

briefing

Pakistan

Religious freedom in the shadow of extremism

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In memory of Shahbaz Bhatti and Salmaan Taseer

“There was a direct link between the rise of the Taliban and the suppression and oppression of the minorities and of all those whose beliefs differed with those of the extremists who dared to expose hatred and violence in the name of religion.”

“It is obvious that the mere charge of blasphemy, however preposterous it may be, is now a conviction in itself.”

Human Rights Commission of Pakistan (HRCP) in their Annual Report, 2011

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I. Executive summary

The assassinations of two prominent politicians within the first three months of 2011 for their opposition of the country's 'blasphemy laws' have catapulted some of Pakistan's primary religious freedom issues into the public consciousness, in a context relevant to Pakistanis of all faiths.

The deaths of Salmaan Taseer, Governor of Punjab, and Shahbaz Bhatti, Federal Minister for Minorities Affairs, are symptomatic of growing division and lawlessness in Pakistan, as well as being symbolic of the silencing of voices seeking to confront extremism. In a country where the influence of local religious leaders and landowners frequently overrides that of the central government, these killings raise questions about the willingness and ability of the state to maintain the rule of law. The experiences of religious minorities in Pakistan have shown themselves to be precursors for a broader religious intolerance across the country.¹

There remains a large gulf between last year's advances in government policy towards religious minorities and the reality of life for these groups in Pakistani society. At present the state is neither preventing nor punishing lawlessness - effectively handing over justice to the most powerful or influential parties in any given region. There has been a marked increase in the level of fear among Christians and Hindus, with greater numbers seeking to flee the country. Christian groups in Sri Lanka report a significant rise in the numbers of Pakistani Christians seeking refugee status and warn that the situation is unsustainable.

According to the Human Rights Commission of Pakistan (HRCP), an NGO, 2009 saw an increase in violence against minorities and 2010 was worse still. Also in 2010, Sufi Muslim sites were attacked, such as the popular Data Darbar shrine in Lahore, which attracts Pakistani Muslims from all backgrounds. Discrimination against religious minorities in Pakistan is visible at all levels of society and within the education and employment sectors. This most directly affects the poorest and least influential people – those who cannot retaliate. Ahmadi Muslims are discriminated against in their economic activity, political life and educational activities. They believe that their situation has worsened “under the current democratic government”; at least 99 Ahmadis were killed for their faith in 2010. The striking feature in many of the cases is the complicity of state representatives.

Regarding implementation, there exist deeply-rooted problems in the police service, prisons, judiciary and court system alike, including the susceptibility of district level staff to bribery or intimidation, and inadequate knowledge of the law. Religious freedom concerns centre on discrimination against religious minorities on the part of state officials, the result being a decreased access to justice for non-Muslims (beyond the more general faults in the system).

Pakistan's blasphemy laws have been a source of suffering and controversy increasingly since the mid-1980s. Contained within section 295 of the Pakistan Penal Code (PPC), they lack any definition of terms and the oft-cited clauses 295B and 295C ignore the question of intent. Furthermore, evidential requirements are wholly inadequate and the laws undermine the religious freedom provisions contained within the Pakistani constitution. Two decades of misuse of the blasphemy laws has had a damaging normative impact on social harmony in Pakistan. Crying 'blasphemy' is now a powerful and effective rallying call with which to incite action against a personal enemy. Spurious blasphemy accusations have become common, frequently used to settle personal scores, to target religious minorities, to further extremist agendas, or for a combination of all three motives. Local court hearings are often attended

¹ This narrative is being articulated in the context of other sizeable challenges faced by the nation, not least the current economic crisis, weak civilian government, rampant impunity, prevalence of vigilantism, and persistently high levels of poverty and illiteracy.

by large and vocal groups of supporters from the claimant's side. Judges are not immune from intimidation, and lawyers defending people accused of blasphemy face particular danger. In prison, those accused of blasphemy can experience discrimination and religiously-motivated assault from guards and prisoners alike.

HRCP reports that 64 blasphemy accusations were registered in 2010.² Moreover, according to the National Commission for Justice and Peace (NCJP), at least 966 people were accused under the blasphemy laws between 1986 and October 2009. Of this number, 50 per cent were Muslims. However, a disproportionate number of the accusations made against non-Muslims resulted in extrajudicial violence or killings. The anti-Christian violence in Gojra and Korian in 2009 is a case in point, as is the narrowly-averted violence in Gujranwala last month. These figures do not account for the countless unregistered, rumour-based accusations and their consequences.

During 2010, discreet steps were taken towards a government consensus in favour of amending Section 295 (PPC). However, this effort unravelled from November 2010 onwards, when the conviction of a Christian defendant, Asia Noreen (or Asia Bibi), prompted a highly polarised and volatile debate. On 4 January 2011, the Governor of Punjab, Salmaan Taseer, was murdered by one of his bodyguards for supporting Asia Noreen and for public criticism of the blasphemy laws. In the subsequent weeks, large-scale rallies were organised by the religious right in praise of Taseer's killer. Faced with national unrest at a time of existing instability, the state recoiled from earlier commitments to change the laws. However, a determined (and by now exposed) minority continued to call for amendment. Federal Minister for Minorities Affairs, Shahbaz Bhatti, was one of these, and he lost his life two months after Taseer.

