistan-the-case-of-aasia-bibi.html>

<sup>126</sup> See Article 10A of the Constitution of Pakistan, available at [www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf)

<sup>127</sup> Amnesty International interview with witness, May 2015.

<sup>128</sup> Amnesty International interview with witness in Pakistan, April 2015.

<sup>129</sup> Email from law firm to Amnesty International, April 2016.

### CASE: RASHID REHMAN

On 8 May 2014, Rashid Rehman, a human rights lawyer and coordinator of the special task force in Multan for the Human Rights Commission of Pakistan (HRCP), was shot dead in his office by two unidentified gunmen. His colleagues and other human rights defenders believe the killing was directly linked to his representation of Junaid Hafeez, a university professor in Multan facing blasphemy charges.<sup>130</sup> A few weeks before his death, Rashid Rehman told a journalist that defending a man accused of blasphemy is like “walking into the jaws of death.”<sup>131</sup>

Rashid Rehman started representing Junaid Hafeez since a few months after the latter’s arrest in 2012. Upon his request, the court agreed to have a jail trial for security-related reasons. During a hearing on 9 April 2014, according to an application which he filed with the Punjab authorities, three privately hired lawyers representing the claimant, as well as the state prosecutor, all threatened Rashid Rehman in open court.<sup>132</sup> One of them was allegedly a member of Khatam-e-Nabuwat and the second was allegedly a member of Ahl-e-Sunnat, while the third was a retired session court judge.<sup>133</sup>

The men warned Rashid Rehman to stop working on the case and told him he would not make it to the next hearing.<sup>134</sup> He immediately complained to the judge who took no action. He also filed a complaint with the Multan District Bar Association President and the Multan police, requesting security for his protection and expressing his view that the lawyers he named would be responsible if any harm came to him.<sup>135</sup> No security was provided. Seven days after the hearing in which he received the threat, Rashid Rehman was shot dead in his office.

A pamphlet stating that Rashid Rehman met his fate because he tried to save a “blasphemer” was distributed in lawyers’ chambers around Multan the next day. The pamphlet also said, “We warn all the lawyers to think before defending such matters.”<sup>136</sup>

The inquiry into Rashid Rehman’s murder did not proceed beyond an incomplete investigation by the police. An FIR was filed by his brother-in-law, containing information provided by two individuals who were present in the office at the time of the murder. It stated that two unidentified persons entered the office and fired at Rashid Rehman. The three men whom Rashid Rehman claimed to have threatened him in court were never questioned. Without giving any details about the investigation, the police claim that of the three unknown persons who allegedly committed the murder, one was killed during a separate raid by the police and two absconded.

## 3.4 HEARINGS IN BLASPHEMY CASES

Trial hearings of blasphemy cases routinely fall short of Pakistan’s obligations under international law and standards on fair trial. There are frequent reports of the lack of independence of trial courts and sometimes even high courts, largely due to pressure exerted by complainants or others in support of the law, and convictions on the basis of flimsy evidence. The accused are often presumed guilty and the burden is on them to prove their innocence, rather than on the prosecution to prove “guilt” beyond reasonable doubt.

<sup>130</sup> Amnesty International interview with colleagues of Rashid Rehman, April 2015..

<sup>131</sup> Ali Sethi “Pakistan’s Tyranny of Blasphemy”, *The New York Times*, 20 May 2014, available at [www.nytimes.com/2014/05/21/opinion/pakistans-tyranny-of-blasphemy.html?\\_r=0](http://www.nytimes.com/2014/05/21/opinion/pakistans-tyranny-of-blasphemy.html?_r=0)

<sup>132</sup> “Condolence reference: Slain lawyer remembered”, *The Express Tribune*, 29 May 2014, available at <http://tribune.com.pk/story/714665/condolence-reference-slain-lawyer-remembered/> and Amnesty International interview with colleagues of Rashid Rehman.

<sup>133</sup> Khatam-e-Nabuwat is a religious organization that claims its purpose is for the protection of the status of the Prophet Muhammad as the last and final prophet for Muslims. They are known to have harassed and criminally prosecuted a large number of members of religious minorities, particularly those belonging to the Ahmadiyya community.

Ahl-e-Sunnat is a Sunni Bareilvi organisation.

<sup>134</sup> See Amnesty International, *Pakistan: Human rights lawyer shot dead in his office: Rashid Rehman* (Index: ASA 33/009/2014) and interview with Amnesty International in Multan.

<sup>135</sup> “HRCP lawyer shot dead”, *Dawn*, 8 May 2014, available at [www.dawn.com/news/1104900](http://www.dawn.com/news/1104900)

<sup>136</sup> Amnesty International interview with family member, April 2015.

## JUDICIAL INDEPENDENCE ERODED BY THREATS AND PRESSURE ON COURTS

The UN Special Rapporteur on the independence of judges and lawyers has noted that the judiciary in Pakistan has “grown very afraid of public sentiment regarding blasphemy cases. Such sentiment, coupled with intimidation and violence, as well as the lack of protection measures from authorities, seriously encroaches on the independence of the judiciary and results in a biased delivery of justice.”<sup>137</sup> In one blasphemy case, a high court acknowledged in a judgment that: “mere accusation should not have created a prejudice or a bias and the duty of the Court as ordained by the Holy Prophet was to ascertain the facts and the circumstances and look for the truth with all the perseverance at its command.”<sup>138</sup> Some judges have reported receiving letters and phone calls warning them of attacks against themselves and their families if individuals in blasphemy cases are acquitted.<sup>139</sup> Illustrating how some judges view blasphemy cases, a senior lawyer told Amnesty International, “I was talking to a high court judge about a client accused of blasphemy. He told me his legs shake when he has to preside over a blasphemy case.”<sup>140</sup>

The risks to judicial officials in blasphemy cases is real, as demonstrated in the killing of some judges in the past. For example, a retired Lahore High Court judge, Arif Iqbal Bhatti, was shot dead by unidentified gunmen in 1997. His death was believed to be linked to his role in the eventual acquittal in 1995 of Salamat Masih and Rehmat Masih, both of whom had initially been sentenced to death for blasphemy.<sup>141</sup> In 2011, colleagues of Pervez Ali Shah, the judge who convicted and sentenced to death Mumtaz Qadri for the murder of Salmaan Taseer, temporarily fled Pakistan after receiving death threats for delivering the verdict.<sup>142</sup>



People raise their hands next to the ambulance carrying the body of Mumtaz Qadri during his funeral in Liaquat Bagh in Rawalpindi, Pakistan, March 1, 2016. © REUTERS/Faisal Mahmood, TPX IMAGES OF THE DAY

<sup>137</sup> United Nations General Assembly. *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul - Addendum - Mission to Pakistan* 04 April 2013, para. 58, available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/23/43/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/43/Add.2)

<sup>138</sup> *Muhammad Mahboob v. The State*, PLD 2002 Lahore 587, (2002), p. 1, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf)

<sup>139</sup> *Consultation of lawyers and judges on offences related to religion*, (September 2014), Lahore, as cited in “On Trial: The Implementation of Pakistan’s Blasphemy Laws”, International Commission of Jurists, Geneva, November 2015, p. 33, available at [www.refworld.org/pdfid/565da4824.pdf](http://www.refworld.org/pdfid/565da4824.pdf)

<sup>140</sup> Amnesty International telephone interview with lawyer in Pakistan, November 2015.

<sup>141</sup> See Amnesty International, *Amnesty International Annual Report 1998* (Index: POL 10/0001/1998)

<sup>142</sup> “Pakistan judge Pervez Ali Shah ‘flees death threats’”, *BBC*-, 25 October 2011, available at [www.bbc.co.uk/news/world-south-asia-15445317](http://www.bbc.co.uk/news/world-south-asia-15445317)

Another retired judge told Amnesty International that he presided over a divisional bench along with a second judge when a blasphemy case came before their court. His colleague asked if they could avoid hearing the case in their court because of the risks involved, but the judge said they should hear the case instead of letting security risks be the reason for backing down. The case was transferred to another court for administrative reasons before the hearing.<sup>143</sup>

Several lawyers have asserted that judges may in some cases disregard evidence in favour of the accused person due to pressure exerted on the trial court by the complainant and their supporters. For example, in Ahmed Khan's (pseudonym) case, the first trial court judge called the defence lawyer and prosecutor to his chamber and stated the cases did not have any merit and acknowledged Ahmed Khan's prior diagnosis of schizophrenia but also said he could not do anything about it due to the conditions that existed outside of the court.<sup>144</sup> The judge was then transferred to another court and his replacement dismissed evidence of Ahmed Khan's mental disability.<sup>145</sup> Speaking about this experience, his lawyer told Amnesty International:

**"It was truly shocking that successive courts ignored the overwhelming evidence of Ahmed's prior diagnosis. This was entirely due to the type of case we were dealing with, the judges just didn't want to acknowledge what the evidence was telling them because they were so worried about the consequences for themselves and others in their court."**<sup>146</sup>

There are some judges, especially those in appellate courts, who have strictly followed the requirements of domestic law in blasphemy cases, despite potential security risks. A notable example is Supreme Court judge Asif Saeed Khan Khosa, who upheld Mumtaz Qadri's death sentence. He made it clear that criticising the blasphemy law did not amount to blasphemy. He said "it goes without saying that seeking improvement of a manmade law in respect of a religious matter for better or proper enforcement of such law does not ipso facto amount to criticising the religious aspect of such law."<sup>147</sup>

## DELAYED TRIAL PROCEEDINGS

Trials of people accused of serious charges, including blasphemy, can take years to conclude in Pakistan's criminal justice system. Trials do not take place on consecutive days, but can typically reconvene after gaps of days, weeks, or even longer disrupting and lengthening proceedings. Hearings in criminal cases are frequently re-scheduled in the absence of witnesses, lawyers or judges. For example, a Supreme Court judgment that granted bail to an individual under trial for blasphemy in Sindh noted that more than five years after the accused was arrested, almost 100 adjournments of his trial hearings had occurred.<sup>148</sup> Speaking about his experience with hearings in Sindh, one individual charged with blasphemy told Amnesty International, "With each hearing that was re-scheduled, I was even more disappointed and this disappointment broke me bit by bit."<sup>149</sup>

Delaying tactics can be used in blasphemy cases by some judges who are unwilling to pass orders in favour of the accused. For example, by the time Muhammad Kamran was four years into his trial on charges under Section 295-C, 118 hearings had taken place but there were still 15 prosecution witnesses waiting to be examined. His trial lawyer told Amnesty International that "these delays were largely attributable to the fact that no court wanted to give relief to my client in spite of all the compelling evidence in his favour."<sup>150</sup> The

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<sup>143</sup> Amnesty International interview with witness in Pakistan, April 2015.

<sup>144</sup> Email to Amnesty International from lawyer in Pakistan, October 2015.

<sup>145</sup> Email to Amnesty International from lawyer in Pakistan, October 2015.

<sup>146</sup> Email to Amnesty International from lawyer in Pakistan, October 2015.

<sup>147</sup> The Supreme Court of Pakistan judgment, *Criminal Appeals 210 and 211 of 2015*, (2015), para. 17, available at [www.supremecourt.gov.pk/web/user\\_files/File/CrI.A.\\_210\\_2015.pdf](http://www.supremecourt.gov.pk/web/user_files/File/CrI.A._210_2015.pdf)

<sup>148</sup> The Supreme Court of Pakistan judgment, *Criminal petition No 354 of 2014*, (2014).

<sup>149</sup> Amnesty International phone interview with witness, April 2016.

<sup>150</sup> Email to Amnesty International from lawyer, October 2015.

lawyer also said that judges do not want to be viewed by their seniors as passing judgments which they know violate the rights of the accused, noting that, “In these circumstances, you see judges simply leaving cases in limbo, hoping that they will be transferred from the case and another court will have to deal with the issue.”<sup>151</sup>

## DENIAL OF THE RIGHT TO BAIL

Sections 295-A, 295-B and 295-C are non-bailable offences. This means bail is not a right but only granted at the court’s discretion if there appear to be no reasonable grounds for the court to believe that they are guilty.<sup>152</sup> If the proceedings are delayed and protracted, the inability to obtain bail exacerbates the difficulties for the accused. However, following an amendment to the Code of Criminal Procedure in 2011 because the government recognized the slow pace of the judicial process, prisoners in all non-bailable offences are now granted statutory right to bail if their trials or appeals do not conclude within a specific timeframe.<sup>153</sup>

This means that in all blasphemy cases, excluding those under Section 295-C, male and female prisoners have a statutory right to bail if their trials have not concluded within one year and within six months respectively.<sup>154</sup> Males and females charged under Section 295-C have the statutory right to bail if their trials have not concluded within two years and one year respectively;<sup>155</sup> and those convicted of blasphemy offences other than under 295-C are entitled to statutory bail from six months to two years after their conviction if the appeal remains undecided.<sup>156</sup>

Cases demonstrate that individuals facing blasphemy charges can spend years in prison before their bail applications are granted. Applications are first filed in the lower courts and it is not until they are heard before the appellate courts that individuals are usually given relief. One judgment relating to a bail application more than five years after the accused was arrested stated, “We have felt inclined to admit the petitioner to bail at such a stage of the case not only because the petitioner requires a specialist’s attention to his medical condition but also because the delay in conclusion of his trial has been found by us to be unconscionable.”<sup>157</sup>

In another case in Punjab, a reliable source informed Amnesty International of a judge who did not grant bail to a person accused of blasphemy simply because he feared for the individual’s security. The individual claims that the accused was denied bail because there were many “religiously charged people in the room.”<sup>158</sup>

## CONVICTIONS DESPITE WEAK EVIDENCE

Amnesty International’s research found that in many blasphemy cases people have been convicted on the basis of a standard of proof below that of “beyond reasonable doubt.” As stated in a high court judgment where the conviction for blasphemy was overturned, “The nature of the accusation so overwhelmed the trial court that it had become oblivious to the simple standard of proof of establishing facts.”<sup>159</sup>

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<sup>151</sup> Email to Amnesty International from lawyer, October 2015.

