

Pakistan (37)

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PAKISTAN ASSESSMENT

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1. SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2 The assessment has been prepared for background purposes for those involved in the asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom.

1.3 The assessment is sourced throughout, and is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a six-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom.

1.5 An electronic copy of the assessment has been made available to the following organizations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the Care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

2. GEOGRAPHY

General

2.1 The Islamic Republic of Pakistan lies in southern Asia, bordered by India to the east and Afghanistan and Iran to the west. It has a short frontier with the People's Republic of China in the far north-east. The capital is Islamabad. The country covers an area of about 307,374 square miles. [1] In July 1999 the population was estimated at 138,123,359. [34] The Pakistani administered part of Kashmir (known as Azad Kashmir) is broadly responsible for its own internal administration and covers an additional 4,494 square miles. [1]

2.2 Pakistan is divided into four provinces: Baluchistan; North-West Frontier Province; Punjab and Sindh. There are also tribal areas under federal administration. [1] According to the March 1998 census the populations in the provinces were as follows: 72.5 million in Punjab; 29.9 million in Sindh; 17.5 million in the North-West Frontier Province; and 6.5 million in Baluchistan. [6u]

2.3 The main ethnic group is Punjabi, comprising about two-thirds of the population. Other major groups are Sindhis (13%), Pathans (aka Pashtuns, Pushtoons or Pukhtoons) (8.5%), Urdu (7.6%), Baluchis (2.5%) and Mohajirs. [20a]

Languages

2.4 The principal languages are Punjabi (48%), Sindhi (12%), Siraiki - a Punjabi variant (10%), Pashtu (8%) and Urdu - the official language (8%). Other minor languages are Balochi (3%), Hindko (2%) and Brahui (1%). English is also used as the official and lingua franca of the Pakistani elite and in most government ministries. [34] Each ethnic group has its own language and numerous dialects are spoken. [3]

Economy

2.5. Pakistan is a poor country with great extremes in the distribution of wealth. Education, especially for females, is poor and only 33% of the population are judged literate by a very low standard. The suspended Constitution provided for the right of private businesses to operate freely in most sectors of the economy and there continues to be a strong private sector. [2b]

3. HISTORY

1947 - 1978

3.1 Pakistan was created in August 1947 following the partition of the Indian Empire into the independent states of India and Pakistan. This was in response to demands by elements of the sub-continent's Muslim population for the establishment of a designated Muslim state. Pakistan originally comprised two distinct regions - East Pakistan and West Pakistan, separated by some 1,600 km of Indian Territory. The leader of the dominant Muslim League, Muhammad Ali Jinnah, popularly known as Quaid-i-Azam (Great Leader), became the first governor-general of Pakistan but died in 1948. Having been a Dominion, with the British monarch as Head of State, the country became a republic within the Commonwealth on 23 March 1956 when the first Constitution was promulgated. Major-General Iskander Mirza became Pakistan's first President. [1]

3.2 In 1958 the President abrogated the Constitution, declared martial law, dismissed the national and provincial governments and dissolved all political parties. Shortly afterwards General Muhammad Ayub Khan, the Martial Law Administrator appointed by Mirza, removed him from office and became President himself. Following widespread unrest Ayub Khan was forced to resign in March 1969. He was replaced by General Agha Muhammad Yahya Khan, the Commander-in-Chief of the Army, who reimposed martial law. [1]

3.3 In December 1970 the first general election was held for a National Assembly. Sheikh Mujibur Rahman's Awami League, which advocated autonomy for East Pakistan, won almost all the seats in the East wing of the country, thus gaining an absolute majority in the National Assembly. Meanwhile the Pakistan People's Party (PPP), led by Zulfikar Ali Bhutto, won a majority of seats in the West. The East declared itself independent as the People's Republic of Bangladesh (Bengal Nation) on 23 March 1971 following the failure of negotiations to achieve a coalition government. Civil war broke out and in December 1971 the Indian army intervened to support the Bengalis in the East: the Pakistani army was forced to withdraw. Yahya Khan resigned, military rule ended, and Bhutto became the new President. [1]

3.4 Pakistan withdrew from the Commonwealth in January 1972. Bhutto became executive Prime Minister after the new Constitution of August 1973 provided for a parliamentary system of government. The PPP won the March 1977 elections, but the opposition Pakistan National Alliance (PNA) accused the PPP of electoral malpractice and launched a campaign of civil disobedience. Armed clashes took place between the army and demonstrators. In July 1977 Bhutto was deposed in a bloodless coup and a martial law regime was instituted with General Mohammad Zia ul-Haq as Chief Martial Law Administrator. Bhutto was charged with instigating the murder of a PPP dissident. He was sentenced to death, and was subsequently executed in April 1979. [1]

1978 - 1988

3.5 General Zia became president in September 1978, and elections were indefinitely postponed; opposition to the military regime was severely suppressed. In March 1981 the Movement for the Restoration of Democracy (MRD) was formed, which advocated an end to military rule and a return to a parliamentary system of government. In 1983 the MRD launched a civil disobedience campaign which was supported in Sindh, where anti-Government protests resulted in numerous deaths. The campaign ended in December 1983, and many political leaders and activists including Benazir Bhutto, daughter of the former Prime Minister, were imprisoned or went into exile. [1]

3.6 General Zia's regime pursued a policy of 'Islamisation' of the country's institutions,

including the enforcement of Islamic penal codes. A referendum held in December 1984 endorsed this policy, although there were widespread allegations of electoral malpractice. [1]

3.7 A general election was held in February 1985, which was followed shortly afterwards by provincial assembly elections. The elections were held on a non-party basis, but dissatisfaction with the regime was indicated by the defeat of several cabinet ministers and Zia supporters. The Pagaro Group of the Pakistan Muslim League and former members of the PPP formed the largest two groupings in the National Assembly. In March 1985 Muhammad Khan Junejo, a member of the Pagaro Group, was appointed Prime Minister and a largely civilian cabinet was formed. [1]

3.8 On 30 December 1985 General Zia announced the repeal of martial law and the restoration of the 1973 Constitution, as amended in October 1985 (the Eighth Amendment, which introduced an executive presidency with the power to dismiss the National Assembly, Prime Minister and Cabinet. This also indemnified all actions of the military regime during the previous eight years). The MRD continued to demand the restoration of the unamended 1973 Constitution, and the cause was strengthened by the return from exile in April 1986 of Benazir Bhutto, who travelled throughout the country holding political rallies. In August the government banned rallies scheduled for Independence Day and detained hundreds of opposition members, including Benazir Bhutto. The arrests provoked violent anti-Government demonstrations in a number of cities. [1]

1988 - 1993

3.9 In May 1988 General Zia dismissed the Prime Minister and the Cabinet, and dissolved the National Assembly and the four provincial assemblies. Elections were to be held in November, but on 17 August 1988 General Zia was killed in an air crash in mysterious circumstances in eastern Pakistan. [1]

3.10 The elections took place as scheduled, with the PPP winning 93 of the 207 directly elective seats. The Islamic Democratic Alliance (IDA) (Islami Jamhoori Ittehad, IJI), a grouping of 9 Islamic and right wing parties including the Pakistan Muslim League (PML) won 54 seats. The remaining 58 seats went to independents and smaller parties. The PPP and the Mohajir Qaumi Movement (MQM) [1] [which changed its name to the Muttahida Qaumi Movement in July 1997] [12g] formed a coalition government, and Benazir Bhutto was appointed Prime Minister on 1 December 1988. [1]

3.11 Pakistan rejoined the Commonwealth on 1 October 1989. Throughout the year, the coalitions formed by the PPP in the provincial assemblies came under pressure. In October the MQM eventually withdrew its parliamentary support, claiming that the PPP had failed to honour any of its promises made in the original co-operation agreement. A no confidence motion was defeated in November 1989. The Government was accused of corruption, political bribery and mismanagement. Violence erupted in Sindh province between supporters of the PPP and the MQM. The situation declined considerably, and on 6 August 1990 President Ghulam Ishaq Khan dismissed the Prime Minister and her Cabinet and dissolved the National Assembly. He accused the Government of corruption, nepotism and incompetence. The charges were denied by Benazir Bhutto. [1]

See also Security: paragraphs 4.3.1 - 4.3.7; and Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

3.12 A general election took place on 24 October 1990. The IDA doubled its representation in the National Assembly, leaving it 4 seats short of a majority while the People's Democratic Alliance (PDA) of the PPP and three smaller parties suffered a heavy defeat. On 6 November Mohammad Nawaz Sharif, the leader of the PML, was elected Prime Minister. [1]

3.13 In May 1991 the National Assembly adopted legislation imposing the incorporation of Sharia (the Islamic legal code) into Pakistan's legal system. Legislation was also adopted which provided for the Islamisation of the education, economic and judicial systems. [1]

3.14 Later in 1991 open confrontation between the IDA and the PPP worsened and hundreds of PPP supporters were arrested in Sindh province. 'Operation Blue Fox' (also known as 'Operation Clean-up') was launched in May 1992 in response to the continuing situation in Sindh, and in which the army was to seize unauthorised weapons and apprehend criminals and terrorists. There was a violent clash between two factions of the MQM - the majority Altaf faction and the small breakaway Haqiqi faction - in Karachi. These were in addition to clashes between the MQM and the PPP. The army took the opportunity to suppress extremist elements in the MQM. The Government repeatedly gave assurances that the operation was aimed at criminals and not at the MQM itself. [1] & [3]

See also Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

3.15 In November 1992 the PDA intensified its campaign of political agitation. The rallies and marches organised by Benazir Bhutto were suppressed by the Government through mass arrests, road blocks and the imposition of a two month ban on the holding of public meetings in Islamabad and Rawalpindi. [1]

1993 - 1997

3.16 During 1993 a rift between the President and the Prime Minister grew (caused by the Government initiating discussions regarding proposed amendments to the Eighth Constitutional Amendment). On 18 April the National Assembly was dissolved and the Prime Minister and the Cabinet were dismissed. The President accused Sharif of "maladministration, nepotism and corruption". An acting Prime Minister and Cabinet were appointed, but on 26 May the Supreme Court ordered that the National Assembly, Prime Minister and Cabinet be restored to power as the President's order had been unconstitutional. The National Assembly and Sharif's government were reinstated immediately. [1]

3.17 An All Parties Conference, which included Benazir Bhutto, urged the President to dissolve the National Assembly and hold fresh elections. Benazir announced a "long march" with the intention of laying siege to the capital and forcing Sharif to resign. The army persuaded Benazir to postpone the march. On 18 July 1993 both the President and Sharif resigned, and the National Assembly and the provincial assemblies were dissolved. [1]

3.18 The elections were held on 6 and 9 October 1993 and were widely considered to be fair. Neither the PPP nor the Sharif faction of the PML won an outright majority in the federal elections, and only the PPP won a majority in the provincial elections in Sindh. Benazir Bhutto was elected to head a coalition government on 19 October. The PPP led coalition assumed control of the provincial administrations in Punjab and Sindh in alliance with the minor renegade PML faction, the PML (J). Meanwhile the provincial governments in North-West Frontier Province and Baluchistan were headed by alliances led by the PML (N). [1]

3.19 September 1994 saw an upsurge in political unrest when Sharif organised a nation-wide general strike. Hundreds of PML supporters, including Sharif's father, were arrested. In Karachi there was escalating ethnic and criminal violence, which stemmed from the rivalry of the opposing MQM factions. Other killings were linked to drugs mafia and sectarian disputes between Shia and Sunni Muslims. It was estimated that during 1995 almost 2,000 people were killed in Karachi as a result of political and ethnic violence. [1]

See also Shia Muslims: paragraphs 5.3.54 - 5.3.63; and Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

3.20 In June 1996 an austere budget was introduced, including the introduction of new taxes which sparked off protests. A large bomb explosion at Lahore airport in July, a series of public sector strikes and resurgence of violence in Karachi intensified the volatile political situation. Benazir's estranged brother, Mir Murtaza Bhutto, was killed in a gun battle with police in Karachi in mid-September. The Prime Minister and her husband were accused of organising the killing, while Benazir implied that she believed the President and the army were to blame. A judicial tribunal exonerated the President of any involvement in the killing, describing the death as an extra-judicial killing. [1] & [6e]

3.21 Against a background of rising public discontent, President Leghari dismissed Prime Minister Benazir Bhutto's government and dissolved the National Assembly on 5 November 1996. The state assemblies were dissolved over the following week. The reasons given by the President were the deteriorating law and order situation, severe economic problems, widespread corruption, disregard for judicial authority and the violation of various constitutional provisions. [1]

3.22 The general election was held on 3 February 1997 with a low turnout of 30-40%. The PML (Nawaz) won a decisive victory, gaining 134 of the 204 directly elective seats in the National Assembly. The PPP was routed both at federal and state level, winning only 18 National Assembly seats. The MQM emerged as the country's third political force with 12 seats. Mohammad Nawaz Sharif was sworn in as Prime Minister on 17 February 1997. [1]

See also Election Results: paragraphs 4.1.20

3.23 Sharif strengthened his political authority in April 1997 when he engineered the repeal of the major components of the 1985 Eighth Constitutional Amendment by the National Assembly and the Senate. The President lost his powers to dismiss the Prime Minister and Cabinet, to dissolve the legislature and to order a national referendum on any issue. Authority to appoint provincial Governors, the Chairman of the Joint Chiefs of Staff and the three armed forces chiefs were also taken away. The President thus became a largely ceremonial figure. [1]

3.24 According to Amnesty International, sectarian violence escalated between the Shia and Sunni communities during the first half of 1997 in the Punjab and Sindh provinces. The new government called on religious groups to restrain their followers and banned motorcycle pillion riding, as pillion riders had carried out many attacks. The Chief Justice of Pakistan, mindful of concerns about human rights abuses, initiated public hearings into the killings in Karachi and the sectarian violence in Punjab. The Government introduced an Anti-Terrorism Bill in the National Assembly, which was passed and signed into law by the President on 17 August 1997. The Bill was controversial as it gave the police sweeping powers. [4d]

See also Anti-Terrorism Act and Courts: paragraphs 4.2.8 - 4.2.12.

3.25 Pakistan was paralysed by a constitutional crisis in the autumn of 1997, which started with a dispute between Prime Minister Nawaz Sharif and the Chief Justice, Sajjad Ali Shah. The Prime Minister refused to appoint 5 Supreme Court judges on the recommendation of the Chief Justice. Eventually the Prime Minister was forced by the President and the military leadership to concede that the Chief Justice had the right to make the appointments, which were approved by the National Assembly. The power struggle was not resolved however, because the Supreme Court began contempt of court proceedings against the Prime Minister. These were based on his handling of the row with the judiciary, and also because of his sharply critical remarks to the National Assembly concerning the behaviour of the Supreme Court. Sharif was ordered to appear

before the Supreme Court with eleven other respondents who included MPs, three newspapers and the state television network. Sharif duly appeared but made no apology to the Court. [6h], [6i] & [5e]

3.26 The Supreme Court was also dealing with a petition to suspend one of Sharif's first pieces of legislation, which took away the power of the President to dismiss the government and appoint the heads of the armed forces. The National Assembly also rushed through a law allowing Sharif to appeal if he were to be convicted of contempt. However the President refused to sign the bill, which initiated a dispute between the President and Prime Minister, whose Muslim League party threatened to impeach the President. [6j] & [5f]

3.27 Matters declined further when a PML mob swarmed into the Supreme Court building. They demanded the dismissal of the Chief Justice for putting Nawaz Sharif on trial. They also challenged the Chief Justice's position, drawing on the Quetta and Peshawar regional courts' ruling that he was not the most senior judge when promoted in 1994. The Supreme Court however overturned this ruling. The army stepped in to persuade both sides to accept a cooling off period. On 2 December 1997 the Chief Justice suspended the 13th Amendment to the Constitution, thus restoring the power of the President to dismiss the government. Within minutes another Supreme Court bench suspended the Chief Justice. Later that day President Leghari announced his resignation to avoid having to sign an order removing the Chief Justice and appointing a new one. The Speaker of the Senate, Waseem Sajjad, became acting President and Ajmal Mian was appointed new Chief Justice. [6l] & [6m]

1998 - September 1999

3.28 The Muslim League candidate Mohammad Rafiq Tarar was elected President by a significant majority of the combined Electoral College of the Senate, National and Provincial Assemblies. He was sworn in on 1 January 1998. Tarar was a member of the Senate and a former Supreme Court judge. [6n]

3.29 The Awami National Party ended its alliance with the PML on 26 February 1998 by withdrawing its support from the federal and North-West Frontier Province governments. [24b] On 10 April 1998, the majority of leaders of the PML (Junejo) merged with the PML (Nawaz). The united party had now become simply the PML. However Hamid Chatta, parliamentary leader of the PML (J), was not party to this agreement and continued to call his organization the PML (J). [9]

3.30 In April 1998, Pakistan began the test-firing of a medium range-missile, following the production by India of a missile and the alleged storage of weapons near the Pakistani border. This was also in response to 'provocative overtures' from India's recently elected coalition government, the Hindu nationalist Bharatiya Janata Party. [24d]

3.31 In early May 1998, the Islamic blasphemy law again provoked widespread controversy and violent demonstrations when a Roman Catholic bishop committed suicide outside a court in Sahiwal, Punjab, in protest at the death sentence that had earlier been imposed on a Christian accused of blasphemy. [1]

See also Blasphemy Law: paragraphs 4.2.21 - 4.2.26; and Bishop John Joseph: paragraphs 5.3.49.

3.32 Pakistan and India both conducted a series of nuclear tests, provoking almost universal condemnation: India detonated five on 11 and 13 May 1998; Pakistan responded with six on 28 and 30 May 1998. International economic sanctions were promptly imposed on both countries. [24e]

3.33 Following numerous threats the MQM resigned on 26 August 1998 from its 19-

month alliance with the PML in the Sindh Provincial Assembly. The MQM accused Nawaz Sharif and his provincial government of failing to honour an agreement on which the basis of the alliance had originally been formed. [6w]

3.34 Sharif also announced plans in August 1998 to create an Islamic State through the introduction of Sharia Law. [8f] Despite criticism from opposition parties and human rights groups, the 15th Amendment Bill won National Assembly approval on 9 October 1998, but did not reach the approval by the Senate stage in the legislation process. [6z] Two days earlier the Chief of Army Staff, General Jehangir Karamat, had resigned after suggesting that Pakistan set up a National Security Council at the apex of the country's political system. General Karamat (who was due to retire in January 1999) was immediately replaced by Lieutenant-General Pervez Musharraf. [6y]

See also Sharia Law: paragraphs 4.2.14 - 4.2.16.