Prior to the current blasphemy law debate, Pakistan's governing coalition had shown itself to be considerably more disposed towards human rights guarantees than its predecessors. The appointment of a Christian and former activist like Shahbaz Bhatti to a federal-level minorities role raised high hopes for religious freedom prospects in particular. It remains to be seen whether the state will take adequate measures to continue his high-quality work but it is promising that Pakistan recently signalled the end of the 'Combating Defamation of Religion' campaign at the United Nations (UN).

However, an extremely narrow version of Islam is now being promoted in Pakistan, to the exclusion of all others. The public space for debate is rapidly shrinking, with the loudest, most aggressive voices sidelining other claims to free expression. Moreover, the present extremism is building upon foundations laid in the 1980s, under General Zia-ul-Haq's Islamisation campaign. The pervasiveness of such norms suggests that neither reform nor repeal of the blasphemy laws is likely to have an immediate impact in society. Longer-term initiatives are needed to challenge false perceptions of these laws and change the mindsets which render their misuse acceptable.

The state is showing signs of promoting interfaith harmony in Pakistan, a cause to which the late minorities minister was personally committed. But, while tackling misconceptions and prejudice is an essential component in uniting communities, this work necessarily sits alongside developmental initiatives. It is essential to combat the role played by poverty in exacerbating religious violence. An encouraging example of a holistic initiative of this kind already exists in the form of Bhatti's network of District Interfaith Harmony Committees, and the work of groups like the Christian Study Centre (CSC) in Rawalpindi offers further inspiration.

² Human Rights Commission of Pakistan (HRCP) (2011), *State of Human Rights in 2010*, Lahore, Pakistan, p124. Available at <http://www.hrcp-web.org/Publications/AR2010.pdf>.

2. Recommendations

2.1. To the Government of Pakistan

At Pakistan's Universal Periodic Review in 2008, the following recommendation was made for the Government of Pakistan:

To remove restrictions on freedom of religion or belief and amend legislation that discriminates against persons belonging to minorities (Canada) and effectively protect and satisfy the unimpeded exercise of freedom of religion of non-Muslim citizens (Greece) and the repeal of laws discriminating against non-Muslims, if any (Denmark).

In light of the Government of Pakistan's expressions of commitment to freedom of religion or belief, CSW would like to make the following recommendations, towards the full implementation of the above UPR recommendation by Pakistan.

In particular, CSW recommends that the Government of Pakistan should:

1. Bring to justice the killers of Salmaan Taseer and Shahbaz Bhatti, under conditions of fair trial, providing additional long-term security measures for the lawyers and judges involved;
2. As a priority issue, outline and publicise the recourse at ministerial level for minorities, clarifying the portfolio and status of Dr Paul Bhatti as Adviser to the Prime Minister on Minorities Affairs, as well as that of the minorities ministry;
3. Continue to implement the initiatives of the Ministry for Minorities Affairs begun under Shahbaz Bhatti, including the National Interfaith Harmony Campaign and the Minority Rights Awareness Project, combining them with broader developmental and human rights activities wherever possible;
4. Prioritise the swift prosecution of those publicly inciting hatred or violence, implementing and strengthening existing legislation against hate speech and restrictions on the use of mosque loudspeakers;
5. Fulfil its earlier commitments to review the blasphemy laws, with a view to minimising their abuse and as a step toward full repeal, and to ensure those campaigning against the blasphemy laws are able to do so without fear of reprisal;
6. Take substantive measures to strengthen the rule of law for minorities and other vulnerable groups, such as:
 - a. Ensuring conditions of fair trial and access to justice, particularly police protection for judges and lawyers dealing with blasphemy cases and a substantial police presence to deter mob intimidation in and around the courtroom;
 - b. Providing swift prosecution of those committing violence against minorities and other vulnerable groups;
 - c. Distributing adequate and timely compensation for victims of religiously-motivated attacks, according to a uniform scale;
 - d. Providing protection for minorities and other vulnerable groups in custody or prison and conducting an investigation into the causes of previous deaths.
7. Repeal discriminatory legislation concerning the Ahmadiyya community, in line with its constitutional commitments to equality and human rights;
8. Prioritise the reform of the national school curriculum to eliminate discriminatory teaching materials and practice; introduce references to Jinnah's founding vision for Pakistan and the positive contributions made by religious minorities to the country;
9. Expedite the passage of the National Commission for Human Rights Bill (2008) through parliament and establish a meaningful, independent and authoritative commission.

