

Report to the United Nations General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of Sustainable Development Goal 16 (SDG 16)

Ahmadiyya Muslim Lawyers Association USA Submission

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Preliminary Statement

Pakistan's treatment of its Ahmadi Muslim citizens stands in direct contravention to the letter and spirit of Sustainable Development Goal 16. Far from promoting a "peaceful, just and inclusive" society, the systematic, politically and legally sanctioned persecution of Ahmadi Muslims acts as a cancer on the Pakistani state and society that has over a period over more than four decades perpetuated violence, injustice and intolerance. From the moment Pakistan declared Ahmadis non-Muslim in 1974, the country began to slide backward in its socio-economic development. Under a military dictatorship, Pakistan enacted anti-Ahmadi provisions that criminalize all aspects of Ahmadi Muslim faith. For decades, the country has been plagued by religious militancy, fueled by a hatred for not only Ahmadi Muslims but any religious group that does not subscribe to Sunni orthodoxy.

Today, even as Pakistan is led by a government that is purportedly committed to human rights, Pakistan's progress is inhibited by religious extremism. Just in the last few weeks, no fewer than two federal ministers have incited the public to violence against Ahmadi Muslims, one calling for their beheading while a second one deemed them disloyal traitors. This sustained promotion of hate from the highest level of political leadership, coupled with systematic legal discrimination, will continue to perpetuate a culture of institutionalized intolerance. As one prominent economist recently wrote, it "is no wonder then that few want to invest in an environment afflicted with violence and intolerance."

Introduction

Pakistan's treatment of Ahmadi Muslims is in flagrant violation of its obligations under international law, most notably the International Covenant on Civil and Political Rights (ICCPR) as well as Article 2 of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Declaration) which provides that "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or belief." Pakistan's Constitution

declares Ahmadi Muslims to be non-Muslim, thereby depriving them of the freedom to adopt a religion of their choice, in violation of Article 2 of the Declaration. Pakistan's Penal Code contains anti-Ahmadi and anti-blasphemy provisions that prohibit Ahmadi Muslims from manifesting any aspect of their faith as Muslims.

Pakistan disenfranchises Ahmadi Muslims by placing them on an electoral roll separate from all other citizens, who are entitled to vote in a joint electorate. Pakistan also requires every passport applicant and national identity card applicant to make a declaration of faith, and requires any citizen who wishes to be known as Muslim thereon, to make a declaration denouncing Ahmadi Muslims as non-Muslim. Finally, Pakistan has failed to protect the life and liberty of Ahmadi Muslims, and governmental authorities are complicit in advocating religious hatred against Ahmadi Muslims. State-sponsored advocacy of hatred results in discrimination, as well as acts of violence, the most notable example of which was the massacre of 86 Ahmadi Muslims in Lahore on May 28, 2010.

Recognizing that the underpinning of peaceful and inclusive societies is respect for the equality of all persons regardless of religion or belief, Pakistan's continued and worsening treatment of its Ahmadi Muslim Minority population is a hindrance to the achievement of Sustainable Development Goal 16. SDG 16 seeks inter alia to significantly reduce violence, abuse and exploitation; to promote and enforce non-discriminatory laws and policies for sustainable development; to promote rule of law and equal access to justice, strengthen transparency and accountability of institutions; and to broaden and strengthen participation without discrimination on any grounds. Until it repeals the canon of discriminatory laws against the Ahmadi Muslim Community, Pakistan cannot begin to work towards the guiding principles of justice and equality required to achieve SDG 16.

1. Discrimination in Law and Practice

A. Non-Muslim Constitutional Declaration

Pakistan is the only Islamic state in the world to define who is or is not a Muslim in its Constitution (Article 260). The Second Amendment to Pakistan's Constitution, passed in 1974, amends Article 260 to say: "A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad...is not a Muslim for the purposes of the Constitution or law." This amendment explicitly deprives members of the Ahmadiyya Muslim Community of their right to self-identify as Muslims. Article 260(3)

and the Second Amendment to Pakistan's Constitution, taken together, legally declare Ahmadis to be "non- Muslims."