3.35 The MQM rejoined its alliance with the PML in Sindh on 24 October 1998 [26a] but subsequently withdrew again on 29 October. [24g] On 30 October, the Prime Minister dismissed the Sindh provincial government and imposed federal rule on the province in an attempt to stop the political and ethnic violence in Karachi. The Prime Minister then announced on 20 November that military courts would be established to restore peace in Karachi. [24g]

See also Security: Sindh: paragraphs 4.3.4 - 4.3.6; and Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

3.36 On 17 February 1999 the Supreme Court ruled that the controversial special military courts set up in Karachi in early December 1998 to combat violence were illegal. [26e] The Court ruled that all pending cases should be transferred to existing anti-terrorist courts, and drew up guidelines for the speedy conduct of terrorist cases. [24i] The courts were disbanded following the ruling. [26f]

3.37 On 21 February 1999 Nawaz Sharif and the Indian Prime Minister, Atal Bihari Vajpayee, signed the 'Lahore Declaration' and vowed to take steps to reduce "the risk of accidental or unauthorized use of nuclear weapons". The Prime Ministers' summit meeting in Lahore was the first on Pakistani soil for ten years. [19c] However on 11 April 1999 India test-fired a long-range version of its nuclear-capable Agni missile. Pakistan responded by test-firing its Ghauri-II long-range missile on 14 April. [26g]

3.38 On 15 April 1999 Benazir Bhutto (in absentia) and her husband Asif Ali Zardari were convicted of corruption. They were sentenced to five years' imprisonment and disqualified from holding public office for up to ten years. They were also fined US\$8.6 million and the court ordered the confiscation of all of their property. [24j] Zardari appealed to the Supreme Court on 10 May 1999. [24k] The Supreme Court ruled on 27 May 1999 that Benazir's presence in Pakistan was not necessary in order for her lawyers to appeal. [26h]

See also Accountability Commission: paragraphs 4.2.30 - 4.2.33.

3.39 In early May 1999 independent observers claimed that a large number of armed fighters moved from Pakistan into the high altitude passes on the Indian side of the Line of Control in Kashmir. On 26 May 1999 India launched two waves of air strikes in Kashmir to dislodge the 400 reportedly Pakistani-backed Muslim guerrillas (who because of their commanding position were able to cut off the vital Srinagar-Kargil Leh Highway). [30] Following two months of bitter hostilities Pakistan and India agreed a plan on 11 July 1999 for the infiltrators to withdraw. The agreement came one week after Nawaz Sharif had met with US President Bill Clinton in Washington. [26j]

See also Azad Kashmir: paragraphs 5.4.16 - 5.4.34.

October 1999 - December 2000

3.40 October 12th 1999 witnessed the most dramatic development of the year. Nawaz Sharif, having dismissed the army chief General Pervez Musharraf, tried to prevent the General's plane landing en route from Sri Lanka to Karachi. Within hours the military launched a counterattack and by the end of the day the bloodless coup now in operation had resulted in Sharif being placed under arrest and the entire cabinet under guard. Reaction to the coup was generally favourable [21c], with opposition groups (including Islamic parties) extending their support for the new interim government. [20c]

3.41 Sharif's opponents accused him of abusing nationalised banks, tax evasion, money-laundering and pilfering public funds. The launching of financial investigations against the Sharif family business began almost immediately, with soldiers dressed in civilian clothes seizing files from public sector banks. [28g] Sharif himself was incarcerated and charged with attempted murder, kidnapping, hijacking and terrorism following his alleged actions on 12th October. In the court case that followed, the prosecution argued that Sharif's personal instruction not to allow the aircraft carrying General Musharraf to land had endangered the lives of those on board as the fuel supply was low. On 6th April 2000 Sharif was found guilty on the hijacking and terrorism charges and was sentenced to life imprisonment, instead of the death penalty demanded by the prosecution. [35b]

3.42 The October 1999 coup followed a decade that had resulted in four prime ministerial dismissals, the doubling of foreign debt and the spread of corruption throughout the political establishment. [30d] Since Pakistan's creation in 1947, no civilian government had managed to complete its term and successfully offer itself for re-election. [30b]

3.43 In May 2000 the Supreme Court ruled that the October coup was justified on the grounds of necessity due to corruption, misrule and the adverse economic situation. The ruling nonetheless gave the military a three-year time limit for a return to civilian rule. [35b] General Musharraf subsequently announced that he would abide by the Supreme Court's ruling, [35b] although there is still concern that (by use of Constitutional amendment) the limits set by the Supreme Court could be breached. It is unclear what action the Supreme Court would take in this event. [38]

3.44 In September a powerful bomb exploded in a crowded Islamabad market, killing sixteen and wounding more than eighty. This was the most catastrophic of the forty bombings that had exploded in Pakistan's cities throughout the year. [28k]

3.45 In November the PML formally announced that it had joined the alliance for the restoration of democracy (ARD) against military rule - despite vehement protests from some party members - in which the PPP played a central role. Nawaz Sharif was granted a pardon in December and left Pakistan to live in exile in Saudi Arabia. The conditions were his forfeiture of \$8 million in property and to remain out of politics for 21 years. [35b]

January 2001 - October 2001

3.46 In January the Human Rights Commission of Pakistan (HRCP) condemned the arrests and excessive force used in Karachi on a number of people protesting against the blasphemy laws. Seventeen arrests were made following baton-charges and the use of teargas, despite HRCP assertions that there was no threat to the law and order situation. The National Commission for Justice and Peace (NCJP) also expressed deep concern at the level of force used against the peaceful protestors. [33n]

See also Blasphemy Law: paragraphs 4.2.21 - 4.2.26.

3.47 In March, prior to a rally planned by the Alliance for the Restoration of Democracy,

over 300 political activists (PML and PPP workers and leaders alike) were arrested in Lahore. [33o]

3.48 In April 2001 the Supreme Court suspended Benazir Bhutto and her husband Asif Zardari's convictions for corruption and ordered a retrial. [35c] The Supreme Court went on to rule that the conviction of Benazir Bhutto was the result of bias on the part of the original presiding judge who had a close liaison with her political opponents. [33t]

3.49 In Karachi hundreds of political activists, mainly from the PPP and PML, were detained prior to a banned pro-democracy rally planned for May 1st. Police in the city claimed 300 had been detained, although opposition sources put the figure closer to 500. [35c]

3.50 On 20th June General Musharraf declared himself president and formally disbanded the national and provincial assemblies. The move was interpreted by some observers as an attempt to bolster his credibility prior to a summit in India. [42]

3.51 In September, following the terrorist attacks on New York and Washington, General Musharraf promised that Pakistan would give its full support to the U.S. in its campaign against terrorism, including their pursuit of prime suspect Osama Bin Laden. Four people died in Karachi at the government's professed support for the U.S. as a demonstration turned violent. After religious parties called for a nation-wide strike, a shopkeeper was also lynched to death having defied the strike. In Peshawar near the Afghan border, angry protesters also listened to religious leaders make speeches in support of the Taliban and Bin Laden. [35c]

3.52 On 23 September the Jamiat Ulema-e-Islam party called on its 500,000 members for clashes with the security forces following government support for a U.S. military build up in the region. In a threat of all-out civil war, the secretary-general of the party threatened to fight the U.S. and its supporters if an attack on Afghanistan materialised. General Musharraf was of the view that 10-15% of the people did not support his backing of the U.S. although analysts warned that this could be an underestimation. [14g]

3.53 In October violent protests broke out following the U.S.-led air strikes on Afghanistan. On 12th October demonstrators in Karachi threw stones at police, set fire to cars and burned down an American chain fast food outlet. Protests also broke out in other parts of the country. In response President Musharraf stated that the government would not tolerate extremist activity. He outlined plans to deploy troops and instructed governors on how to deal with the protests. [32d] Three people were also killed following the arrest of three prominent leaders allied to the Taliban when police opened fire on a crowd of several hundred who had stormed a police station near Quetta. In Quetta itself another man died on 8th October and several were injured in another demonstration against the U.S. [35c] Musharraf insisted that the protesters were a vocal minority and were not representative of the people. [32d]

4. INSTRUMENTS OF THE STATE

4.1 POLITICAL SYSTEM

Political Structure

4.1.1 A distinct feature of Pakistani national culture is tribal and clan affiliation. As a consequence people have voted for individuals as representatives of their clans or families rather than for parties, unless their votes were based on material incentives (money for their vote for example). This is also reflected in the organisation of most political parties, with little inner-party democracy and very steep hierarchies. Some have

also switched from one party to another in return for money, including some MPs until a law was passed to prevent them from doing so. There has been a pre-eminent role of a small number of powerful families and clans in Pakistani politics. Half belong to the PPP and the other half to the PML, and all portray a desire to be in power. Three factors play a significant role in Pakistani politics: the political families, the bureaucracy of Islamabad and the army. [20b]

4.1.2 The upper class have maintained a dominant position in parliament. Electoral campaigns were not funded by the party but by the individual and less than 5% of the members of the last national assembly were from the middle and lower classes. The wealthy have therefore dominated the government and regional assemblies. Initially prior to the October 1999 coup, the urban rich and businessmen replaced the rural rich and feudal landlords who had previously dominated the assemblies. [20b]

4.1.3 As Pakistanis are reasonably religious, the religious parties remain relevant political and social organisations. There are four significant religious parties: the JI, JUP, JUI (all Sunni) and the TJP (Shia). They are radical in their rhetoric and on social issues tend to dominate the public discourse. On the political stage however fundamentalist politicians have been weak, failing to get elected in significant numbers. [20b]

Constitution

4.1.4 The Constitution was promulgated on 10 April 1973 and has been amended on a number of subsequent occasions. [1] The Constitution incorporates the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam. It also aims to guarantee fundamental rights such as equal status for men and women, freedom of thought, speech, worship, the press, freedom of assembly and association as well as the rights of religious and other minorities. Institutionally it provides for a federal democratic structure. [20a] Several provisions of the Constitution were suspended following the imposition of martial law in 1977. The (amended) Constitution was restored on 30 December 1985 [1] only to be suspended once again following the military coup of October 1999. [2b]

Government

4.1.5 On October 12, 1999 the elected Government of former Prime Minister Nawaz Sharif was overthrown in a bloodless coup led by Army Chief of Staff General Pervez Musharraf. General Musharraf designated himself Chief Executive and suspended the Constitution, the Parliament and the provincial assemblies. The office of the President (which is mainly ceremonial) was retained. The government bureaucracy continued to function. In May the Supreme Court ruled that the Musharraf Government was constitutional and imposed a 3-year deadline (from 12 October 1999) to complete a transition to democratic civilian rule. [2b]

4.1.6 Prior to the coup each of the four provinces had a Governor appointed by the President. Each province also had a provincial legislature consisting of the Governor and the Provincial Assembly. The Chief Minister of each provincial government was elected by the provincial assemblies and appointed Ministers to the provincial cabinets. [1] After the coup however the provincial assemblies were suspended and General Musharraf appointed governors for the four provinces. [2b] Azad Kashmir nonetheless remains broadly responsible for its own internal administration. [9]

4.1.7 The country is currently run by the National Security Council (NSC), a majority of whose members are army generals. Four cabinet ministers were also included in August 2000. The Council takes policy decisions, which in turn are implemented by the cabinet and governors of the country's four provinces. The cabinet plays a secondary role in the decision-making process. [35b]

4.1.8 In August 2000 General Musharraf unveiled a comprehensive devolution plan.

aimed at transferring substantial power to hundreds of elected district and town committees. Elections for these local bodies were to be held from December 2000 to August 2001 on a non-party basis. The General stated that this was to discourage petty political rivalries at the district level and subsequently drew criticism from the prominent political parties. The demands of religious minorities to abolish separate electorates for them were also ignored, as he argued that only the current system could guarantee their representation in the councils. The minimum age to vote would be lowered from twenty-one to eighteen. At least a third of the seats in these local councils would be reserved for women. [35b] On December 31 2000 local elections were held in 18 districts. [2b]

4.1.9 The council leaders will in turn sit on larger district bodies and crucially will take control of police and local bureaucrats, with the army remaining in control of the country. The elections leading to this system replace a two hundred-year-old system of appointed bureaucrats set up under British colonial rule. Critics nonetheless claim that General Musharraf's local reforms are an attempt to undermine national political parties. [28j]

Main Political Parties Following the Coup

4.1.10 The Musharraf regime has not banned political parties. [2b] There is nonetheless a continuing ban on political activity in the sense that rallies and public meetings are not permitted. The interior minister has stated that such demonstrations cause a law and order problem and spoil the peace. [33i] Indoor meetings however are still permitted, although they must not make use of loud speakers. [33e] The government has nonetheless pledged to lift the ban on political rallies 90 days prior to a party based general election, due in October 2002. [33w]

4.1.11 In July 2000 police arrested a large number of PML supporters and leaders in Lahore. Police stated that they were acting on Punjab provincial government orders, which had vowed to prevent ousted Prime Minister Nawaz Sharif's wife from leading a procession from Lahore to Peshawar. [35b] The arrest of Sharif's wife resulted in further protests at the biggest crackdown on the PML since they were ousted from power and further detentions of Nawaz Sharif supporters. [35b]

See also Assembly and Association: Paragraphs: 5.4.1 - 5.4.3

4.1.12 In July 2000 the Cabinet endorsed General Musharraf's initiative to meet politicians to brief them on various national and international issues and consider their suggestions. The General was quoted as saying that he was not opposed to politicians, as had been the impression of some quarters. [33i] In the same month he also met Raja Zaffar ul Haq, a former senate leader from the ousted PML, amid claims that the military was open to dialogue with clean politicians. [35b] General Musharraf also met the Secretary General of the PPP (following prior approval to do so by PPP Chairperson Benazir Bhutto), who subsequently stated that he believed the military's meetings with politicians were aimed at reviving the political process. [33i]

4.1.13 On August 6 2000 almost all of the prominent opposition parties met in Lahore to discuss the actions of the military administration. PML and PPP representatives sat together with several other groups to denounce military rule and the corruption drive against politicians. By allowing this meeting to take place, the military are not threatened by such developments according to observers. [35b] There were nonetheless mass arrests of PML leaders and activists ahead of the party's plan to observe a "black day" on the first anniversary of the October 1999 coup. The police also occupied their offices and officials stated that the action was to maintain law and order. [33m]

4.1.14 In November 2000 the PML announced that it had joined the opposition alliance for the restoration of democracy (ARD) against military rule - in which the PPP play a central role. This signalled the first time that the two parties had worked together for fifteen years. There was nonetheless widespread dissent amongst some sections of the PML at this particular manoeuvre. [35b] In March 2001 - following the exile of Nawaz

Sharif to Saudi Arabia - the PML elected a new President, Mian Mohammad Azhar. A former governor of Lahore, he had been openly critical of Nawaz Sharif's government. [35c] In the same month, prior to a rally planned by the Alliance for the Restoration of Democracy, over 300 political activists (PML and PPP workers and leaders alike) were arrested in Lahore. [33o] In Karachi hundreds of political activists, mainly from the PPP and PML were detained prior to a banned pro-democracy rally planned for May 1st. Police in the city claimed 300 had been detained, although opposition sources put the figure closer to 500. [35c]

4.1.15 The ARD appears to have made little impact with its campaign for a return to civilian rule, with many Pakistanis having lost faith in the two previous leaders of the country amid a faltering economy and allegations of corruption. The main parties are nonetheless proving to be resilient in terms of their grassroots networks. [42]

4.1.16 Following the 11th September terrorist attacks on New York and Washington the main political parties, including the PPP and the PML, indicated that they supported General Musharraf's pledge to co-operate with the United States in their pursuit of prime suspect Osama Bin Laden. [35c]

President

4.1.17 General Musharraf declared himself president on 20th June 2001. This was interpreted by some observers as an attempt to bolster his credibility prior to a summit in India. The move was also viewed as an indication that General Musharraf intends to stay in power for some years to come. [42]

Federal Legislature

4.1.18 Prior to the coup the Federal Legislature consisted of the President, a Lower House and an Upper House. The Lower House (called the National Assembly) had 207 members elected directly for a term of five years on the basis of universal suffrage (for adults over the age of 21 years). There were ten members representing minorities: [1] Four seats for Christians, four seats for Hindus, one seat for Ahmadis and one seat for Sikhs, Buddhists and Parsis. [11]

See also Religious Minorities: Voting Rights: paragraphs 5.3.13 - 5.3.15

4.1.19 The Upper House (called the Senate) had 87 members who served for six years, with one-third retiring every two years. Each Provincial Assembly elected nineteen senators. The tribal areas were to return eight, with the remaining three elected from the Federal Capital Territory by members of the Provincial Assemblies. [1]

Election Results

4.1.20 The returned seats of the parties in the National Assembly after the last election of 3 February 1997 were as follows:

Pakistan Muslim League (Nawaz)	134
Pakistan People's Party	18
Mohajir Qaumi Movement	12
Awami National Party	9
Baluchistan National Party	3
Jamiat-e-Ulema-e-Islam (Fazlur Rehman)	2
Jamhuri Watan Party	2
National People's Party	1
Pakistan People's Party (SB Group)	1
Independents	22

TOTAL	204
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Polling was deferred in 3 constituencies until a later date. [1]

4.2 JUDICIAL SYSTEM

Introduction

4.2.1 Pakistan's legal system is based on English common law with provisions to accommodate Pakistan's status as an Islamic state. ICJ jurisdiction is accepted with reservations. [34]

4.2.2 The suspended Constitution provided for an independent judiciary, although the judiciary has been subject to executive branch and other outside influences and suffers inadequate resources, inefficiency and corruption. The Supreme Court demonstrates a limited degree of independence. The higher level judiciary is considered competent and generally honest, although there are widespread reports of corruption among lower level magistrates and minor court functionaries. [2b]

4.2.3 The Musharraf regime controversially dismissed the Chief Justice and five Supreme Court judges on the 26th January 2000 after they refused to swear a fresh oath to the new constitutional order enforced by the military following the coup. Several High Court Judges also refused to sign the oath. [30c] The government however claims that the independence of the judiciary remains intact. In a statement they said that the newly appointed Chief Justice and his fellow judges who did take the oath had already served the country for many years. They also insisted that all legal proceedings since the coup have remained open to the media and totally transparent. International observers were also invited to visit and observe the 'free and fair manner' in which all court proceedings took place. [35b]

4.2.4 The judiciary demonstrated its capacity to act independently in April 2001, when the Supreme Court ordered certain amendments to be made to the National Accountability Bureau Ordinance as certain provisions were deemed to be unlawful and unconstitutional. [33u] This followed two separate rulings the previous month, whereby ten activists of the MQM (Muttahida Qaumi Movement) were acquitted on charges of murder and arson, including the murder of a policeman. [33q & 33r] Judicial independence was also evident in May 2001 after an accountability court in Lahore acquitted a former Inspector General of Police in Sindh of corruption charges. He had earlier also been acquitted by an anti-terrorism court of involvement in the Karachi plane case - the catalyst resulting in the military coup of October 1999. A full bench of the Sindh High Court dismissed the government's appeal against the acquittal. [43]

See also Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85 and National Accountability Bureau: paragraphs 4.2.34 - 4.2.40

Court System

4.2.5 The judicial system involves several court systems with overlapping and sometimes competing jurisdictions. There are civil and criminal systems with special courts for banking, anti-narcotics and antiterrorist cases, as well as the federal Shariat court for certain Hudood offenses. The appeals process in the civil system is as follows: civil court, district court, High Court and the Supreme Court. In the criminal system the progression is magistrate, sessions court, High Court and the Supreme Court. [2b]

See also Anti-Terrorism Act and Courts: paragraphs 4.2.8 - 4.2.12.