2.2. To the international community

CSW recommends that the international community should promote the above recommendations, supporting Pakistan in their fulfillment, and that it should:

1. Welcome the Government of Pakistan's decision to move away from the "Combating Defamation of Religions" agenda at the UN and recommend the continuation of this new direction in the future;
2. Welcome the Government of Pakistan's ratification of the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 2010; and strongly urge the Government to remove its current substantial reservations to both instruments;
3. Raise concerns about trends strengthening religious intolerance in society in any counter-terrorism dialogue with Pakistan, this issue being of central relevance in the long-term fight against religious extremism and terrorism;
4. Raise religious freedom concerns both in their own right and through mainstreaming, to increase references in developmental and rights-based dialogue and trade agreements;
5. Support the Government of Pakistan in the provision of humanitarian assistance and through long-term development funding;
6. Use cultural outreach arms to support civil society campaigns in Pakistan, highlighting cases of individual blasphemy prisoners from all faiths and facilitating dialogue on the misuse of the laws.
7. Ensure that particular weight is given to the asylum applications of those fleeing Pakistan because of proven religious persecution or blasphemy accusations.

CSW further recommends that the European Union should give particular weight to the Government of Pakistan's implementation of articles 18 and 19 of the ICCPR, as part of the GSP+ decision-making process.

3. Introduction

In the first months of 2011, the world watched as successive tragic illustrations of a growing lawlessness and intolerance in Pakistan were brought to the fore. It began with the assassination of Salmaan Taseer, Governor of Punjab, and the groups of lawyers who praised his killer, followed by rallies of 30,000 plus in Lahore and Karachi, denouncing all who, like Taseer, dared to challenge the infamous ‘blasphemy laws’. Two months - almost to the day - after Taseer’s death, Federal Minister for Minorities Affairs, Shahbaz Bhatti, was shot and killed in his car while leaving his mother’s house in Islamabad. A month after this, another suicide attack, targeting the Sakhi Sarwar shrine in Punjab during a busy Sufi festival period, killed over 40 people and injured at least 70. But these high-profile incidents do not even begin to illustrate the frequency of acts inspired by extremist ideologies and religious intolerance, most of which do not make the national or international headlines. As many as 2,542 people were killed and 5,062 injured in terrorist attacks in 2010.³ Despite the best efforts of people like Shahbaz Bhatti, religious minorities and Muslim sects like the Ahmadiyyas still face obstacles in all sectors, from education and employment to the pursuit of justice, as well as increasingly living in fear of violent persecution.

The assassinations of Salmaan Taseer and Shahbaz Bhatti marked a dramatic shift in the state of religious freedom in Pakistan and this briefing is written in light of the national context which facilitated it. Both deaths are symbolic of the silencing of those seeking to confront forces of extremism and intolerance. Bhatti’s lifelong work, for example, had come to be of pivotal importance to the pursuit of freedom of religion or belief in Pakistan and his death casts a large shadow over the future prospects of this right in the country. However, it is of broader importance as well, including in the realms of counter-extremism, interfaith dialogue and conflict resolution. Bhatti envisaged a nation moving in a direction diametrically opposed to that sought by his killers. Indeed, even the fact of working for Pakistan’s long-term interest set him apart from the short-term introversion of those who kill to achieve their aims.

The manner in which a nation treats its minorities is a barometer for the condition of that country as a whole, on the basis that the least influential groups in any society are often first to feel the brunt of negative trends, particularly with regard to human rights. In Pakistan, this observation has been pertinent for religious minorities and Muslim groups viewed as controversial by both conservative and extremist sections of society. The difficulties experienced by these communities have been precursors for a growing religious intolerance which, regardless of the actual number of proponents, has been deafeningly promoted by its adherents, who are drowning out calls for justice, peace and transparency. The loudest voices include religious clerics with a monopoly on the theology taught in their territory, and the leaders of the country’s religio-political parties, who use Islam as a currency with which to increase their clout. Ulterior motives abound behind the religious rhetoric and take no heed of the division being sown between Muslims and non-Muslims, not to mention between members of different Islamic traditions.

This briefing places particular emphasis on the issues surrounding Pakistan’s blasphemy laws, contained within section 295 of the PPC. Both Shahbaz Bhatti and Salmaan Taseer were killed for their criticism of this legislation. The blasphemy laws and their misuse have long demonstrated some of the worst rising trends in the country. These include the failure of the state to amend or repeal discriminatory legislation, the weakness of the rule of law, the prevalence of vigilantism, the expression of religiously-intolerant mindsets first sown a generation ago, a culture of fear and intimidation, and the capacity of extremist voices to suppress necessary and just intervention on the part of state institutions.

³ HRCP (2011), *ibid*, p6.

Myriad challenges present themselves to the Pakistani nation, not least the current economic crisis, weak civilian government and persistently high levels of poverty and illiteracy. Recurring problems have been the endemic lack of transparency in all sectors and the favouritism given to the most powerful. These trends are by no means unique to Pakistan, nor are they new, but they do risk becoming toxic when combined with extremist causes. Furthermore, they extend beyond state institutions to include the use of fear-mongering and intimidation by local religious clerics and wealthy landowners – whereby power is directly linked to the potential to trigger violence and/or ostracism.

