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Pakistan**

**Submission of the Ahmadiyya Muslim Lawyers Association USA**

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AHMADIYYA  
MUSLIM COMMUNITY  
*United States of America*

*The Ahmadiyya Muslim Lawyers Association USA (“AMLA USA”) is an ancillary organization of the Ahmadiyya Muslim Community USA. It is composed of Ahmadi Muslim lawyers in the United States of America.*

## EXECUTIVE SUMMARY

*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). 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 18 of the ICCPR. Pakistan's Penal Code contains anti-Ahmadi provisions that prohibit Ahmadi Muslims from manifesting any aspect of their faith as Muslims, also in violation of Article 18. Pakistan also uses its blasphemy laws to discriminate against Ahmadi 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, in violation of Article 25(b) of the ICCPR. Pakistan 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, in violation of Articles 12 and 20 of the ICCPR. Pakistan denies Ahmadi Muslims the right to free assembly, guaranteed under Article 21 of the ICCPR. Finally, Pakistan has failed to protect the life and liberty of Ahmadi Muslims, and governmental authorities (particularly at the provincial and local level) are complicit in advocating religious hatred against Ahmadi Muslims, in violation of Articles 6, 18, and 20 of the ICCPR. 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 (with 99 Ahmadi Muslims killed in 2010 alone). Most recently, police authorities in Chenabnagar (Rabwah) tortured an Ahmadi Muslim schoolteacher to extract evidence from him that would falsely implicate senior Ahmadi Muslim officials in a murder inquiry.*

### **I. INTRODUCTION**

1. The Ahmadiyya Muslim Community firmly adheres to Islam. Ahmadi Muslims believe that the founder of their Community, Hadhrat Mirza Ghulam Ahmad of Qadian, India, was a subordinate non-law bearing prophet who claimed to be the same messiah and reformer foretold by Prophet Muhammad and awaited by all Muslims. An estimated 3-4 million Ahmadi Muslims currently live in Pakistan.<sup>i</sup>
2. The state-sponsored persecution that Ahmadi Muslims face in Pakistan stems from the assertion by some Muslim sects that Ahmadis are not Muslim. Ahmadi Muslims firmly believe that they are Muslim and fall within the pale of Islam. They believe in the five pillars of Islam universally accepted by all Muslims and believe that the Prophet Muhammad is the last law-bearing and greatest prophet.
3. On June 23, 2010, Pakistan took a positive step to ratify the ICCPR.<sup>ii</sup> Since April 17 2008, Pakistan has already been a party to the International Covenant on Economic and Social Rights (ICESCR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).
4. Of particular note is that when Pakistan ratified the ICCPR, it originally expressed several formal reservations, including the following: "The Islamic Republic of Pakistan declares that the provisions of Articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws."<sup>iii</sup> In response to urgings from the European Union, however, Pakistan *withdrew* its reservations to Articles 6, 7, 8, 18, and 19 in June 2011.<sup>iv</sup> As a result, those ICCPR articles now apply with full force to Pakistan.
5. Very little progress, however, has been made to respect, protect and fulfill the rights of Ahmadi Muslims in Pakistan. In the last few years, the situation has worsened rather than improved. As a result of institutionalized persecution and targeted violence perpetrated by extremist non-state actors who act with impunity, Pakistan has failed in its duty to live up to its international human rights obligations.<sup>v</sup>

## II. ISSUES OF CONCERN SINCE PREVIOUS REVIEW

### A. Legal Restrictions on Freedom of Religion of Ahmadi Muslims Are Still in Place (ICCPR Art. 18)

6. According to recommendations made in the Report of the Working Group on the Universal Periodic Review in May 2008, Member States had called on Pakistan to lift legal restrictions on freedom of religion in Pakistan. Canada called on Pakistan “to remove restrictions on freedom of religion or belief and amend legislation that discriminates against persons belonging to minorities,”<sup>vi</sup> including Ahmadi Muslims. Moreover, Greece called on Pakistan to “effectively protect and satisfy the unimpeded exercise of freedom of religion of non-Muslim citizens”<sup>vii</sup>, and Denmark called on Pakistan to repeal laws “discriminating against non-Muslims, if any.”<sup>viii</sup>

