

AHMADIYYA MUSLIM FOREIGN MISSIONS OFFICE

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September 21, 2008

Special Rapporteur on freedom of religion or belief
C/o Office of the High Commissioner for Human Rights
Geneva SWITZERLAND

Dear Sir/Madam

I enclose at Annex I the case of Mr. Muhammad Iqbal in Pakistan that is of compassionate nature and deserves priority relief. Mr. Iqbal is a member of the Ahmadiyya community. An introductory note regarding the Ahmadiyya community and The Ahmadiyya Foreign Missions Office is provided as Appendix A to the case.

The Ahmadiyya community continues to be persecuted in Pakistan by the state and the society with the help of Ahmadi-specific discriminatory laws and other so-called Islamic laws. I intend to send you some more such selected cases that merit your worthy notice and intervention. At present I enclose three of our Monthly Reports as Annex II, III and IV. A glance at these will show you the nature, intensity and quantum of the persecution involved. I propose to send you in future a copy of these monthly reports.

I request you to kindly initiate effective action that would result in the freedom of Mr. Iqbal who is incarcerated wrongfully for the last four years under the dubious religious laws, and if not rescued will stay in prison for life.

Yours sincerely,

Mansoor Ahmad Khan
Director

Annexes

- I. The Case: ***IQBAL – a victim of fabricated charge of Blasphemy. Ahmadiyya Pakistan No. 1/2008***
(with appendices A,B1,B2,C, and D)
- II. Persecution of Ahmadis in Pakistan – News report June 2008
- III. Persecution of Ahmadis in Pakistan – News report July 2008
- IV. Persecution of Ahmadis in Pakistan – News report August 2008

Questionnaire of the UN Special Rapporteur on freedom of religion or belief

Case: **IQBAL – a victim of fabricated charge of Blasphemy – Ahmadiyya, Pakistan No. 1/2008**

Brief introduction to the case:

Mr. Muhammad Iqbal, a Pakistani Ahmadi, was imprisoned for life in Pakistan in a fabricated case of blasphemy under the notorious blasphemy law that has received worldwide condemnation from human rights organizations, HR activists, NGO's and governments. He was arrested in March 2004, and is now incarcerated in the Central Jail, Faisalabad. An appeal lies with Lahore High Court against the decision of the Sessions Court. It is registered in LHC as Criminal Appeal No. 89/2005. He is now in the fifth year of his undeserved imprisonment.

Mr. Iqbal's wife has no job. A son was born to them in the first week of his ordeal. The stricken family has no source of income except charity. It is great hardship for them.

Iqbal committed no crime. The prosecution 'proved' the case with the help of witnesses that can be easily rented in Pakistan for such cases of religious nature. He and his family deserve priority relief.

In the first instance, the authorities and the court can release him on bail, for instance. There is ample evidence available in Pakistan that the Blasphemy law has been used by unscrupulous elements to settle personal vendetta against individuals who belong to a 'minority' community. This case is forwarded on behalf of Mr. Iqbal and his family by Ahmadiyya Foreign Missions Office. An introduction note regarding this Office and the Ahmadiyya community is placed at Appendix A to this proforma.

1. GENERAL INFORMATION

- A. Does the incident involve an individual or a group?** Individual - primarily
- B. If it involves a religious or belief group please state the number of people involved and the denomination of the group:** Ahmadiyya denomination. Approximately 1 million practicing members in Pakistan
- C. Country (ies) in which the incident took place:** Pakistan
- D. Nationality (ies) of the victim(s):** Pakistani
- E. Does domestic law require (re)registration of religious associations and if yes, what is the current status of the group in question?** Our parent Society Tahrik Jadid Ahmadiyya Pakistan is registered under Act XXI of 1860. No re-registration is required.

2. IDENTITY OF THE PERSONS CONCERNED

Note: If more than one person is concerned, please attach relevant information on each person separately:

- A. Family name:** IQBAL
- B. First name:** MUHAMMAD
- C. Denomination of his/her religion or belief:** AHMADI (MUSLIM)
- D. Place of residence or origin:** Chak No. 227/GB, District Faisalabad
- E. Age:** 38 years approximately
- F. Sex:** Male
- G. Nationality (ies):** Pakistani

3. INFORMATION REGARDING THE ALLEGED VIOLATION

- A. *Date and time (approximate, if exact date is not known):* November 29, 2004
- B. *Place (location and country/countries):* Faisalabad, Pakistan
- C. *Please provide a detailed description of the circumstances of the incident in which the alleged violation occurred respectively the nature of the governmental action:*

SAJJAD HUSSAIN SINDHER, Additional Session Judge, Faisalabad, Pakistan sentenced Mr. Muhammad Iqbal, Ahmadi of Chak No. 227/GB Faisalabad, Punjab to imprisonment for life and Rs. 10,000 fine under the dreaded Blasphemy clause PPC 295C on November 29, 2004. The accused is required to serve additional six months in prison if he does not pay the fine. The accused is now serving the sentence in the Central Jail at Faisalabad.

This is an important case in the sense that in some ways it is typical, and its essential details expose the wrong of the Blasphemy laws in Pakistan and also it shows how the corrupt in the society use these laws to inflict great misery, injury and harm on innocent people against whom they have personal vendetta to settle or other reasons that have no relevance to the alleged blasphemy.