The rampant impunity documented in this briefing offers a vivid illustration of this. It is a problem which thrives when shrouded in fear and secrecy – police officials susceptible to bribes (or indeed, intimidation), victims in too weak a position to consider complaining about their problems (even when many others share them), rumours spread throughout communities and leading to false accusations and distorted versions of events and, ultimately, the false perception that one can commit certain crimes against certain communities without fear of punishment by the state. The present scale of vigilantism and extra-judicial killings in Pakistan underlines that neither prevention nor follow-up are adequate.⁴

In this context, the opinions of the powerful carry a disproportionate amount of weight, which has severe repercussions when these include violent extremism – from the local imam calling followers to attack their Christian neighbours, to the conservative religious politician who condones the extrajudicial punishment of a perceived blasphemer. Such individuals and groups can incite vast numbers of supporters to act, but it remains difficult to gauge what proportion of Pakistanis genuinely subscribe to their ideology – how many carry other motives, such as disillusionment with the state, economic frustrations or fear of dissent? Equally illusive is the true reach of the liberal elite in Pakistan, who possess the resources and connections to rally widespread and support outside the country but who are not representative of the majority of Pakistanis, whether in terms of economic status or ideology. What is clear is that negative perceptions of the West, and of the US in particular, continue to provide an easy recruitment tool for extremist groups. Conspiracy theories abound, compounded by the war in Afghanistan, the use of unmanned drones on Pakistani territory, and perceived Islamophobic acts carried out abroad. It is a sobering fact that Pakistani Christians are viewed as representatives of the West and thus often experience a backlash in direct response to actions of this kind.

In spite of improvements in the political environment, the reality of life as a member of a religious minority in Pakistan is increasingly dominated by fear and the country as a whole remains distant from the vision of Pakistan's founder, Mohammed Ali Jinnah, who told the first Constituent Assembly on 11 August 1947:

“You are free. You are free to go to your temples. You are free to go to your mosques or to any other places of worship in this state of Pakistan. You may belong to any religion, caste or creed – that has nothing to do with the business of the State ... We are starting with this fundamental principle, that we are all citizens and citizens of one state.”

A battle is being waged for the identity of Pakistan and religious freedom is at the very heart of it. The direction it takes in the next few years has implications far beyond the borders of the nation itself.

⁴ HRCP reported around 12,580 murders and 14,431 attempted murders in 2010, *supra* note 2, p74.

4. National context

4.1. Demographics⁵

Pakistan has a rapidly growing population of between 175 and 187 million people.⁶ Approximately 95 per cent are Muslim (75 per cent Sunni and 20 per cent Shi'a). Government statistics number Christians and Hindus at a total of no more than 1.5 - 2 per cent each, while other minorities such as Sikhs, Parsis, Buddhists, Baha'is, and the Kalesh people are said to amount to under one per cent. The Ahmadiyya Muslim community is numbered at around 400,000 by the government, but ten times that figure by its own estimate.

In developmental terms, Pakistan is ranked 125 out of 169 countries by the UN Human Development Index (HDI), placing it in the lowest 30 per cent, globally. The adult literacy rate was last recorded at around 54.2 per cent.⁷ The HDI also records 22.6 per cent of Pakistanis living below the poverty line. And, while comprehensive figures on poverty levels in different religious communities are not easily available, it is often claimed that the proportion is significantly higher among minorities.

4.2. Politics and the state

Pakistan is currently led by a coalition government headed by the Pakistan People's Party (PPP), which came into power after the February 2008 elections.⁸ The arrival of this democratically-elected civilian government came after a period of significant political turmoil and in a climate of rising religious extremism.⁹

There are hundreds of political parties in Pakistan but the major players include the Pakistan Muslim League – Quaid-i-Azam (PML-Q), the Muttahida Majlis-i-Amal (MMA),¹⁰ the Muttahida Qaumi Movement (MQM) and the Awami National Party (ANP). Ongoing violent clashes between supporters of the latter two parties are causing much unrest in Karachi.

4.2.1. Recent developments

The present administration is a relatively moderate government, whose election in 2008 represented a clear rejection of extremist parties by the electorate. The coalition has shown itself to be more favourably inclined towards protecting human rights than past administrations, at least in theory.

On the question of freedom of religion or belief in particular, in November 2008, the cause of Pakistani minorities received a much-needed boost when the late Shahbaz Bhatti, lifelong

⁵ Accurate demographics are difficult to obtain as the most recent census was released in 1998 and interim surveys are unreliable. Some estimate that the minority percentage is much higher than official statistics suggest. It is further argued by some that there is little political will to update figures, as a perceived increase in minority populations could trigger aggressive reactions from those who view these groups as a threat.

⁶ See, for example, the Pakistani state estimate (<http://www.census.gov.pk/>) or the CIA World Factbook (<https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>).