7. Since the last UPR, Pakistan has yet to repeal targeted legal restrictions on the ability of Ahmadi Muslims to practice their beliefs freely. It has failed to amend or repeal Article 260(3) of Pakistan’s Constitution and the Second Amendment to Pakistan’s Constitution, which taken together, legally declare Ahmadis to be “non-Muslims.”<sup>ix</sup>

8. Nor has Pakistan abolished anti-Ahmadi provisions contained within Pakistan’s Penal Code (“PPC”). In 1984, General Zia promulgated Ordinance XX, which amended and added Sections 298-B and 298-C to Pakistan’s PPC.<sup>x</sup> Ordinance XX’s provisions prohibit Ahmadi Muslims from “indulging in anti-Islamic activities.” They are barred from using any honorific titles or epithets specific to Islam, building Mosques, displaying the *Kalima* (the creed of Islam), or reciting the *Azan* (call to Muslim prayer). In addition, it is a punishable offense for Ahmadi Muslims to “pose” as Muslims or call or refer to their faith as Islam, or to preach or propagate their faith. Any act by an Ahmadi Muslim which is perceived by any person in Pakistan as being associated with Islam is deemed a criminal and arrestable offense. All of these prohibitions are punishable with imprisonment of up to 3 years.

9. The above-referenced constitutional and legal provisions constitute clear violations of Article 18. Article 260(3) (as amended) and Ordinance XX deny Ahmadi Muslims the freedom to have or adopt a religion of their choice, Islam, both individually and in community with others. Ordinance XX further criminalizes any manifestation of Islamic faith by an Ahmadi Muslim. General Comment No. 22, which constitutes an authoritative interpretation of Article 18, clearly states that “[t]he freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts . . . including the building of places of worship, the use of ritual formulae and objects, the display of symbols . . . [and] the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.”<sup>xi</sup> Ordinance XX denies Ahmadi Muslims each of these rights. For instance, Pakistani authorities have demolished, set on fire, forcibly occupied, sealed or barred the construction of over 90 Ahmadi Muslim Mosques.<sup>xii</sup> They have also denied the cemetery burial of 41 Ahmadi Muslims and have exhumed after burial the bodies of 28 Ahmadi Muslims.<sup>xiii</sup>

10. To the extent Pakistan purports to justify these provisions under Article 18(3), such justification is without any basis in fact. Ahmadi Muslims are a peaceful group: indeed, they are required to renounce all forms of violence as a condition of initiation. As to the argument that any manifestation of Ahmadi Muslim faith is offensive to other Muslims, such justification is not a recognized basis under Article 18(3). As the Committee has observed, “paragraph 3 of article 18 is to be strictly interpreted; restrictions are not allowed on grounds not specified there.”<sup>xiv</sup> Finally, it bears note that even if Pakistan purports to justify Article 260(3) (as amended) and Ordinance XX under Article 18(3), it must set forth in its report “information on the full scope and effects of limitations under article 18.3, both as a matter of law and their application in specific circumstances.”<sup>xv</sup>

11. Apart from Article 260(3) (as amended) and Ordinance XX, Ahmadi Muslims are also targeted by the broad anti-blasphemy provisions in Pakistan’s PPC.<sup>xvi</sup> Between 1986 to 2009, of

1031 persons charged with blasphemy, 454 were Ahmadi Muslims.<sup>xvii</sup> Between 2008 and 2010, blasphemy cases were registered against 271 Ahmadi Muslims.<sup>xviii</sup> Often lower level judges cave in to mob pressure and convict accused persons of blasphemy on trumped up charges.

**B. Effectively Disenfranchised: Separate Electoral List for Ahmadi Muslims (ICCPR Art. 25)**

12. An issue not discussed in great detail during the last UPR is that Ahmadi Muslims are denied the right to freely and fairly vote in local, provincial and national elections.

13. Prior to 1978—when President Zia-ul-Haq declared his intent to abolish the joint-electorate system—all Pakistani citizens had an equal vote irrespective of faith.