Chak No. 227/GB is a typical village in the central Punjab. Most of its residents are half-educated peasants, financially at the border-line. They are contended to be Muslims without having any in-depth knowledge of their faith, and while some of them perform the routine rituals, there are few who are aware of the higher values of Islam, and perhaps none who would risk his personal interest to uphold the great ideals and teachings of his professed faith.

Muhammad Iqbal, son of a farmer Faquir Muhammad, approximately 20 years old in 1990, heard about Ahmadiyya understanding of Islam, got interested and made some serious inquiries. He was convinced. Exercising his birth-right of 'freedom of faith' he joined the Ahmadiyya community. Soon he learnt that fundamental rights are highly controversial in the society here, and he faced great opposition from his own family and also the local mullah. He bore the brunt of opposition courageously for a while, but then, lone and without any meaningful support, he left the village and went to far-off Bahawalpur in the south of Punjab, and took up a petty job to support himself. After a while, he got married to his cousin, Tahira in March 2001 and stayed on in Bahawalpur. A few years later, the couple decided to go back to Iqbal's village where they could share the hereditary house and the land, and Iqbal could perhaps look for a better job at the industrial city of Faisalabad. At Chak 227/GB they found that the prejudice and ill-feeling against his Ahmadiyyat had not dwindled, in fact increased due to the malign legacy of General Zia and the promotion of religious extremism. The local mullah, a fake man of piety, had become more intolerant and rabid. His family and the village folk had become more rigid in their religious outlook and more vocal in confessional passions.

Hafiz Zulfiquar Ali, the imam of the nearby mosque claimed to be a Sunni. He is illiterate; he can hardly read, and write nothing. Still, as representative of the faith, he exercised undeserved influence over his flock. The mullah approached Iqbal's father and brothers and told them that it was licit for them neither to share a meal with Iqbal nor to have social dealings with him of any kind, and they should expel him from home. This created a problem in the family. There were arguments and counter-arguments. Adjustments within the family were made, and then broken. The argument that Iqbal's creed, the *Kalima*, was no different than that of the rest, was rejected by the mullah, who insisted on more recent edicts of present-day Ulama (clerics) and demanded that Iqbal recant and revert to the way of the majority. Iqbal refused to do that. So there was great tension and stress in the family. His father turned against him, as also other relatives. They all demanded of him to divorce his wife and marry his aunt's daughter. Life turned sour in the Chak (village).

On the afternoon of March 23, 2004 Mr. Iqbal proceeded out of home for some errand and came across the mullah at the village square. The mullah asked Iqbal to accompany him to his mosque for a word. In the mosque there was nobody else at the time. There, Zulfiquar Ali told him to discard '*Mirzaiyat*' (Ahmadiyyat) as it was '*Kufr*' (infidelity), and revert to the Islam of the majority. Iqbal refused and there

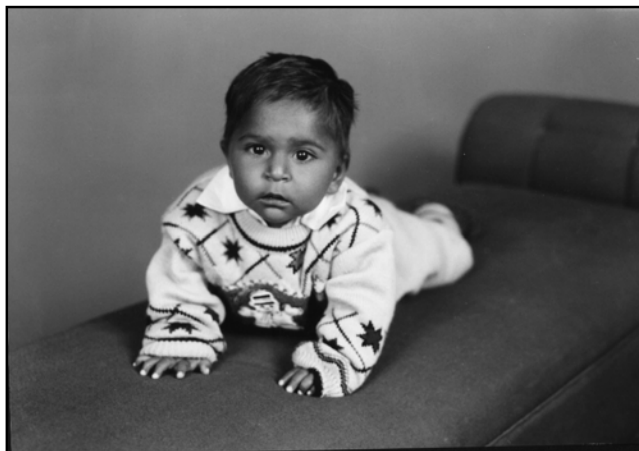
was an argument. The mullah was greatly annoyed at Iqbal's refusal, felt personally insulted, and eventually told Iqbal to get out, and threatened him with appropriate action and harm (*tumhara koi bandobast karta hun*). Iqbal left the place. It seems that the mullah, soon afterwards met his acolytes and they all jointly conspired and agreed on a plan of vicious action. Someone, later on claimed to have advised the mullah, "Accuse him (of blasphemy) so that it would stick with him for ever" (*Woh ilzam lagao, jis se uski jan hi na choote*). So the mullah switched on the mosque sound-amplifier system and gave the rallying call to the neighborhood that the great crime of blasphemy against the Holy Prophet had been committed and all the faithful should immediately assemble at the mosque. He made the call repeatedly.

It did not take long for the crowd to assemble. The villagers were armed with sticks and sharp-edged weapons. They were fed with the false allegation to agitate them. Mushtaq, a non-Ahmadi, but a sympathetic brother of Iqbal realized the gravity of the developments and went to the mosque. There, he offered unconditional apology for whatever had happened, for what was said and also not-said. This calmed down most of the crowd, but some miscreants who had decided upon punishing Iqbal for his Ahmadiyyat put forward two conditions for Iqbal, 1) he should recite the *Kalima* to proclaim Islam, and 2) quit the Ahmadiyya community. They were told that Iqbal would recite the *Kalima* but not forego Ahmadiyyat. The mullah and his supporters refused to accept that, and decided to go ahead with their plan.