⁷ United Nations Development Programme (UNDP) (2010), *Country Factsheet – Pakistan*. Available at: <http://hdrstats.undp.org/en/countries/profiles/PAK.html> which states, "The HDI represents a push for a broader definition of well-being and provides a composite measure of three basic dimensions of human development: health, education and income".

⁸ The Pakistan Muslim League – Nawaz (PML-N) received the second largest number of votes.

⁹ The 2008 elections marked the end of the country's most recent period of military rule, which had lasted nine years under General Pervez Musharraf, and followed a State of Emergency at the end of 2007, during which the constitution was suspended, hundreds of lawyers and human rights defenders were detained, and former Prime Minister Bhutto (the then leader of the PPP) was assassinated.

¹⁰ The MMA is a coalition of five Islamist parties.

human rights activist and chairman of the All Pakistan Minorities Alliance APMA, was appointed Federal Minister for Minorities Affairs. This was significant both in terms of the elevation of the post to cabinet level and the appointment of a Christian at that level, and emphasised a clear distinction between the coalition government and its predecessor.

The current government has seen its power diminish since the 2008 election. The military has undermined it consistently, especially regarding relations with the West and the war on terror; fresh clashes with the judiciary have arisen in the context of the appointment of Supreme Court judges; and past corruption charges have returned to haunt many high-profile state officials, including the President, since the annulment of the National Reconciliation Ordinance (NRO) in December 2009.¹¹ In addition, the ongoing influence of the *ulema* (Muslim clerics) and wealthy landowners should not be underestimated, particularly at the provincial and local levels of governance. Under these conditions, it is perhaps unsurprising that the government has “lost momentum”¹² in its promotion of human rights.

Over the past year there has been a noticeable deterioration in the stability of the government, including faction within the coalition, wide-ranging tensions linked to economic strain on the country – particularly in the aftermath of the devastating floods that began in July 2010 – and policy changes in line with the agenda of conservative religious parties, despite the fact that they remain a minority in the National Assembly.

Two high-level political assassinations took place in the first quarter of 2011, namely those of Salmaan Taseer, Governor of Punjab, and Shahbaz Bhatti, Federal Minister for Minorities Affairs. The former was shot by his own bodyguard on 4 January and the latter killed by gunmen on 2 March. These killings raising further questions about the willingness and ability of the state to maintain the rule of law, in a country where the influence of local religious leaders and landowners overrides that of the central government in many areas.

4.2.2. *Civil society*

There is an active and committed, if somewhat fragmented, civil society in Pakistan, with a critical media and outspoken human rights non-governmental organisations (NGOs) that regularly stage street demonstrations on a variety of issues. These sectors operate relatively independently of government intervention and the larger organisations engage in national and international lobbying.

In relation to religious freedom and minority issues, high-profile cases of violence against minority individuals have revealed competition among organisations seeking to report the stories first. The result has been compromised accuracy in reporting and conflicting versions, inflammatory accusations between NGOs and a myriad of different demands on the time of the victims’ relatives.

A common desire exists to see the blasphemy laws repealed but the power of this call to trigger change will require increased transparency and unity. Coalitions such as the APMA¹³ and the Joint Action Committee (JAC)¹⁴ offer potential foundations on which to build such union.

¹¹ The NRO was introduced by Musharraf to establish an amnesty for politicians and civil servants accused of crimes between 1986 and 1999.

¹² Human Rights Watch (2010), *World Report*, Pakistan Chapter.

¹³ The All Pakistan Minorities Alliance (APMA) is a nationwide network of individuals and organisations representing religious minorities.

¹⁴ The JAC is an umbrella group made up of around thirty rights-based NGOs.

The media plays a vital role in Pakistan, both at a national and personal level, having the power to influence huge swathes of people with otherwise limited access to information. Urdu language television stations have the widest reach, with Urdu print media next and English language media reaching a minority. Concerns have been raised by human rights activists over the role played by a number of prominent news anchors in promoting extremist ideologies.

5. Religion and the law

5.1. Protections for freedom of religion or belief

5.1.1. Obligations under international law

Article 18 of the 1948 Universal Declaration of Human Rights (UDHR) states:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

While this instrument does not carry legally binding force, its provisions have formed the basis for all of the subsequent treaties which, do and it is widely recognised as a central pillar on which customary international human rights law is built. It expands the concepts of ‘human rights’ and ‘fundamental freedoms’ upheld in the Charter of the United Nations (UN), to which all members of the UN are bound. The moral compulsion of the UDHR is powerful, particularly for states that have publicly supported it. Pakistan was one of the few Muslim-majority nations to accept the UDHR fully. Regarding article 18, the Pakistani representative at the drafting sessions of the Declaration was explicit in his opinion that freedom of religion is consistent with Islam, in stark contrast with the view expressed by Saudi Arabia.¹⁵

Pakistan ratified the 1966 International Covenant on Civil and Political Rights (ICCPR) on 23 June 2010 but entered a number of broad reservations upon ratification.