<sup>152</sup> Section 497 of the Pakistan Code of Criminal Procedure 1898, available at <https://www.oecd.org/site/adboecdanti-corruptioninitiative/39849781.pdf>

<sup>153</sup> See Act No. VIII of 2011: An Act further to amend the Code of Criminal Procedure 1898, No.F.9(43)/2010-Legis (18 April 2011), as cited in The Gazette of Pakistan (2011), paras 2-3, available at [www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf)

<sup>154</sup> See Act No. VIII of 2011: An Act further to amend the Code of Criminal Procedure 1898, No.F.9(43)/2010-Legis (18 April 2011), as cited in The Gazette of Pakistan (2011), para. 3(a), available at [www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf)

<sup>155</sup> See Act No. VIII of 2011: An Act further to amend the Code of Criminal Procedure 1898, No.F.9(43)/2010-Legis (18 April 2011), as cited in The Gazette of Pakistan (2011), para. 3(b), available at [www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf)

<sup>156</sup> This depends on the offence for which they were convicted. See Act No. VIII of 2011: An Act further to amend the Code of Criminal Procedure 1898, No.F.9(43)/2010-Legis (18 April 2011), as cited in The Gazette of Pakistan (2011), para. 2(a), available at [www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88339/100962/F442580907/PAK88339.pdf)

<sup>157</sup> The Supreme Court of Pakistan judgment, *Criminal petition No 354 of 2014*, (2014).

<sup>158</sup> Amnesty International interview with witness in Pakistan, June 2015.

<sup>159</sup> *Muhammad Mahboob v. The State*, PLD 2002 Lahore 587, (2002), para. 23, available at [www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf](http://www.aghslaw.com/wp-content/uploads/2014/03/P-L-D-2002-Lahore-587.pdf)

This concern is most acute in charges filed under Section 295-C, because an individual can be convicted and sentenced to death solely on the basis of oral testimonies of a few prosecution witnesses. For example, Akram Saeed's (pseudonym) death sentence was handed down in November 2009 by the lower court on the basis of oral testimony from four prosecution witnesses, two of whom were police officers who obtained and recorded the statement from the complainant, and two who claimed to be witnesses to the statement he is alleged to have made. The case is currently pending on appeal before the Lahore High Court<sup>160</sup>.

Akram Saeed's case also demonstrates how judges are willing to convict someone despite there being no mention in the evidence presented at trial of the precise words he or she allegedly uttered and which form the basis of the charges against them. Akram Saeed's trial lawyer argued that he could not be convicted because the exact words were not even mentioned by the complainant and presented to the court. The judge rejected this argument and gave the following explanation:

**"No doubt, to prove the fact that any accusation has been levelled by a person against the other, it is necessary to state the exact words of accusation but the proposition in hand is an exceptional [one]... Here an abuse had allegedly been uttered (I seek refuge with Allah) in respect of the Holy Prophet (PBUH). No Muslim of the world can gather courage to re-utter the exact words of abuse (I seek refuge with Allah) to the Holy Prophet (PBUH). Therefore, I feel no hesitation that non-mentioning of the exact words in Ex. PA or in the statement of PW-1 and PW-3 was result of [overwhelming] sense of respect and holiness of the Holy Prophet (PBUH)."**<sup>161</sup>

The judgment further states that the investigating police officer "during his investigation found that he [Akram Saeed] had uttered defiling words against the Holy Prophet (PBUH)."<sup>162</sup> However, there is no explanation as to what the evidence was and how the judge came to conclude in his verdict that it was Akram Saeed who said those words.

In response to the argument by Akram Saeed's (pseudonym) defence lawyer that the religious pamphlet which the complainant said he was reading when the accused allegedly uttered blasphemous words was not presented as evidence, the judge said that he "does not see eye to eye with the learned defence counsel on this point. The pamphlet itself did not contain any derogatory wording against the Holy Prophet (PBUH) and there had been no allegation that the accused had written, printed, published or disseminated it."<sup>163</sup> The defence stated that since the pamphlet was not produced by the complainant while lodging the complaint, nor secured during the investigation, the act of reading it was not proved.

In another case, a high court in Punjab acquitted Iqbal Hameed (pseudonym), a man convicted and sentenced to death for blasphemy under Section 295-C by a trial court. The high court noted that the charge framed against the accused related to a different incident to the one he was convicted for and during the trial the prosecution witnesses made "a dishonest improvement" in their statements by saying their allegations relating to the date in the charge sheet were not recorded by the police. The high court said it was "not an irregularity" as claimed by the prosecution, "but an illegality."<sup>164</sup>

## FEAR OF POSSIBLE DEFENCE WITNESSES TO COME FORWARD

One of the major difficulties for lawyers representing someone accused of blasphemy is to secure defence witnesses willing to give evidence. Talking to Amnesty International about his client facing blasphemy charges, one lawyer stated that a key witness had refused to give evidence due to security concerns. The lawyer said: "Defence witnesses who know the truth are often too scared to come forward."<sup>165</sup>

Another lawyer representing clients facing blasphemy charges talked about similar difficulties where there is evidence of the accused having a mental illness. The lawyer said:

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<sup>160</sup> Case citation withheld for security reasons

<sup>161</sup> Case citation withheld for security reasons.

<sup>162</sup> Case citation withheld for security reasons.

<sup>163</sup> Case citation withheld for security reasons.

<sup>164</sup> Case citation withheld for security reasons.

<sup>165</sup> Amnesty International interview with witness, April 2015.

**"The risks associated with blasphemy cases are so great that it is extremely difficult to persuade anyone to give testimony in defense of someone accused of blasphemy. Even where there is clear and incontrovertible evidence that someone suffers from mental illness, some doctors are, understandably, unwilling to put their own necks on the line. This has catastrophic effects on the fairness of trials since even where there are valid defences it becomes very difficult to prove these."**<sup>166</sup>

## **OTHER CHALLENGES FACED BY DEFENCE LAWYERS**

Defence lawyers also need to take extraordinary care in shaping the arguments put forward when defending someone accused of blasphemy. Many lawyers report being fearful of repeating the words the accused is alleged to have used because they risk being accused of blasphemy themselves. For example, Asia Noreen's lawyer for her appeal in the Lahore High Court said, "Asia's trial court lawyer was present during the hearing in the High Court. The judge asked him why he did not confront the two main prosecution witnesses about the specific allegations. The lawyer responded by asking the judge how he could repeat the alleged blasphemous words because if he did then he would be seen as committing blasphemy as well."<sup>167</sup>

## **3.5 APPEALS, ACQUITTALS AND ONGOING SECURITY RISKS FOR INDIVIDUALS ACCUSED OF BLASPHEMY**

From 2005 to 2015, at least nine out of 14 appeals to high courts and the Supreme Court following convictions on charges under 295-C resulted in acquittals.<sup>168</sup> After their acquittal and release, many accused in blasphemy cases have no choice but to relocate or leave the country because of the ongoing risks.

### **DELAYED APPEALS AND ACQUITTALS**

Appeals following convictions in criminal cases, including blasphemy, are filed in high courts. It may be several years before an appeal is heard and a decision is made because of re-scheduled hearings (for the same reasons this occurs in trial courts: the absence of witnesses, lawyers or judges) and also the large backlog of appeals pending before high courts in both criminal and civil cases. For example, 60 judges presiding at the Lahore High Court had 125,000 appeals pending before them in 2015.<sup>169</sup> Some of these appeals relate to convictions from trial courts handed down in 2009. For example, Akram Saeed was sentenced to death on 11 November 2009. His appeal was scheduled to be heard before the Lahore High Court in 2015 but has been repeatedly delayed.

Asia Noreen's appeal is currently pending in the Supreme Court, almost seven years after her arrest in June 2009. Her last hearing, on 11 October 2016, was adjourned when one of the three judges in the case recused himself, claiming a conflict of interest.<sup>170</sup> The trial court convicted and sentenced her to death in 2010 and the ruling was upheld by the Lahore High Court in 2014. The high court judgment acknowledged that of the seven prosecution witnesses, only two said they heard the alleged blasphemous words while

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<sup>166</sup> Email to Amnesty International from lawyer, October 2015.

<sup>167</sup> Email to Amnesty International from lawyer, October 2015.

<sup>168</sup> See Table No. 3 Section 295-C convictions upheld on appeal from 1986-2015 in International Commission of Jurists, "On Trial: The Implementation of Pakistan's Blasphemy Laws", November 2015, p. 27, available at [www.refworld.org/pdfid/565da4824.pdf](http://www.refworld.org/pdfid/565da4824.pdf)

<sup>169</sup> Fida Hussain, "125,000 cases still pending in Lahore High Court", *The Nation*, 19 October 2015, available at <http://nation.com.pk/national/19-Oct-2015/125-000-cases-still-pending-in-lahore-high-court> and "Ten new Lahore High Court judges take oath", *Tribune*, 9 June 2015, available at <http://tribune.com.pk/story/900227/ten-new-lahore-high-court-judges-take-oath/>

<sup>170</sup> Nasir Iqbal, "Supreme Court adjourns hearing of Asia Bibi case", 13 October 2016, available at [www.dawn.com/news/1289726](http://www.dawn.com/news/1289726)

another two witnessed what they alleged to be Asia Noreen's "confession" in front of a large gathering of local villagers before her arrest. The remaining three are police officers who investigated the case.

Asia Noreen's case file obtained by Amnesty International shows that the Lahore High Court upheld her conviction despite inconsistent witness testimonies from the prosecution.<sup>171</sup> For example, the prosecution witnesses gave conflicting accounts regarding the date of a public gathering in which Asia Noreen allegedly confessed uttering derogatory words against the Prophet Muhammad. The witnesses also gave inconsistent accounts regarding the number of people present during the public gathering and where the gathering took place.

The high court judgment stated "the prosecution has proved the charge against her through direct unimpeachable evidence" relating to the allegations.<sup>172</sup> The judgment also considered a defence argument based on the delayed filing of the FIR as "immaterial especially when the direct evidence, produced by the prosecution, is consistent, coherent and confidence-inspiring because such delay only becomes significant where the prosecution evidence and other circumstances of the case tend to tilt the balance in favour of the accused."<sup>173</sup> Instead, the high court commented that "extra care and caution was taken by the complainant prior to reporting the matter to the police due to the seriousness and gravity of the same."<sup>174</sup> The judgment in Asia Noreen's case also cited a previous high court judgment which asserted that the statement of even a single witness that somebody uttered contemptuous words about the Prophet Muhammad is sufficient to justify the death penalty.<sup>175</sup>



Members of the Pakistan Christian Democratic alliance march during a protest in Lahore on December 25, 2010, in support of Asia Bibi, a Christian mother sentenced to death under blasphemy laws. Bibi was arrested in June 2009 after Muslim women labourers refused to drink from a bowl of water she was asked to fetch while out working in the fields. Days later, the women complained that she made derogatory remarks about the Prophet Mohammed. Bibi was set upon by a mob, arrested by police and sentenced on 8 November 2010. AFP PHOTO/Arif ALI © Arif Ali/AFP/Getty Images

<sup>171</sup> Case file / police file obtained by Amnesty International.

<sup>172</sup> Lahore High Court Judgment. *Mst. Asia Bibi v. The State & another*, FIR 326, CrI.App. No.2509 of 2010, (2009), para. 17, available at <https://assets.documentcloud.org/documents/2104047/lhc-verdict.pdf>

<sup>173</sup> Lahore High Court Judgment. *Mst. Asia Bibi v. The State & another*, FIR 326, CrI.App. No.2509 of 2010, (2009), para. 13, available at <https://assets.documentcloud.org/documents/2104047/lhc-verdict.pdf>

<sup>174</sup> Lahore High Court Judgment. *Mst. Asia Bibi v. The State & another*, FIR 326, CrI.App. No.2509 of 2010, (2009), para. 13, available at <https://assets.documentcloud.org/documents/2104047/lhc-verdict.pdf>

<sup>175</sup> *Haji Bashir Ahmad v. The State* (2005 YLR 985) as cited in Lahore High Court Judgment. *Mst. Asia Bibi v. The State & another*, FIR 326, CrI.App. No.2509 of 2010, (2009), para. 14, available at <https://assets.documentcloud.org/documents/2104047/lhc-verdict.pdf>

## CONTINUED SECURITY CONCERNS FOR THOSE GRANTED BAIL OR ACQUITTED

Two individuals in a blasphemy case who were acquitted by a high court judge in 2012 told Amnesty International that, for security reasons, they were forced to relocate to another part of the city where they lived prior to the accusations. They said that it was not safe to return to the same area, despite having been acquitted. They avoid interacting with their new neighbours because they fear that the blasphemy accusations will become known and put their lives at risk.<sup>176</sup>

Another individual who was granted bail by the Supreme Court after more than five years in detention while his trial had still not concluded left Pakistan due to concerns for his security. He told Amnesty International, “I had to leave instantly because even people who knew me, including close relatives and friends did not think it was just for me to be out of jail. After I left, my own friend in Pakistan told me that if I were still there and found guilty of blasphemy then he would not let me stay alive.”<sup>177</sup> Security concerns expressed by such individuals are given additional weight by numerous reports of attacks on individuals in connection to blasphemy accusations against them (See Section 4 for examples).

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<sup>176</sup> Case citation withheld for security reasons.

<sup>177</sup> Amnesty International phone interview with witness, April 2016.

# 4. INADEQUATE SAFEGUARDS AGAINST ABUSES

**“What comes with the mob mentality is that people would not even want to verify [the facts of a case]...Mob psychology overrules common sense. Everything is seen as black and white [and] the most unintelligent with the loudest voice commands the mob.”<sup>178</sup>**

Professor Ejaz Akram, Lahore University of Management and Sciences.