It was sunset time that the fanatics proceeded to the police station. They were in sufficient numbers to impress the SHO (Inspector in-charge of the police station) who thought it convenient and exigent to proceed as the crazies wanted him. Rather than telling them frankly that justice would be done after due inquiry by him, he provided the mullah with office stationery to jot down his complaint. The mullah stated in his complaint (and this was recorded in the FIR) that "*(Iqbal) suddenly came over to me in the mosque courtyard, and asked me forthwith, 'what is your faith'; I told him that I believe in Oneness of Allah and in Holy Prophet Muhammad (SAW) and also in saints (pirs aur faqirs). He also asked about Hadrat Isa (AS) and I told him 'go to a religious scholar, if you have a problem of understanding, he will solve it for you'. At this the named Iqbal said, 'your Prophet is false'. These words were heard, apart from me, by two others present in the mosque, Nazar Hussain and Ali Ahmad. We tried to grab him, but he succeeded in fleeing.*" The illiterate mullah could not sign his own statement, so put his thumb impression on it. Having received this senseless and incoherent tale, the SHO proceeded to appoint one of his subordinates, an assistant sub-inspector (ASI), a petty official to investigate this case of great import. He did this despite the fact that some years ago the government had announced that in view of the gravity of the offence of blasphemy and its consequent penalty, only a District Magistrate would hold the inquiry into the incident. A couple hours later the police arrived in the village. Mr. Iqbal, on getting the news that an FIR had been registered under PPC 295C, for which the penalty is death, and the villagers having become a menacing bunch, went into hiding. The police willingly accepted the statement of the two false witnesses of the mullah, although not even one of them was present in the mosque at the time of the row. The case was registered in FIR 73/04 at Police Station Tarkhani, district Faisalabad on March 23, 2004, the Republic Day of the Islamic Republic of Pakistan. Copy of the FIR and its translation is available at Appendices B1 and B2. The text of the Blasphemy law PPC 295-A is placed at Appendix C.

A few days later, Mr. Iqbal approached an attorney in Faisalabad and arranged a 'bail before arrest'. The judge granted it provisionally. At the time of confirmation of the bail, the accused submitted an affidavit that 1) the allegations contained in the FIR are absolutely incorrect, 2) he is a follower of the Holy Prophet Muhammad (peace be upon him). The state prosecutor opposed the bail application. The judge wrote in his decision that as the accused was an Ahmadi, he found Iqbal's affidavit (concerning his faith in the Holy Prophet) useless. This intellectual lightweight wrote piously and rather childishly, "No Muslim can involve another Muslim in the case of blasphemy falsely as the word written in the application cannot be written by a real Muslim regarding Holy Prophet with malafide". Thus he refused to confirm the bail. Mr. Muhammad Iqbal was arrested and locked behind bars for an offense he would not even consider committing. At this stage and also in the following weeks Iqbal was offered by his opponents that if he withdrew from Ahmadiyyat, they would withdraw the case.

The Ahmadiyya community assessed rightly that Mr. Iqbal was badly trapped in this fabricated case of blasphemy, so they hired a lawyer of high standing to defend him in the court. The trial went on for months while the accused remained in prison. His relatives deserted him; none visited him in the prison except one of his brothers. His pregnant wife left the village to be with her aunt for the delivery. Also, she was afraid that she might be harassed by the police, in case Iqbal decided to go into hiding. She delivered a son in the early days of their ordeal, and named him Aamir Iqbal. During the first months of his incarceration, Tahira was able to see her husband in prison only once. The procedure to visit a prisoner is so cumbersome for a woman that it is more of a deterrent, and hardly worth the effort. Iqbal got only a glimpse of his baby son across the meshed window of the prison verandah. For fault of the couple, she became virtually a single-parent to the suckling who was wrongfully deprived by the society of paternal love, care and support. Tahira, now



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Aamir — Iqbal's baby son whom he has seen only once after his birth

25 years old, looks much older on account of her agony, worry and stress of the past years. She talks fondly of her husband whom she describes as a good and truthful man and a caring husband. When asked about her difficulties subsequent to the incident of 23rd March, she started shedding tears and could control herself with difficulty. She was afraid that her statement might go to press and she may have to face more problems from her relations and the villagers. She has lost her bread-winner; the village has no salaried job for a woman, so she is now dependant on community support.