4.2.6 The civil judicial system provides for an open trial, the presumption of innocence, cross-examination by an attorney and appeal of sentences. Attorneys are appointed for the poor only in capital cases. There are no jury trials. Due to the limited number of judges, the heavy backlog of cases and lengthy court procedures cases routinely take years and defendants must make frequent court appearances. Cases start over when an attorney changes. [2b]

4.2.7 Under both the Hudood and standard criminal codes there are bailable and non-bailable offences. According to the Criminal Procedures Code the accused in bailable offences must be granted bail and those charged with non-bailable offences should be granted bail if the alleged crime carries a sentence of less than 10 years. Many accused, especially well-connected persons who are made aware of impending warrants against them, are able to obtain pre-arrest bail and are thus spared arrest and incarceration. [2b]

Anti Terrorism Act and Courts

4.2.8 In 1997 the Government justified the creation of anti-terrorist courts by citing the large number of murder and other cases that were clogging the regular court system. The Anti-terrorist Act (ATA) allowed police or military personnel acting as police to enter and search homes and offices without search warrants and to confiscate property or arms likely to be used in an alleged terrorist act (which is defined very broadly). While the Anti-terrorist Act was partially suspended in 1998, new Anti-terrorist Ordinances were promulgated in October 1998 and April 1999. Under these new ordinances many blasphemy cases were to be heard by antiterrorist courts. By law the police need a warrant to search a house, although not to search an individual. [2b]

4.2.9 The anti-terrorist courts - designed for the speedy punishment of terrorist suspects - have special streamlined procedures. Due to the continued intimidation of witnesses, police and judges however the courts produced only a handful of convictions in 1998. Under the act terrorist killings are punishable by death and any act (including speech) intended to stir up religious hatred is punishable by up to 7 years' rigorous imprisonment. Cases are to be decided within 7 working days, although judges are free to extend the period of time as required. Appeals to an appellate tribunal were also required to take no more than 7 days, but appellate authority since has been restored to the High and Supreme Courts under which these time limits do not apply. Under the Anti-terrorist Act, bail is not to be granted if the court has reasonable grounds to believe that the accused is guilty. [2b]

4.2.10 In May 1998 the Supreme Court ordered the government to amend the ATA to bring it into conformity with constitutionally guaranteed protection by granting higher courts the power to hear appeals from the anti-terrorism courts. Provisions granting police special powers to search private residences, obtain confessions by duress and shoot without first being fired upon were also eliminated. [21b]

4.2.11 Leading members of the judiciary, human rights groups, the press and politicians from a number of parties expressed strong reservations about the antiterrorist courts, charging that they constitute a parallel judicial system and could be used as tools of political repression. Government officials and police believed that the deterrent effect of the act's death penalty provisions contributed to the reduction in sectarian violence after its passage. The antiterrorist courts are also empowered to try persons accused of particularly 'heinous' crimes such as gang rape and child killings, and several persons have been tried, convicted and executed under these provisions. The antiterrorist courts reportedly sentenced 32 people to death and 15 people to life imprisonment during 2000. [2b]

4.2.12 In December 1999 the Musharraf Government modified the Anti-Terrorist Act by adding a number of additional offences, including acts to outrage religious feelings; efforts to 'wage war against the state'; conspiracy; acts committed in abetting an offence;

and kidnapping or abduction to confine a person. By ordinance the Musharraf regime created a special anti terrorist court in Sindh presided over by a High Court justice rather than a lower level judge, as is usually the case. The amended provision permits the High Court justice to "transfer...any case pending before any other special court...and try the case" in his court. [2b]

Federal Administered Tribal Areas

4.2.13 The Federal Administered Tribal Areas (FATA) operates a separate legal system. For example the Frontier Crime Regulation recognises the doctrine of 'collective responsibility'. This gives authorities the power to detain fellow members of a fugitive's tribe whilst awaiting his surrender, or punishment by his own tribe in accordance with local tradition. [20c]

Sharia Law

4.2.14 The (suspended) Constitution of Pakistan required all laws to be consistent with Islam. Islamic law (or Sharia) is derived from the **Koran** (the holy book of Islam) and the **Sunnah** (the sayings and practices of Mohammed). [3] The federal Shariat court and the Sharia bench of the Supreme Court serve as appellate courts for certain convictions in criminal court under the Hudood ordinances. The federal Shariat court may also overturn any legislation judged to be inconsistent with the tenets of Islam. These cases may however be appealed to the Sharia bench of the Supreme Court. [2b]

See also Hudood Ordinances: paragraphs 4.2.17 - 4.2.18.

4.2.15 Appeals of certain Hudood convictions involving penalties in excess of 2 years imprisonment are referred exclusively to the Shariat courts and are heard jointly by Islamic scholars and High Court judges using ordinary criminal procedures. Judges and attorneys must be Muslim and must be familiar with Islamic law. Within these limits defendants in a Sharia court are entitled to the lawyer of their choice. There is a system of bail. [2b]

4.2.16 In March 2000 the sentence given to a serial killer found guilty of the murder of a hundred children caused a global media sensation. The Lahore High Court judge involved ordered Javed Iqbal and an accomplice to be executed in the same way he had killed the children. This was to involve public strangulation, their bodies to be cut into a hundred pieces and then dissolved in vats of acid. The Islamic Ideology Council (Pakistan's leading religious affairs advisory body) however declared the sentence un-Islamic, as death by mutilation is not allowed in Islam. The Council also stated that the sentence could give rise to misunderstandings about Sharia Law. The Interior Ministry swiftly acted by announcing that the sentence would not be implemented in the manner the judge had ordered. [35b]

Hadood Ordinances

4.2.17 The Hadood Ordinances, promulgated by the Government in 1979 and which came into effect in 1980, were an attempt to make the Penal Code more Islamic. These laws are applied to Muslims and non-Muslims alike. The Ordinances bring together five Islamic laws applying to:

- theft (Offences Against Property Ordinance);
- prohibition of alcohol and narcotics (Prohibition Order);
- **zina**, i.e. to rape, abduction adultery and fornication (Offence of Zina Ordinance);
- **qazf**, i.e. false accusation of zina (Offence of Qazf Ordinance); and
- the type of flogging inflicted for infractions of any of these laws (Execution of the Punishment of Whipping Ordinance).

[3], [6] & [12c]

4.2.18 Offences are distinguished according to punishment, with some offences liable to **Hadd** (Koranic punishment) and others to **Tazir** (non-Koranic punishment). Punishment is usually imprisonment, but it can include flogging or other punishments which are considered to violate international human rights standards. Hadd punishments require a high standard of evidence. In effect, four adult male Muslims of good character must witness an act for a Hadd punishment to apply. Ordinary punishments such as jail terms or fines may be imposed on the basis of lesser evidence. [3], [6] & [12c] In twenty years not a single Hadd punishment has been carried out since the Hadd ordinances have been in force. [2b]

Qisas and Diyat Ordinances

4.2.19 The Qisas and Diyat Ordinances were promulgated after a 1990 Federal Sharia Court ruling. [3] The Penal Code incorporates the doctrines of Qisas (roughly, an eye for an eye) and Diyat (blood money). Qisas is not known to have been invoked, although Diyat - particularly in the NWFP - is occasionally applied in place of judicial punishment of the wrongdoer. Only the family of the victim (not the State) may pardon the defendant. [2b]

4.2.20 The Hudood, Qisas and Diyat ordinances apply to ordinary criminal courts and Shariat courts. Failure to pay Diyat in non-capital cases can result in indefinitely extended incarceration. In 1998 the Human Rights Commission of Pakistan noted that there were 58 persons in prison after the completion of their jail terms because they could not pay the Diyat. [2b]

Blasphemy Law

4.2.21 Section 295(a) - the blasphemy provision of the Penal Code - originally stipulated a maximum 2-year sentence for insulting the religion of any class of citizens. This sentence was increased to 10 years in 1991. In 1982 Section 295(b) was added, which stipulated a sentence of life imprisonment for 'whoever willfully defiles, damages or desecrates a copy of the holy Koran.' In 1986 another amendment - Section 295(c) - established the death penalty or life imprisonment for directly or indirectly defiling 'the sacred name of the holy Prophet Mohammed.' In 1991 a court struck down the option of life imprisonment. No one has been executed by the State under any of these provisions, although religious extremists have killed some people accused under them. [2b]

4.2.22 These laws - especially Section 295(c) - have been used to threaten, punish or intimidate Ahmadis and Christians. [2b] Following the arrest of peaceful demonstrators against the blasphemy laws in January 2001, the Human Rights Commission of Pakistan (HRCPC) stated that disputes over property or other family matters were the reasons behind a number of cases. The HRCPC also stated that difficulties experienced by those victimised under the law would continue to increase unless steps were taken to remove the law. [33n] Police also arrest Muslims under the blasphemy laws and government officials maintain that about two-thirds of the total blasphemy cases that have been brought to trial have affected Muslims. In 1998 Ghulam Akbar, a Shia Muslim, was convicted of blasphemy and became the first Muslim to be sentenced to death. The case remained under appeal at the end of 2000. [2b]

4.2.23 When blasphemy and other religious cases are brought to court extremists often pack the courtroom and make public threats about the consequences of an acquittal. As a result judges and magistrates often continue trials indefinitely and the accused is burdened with further legal costs and court appearances. Many judges also try to pass such cases to other jurists. [2b] In February 2001 a group of religious political parties threatened to carry out their own punishment if those responsible for the publication of a letter deemed to be blasphemous were not severely punished. The letter had appeared in the daily *Frontier Post* publication. [39]

4.2.24 Administrative changes have nonetheless been made to the procedure for filing blasphemy charges so that there must be a judicial review of evidence before charges are laid. Also if a blasphemy charge is found to be baseless, counter-charges will be laid against the complainant who would face a penalty of up to ten years in prison. [12d] Since 1996 magistrates have been required to investigate allegations of blasphemy to see whether they are credible before filing formal charges. [2b] The current regime however abandoned initial plans to change the way blasphemy cases are registered after a number of Islamic organisations threatened to hold protest demonstrations. Pakistan's Human Rights Commission reacted strongly to the climb-down by the military. The Christian Liberation Front also believed that this was evidence of the incapability of the military regime to introduce a relatively minor measure (which they considered inadequate) concerning the blasphemy law. [35b]

4.2.25 According to Amnesty International the Blasphemy Law has been used over the years to harass, intimidate and punish mostly members of religious minorities such as Ahmadis and Christians as well as Muslims who advocate novel ideas. Ahmadis can be charged under this law for calling themselves Muslims; Christians complain that the legislation is abused and lays them open to false charges aimed at extortion or stealing land. [20a] According to an Asian Human Rights Commission publication the judgements of the superior courts have proved that the blasphemy law is being abused and used as a tool to settle personal scores as well as for religious persecution. [36]

See also Ahmadis: paragraphs 5.3.16 - 5.3.40; and Christians: paragraphs 5.3.41 - 5.3.53.

4.2.26 Dr. Attiya Inayatullah, a female member of the Musharraf regime's National Security Council, stated that Pakistan wanted to harmonise Islam with other religions of the world. She told a US delegation that the blasphemy law was non-discriminatory and that out of 102 cases registered under this law in the last four years, 69 were registered by Muslims against Muslims. She also said that all decisions of the lower courts were struck down by superior courts. [33d] General Musharraf insists that as part of Pakistan's constitution the blasphemy law could not be removed. He nonetheless pledged to work against victimisation and misuse of this law. [33f] Further controversy ensued however in August 2001, with the death sentence imposed on Dr. Mohammad Younus - a teacher accused of blasphemy following allegations from students that he made derogatory remarks about Islam's prophet. It was reported that the judge involved in the case was fearful of a violent reaction by religious extremists. [41a]

See also Religious Minorities: Paragraphs 5.3.1 - 5.3.53

Death Penalty

4.2.27 Pakistan has one of the largest death cell populations in the world: in mid-1997 2,855 people were under sentence of death. In that year thirteen people were reportedly executed, including a young man who was only fourteen years old at the time of the alleged offence. [4f] In 1998 some 433 people were sentenced to death and 21 were executed. The 1998 annual report of the Human Rights Commission of Pakistan stated that of the 3,480 children currently in prison, 49 children were under the sentence of death. [4i] On July 1 2000 the Government nonetheless passed the Juvenile Justice System Ordinance, abolishing the death penalty for minors under 18 years of age. [2b]

See also Children: paragraphs 5.3.105 - 5.3.111.

4.2.28 The Penal Code includes provisions for imposing the death penalty for numerous offences such as:

- murder (section 302)
- murder in the course of a robbery (section 17(4))

- offences against property (Haddood Ordinances)
- waging war or abetting the waging of war against the State (section 121)
- abetting mutiny (section 13)
- kidnapping for ransom (section 364)
- kidnapping a person under the age of ten with intent to murder or causing grievous bodily harm section 364(a))
- robbery (section 396)
- hijacking or harbouring a hijacker (sections 402(b) and 402(c))
- zina and rape (Haddood Ordinances)
- blasphemy (section 295(c))

4.2.29 In September 1996 the death penalty was extended to drug trafficking, planning to or sabotaging the railway system and arms trading. It was further extended to gang rape in March 1997. [20a]

See also Ahmadis: paragraphs 5.3.16 - 5.3.40; and Christians: paragraphs 5.3.41 - 5.3.53.

Accountability Commission

4.2.30 The National Assembly passed the Accountability (Ehtesab) Bill on 29 May 1997. This applied to those who held public office since 6 November 1990, providing a mechanism for the trial of public officials accused of corrupt practices through an independent office of the Chief Accountability Commissioner. [8c]

4.2.31 On 1 January 1998 the Sharif Government filed twelve corruption cases with the Accountability Commission against Benazir Bhutto, her husband Asif Ali Zardari and her mother Nusrat Bhutto. The investigation was widened when it was announced that the UK government had agreed to assist in the seizure of documents (held in the UK) pertaining to Zardari's assets and bank accounts. [24a]

4.2.32 Benazir was convicted in absentia of corruption on 15 April 1999. She was sentenced to five years imprisonment and disqualified from holding public office for up to ten years. Zardari was also convicted and received the same sentence. They were also fined US\$8.6 million and the court ordered the confiscation of all of their property. Benazir, who was in London at the time of the verdict, flew to Dubai on 28 April 1999 with the professed intention of consulting her lawyers to prepare an appeal. [24j] Zardari appealed to the Supreme Court on 10 May 1999. The Supreme Court ruled on 13 May 1999 that it would not hear an appeal by Benazir against her conviction until she returned to Pakistan. [24k] On 27 May 1999 however the Supreme Court ruled that Benazir's presence in Pakistan was not necessary, allowing her lawyers to appeal. [26h]

4.2.33 In April 2001 the Supreme Court suspended Benazir Bhutto's and her husband Asif Zardari's convictions for corruption and ordered a retrial. [35c] The Supreme Court went on to rule that the conviction of Benazir Bhutto was the result of bias on the part of the original presiding judge who had a close liaison with her political opponents. [33t]

National Accountability Bureau (NAB)

4.2.34 The Musharraf regime created the National Accountability Bureau (NAB) and special accountability courts to try corruption cases. The ordinance allowed those suspected by the State Bank of Pakistan of defaulting on government loans or of corrupt practices to be detained for 90 days without charge and prior to being charged did not allow access to counsel. Many however remained in detention past the 90 days without charge. The NAB was given broad powers to prosecute such cases and the accountability courts were expected to try cases within 30 days. The ordinance prohibited courts from granting bail and gave the NAB chairman sole power to decide if and when to release detainees. [2b]

4.2.35 The NAB was created in part to deal with as much as \$4 billion (approximately PRs 208 billion) that is estimated to be owed to the country's banks (all of which are state-owned) by debtors - mainly from among the wealthy elite. The Musharraf Government stated that it would not target genuine business failures or small defaulters and does not appear to have done so. [2b]

4.2.36 In May 2000 the Finance minister announced that the NAB could initiate fresh proceedings against any bankers only after approval from the State Bank. The NAB would also only proceed against a businessman (or group) after a four-member Committee (comprising the Finance and Commerce ministers, the Chairman of the NAB and the staff officer of the Chief Executive) had processed the case. Those accused would be able to offer their version of events to the Committee. [33g] There were nonetheless concerns that in accountability cases the burden of proof tended to be on the accused. Only the NAB chairman was empowered to release a detainee or an under-trial prisoner. Other concerns were the establishment of a parallel chain of courts outside the normal judicial hierarchy that were not subject to the supervision of high courts (as envisaged by the constitution). The NAB Ordinance also prescribed a three-year jail term for any respondent who failed to appear and defend himself before an accountability court, although there was a 'plea bargain' provision also included. [33s]

4.2.37 Conviction under the ordinance can result in 14 years imprisonment, fines and confiscation of property. Those convicted also are disqualified from running for office or holding office for 21 years. On August 11 2000 the Government announced that those with a court conviction would be barred from holding party office. [2b]

4.2.38 On April 24 2001 the Supreme Court ordered the government to make changes to the accountability laws following a series of objections raised by the political parties. The Court ruled that the law was neither discriminatory nor against the constitution, but nonetheless ruled that the period of detention without charge should be reduced from 90 days to 15. The government pledged to honour the ruling, interpreting it as a victory for their anti-corruption campaign. [35c]