The provision in law for the death penalty for those convicted of blasphemy against the Prophet Muhammad has created an environment in which some people believe themselves entitled to take the law into their own hands. The laws are used as a cover for perpetrators of such vigilantism. While the majority of victims of such attacks are Muslims, a disproportionate number are from religious minority groups. Mob violence has taken numerous forms: shooting people who are accused of blasphemy, as in the cases of Salmaan Taseer and Shahbaz Bhatti, or violence by angry mobs. Large groups of people have been incited by religious sermons in mosques, or simply hired.<sup>179</sup>

For example, Mumtaz Qadri claimed to be inspired by a sermon delivered by cleric Mufti Muhammad Hanif Qureshi in Rawalpindi, which incited people to take the law into their own hands, saying that people like Salmaan Taseer who wished to reform Pakistan's blasphemy laws were “*Wajibul Qatal*” or liable to be killed.<sup>180</sup> In another case, a cleric delivering a sermon in a mosque in Okara in January 2016 is alleged to have asked the audience to raise their hands if they did not love the Prophet. A 15-year-old boy misheard the question and raised his hand. The cleric accused him of blasphemy and said he was liable to be killed.

<sup>178</sup> Professor Ejaz Akram, as cited in Sunniya Ahmad Pirzada, “The price of blasphemy in Pakistan”, *Aljazeera*, 28 August 2012, available at [www.aljazeera.com/indepth/features/2012/08/201282714106498222.html](http://www.aljazeera.com/indepth/features/2012/08/201282714106498222.html)

<sup>179</sup> See for example, Saba Eitizaz “Investigating Pakistan's 'mobs for hire'” *BBC*, 21 September 2015, available at [www.bbc.co.uk/news/world-asia-34312108](http://www.bbc.co.uk/news/world-asia-34312108). This investigation by the BBC showed that mobs could be bought, with the level of violence to be perpetrated varying according to the price. One man who claimed to be organizing mobs as a business told the BBC, “It doesn't take much to gather hundreds against someone you may have a personal enmity with. If they are from a religious minority, you just say they committed blasphemy or burned the Koran, and everyone will follow, no one will verify the truth of it.”

<sup>180</sup> Tom Porter, “Son of murdered Pakistani liberal outraged as cleric who inspired assassin is allowed to speak in UK”, *International Business Times*, available at [www.ibtimes.co.uk/son-murdered-pakistani-liberal-outraged-cleric-who-inspired-assassin-allowed-speak-uk-1558463](http://www.ibtimes.co.uk/son-murdered-pakistani-liberal-outraged-cleric-who-inspired-assassin-allowed-speak-uk-1558463)

In response, believing he was a “blasphemer”, the boy went home and cut off his own hand. On 17 January 2016, the police arrested the cleric on terrorism charges.<sup>181</sup>

Despite only a few cases where senior members of the Punjab government have intervened or the police has responded in time to prevent abuses, the state has, more often than not, failed to protect individuals and groups. Article 6 of the ICCPR underlines that everyone has the right to life which must be protected by law. This places a positive obligation on Pakistan to protect against threats to life by non-state actors, including those who commit violence in the name of religion. In some cases, the authorities’ failure to prevent and promptly prosecute those responsible for mob violence has the effect of legitimizing a culture of vigilantism.



The blood-stained car of Pakistani Minorities Minister Shahbaz Bhatti is seen following an attack in Islamabad on March 2, 2011. Gunmen shot dead a Catholic Pakistani government minister on 2 March, after he had vowed to defy death threats following the murder of another politician opposed to an Islamic blasphemy law. AFP PHOTO/Farooq NAEEM © FAROOQ NAEEM/AFP/Getty Images

## 4.1 ATTACK AGAINST THE AHMADIYYA COMMUNITY OVER BLASPHEMY ALLEGATIONS

An example of state failure to protect victims is the July 2014 attack that took place against the Ahmadiyya community in Gujranwala. Eight-month-old Kainat Tabbassum, her seven-year-old sister Hira Tabbassum, and their 54-year-old grandmother Bushra Bibi, died as a result of this mob attack.<sup>182</sup> Mubashra Jarra, who was due to give birth a few days later, suffered a miscarriage as a result.<sup>183</sup> Two survivors of the attack spoke

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<sup>181</sup> Imran Gabol, “Police arrest cleric for ‘inciting boy to cut off his hand’”, *Dawn*, 17 January 2016, available at [www.dawn.com/news/1233388](http://www.dawn.com/news/1233388)

<sup>182</sup> See Fiyaz Mughal, “Persecution of Ahmaddiya Muslims in Pakistan is a Continuing Stain on the Country”, *Huffington Post*, 28 September 2014, available at [www.huffingtonpost.co.uk/fiyaz-mughal/pakistan-ahmaddiya-muslims\\_b\\_5629394.html](http://www.huffingtonpost.co.uk/fiyaz-mughal/pakistan-ahmaddiya-muslims_b_5629394.html)

<sup>183</sup> See Waqar Gillani, “3 Killed in a Facebook Blasphemy Rampage in Pakistan”, *The New York Times*, 28 July 2014, available at [www.nytimes.com/2014/07/29/world/asia/3-pakistanis-die-as-facebook-photo-sets-off-muslim-rampage.html?\\_r=0](http://www.nytimes.com/2014/07/29/world/asia/3-pakistanis-die-as-facebook-photo-sets-off-muslim-rampage.html?_r=0)

of how the blasphemy allegations against one member of their community had led to the mob attack and that the state failed to protect them.<sup>184</sup>

Around 10 Ahmadiyya families were living in at least eight houses in a small street in the city of Gujranwala. Some of them were related and ran shops in the street. Court documents obtained by Amnesty International reveal that a few Muslim residents in Gujranwala, including the son of the imam of the local mosque, claimed that on 27 July they confronted Aqib Saleem, an Ahmadi from the area, and alleged that he had posted a picture on Facebook of a naked woman sitting on the Kaaba, the most holy place of worship for Muslims. They claimed that they had approached Aqib Saleem who did not deny the allegations, became hostile and fired shots at a man named Muhammad Zikaria, who accused him of blasphemy before running away.<sup>185</sup> Aqib Saleem's family told Amnesty International that the image was uploaded on Facebook and that when Aqib saw it he posted a comment condemning it.<sup>186</sup>

News of the blasphemy allegations against Aqib Saleem spread rapidly and the situation escalated. The same evening, more than 100 people gathered outside the homes of the Ahmadiyya residents, including one where four women and 11 children had gathered for refuge. Some members of the mob set fire to the houses belonging to the Ahmadiyya residents in the street.<sup>187</sup> Two survivors interviewed by Amnesty International said they heard gunshots and men chanting anti-Ahmadiyya slogans through a loudspeaker, such as "Mirzaiees [Ahmadiyya] are dogs" and, "Whoever kills them will go to heaven."<sup>188</sup>

By the time ambulances arrived, Bushra Bibi and her two granddaughters had died from smoke inhalation. The remaining survivors were rescued.<sup>189</sup> Nine people, including a child, were injured.<sup>190</sup>

Several videos were taken by eyewitnesses in the aftermath of the attack. These show several policemen who do not appear to be taking any action to placate the enraged mob.<sup>191</sup> One individual from the Ahmadiyya community in another city told Amnesty International that when he became aware that the attack was taking place, he called the deputy superintendent of police for Gujranwala. The man said: "The deputy superintendent told me there was no attack on an Ahmadi house and it was just a protest of around 200 to 250 people gathered and they are burning few tyres in response to an image posted on Facebook. He said there were a lot of police there and the road had been blocked. Very calmly he told me that no house had been attacked but one child was said to have been injured."<sup>192</sup> The Ahmadi man said he then called the City Police Officer who repeated that everything was under control.<sup>193</sup>

A spokesperson for the Ahmadiyya community in Rabwah, Saleem ud Din, called the Minister of Trade also from Gujranwala, and was assured that everything was under control. The spokesperson told Amnesty International: "If the government had tried, they could have prevented the incident. They were slow to respond. If they cannot take responsibility and prevent a mob attack then what use are they?"<sup>194</sup> To date, there has also been no compensation given by the Provincial or Federal Government to their families and the remaining survivors of the attack.<sup>195</sup>

## BLASPHEMY CASE AGAINST AQIB SALEEM

On 28 July 2014, a blasphemy case was registered against Aqib Saleem.<sup>196</sup> He was charged under Section 295-A and Section 324 (attempted murder) of the Pakistan Penal Code, along with Sections 7C (grievous

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<sup>184</sup> Amnesty International interview with survivors of the attack, April 2015.

<sup>185</sup> *The State v. Aaqib Saleem*, FIR 553/2014, Case No. 82/JATC-1/2014, (2014).

<sup>186</sup> Amnesty International was not able to locate the Facebook page.

<sup>187</sup> Amnesty International interview with survivors of the attack, April 2015.

<sup>188</sup> Amnesty International interview with survivors of the attack, April 2015.

<sup>189</sup> Kharal and Rana Tanveer, "Three Ahmadi, including two minors, killed in Gujranwala", *The Express Tribune*, 28 July 2014, available at <http://tribune.com.pk/story/741943/three-including-two-minors-dead-in-gujranwala-clash/> and Amnesty International interview with survivors.

<sup>190</sup> Kharal and Rana Tanveer, "Three Ahmadi, including two minors, killed in Gujranwala", *The Express Tribune*, 28 July 2014, available at <http://tribune.com.pk/story/741943/three-including-two-minors-dead-in-gujranwala-clash/>

<sup>191</sup> See for example, Rabwah Times, *REPORT: Pakistani Mob Attacks Ahmadiyyah Muslims in Gujranwala*, 28 July 2014, available at [www.youtube.com/watch?v=LBz6Xp8HQFU](http://www.youtube.com/watch?v=LBz6Xp8HQFU)

<sup>192</sup> Email to Amnesty International from a witness, November 2015.

<sup>193</sup> Email to Amnesty International from a witness, November 2015.

<sup>194</sup> Amnesty International telephone interview with Saleem ud Din, January 2015.

<sup>195</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016.

<sup>196</sup> *The State v. Aaqib Saleem*, FIR 553/2014 Case No. 82/JATC-1/2014, (2014).

bodily harm or injury) and 11-W (printing, publishing, or disseminating any material to incite hatred) of the Anti-Terrorism Act (ATA). On 15 August 2015, he was acquitted of all charges by the anti-terrorism court in Gujranwala. The court judgment stated that the Punjab Forensic Sciences Agency showed that Aqib Saleem's Facebook account was not even active between 20 and 28 July 2014, even though he was accused of posting the image on 27 July. The judge said the prosecution had failed to prove the charges beyond reasonable doubt. Regarding allegations that Aqib Saleem shot at Muhammad Zikaria, the judge noted that no evidence relating to any firearm was recovered from Aqib Saleem by the police during their investigation.<sup>197</sup>

The father of the two girls who died registered an FIR against eight named individuals and more than 400 unidentified individuals in response to the attack. Five of them were charged with murder, attempted murder, mischief by fire or explosive substance and rioting with a deadly weapon along with Section 7 of the 1997 Anti-Terrorism Act. Their cases are still under trial in the anti-terrorism court in Gujranwala.

At the time of writing, Aqib Saleem and his family remained unwilling to return to their home for fear of reprisals in relation to the Gujranwala attack.<sup>198</sup>

## 4.2 ATTACK AGAINST CHRISTIAN COUPLE IN KOT RADHA KISHAN

Less than four months after the attack on the Ahmadiyya community, on 4 November 2014, Shama Masih and her husband Shahzad Masih - a Christian couple alleged to have committed blasphemy - were killed at a brick kiln in Kot Radha Kishan.

The couple lived with their three children and Shahzad's father, Nazir Masih, at a brick kiln, where they also worked. Brick kilns in Pakistan are notorious for their harsh working conditions.<sup>199</sup> Shahzad Masih's brother, Iqbal Masih, who worked at the same kiln, told Amnesty International that a typical work day for them would start at 3:00am and end at 6:00pm. He said that labourers at that kiln earn 700 rupees (approximately US\$6.60) for every 1,000 bricks they make and that it takes about a day to make 1,000 bricks.<sup>200</sup>

The mob attack happened a few days after Nazir Masih's death. Nazir Masih made talismans and charms for both Muslims and Christians.<sup>201</sup> On 1 November 2014, Shama Masih, who was pregnant, gathered a number of Nazir Masih's belongings, including remnants of his work, and burned them outside their home. People in Pakistan, particularly those living in areas without infrastructure for rubbish collection, often use this method of disposing of unwanted items.

Shahzad Masih's family told Amnesty International that allegations spread rapidly in the two nearby villages of Chak 59 and Chak 60 that his wife had burned the Quran when disposing of Nazir Masih's belongings.<sup>202</sup> Clerics from nearby villages gathered and issued a *fatwa* calling for those who desecrated the Quran "to be burned the same way that they burned the [holy book]."<sup>203</sup>

Nadeem Anthony, an investigator with the National Human Rights Commission of Pakistan claimed that the attack on the couple was instigated at the behest of a local brick kiln owner, over a monetary dispute.<sup>204</sup> After morning prayers on 2 November 2014 just after 5:00am, local clerics made announcements at their

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<sup>197</sup> *The State v. Aqib Saleem*, FIR 553/2014 Case No. 82/JATC-1/2014, (2014).

<sup>198</sup> Amnesty International telephone interview with Saleem ud Din, January 2015.

<sup>199</sup> Human Rights Watch, "Contemporary Forms of Slavery in Pakistan", July 1995, available at [www.hrw.org/reports/pdfs/c/crd/pakistan957.pdf](http://www.hrw.org/reports/pdfs/c/crd/pakistan957.pdf)

<sup>200</sup> Amnesty International interview with family, April 2015.

<sup>201</sup> "Blasphemy in Pakistan: Anatomy of a lynching", *Al Jazeera*, 20 June 2015, available at <http://america.aljazeera.com/articles/2015/6/20/blasphemy-in-pakistan-anatomy-of-a-lynching.html>

<sup>202</sup> Amnesty International interview with family, April 2015.