The trial lasted eight months. The trial judge, Mr. Sindher occasionally dropped hints that caused worry to the defense team. He mentioned more than once that the only penalty for the offense of blasphemy is death. He said so despite the reminder from the defense that life imprisonment was also available as alternative. There was an interesting development in the trial that Nazar Hussain, one of the only two witnesses claimed by the complainant to be present at the occasion, was not brought to the court to testify. It is learnt that on learning that he will have to make his statement after affirmation on the Holy Qur'an he decided not to support the fiction of blasphemy. He told the people, *"I was not present there; and I am accountable to Allah for what I say. I am afraid to make a false statement."* So the prosecuting team decided to drop him. The other 'eye-witness' took the plea in the village that *'although I was not present at the scene, whatever the Hafiz Sahib (Zulfiqar Ali) says must be right; after all he is our Maulvi(cleric)'*. So Ali Ahmad fired his shots from the shoulder of the mullah, and told the lie to the court. As far the mullah, he also thinks that he is on a safe wicket with his God because there are numerous edicts available to him that permit falsehood in support of a religious cause. We produce here just two of such concocted latter-day edicts that serve to add to the darkness of obscurants' mind: 1) In answer to a question, Al hajj Al Hafiz Rashid Ahmad Gangohi replied, **"Falsehood is permitted in support of the truth (Haq); however avoid it as far as possible; but if unavoidable, one may tell a plain lie (kizbe sareeh bole); or else abstain. Sincerely, Rashid Ahmad Ofeya Anhu"**. (Ref: *Fatawa Rashidia Kamel Mubawwah p.460; published by Muhammad Saeed and Sons. Quran Mahal, Muqabal Maulvi Musafar Khana, Karachi*). Subsequently, the renowned Abul Ala Maudoodi, founder of Jamaat Islami supported the above edict in his own words thus: **"Truthfulness and integrity are among the most important principles of Islam, and a lie is most despicable in its code; however, there are compulsions of practical life for which falsehood is not only permissible, even considered mandatory (wujub) under certain circumstances"**. (Ref: *Syed Abul Ala Maudoodi, p. 41 of Tarjuman ul Quran, May 1958*). In plain language, these 'divines' have opened a vast green channel for one and all of their followers who want to support a religious cause with utter falsehood. Well, with such authorities' support on his back, who can blame

minions like Hafiz Zulfiquar Ali of Chak 227/GB? And where is the hope for innocent people like Muhammad Iqbal, who live under the Damocles sword of PPC 295C over their heads? No wonder Bishop John Joseph committed suicide in 1998 in front of the court of a Sessions Judge in Sahiwal to protest the situation in Pakistan regarding Blasphemy.

Mr. Sindher, the Additional Session Judge, Faisalabad, the trial judge gave himself the liberty to disregard all these factors. He went outside the parameters of judicial propriety when one day he decided to hear advocate Rab Nawaz who is a rabid anti-Ahmadiyya lawyer. It happened on September 28, 2004. When the defense team entered the court room that day, it was surprised to see Rab Nawaz giving some arguments to Judge Sindher in this very case. They had no prior knowledge of his involvement in this case. He was talking about the incident of Sir Zafrulla Khan (Ahmadi) not joining with the *Janaza* (funeral) prayer of the Quaid-e-Azam (the nation's founder) in 1948. The defense submitted to the court their objection to the presence in the court of this person who was neither a party to the case, nor a witness, nor an authorized attorney with '*Wakalat Nama*' the Power of Attorney. In fact, this was the first time Rab Nawaz had come to the court, and the judge should have demanded from him the 'power of attorney'. On hearing the objection, Rab Nawaz immediately borrowed a blank sheet from the judge and, there and then, hurriedly wrote in manuscript a memo to the judge to accept his presence in the court on behalf of the plaintiff who was away in Mianwali and had asked Rab Nawaz on phone to represent him. Rab Nawaz volunteered to bring up the Power of Attorney at the next hearing. He never presented it afterwards, till the conclusion of the case.

As the incident was in utter violation of court procedure and rules and the defense team became greatly suspicious of the impartiality of the judge, it requested the judge to stay the proceedings, as the defense was going to request the higher court to transfer the case to some other court under the circumstances. Rab Nawaz, at this stage, suggested to the judge that the defense had been guilty of 'contempt of court'. Anyway the judge had to stop the proceedings.

Thereafter, the defense approached the High Court to transfer the case to some other judge. The High Court did not accept the request. So Judge Sindher held a few more hearings and announced his verdict. A description of the announcement of his decision and providing a copy of his judgment to the accused/his lawyer is also fit for mention in dispatches and record.

The judge announced his decision in the court at about 1445hr on November 29, 2004, in the absence of the accused. The accused was not called to the court on the excuse that his presence would have exposed him to risk, as a number of supporters of the prosecution were expected to be present at courts' premises at the occasion. That makes some sense, but it does not reflect well on the performance of authorities who are responsible to maintain law and order in the courts' area. As per procedure and law, the judge is required to give a copy of the judgment to the accused. He did not do so, that day, nor the next day. In the meantime, Mr. Iqbal was transferred to the Central Jail. The defense team thereafter presented itself in Mr. Sindher's court on December 4 and requested for a copy. The judge said that the 'judgment' was being edited; it would definitely be given on December 6. However, the defense was not provided the document even on that day. So the team presented itself again before the judge on December 7; the judge told the advocates that, 'the judgment still needs my signature, tomorrow you will get its copy'. The team went again to the judge on December 8 who told them that they were the first ones to ask for such a copy; however 'apply for it and get it'. The team told him that they had already applied for it. The judge told them to bring an authorization. This time Mr. Sindher told them that he would send the 'judgment' to the Superintendent of the prison for handing it over to the prisoner. To their protest the judge replied that only in serious cases, like death punishment, the judgment is supposed to be given to the accused at the time of announcement. (Mr. Sindher was wrong, as per law.) Another six days passed and no copy of judgment was made available. Eventually it was on December 18 that a copy was provided by the Superintendent of the prison. This was 20 days after it was required to be given as per CCP 371. In fact, Judge Sajjad Hussain Sindher had sentenced an innocent man to imprisonment for life, by giving undue weightage to witnesses who merit nothing but contempt and rejection, and by neglecting credible and powerful arguments of the defense; this is the reason of his erratic

behavior and commission of many blunders and muddles which will be brought forth at an appropriate judicial occasion and place.