4.2.39 The ruling also set guidelines to bring the accountability process under the existing judicial system. The disqualification period of 21 years was also considered excessive and reduced to 10 years. The court held that the NAB chairman could not act as prosecutor and judge, and also that matters relating to the administration of justice rest with the judiciary and should not be entrusted to the NAB. The restrictions on bail to the accused were also deemed unlawful and should be amended accordingly as superior courts' power to grant bail was an established principal of law. The court ruled that the performance of the NAB was comparatively satisfactory, although further rules should be framed to expedite the desired effect. [33u]

4.2.40 By 1st August 2001 a total of 142 people were convicted by the national accountability courts according to official sources. Rs 65.74 billion had also been recovered in the form of bank loans, plea-bargains, court fines and through improvement in financial affairs in the public sector. Of the forty-two politicians prosecuted, thirty-five had been convicted - eight of these being from the PML (N) and four from the PPP. [33v]

4.3 SECURITY

General

4.3.1 The police have primary internal security responsibilities, although paramilitary forces such as the Rangers and the Frontier Constabulary provide support in areas where law and order problems are acute. Examples include Karachi and the frontier areas. Provincial governments control the police and the paramilitary forces when they

are assisting in law and order operations. During some religious holidays the regular army is deployed in sensitive areas to help maintain public order. Following the coup the army played a role in enforcing exit control restrictions at airports and border crossings, reportedly as part of the anti-corruption campaign. Members of the security forces have committed numerous serious human rights abuses. [2b]

4.3.2 There are two levels within the Pakistan police force: one under federal jurisdiction - the Federal Investigation Agency and the other under provincial jurisdiction. Each province has its own police force under the authority of an inspector general named by the provincial government. Police stations are organised by district and are placed under the supervision of a district superintendent and his assistants who are also named by the provincial government. In large cities the police force is part of a municipal structure, also under the authority of the provincial inspector general. [12c]

4.3.3 The October 2001 U.S. air strikes on Afghanistan in their pursuit of Osama Bin Laden have enraged the country's small but militant religious groups. President Musharraf has stated that Pakistan will co-operate with the U.S. as long as the military campaign takes. Subsequent protests in certain parts of the country have resulted in deaths following violent demonstrations. Musharraf insisted however that the vast majority of the population favoured his support for the U.S. action. Indeed religious parties have never managed to win more than five percent of the vote in elections, although their strength is in their ability to mobilise supporters onto the streets. [35c]

Sindh

4.3.4 Since the late 1980s Pakistan has been faced with a situation of increasing violence which has been generated by a combination of criminal and terrorist activities, ethnic tensions, political rivalries and the misuse of police powers. The southern province of Sindh has been particularly affected. The violence there has been related to the conflict between factions of the MQM. The parties are well armed and their political rivalry has escalated into gun battles. In the early 1990s there was strong rivalry between the PPP and the MQM. Benazir Bhutto accused a militant wing of the MQM of being responsible for hundreds of politically motivated killings of PPP members. Between mid-1992 and late 1994 the army assisted the police in restoring law and order in Sindh. [3] & [4a]

4.3.5 It was estimated that about 2,000 people were killed in 1995 and 500 in 1996 as a result of ethnic, political and sectarian violence in Karachi. The levels of violence fell in 1997 but clashes between the MQM (Altaf) and MQM (Haqiqi) factions continued. The MQM (Altaf) denied any responsibility for the violence and accused the MQM (Haqiqi) of obstructing its workers and elected representatives. The Haqiqi faction accused the police of cracking down on its workers since the MQM (Altaf) joined the provincial government after the February 1997 elections. The Karachi police chief stated that all the political groups have weapons and that the police were determined to seize all illegal weapons regardless of the party. [6f] & [6i] Political, ethnic and sectarian violence took more than 800 lives in Karachi in 1998. [26f]

See also Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

4.3.6 In August 2001, ongoing operations against Jihadi and sectarian organizations were set to continue. Sources in the Sindh Home Department stated that the proscription of religious groups involved in sectarian terrorism and the promulgation of the Anti-Terrorism Ordinance 2001 and other similar actions had been intended to improve sectarian harmony. The sources also added that the publication and distribution of material and banners and inflammatory speeches aimed at fanning sectarian hatred would also be effectively checked. [33x] In early September police arrested about fifty people suspected of sectarian violence in Karachi, allegedly belonging to the Lashkar-e-Jhangvi and Sipah-e-Mohammed militant groups. [35c]

Punjab

4.3.7 The province of Punjab has also been affected by sectarian violence. Armed militants have been active in many of Punjab's towns with large numbers of deaths as a result of clashes between Sunni and Shia extremist groups. [5a]

See also Shia Muslims: paragraphs: 5.3.54 -5.3.63.

5.1 INTRODUCTION

5.1.1 Although the human rights situation has reportedly improved substantially since the death of Zia ul-Haq, a culture of violence and criminality is said to prevail in Pakistan. [20a] The US State Department describes the current government's human rights record as poor, yet acknowledges that there were improvements in some areas, particularly with respect to freedom of the press. [2b]

5.1.2 The feudalistic structure of the Pakistani economy has resulted in human rights violations. People who need to borrow money often do so from a landlord, which may be in exchange for their children's labour for a specified period. For additional loans, many become permanently indebted and sell their children's labour for their lifetimes. Landlords have come to own their people and the raping of women by their landlords has become widespread. In cases of opposition, peasants have also been incarcerated in private jails with no hope of assistance. Even in urban areas feudal traditions have played a role in peoples lives, with urbanites referring to their village as their home. [20b]

5.2 GENERAL ASSESSMENT

Police

5.2.1 Police corruption is reported to be widespread. The US State Department reports that police have committed numerous extra-judicial killings yet states that there were fewer such killings in 2000 than in 1999. Police have also abused and raped citizens. While the officers responsible for such abuses were sometimes transferred or suspended for their actions, no officer has been convicted and very few have been arrested. In Karachi there were signs of progress in redressing police excesses, however in general police continue to commit serious abuses with impunity. [2b]

5.2.2 The Human Rights Commission of Pakistan (HRCP) estimated that 23 people were killed in police custody or police encounters during 2000. Police officials insist that these deaths occurred during attempts to escape or resist arrest. In addition to killing suspects to prevent them from implicating the police in court, police reportedly killed suspected criminals to circumvent or overcome insufficient evidence, witness intimidation, judicial corruption and sometimes political pressure [2b]

5.2.3 Police professionalism is low. The police view the killings of criminal suspects as appropriate given the lack of effective action by the judiciary against criminals. The judiciary in turn faults the police for presenting weak cases that do not stand up in court. [2b] In March 2001 for example an anti-terrorism court acquitted a former MQM politician and three other party activists who were accused of murdering a policeman during an ambush in July 1999. The judge also acquitted six accused who had absconded and cited improper investigation on the part of the police. [33q]

See also Muttahida Qaumi Movement: paragraphs 5.3.64 - 5.3.85.

5.2.4 Police and prison officials frequently use the threat of abuse to extort money from prisoners and their families. Police accept money for registering cases on false charges and may torture innocent citizens. Certain individuals pay police to humiliate their opponents and to avenge their personal grievances. During 2000 the Government took some steps to reduce police corruption and transferred several senior police officers to other provinces to circumvent their local ties. The Government also deployed army officers to police stations. [2b]

5.2.5 Special women's police stations were established in 1994 in response to growing numbers of complaints of custodial abuse of women, including rape. These stations are staffed by female personnel, but receive even fewer material and human resources than regular police stations [2b]

Arbitrary Arrest

5.2.6 The law regulates arrest and detention procedures. The authorities however do not always comply with the law and the police arbitrarily arrest and detain citizens. The law permits a Deputy Commissioner (DC) of a local district to order detention without charge for 30 days of those suspected of threatening public order and safety. The DC may renew detention in 30-day increments up to a total of 90 days. Human rights monitors report instances in which prisoners jailed under the Maintenance of Public Order (MPO) Act have been imprisoned for up to six months without charge. For other criminal offences the police may hold a suspect for 24-hours without charge. After the prisoner is produced before a magistrate the court can grant permission for continued detention for a maximum period of fourteen days if the police provide material proof that this is necessary for an investigation. [2b]

5.2.7 Police are empowered to arrest individuals on the basis of a First Information Report (FIR) filed by a complainant, but they are said to be frequently filed without supporting evidence and used to harass or intimidate individuals. Individuals are sometimes detained arbitrarily without charges or on false charges in order to extort payment for their release. [20a] The 24-hour period between the arrest and the suspect's appearance before a judge is determined from the time of the deposition recorded in the preliminary report. In the absence of this report the accused may be detained indefinitely without the court being informed. [12c]

See also Security: paragraphs 4.3.1 - 4.3.7; and Police: paragraphs 5.2.1 - 5.2.5.

Torture

5.2.8 The suspended Constitution and the Penal Code expressly forbid torture and other cruel, inhuman or degrading treatment. Police however regularly torture and abuse people. Police routinely use force to elicit confessions, although there were fewer such reports and greater police cooperation in investigating such incidents during 2000. Human rights observers suggest that because of torture, suspects usually confess to crimes regardless of their actual culpability. The courts subsequently reject many such confessions. [2b]

5.2.9 Common methods of torture include beating, burning with cigarettes, whipping the soles of feet, sexual assault, prolonged isolation, electric shock, denial of food or sleep, hanging upside down, forced spreading of the legs and public humiliation. Some magistrates reportedly help cover up the abuse by issuing investigation reports stating that victims died of natural causes. Amnesty International have estimated that at least 100 people die from police torture every year [2b]

5.2.10 It has been reported that the most frequent perpetrators of arbitrary detention and torture are the police. The Rangers and the national FIA (Federal Investigation Agency) have also reportedly engaged in such practices. To a lesser degree, non-state agents

such as political parties or fundamentalists have also been reported as being responsible for torture. This may be for the purposes of intimidation or revenge attacks. [40]

See also Police: paragraphs 5.2.1 - 5.2.5.

Human Rights Groups

5.2.11 There are several domestic human rights organisations, and new human rights and legal aid groups continue to form. These groups are generally free to operate without government restriction. The government has provided protection to human rights lawyers defending those accused of blasphemy following threats and attacks on the lawyers by religious extremists. [2b]

5.2.12 The Musharraf Government made some attempts to ease some of the previous government's restrictions on NGOs. General Musharraf appointed several people with prominent NGO backgrounds to his Cabinet and many NGO workers reported a smoother working relationship with the Government during 2000. The new government in Punjab lifted the previous ban on NGO registration. International human rights observers are permitted to visit the country and travel freely. [2b]

5.3 SPECIFIC GROUPS

PART 1

Religious Minorities
Ahmadis
Christians

PART 2

Shia Muslims
Shias and Sunnis - Historical Theological Differences
Pakistan's Shias
Muttahida Qaumi Movement
Women
Children
Homosexuals

Religious Minorities

Background

5.3.1 Pakistan is an Islamic republic in which approximately 95 percent of the population are Muslim. The majority are Sunni Muslim with an estimated 15 percent Shia. [2b] The remainder are mainly Hindus or Christians. [3]

5.3.2 Mohammed Ali Jinnah, the founder of Pakistan, wanted the country to be secular, tolerant of religious differences and exist in religious harmony. This however has not been fulfilled. The outbreak of sectarian violence dates back to the 1970s when the country was under the military rule of General Zia-ul-Haq, who wanted Pakistan to become a more conservative Islamic country. [35b]

5.3.3 Zia encouraged Islamic militancy - with Western backing - to fight a holy war in Afghanistan against communism. Pakistan became home to a number of predominantly

Sunni groups that were funded, armed and trained by Zia's regime. At the same time the fervour of the Iranian Revolution resulted in the Iranian backing of a small number of Shia groups in Pakistan. Hard liners on both sides soon acquired arms and two rival militant groups emerged - the Shia Tehreek-i-Jafria and the Sunni Sipah-e-Sahaba. [35b] While Zia attempted to use Islam to achieve popular acceptance of his regime, the current military government has explicitly rejected the use of Islam for political gains. It has nonetheless been criticised by liberal forces for its accommodation of Islamists' demands, whose interpretation of Islam is contrary to majority beliefs. [4s]

Policies and Constitutional Provisions

5.3.4 The suspended Constitution provided for freedom of religion and stated that adequate provisions shall be made for minorities to profess and practice their religions freely. The Government nonetheless imposes a range of limits on freedom of religion. The suspended Constitution required laws to be consistent with Islam and imposed some elements of Islamic law on both Muslims and religious minorities. [2b]

5.3.5 In September 1999 the Government removed colonial-era entries for 'sect' from government job application forms to prevent discrimination in hiring. The faith of some however - particularly Christians - can often be ascertained from their names. [2b]

5.3.6 The government claims it is committed to protecting the rights of religious minorities. Religious minority communities have stated that the Musharraf administration consulted them for input into some decision-making and also offered cabinet positions to some of their members. [2b] General Musharraf himself is reported to be a liberal Muslim, who has little patience with Islamic militants or religious intolerance. [28h] There is also prohibition of the exploitation of religion for sectarian or political interests [20c], although police have failed in some instances to protect members of religious minorities - particularly Ahmadis and Christians - from societal attacks. [2b] Hostility of this kind may be exacerbated by professional rivalry or over land issues. [4s]

5.3.7 Dr. Attiya Inayatullah, a female member of the Musharraf Regime's National Security Council, told a US delegation that Pakistan wanted to harmonise Islam with other religions of the world. She also said that the Musharraf government was taking administrative measures to protect the rights of minorities. [33d] There is nonetheless still an atmosphere of impunity for acts of violence and intimidation committed against religious minorities. [2a] Amnesty International report that the Musharraf regime has failed to deliver in terms of its professed agenda of protection and promotion of minority rights, accommodating the Islamist groups instead. These complex problems however are not of the current regime's own making, but stem from the continuous neglect from successive governments exhibiting more of a concern for power rather than principle. Institutions have been weakened in the process, with religion used for political ends and the rule of law disregarded. [4s]

5.3.8 While there is no law establishing the Koranic death penalty for apostates (those who convert from Islam), social pressure against such an action is so powerful that most such conversions take place in secret. Reprisals and threats of reprisals against suspected converts are common. Members of religious minorities are subject to violence and harassment, and police at times refuse to prevent such actions or charge persons who commit them. [2b] Missionaries are allowed to operate in the country, and proselytising is permitted (except by Ahmadis). Proselytising is nonetheless considered socially unacceptable among Muslims and missionaries face some problems due to this perception, claiming that converts amongst the poorer classes are harassed by police and local officials. [2a]

5.3.9 'Islamiyyat' (Islamic studies) is compulsory for all Muslim students in state-run schools. Students of other faiths are not required to study Islam but are not provided with parallel studies in their own religion. In practice, many non-Muslim students are compelled by teachers to complete the Islamiyyat studies. The new education policy announced by the Government in 1998 included provisions for increased mandatory

Islamic instruction in public schools. [2b]

5.3.10 Discriminatory religious legislation has encouraged an atmosphere of religious intolerance in some quarters, which has led to acts of violence directed against minority Muslim sects (such as Ahmadis and Zikris) as well as against Christians and Hindus. [2b] President Zia ul-Haq introduced the Haddood (Punishment) Ordinances in 1984, which 'define crimes against Islam' and 'enforce punishment for those who commit such crimes'. In Haddood cases the testimony of a non-Muslim is considered to be worth half that of a Muslim. [7c]

5.3.11 Pakistan has signed and ratified the following international instruments:

- International Convention on the Elimination of All Forms of Racial Discrimination
- International Convention on the Suppression and Punishment of the Crime of Apartheid
- Convention on the Prevention and Punishment of the Crime of Genocide [15]

5.3.12 Pakistan is nonetheless yet to ratify the International Covenants on Civil Rights and Political Rights and on Economic, Social and Cultural Rights. It has also not ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Failure to ratify these international agreements has led to criticism regarding the safeguarding of human rights, in the sense that ratification of such instruments makes a country more accountable for its human rights practices than domestic constitutional provisions do. [40]

Voting Rights

5.3.13 The 1973 Constitution guarantees religious minorities the right to vote in general elections as full citizens in a joint electorate. The 1974 Constitutional amendment, which declared Ahmadis to be non-Muslims, led to a change in their voting status. Article 106 (3) of the 1973 Constitution, which provided for the special representation of religious minorities, was amended to include Ahmadis. Ahmadis do not accept the official designation of themselves as non-Muslims and so have refused to take up seats allocated to them in the National and Provincial elections. [3] Their leaders encourage their followers not to register as 'non-Muslims' so most Ahmadis are completely unrepresented. [2b]

5.3.14 In 1978 two separate electorates - one for Muslims and one for religious minorities - were created for the National and Provincial Assemblies. [3] The last five elections (1985, 1988, 1990, 1993 and 1997) have been held under the separate electoral system. The minority groups were guaranteed a number of seats (Christians four; Hindus four; Ahmadis one; [27a] and other non-Muslims (Sikhs, Buddhists and Parsis) one. [11]

5.3.15 The Musharraf regime abandoned a plan to abolish the separate electorate system due to pressure by some Muslim political groups. With separate electorates, representatives have little incentive to promote their minority constituents' interests. Many Christian activists state that separate electorates are the greatest obstacle to the attainment of Christian religious and civil liberties. Each of the four categories is maintained on a separate electorate roll and minorities cannot cast votes for the Muslim constituency seats. Under Article 106 of the suspended Constitution, minorities also had reserved seats in the provincial assemblies. [2b]

See also *Federal Legislature: paragraphs 4.1.18 - 4.1.19.*

Ahmadis

Introduction

5.3.16 There are approximately 10 million Ahmadis world wide, of whom some 4 million live in Pakistan. There have been estimates which suggest that Ahmadis make up some 2.7% of Pakistan's population, though it is difficult to determine the actual size as Ahmadis generally declare themselves to be Muslims. [12d] They are mainly concentrated in the Punjab and Sindh provinces. [2a]

5.3.17 Mirza Ghulam Ahmad (1835-1908) founded the Ahmadiyya, a religious sect that calls for the renewal of Islam, in Punjab in 1889. He announced that he was commanded by God to accept **bai'at** (homage or allegiance paid to a religious leader). He also claimed "under divine direction" that he was both the promised **Mahdi** (the rightly guided one) and the Promised Messiah in one person whose main function would be the renaissance of Islam. [12a] & [12d]

5.3.18 The Koran describes Muhammad as the "seal of the prophets" and thus he is regarded as the last prophet in Islam. However Ghulam Ahmad interpreted this reference in the Koran as meaning that Mohammed was the last law-giving prophet, and he proclaimed himself to be a prophet without a scripture or book of his own but with a mission to rejuvenate Islam. [12a] & [12d]

5.3.19 After Ghulam Ahmad's death in 1908, Nur al-Din was elected to succeed him, and after his death in 1914, Ghulam Ahmad's son Mahmud Ahmad was elected. The leadership has since remained within the founder's family, with Tahir Ahmad (a grandson) elected as Khalifatul Masih IV (fourth Successor of the Messiah) in 1982. [12a] & [12d]

Ahmadi Headquarters, Rabwah

5.3.20 Qadian became part of India after the 1947 Partition. Mahmud Ahmad, together with most of the Ahmadi residents of Qadian moved first to Lahore in Pakistan, then to a purpose built city 95 miles to the west, called Rabwah. The plan of the city reflects Ahmadi religious beliefs. In addition to the two central mosques, each of the sixteen quarters has a mosque at its centre, in which according to Islamic tradition all religious, social and cultural activities are held. [12a]

Legislative Restrictions

5.3.21 In 1974 the Constitution of Pakistan was amended to declare Ahmadis a non-Muslim minority group. This had the practical effect of allowing Ahmadis freedom to practise their religion among themselves, as do other religious minorities such as Christians and Hindus, providing they did not represent themselves as Muslims. [3] & [13]

5.3.22 Certain sections of the Penal Code have caused problems for Ahmadis, particularly the provision that forbids Ahmadis from "directly or indirectly" posing as Muslims. Armed with this vague wording, mullahs have brought charges against Ahmadis for using the standard Muslim greeting form and naming their children Mohammed. [2b]

5.3.23 Article 260 of the Constitution of Pakistan states that: "A person who does not believe in the absolute and unqualified finality of the Prophet-hood of Muhammad...is not a Muslim for the purposes of the Constitution or law." On 28 April 1984 President Zia promulgated Ordinance XX (incorporating this into the 1985 Constitution). This provided for prison terms of up to three years and fines for Ahmadis who called themselves Muslims and used Islamic terminology (inserted as sections 298(B) and 298(C) of the Pakistan Penal Code). [3], [13] & [7c]

5.3.24 In 1986 the Government inserted section 295(c) into the Penal Code, which stated that the penalties for blaspheming the Prophet Mohammed were death or life imprisonment and a fine: "Use of derogatory remarks etc, in respect of the Holy

Prophet...shall be punished with death, or imprisonment for life, and shall also be liable to fine." Section 295(c) was amended in August 1991 to make the death penalty the only punishment for blasphemy. Also in 1991 section 295(a) of the Penal Code was amended to increase the maximum punishment for outraging the religious feelings of any group from two to ten years. [3] & [12b]

See also Blasphemy Law: paragraphs 4.2.21 - 4.2.26.