<sup>203</sup> "Blasphemy in Pakistan: Anatomy of a lynching", *Al Jazeera*, 20 June 2015, available at <http://america.aljazeera.com/articles/2015/6/20/blasphemy-in-pakistan-anatomy-of-a-lynching.html>

<sup>204</sup> "Pakistani Christian couple killed by mob", *Al-Jazeera*, 5 November 2014, available at [www.aljazeera.com/news/asia/2014/11/pakistani-christian-couple-killed-mob-2014115154959911691.html](http://www.aljazeera.com/news/asia/2014/11/pakistani-christian-couple-killed-mob-2014115154959911691.html)

respective mosques that the couple should be burnt, following which crowds estimated at around 500 people poured into the kiln. Shahzad Masih's brother told Amnesty International that he pleaded with the crowd to resolve the matter peacefully but was ignored. The mob broke into the room where the couple had locked themselves in and dragged them out.<sup>205</sup>

Around 7:30am, five members of the local police force were present. The police say they tried to intervene but were attacked by the mob.<sup>206</sup> Shahzad Masih's brother confirmed to Amnesty International that he saw the mob attack the police officers, tearing their uniforms.<sup>207</sup>

The mob continued to beat Shama and Shahzad Masih before dragging them to the kiln where they removed the lid of the furnace and threw them in, burning them to death. The crowd started to disperse at around 8:30am after larger contingents of the police had arrived. They began arresting people in nearby villages alleged to be responsible.

Although it is not clear why police contingents did not arrive sooner, Shahzad Masih's family have praised the response by the District Police Officer. "He got 105 people arrested," Shahzad Masih's nephew, Imran Prakash, told Amnesty International.<sup>208</sup> However, although the police did arrest a number of people after the incident, the officers failed to intervene in a timely manner that may have saved the lives of Shama and Shahzad Masih. Even the Punjab police chief informed the Supreme Court during subsequent *suo moto*<sup>209</sup> hearings that the assistant sub inspector of police knew that blasphemy allegations were spreading on the day before the attack, but did not inform his senior officers. Disciplinary action for negligence was ordered against the five police officers who were present. While the police officers asserted they attempted to intervene but were beaten by the mob, the Chief Justice of the Supreme Court stated the measures they took were inadequate.<sup>210</sup>

The Prime Minister also made strong statements in the aftermath of the attack. He said, "A responsible state cannot tolerate mob rule and public lynching with impunity."<sup>211</sup> On 6 November 2014, the Chief Minister of Punjab, Shahbaz Sharif, visited Kot Radha Kishan to offer condolences to the couple's families. The Chief Minister announced that the Punjab government would bear the living expenses of the children.<sup>212</sup>

In addition to the judicial proceedings against participants in the attack, which have not yet concluded, Punjab Chief Minister Shahbaz Sharif constituted a three-member committee headed by the Secretary of Minority Affairs and Human Rights to investigate the attacks.<sup>213</sup> The five individuals held for Shama and Shahzad's death were sentenced to death on 23 November 2016.<sup>214</sup> Amnesty International believes that the authorities need to hold people accountable, however, this should be in a consistent manner through fair trials without recourse to the death penalty.

## 4.3 ATTACK AGAINST CHRISTIAN NEIGHBOURHOOD OF JOSEPH COLONY, LAHORE

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<sup>205</sup> Amnesty International interview with family, April 2015.

<sup>206</sup> FIR 114/13, Badami Bagh police station. In this FIR filed by a police officer against individuals alleged to have been part of the mob, it is alleged that the crowd pelted stones and fired at the officers.

<sup>207</sup> Amnesty International interview with family, April 2015.

<sup>208</sup> Amnesty International interview, June 2015.

<sup>209</sup> *Suo moto* is when a court takes notice of a case without being requested to do so by either party.

<sup>210</sup> Nasir Iqbal, "SC orders action against police over Kot Radha Kishan incident", *Dawn*, 17 December 2014, available at [www.dawn.com/news/1151374](http://www.dawn.com/news/1151374)

<sup>211</sup> "Imam of a local mosque incited murder of Christian couple, says police", *The Express Tribune*, 5 November 2014, available at <http://tribune.com.pk/story/786093/police-arrest-44-suspects-file-cases-against-468-others-for-murder-of-christian-couple/>

<sup>212</sup> See "Shahbaz Sharif visits Kot Radha Kishan, announced financial assistance for bereaved family", *Lahore World*, 6 November 2014, available at <http://lahoreworld.com/2014/11/06/shahbaz-sharif-visits-kot-radha-kishanannounced-financial-assistance-bereaved-family/>; and "CM assures Christian family of justice", *The Nation*, 7 November 2014, available at <http://nation.com.pk/laure/07-Nov-2014/cm-assures-christian-family-of-justice>

<sup>213</sup> Asif Aqeel, "Pakistani Christian couple brutally killed by mob for alleged 'blasphemy'", *World Watch Monitor*, 5 November 2014, available at [www.worldwatchmonitor.org/2014/11/Article\\_3462820.html/](http://www.worldwatchmonitor.org/2014/11/Article_3462820.html/)

<sup>214</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016. See Annex of Report, Shama Masih Case (Kasur), FIR 475, p. 65.

On 9 March 2013, a mob of around 3,000 people burned down about 200 houses, at least 12 shops, and two churches that made up the largely Christian neighbourhood of Joseph Colony in Lahore's Badami Bagh area.<sup>215</sup> Owned by the Lahore Municipal Corporation, it is home to many sanitation workers who work in various parts of the city. The residents escaped the attack, but one of them, Sawan Masih, is currently on death row following accusations of blasphemy.<sup>216</sup>

In court records relating to Sawan Masih's case, the complainant alleges that in the early hours of 7 March 2013 Sawan Masih "suddenly started uttering derogatory remarks against our last Prophet (Peace be upon him) ... We tried to catch a hold of him but he fled away."<sup>217</sup> After Friday prayers on 8 March, a crowd of people, including the complainant, went to Joseph Colony, alleging that Sawan Masih had spoken against the Prophet Muhammad and demanded to see him. They chanted slogans saying that Sawan Masih used derogatory words against the Prophet Muhammad and that they would not leave until he was punished. Neighbours pleaded with Sawan Masih's family to give him up because they feared for their lives. The family told the group that if Sawan Masih said anything against the Prophet Muhammad then they would be the first to punish him.<sup>218</sup>

A police inspector claimed that he tried to convince the crowd not to create any unrest because a case would be filed against Sawan Masih. During this time, Sawan Masih was warned by his brother not to return home from work because of the security risk and went into hiding at a relative's home. In the early hours of 9 March 2013, the police located and arrested Sawan Masih, following which the mob dispersed. Residents of Joseph Colony said they were told by the police to abandon their homes because they could not be protected against the mob.<sup>219</sup>



*Angry Pakistani demonstrators shout slogans during a protest over alleged blasphemous remarks by a Christian in a Christian neighborhood in Badami Bagh area of Lahore on March 9, 2013. Thousands of angry protestors on March 9 set ablaze more than 100 houses of Pakistani Christians over a blasphemy row in the eastern city of Lahore, officials said. Over 3,000 Muslim protestors turned violent over derogatory remarks allegedly made by a young Christian, Sawan Masih, 28 against Prophet Muhammad in a Christian neighborhood in Badami Bagh area. AFP PHOTO/ ARIF ALI © Arif Ali/AFP/Getty Images*

<sup>215</sup> Amnesty International Press Release, *Pakistan: Christian man sentenced to death under blasphemy law*, 27 March 2014, available at [www.amnesty.org/en/latest/news/2014/03/pakistan-christian-man-sentenced-death-under-blasphemy-law/](http://www.amnesty.org/en/latest/news/2014/03/pakistan-christian-man-sentenced-death-under-blasphemy-law/)

<sup>216</sup> *The State v. Sawan Masih*, FIR 112/13, Serial No. 023772, (2013). Please note, however, that the Punjab government response to Amnesty International records this as FIR 114.

<sup>217</sup> Sawan Masih court documents obtained by Amnesty International.

<sup>218</sup> Amnesty International Interview with family of Sawan Masih, November 2015.

<sup>219</sup> "Anatomy of an Attack on a Christian Neighborhood", *Time Magazine*, 11 March 2013, available at <http://world.time.com/2013/03/11/the-anatomy-of-an-attack-on-a-christian-village-in-pakistan/>

Later that morning, at around 7:45am, people began gathering once again with slogans claiming the police had not arrested Sawan Masih.<sup>220</sup> Many residents left the area after police warned them that they risked being attacked. Police officers claimed they attempted to calm the mob by taking a few of them to the police station to confirm that Sawan Masih had indeed been arrested, but the police left Joseph Colony unprotected. When the police returned from the station, the mob was out of control and burning properties.<sup>221</sup>

In their statements submitted to the court as part of trial court proceedings against alleged participants, the police claim they tried their best to stop the mob. The station house officer of the local police station stated that the superintendent of police “tried to make the crowd understand but the people did not stop and started pelting stones on police ... the crowd started firing on the police ... The [superintendent] first ordered use of tear gas and then aerial firing. Meanwhile, the police were encircled on three sides and the assailants started putting houses on fire.”<sup>222</sup>



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Pakistani men, part of an angry mob, throw bricks at a Christian house after setting it on fire, in Lahore, Pakistan, Saturday, March 9, 2013. A mob of hundreds of people in the eastern Pakistani city of Lahore attacked a Christian neighborhood Saturday and set fire to homes after hearing accusations that a Christian man had committed blasphemy against Islam's prophet, said a police officer. © AP Photo/K.M. Chaudary

However, separate hearings relating to a constitutional petition filed before the Supreme Court in April 2014 revealed that the Punjab Police had taken disciplinary action against the area's Superintendent of Police, Deputy Superintendent and two station house officers for seeking shelter in a nearby warehouse instead of confronting the mob that burned the houses.<sup>223</sup> The Supreme Court noted the following:

**“In a situation like this where the police officers themselves had taken shelter in a godown [warehouse], no one else could protect the life and property of the inhabitants of the Joseph Colony and their failure to do so is**

<sup>220</sup> Police Statement obtained by Amnesty International, November 2015.

<sup>221</sup> “Anatomy of an Attack on a Christian Neighborhood”, *Time Magazine*, 11 March 2013, available at <http://world.time.com/2013/03/11/the-anatomy-of-an-attack-on-a-christian-village-in-pakistan/>

<sup>222</sup> FIR 114/13 and attached police statement from Badami Bagh police station.

<sup>223</sup> Mudassir Raja, “Joseph Colony case: Lahore police admits it purposefully avoided clash with mob”, *The Express Tribune*, 3 April 2013, available at <http://tribune.com.pk/story/530622/joseph-colony-case-proceedings-to-move-to-trial-courts/>

**sufficient to prima facie hold that the Fundamental Rights of the citizens of Joseph Colony were not protected as enshrined under Articles 9 and 14 of the Constitution.”<sup>224</sup>**

An FIR was registered by police against 86 named individuals as well as thousands of other suspects whose names were not known.<sup>225</sup> The FIR was registered for offences relating to rioting with arms, unlawful assembly, mischief causing damage, assault, robbery, attempted murder, obstructing the police from discharging their duties and blasphemy (Section 295-A, outraging religious feelings of any class).<sup>226</sup> At the time of writing, according to the information available, the case is ongoing and no one has been convicted for the attack on Joseph Colony.<sup>227</sup>

The government and various NGOs helped to rebuild the houses and residents were able to return.<sup>228</sup>

## 4.4 CHAK 460 MAKKI

There are examples, however, where a timely intervention by the police saved lives. On 30 June 2015, a religious cleric made an announcement in a local mosque that a Christian couple, Awais Qamar and his wife Rukhsana Bibi, were sitting on a banner containing some Quranic scripture in a small village called Chak 460 Makki, located in the district of Sheikhpura, Punjab.

Soon afterwards a crowd started to gather outside Awais Qamar’s home. They were led by two men, who shaved Awais Qamar’s head, put a garland of shoes around his neck and blackened his face. Awais Qamar’s sister-in-law, Rehana Bibi, as well as Rukhsana Bibi and their daughter, Farzana Bibi, were beaten by the crowd.<sup>229</sup>

Shortly afterwards, the District Police Office (DPO), arrived along with dozens of police officers, who rescued the family and relocated them to another part of Punjab. A former police official told Amnesty International that the main reason the family was rescued was “because [the DPO] is an exceptional man and diligent in this duties.”<sup>230</sup> In response to the attack, there were six named people accused with approximately fifteen others that were unknown. Of those, three are now on bail awaiting trial.<sup>231</sup>

However, while the relocation ensured the safety, it is also essential to ensure prosecutions of those responsible. Prosecutions are an essential part of combating a climate of impunity and religious intolerance that provides fertile ground for such attacks.

In another case in May 2016, Imran Masih, a young man working as a sanitation worker in the rural health centre in Bhosaal near Chak 44 in Punjab, was accused by his colleagues of watching a blasphemous video on his mobile phone. Imran Masih went into hiding, and a mob quickly gathered planning to burn down the houses of Christian families in the area for failing to hand over Imran Masih. Many Christian families living in the area left their homes in fear. The Mandi Bahauddin police constituted a team to protect the villagers and their property, and conducted an investigation that lead to the conclusion that the charges were false.<sup>232</sup>

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<sup>224</sup> The Supreme Court of Pakistan judgment, *Const.P.No.10 of 2013 Against the violence in Christian Colony in Badami Bagh area over alleged blasphemy*, CMA No.1549/13, (2013), para. 4, available at [www.supremecourt.gov.pk/web/user\\_files/File/Const.P.No.10%20of2013-Dt-25-3-2013.pdf](http://www.supremecourt.gov.pk/web/user_files/File/Const.P.No.10%20of2013-Dt-25-3-2013.pdf)

<sup>225</sup> FIR 114/13, Badami Bagh police station.