Mr. Iqbal when told of the verdict took it with calm and dignity; he referred to the case of Hadrat Yusuf (Prophet Joseph) who had to suffer a prison sentence for years although he was innocent. The BBC mentioned his case and its outcome in some detail on its website *BBC.com* on 29 November 2004. Back in the village it became rather calm, and villagers seem to have decided not to talk about the incident. Perhaps they feel a collective guilt that they have wronged an innocent man. The hostile relatives appear to feel sorry for their wicked and corrupt part in the incident. This, of course, is of little consolation to Muhammad Iqbal.

Mr. Iqbal's case proves conclusively once again that:

- a) Even at village level, people know that the Blasphemy laws exist, and these can be used to grievously harm an opponent by fabricating an accusation.
- b) Religious lobby wields undeserved power through its ability to invoke these laws.
- c) Edicts by mullahs of authority are available to encourage witnesses to give false evidence in courts.
- d) The police, administration and judiciary are reluctant to uphold fairness and justice when confronted with situations arising out of the application of these laws.

The Blasphemy laws PPC 295C and 295B are like that subsystem of nature which is red in tooth and claw. These are convenient tools in the hands of religious bullies and bigots. These promote injustice; and *injustice anywhere is a threat to justice everywhere*. These are skeletons rattling in Pakistani national cupboards; they must be dumped without delay. The government is wrong in turning a Nelson's eye to these cases. These laws have nothing to do with true Islam (they are not mentioned, not even hinted in the Quran); they only betray Pakistan's unenviable tilt to medieval and extremist Islam. Petty amendments, like senior police officers doing the inquiry, are not the answer to this problem. The laws must be repealed entirely and summarily. They have brought no good to Pakistani society in the last twenty-two years of their existence since the unlovely regime of General Zia. In fact they have done great harm already, and will continue to do so with every passing day that they remain in force.

An appeal against the verdict of the trial court was made to the Lahore High Court, where it is pending a hearing for the last almost four years. This appeal registered at the Court as Criminal Appeal No. 89/2005 is placed at Appendix D.

D. Which indications exist that the victim(s) has been targeted because of his/her religion or belief?

1. The most important indication, indeed proof, is the Ahmadi specific Amendment II to the Constitution of Pakistan. The next, but equally important and malafide is the Ahmadi-specific Ordinance XX of 1984, promulgated by a dictator, General Zia, it is now formally a part of the Pakistan Penal Code and law.
2. The enmity and the circumstances, described above, in which the mulla accused Mr. Iqbal of Blasphemy are indications enough.
3. The fact that the trial judge sent for and heard a rabid anti-Ahmadi lawyer Rab Nawaz, in special and illegal way indicate his partiality. The incident is described above.

E. Identification of the alleged perpetrator(s), name(s) if known and/or function, suspected motive:

1. The main perpetrator is the state. It has followed anti-Ahmadiyya policy for the last 34 years. The motives are political self interest and religious prejudice, and opposition to any reform movement.
2. Mr. Sindher, the then Additional Session Judge. He found it more convenient to uphold state policy, even in the face of the facts of the case.
3. The police SHO and the investigating ASI. These low-ranking Pakistani police officials are known for their intellectual and professional corruption.

4. Hafiz Zulfiquar Ali. The local mulla. His motives were religious prejudice and personal malice and arrogance.

F. Are the perpetrator(s) known to the victim? Yes

G. Are state agents or non-state-actors believed to be responsible for the alleged violation?

Yes, as described in 3 C above.

H. If the perpetrators are believed to be State-agents, please specify (police, military, agents of security services, unit to which they belong, rank and functions, etc) and indicate why they are believed to be responsible; be as precise as possible.

As given in 3E and 3C above.

I. If identification as State agent is not possible, do you believe that Government authorities or persons linked to them, are responsible for the incident, why? State agents have been indicated in E above.

J. If there are witnesses to the incident, indicate their names, age, relationship and contact address. If they wish to remain anonymous, indicate if they are relatives, by-passers, etc: if there is evidence, please specify. There were no witnesses to the incident when the mulla had the argument with Mr. Iqbal.

4. STEPS TAKEN BY THE VICTIM, HIS/HER FAMILY OR ANYONE ELSE ON HIS/HER BEHALF?

A. Please indicate if complaints have been filed, when, by whom, and before which State authorities or competent bodies (i.e. police, prosecutor, court):

An appeal was made to the Lahore High Court by the Iqbal's attorney in early 2005, its number is: Criminal Appeal No. 89/2005. It is there for more than three and half years pending with LHC, but the Court has not found time to hear the appeal.

B. Were any other steps taken? The Government of Pakistan knows about the case and is reminded every month about this miscarriage of justice and the fact that Mr. Iqbal is now in the fifth year of his unjust incarceration.