5.3.25 Many Ahmadis have been charged and imprisoned under sections 298(b) & (c) and 295(c). The laws have encouraged an atmosphere of religious sectarianism in which Ahmadis reportedly suffer intimidation, discrimination and harassment. [12b] Since 1984 Ahmadis have also been prohibited from holding conferences or gatherings. [2b] They are also not permitted to proselytise under Pakistani law. [2a] According to Ahmadi sources approximately 3 dozen Ahmadis have been charged under the blasphemy laws since the October 1999 coup. [2b]

5.3.26 The enforcement of Ordinance XX has been uneven and in many cases has been the result of localised pressure being brought to bear on the police by fundamentalist Muslim clerics, particularly in rural areas, or personal bigotry on the part of the police. However, a number of Ahmadis occupy important positions in Pakistani society, particularly in business and the professions. While Ahmadis can be prosecuted for their normal daily behaviour, this is not always the case. Prosecution largely depends on whether a neighbour or colleague reports a violation of the law to the police. Hence the area where an Ahmadi lives and the circumstances in which they live can determine whether or not they are prosecuted. [3] & [13]

Passport Declaration

5.3.27 To obtain a passport Pakistanis must declare their religious adherence on the passport application form. If they declare themselves to be Muslim they must sign the declaration for Muslims, part of which states that Mirza Ghulam Ahmad is an impostor and that his disciples are not Muslims. [12b]

5.3.28 There are conflicting reports about the consequences of this requirement. There have been claims that an Ahmadi who signs the passport declaration may be charged with making a false statement by claiming to be a Muslim. In turn if an Ahmadi ticks the box for religious minorities, he may be ostracised by the Ahmadi community for declaring himself to be a non-Muslim. [12b]

5.3.29 Most Ahmadis indicate that they are Muslims, signing the passport declaration because they do not want to draw attention to their Ahmadi faith, and also not considering the passport declaration to be religiously binding. These Ahmadis are neither ostracised by the Ahmadi community nor charged with falsely declaring themselves to be Muslims. There is however an alternative view that Ahmadis sign the passport declaration because they regard themselves to be true Muslims. [3]

Bai'at

5.3.30 Bai'at is an oath of allegiance, a pledge made by a person who is not an Ahmadi by birth to fulfil certain conditions and abide by the doctrines of Islam. A person born of Ahmadi parents is considered to be an Ahmadi by birth. That person is not required to go through bai'at - unless there has been a change in the Supreme Head of the community in which case all Ahmadis perform bai'at, thus renewing their allegiance to the new Head. Furthermore, there is no objection for an Ahmadi by birth to perform bai'at (however, he or she will not be issued with a Certificate of Bai'at). [18a]

Current Situation

5.3.31 Ahmadis continued to suffer from a variety of restrictions of religious freedom and

widespread societal discrimination. This includes violation of their places of worship, being barred from burial in Muslim graveyards, denial of freedom of faith, speech and assembly, and restrictions on their press. Several Ahmadi mosques remained closed. [2b]

5.3.32 Ahmadi often are targets of religious intolerance, much of which is instigated by organized religious extremists. Ahmadi leaders claim that militant Sunni mullahs and their followers sometimes stage marches through the streets of Rabwah. Backed by crowds of 100 to 200 persons, the mullahs purportedly denounce Ahmadi and their founder, a situation that sometimes leads to violence. The Ahmadi claim that police generally are present during these marches but do not intervene to prevent trouble. [2b]

5.3.33 Ahmadi may have limited choices for advancement in the public sector and may find it difficult, if not impossible, to advance to high ranks in the army and public administration. [3] The 1980s saw more examples of Ahmadi being dismissed than in recent times. Also being an Ahmadi is sufficient reason to be excluded from an institution of higher education. [3] Even the rumor that someone may be an Ahmadi or have Ahmadi relatives can stifle opportunities for employment or promotion. Ahmadi students in public schools are subject to abuse by their non-Ahmadi classmates, and the quality of teachers assigned to predominantly Ahmadi schools by the Government is generally poor. Most Ahmadi are home-schooled or go to private Ahmadi-run schools. [2b]

5.3.34 From 1986 to 1993 over 200 Ahmadi were charged with blasphemy, although none were convicted. [7c] According to Amnesty International, in 1996 some 120 members of the Ahmadi community were charged with religious offences, including blasphemy. Ahmadi charged with blasphemy were often denied bail. [4b]

5.3.35 On 30 October 2000 unidentified gunmen killed five Ahmadi as they left their mosque in a village near Sialkot, Punjab. Ten others were injured. The killings had been preceded by tension in the village over religious issues. [4r] Less than a year later tensions were also raised in the Punjab after an Ahmadi place of worship was set on fire in August 2001 in Syedwallah, about 62 miles west of Lahore. At the time of the attack dozens of Ahmadi - including women and children - were listening to a religious sermon broadcast on foreign television. Mainstream Sunni Muslims were reportedly unhappy about the gathering. Having been moved to two private homes following the attack, a crowd then reportedly surrounded the premises and chanted slogans. A police official stated that some of the Ahmadi were arrested for their own protection, although none of the attackers were taken into custody. [35c]

Lahori Ahmadi

5.3.36 Internal conflict began to surface during Nur al-Din's khalifat, but the final split occurred over the election of Mahmud Ahmad as Khalifatul Masih II, following Nur al-Din's death in 1914. Leading members of the movement, Muhammad Ali and Kamal ud-Din, left with their followers for Lahore where they established the Ahmadiyya Anjuman Ishaate Islam (Ahmadiyya Association for the Propagation of Islam), with Muhammad Ali as its head. They have since become known as the Lahori Branch and number only approximately 1,000 adherents (while the Ahmadi who follow Ghulam Ahmad's teachings are referred to as the Qadiani Branch), though they refer to themselves as Ahmadi. [12a] & [12d]

5.3.37 This major doctrinal split between the Lahoris and the Qadianis revolved around Ghulam Ahmad's claim to prophet-hood. The Lahoris' belief in his prophet-hood was increasingly abandoned until his religious status was likened to that of a partial prophet and mujaddid, who had been sent in the fourteenth century of the Islamic calendar to renew Islam. By denying full prophet-hood to Ghulam Ahmad, Lahoris reject another Ahmadi injunction, which stipulates that an Ahmadi is permitted to pray only under the leadership of Ahmadi Imams. [12a]

5.3.38 Unlike Qadianis, Lahoris do not prevent their women from marrying non-Ahmadi Muslims. They do however agree with the Qadianis that jihad should not be understood as war-like, but as a spiritual struggle to establish the truth of Islam. They insist that no Muslim can be called kafir (infidel), thus rejecting Ghulam Ahmad's declaration that all non-Ahmadis are kafirs. [12a]

Khatme Nabuwwat

5.3.39 During British rule the Majlis Tahaffuz Khatme Nabuwwat (Committee to Secure the Finality of Prophethood) was founded under the name Majlis-e-Ahrar. Originally a small Muslim political party, it was opposed to the creation of an independent Islamic state. In the 1970s the group changed its name, apparently to attract orthodox Muslims, and is now commonly known as the Khatme Nabuwwat. [12b]

5.3.40 Mullahs within the organisation have in the past called for the banning of Koranic expressions in Ahmadi places of worship and have reportedly collaborated in the destruction of Ahmadi mosques. The organisation has also gone as far as calling for the banning of the Ahmadi movement and the death of its members. There have been reports that the movement had Saudi Arabian support and expanded its activities beyond Pakistan - notably to the UK [12b] where it was nonetheless banned due to its radicalism. The organisation now directs most of its activities from Germany, such as the distribution of leaflets all over Europe telling expatriate Pakistanis and other Muslims that it is their duty to kill Ahmadis. In Pakistan the Khatme Nabuwwat has some very prominent members - including President Rafiq Tarar and National Security Council member Dr Mahmood Ahmad Ghazi. [20b]

Christians

Introduction

5.3.41 There are currently an estimated 3 million Christians in Pakistan. [2b] One category of Christians are the Goan migrants who are entirely Roman Catholic, live in and around Karachi, are generally well educated, fluent in English and are often members of the professions. The remainder are descendants of low caste Hindus who were converted by western Protestant missionaries. Among these are teachers and nurses and those who work in factories and service industries, but the majority are poorly educated and earn a meagre living. Christians are present in all main urban areas, but they are mainly concentrated in Punjab. [9] & [13]

5.3.42 The situation of Christians is less dramatic than that of the Ahmadis. Although they may well face difficulties and resistance from local mullahs and blasphemy charges, the authorities are nonetheless willing and usually able to protect them from harassment, violence and intimidation. Some attacks however have not been prevented and Christians still face many legal and social restrictions. [20b] Discrimination in employment is believed to be common and many Christian parents express difficulty in gaining their children admission to government schools and colleges. Christians have difficulty finding jobs other than those of menial labour, although Christian activists say that the employment situation has improved somewhat in the private sector. They also find themselves disproportionately over represented in Pakistan's most oppressed social group - bonded labourers. Fears are also expressed of forced marriages between Muslim male and Christian women, although this is a relatively rare occurrence. Violent reprisals against converts to Christianity also occur. [2b]

5.3.43 Christian over representation in Pakistan's poorest socio-economic groups and the discrimination they face may be associated with ethnic and social factors rather than religion per se. In Karachi the majority of Roman Catholics are Goan migrants, or

descendants from Eurasian marriages. They are often light-skinned, relatively well educated and prosperous. However, other darker-skinned Christians (such as members of evangelical denominations) are poorly educated. Many Christians remain in the professions of their low caste Hindu ancestors (some of whom were 'untouchables') who were converted to Christianity. [2a]

5.3.44 The government does not interfere in the practice of Christian worship. Some Christians nonetheless complain that they have been harassed by extremist Muslim groups who assert that proselytisation defames the Prophet Mohammed. [13] There is no law that makes conversion from Islam to Christianity a cognisable offence. However, those that do convert may encounter problems from some elements of society who do not accept the practice. According to an Asian Human Rights Commission publication, one such convert was subsequently implicated in false blasphemy charges in 1991, was denied bail and died of poisoning in jail. [36]

5.3.45 Section 295(c) of the Penal Code, which stipulates the death penalty upon conviction of having blasphemed the Prophet Mohammed, has been used to bring blasphemy charges against Christians as well as Ahmadis. [13]

See also Blasphemy Law: paragraphs 4.2.21 - 4.2.26.

Salamat Masih

5.3.46 In 1995 Salamat Masih, a fourteen-year old Christian boy and his uncle, Rehmat Masih, were found guilty of writing blasphemous remarks on a mosque wall in Punjab two years earlier. They were shot and wounded while leaving the court during the trial and a third accused, Manzoor Masih, was killed in the attack. They were sentenced to death, although the sentences were later quashed by the Lahore High Court. Salamat and Rehmat left Pakistan and sought asylum in Germany. The Prime Minister at the time, Benazir Bhutto, angered the country's Islamic fundamentalists when she said she was "shocked and saddened" by the death sentence, although she later stated that blasphemy would remain a capital offence. [1], [3], [17] & [14a]

Khanewal and Shantinagar Incidents

5.3.47 On 6 February 1997 in Khanewal and the nearby village of Shantinagar in Punjab, Muslim mobs burnt down twelve Christian churches, injured 50 people and destroyed more than 250 houses, 80 shops and a school. This occurred after a rumour was broadcast on mosque loudspeakers that Christians had desecrated pages of the Koran. It was reported that the police were believed to have instigated the incident with the help of Islamic groups in retaliation for the suspension of several police officers who had been disciplined after desecrating the Bible during an earlier raid. [12g]

5.3.48 In August 1997 it was reported that the federal government had paid approximately US \$735,000 for repairs to damaged churches and buildings in Khanewal and Shantinagar, and also compensation to victims for the violence against Christians in the February 1997 disturbances. [12g]

Bishop John Joseph

5.3.49 On 6 May 1998 John Joseph, a Roman Catholic bishop and prominent human rights defender, [7c] shot himself dead in front of a tribunal at Sahiwal, near Faisalabad. The Bishop had committed suicide in protest against the blasphemy laws, especially section 295(c) of the Pakistan Penal Code, under which Ayub Masih [20a] had been incarcerated in solitary confinement since 14 October 1996 and sentenced to death on 27 April 1998. [7c] The sentence was for allegedly speaking favourably about Salman Rushdie. [20a] Ayub's family and 13 other landless Christian families were forced from their village in 1996 following the charges and he survived an attempt on his life in 1997 when he was shot at outside the courtroom while on trial. The case was pending appeal

See also Blasphemy Law: paragraphs 4.2.21 - 4.2.26.

5.3.50 On March 12 2000 assailants broke into the Lourdes Convent and attacked Sister Christine, a 78-year-old nun who died in a nearby hospital a few days later. According to the Christian Liberation Front (CLF) the perpetrators of the attack were Muslims who had previously accused Sister Christine of proselytizing. Police officials did not arrest anyone in connection with this attack [2b]

5.3.52 In May 2000 a lower court in Sialkot district, Punjab, sentenced two Christian brothers to 35 years' imprisonment each and fined them \$1,500 (PRs 75,000) each. The brothers were convicted of desecrating the Koran and blaspheming the Prophet Mohammed. Both cases were registered by an ice cream vendor who had allegedly fought with the brothers, having asked them to use their own dishes and stating that his were reserved for Muslim customers. Lawyers for the brothers filed an appeal in the Lahore High Court. In the same month Augustine Ashiq Masih was charged with blaspheming the Prophet in Faisalabad. According to press reports Masih converted to Islam, married a Muslim woman and then converted back to Christianity which angered local Muslims who brought the charges against him. [2b]

Shia Muslims

5.3.54 Sunni Muslims regard the Koran (supplemented by the traditions or '*Sunna*' of Mohammed) as the sole source of faith. A Priesthood is not considered necessary to mediate the faith to believers, as the aforementioned interpretation is considered universal and infallible, belonging to the community as a whole. Interpretation of the Koran and Sunna has nonetheless been carried out by jurists and theologians historically. Sunnis consider community consensus based on the Koran and Sunna to be infallible and binding, and that following Mohammed's death in 632 the responsibility of 'Caliph' (or caretaker) for the community passed to members of specific Middle Eastern dynasties. [37]

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his death became a powerful symbol of martyrdom and suffering for the Shia community. The Shia placed belief in a succession of imams, whose essential qualification was descent from Ali. The imams were interpreted as infallible in the interpretation of law and doctrine, and for whom Shias have an almost mystical devotion. [37] Every year Shias commemorate the massacre of Imam Hussain. [31b]

Pakistan's Shias

5.3.56 While the majority of the Muslim population belongs to the Sunni sect, some 20% are Shia. [34] Shias are generally protected by the government [20b] and are well integrated into Pakistani society, but there have been outbreaks of violence between the two sects. [8d] & [13] Most Sunni Muslims live peacefully with Shia Muslims. However, militants belonging to small but heavily armed sects carry out attacks on each other's places of worship. [32c] Violence also often erupts over perceived slights that individual Shias and Sunnis believe they have experienced from members of the other group. [8d] & [13]

5.3.57 Both Shias and Sunnis have their own social, political and cultural organisations; some of which have been involved in attacks on individuals of the other religious persuasion. Pre-emptive action has been taken by the Pakistani authorities on occasion to detain leaders of one group who they believed were contemplating violent action against members of the other group. The Pakistani Government has been quick to respond to outbursts of sectarian violence, although their action has not effectively curtailed sectarian murders. [8d] & [13]

5.3.58 Shias are not systematically discriminated against by other elements in Pakistani society. They are not an economically disadvantaged group. They are found in all of the professions, in government and in the army. Where Shias have been the targets of Sunni violence, the perpetrators are generally members of extremist Sunni organisations such as Sipah-i-Sahaba-i-Pakistan. This group has been linked to bombings of Shia mosques and gunfire directed at its opponents. The military wing of the Sipah-i-Sahaba is the Lashkar-i-Jhangvi, which is accused of murder, looting and robbery. [8d] & [13]