<sup>226</sup> FIR 114/13, Badami Bagh police station.

<sup>227</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016. See Annex of report, Sawan Masih Case (Lahore), FIR 114, p. 66.

<sup>228</sup> Rameez Khan, “Joseph Colony: Gawkers and politicians hold up rebuilding work”, *The Express Tribune*, 13 March 2013, available at <http://tribune.com.pk/story/519790/joseph-colony-gawkers-and-politicians-hold-up-rebuilding-work/>

<sup>229</sup> Asif Aqeel, “Police rescue Pakistani Christian from ‘mob justice’ over blasphemy”, *World Watch Monitor*, 3 July 2015, available at [www.worldwatchmonitor.org/2015/07/3915368/](http://www.worldwatchmonitor.org/2015/07/3915368/)

<sup>230</sup> Amnesty International telephone interview with witness, October 2015.

<sup>231</sup> Government of the Punjab. Response to Amnesty International Questionnaire, 2 June 2016. See Annex of report, Awais Qamar Case (Sheikhpura), FIR 314, p. 65.

<sup>232</sup> See Asif Aqeel, “Pakistan police deny Christian-Muslim tension after blasphemy allegation”, *World Watch Monitor*, 19 May 2016, available at [www.worldwatchmonitor.org/2016/05/4465433/](http://www.worldwatchmonitor.org/2016/05/4465433/)

Also in May 2016 and only 100km away from Chak 44 in Punjab, a Pakistani Christian woman was accused of Blasphemy in Christian Town. When a mob gathered around her home, she refused to leave and go into hiding as she felt that would put the other families there at risk. She instead called the police who arrived in a short time and controlled the mob. The charges against her were eventually withdrawn.<sup>233</sup>

## 4.5 STATE RESPONSE TO MOB VIOLENCE

The cases above reveal variations in the government responses to incidents of mob violence. For example, a spokesperson of the Ahmadiyya community in Rabwah asserted that while the government compensated victims of the attacks at Joseph Colony and Kot Radha Kishan, no such compensation was offered to the Ahmadiyya victims in Gujranwala.<sup>234</sup> It was also claimed that the government was quick to condemn the two attacks against the Christian communities, but slow to publicly condemn that against the Ahmadiyya in Gujranwala. It should be acknowledged, however, that although lives were lost in Kot Radha Kishan and property destroyed in Joseph Colony, action by police in Chak 460 Makki did save lives.

Police officers who have witnessed mob attacks fuelled by blasphemy allegations told Amnesty International they are often left in a difficult position and do not have the necessary resources or political support from the government to respond to the threats.<sup>235</sup> One officer said: “How do you stop a violent mob when you have no protection from the state? To take action, the police needs the state’s backing but the state is weak.”<sup>236</sup> The weakness of the state’s law enforcement machinery in response to such attacks was apparent when a mob attacked an Ahmadi mosque in Jhelum on 21 November 2015 and pelted stones at police officers deployed to protect it; the police had to call in the army to pacify the crowd.<sup>237</sup> The day before, a mob had set fire to part of a chipboard factory in the same area following allegations that an employee there had burned pages of the Quran. Again, police had been deployed at the mosque, but the District Police Officer called on the army to prevent a serious attack.

The cases presented in this chapter illustrate the lack of a consistent, robust and timely response by the authorities to situations of developing mob violence, which forces people from their homes and can lead to death and destruction of property. The lack of such a response, and the failure to prosecute rigorously and promptly those responsible, leads to a climate of impunity which can provide fertile ground for further such attacks.



*A mob of Muslim men take part in a violent protest against Christians on the street in Gojra town in Pakistan's central Punjab province 1 August 2009. Six Christians, including four women, were burnt alive in clashes with majority Muslims in a town in central Pakistan on Saturday, officials said. © REUTERS/Fayyaz Hussain*

<sup>233</sup> See Asif Aqeel, “Pakistan: Christian woman refuses to leave home after blasphemy accusation”, *World Watch Monitor*, 25 May 2016, available at [www.worldwatchmonitor.org/2016/05/4477183/](http://www.worldwatchmonitor.org/2016/05/4477183/)

<sup>234</sup> Amnesty International interview with Saleem ud Din, April 2015.

<sup>235</sup> Amnesty International interview with police officers, March and June 2015.

<sup>236</sup> Amnesty International interview with police officers, March and June 2015.

<sup>237</sup> “Army called in Jhelum after Ahmadi place of worship, factory burnt over ‘blasphemy’”, *The Daily Times*, 22 November 2015, available at [www.dailytimes.com.pk/national/22-Nov-2015/army-called-in-jhelum-after-ahmadi-place-of-worship-factory-burnt-over-blasphemy](http://www.dailytimes.com.pk/national/22-Nov-2015/army-called-in-jhelum-after-ahmadi-place-of-worship-factory-burnt-over-blasphemy)

# 5. INTERNATIONAL LAW AND STANDARDS

**“Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant [ICCPR]...”<sup>238</sup>**

United Nations Human Rights Committee.

Within Pakistan, there have been attempts to propose reforms and institute procedural safeguards against the misuse of blasphemy laws. However, such initiatives where they do exist have been forced to back down due to threats, intimidation and blasphemy allegations levelled against them.

For example, in December 2010, in her capacity as a member of the National Assembly from the Pakistan People’s Party (PPP), Sherry Rehman proposed a private member’s bill in the National Assembly.<sup>239</sup> After consulting with lawyers, academics and civil society the Jinnah Institute, a think tank of which she is founding Chair, drafted a bill “with the intention of preventing miscarriages of justice” in blasphemy cases.<sup>240</sup> However, Rehman was forced to stop her efforts when she began receiving death threats following the murder of Salmaan Taseer in 2011.<sup>241</sup>

Prime Minister Yousuf Raza Gilani, also from the PPP, announced that no amendment in the law could be considered – he disbanded a committee set up to determine how to amend the laws.<sup>242</sup> Furthermore, the Speaker of Parliament did not admit Sherry Rehman’s bill on to the agenda for discussion in the National Assembly.<sup>243</sup>

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<sup>238</sup> UN Human Rights Committee. General Comment 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, (2011), para. 48, available at [www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf)

<sup>239</sup> See copy of the bill at Jinnah Institute, Amendments to the Blasphemy Laws Act 2010, 30th November, 2010, available at [www.jinnah-institute.org/images/amendments%20to%20the%20blasphemy%20laws%20act%202010.pdf](http://www.jinnah-institute.org/images/amendments%20to%20the%20blasphemy%20laws%20act%202010.pdf) (hereinafter: Jinnah Institute, Amendments to the Blasphemy Laws Act 2010)

<sup>240</sup> Jinnah Institute, Briefing Pack: Amendments to the Blasphemy Laws Act 2010, 30 November 2010, p. 7, available at [www.jinnah-institute.org/images/ji%20briefing%20pack%20amendments%20to%20the%20blasphemy%20laws.pdf](http://www.jinnah-institute.org/images/ji%20briefing%20pack%20amendments%20to%20the%20blasphemy%20laws.pdf)

<sup>241</sup> Declan Walsh, “Sherry Rehman, Pakistan’s defiant prisoner of intolerance, vows to stay put,” *The Guardian*, 23 January 2011, available at [www.guardian.co.uk/world/2011/jan/23/sherry-rehman-pakistan-blasphemy?INTCMP=SRCH](http://www.guardian.co.uk/world/2011/jan/23/sherry-rehman-pakistan-blasphemy?INTCMP=SRCH) and “Pakistan MP drops effort to repeal blasphemy laws”, *BBC*, 3 February 2011, available at [www.bbc.co.uk/news/world-south-asia-12355001](http://www.bbc.co.uk/news/world-south-asia-12355001) (hereinafter: “Pakistan MP drops effort to repeal blasphemy laws”, *BBC*).

<sup>242</sup> “Pakistan MP drops effort to repeal blasphemy laws”, *BBC*.

<sup>243</sup> “Pakistan MP drops effort to repeal blasphemy laws”, *BBC*.



*Pakistani civil society activists light candles in front of a portrait of the slain governor of Punjab, Salmaan Taseer during a candlelight vigil on 7 January 2011 in Lahore in memory of his life. Taseer, one of the country's most outspoken voices against religious extremism, was shot dead by a member of his own security outside an Islamabad cafe in broad daylight on January 4. © AFP PHOTO/ARIF AL Arif Ali/AFP/Getty Images*

In 2015, there were reports in the media that the government would be proposing a draft bill with amendments to parts of the blasphemy laws in order to prevent their “misuse.”<sup>244</sup> In December 2015, the then Minister of State and Special Assistant to the Prime Minister on Human Rights, Zafarullah Khan, was reported in the media as saying that in the new draft bill, punishment had been proposed for those who lodge false First Information Reports and for those who take the law into their own hands.<sup>245</sup> The bill has not, at the time of publication, been made public. Since current provisions under the Pakistan Penal Code already criminalize fabricating or giving false evidence, it is unclear why the government would be introducing a new law with the same purpose.<sup>246</sup>

In August 2016, the Senate Human Rights Committee held a meeting at the Parliament House where they agreed on the need for measures stopping the misuse of the blasphemy laws. Pakistan’s newly formed National Human Rights Commission has additionally drawn up recommendations aimed at curtailing the misuse of the Blasphemy laws which it presented at this meeting. However, it is not yet clear what the timeline is for these recommendations to be implemented.

The government must acknowledge that the laws in themselves are fundamentally incompatible with Pakistan’s international human rights obligations and take appropriate steps towards their abolition. These efforts to prevent the “misuse” of existing blasphemy laws are welcome but do not go far enough.

## INTERNATIONAL LAW AND STANDARDS

<sup>244</sup> See for example, Azam Khan “Penalties proposed for false accusers of blasphemy”, *The Express Tribune*, 27 May 2015, available at <http://tribune.com.pk/story/892895/blasphemy-law-penalties-proposed-for-false-accusers/>

<sup>245</sup> APP, “Govt ready to begin blasphemy law makeover, says PM's aide”, *Pakistan Today*, 24 December 2015, available at [www.pakistantoday.com.pk/2015/12/24/national/govt-ready-to-begin-blasphemy-law-makeover-says-pms-aide/](http://www.pakistantoday.com.pk/2015/12/24/national/govt-ready-to-begin-blasphemy-law-makeover-says-pms-aide/)

<sup>246</sup> Section 192 of the Pakistan Penal Code, available at [www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf](http://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf)

The principal legal framework for Pakistan's international rights obligations in relation to the protection of human rights is the International Covenant on Civil and Political Rights (ICCPR), which Pakistan signed in 2008 and ratified in 2010. By becoming party to the ICCPR, Pakistan has voluntarily made a commitment to respect, protect and fulfil these rights and to put in place the necessary legislative, judicial, administrative and other measures, including by making changes to existing national laws and adopting such new laws or other measures as may be necessary to fulfil these obligations and give effect to the rights recognized in that treaty. These include in particular the rights to: freedom of opinion and expression; freedom of thought, conscience, and religion or belief; the right to life; equality before the law and freedom from discrimination; to fair trial; and the prohibition on arbitrary detention.

As a state party to the ICCPR, Pakistan must respect and protect these rights. It must ensure that all individuals within its territory and subject to its jurisdiction are protected against violations of these rights by its own agents as well as against acts committed by non-state actors (bodies or individuals) that would impair the enjoyment of those rights.<sup>247</sup>

While it may be permissible for states to impose certain restrictions on the exercise of certain rights under the ICCPR, any such restrictions are permissible only for the purpose of protecting certain specified public interests (national security or public safety, public order, health or morals), or ensuring respect for the rights of others; they must be provided by a precisely formulated law which complies with human rights; and must be demonstrably necessary and proportionate to the stipulated purpose.

The UN Human Rights Committee, the body of independent experts established under the ICCPR to monitor states parties' compliance with its provisions, has underlined that the permissibility of such restrictions must be strictly interpreted, and in particular that restrictions may not be applied in a discriminatory manner. It has specifically stressed that any limitations for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition, since the concept of morals derives from many social, philosophical and religious traditions; any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.<sup>248</sup>

In any case where such restrictions are imposed, the authorities must demonstrate the precise nature of the threat the restriction is intended to address, how it relates to the right being restricted, and the necessity and proportionality of the specific restriction. Restrictions must not be overly broad – they must conform to the principle of proportionality and be the least intrusive option for the stated purpose. This principle must apply to the law that frames the restrictions and to how they are applied, which must not be done in a manner that would impair the essence of the right.<sup>249</sup>

## 5.1 FREEDOM OF OPINION AND EXPRESSION

The blasphemy laws and their implementation violate Pakistan's obligation to respect and protect the right to freedom of opinion and expression, set out in Article 19 of the ICCPR. Article 19(1) of the ICCPR states that everyone has the right to hold opinions without interference. Article 19(2) states that everyone has the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds through any media. Under Article 19(3), certain restrictions may be imposed on the exercise of the right to freedom of expression (but not the right to freedom of opinion), but only if such restrictions meet the strict

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<sup>247</sup> UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004), para. 8, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en)

<sup>248</sup> UN Human Rights Committee General Comment 22, HRI/GEN/1/Rev.1 at 35, (1994), para. 8, available at [www1.umn.edu/humanrts/gencomm/hrcom22.htm](http://www1.umn.edu/humanrts/gencomm/hrcom22.htm) and UN Human Rights Committee. General Comment 34, Article 19: Freedoms of Opinion and Expression, CCPR/C/GC/34, (2011), para. 32, available at [www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf)

<sup>249</sup> UN Human Rights Committee General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, (2004), para. 6, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en) and UN Human Rights Committee. General Comment 34, Article 19: Freedoms of Opinion and Expression, CCPR/C/GC/34, (2011), paras 24-35, available at [www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf)

test of being provided by law and demonstrably necessary and proportionate for one of the specific legitimate purposes which are permissible under international law.