Article 18 of the ICCPR guarantees that:

1. *Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*
2. *No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*
3. *Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*
4. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

With regard to article 18, Pakistan has entered the following reservation:

¹⁵ Khan, A.M., (2003) ‘Persecution of the Ahmadiyya Community in Pakistan: An Analysis Under International Law and International Relations’, *Harvard Human Rights Journal*, vol. 16, pp. 217-244.

[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.

This reservation, like the others that accompany it, renders the ratification somewhat ineffective, being incompatible with international law in that it is unspecific, non-transparent and attempts to place Pakistani domestic law above the provisions of the Covenant.¹⁶ Moreover, this reservation draws international legal requirements into the tensions and ambiguities of the dual legal system in Pakistan – a tussle between the fundamental rights of the Constitution and a partially enshrined Shari’a law.

UN Human Rights Committee General Comment 22 interprets the right to “have or to adopt a religion” as necessarily including the right “to replace one’s current religion or belief with another or adopt atheistic views” (clause 5). And of particular significance, in light of Pakistan’s reservations, is the fact that General Comment 22 also narrowly restricts the limitations permitted in Article 18(3), as follows:

The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there ... Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.

Article 27 of the ICCPR further provides for the rights of persons belonging to minority religions:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Pakistan ratified the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) on 17 April 2008 and is therefore bound by its provisions. Article 2 guarantees that the rights enunciated in this covenant must be exercised without discrimination as to religion; these include the right to education (article 13).

Pakistan ratified the 1989 Convention on the Rights of the Child (CRC) on 12 November 1990 and is also bound by its provisions. Article 2 guarantees that the rights enunciated in this covenant must be exercised without discrimination as to religion; again, these include the right to education (article 28). Article 30 specifically protects the rights of children belonging to religious minorities to profess and practise their religion.

5.1.2. Constitutional provisions

Pakistan has officially been an Islamic Republic since 1964, and Islamic Shari’a law was given legal status by its incorporation into the legal code in 1991.¹⁷ Shari’a does not, however,

¹⁶ Democracy Reporting International (2010) ‘Pakistan’s reservations to the International Covenant on Civil and Political Rights’, Briefing Paper, 4 July 2010 (http://www.democracy-reporting.org/files/dri_briefing_paper_4_-_gop_reservations_on_iccpr.pdf), citing UN Human Rights Committee General Comment 24. The reservations go to the very core of the Covenant, applying to articles 3 (gender equality), 6 (right to life), 7 (freedom from torture), 12, 13, 18, 19, 25 and 40.

¹⁷ This came after General Zia-ul Haq’s Islamisation agenda from 1978 to 1988, during which time he sought to move from a common law system to full implementation of Islamic law. He did not succeed in this goal, however many of the problematic laws discussed below were his work, including the blasphemy laws, the hudood ordinance and large parts of the anti-Ahmadiyya legislation.

override that code. In practice, its application tends to be limited to family law, apart from in the Malakand district of Khyber Pakhtunkhwa (formerly the North-West Frontier Province), where enforcement of a Shari'a-based justice system has been possible since April 2009.

A tension exists within the Constitution of Pakistan, as Pakistani legislation must meet two overarching requirements with differing perspectives. Firstly, the Pakistani Constitution of 1973 includes a section entitled 'Islamic Provisions', which states that all laws must conform to "the injunctions of Islam as laid down in the Holy Quran and Sunnah".¹⁸ Although the Islamic provisions do not "affect the personal laws of non-Muslim citizens or their status as citizens" (article 227(3)). Secondly, the provisions of the Constitution's Fundamental Rights Chapter must be satisfied, article 8 of which declares, "[l]aws inconsistent with or in derogation of fundamental rights to be void", and which pronounces all citizens to be equal (article 25). This includes citizens of all faiths, so any law that discriminates on the basis of faith should, in theory, be unconstitutional.

The right to freedom of religion of belief in Pakistan is set out in article 20 of the Fundamental Rights Chapter:

Freedom to profess religion and to manage religious institutions.

Subject to law, public order and morality:-

- 1) every citizen shall have the right to profess, practise and propagate his religion; and
- 2) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

This chapter also includes safeguards against people being expected to make payments for religious purposes outside their own faith (article 21); against religious compulsion or discrimination within the education system (article 22); and against discrimination concerning access to public places (article 26) and public services (article 27).¹⁹

Minority interests are referred to throughout the Constitution. The Preamble includes the provision that:

...adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures

The word "freely" was removed from this text under Zia's regime but reintroduced in 2010, as part of the package of constitutional reforms known as the 'Eighteenth Amendment'.²⁰

Furthermore, the following "Principle of Policy", is stated in article 36:

Protection of minorities – The state shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.

¹⁸ In the first instance, it is the Federal Shari'a Court that decides disputes in this area. Any subsequent appeals are then made to the Supreme Court.

¹⁹ In contrast, articles 41(2) and 91(3) of the constitution specify that both the President and Prime Minister of Pakistan must be Muslim, thereby excluding religious minorities from the highest levels of government.