C. Steps taken by the authorities: No action

D. Indicate whether or not, to your knowledge, there have been investigations by the State authorities, if so, what kind of investigation? Please indicate progress and status of these investigations as well as which other measures have been taken?

To our knowledge no investigation has been undertaken by State authorities.

E. Is case of complaints by the victim or its family, how have those authorities or other competent bodies dealt with them? What has been the outcome of those proceedings?

The appeal lies unheard and unheard in the judicial process.

5. IDENTITY OF THE PERSON OR INSTITUTION SUBMITTING THIS FORM

Ahmadiyya Foreign Missions Office, Chenab Nagar, Pakistan

A. Family name: For essential information and introduction see Appendix A

B. First name:

C. Contact number or address (please indicate country and area code): 92 47 6212326

- D. Fax:** 92 47 6212296
E. Telephone: 92 47 6212326
F. E-mail: wtabshir@gmail.com
G. Status: *individual, group, non-governmental organization, religious or belief group, inter-governmental agency, Government. Please specify:* Religious group
H. Do you act with knowledge and on behalf of the victim(s)? Yes
I. Please state whether you want your identity to be kept confidential: No
J. Date you are submitting this form: September 21, 2008

Appendices:

- A. Ahmadiyya community, and Ahmadiyya Foreign Missions Office – *A brief introduction*
- B. 1. Copy of police FIR (first Information Report)
2. English translation of the FIR
- C. Text of the so-called Blasphemy law, PPC 295-C
- D. Copy of Criminal Appeal No. 89/2005

Ahmadiyya community and the Ahmadiyya Foreign Missions Office
A brief introduction

The Ahmadiyya community

Ahmadiyya is a religious community, international in its composition and organization, with established branches in 194 countries in the five continents. It is a reform movement within Islam, however, Pakistan's law forbids it to 'pose as Muslim' and places numerous restrictions on it, in violation of the principle of 'Freedom of faith or belief', and prescribes imprisonment and fine as penalty for any infringement.

The community was formed in 1889 by Mirza Ghulam Ahmad, a great Muslim divine, at Qadian, India. He claimed to be the Reformer of Latter Days. The Movement he started is an embodiment of the benevolent message of Islam - peace, universal brotherhood, and submission to the will of God in its pristine purity. The object of the Movement is to rejuvenate Islamic moral and spiritual values. It encourages interfaith dialogue and diligently tries to correct misunderstandings about Islam. It advocates peace, tolerance and understanding among followers of different faiths. It firmly believes in and acts upon the Quranic teaching: ***There is no compulsion in religion.*** It strongly rejects terrorism in any form and for any reason.

The community has faced severe opposition from Muslim clerics who wield substantial political influence in Pakistan. The politicians and generals in politics have found it convenient to join hands with the mulla in persecution of this reformist and peaceful community. In 1974, Mr. Bhutto, the then prime minister amended the country's Constitution to impose non-Muslim minority status on Ahmadis. In 1984, General Zia, the dictator-president, promulgated the notorious anti-Ahmadiyya Ordinance XX to deprive Ahmadis of religious freedom. Since then, scores of Ahmadis have been murdered for their faith, thousands suffered prosecution and hundreds ended up in prisons and lock-ups. A large number of Ahmadiyya mosques have been destroyed, damaged, defiled or sealed up by authorities, all over the country. Ahmadis have suffered tyranny and discrimination in education, jobs, political rights, social peace, human rights, judicial cases, freedom of press, freedom of assembly, freedom of worship etc. Pakistani passports mention even the religion of the holder to facilitate discrimination against Ahmadis traveling to foreign countries. Since 1984, the year of promulgation of the Ahmadi-specific Ordinance, not a day has passed when Ahmadis were not in prison in Pakistan for their faith. A few documents that describe the actual persecution incidents in essential detail will be provided to the Rapporteur's office separately.

It is relevant to mention, that in the last quarter century, no government in Pakistan, civil or military, has provided any relief to Ahmadis despite the fact that the UN Economic and Social Council's sub-Commission of Prevention of Discrimination and Protection of Minorities, in its resolution No: E/CN.4/Sub.2/1985/L.42 on 27 August 1985, "*1.Expressed its grave concern... 2. Further expressed its grave concern... 3. Requested the Commission of Human Rights to call on the Government of Pakistan to repeal Ordinance XX.... And 4. Alerted the Commission of Human Rights of the situation in Pakistan which is one with great potential to cause a mass exodus, especially of members of the Ahmadiyya Community.*" Regardless of that, Ordinance XX continues to be enforced as law, and Ahmadis are targeted under Ahmadi-specific laws, other religious laws and the so-called Blasphemy law.

Ahmadiyya Foreign Missions Office

This Office is a department of the Tehrik Jadid Anjuman Ahmadiyya, Pakistan, registered in accordance with national law. One of its functions is also to deal with organizations and addressees abroad on issues that concern the Ahmadiyya community.