The UN Human Rights Committee, in its General Comment on freedoms of opinion and expression, has expressly stated that “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant [ICCPR], except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant.”<sup>250</sup> Article 20(2) of the ICCPR requires that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, shall be prohibited by law.”<sup>251</sup>

The prohibition set out in Article 20(2) of the ICCPR applies to advocacy of hatred against persons constituting incitement, and does not apply to blasphemy, which relates to ideas, such as religious beliefs or sacred symbols. In any event, the blasphemy prohibitions in Pakistan’s blasphemy laws are not directed towards prohibiting advocacy of hatred constituting incitement.

While “protection of the rights of others” is one of the permissible reasons for which states may, where necessary and proportionate and provided by law, impose certain restrictions on certain human rights, including on freedom of expression and on manifestation of religious belief, this does not include protection of others’ religious sensibilities. The UN Special Rapporteur on freedom of expression has underlined that limitations on the right to freedom of expression were “designed in order to protect individuals against direct violations of their rights” and “not designed to protect belief systems from external or internal criticism.”<sup>252</sup> Similarly, the UN Special Rapporteurs on freedom of religion and on racism and related intolerance,<sup>253</sup> as well as the 2012 Rabat Plan of Action, underline that “the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or a belief that is free from criticism or ridicule.”<sup>254</sup>

This report contains numerous examples of cases where people have been attacked, threatened and in some cases killed because of statements they have made or their perceived opinions or actions, such as Shama and Shahzad Masih in section 4.2 and Rashid Rehman in section 3.3. The right to freedom of expression includes the right of everyone to strongly criticize and object to the views, statements, or actions of others with whom they disagree. However, Article 5(1) of the ICCPR states that “nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.”<sup>255</sup> In line with their obligation to respect and protect the right to freedom of expression, the Pakistani authorities should take effective measures to protect against attacks aimed at those exercising their right to freedom of expression and freedom of religion or belief.

## 5.2 FREEDOM OF RELIGION OR BELIEF

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<sup>250</sup> UN Human Rights Committee. General Comment 34, Article 19: Freedoms of Opinion and Expression, CCPR/C/GC/34, (2011), para. 48, available at [www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf)

<sup>251</sup> Article 20(2) of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>252</sup> Report of the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, A/HRC/7/14, (2008), para. 85, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/112/10/PDF/G0811210.pdf?OpenElement>

<sup>253</sup> Report of the UN Special Rapporteur on Freedom of Religion or Belief and the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/HRC/2/3, (2006), para. 36, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/139/90/PDF/G0613990.pdf?OpenElement>

<sup>254</sup> The Rabat Plan of Action was the outcome document of a worldwide consultative process in 2011-12 organized by the UN High Commissioner for Human Rights (OHCHR) involving three UN Special Rapporteurs (on freedom of opinion and expression; on freedom of religion or belief; on racism, racial discrimination, xenophobia and related intolerance) and over 45 experts on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. For full document, see Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, A/HRC/22/17/Add.4, (2012), para. 19, available at [www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf)

<sup>255</sup> Article 5(1) of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

Section 2.1 of this report included the case of four Ahmadiyya men charged under the blasphemy laws for disseminating a newspaper and magazine printed and distributed exclusively by, and for, people of the Ahmadiyya community. While the men were acquitted of the charges by the trial court, representatives of the Ahmadiyya community in Pakistan have reported to Amnesty International that similar charges have been levelled against the same men in a new case. That trial was still ongoing at the time of writing.

The case is illustrative of how blasphemy laws violate international human rights law on freedom of religion or belief, for example by making it an offence for members of the Ahmadiyya faith to preach or propagate their faith. Article 18 of the ICCPR states that the right to freedom of thought, conscience and religion includes the freedom to have or adopt a religion or belief of one's choice, which entails also the right to choose or to change religion or belief, as well as the freedom to manifest that religion or belief individually or in community with others, in private or public through worship, observance, practice and teaching.<sup>256</sup> The UN Human Rights Committee states that the terms "belief" and "religion" are to be broadly construed to include theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief, and should not be limited to traditional religions or beliefs.<sup>257</sup>

No limitations whatsoever are permitted on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice; these freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference.<sup>258</sup> Article 18(3) of the ICCPR permits restrictions on the freedom to manifest religion or belief only if they are prescribed by law and are demonstrably necessary and proportionate to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The Human Rights Committee has stressed that this provision must be strictly interpreted, as noted above.<sup>259</sup>

States have an obligation to respect the right to freedom of thought, conscience and religion or belief, and to protect that right against acts committed by non-state actors that would impair the enjoyment of the right. But as noted above (section 5.1) the right to freedom of religion or belief does not include the right to have a religion or belief that is free from criticism or ridicule.<sup>260</sup> Accordingly, the protection of the right to freedom of religion cannot be a legitimate basis for interfering with the exercise of others' rights to freedom of expression or freedom of religion or belief. Moreover, in recommending the repeal of blasphemy laws, the 2012 Rabat Plan of Action has noted that "such laws have a stifling impact on the enjoyment of freedom of religion or belief and healthy dialogue and debate about religion."<sup>261</sup>

## 5.3 THE RIGHT TO EQUALITY AND NON-DISCRIMINATION

The right to equality before the law and the protection of all persons against discrimination is set out in Articles 2 and 26 of the ICCPR. Article 2 stipulates that states have an obligation to ensure all the rights in the ICCPR without distinction of any kind, including on grounds of religion, and Article 26 states that all people are entitled without any discrimination to equal protection of the law.<sup>262</sup> The UN Human Rights Committee has stressed that special restrictions on the practice of faiths other than the established or state

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<sup>256</sup> UN Human Rights Committee, General Comment 22, The Right to Freedom of Thought, Conscience and Religion (Article 18), CCPR/C/21/Rev.1/Add.4, (1994) para. 5, available at [www1.umn.edu/humanrts/gencomm/hrcom22.htm](http://www1.umn.edu/humanrts/gencomm/hrcom22.htm)

<sup>257</sup> UN Human Rights Committee, General Comment 22, The Right to Freedom of Thought, Conscience and Religion (Article 18), CCPR/C/21/Rev.1/Add.4, (1994), para. 2, available at [www1.umn.edu/humanrts/gencomm/hrcom22.htm](http://www1.umn.edu/humanrts/gencomm/hrcom22.htm)

<sup>258</sup> UN Human Rights Committee, General Comment 22, The Right to Freedom of Thought, Conscience and Religion (Article 18), CCPR/C/21/Rev.1/Add.4, (1994), para. 3, available at [www1.umn.edu/humanrts/gencomm/hrcom22.htm](http://www1.umn.edu/humanrts/gencomm/hrcom22.htm)

<sup>259</sup> Article 18(3) of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>260</sup> Report of the UN Special Rapporteur on Freedom of Religion or Belief and the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/HRC/2/3, (2006), para. 36, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/139/90/PDF/G0613990.pdf?OpenElement> See also UN Human Rights Council Addendum to the report of the UN High Commissioner for Human Rights, A/HRC/22/17/Add.4, (2013), para. 19, available at [www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-17-Add4\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-17-Add4_en.pdf)

<sup>261</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, (2012), p. 5, available at [www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf)

<sup>262</sup> See Articles 2 and 26 of the International Covenant of Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

religion, or the religion practised by the majority of the population, breach the ICCPR's prohibition of discrimination based on religion or belief and the guarantee of equal protection.<sup>263</sup>

The right to non-discrimination applies not only to actions by state authorities. It also places a positive obligation on states to exercise due diligence to protect against discrimination by non-state actors. Of particular relevance to this report is the obligation on the state to prevent, investigate, and punish crimes motivated by discrimination, such as the attacks described in Section 4 of this report.

## 5.4 THE RIGHT TO LIFE

Article 6 of the ICCPR underlines that everyone has the inherent right to life, which must be protected by law, and that no one shall be arbitrarily deprived of their life. While it does not categorically prohibit the use of the death penalty in all circumstances, it states that provisions in the Article should not be used to “delay or to prevent the abolition of capital punishment”<sup>264</sup>, and the Human Rights Committee has underlined that Article 6 “refers generally to abolition [of the death penalty] in terms which strongly suggest... that abolition is desirable.”<sup>265</sup> It also places stringent restrictions on any use of the death penalty, with an explicit stipulation in Article 6(2) that “in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes.”<sup>266</sup> The UN Human Rights Committee has underlined that “the expression ‘most serious crimes’ must be read restrictively to mean that the death penalty should be a quite exceptional measure.”<sup>267</sup> The UN Safeguards guaranteeing protection of the rights of those facing the death penalty recommend that crimes punishable by death should “not go beyond intentional crimes with lethal or other extremely grave consequences.”<sup>268</sup> In this regard the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has clarified that the death penalty “may be imposed only for those crimes that involve intentional killing.”<sup>269</sup> The offence of blasphemy clearly falls outside this very narrow category, and this has recently been explicitly underlined by the UN Secretary-General.<sup>270</sup>

According to relevant international standards, the death penalty must not be imposed on people with mental (psychosocial) or intellectual disabilities, as discussed earlier in this report in the case of Ahmed Khan (pseudonym). This includes people who have developed mental disabilities after being sentenced to death.<sup>271</sup> In commenting on a recent case of a person with serious mental illness and facing execution, the

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<sup>263</sup> UN Human Rights Committee, General Comment 22, The Right to Freedom of Thought, Conscience and Religion (Article 18), CCPR/C/21/Rev.1/Add.4, para. 9, available at [www1.umn.edu/humanrts/gencomm/hrcom22.htm](http://www1.umn.edu/humanrts/gencomm/hrcom22.htm)

<sup>264</sup> Article 6(6) of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>265</sup> UN Human Rights Committee, General Comment 6, Sixteenth Session (1982), in Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, HRI/GEN/1/Rev.6, (2003), Article 6, para. 6, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G03/417/03/PDF/G0341703.pdf?OpenElement>

<sup>266</sup> Article 6(2) of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>267</sup> UN Human Rights Committee, General Comment 6, Sixteenth Session (1982), in Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, HRI/GEN/1/Rev.6, (2003), Article 6, para. 7, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G03/417/03/PDF/G0341703.pdf?OpenElement>

<sup>268</sup> UN Economic and Social Council, UN Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by Economic and Social Council resolution 1984/50 of 25 May 1984, Safeguard No. 1., available at [www.unodc.org/documents/commissions/CCPCJ/Crime\\_Resolutions/1980-1989/1984/ECOSOC\\_Resolution\\_1984-50.pdf](http://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1980-1989/1984/ECOSOC_Resolution_1984-50.pdf)

<sup>269</sup> Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, (A/67/275), 9 August 2012, para.122, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/457/80/PDF/N1245780.pdf?OpenElement>

<sup>270</sup> “In some countries, conversion from Islam or the renunciation of Islam is considered apostasy and a capital crime. The death penalty has also been extended on the basis of sharia law to cases of blasphemy. According to international human rights jurisprudence, none of those crimes meets the threshold of ‘most serious crimes.’” See UN Human Rights Council, Questions of the Death Penalty: Report of the Secretary General, 30 June 2014, available at [www.ohchr.org/EN/HRBodies/HRC/.../A\\_HRC\\_27\\_23\\_ENG.doc](http://www.ohchr.org/EN/HRBodies/HRC/.../A_HRC_27_23_ENG.doc)

<sup>271</sup> UN Safeguard No.3 in Economic and Social Council resolution 1984/50 of 25 May 1984, available at [www.unodc.org/documents/commissions/CCPCJ/Crime\\_Resolutions/1980-1989/1984/ECOSOC\\_Resolution\\_1984-50.pdf](http://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1980-1989/1984/ECOSOC_Resolution_1984-50.pdf) and UN Commission on Human Rights resolution 2005/59, E/CN.4/RES/2005/59, (2005), para. 7(c), available at [ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2005-59.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-59.doc) See also UN Human Rights Committee: Concluding Observations: USA, CCPR/C/USA/CO/3/Rev.1, (2006), para. 7, available at [www.state.gov/documents/organization/133837.pdf](http://www.state.gov/documents/organization/133837.pdf) See also Concluding Observations: Japan, CCPR/C/JPN/CO/5, (2008), para. 16, available at [www2.ohchr.org/english/bodies/hrc/docs/co/CCPR-C-JPN-CO.5.doc](http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR-C-JPN-CO.5.doc) and Sahadath v Trinidad and Tobago, CCPR/C/74/D/684/1996, (2002), para. 7.2, available at [http://ccprcentre.org/doc/2013/05/CCPR\\_C\\_74\\_D\\_684\\_1996.pdf](http://ccprcentre.org/doc/2013/05/CCPR_C_74_D_684_1996.pdf)

See also Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the second periodic report of Japan, CAT/C/JPN/CO/2, (2013), para. 15, available at

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated the view that the execution of persons who are mentally disabled is a violation of a norm of customary international law.<sup>272</sup>

The UN Human Rights Committee has stated that the imposition of a death sentence after a trial which does not comply with standards for fair trial set out in the ICCPR (see below) is a violation of the right to life.<sup>273</sup> Likewise, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has underlined that “it is arbitrary to impose the death penalty where the proceedings do not adhere to the highest standards of fair trial.”<sup>274</sup>

Furthermore, under Pakistani law the death penalty is the mandatory punishment for those convicted of blasphemy under Section 295-C. The UN Human Rights Committee has stated that the automatic and mandatory imposition of the death penalty, which does not allow judges the possibility of taking into account the personal circumstances of the defendant or the circumstances of the particular offence, constitutes an arbitrary deprivation of life in violation of Article 6(1) of the ICCPR.<sup>275</sup>

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or the circumstances of the crime; the guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution.