5.3.59 It was reported in September 1997 that following the introduction of the Anti-Terrorism Act, sectarian killings and gun battles in Karachi and in Punjab significantly receded. Life was said to be returning to normal in Lahore and other Punjab cities since the security forces had been given sweeping powers under the new law. [5d]

5.3.60 At least seventeen people were killed, including three children, and several others wounded after gunmen opened fire on 4 January 1999 on a Shia mosque at Karam Dad Qureshi - a village twenty miles east of Multan, Punjab. The police said that the attack was part of the continuing sectarian violence between militant factions from the Sunni and Shia communities. No group claimed responsibility, and the Sunni extremist group Sipah-i-Sahaba-i-Pakistan denied any involvement. [28b]

5.3.61 Shia activists reported in April 2000 that approximately 40 Shias had been killed since the October 1999 coup. According to government figures 915 people (64% of them Shias) have died as a result of sectarian violence since 1994. On April 7 2000 unknown gunmen in Karachi killed a Shia lawyer, the Secretary General of the Tehrek-i-Jafaria Pakistan (TJP), his son and his driver. The assailants may have been members of the extremist Sipah-e-Sahaba Pakistan (SSP). [2b]

5.3.62 On April 12 2000 - in the worst incident of sectarian violence since the coup - unknown assailants attacked a Shia religious congregation in Rawalpindi with grenades and bullets, killing 19 people and injuring 37 others. Police arrested several Sunni Muslims following the attack. In the same month an unknown gunman killed 15 Shia Muslims in the village of Mallow Wali. On May 11 2000 unknown assailants killed a

leader of the SSP, which marked the first killing of a known Sunni leader since 1998. [2b]

5.4.63 In March 2001 it was reported that 50 people had been killed in armed attacks in the previous month, with Shias mostly targeted. In the same month nine people were killed in an attack outside a Sunni mosque in Lahore after armed men on motorcycles opened fire on worshippers. The government subsequently announced plans to tackle sectarian violence, with calls on the provincial governments to take action against those making provocative speeches or publishing inflammatory literature. [35c]

Muttahida Qaumi Movement

Introduction

5.3.64 Mohajirs were the Urdu-speaking Muslims who had migrated to Pakistan from north-central India in the years immediately following the creation of Pakistan in 1947. The term also applies to their descendants. The urbanised Mohajirs were instrumental in the movement to create Pakistan and continued to have a significant impact on the early political development of the new country. While Mohajirs dominated the government and political institutions, the armed forces remained under the control of native Punjabis. [3]

5.3.65 Mohajirs were successful in Sindh's trade, commerce and banking industries and became the country's leading capitalists and industrialists in the early 1970s. This, together with government measures which had been designed to ease their settlement into Pakistan, alienated the region's other ethnic groups. [3]

5.3.66 As a result of the settlement of some 7 million Mohajirs, the province of Sindh experience profound social and economic changes which created rivalry and clashes between the Mohajirs and the native Sindhis over political influence, employment opportunities and other questions involving socio-economic status. [3]

Formation of MQM

5.3.67 The All Pakistan Mohajir Student Organisation was founded in 1978 to counter the rising ethnic militancy of Sindhi students against the Mohajirs. The Mohajir Qaumi Movement (MQM) was formed in March 1984 through the union of Karachi University student groups, and began to dominate the political scene in urban Sindh after a huge rally on the Karachi University campus in August 1986. It is a nationalist movement which seeks official recognition of Mohajirs as the fifth ethnic/national group of Pakistan (the others are Punjabis, Sindhis, Baluchis and Pathans). [3], [4a] & [16e]

5.3.68 Altaf Hussain established the MQM in 1984 to promote the rights of Mohajirs. Elements of the group became involved in extortion and other forms of racketeering and the party split into the MQM (Altaf) - the original group headed by Altaf Hussain, and a large breakaway group MQM (Haqiqi) and a few smaller factions. The MQM (Altaf) became the dominant political party in Karachi and Hyderabad. [2b]

5.3.69 The party won municipal elections in Karachi and Hyderabad in 1987, and repeated its success in national elections in 1988 and 1990. The MQM formed part of the national coalition government headed by the PPP, which was in power between December 1988 and August 1990. However the MQM broke away in October 1989, alleging that the PPP had not kept its electoral promises to improve the situation for Mohajirs. It switched its support to the Islamic Democratic Alliance of Nawaz Sharif. [6f], [3], [4a] & [13]

5.3.70 In the October 1990 elections, the MQM again emerged as the third strongest party in the country. It entered an alliance with the Pakistan Muslim League (Nawaz) both at the federal level and in Sindh. By 1991 the MQM represented virtually all the

Urdu-speaking community in Karachi and Sindh. [6f], [3], [4a] & [13] The party changed its name to the Muttahida Qaumi (National) Movement in July 1997, but kept the acronym MQM. [12g]

5.3.71 The MQM can now be described as an urban Sindh-based political party that in the past demonstrated a willingness to use violence to further its aims. The movement continues to claim that police specifically target its adherents for extra-judicial killings. [2b] In the past MQM activists may have faced persecution by the authorities, although quite often they were prosecuted for violent attacks on political opponents or were under serious criminal charges. They have nonetheless usually had the opportunity to flee to other parts of the country and pass unrecognised. [20b]

Violence in Sindh

5.3.72 During the late 1980s and early 1990s there was escalating crime and ethnic and political violence in Sindh. This included the MQM, which was frequently involved in confrontations with groups representing ethnic Sindhis. There was political violence between the MQM and the PPP, which reached a peak in early 1990. The Government responded with mass arrests, clean-up operations such as 'Operation Blue Fox' (also known as 'Operation Clean-up') launched in June 1992, and emergency legislative measures. [3]

5.3.73 The MQM alleged that it was being specifically targeted by the army operation. On 19 June 1992 police and army forces raided MQM offices in Karachi with the assistance of the dissident MQM Haqiqi group. The MQM faction under Altaf Hussain was regarded as a criminal organisation and this view was supported by the army's 'aims to have uncovered MQM torture cells and arms caches. Over the following months MQM (Altaf) activists were arrested and the top leadership went into exile. Altaf Hussain was already in the United Kingdom when "Operation Blue Fox" was launched. It is claimed that thousands of ordinary MQM supporters were subjected to arbitrary arrest and ill treatment. [3]

See also Arbitrary Arrest: paragraphs 5.2.6 - 5.2.7; and Torture: paragraphs 5.2.8 - 5.2.10

5.3.74 After the army withdrew from Sindh on 30 November 1994 violence escalated rapidly. In Karachi there were frequent killings in clashes between armed ethnic, sectarian and criminal groups, as well as vendetta killings between the two MQM factions while the security forces attempted to restore law and order. The Human Rights Commission of Pakistan, amongst others, expressed its concerns about the numbers of deaths in the custody of the police and other law enforcement personnel, and also about deliberate and arbitrary killings both by government agencies and militant groups. It is alleged that Prime Minister Benazir Bhutto authorised the police to use "ruthlessness" where necessary to eliminate lawlessness and that they failed to ensure adherence to lawful procedures. [3] & [4a]

5.3.75 In January 1995 the MQM (A) opened talks with the Sindh provincial government, who accepted two of the MQM's ten demands, including the ending of jail trials for imprisoned MQM members - trials would henceforth be held in open court. However the situation continued to deteriorate in 1995 with violent clashes between both MQM factions and government forces, and between various militant Shia and Sunni groups. Following an escalation of killings in February 1995 and the killing of two American staff at the US Consulate on 8 March 1995, the security forces began a crackdown and hundreds of suspected militants were arrested. Violence diminished but erupted again in May 1995. It is reported that government control effectively collapsed in many areas of Karachi. [13] & [16e]

5.3.76 In June 1995, 10,000 to 12,000 paramilitary Rangers and 1,500 Frontier Constabulary personnel were posted to Karachi to reinforce the city's police force, which

had been hard hit by the militants' attacks on police stations and targeted killings of police personnel. On this occasion arrests were targeted instead of the earlier mass arrests. However there were later reports that mass round-ups and military style siege-and-search operations were still being used. There were also reports that the rangers and the police were involved in human rights abuses. [13] & [16e]

5.3.77 Within weeks it was claimed that the inner circle of the MQM had been broken, key activists arrested and lines of communication shut down. The PPP government unleashed an anti-MQM propaganda campaign, alleging further discoveries of MQM torture chambers, execution sites and arms caches. Violence had declined by mid-August 1995 and the MQM entered into negotiations with the national government on 11 July 1995. The talks collapsed in late September without agreement on any issue. Nevertheless during early 1996 it was reported that the law and order situation was better than at any time during the previous two years. [13] & [16e]

See also Police: paragraphs 5.2.1 - 5.2.5.

5.3.78 Following the Provincial elections of February 1997, the MQM allied itself with the PML (Nawaz) and the two parties formed a coalition government in the province. The Haqiqi faction failed to win a single seat. After a few months of peace there was an escalation of violence between the two MQM factions, resulting in a police crackdown. [6d]

5.3.79 Nevertheless in May 1997 violence returned to Karachi with political and revenge killings, mostly involving battles between the MQM and the dissident Haqiqi faction. It was also claimed that scores of people had been murdered on suspicion of being police informers, allegedly by MQM militants who had emerged from hiding. This placed a strain on the Provincial government alliance between the MQM and the PML. An MQM leader denied that the party was involved in killings and accused the intelligence services of conspiring against the movement. [5c]

5.3.80 In June 1997 the Prime Minister set up a commission to investigate alleged extra-judicial killings of MQM activists by the police and security forces in Karachi under the government of Benazir Bhutto. The commission was to be headed by a senior Supreme Court judge. The announcement came after a meeting of MQM leaders with the Prime Minister. [5b] Amnesty International reported that the Senate Committee investigating the fate of 28 members of the MQM, who "disappeared" around 1995, submitted its report to the Senate in April 1998. In March of that year the Interior Minister had told the Committee that 30 MQM workers had been arrested and killed near Islamabad under the previous government. The Chief Justice of the Sindh High Court in April 1998 asked the Interior Ministry for clarification, but no further steps were known to have taken place. [4j]

5.3.81 Following numerous threats to pull out of the coalition, the MQM resigned on 26 August 1998 from its 19-month alliance with the PML in Sindh. The MQM accused Nawaz Sharif and his provincial government of failing to honour an agreement on which basis the alliance was originally formed. The party also claimed that some 215 MQM activists have been killed since February 1997 without any trace of the killers, and that none of the party's jailed workers had been released. They also alleged that fake cases registered against them by the previous government had not been withdrawn. The MQM also accused the country's intelligence agencies and paramilitary forces of the extra-judicial killing of its activists and backing its opponents. [6w]

Current Situation

5.3.82 In December 1999 the military established talks with exiled MQM leader Altaf Hussain. It was reported that the new Musharraf military administration (following the coup of October 1999) was taking long-term measures to remove the sense of deprivation in Sindh, and MQM members there were also contacted. Matters such as the MQM's position, reservations, demands made during previous governments and cases

made against them were reportedly discussed. [8i]

5.3.83 In a 1999 report the MQM alleged that 10 people - mostly MQM activists - were killed extra-judicially by Karachi police between October 1998 and March 1999. Since the October 1999 coup however reports of extra-judicial killings of MQM activists have dropped sharply. On September 13 2000 two MQM activists were nonetheless killed, probably by government forces according to the US State Department. Hundreds of MQM activists and legislators were arrested in 1998 and remained in custody at the end of 2000. Some of these activists were being held without charge. [2b]

5.3.84 In March 2001 an anti-terrorism court acquitted a former MQM politician and three other party activists who were accused of murdering a policeman during an ambush in July 1999. The judge also acquitted six accused who had absconded and cited improper investigation on the part of the police. [33q] In the same month five other leaders and workers of the MQM were also acquitted in a murder and arson case registered in 1994. [33r]

5.3.85 In the intra-Mohajir violence that continues in Karachi, victims are sometimes held and then tortured by opposing groups (or as the MQM (Altaf) alleges by security forces). The bodies of these victims - often mutilated - are generally dumped in the street soon after the victims are abducted. Incidence of such crimes nonetheless decreased greatly during 2000. [2b]

Women

5.3.86 The status of Pakistani women varies considerably with their social background and the region in which they live. Women belonging to the elite classes have been able to move beyond their traditional role and attend university, take up non-traditional careers, join political movements and even choose their husbands. However, women in rural areas and from the working classes of the industrial centres are illiterate, live in poverty and are subject to onerous labour. [3] & [12c] In Baluchistan for example, it is traditional for women to stay at home. In the poorer villages they are unlikely to go out alone, or even vote without their husband's consent. These traditions are however by no means universal. In the large cosmopolitan cities such as Lahore, Karachi or Islamabad a woman wearing a burqa would be a rarity, with most women following Islamic custom by wearing a headscarf. [28i]

5.3.87 The Pakistani Constitution recognises the equality of men and women before the law. It prohibits all forms of discrimination (especially sexual discrimination) within the civil service, and grants women the right to participate fully in all activities in the national arena. However in practice these constitutional clauses do not provide equality in the reality of daily life. [3] & [12c]

5.3.88 Apart from the women's wing of the Muslim League, the Women's Voluntary Service was the first women's movement to emerge in Pakistan and was founded in 1947. This opened the way for many other organisations, among them the All Pakistan Women's Association founded in 1949, which is affiliated with various international organisations. Aurat and Shirkat Gah, which came into being in the late 1970s, are two organisations that have also played an active role in the promotion of women's rights. The number of organisations working for the cause of women has subsequently continued to grow. Pakistani women can obtain legal and medical assistance as well as consultation services from centres such as Bedari and Roshni in Islamabad, Eve's Protector in Karachi, Behbood in Rawalpindi and AGHS Legal Aid Cell in Lahore. [12c]

5.3.89 Pakistan has signed and ratified the following international instruments:

- Convention of the Political Rights of Women

- 5.3.90 Pakistan has also ratified the United Nations' Convention on the Elimination of All Forms of Discrimination against Women in March 1996. However, according to Amnesty International, reservations were inserted whereby nothing in the Convention which came into conflict with the Constitution or Sharia Law would apply. [4c] Pakistan has also signed, but not ratified, the Convention on the Nationality of Married Women. [15]

See also Police: paragraphs 5.2.1 - 5.2.5; and Torture: paragraphs 5.2.8 - 5.2.10

5.3.93 It has been estimated that less than a third of all rapes are reported to police, who may be reluctant to take the complaint and sometimes be abusive towards the victim. The courts do not have consistent standards of proof as to what constitutes rape. Judges, police and prosecutors may be biased against female rape victims, tending towards a presumption of female consent and the belief that women lie about such things. Judges, although on the whole reportedly reluctant to convict, have been known to convict the accused of the lesser offense of adultery or fornication (consensual sex).
[2b]

5.3.94 Human Rights Watch report that women face problems in the collection of evidence. Doctors tasked to examine rape victims often believe that the victims are lying, and are trained insufficiently with inadequate facilities for the collection of forensic evidence pertaining to rape. Medical examiners and police personnel are sometimes physically or verbally abusive during exams, especially in cases where a woman is charged with adultery or fornication and does not wish to be examined. Such women, despite the fact that by law they should not be examined without their consent, have been examined and have even been beaten for their refusal. Women may also be harassed by police or alleged perpetrators into dropping cases. [2b]

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violence except for the Qisas and Diyat ordinances, which are rarely invoked and may privatize the crime. Qisas and Diyat however cannot be invoked where the victim is a direct lineal descendant of the perpetrator. Police and judges tend to see domestic violence as a family problem and are reluctant to take action in such cases. Thus it is difficult for women to obtain relief from the justice system in cases of domestic violence. [2b]

5.3.96 During 2000 the press reported on hundreds of incidents of violence against women and drew attention to the killings of married women by relatives over dowry or other family-related disputes. Most of the victims were burned to death, allegedly in kitchen stove accidents; some women were reportedly burned with acid. During 2000 593 burn cases were recorded in Lahore newspapers; cases were registered in 74% but only 10 % of the suspects were arrested. Human rights monitors assert that many cases are not reported by hospitals and even when they are the police are reluctant to investigate or file charges. Furthermore, human rights monitors agree that most 'stove deaths' are in fact killings based upon suspicion of illicit sexual relationship or upon dowry demands. Increased media coverage of cases of wife burnings, spousal abuse, spousal killing and rape has helped to raise awareness about violence against women. The Government has failed to take action in honour killing cases, particularly when influential families are involved. [2b] One human rights organisation estimated that there are three hundred deaths a year as a result of bride burning. [35a]

5.3.97 A crisis center for women in distress was opened in 1997 in Islamabad. The center - the first of its kind in the country - is an initiative of the Ministry of Women's Development with the assistance of local NGOs. The center offers legal and medical referrals from volunteer doctors and lawyers, counseling from trained psychologists and a hotline for women in distress. During 2000 the crisis center served 75 women. A second crisis center in Vehari, southern Punjab, opened during 2000. [2b]

5.3.98 There is no uniform family law for all Pakistanis: for each religious community a separate set of laws apply. The legislation which applies to Muslim citizens is the Muslim Family Law Ordinance, 1961. [23] This law circumscribed the practice of polygamy and required that all marriages must be registered, which eliminated the abused practice of divorce by declaration (*talaq*). Furthermore the law grants women the right of divorce on condition that a clause to this effect was written into the marriage contract (*nikah nama*). However it is reported that men continue to have an advantage in divorce proceedings, and can dissolve a marriage more easily than women can. [3] & [12c]

5.4.99 The class and caste system is a pervasive aspect of Pakistani society. Inter-caste marriages can cause problems, with mixed couples sometimes running a high risk of being killed. Although the legal system is designed to protect such individuals, police and the judiciary (particularly at the local level) may be unwilling or unable to offer effective protection from societal persecution. [20b]

5.3.100 In addition to the Muslim Family Laws Ordinance of 1961, the Dissolution of Muslim Marriages Act 1929 lays down the grounds on which a woman may divorce her husband. The Muslim Family Law Ordinance of 1961 only applies to Muslim citizens of Pakistan; the Dissolution of Muslim Marriages Act 1929 applies to all Muslims in Pakistan, whether or not they are citizens of Pakistan. [23]