²⁰ This provision stems from the "Objectives Resolution" passed by the Constituent Assembly of Pakistan in 1949 as founding principles of the new Constitution. It was through this instrument that Islam was declared as the basis of any future constitution. The resolution was formally incorporated into the Constitution in 1973.

Some Pakistani NGOs advocate for the use of the word “equal” in the place of “legitimate”.

The Constitution also guarantees freedom of speech and expression in article 19:

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.

The ICCPR permits a number of specific restrictions on freedom of expression, relating to the “respect of the rights or reputations of others”, and “the protection of national security or of public order..., or of public health or morals.” In the Pakistani context this is taken further as the right is limited “in the interest of the glory of Islam”. Non-Muslims are thus at an automatic disadvantage and interpretation of the provision varies according to the dominant Islamic theology at any given time.

5.2. The ‘blasphemy laws’

5.2.1. Historical development

The legal provisions popularly known as the ‘blasphemy laws’ were introduced by the former military dictator General Zia ul-Haq in 1982 and 1986, through amendments to existing legislation introduced by the British during the colonial period in India. These laws originated in 1860 as a response to Hindu-Muslim clashes. Section 295A – ‘offences concerning religion’ – was introduced into the Indian Penal Code, which Pakistan adopted upon its creation in 1947. Between 1947 and 1982, there were hardly any cases in which Section 295A was used.²¹

From 1947 to 1985, Muslims and non-Muslims in Pakistan lived largely in harmony, with very few cases of religiously-motivated killings. However, in 1982 Zia added a new clause, Section 295B, criminalising the desecration of the Qur’an as a form of blasphemy. In 1986, he introduced Section 295C to address blasphemy against the Prophet Mohammed, the maximum penalty for which is now the death sentence.²² There has been a marked deterioration in the treatment of religious minorities in Pakistan since that time and it can, in large part, be linked to the blasphemy laws and the religious intolerance they encourage (see section 6).

5.2.2. Full text

Chapter fifteen of the Pakistan Penal Code (PPC) addresses ‘Offences Relating to Religion’ and includes the blasphemy laws in article 295, which states:

“Injuring or defiling place of worship, with intent to insult the religion of any class:
Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

²¹ The most high profile was arguably that of a Muslim who had written a controversial book and who was charged under Section 295A in 1927. His defence lawyer was Mohammad Ali Jinnah, the founder of Pakistan.

²² As introduced by Pakistan’s Shari’a Court in 1992.

- A. **“Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs:** Whoever, with malicious and deliberate intention of outraging the religious feelings of any class of the citizens of Pakistan, by words, either spoken or written or by visible representations, insults or attempts to insult the religion or religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.
- B. **Defiling of the Holy Koran:** Whoever wilfully defiles, damages or desecrates a copy of the Holy Koran or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.
- C. **Use of derogatory remarks in respect of the Holy Prophet:** Whoever, by words either spoken or written, or by visible representation, or by imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammad (peace be upon him) shall be punished by death, and shall also be liable to fine.”²³

5.2.3. Legal implications

The blasphemy laws are framed in such a way as to render their misuse inevitable. Sections 295B and 295C lack any definition of terms and ignore the question of intent. Evidential requirements are inadequate, with the testimony of one person (supported by allies) often being enough to charge, arrest, detain and convict the accused. Even an allegation of the most ludicrous or patently false variety can still be registered under a First Information Report (FIR) by the police.

The term ‘blasphemy laws’ is largely used to describe only the additional clauses, 295B and 295C, given the severity of the sentences to which they are attached, and the fact that their introduction triggered and fuelled widespread misuse of the legislation. Furthermore, section 295A can be viewed distinguished because carries a lighter sentence²⁴ than B and C and also acknowledges intent. However, there is evidence to suggest that 295A should also be included in the definition. Despite frequently appearing as a lesser accusation alongside B or C, this clause does, on occasion, provide the whole basis for a blasphemy charge. The risk of the accused suffering extrajudicial punishment does not decrease in cases of this kind since attitudes towards blasphemy are now such that it is often seen as an unforgiveable crime, regardless of the specifics of a case.

The clash between these laws and the fundamental rights provided in the Pakistani Constitution becomes most clear in their implementation (see section 6), however the provisions themselves raise points of tension as well. With regards to the Constitution, the blasphemy laws conflict with equality of citizens under article 25, by protecting aspects of Islam without making an equivalent provision for the faiths of religious minorities.²⁵ Furthermore, these laws undermine the religious freedom provisions contained within the Pakistani constitution – not only do they distort the law to protect the interests of religion over that of Pakistani citizens, but also they privilege Islam in a way that fuels perceptions of non-Muslims as second class citizens. This in turn increases the potential for religiously-motivated division and persecution. Many at risk of persecution thus censor basic

²³ The addition of a fine on top of the death penalty inevitably impacts – and indirectly punishes – the family of the defendant.

²⁴ Although, the ten-year sentence now prescribed under this provision is an amendment from the original two years (and current three years) stated in the Indian text.