Appendix **B2** to the case Ahmadiyya , Pakistan No. 1/2008

Translation of the FIR

(Numbered columns only in brief) Police Station - Tarkhani; District - Faisalabad; Date and Time of Occurrence - Today after Asr prayers

1. Date and Time of Report - March 23, 2004 at 7.45 p.m; Report No.14
2. Name and Residence of person reporting - On written complaint of Hafiz Zulfiquar Ali S/o Muhammad Yar Khan, Caste Awan, Chak 227/GB Cheeney, sent by Muhammad Ashraf SI/SHO P.S. Tarkhani 3. Crime...: PPC 295 4. Place...: Within area Chak 227/GB distance 4.5 Kms southward of the P.S. 5. Investigation...: On receipt of the written complaint 6. Action.....By post

Signature: Muhammad Tufail 965/MHC; Rank: Clerk;

Note.... The FIR

To: The SHO Police Station Tarkhani, Tehsil Samundri, district Faisalabad; against Iqbal son of Faqir Muhammad, Caste Arain, resident Chak 227/GB Cheeney. I request for legal action. Sir, I do the duty of Khateeb and Imam at the Jame Masjid Chauk Wali of Chak 227/GB Abadi Cheeney. Today, after the Afternoon prayer I and Nazar Hussain S/o Haji Taj Din, caste Jat and Ali Ahmad S/o Muhammad Bakash, caste Arain, residents of the village were present in the mosque, when Iqbal S/o Faqir Muhammad, caste Arain, resident of the village, who belongs to Ahmadiyya denomination, came over to me suddenly in the mosque courtyard and asked me forthwith, 'what is your faith?' I told him, I believe in the Oneness of Allah Pak and the Holy Prophet (SAW) and also in saints (*pirs aur faqirs*). He also asked about Hadrat Isa (AS) and I told him 'go to a religious scholar, if you have a problem of understanding, he will solve it for you'. At this the named Iqbal said, 'your Prophet is false'. These words were heard, apart from me, by two others present in the mosque, Nazar Hussain and Ali Ahmad. We tried to grab him, but he succeeded in fleeing. This news spread like wild fire in the village, and all the villagers, elders and children assembled and encircled the residence of the said Iqbal. At this relatives of Iqbal, like Irshad Ahmad, Mushtaq Ahmad his real brothers and Sultan S/o Shahab Din the paternal uncle of the said Iqbal acknowledged the wrong committed by Iqbal and repeatedly asked for pardon, but the angry crowd insisted that Iqbal must present himself and seek pardon. At this, Messers Muhammad Ramzan, S/o Taj Din, Muhammad Yousuf S/o Lal Din, Caste Arain, residents of the village made the said Iqbal flee somehow from the location. Under the circumstances I reported the matter to the police, so you arrived at the site. I put up the application for legal action. Applicant Hafiz Zulfiquar Ali S/o Muhammad Yar Khan, Caste Awan, Chak 227 Abadi Cheeney. Thumb impression of Hafiz Zulfiquar Ali. *Action by the Police:* I have now reached Chak 227/GB Abadi Cheeney along with Allah Yar 3094/C, Muhammad Arshad 3594/C, Anwar Hussain 4772/C, and Hafiz Zulfiquar Ali has presented me his application. *Prima facie* it is PPC 295C case, so the application is sent for record by hand of Allah Yar 3094/C. Please register the case and hand over a copy of the police case file to Muhammad Yousaf SI Incharge Investigation. Signatures in English of Muhammad Ashraf SI/SHO P.S. Tarkhani, March 23, 04 at Chak No 227/GB Abadi Cheeney at 7.15 p.m. *At the Police Station:* On receipt of the written report, FIR for prosecution is prepared for the offense. Copy of the police file along with the original report is sent by hand of Arshad constable to Yusuf Ali Incharge Investigation PS Tarkhani. Muhammad Tufail Clerk PS Tarkhani. 23.3.04

Appendix C to the case Ahmadiyya, Pakistan No. 1/2008

(Extract of the Blasphemy clause in Pakistan Penal Code)

Act III of 1986

CRIMINAL LAW (AMENDMENT) ACT, 1986

*An Act further to amend the Pakistan Penal Code and the Code of Criminal Procedure 1898
(Gazette of Pakistan, Extraordinary, Part 1, 12th October 1986)*

...
...

2. *Insertion of new section 295-C, Act XLV of 1860.* In the Pakistan Penal Code (Act XLN of 1860) after section 295-B, the following new section shall be inserted, namely:

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

IN THE LAHORE HIGH COURT, LAHORE

Criminal Appeal No. 89 /2005

Iqbal s/o Faqir Mohammad Caste Arain
R/o Chak No. 227 GB, Faisalabad

Vs.

1. The State
2. The Complainant – Hafiz Zulfiqar Ali S/O Muhammad Yar Khan, Caste Awan R/O Chak No. 227/GB, Abadi Cheney P/S Tarkhani, Tehsil Samundri, District Faisalabad

Appeal U/S. 417 of the Criminal Procedure Code, 1898 Against Judgment of Conviction Passed by the Learned Additional Sessions Judge, Faisalabad on 29-11-2004 under Section 295-C of the Pakistan Penal Code, 1860

Respectfully Sheweth

1. That the Appellant was tried by the learned Additional Sessions Judge, Faisalabad on the charge of offence U/S. 295-C of the PPC and was held guilty by Judgment dated 29-11-2004. That the statutory sentence for the offence U/S. 295-C of the PPC is life imprisonment or death. The impugned Judgment, which on the face of it has been extensively corrected till the last sentence, however imposes a sentence of fine only in the sum of Rs. 10,000/-. While the judgement remained as it is, the office of the Trial Court sent a direction to the jail authorities for receiving the Appellant as convict with life imprisonment.