14. In 1985, General Zia formally decreed that the electorate be split so non-Muslims would have to register on separate “non-Muslim” electoral rolls.<sup>xix</sup> Non-Muslim minorities, including Christians and Hindus, could only vote for non-Muslim candidates, comprising only 5 percent of the National Assembly seats. In order to vote, Ahmadi Muslims were forced to register on “non-Muslim” electoral rolls, something that their conscience would not permit. Thus, Ahmadi Muslims were effectively disenfranchised from 1985 to 2002.

15. On February 27, 2002, President Musharraf issued an executive order that abolished Pakistan’s separate electorate system.<sup>xx</sup>

16. However, shortly thereafter, relenting under the pressure of extremist organizations, President Musharraf issued another executive order, which provided that even though “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.*”<sup>xxi</sup>

17. Therefore, while all other Pakistanis vote under a joint electoral list, Ahmadi Muslims are the *only* section of the populace that are effectively deprived of the right to vote, in clear violation of Article 25.

18. During the last UPR, Germany specifically noted that in “*recent elections to the National and Provincial Assemblies, members of the Ahmadi community were obliged to register in a separate voter registry—singling them out from all other religious communities in Pakistan . . . How does Pakistan envisage to provide equal opportunity to all its citizens to exercise and enjoy their civil rights?*”<sup>xxii</sup> In its statement regarding the outcome of the last review, Pakistan represented to the Council that “[t]he Government has restored the joint electorate in federal and provincial assemblies.”<sup>xxiii</sup> Pakistan did not explain how this statement was consistent with the separate electorate currently in place only for Ahmadi Muslims.

**C. Passport and National Identity Card Declaration (ICCPR Articles 12 and 20)**

19. 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.”<sup>xxiv</sup> 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.*”<sup>xxv</sup> Pakistanis who wish to obtain a National Identity Card are required to make a similar declaration.<sup>xxvi</sup> The passport declaration is aimed at preventing Ahmadi Muslims from performing Hajj. Thus, Ahmadi Muslims are prevented from practicing a basic pillar of their faith. Moreover, by virtue of the declaration, they must renounce their identity as Muslims in order to obtain basic travel documents. Equally troubling, the declaration advocates religious hatred that constitutes incitement to discrimination and hostility against Ahmadi Muslims.

20. The Passport and National Identity Card declarations are in clear violation of the right to liberty of movement, guaranteed in Article 12. They also effectively advocate religious hatred in violation of Article 20.

**D. Denial of the Right To Free Assembly (ICCPR Art. 21)**

21. Since 1984, Pakistan has prohibited the Ahmadiyya Muslim Community from holding its annual convention (“Jalsa Salana”). Prior to 1984, some 200,000-300,000 Ahmadi Muslims from all over Pakistan participated in the Jalsa Salana. This ban is a flagrant violation of the right of Ahmadi Muslims to peacefully assemble, and cannot be justified under Article 21.

**E. Systematic Persecution of Ahmadi Muslims (ICCPR Articles 6, 18(2) and 20(2))**

22. Pakistan has failed to protect the life and security of Ahmadi Muslims. Ahmadi Muslims continue to be victims of violence and persecution.

23. In September 2008, two prominent members of the Community were gunned down after a cleric on a major Pakistani TV channel declared Ahmadi Muslims as “*wajib-ul-qatl*”, meaning that Muslims are religiously obligated to kill Ahmadi Muslims.<sup>xxvii</sup>

24. In 2009, extremists killed at least 11 Ahmadi Muslims.<sup>xxviii</sup>

25. On May 28, 2010, 86 Ahmadi Muslims were killed and more than 120 were injured in nearly simultaneous attacks against two Ahmadi Muslim Mosques, perpetrated by the Tehrek-i-Taliban Pakistan (TTP). This was the single worst act of violence against the Community to date. Notably, Asma Jahangir, former Chair of the Human Rights Commission of Pakistan, stated that the Lahore police authorities failed to take adequate measures to protect Ahmadi Muslims despite known warnings that the TTP had plotted to kill Ahmadi Muslim worshippers in Lahore on that day.<sup>xxix</sup>

26. Apart from targeted violence, Ahmadi Muslims have increasingly become victims of discrimination in employment and education. Government-operated universities and schools have expelled scores of Ahmadi Muslim students on the basis of their faith.<sup>xxx</sup> Governmental institutions are complicit in inciting hate against the Community. The provincial government of Punjab in particular has known ties with extremist organizations. In 2011, the *Khatm-e-Nabuwat* movement had organized two anti-Ahmadi rallies and conventions, which were both sponsored and supported by the Punjab provincial government. These government-sponsored actions constitute *clear violations* of Article 20(2).