B. Pakistan Penal Code & Blasphemy Cases

In 1984, General Zia promulgated Ordinance XX, which amended and added Sections 298-B and 298-C to Pakistan's PPC. Ordinance XX prohibits Ahmadis from "indulging in anti-Islamic activities." Two of the five anti-blasphemy laws explicitly target by name the activities of the Ahmadiyya Muslim Community. These two laws are part of what is known as Martial Law Ordinance XX, which amended Pakistan's Penal Code and Press Publication Ordinance Sections 298-B and 298-C. For fear of being charged with "indirectly or directly posing as a Muslim," Ahmadi Muslims cannot profess their faith, either verbally or in writing. Furthermore, although the constitution provides for freedom of assembly, Ahmadi Muslims have been prohibited from holding conferences or gatherings since 1983.

Section 295-C states: "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."

State authorities are also arresting and prosecuting Ahmadi Muslims as "terrorists" under the provisions of Pakistan's primary anti-terrorism legislation, the Anti-Terrorism Act of 1997, for possessing allegedly banned religious publications. arrested and sentenced to five years in prison on blasphemy and terrorism charges for selling copies of the Qur'an and other publications of the community. On December 5, 2016, the CTD conducted a warrantless raid of one of the central offices of the AMC in Rabwah where they confiscated laptops, mobile phones and books, disabled CCTV cameras, and arrested three Ahmadi workers (including two imams) and seriously injured others.

On April 30, 2020 Ramzan Bibi, a 55-year-old Ahmadi Muslim woman in Cheleki, Pakistan, was arrested on blasphemy charges. She was charged under Section 295-C of the Pakistan Penal Code, an offence that carries the death penalty.

Ahmadi Muslims account for almost 40% of all arrests under Pakistan's anti-blasphemy laws. Over 4,000 Ahmadi Muslims have faced criminal charges for simply practicing their Islamic faith.

C. Voting Discrimination & Executive Order No. 7

Ahmadis are denied the right to freely and fairly vote in local, provincial and national elections. In 1985, General Zia split the electorate so non-Muslims would have to register on separate “non-Muslim” electoral rolls. Non-Muslim minorities could only vote for non-Muslim candidates, comprising only 5 percent of the National Assembly seats. To vote, Ahmadi Muslims were forced to register on “non-Muslim” electoral rolls, something that their conscience would not permit. In 2002, President Musharraf issued an executive order—EO No. 7—that abolished Pakistan’s separate electorate system, restoring the joint-electorate that existed before General Zia. However, Executive Order No. 15, briefly followed amending EO No. 7 and providing that while “elections for the members of the National Assembly and the Provincial Assemblies shall be held on the basis of joint electorate”, the “Status of Ahmadis [was] to remain unchanged.” Under EO No. 15, all citizens, except Ahmadis, were moved to the main electoral list leaving only Ahmadis on the non- Muslim list. Therefore, while all other Pakistanis vote under a joint electoral list, Ahmadis are the only section of the populace that are effectively deprived of the right to vote.

D. Passport & National ID Card Declaration

Pakistan requires every citizen applying for a passport to declare his/her faith. If a person wishes to declare himself or herself Muslim, he/she must sign a declaration titled “Declaration in the Case of Muslims:” That declaration provides, in relevant part, that “I consider Mirza Ghulam Ahmad Qadiani to be an imposter nabi and also consider his followers . . . to be Non-Muslim.” Pakistanis who wish to obtain a National Identity Card are required to make a similar declaration. The Passport and National Identity Card declarations are in clear violation of the right to liberty of movement, a fundamental cornerstone of international human rights law.