5.3.101 According to a report by Amnesty International in 1998, several judgements over the last few years have stated that adult Muslim women have the right to marry men of their own choice, irrespective of their father's consent. There are nonetheless many instances of young women running away to marry men of their own choice, and subsequently living in fear of their male relatives' revenge for the woman's perceived disobedience and for "dishonouring" the family. [4g] On 6 April 1999, a woman seeking divorce was shot dead in her lawyer's office. The lawyer was also fired at but not injured, and a colleague was abducted by the perpetrators but eventually released. [4k] The issue gained widespread publicity following the killing. [31]

5.3.102 While the government does not generally interfere with the right to marry, it has on occasion assisted influential families to prevent marriages that they opposed. [2b] In a significant ruling in January 2001 however, a Punjab court ruled in favour of a woman who claimed to have been forcibly married to her cousin three years previously. The woman stated that she feared for her life if she was sent back to her husband's house and court officials took her to a refuge for women. It was nonetheless unclear whether this ruling would set a precedent for similar cases. [35c]

5.3.103 It has been estimated that as many as 300 women are killed each year by their husbands or family, mostly as a result of 'honour killings'. Those suspected of illicit sexual relations are killed in order to restore tribal or family honor. The problem is believed to be even more extensive in rural Sindh. 'Karo/kari' (or adulterer/adulteress) killings are common in rural Sindh and Baluchistan. The HRCP reported an average of 30 killings per month for the first half of 2000. Tribal custom among the Baluch and the Pathans also sanctions such killings. The Government has publicly criticized the practice of honour killings but has failed to take corrective steps and such killings have continued. The Government has also failed to take action in honour killing cases when influential families have been involved. [2b]

5.3.104 Although women participate in Government, they are under-represented in political life at all levels. The Musharraf Government announced in August 2000 that one-third of the seats in the forthcoming local council elections would be reserved for female candidates, although some political activists doubt that there would be enough female candidates in certain remote areas of the country to fulfill this requirement. Women participate in large numbers in elections, although some are dissuaded from voting by family, religious and social customs. [2b]

Children

5.3.105 Pakistan has signed and ratified the following international instruments:

- Convention of the Rights of the Child
- Supplementary Convention on the Abolition of Slavery; the Slave Trade, and Institutions and Practices Similar to Slavery
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. [15]

5.3.106 The Government does not demonstrate a strong commitment to children's rights and welfare. There is no federal law on compulsory education and neither the federal or provincial governments provide sufficient resources to assure universal education. Only 65% to 70% of children under the age of 12 are enrolled in school, less than half of whom actually complete primary school. [2b]

5.3.107 The suspended Constitution prohibited the employment of children aged 14 years and under in factories, mines and other hazardous occupations. Child labor is nonetheless still common and the Government acknowledges that it is a problem. Severe poverty, employer greed and inadequate enforcement of relevant laws have been contributing factors. [2b]

5.3.108 Violence against children, as well as child abuse and prostitution, remain serious problems. Child prostitution involving boys and girls is widely known to exist but is rarely discussed. In the aftermath of a September prison riot in Hyderabad, military personnel discovered that adult prisoners sexually abused about fifty imprisoned minors. The Government had not taken any action against prison officials for permitting the abuse by the end of 2000. There are several madrassahs (Islamic religious schools) where children are confined illegally and kept in unhealthy conditions. Sexual abuse of boys is

widely believed to occur at some madrassahs. [2b]

5.3.109 Children are sometimes kidnapped to be used as forced labour, for ransom or to seek revenge against an enemy. In rural areas it is a traditional practice for poor parents to give children to rich landlords in exchange for money or land according to human rights advocates. These children are frequently abused by the landlords and held as bonded laborers. Landlords have also been known to pay impoverished parents for the 'virginity' of their daughters, whom they then rape. [2b]

5.3.110 There is only one jail in each province for convicted prisoners under 21 years of age, and children are frequently incarcerated along with the general prison population, sharing prison conditions that are extremely poor. Many children in prison were born to female inmates who were sexually abused by prison guards. Although Punjab and Sindh provinces have laws mandating special judicial procedures for child offenders, in practice children and adults are treated equally. According to a local NGO an estimated 4,200 children were held in the nation's prisons at the end of 2000 - some as young as 8 years old - compared to 4,000 in 1999. Imprisoned children often spend long periods of time in prison awaiting trial or a hearing before a magistrate, often in violation of the law. One child spent 3 years and 4 months awaiting trial. Children are subject to the same delays and inefficiencies in the justice system as adults are. [2b]

See also Prison Conditions: Paragraphs 5.4.13 - 5.4.15.

5.3.111 Amnesty International reported that in May 1999 fifty children were on death row in Pakistan. [4p] The most recent case in Pakistan was Shamun Masih - executed on 30th September 1997 for armed robbery and murder. He was fourteen at the time of the offence. [19d] On July 1 2000 however the government passed the Juvenile Justice System Ordinance. The Ordinance abolished the death penalty for minors under 18 years of age, guarantees that the government will provide children with legal assistance, prohibits children from being tried for crimes with adults and prohibits the proceedings of juvenile courts from being published. [2b]

See also Death Penalty: Paragraphs 4.2.27 - 4.2.29.

Homosexuals

5.3.112 Section 377 of the Pakistan Penal Code addresses unnatural offences. Punishment under this section is up to ten years imprisonment and a fine. Homosexuality was not included in the 1979 Haddood Ordinances. There is no specific law providing for the protection of homosexuals. [9] Homosexuality is considered immoral [20a] but is prevalent and tolerated to different degrees. In rural areas amongst the lower classes it is common and accepted within limits. [9] Known homosexuals are said to become social outcasts. [20a] There is no specific legal basis for prosecuting homosexuals as such, but certain homosexual acts are illegal. [9]

5.4 OTHER ISSUES

Assembly and Association

5.4.1 The suspended Constitution provided for freedom 'to assemble peacefully and without arms subject to any reasonable restrictions imposed by law in the interest of public order'. While the government generally permitted peaceful assembly until March 2000, it later imposed significant restrictions on this right. Since 1984 Ahmadis have been prohibited from holding any conferences or gatherings. Throughout 2000 the Government occasionally interfered with large rallies held by all political parties. [2b]

5.4.2 On 15 March 2000 the Musharraf regime imposed a countrywide ban on all political meetings at public places. Strikes were also outlawed with immediate effect. Indoor meetings however are still permitted, although they must not make use of loud speakers. Strict instructions for implementation were also issued to provinces. [33e] The ban has been enforced unevenly. The government approved some public political gatherings, including a meeting of the Grand Democratic Alliance in September where parties debated measures to return the country to democracy. [2b] It has nonetheless been announced that the government will lift the ban on political rallies 90 days prior to general elections, due in October 2002. [33w]

See also Main Political Parties Following the Coup: paragraphs 4.1.10 - 4.1.16

5.4.3 In March 2001 the government decided not to ban Jihadi groups, instead choosing to regulate them through a 'code of conduct'. The code would ask them not to raise funds in the name of Jihad. [33p] In October violent protests broke out following the U.S.-led air strikes on Afghanistan, resulting in deaths. In response President Musharraf stated that the government would not tolerate extremist activity. He outlined plans to deploy troops and instructed governors on how to deal with the protests. Musharraf insisted that the protesters were a vocal minority and were not representative of the people. [32d]

Speech and Press

5.4.4 Citizens are generally free to discuss public issues, although some journalists practice a degree of self-censorship. In contrast to the Sharif government, the Musharraf government has not attempted to exercise direct control over views expressed in the print media. Newspaper editorials and commentators are increasingly critical of the government, although direct criticism of the military is rare. Both governmental and non-governmental entities sometimes pay for favourable media coverage. [2b]

5.4.5 The competitive nature of politics helps to ensure press freedom since the media often serve as a forum for political parties, commercial, religious and various other interests to compete with and criticize each other publicly. Although the press does not criticize Islam as such, leaders of religious parties and movements are not exempt from public scrutiny and criticism. The press traditionally has avoided negative coverage of the armed forces, and the Office of Inter-Services Public Relations (ISPR) has served to hold press coverage of military matters under close restraint. Officially the ISPR closely controls and coordinates the release of military news and access to military sources. After the 1999 coup, journalists reported no attempts by the ISPR agencies to influence editorial content. [2b]

5.4.6 Privately owned newspapers freely discuss public policy and criticize the government. They report remarks made by opposition politicians, and their editorials reflect a wide spectrum of views. The effort to ensure that newspapers carry their statements or press releases sometimes leads to undue pressure by local police, political parties, ethnic, sectarian, and religious groups, militant student organizations and occasionally commercial interests. Such pressure is a common feature of journalism, and violence against and intimidation of journalists is a nationwide problem. [2b]

Travel

5.4.7 Most citizens enjoy freedom of movement within the country and the freedom to travel abroad, although the government limits these rights. The authorities at times prevent political party leaders and religious leaders from traveling to certain parts of the country. The law prohibits travel to Israel. Government employees and students must obtain 'no objection' certificates before travelling abroad, although this requirement is rarely enforced against students. [2b]

5.4.8 Citizens regularly exercise the right to emigrate. The Exit Control List (ECL) which

is made public but is constantly revised is however used to prevent the departure of wanted criminals and individuals under investigation. At the end of 1999 the HRCP estimated that there were more than 5,000 entries on the ECL, including 400 PML leaders, all 45 MQM legislators and their family members, 20 journalists and as many as 3,000 alleged bank defaulters. The Musharraf government increased the use of the ECL reportedly to prevent those suspected of loan defaults or corruption from leaving the country. The focus was apparently on potential loan defaulters as part of the Musharraf Government's emphasis on accountability. According to a press report the Musharraf Government added approximately 3,000 names to the ECL. No judicial action is required to add a name to the ECL, although those named have the right to appeal to the Secretary of Interior, then if refused to the Advocate General of the senior judiciary. In practice courts have directed the government to lift restrictions on some politicians on the ECL. [2b]

Trafficking

5.4.9 Trafficking in persons, especially women, is a significant problem. Trafficking in women is protected by powerful criminal interests and operates relatively openly. The government has done little to stem the flow of women trafficked into the country or to help victims of trafficking. [2b]

Afghan Refugees

5.4.10 Pakistan has not signed the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol and has not adopted domestic legislation concerning the treatment of refugees. In December 1999, the office of the UN High Commissioner for Refugees (UNHCR) noted a change from the practice of granting 'prima facie' status to all Afghans in the country; under the new policy, all refugee determinations are to be made on a case-by-case basis. [2b]

5.4.11 First asylum has been provided to refugees from Afghanistan since 1979, when several million Afghans fleeing Soviet occupation poured across the border. There remain an estimated 1.2 million Afghan refugees in the country who have been granted first asylum. There also are an estimated 2 to 3 million unregistered Afghans in urban areas throughout the country. The government has not granted permanent legal resettlement to Afghan refugees but allows them to live and work in the country. Many are self-supporting and live outside refugee camps, which has resulted in some hostility among local communities whose residents resent the economic competition and believe that the refugees contribute to high crime rates. Several prominent Afghans have reportedly been the targets of harassment and violence from Taliban supporters and conservatives in the refugee community. According to newspaper reports at least 10 Afghans were killed during 2000, reportedly for their political views [2b]

5.4.12 Fears were growing about the safety of the refugee camps as aid agencies prepared for further movements of Afghan refugees following the U.S. military action in Afghanistan in connection with the September terrorist attacks on Washington and New York. UNHCR expressed concern over the presence of angry mobs sympathetic to the Taliban. The UN requested greater security from the government and called for more suitable areas for refugee camps. [35c]

Prison Conditions

5.4.13 Prison conditions are extremely poor and overcrowded. In 1999 the prison population stood at 82,000 for an authorized population of 35,833. Karachi prison appears to be the most chronic, with 4,277 prisoners in an establishment built for only 991. It is estimated that 80% are awaiting trial, mainly for petty offences. Tight, heavy and painful shackles are routinely used (despite a 1993 Sindh High Court ruling outlawing the practice), reportedly leading to gangrene and even amputation in several cases. [2b]

5.4.14 There are three classes of cells: A, B, & C. Class "C" cells generally house common criminals and have dirt floors, no furnishings and poor quality food. Their prisoners suffer the most abuse, such as forcibly kneeling for long periods and beatings. Unsanitary conditions, malnutrition and access to medical care are also a problem. Conditions in "A" and "B" cells are markedly better. Class "A" cells are reserved for prominent prisoners who are permitted televisions, servants and special food. [2b] A study by the UK Medical Foundation for the Care of the Victims of Torture stated that individuals are generally badly treated in prison, although not necessarily tortured. This amounted to solitary confinement in a dark and wet cell, inadequate food and repeated interrogations. [40]

5.4.15 Human Rights Watch reports that children are frequently beaten and even tortured while in detention, usually to extract confessions but also to punish or intimidate child detainees or to extort payment from their families for their release. [2b]

See also Children: paragraphs 5.3.105 - 5.3.111

"Azad" Kashmir

Introduction

5.4.16 The princely state of Jammu and Kashmir was formed in 1846 when the British administration allowed the Hindu Chief of Jammu to purchase the Muslim territories of Kashmir and Gilgit. At independence in 1947 the Maharajah of Kashmir tried to preserve Kashmiri autonomy by opting for neither Pakistan nor India. A revolt among the Muslims of his western territories led the Maharajah to sign an instrument of accession to India on 26 October 1947. [9]

5.4.17 Indian forces were immediately sent to the State. The Indian Prime Minister Nehru announced that once law and order had been established he was prepared to hold 'a referendum under international auspices like the United Nations' to determine the wishes of the Kashmiri people on their future. Pakistan army units became involved by May 1948. [9]

5.4.18 The UN Security Council passed a number of resolutions calling for the withdrawal of Pakistani forces and most of the Indian forces, and for a plebiscite under UN auspices. A cease-fire came into effect on 1 January 1949 and in July India and Pakistan agreed a cease-fire line. A UN Military Observer Group has been in place monitoring this line (redefined as the "Line of Control" after the 1971 war) ever since. [9]

5.4.19 Since 1989 there has been a growing and often violent separatist movement fighting for the independence of Kashmir. Both India and Pakistan however reject the so-called "Third Option" of Kashmiri independence. [35a] Pakistan argues that Kashmiris should be allowed to vote in a referendum on their future. [35b]

5.4.20 Relocation within Pakistan is a viable option for any Kashmiri having Pakistani citizenship. Nearly all residents of Azad Kashmir (meaning 'Free Kashmir') are Pakistani citizens and may live wherever they wish in Pakistan. The holding of Kashmiri political opinion would not normally cause any problems for a Pakistani Kashmiri in Pakistan. [13]

1965 and 1971 Wars

5.4.21 The status of Kashmir has remained a sensitive issue between India and Pakistan, with the majority of the population unreconciled to be part of India. The two countries went to war over the issue in 1965 and 1971. Under the peace agreement signed at Simla in July 1972, both sides agreed "to settle their differences by peaceful

means through bilateral negotiations or by other peaceful means mutually agreed on between them", and they committed themselves to a final settlement of the problem. [9]

5.4.22 The Indians have since held that by this agreement, Pakistan is precluded from invoking the United Nations resolutions in an effort to resolve problems with India. Pakistan does not accept this interpretation, and regularly calls for a peaceful settlement 'on the basis of the UN resolutions and in the spirit of the Simla Agreement'. [9]

Line of Control

5.4.23 The princely state was divided into three. The Northern Areas and Azad Kashmir to the west of the Line of Control enjoy different degrees of autonomy from Pakistan. The area to the east of the Line of Control (Ladakh, the Kashmir valley and most of Jammu) became the Indian State of Jammu and Kashmir. On the Indian side Muslims form about 80% of the population in the Kashmir valley, while Hindus are in the majority in Jammu (about 65%). [9]

5.4.24 The Line of Control runs over 700km of forested hills and inhospitable terrain. Villages are split and mountains bisected in some places. In some parts Pakistani and Indian troops face each other less than a hundred metres apart, whereas in others peaks of over 5,000 meters separate them. [35a]

Elections

5.4.25 Elections were held in Azad Kashmir for the legislative assembly on 30 June 1996. The Azad Jammu and Kashmir People's Party won a two-thirds majority of the 40 seats up for election. The Azad Jammu and Kashmir Muslim Conference, the PML and Independents each won a small number of seats. The Muslim Conference (AJKMC), who had controlled the state since the previous elections in June 1991, claimed that the polls had been rigged and refused to concede defeat. The People's Party and the state election commission rejected these charges. [6a] In July 2001 however the AJKMC once again assumed power with the swearing in of Sardar Sikander Hayat as Prime Minister. [35c]

Government

5.4.26 Azad Kashmir is broadly responsible for its own internal administration. The Ministry of Kashmir Affairs and Northern Affairs in Islamabad provides a linkage between the Government of Pakistan and that of Azad Kashmir. Pakistan is responsible for defence, external affairs, foreign trade, aid and currency. [9] The territory also has a President. [33j]

5.4.27 Overall control of Azad Kashmir lies with the Pakistani Government in Islamabad, but there is considerable local control vested in the Kashmiri authorities in Muzaffarabad, the capital of Azad Kashmir. [9]

5.4.28 Azad Kashmir has five administrative districts: Muzaffarabad, Poonch, Bagh, Mirpur and Kotli. It has a parliamentary form of government with a President as Head of State, a legislature consisting of the Azad Jammu and Kashmir Council (upper house) and the Legislative Assembly (lower house), an executive represented by a Prime Minister and a Council of Ministers. Azad Kashmir also has its own Supreme Court and High Court. The political parties operating in Azad Kashmir are separate from, but allied to, the parties in Pakistan. [9]

5.4.29 According to a Jammu and Kashmir Liberation Front source, fair treatment in Azad Kashmir courts depends on the situation. However, the same source states that in general one has a better chance of finding fair judicial recourse in Azad Kashmir than in most areas of Pakistan - except when the charges relate to national security issues. [12f]

5.4.30 Following Pakistan's military coup of October 12 1999, Azad Kashmir's government continued to function - in contrast to the other four provinces of Pakistan which had small-scale administrations appointed by the new military regime. The former Azad Kashmir Prime Minister, Sultan Mahmood dissolved his Cabinet in January 2000, offering no explanation for this. Unnamed Kashmiri officials however claimed that the military rulers had pressed Mahmood to reduce the size of his Cabinet, which included sixteen ministers. [32b] In July 2000 the speaker of the legislative assembly for Azad Kashmir expressed his view that the National Accountability Bureau's jurisdiction should be extended to the territory, and that this would not clash with the constitution. Sultan Mahmood nonetheless dismissed reports that the NAB's jurisdiction was being extended to Azad Kashmir. He stated that the AJK government had plans to introduce its own law on the pattern of the NAB ordinance. [33j]