27. Over the past year, religious extremists have also targeted Ahmadi Muslim professionals with impunity.<sup>xxxi</sup> In June 2011, the All-Pakistan Students Khatam-e-Nabuwat Federation widely distributed shocking pamphlets in Faisalabad that explicitly encouraged the outright assassination of a select group of Ahmadi Muslim industrialists, doctors and businessmen—who were listed by name and address and labeled as “*wajib ul qatl*.” The pamphlets explicitly noted that an act of murder against an Ahmadi Muslim on the list would be deemed to be a “virtue” and a “blessing.” When Ahmadi Muslim leaders brought the horrific content of the pamphlets to the attention of Faisalabad police authorities, the authorities refused to investigate or intervene. As a result, thousands of Ahmadi Muslims in Faisalabad currently live in a state of perpetual fear with no police protection. For example, last month the President of the Community in Faisalabad barely survived an assassination attempt by unidentified gunmen.

28. Similarly, in late January 2012, some 5,000 people gathered outside an Ahmadi Muslim mosque in Rawalpindi calling for the mosque’s demolition and a ban of Ahmadi Muslim activities.<sup>xxxii</sup> At the rally, many protesters referred to Ahmadi Muslims as “worthy of being killed.” Once again, local police authorities had failed to take affirmative measures to adequately safeguard Ahmadi Muslims or their mosque.

**F. Police Torture of Ahmadi Muslims (UNCAT)**

29. On February 10, 2012, police authorities in Rabwah took Master Abdul Qudoos Ahmad, an Ahmadi Muslim schoolteacher, into custody in connection with a murder investigation. According to the Asian Human Rights Commission: *“He was kept in illegal detention by the police for 35 days during which he was tortured without mercy. The torture included the victim being hung upside down by his ankles for long periods. On other occasions he was forced to lay flat on his back while a heavy wooden roller, similar to those used to flatten cricket pitches, was rolled over his body. His captors stood on either side making sure he could not escape the torment.”*<sup>xxxiii</sup> He died shortly after his release when, despite receiving medical attention from a hospital, he succumbed to his severe torture wounds.

30. The conduct of police authorities to date is in clear violation of Pakistan’s obligations under the UNCAT. *See* Articles 2(1), 12, 13.

**III. RECOMMENDATIONS TO PAKISTAN GOVERNMENT**

1. Protect and promote the rights of Ahmadi Muslims.
2. Remove restrictions on freedom of religion or belief and amend legislation that discriminates against Ahmadi Muslims.
3. Repeal Chief Executive’s Order No. 15, and permit Ahmadi Muslims to vote alongside all other Pakistanis as part of a joint electorate.
4. Remove Passport and National Identity Declarations pertaining to Ahmadi Muslims.
5. Combat impunity for attacks on Ahmadi Muslims by effectively investigating allegations and by prosecuting those responsible.

**IV. CONCLUSION**

The AMLA USA respectfully submits that the foregoing demonstrates that Pakistan is in fundamental breach of its obligations under international law, in particular the ICCPR. Given that Pakistan has withdrawn its reservations to the pertinent articles of the ICCPR that protect religious freedom, there is no justification for the continued regime of legal apartheid against Ahmadi Muslims in Pakistan. As such, we call upon the Council to hold Pakistan to account for its unacceptable treatment of its Ahmadi Muslim citizens. As UN Secretary General Ban Ki-moon has stated, the Universal Periodic Review “has great potential to promote and protect human rights in the darkest corners of the world.” We expect that the United Nations Human Rights Council will heed that call and act swiftly to safeguard the rights of Ahmadi Muslims in Pakistan.

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