The obligation to protect the right to life also places a positive obligation on the state to protect against threats to life by non-state actors who commit violence in the name of religion. This includes protecting people in detention against threats to life by a mob – as in the case of Ghulam Abbas (Section 3.1) – or from prison custody officers, as in the case of Hadier Tufail Naqvi (Section 3.1). The state authorities must exercise due diligence to prevent such attacks and, if such attacks take place, must ensure they are the subject of a prompt, impartial, thorough investigation. Where there is sufficient admissible evidence, suspected perpetrators should be prosecuted in fair trials without recourse to the death penalty, victims must receive adequate reparations, and effective steps taken to prevent any recurrence.

## 5.5 THE RIGHT TO FAIR TRIAL

The right to a fair trial is one of the universally applicable guarantees recognized in the Universal Declaration of Human Rights; it has become legally binding on all states as part of customary international law and has been reaffirmed and elaborated in legally binding treaties, including the ICCPR, and in non-treaty standards adopted by the UN and by regional intergovernmental bodies. The elements of the right to fair trial set out in the ICCPR and other human rights standards were drafted to apply to legal systems throughout the world and take into account the rich diversity of legal procedures – they set out the minimum guarantees that all systems should provide to ensure justice, respect for the rule of law and respect for the right to fair criminal proceedings. They apply to investigations, arrests and detention, as well as throughout pre-trial proceedings, trial, appeal, sentencing and punishment.

Amnesty International considers those imprisoned for blasphemy to be prisoners of conscience, who must be immediately and unconditionally released, with the charges or other proceedings against them dropped and any convictions for blasphemy quashed. Many have been arrested because false allegations were

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<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRICAqhKb7yhsrScoeR4Xk3TEyU8woKJcMc67izgYEczInnF4wA%2F4bM72piRpB6el10y7vaU9dlef3wDzJC6pPGyvm7LQHPaOrT6s%2BbUBncNT3%2B4d74uD3A7>

<sup>272</sup> Report of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/HRC/28/68/Add.1, (2015), para. 607, in connection with a case in the USA, available at [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx)

<sup>273</sup> UN Human Rights Committee, General Comment 32, CCPR/C/GC/32, (2007), para. 59, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GC/32](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GC/32) See also UN Human Rights Committee, *Maryam Khalilova v Tajikistan*, Views of the Human Rights Committee, CCPR/C/83/D/973/2001, (2005), para. 7.6, available at [www1.umn.edu/humanrts/undocs/973-2001.html](http://www1.umn.edu/humanrts/undocs/973-2001.html)

<sup>274</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/67/275, (2012), para. 25 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/457/80/PDF/N1245780.pdf?OpenElement>

<sup>275</sup> See UN Human Rights Committee, *Pagdayawon Rolando v Philippines*, Views of the Human Rights Committee, CCPR/C/82/D/1110/2002, (2004), para. 5.2, available at [www1.umn.edu/humanrts/undocs/html/1110-2002.html](http://www1.umn.edu/humanrts/undocs/html/1110-2002.html)

registered against them at the outset. Amnesty International also has concerns that the proceedings in blasphemy cases have often failed to meet international fair trial standards.

Article 9 of the ICCPR sets out safeguards specifically applicable to pre-trial detention.<sup>276</sup> Article 14 of the ICCPR sets out essential elements of fair trial.<sup>277</sup> These include the right of anyone facing a criminal charge to a fair and public hearing by a competent, independent and impartial tribunal; the right to be presumed innocent until proved guilty; the right to be informed promptly and in detail in a language which they understand of the nature and cause of the charges against them; the right to be tried without undue delay, with adequate time and facilities to prepare a defence; the right to communicate with counsel of their choice; the right to free legal assistance for those accused and unable to pay for it; the right to examine witnesses for the prosecution and to present witnesses for the defence; the right to free assistance of an interpreter if necessary; the right not to be compelled to testify against themselves or to confess guilt; and the right to appeal to a higher court, with a ruling on the appeal within a reasonable time.<sup>278</sup>

Amnesty International is concerned that in a number of the illustrative cases documented in Section 4 of this report there were violations of the right to a fair trial. For example, Hamza Javed's (pseudonym) father told Amnesty International about the difficulties he faced when trying to obtain a lawyer to represent his son who was charged under Section 295-C of the blasphemy laws. Another law firm received threats in response to their work on a blasphemy case. Religious groups and privately hired lawyers by complainants in blasphemy cases are able to pack courtrooms during hearings, creating an intimidating atmosphere for the accused and their lawyers as seen in Asia Noreen's case (see Section 3.1) as well as for judges overseeing the trial. According to the UN Human Rights Committee "a hearing is not fair if the defendant in criminal proceedings is faced with the expression of a hostile attitude or support for one party in the courtroom that is tolerated by the court, thereby impinging on the right to defence."<sup>279</sup>

## 5.6 THE PROHIBITION OF ARBITRARY DETENTION

Article 9 of the ICCPR provides that everyone has the right to liberty and security of person and that no one shall be subjected to arbitrary arrest or detention.<sup>280</sup>

The UN Human Rights Committee has stated that arrest or detention as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of expression and freedom of religion or belief; arrest or detention on discriminatory grounds; imprisonment after a manifestly unfair trial; and detention of family members of an alleged offender who are not themselves accused of any wrongdoing, violate the prohibition on arbitrary arrest or detention.<sup>281</sup>

Amnesty International considers that individuals who are detained or imprisoned solely because they have been accused or convicted of breaching laws which criminalize the peaceful exercise of the right to freedom of opinion and expression or freedom of thought, conscience or religion or belief, are prisoners of conscience, and calls for them to be immediately and unconditionally released.

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<sup>276</sup> See Article 9 of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>277</sup> See Article 9 of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>278</sup> For a detailed examination of international law and standards on the right to fair trial, see Amnesty International, *Fair Trial Manual*, Second Edition (Index: POL 30/002/2014), available at [www.amnesty.org/en/documents/POL30/002/2014/en/](http://www.amnesty.org/en/documents/POL30/002/2014/en/)

<sup>279</sup> Amnesty International, *Fair Trial Manual*, Second Edition (Index: POL 30/002/2014), pp. 118-119, available at [www.amnesty.org/en/documents/POL30/002/2014/en/](http://www.amnesty.org/en/documents/POL30/002/2014/en/) See also UN Human Rights Committee General Comment 32, CCPR/C/GC/32, (2007) para. 25, available at

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f32&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f32&Lang=en)

<sup>280</sup> See Article 9 of the International Covenant on Civil and Political Rights, available at <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>281</sup> UN Human Rights Committee, General Comment 35, paras 16-17, available at

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en)

See also UN Working Group on Arbitrary Detention: Deliberation No. 9 Concerning the Definition and Scope of Arbitrary Deprivation of Liberty Under Customary International Law, Report of the Working Group on Arbitrary Detention, A/HRC/22/44, (2012), available at [www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.44\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.44_en.pdf)

# 6. RECOMMENDATIONS

This report demonstrates that Pakistan's blasphemy laws violate its international legal obligations to respect and protect the rights to life; freedom of thought, conscience, and religion or belief; freedom of opinion and expression; equality before the law; and the prohibition of discrimination, and the right to life.

As such, the blasphemy laws must be repealed and any new legislation must be fully compliant with international law and standards. Pending such a repeal, the Pakistan authorities must urgently put in place effective procedural and institutional safeguards at the investigative, prosecutorial and judicial levels to prevent the abusive use of these laws. The authorities must also ensure that anyone prosecuted receives a fair trial, with no recourse to the death penalty.

Amnesty International calls on the Pakistan authorities to take urgent steps to bring an end to these violations. Our recommendations are listed below:

## TO THE PARLIAMENT OF PAKISTAN

- Repeal sections 295, 295-A, 295-B, 295-C, 298-A, 298-B and 298-C of the Penal Code 1860, also known as the blasphemy laws.
- Pending full abolition of the death penalty, repeal without delay the death penalty for convictions under Section 295-C.
- Establish a moratorium on all executions and commute all death sentences that have already been imposed.
- Remove Sections 295-A and 298-A from the list of scheduled offences under the Anti-Terrorism Act 1997.

As an interim measure leading up to the repeal of Pakistan's blasphemy laws, and to mitigate the risk of continued human rights violations due to the laws, Amnesty International calls on the Parliament of Pakistan to:

- Make all blasphemy offences non-cognizable so that police cannot arrest a person accused of blasphemy or investigate the allegations without a warrant issued by a court.
- Amend Section 196 of the Code of Criminal Procedure 1898 so that the First Information Report in all blasphemy cases are registered only after permission being granted by the concerned government before the courts can take cognizance of them.
- Extend the scope of section 196-B of the Code of Criminal Procedure to all sections of the blasphemy laws so that a District Magistrate will have the authority to order a police inspector to conduct a preliminary investigation following allegations. As part of the preliminary investigation, the police and District Magistrate should be required also to look into any possible ulterior motives behind the complainant's allegations. Any proceedings against an individual should be terminated if it emerges

in the course of the investigation that the allegations are malicious, or made for ulterior motives, or have no basis in law or in fact.

- Amend section 156-A of the Code of Criminal Procedure (investigation of 295-C by a police officer not below the rank of a Superintendent of Police) to extend its scope to apply to all blasphemy-related offences, including in particular sections 295, 295-A, 295-B, 296, 297, 298-A, 298-B and 298-C of the Penal Code, with a view to preventing prosecutions based on false and malicious complaints and/or where there is insufficient evidence.
- Remove the requirement under the Code of Criminal Procedure that only Muslim judges preside over trials involving offences under section 295-C.
- Amend Schedule II of the Code of Criminal Procedure to make all blasphemy-related offences bailable, with a presumption of release pending trial. Bail should only be denied where there are substantial reasons for believing that an individual's release would interfere with the course of justice.

## **TO THE FEDERAL GOVERNMENT OF PAKISTAN**

- Ensure the immediate and unconditional release of all persons deprived of liberty (whether awaiting trial or following conviction) solely for peacefully exercising their rights to freedom of expression and freedom of thought, conscience, religion or belief. Amnesty International considers these persons to be prisoners of conscience. The authorities should also drop charges against all those who are awaiting trial under the blasphemy laws.
- Government authorities should publicly and without reservation condemn acts of violence, threats and intimidation, and hate crimes purportedly justified in the name of religion, including incitement to such acts. They must also ensure that effective measures are put in place to prevent a recurrence of these acts. Any allegations of such acts must be promptly and thoroughly investigated by an independent and impartial authority. Where there is sufficient admissible evidence, those suspected of responsibility must be prosecuted in fair trials without recourse to the death penalty.
- Ensure, with input from all sections of civil society, the development and implementation of comprehensive programmes of public education that, among other things, promote the values of tolerance, non-discrimination and respect for human rights, with a view to creating an atmosphere in which dialogue among a diversity of beliefs is permitted, encouraged and valued.
- Demonstrate a commitment to respect and protect freedom of expression and freedom of religion or belief by extending an invitation to the UN Special Rapporteur on freedom of opinion and expression, and the UN Special Rapporteur on freedom of religion or belief to visit Pakistan. Ensure the Special Rapporteurs are granted unimpeded access to all relevant locations and are able to meet freely with a wide range of stakeholders, including victims, civil society organizations and senior state officials at all levels.

## **TO THE PROVINCIAL GOVERNMENTS OF PAKISTAN**

- Immediately ensure the effective implementation in practice of Section 156-A of the Code of Criminal Procedure, which provides that no police officer below the rank of a Superintendent of Police shall investigate complaints under Article 295-C of the Penal Code. Section 156-A should be amended so that the requirement also applies to all other blasphemy offences (see also recommendation to the parliament of Pakistan regarding section 156-A above).
- Take all necessary steps to ensure police, prosecutors, judges and all other officials responsible for the administration of justice in blasphemy cases are effectively protected against threats and intimidation.
- In all investigations of blasphemy allegations, constitute a team of investigators that reports directly to the highest level of the provincial government, to work alongside the Superintendent of Police to mitigate the risk of intimidation and pressure from the complainant or others. The investigation team could be composed of multiple investigators and could include senior police officers and officers of the district commissioner and/or district provincial officers. Where appropriate, the investigation could

be carried out by officials from a different district to that where the incident took place. All members of the investigative team should be aware of Pakistan's obligations under international human rights law and committed to their implementation.

- When investigating allegations of blasphemy, investigators should be required also to look into any other possible motives behind the complainants' allegations. They should terminate investigations if it emerges in the course of carrying them out that the allegations are malicious or made for other motives, or have no basis in law or in fact.
- Prosecutors should diligently scrutinize the evidence collected by the police or other investigators and look into any other possible motives behind the complainants' allegations. They must withdraw from the prosecution if it emerges that the allegations are malicious or made for other motives, or have no basis in law or in fact.
- Law enforcement authorities should ensure effective protection against violence purportedly justified in the name of religion, and threats and intimidation against individuals accused of blasphemy and their families, lawyers and judges involved in blasphemy cases, the places of worship of religious minorities, and any others who may be targeted in this way. Law enforcement authorities should be adequately resourced and given the necessary specialist training to carry out this task.
- Initiate an immediate and independent review of all cases where there is evidence or credible claims that individuals who have been sentenced to death have mental or intellectual disabilities, including those who have developed such disabilities or after being sentenced. Any blasphemy proceedings against these individuals should be ceased or stayed. Commute all death sentences imposed on individuals suffering from these disabilities or disorders.
- Provincial assemblies should enact legislation to protect witnesses in blasphemy cases. The Provincial authorities should ensure the legislation is effectively implemented.