2. The Effects of Discrimination

A. Torture

The number of anti-Ahmadi laws coupled with state-sponsored hate speech has created an environment that both promotes and allows for the violent torture of members of the Ahmadiyya Muslim Community in Pakistan. On February 10, 2012, police authorities in Rabwah took Master Abdul Qudoos Ahmad, an Ahmadi schoolteacher, into custody in connection with a murder investigation for which he was kept in illegal detention by the police for 35 days where he was severely tortured. He died shortly after his release

succumbing to his wounds. Since 2012, there is no evidence that an investigation into the death was conducted and anyone was held responsible.

On December 5, 2016, during the raid of AMC offices, police arrested and beat several Ahmadis, including a foreman and some Ahmadi imams. Those who were arrested were severely tortured by local police. The conduct of police authorities to date is in clear violation of Pakistan's obligations under the UNCAT Articles 2(1), 12, 13. A nation that tortures its own citizens can not, in good faith, take steps towards the achievement of SDG 16.

B. De Facto Disenfranchisement

Under Executive Order No. 7, Ahmadi Muslims can only vote in Pakistan if they (1) declare themselves to be a non-Muslim; (2) declare the founder of the Ahmadiyya Muslim Community to be an imposter; and (3) add their names to a separate supplementary list.

Of course, no Ahmadi Muslim should or would ever agree to these patently discriminatory conditions. As a result, Ahmadi Muslims are the only religious group in Pakistan to be excluded from the country's joint electorate system and do not have access to a fundamental right of citizenship. Furthermore, as political parties have become aware of this De Facto Disenfranchisement, they are less likely to consider members of the Ahmadi Muslim Community as their constituents and rarely work in their best interest essentially stripping away any political efficacy the minority community may have.

C. Hate Speech, Violence & Faith-Based Murders

Pakistan's leadership has a history of denigrating the Ahmadi faith, even at the highest levels of office. In early May 2020, Pakistan's government proposed a "minority commission" for non-Muslim minorities, which preliminary included representation from Ahmadis, who were involuntarily declared a non-Muslim minority in 1974.

Notwithstanding that Ahmadis, who self-identify as Muslims, would not have accepted an appointment to the commission, senior members of the Pakistani government launched vicious attacks against Ahmadi Muslims. The Federal Minister for Religious and Inter-Faith Harmony Affairs stated in a televised interview: "Whoever shows sympathy or compassion towards [Ahmadis] is neither loyal to Islam nor the state of Pakistan." Another minister took to Twitter to incite violence against Ahmadis, saying that "beheading is the only punishment for those who mock Prophet Muhammad," a

thinly veiled reference to Ahmadis who are often prosecuted under Pakistan's blasphemy laws for their belief that the Prophet Muhammad is not the final prophet. These statements from the very highest levels of Pakistan's government fanned a campaign of online hatred against Ahmadi Muslims, and the government quickly reversed course on its initial plan to include Ahmadis in the minority commission.

In addition to social media hate campaigns, these statements have led to real and tangible violence against the Ahmadi Muslim minority in Pakistan. Ahmadi graves are often desecrated, Ahmadi owned-businesses trashed. Ahmadi Mosques have often been a target:

- 27 mosques demolished;
- 33 mosques sealed by the authorities;
- 22 mosques set on fire or damaged;
- 17 mosques forcibly occupied;
- 58 mosques' construction was barred by the authorities.

The hate speech has also led to faith based murders of members of the community;

Over 320 Ahmadi Muslims in Pakistan have been murdered on account of their faith since the establishment of Ordinance XX.

On May 28, 2010, armed gunmen from the Tehrik-e-Taliban Pakistan (TTP)—a group designated as a major terrorist group by the U.S. State Department—attacked hundreds of Ahmadi Muslim worshipers gathered for Friday prayers at two mosques in Lahore. The gunmen killed 86 Ahmadi Muslims in those attacks—the largest single attack against the Community ever.

This report has been submitted by the Ahmadiyya Muslim Lawyers Association, USA. Please direct any comments or inquiries to amjad.khan@ahmadiyya.us