See also National Accountability Bureau: paragraphs 4.2.34 - 4.2.40

Current Situation

5.4.31 Tensions increased in 1998 when India conducted five underground nuclear tests on the Pakistani border in May 1998, escalating a strategic arms race in the region. [20a] However, on 21 February 1999 the Pakistani and Indian Prime Ministers met at the 'Lahore Declaration', and vowed to take steps to reduce 'the risk of accidental or unauthorized use of nuclear weapons'. [19c]

5.4.32 On 11 April 1999 India test-fired a long-range version of its nuclear-capable Agni missile. Pakistan responded by test-firing its Ghauri-II long-range missile on 14 April 1999. [26g] In early May 1999 independent observers claimed that an unusually large number of armed fighters moved from Pakistan into the high altitude passes on the Indian side of the Line of Control in Kashmir. On 26 May 1999 India launched two waves of air-strikes in Kashmir to dislodge the 400 reportedly Pakistani-backed Muslim guerrillas (who because of their commanding position were able to cut off the vital Srinagar-Kargil Leh highway). [30a] Following two months of bitter hostilities, Pakistan announced on 11 July 1999 that it had agreed with India on a plan for the infiltrators to withdraw. The agreement came exactly one week after Nawaz Sharif had travelled to Washington to talk with the US President Bill Clinton, and agreed to take "concrete steps" to end the fighting. [26j]

5.4.33 Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during 2000, and there was shelling in several areas. A senior army official in Azad Kashmir estimated that approximately 143 civilians were killed on the Pakistani side of the Line of Control. [2b] Pakistan nonetheless signaled a shift in its Kashmir policy in February 2001. Instead of calling for a solution to the dispute with UN resolutions dating from 1948, the emphasis is leaning towards self-determination. This position connects with Pakistan's recognition of the All Parties Hurriyat Conference as the true representatives of the Kashmiri people and to agree with any solution that gained their support. [35c]

5.4.34 Tensions were also reportedly emerging between the Hurriyat Conference and the United Jihad Council - the umbrella group responsible for the militant organisations fighting in Kashmir. Militant leaders criticised Pakistan's recognition of the Hurriyat Conference, as the Hurriyat does not represent some militant groups. There were also signs that the Musharraf regime wanted to reduce the role of militant groups operating in Kashmir. [35c]

Northern Areas

5.4.35 The Northern Areas comprise Hunza, Gilgit and Baltistan, [2b] and are administered by Pakistan - although they are not legally part of it. Following the 1949 cease-fire with India, Pakistan retained control of one third of the state of Jammu and

Kashmir and India two-thirds. Of Pakistan's third, one strip established a separate administration and became known as "Azad" (free) Kashmir. The larger strategically important area to the north however - through which the Indus River runs - was taken under the direct administration of the government of Pakistan. At the time of Pakistan's independence the region's princes were willing to join Pakistan but their accession has never been accepted, causing great disappointment to the one million Muslim inhabitants. [35c]

5.4.36 Unlike Pakistan's other four provinces, the Northern Areas population have therefore had no political representation or status under Pakistan's constitution. Their affairs are under the control of a non-elected minister for the Northern Areas who is selected by the federal government. [35c]

5.4.37 The Pakistani viewpoint is that India could interpret accession of the Northern Areas as validation of the current status quo. The fear is that India could view this as an indication that Pakistan was prepared to accept the cease-fire line as an international border and that the UN resolutions (requiring a plebiscite to be held throughout the state) would no longer be relevant. Resentment among the local population remains and an independence movement for the Northern Areas has been gaining adherents. [35c]

Internal Flight (Refuge within Pakistan)

5.4.38 Groups with a limited internal flight alternative are women and mixed (inter-religious and inter-caste) couples. Many flee from rural areas to the cities if their economic circumstances permit, but even there they may not be safe from their families or religious extremists. For Ahmadis and Christians (including converts) there is also a high likelihood that an internal flight alternative may also be ruled out. Political activists however usually do have the option of moving to another part of the country, unless they are of high prominence. [20b]

ANNEX A

POLITICAL ORGANIZATIONS AND OTHER GROUPS

AWAMI NATIONAL PARTY (People's National Party)

Formed 1986 by merger of National Democratic Party, Awami Tehrik (People's Movement) and

Mazdoor Kissan (Labourers' and Peasants' Party). Federalist and Socialist, led by Khan Abdul Wali Khan. [1]

BALUCHISTAN NATIONAL MOVEMENT

Based in Quetta, led by Abdul Hayee Baluch. [1]

HARKAT-UL-MUJAHIDEEN

Kashmiri militant group, and also an international Islamic brigade. Composed mainly of Afghans, Pakistanis and even some Arabs. [35b]

HIZBUL MUJAHIDEEN

One of the most powerful Kashmiri groups set up in 1990, favouring integration of

Kashmir into Pakistan. Their supreme commander is Syed Salahuddin. [35p & 35t]

HURRIYAT (FREEDOM) CONFERENCE

Umbrella organisation, campaigns peacefully for an end to India's presence in Kashmir. Made up of at least twenty-three constituent groups including trade unions and religious and political organisations. [35b]

IMAMIA

Radical Sunni student organisation, emerging in the 1970s. Well organised and well equipped with arms ever since the Zia 'Islamisation' period. Attracted people from all over the world who came to Pakistan for military training in order to fight the Soviet invasion of Afghanistan. [20b]

JAISH-E-MOHAMMAD

Meaning "Army of Mohammad". Formed recently by an Islamic cleric, Maulana Massod Azhar, who was released from an Indian jail in December 1999 following the hijack of an Indian airliner. [35b]

JAMAAT-i-ISLAMI (JI) (aka JAMAAT-i-ISLAMI PAKISTAN) (Islamic Assembly)

Founded 1941. Seeks establishment of Islamic (Sunni) order; rightwing, led by Amir Qazi Hussain Ahmad. [1]

JAMIAT-i-ULEMA- i-ISLAM (JUI)

Founded 1950; advocates adoption of constitution in accordance with Sunni teachings. Led by Maulana Fazlur Rehman. [1] As a consequence of the USA's pursuit of Osama Bin Laden and his Taliban hosts in Afghanistan, the party called on its 500,000 members for clashes with the security forces following government support for a U.S. military build up in the region. In a threat of all-out civil war, the secretary-general of the party threatened to fight the U.S. and its supporters if an attack on Afghanistan materialised. [14g]

Despite a poor showing in the last general election (gaining only two seats in the senate and four in the national assembly) the JUI is still relatively powerful in the tribal areas that cover Pakistan's frontier with Afghanistan. Its structure has parallels with that of the Taliban, consisting of a loose grouping of Islamic scholars and religious figures. [14g] The JUI leader was charged with treason after calling on his followers to attack members of Pakistan's armed forces. [35c]

JAMIAT-i-ULEMA- i-PAKISTAN (JUP)

Founded 1948; advocates progressive Sunni Islamic principles and enforcement of Islamic laws in Pakistan. [1]

JAMMU AND KASHMIR LIBERATION FRONT (JKLF)

Was one of the most active militant groups, but today appears to have a dwindling membership and less military power. [35b]

JEAY SINDH QAUMI MAHAZ (JSQM)

A partner of the MQM (A), the JSQM's interest is the inhabitants of the Sindh province. [33t]

LASHKAR-I-JHANGVI

Military wing of the Sipah-i-Sahaba-i-Pakistan. [18b] One of the most violent religious groups in Pakistan, believed to be responsible for killing scores of Shia Muslims [32c] The group was outlawed by General Musharraf in August 2001, following a reported crackdown on religious extremists. [35c]

LASHKAR-e-TOIBA (LASHKAR-E-TOYEBA)

Meaning "Army of the Pure". Armed and violent Kashmiri militant group, based in the Punjab and numbering approximately 300 activists. Advocates Islamic rule over all parts of India, and engages in suicide attacks. Has been linked with numerous killings. [35b] Made up predominantly of non-Kashmiri fighters, and is thought to embrace a rigid form of Sunni Islam [35b]

MUTTAHIDA QAUMI MOVEMENT (MQM) (United National Movement)

Founded 1978 as the All Pakistan Mohajir Students Organisation; became Mohajir Qaumi Movement in 1984; renamed as Muttahida Qaumi Movement in 1997. Represents interests of Urdu-speaking Mohajir Muslims who migrated from India at partition in 1947. Seeks the designation of Mohajir as the fifth nationality (after Sindhi, Punjabi, Pathan and Balochi). Split into two factions in 1992: MQM (Altaf) headed by Altaf Hussain and the smaller MQM (Haqiqi) [1]

PAKISTAN MUSLIM LEAGUE (PML)

Founded 1947 as the successor of the All India Muslim League (the party that led Pakistan to independence). Proclaims secular state principles harmonised with Islamic values. Based in the Punjab, but has a presence throughout the country. Traditionally associated with the establishment of army generals and senior bureaucrats. Factionalised in the late 1970s, but subsequently united under the leadership of Nawaz Sharif. PML student organisation is the **Muslim Student Federation (MSF)** [20a]

PAKISTAN PEOPLE'S PARTY (PPP)

Founded 1967 by Zulfikar Ali Bhutto. Advocates Islamic socialism, democracy and non-aligned foreign policy. Chaired by Benazir Bhutto; main power base in Sindh. - the Bhutto's homeland. **People's Student Federation** is PPP student organization; **People's Youth Organization** is PPP youth organization. Party became an amalgamation of socialists and conservatives, to be dominated by the latter. [20a]

SIPAH-I-SAHABA-I-PAKISTAN (SSP)

Founded in 1984 as the Anjuman Sipah-i-Sahaba-i-Pakistan at a time of growing anti-Ahmadi sentiment. Have always been strongly anti-Ahmadi, but more recently have turned to harassing and attacking Shia Muslims. [20b] Military wing is the Lashkar Jhangvi. [18b]

SIPAH-I-MOHAMMAD

Shia militant organisation formed as a reaction to Sunni violence. [20b] General Musharraf outlawed the group in August 2001, following a reported crackdown on religious extremists. [35c]

TEHRIK-I-INSAAF (Movement for Justice)

Founded 1996, led by Imran Khan. Based in Lahore. [1]

TEHRIK-I-JAFRIA-I-PAKISTAN (TJP)

Founded 1987 as political party. Shia extremist; leader Allama Sajid Ali Naqvi. [1]

UNITED JIHAD COUNCIL

Umbrella group of fourteen militant groups based in Azad Kashmir. [35b]

ANNEX B**PROMINENT PEOPLE****AZHAR, Mian Mohammad**

Newly elected leader of the PML following Nawaz Sharif's exile to Saudi Arabia. Had been openly critical of Nawaz Sharif's government. [35c]

BHUTTO, Benazir

Born in 1953 in the province of Sindh and educated at Harvard and Oxford, Ms Bhutto gained credibility from her father's high profile, even though she was initially a reluctant convert to politics. Ms Bhutto was imprisoned just before her father's death in 1979, after he was imprisoned and charged with murder by General Zia-ul-Haq in 1977. She spent most of her five-year jail term in solitary confinement. During stints out of prison for medical treatment, Ms Bhutto set up a Pakistan People's Party office in London, and began a campaign against General Zia. She returned to Pakistan in 1986, attracting huge crowds to political rallies. After Zia's death in 1988, she became one of the first democratically elected female prime ministers in an Islamic country. She has twice been prime minister of Pakistan, from 1988 to 1990 and from 1993 to 1996. On both occasions she was dismissed from office by the president for alleged corruption. She has steadfastly denied the corruption charges against her, which she says are politically motivated and left Pakistan in 1999 to live abroad shortly after her conviction. [35c] In April 2001 the Supreme Court nonetheless set the corruption convictions for her and husband Asif Zardari aside, citing bias on the part of the original trial judge and ordered a retrial. [33t]

BHUTTO, Zulfikar Ali

Former leader of PPP. Won a majority of the National Assembly seats for West Pakistan in December 1970 elections. Following the 1971 civil war (culminating in the creation of Bangladesh from East Pakistan) Bhutto became president of Pakistan in December 1971. After new Constitution was adopted in August 1973, Bhutto became executive Prime Minister. Was re-elected in March 1977, but deposed in a military coup in July. Found guilty of instigating the murder of PPP dissident, and was executed in April 1979. [1]

JINNAH, Muhammad Ali

Leader of Muslim League and popularly known as Quaid-i-Azam ("Great Leader"). Became first Governor-General of Pakistan when country created in August 1947, but died the following year. [1]

HUSSAIN, Altaf

Founder member and leader of Muttahida Qaumi Movement (MQM). Has been in the UK since 1992 after he and other leaders were declared wanted criminals following violence within the MQM, and the imposition of a curfew on MQM controlled areas of Karachi. In 1994 he was sentenced in absentia to 27 years' imprisonment on charges of terrorism. [1]

MUSHARRAF, Pervez

Appointed Army Chief of Staff on October 1998 by Prime Minister Nawaz Sharif. Overthrew Sharif's government in the October 1999 military coup and became the country's 'Chief Executive'. Was born in New Delhi in 1943, and his family migrated to Pakistan in 1947 after the sub-continent was divided following British rule. Grew up in Karachi, and joined the army in 1964, fighting in the 1965 and 1971 wars with India. [14f]

SHARIF, Mohammad Nawaz

Groomed for power by late General Zia; led Islamic Democratic Alliance to victory in 1990 elections and appointed Prime Minister. Dismissed April 1993 following political crisis; accused by president of maladministration, nepotism and corruption. Sharif's government was restored to power after Supreme Court ruled president's order had been unconstitutional. Sharif's faction of Muslim League failed to win sufficient seats in 1993 elections, but party swept to power in 1997 elections, after which Sharif became prime minister once again. Had been a Punjab provincial minister in 1981; Chief Minister in 1985. [6k] Overthrown in the military coup of 12th October 1999, and sentenced to life imprisonment on charges of hijacking and terrorism on 6th April 2000. [35j]

UL-HAQ, MOHAMMAD ZIA

General and Army Chief of Staff, appointed Chief Martial Law Administrator following July 1977 coup. Became president in 1978 and postponed indefinitely the expected elections. Zia pursued a policy of "Islamisation" of country's institutions, which was confirmed in the December 1984 referendum. Martial law repealed in December 1985 and Constitution restored. Zia remained president. Killed in air crash on 17 August 1988. [1]

ZARDARI, Asif Ali

Benazir Bhutto's husband. Arrested following dismissal of PPP government in 1990 on charges

of extortion, kidnapping and financial irregularities; later acquitted. In July 1996 appointed as Minister of Investment in Benazir's cabinet, which drew much criticism. Arrested following dismissal of government in 1996, and charged with the murder of his brother-in-law, Murtaza Bhutto, as well as illicit shipment of a container of antiques to the couple's Surrey mansion. Elected Senator as PPP nominee while in prison during 1997. [6g] Pleaded not guilty in October 1998 to Ehtesab Commission's charges of corruption in October 1998. [6x] He and Benazir convicted of corruption on 15 April 1999 and sentenced to five years' imprisonment and disqualified from holding public office for up to ten years. [24j] Appealed to the Supreme Court on 10 May 1999. It was alleged by police on 18 May 1999 that Zardari attempted suicide by cutting his throat on glass. However, Zardari's lawyers claimed that it was a fabrication to cover up the fact that he had been tortured. The following day he was taken to hospital. Nawaz Sharif reportedly ordered a judicial inquiry into Zardari's injuries. [24k] In April 2001 the Supreme Court set the corruption convictions for Zardari and Benazir Bhutto aside, citing bias on the part of the original trial judge and ordered a retrial. [33t]

ANNEX C**CHRONOLOGY [35c]**

1906 - Muslim League founded as forum for Indian Muslim separatism.

1940 - Muslim League endorses idea of separate nation for India's Muslims.

1947 - Muslim state of East and West Pakistan created out of partition of India at the end of British rule. Hundreds of thousands die in widespread communal violence and millions are made homeless.

1948 - Muhammed Ali Jinnah, the first governor general of Pakistan, dies.

1948 - First war with India over disputed territory of Kashmir.

Military rule

1951 - Jinnah's successor Liaquat Ali Khan is assassinated.

1956 - Constitution proclaims Pakistan an Islamic republic.

1958 - Martial law declared and General Ayyub Khan takes over.

1960 - General Ayyub Khan becomes president.

War and secession

1965 - Second war with India over Kashmir.

1969 - General Ayub Khan resigns and General Yahya Khan takes over.

1970 - Victory in general elections in East Pakistan for breakaway Awami League, leading to rising tension with West Pakistan.

1971 - East Pakistan attempts to secede, leading to civil war. India intervenes in support of East Pakistan which eventually breaks away to become Bangladesh.

1972 - Simla peace agreement with India sets new frontline in Kashmir.

1973 - Zulfikar Ali Bhutto becomes prime minister.

Zia takes charge

1977 - Riots erupt over allegations of vote rigging by Zulfikar Ali Bhutto's Pakistan People's Party (PPP). General Zia ul-Haq stages military coup.

1978 - General Zia becomes president.

1979 - Zulfikar Ali Bhutto hanged.

1980 - US pledges military assistance to Pakistan following Soviet intervention in Afghanistan.

1985 - Martial law and political parties ban lifted.

1986 - Zulfikar Ali Bhutto's daughter Benazir returns from exile to lead PPP in campaign for fresh elections.

1988 August - General Zia, the US ambassador and top Pakistan army officials die in mysterious air crash.

Bhutto comeback

1988 November - Benazir Bhutto's PPP wins general election.

1990 - Benazir Bhutto dismissed as prime minister on charges of incompetence and corruption.

1991 - Prime Minister Nawaz Sharif begins economic liberalisation programme. Islamic Shariah law formally incorporated into legal code.

1992 - Worsening violence between ethnic Sindhi and Urdu-speaking communities in southern province of Sindh.

1993 - President Khan and Prime Minister Sharif both resign under pressure from military. General election brings Benazir Bhutto back to power.

Politics and corruption

1996 - President Leghari dismisses Bhutto government amid corruption allegations.

1997 - Nawaz Sharif returns as prime minister after his Pakistan Muslim League party wins elections.

1998 - Pakistan conducts its own nuclear tests after India explodes several devices.

1999 April - Benazir Bhutto and her husband convicted of corruption and given jail sentences. Benazir stays out of the country.

1999 October - Prime Minister Nawaz Sharif overthrown in military coup led by General Pervez Musharraf.

2000 April - Nawaz Sharif sentenced to life imprisonment on hijacking and terrorism charges.

2000 December - Nawaz Sharif goes into exile in Saudi Arabia after being pardoned by military authorities.

ANNEX D

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