2. That the Appellant calls in question his conviction U/S 295-C PPC and the consequent sentence imposed upon him.

3. That the essential facts, as brought on record are as follows:

- (a) Hafeez Zulfiqar Ali, the Imam of Jamia Masjid Cheenaywali in Chak 227-G B, made a written complaint on 23-03-04 to police on which FIR Ex PA was registered for offence U/S 295-C PPC. According to the FIR the Appellant, who belongs to Ahmadi Community came to the aforesaid Imam in the mosque and asked him questions concerning his (The Imam's) faith and religious beliefs. In the course of this conversation, it is alleged, the Appellant made blasphemous remarks about the Prophet of Islam (P.B.U.H) saying that the Imam's prophet was a liar. It is alleged that this conversation took place in the presence of two witnesses named Nazar and Ali Ahmed. The Complainant and witnesses, it is alleged, attempted to apprehend the Appellant who was successful in getting away. The word spread in the area and people gathered at the Appellant's house where the local police reached on information. The complaint which was written by a student at the dictation of the Imam was handed over to the Police.
- (b) At the trial, five witnesses in all were produced. As far as the alleged occurrence is concerned Hafiz Zulfiqar (PW2) the Complainant and Ali Ahmed (PW3) are the only witnesses. The other three are police officials.
- (c) The Appellant denied the allegations and the charge. He averred that he was a pupil of the Imam Masjid and later adopted the Ahmadi faith. The Imam did not approve of the Appellant's turn to the Ahmadi faith and on the day of occurrence while he was in the Masjid Chowk, the Complainant approached him and asked him to renounce his Ahmadi creed. The Appellant told the Complainant that he was living on the earnings of the mosque and misappropriated its funds which was not what a true Muslim ought to do. The Appellant's case was that he was involved in this case due to enmity and difference of faith. He asserted that he believed in the finality of the Prophet (P.B.U.H) and cannot even conceive of making any statement derogatory of the Prophet of Islam (P.B.U.H).

(d) That the learned trial court by judgement dated 29-11-2004 held the Appellant guilty of the offence for which he was charged and sentenced him to pay a fine of Rs. 10,000. In default of payment of fine the convict was ordered to undergo a sentence of six months R.9. The judgement omitted to mention any substantive sentence of imprisonment but ordered that the convict shall get the benefit of section 282-B Cr. P. C.

4. That the findings and sentence of the trial court and its judgement dated 29-11-2004 are liable to be set aside for the following reasons:

- i. That the judgement of conviction is against law and the facts of the case.
- ii. That the case of the prosecution rests solely on the oral evidence of the two witnesses namely the Complainant and PW3 Ali Ahmed, who is related to the Complainant. The evaluation of the statements of these two witnesses does not satisfy the principles laid down by the superior courts for a safe dispensation of justice in criminal cases.
- iii. That the offence U/S 295-C being a law which involves strong religious sensibilities. The courts are called upon to apply even stricter principles of evaluating oral evidence. The trial court has omitted to notice the following:
 - (a) There appears no occasion for the Appellant to go inside the mosque, at or about prayer time and indulge in the kind of conversation, which the prosecution attributed to him. It is not alleged that the Appellant is either a preacher or a person who habitually discusses religion with persons of other faiths.
 - (b) The two witnesses are related inter se and the only witness who appeared to be independent was not produced.
 - (c) That it was about prayer time but no independent witness heard the alleged conversation.
 - (d) That the Appellant's version that he met the Imam PW1 outside in the Chowk while passing and the PW encouraged him in the conversation, appears to be more plausible in the circumstances. It is

believable that an Imam will attempt to offer his true faith to a person whom he believes to be an infidel.

(c) The Imam, PW1 has admitted that he cannot write and therefore he asked one of his mosque disciples to be the scribe of the complaint. The person who wrote the complaint, which is the basis of the F.I.R, was not produced in evidence.

(f) It is the prosecution's case that on hearing the news of the alleged commission of offence a large number of people surrounded the house of the Appellant where some kind of argument took place between Appellant's relatives and the crowd. No witnesses other than PW2 and PW3 have appeared to support the version. Even the police officer (PW5) who claims to have reached the spot even before the F.I.R was made does not speak of the public gathering etc.

(g) That the version of the conversation with the Appellant, as narrated by PW2 is materially different from what PW3 says.

iv. That the principle of Tazkia Tus Shahood applied to this case and the trial court has wrongly held otherwise. The failure to apply the principle vitiates the trial and conviction.

It is therefore prayed that the appeal be accepted, judgement or conviction be set aside and the Appellant ordered to be set at liberty.

Appellant

Through:

Abid Hassan Minto
Senior Advocate Supreme Court
78-B Mozang Road, Lahore
C.C. No. 161

CERTIFICATE

This is to certify that this is the first appeal on the subject.

Advocate