## **TO THE JUDICIARY, LAW ENFORCEMENT AUTHORITIES AND PROSECUTORS**

- Anyone investigated or charged with a blasphemy offence must benefit from all procedural rights which states are obliged to respect under international law.
- Police, prosecutors, judges and all other officials who are part of the justice system must carry out their duties impartially and ensure that their conduct is not influenced by religious or other beliefs.
- Prosecuting and investigating authorities must carry out their functions independently, impartially and objectively, in a manner that respects and protects human rights without discrimination. When an impartial investigation shows a charge to be unfounded, prosecutors must not initiate or continue prosecution, or must make every effort to pause or stop proceedings.
- The relevant judicial bodies should ensure that judicial codes of conduct and the UN Principles on the Independence of the Judiciary are widely disseminated among judges and become part of their training, along with guidance on how judges should address the problems typically associated with blasphemy cases such as lack of independence and impartiality caused by religious beliefs, political ideology or intimidation or other interference from state or non-state actors.
- Relevant judicial bodies should ensure that judges are aware of their obligation to recuse themselves from participating in any proceedings where they are unable to decide the matter independently or impartially, or where it may appear to a reasonable observer that they would likely be unable to do so, particularly because of their religious beliefs, political views, or external influences.
- Police, prosecutors and members of the judiciary should be required to have thorough knowledge of Pakistan's obligations under international human rights law, including through ongoing professional training, so that they carry out their duties in a manner that fully respects human rights and protects individuals from human rights abuses by third parties.
- Police, lawyers and judges should be trained to identify people who may have mental or intellectual disabilities or other disabilities and should refer them for an expert assessment with a view to diverting them out of the criminal justice system and ensuring that they have access to appropriate health care and treatment on a basis of consent.

- Police, prosecutorial and judicial authorities must ensure that, from the outset, proceedings in blasphemy cases are conducted in a manner that respects the fair trial rights of the accused and fully complies with international law and standards on fair trial, including the principle of presumption of innocence.
- Individuals accused of blasphemy offences must, from the outset of any investigation and throughout the proceedings, be able to avail themselves of competent legal assistance and representation by a lawyer of their choice. They should not be charged for the services of a lawyer if they do not have the ability to pay. Accused individuals must have adequate time and facilities to prepare their defence. The authorities must ensure that the confidentiality of communications between the accused and their lawyer is respected at all times.
- Children accused of blasphemy must be dealt with in a manner that reflects the fact that children differ from adults in their physical, and psychological development. Any proceedings involving children must be treated according to the principles of juvenile justice in a system which ensures respect for the best interests of the child.

#### **TO THE INTERNATIONAL COMMUNITY INCLUDING THE UNITED NATIONS (UN) AND THE EUROPEAN UNION (EU) INSTITUTIONS AND MEMBER STATES:**

- Use all relevant UN and EU mechanisms to urge the Pakistani authorities to repeal the blasphemy laws, and, pending repeal, to put in place procedural safeguards to prevent the abuse of the blasphemy laws, along the lines set out in the recommendations to the Pakistani authorities above.
- Urge the Pakistan government to immediately and unconditionally release those deprived of their liberty solely for peacefully exercising their rights to freedom of expression and freedom of thought, conscience, religion or belief, whom Amnesty International considers to be prisoners of conscience, and to drop charges against those awaiting trial under the blasphemy laws.
- The EU and its member states, the USA and all other states must ensure that any training or cooperation in regard to the criminal justice sector in Pakistan, including police and other law enforcement officials, prosecutors, defence lawyers and judges, includes a significant human rights component, particularly in regard to their specific roles in respecting and protecting human rights in blasphemy cases.
- Urge the Special Rapporteur on freedom of religion and belief and the Special Rapporteur on freedom of expression to raise the issue of the abusive use of the blasphemy laws with the government of Pakistan with a view to immediately establishing procedural safeguards on the application of these laws.

# ANNEX: RESPONSE FROM PUNJAB GOVERNMENT

The following information was provided by the Government of Punjab on 2 June 2016 in response to questions raised in a letter dated 8 April 2016. Information relevant to the report has been reproduced below.

| CASES REGISTERED              |      |      |      |      |      |       |
|-------------------------------|------|------|------|------|------|-------|
| Section wise Cases Registered | Year |      |      |      |      |       |
|                               | 2011 | 2012 | 2013 | 2014 | 2015 | Total |
| 295 PPC                       | 14   | 21   | 16   | 5    | 11   | 67    |
| 295-A PPC                     | 102  | 124  | 128  | 181  | 92   | 627   |
| 295-B PPC                     | 48   | 72   | 59   | 39   | 27   | 245   |
| 295-C PPC                     | 30   | 20   | 14   | 23   | 4    | 91    |
| 298 PPC                       | 7    | 5    | 12   | 3    | 6    | 33    |
| 298-A PPC                     | 33   | 38   | 23   | 81   | 11   | 186   |
| 298-B PPC                     | 1    | 5    | 3    | 2    | 0    | 11    |
| 298-C PPC                     | 4    | 3    | 2    | 1    | 0    | 10    |
| Others                        | 3    | 12   | 10   | 1    | 0    | 26    |
| <b>Total</b>                  | 242  | 300  | 267  | 336  | 151  | 1296  |

| ANALYSIS OF COMPLAINANTS AND ACCUSED |      |      |      |      |      |       |
|--------------------------------------|------|------|------|------|------|-------|
| Religion of Complainant & Accused    | Year |      |      |      |      |       |
|                                      | 2011 | 2012 | 2013 | 2014 | 2015 | Total |
| Muslim vs Muslim                     | 221  | 272  | 248  | 314  | 140  | 1195  |
| Muslim vs Non-Muslim                 | 11   | 18   | 8    | 9    | 2    | 48    |
| Non-Muslim vs Muslim                 | 2    | 2    | 0    | 1    | 1    | 6     |
| Non-Muslim vs Non-Muslim             | 2    | 1    | 1    | 2    | 1    | 7     |
| Muslim vs Unknown                    | 5    | 7    | 9    | 9    | 6    | 36    |
| Non-Muslim vs Unknown                | 1    | 0    | 1    | 1    | 1    | 4     |
| <b>Total</b>                         | 242  | 300  | 267  | 336  | 151  | 1296  |

| BLASPHEMY LAWS CASES (ACCUSED) |      |                  |                  |                   |      |          |
|--------------------------------|------|------------------|------------------|-------------------|------|----------|
| Year                           | Reg. | Accused involved | Accused Arrested | Declared innocent | P.Os | At Large |
| 2011                           | 242  | 397              | 367              | 14                | 3    | 13       |
| 2012                           | 300  | 488              | 338              | 130               | 10   | 10       |
| 2013                           | 267  | 572              | 310              | 17                | 193  | 52       |
| 2014                           | 336  | 573              | 299              | 62                | 61   | 151      |
| 2015                           | 151  | 269              | 216              | 32                | 0    | 21       |
| <b>Total</b>                   | 1296 | 2299             | 1530             | 255               | 267  | 247      |

| TUFAIL HAIDER CASE (GUJRAT)                                                         |                                                                                       |               |                  |                    |                      |                                                                                                                                                                         |                                                             |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------|------------------|--------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1                                                                                   | 2                                                                                     | 3             | 4                | 5                  | 6                    | 7                                                                                                                                                                       | 8                                                           |
| Case FIR/Dt.U/S P.S                                                                 | Brief Facts                                                                           | Total Accused | Accused arrested | Status of the case | Convicted/ Acquitted | Quantum of Punishment                                                                                                                                                   | If appeal preferred                                         |
| FIR 916 Dated 6.11.2014 u/s 302 PPC 155-C Police order 2002 6/7 ATA P.S Civil Line. | On 6.11.14, at 4:a.m ASI Faraz Naveed committed murder of Tufail Haider with hatchet. | 1             | 1                | Decided            | Convicted            | On 27.02.2016 two times death sentence and fine Rs. 10,lac 50,000/- rupees was awarded to the accused,in case of non payment nine month imprisonment should be included | Appeal pending in the Honoroable Lahore High Court, Lahore. |

| AWAIS QAMAR CASE (SHEIKHUPURA)                                    |                                                                                                                                                                                                                                                                                                |                              |                  |                              |                    |                                                                           |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|------------------|------------------------------|--------------------|---------------------------------------------------------------------------|
| 1                                                                 | 2                                                                                                                                                                                                                                                                                              | 3                            | 4                | 7                            | 8                  | 9                                                                         |
| Case FIR/Dt.U/S P.S                                               | Brief Facts                                                                                                                                                                                                                                                                                    | Total Accused                | Accused arrested | At large                     | Status of the case | If under trial final status                                               |
| FIR 314 Dated 03.07.2015 u/s 337-452/354 PPC P.S Sadar Farooqabad | On 3.07.2015, crowd gathered outside the house of cristian couple Awais Qamar at his wife Rukhsana Bibi in Chak 460 Makki district Sheikhupura. Two men shaved Awais Qamar's head and put garland of shoes around his neck and blackened his face. A crowed also beat her daughter and sister. | 6 nominated<br>15/16 unknown | 3 on bail.       | 3 nominated<br>15/16 unknown | U/Trial            | Issued warrant of arrest of three accused. Next date of hearing 7.06.2016 |

| SHAMA MASI H CASE (KASUR)                                                                               |                                                                                                                                                                              |               |                  |                               |          |          |                    |                                                                                  |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------|-------------------------------|----------|----------|--------------------|----------------------------------------------------------------------------------|
| 1                                                                                                       | 2                                                                                                                                                                            | 3             | 4                | 5                             | 6        | 7        | 8                  | 9                                                                                |
| Case FIR/Dt.U/S P.S                                                                                     | Brief Facts                                                                                                                                                                  | Total Accused | Accused arrested | PO's                          | Innocent | At large | Status of the case | If under trial final status                                                      |
| FIR 475 Dated 04.11.2014 u/s 302/436/201/148/149 /353/186/337-F5-FI-L2 PPC & 7 ATA P.S Kot Radha Kishan | 500/600 people tortured cristian couple working in bricklin. The accused drag the couple and then put them in the inferno due to which both converted into coal due to fire. | 140           | 106              | 34<br>1 dead in Road accident | -        | -        | U/Trial            | 6 witnesses examined. Five people charged with death penalty on 23 November 2016 |

| GHULAM ABBAS CASE (BAHAWALPUR)                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                           |               |                  |      |          |          |                         |
|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------|------|----------|----------|-------------------------|
| 1                                                                                                                   | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 3             | 4                | 5    | 6        | 7        | 8                       |
| Case FIR/Dt.U/S P.S                                                                                                 | Brief Facts                                                                                                                                                                                                                                                                                                                                                                                                                                               | Total Accused | Accused arrested | PO's | Innocent | At large | Status of the case      |
| FIR 191 Dated 03.07.2012 u/s 302/324/353/186/224/225/295-B/435/438/395/342/458/148/149/34 PPC 7 ATA P.S Channi Goth | A violent mob, who was demanding for handing over the mentally retarded person having the allegation of burning of the Holy Quran, surrounded the police station, hostage the police offices/officials, burnt the official vehicles/ residences of police officials as well as main gate of the police station, took the said person from the lock-up after breaking the lock with them, killed him and later on, burnt the dead body at Channigoth Chak. | 178           | 32               | 1    | 140      | 5        | Challan/ under scrutiny |

| SAWAN MASIH CASE (LAHORE)                                                                                       |                                                                                                                                                |               |                  |           |                        |                    |                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------|-----------|------------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                               | 2                                                                                                                                              | 3             | 4                | 5         | 6                      | 8                  | 9                                                                                                                                               |
| Case FIR/Dt.U/S P.S                                                                                             | Brief Facts                                                                                                                                    | Total Accused | Accused arrested | PO's      | Innocent               | Status of the case | If under trial final status                                                                                                                     |
| FIR 114 Dated 09.03.2013 u/s 295-A 186/324/353/397/148/149/427/436 PPC added 337-L2/FI-AI 7 ATA P.S Badami Bagh | Complainant IP Abdul Majeed reported that accused Sawan Masih did blasphemy. Resultantly a riot spread amongst Muslim and Christian community. | 121           | 114 on bail.     | 2 PO 2 CA | 2 Innocent 1 acquitted | Under Trial        | All the accused persons on bail appeared before the court on 30.05.2016 due to the leave of presiding officer. The case is fixed for 11.06.2016 |

| 295-C CASES                       |      |      |      |      |      |       |
|-----------------------------------|------|------|------|------|------|-------|
| Religion of Complainant & Accused | Year |      |      |      |      |       |
|                                   | 2011 | 2012 | 2013 | 2014 | 2015 | Total |
| Muslim vs Muslim                  | 27   | 17   | 10   | 23   | 3    | 80    |
| Muslim vs Non-Muslim              | 3    | 3    | 4    | 0    | 1    | 11    |
| Total                             | 30   | 20   | 14   | 23   | 4    | 91    |

| BLASPHEMY LAWS CANCELLED |      |           |
|--------------------------|------|-----------|
| Year                     | Reg. | Cancelled |
| 2011                     | 242  | 19        |
| 2012                     | 300  | 42        |
| 2013                     | 267  | 15        |
| 2014                     | 336  | 34        |
| 2015                     | 151  | 9         |
| Total                    | 1296 | 119       |

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# **“AS GOOD AS DEAD”**

## **THE IMPACT OF THE BLASPHEMY LAWS IN PAKISTAN**

Pakistan’s blasphemy laws are routinely used to target vulnerable people on the basis of false accusations. There is broad scope for their abuse which means that anyone can level an accusation of blasphemy, which can lead to criminal charges. Inadequate safeguards then mean the accused have few means to defend themselves. In a perversion of the justice system, the accused are often presumed to be guilty, on the basis of little or no evidence.

As the accused struggle to establish their innocence, they often face serious threats to their lives. Many people have been threatened and killed in revenge attacks after accusations of blasphemy were made against them. As Pakistan’s Supreme Court has acknowledged, the majority of blasphemy accusations are false. However, this does not prevent angry crowds, aroused by clerics and their supporters, from taking the law into their own hands while the authorities routinely fail to prevent these abuses and, by doing so, enable a culture of impunity.

This report documents cases which illustrate the broad scope for human rights violations and abuses, in order to highlight the need for urgent repeal of the laws and – until their repeal – the need for effective procedural safeguards to be put in place.