²⁵ That is not to suggest that other religions should be protected in this way, rather, to highlight the inherent problems in attempting to use the law for this purpose. Indeed, a law that attempted to incorporate all potential categories of blasphemy against every faith would be unworkable and susceptible to frequent amendment given the subjective nature of definitions of blasphemy.

expressions of their faith, for fear of blasphemy accusations, among other risks. The propagation of religions other than Islam and personal decisions to leave one's religion are typically first to be suppressed, despite the fact that the right to freedom of religion or belief includes both of these categories.

Pakistan's constitution does provide for rights of speech and expression (article 19), however these are "subject to any reasonable restrictions imposed by law in the interest of the glory of Islam", and do not presently provide a straightforward foundation from which to criticise laws seeking to protect Islam, at least in their current form. The same cannot be said of freedom of expression as articulated in the ICCPR, to which Pakistan is bound. Here however, the issue of Pakistan's reservations arises – the state's attempt to place the provisions of its Constitution above those of the International Covenant. The blasphemy laws infringe upon the international right to freedom of expression and this remains true regardless of Pakistan's reservations. Unfortunately, the reservations do undermine, or at least complicate, domestic recourse to the international right for the time being.

Criticism of the blasphemy laws goes to the very heart of the tension between Islam and fundamental rights in Pakistan's constitution and, indeed, its commitments to international human rights standards.

5.3. Anti-Ahmadiyya provisions

Since 1974, article 260 (3) of the Pakistani Constitution has categorised members of the Ahmadiyya community as non-Muslims in the eyes of the law. The Constitutional definitions are as follows:

- (a) *"Muslim" means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad²⁶ (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and*
- (b) *"non-Muslim" means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Qadiani Group or the Lahori Group who call themselves 'Ahmadis' or by any other name or a Bahai, and a person belonging to any of the Scheduled Castes.*

The everyday lives of Ahmadiyya Muslims in Pakistan have thus been restricted for nearly three decades, ever since President Ali Bhutto succumbed to pressure from Islamic radicals and added this amendment to the Constitution.

This was later accentuated, in 1984, by General Zia ul-Haq's promulgation of 'Ordinance XX' which introduced sections 298B and 298C of the Pakistani Penal Code, now known as the "Anti-Ahmadiyya laws". These provisions criminalise so called 'anti-Islamic activities' by members of the Ahmadiyya community but the activities cited are those which give the outward appearance of being a Muslim. They are listed in the same chapter as the blasphemy laws and are in direct conflict with the fundamental rights to freedom of religion and equality guaranteed in the Constitution of Pakistan. Sections B and C of article 298 state:

B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places:

²⁶ References to the "finality of the Prophethood of Mohammed" frequently imply an anti-Ahmadiyya agenda, as the claim that their founder sought to override the teachings of the Prophet is central to objections against this group.

- 1) Any person of the Qadiani group or the Lahori group (who call themselves "Ahmadis" or by any other name who by words, either spoken or written, or by visible representation-
 - a) refers to or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as "Ameer-ul-Mumineen", "Khalifatul- Mumineen", Khalifa-tul-Muslimeen", "Sahaabi" or "Razi Allah Anho";
 - b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as "Ummul-Mumineen";
 - c) refers to, or addresses, any person, other than a member of the family "Ahle-bait" of the Holy Prophet Muhammad (peace be upon him), as "Ahle-bait"; or
 - d) refers to, or names, or calls, his place of worship a "Masjid";
 shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
- 2) Any person of the Qadiani group or Lahori group (who call themselves "Ahmadis" or by any other name) who by words, either spoken or written, or by visible representation refers to the mode or form of call to prayers followed by his faith as "Azan", or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

C. Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith:

Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

5.4. Implementation of the law

In practice, the law is weakly and inconsistently implemented in Pakistan. Many commentators express concern at the increased lawlessness in the country and apparent unwillingness or inability of the state to intervene.

There exist deeply-rooted problems in the police service, prisons, judiciary and court system alike. They include the susceptibility of district-level staff to bribery or intimidation, inadequate knowledge of the law and basic rights, violence and extra-judicial killings in prisons, and a large backlog of cases²⁷ in the courts, meaning that defendants can languish in prison for years.

These are issues which need urgent attention for the benefit of all Pakistanis. However, there are specific religious freedom dimensions as well. In particular, there is evidence of discrimination against religious minorities on the part of state officials, whether through ignorance, personal belief or because of local pressure.

6. Impact of the blasphemy laws

While the blasphemy laws are legally problematic, it is their normative effect that is most pernicious. In particular, they legitimise disproportionate and often violent behaviour in the guise of protecting religion and contribute to the spread of mindsets which view such behaviour as acceptable.

²⁷ As of March 2010, there were 1.4 million cases pending in Pakistan's courts. The government is taking measures to address this and the figures represent a small improvement on 2009. *Supra*, note 2, p50.

6.1. Abuse of the blasphemy laws

Given the ease with which the blasphemy laws can be misused, spurious accusations of blasphemy have become common, frequently used to settle personal scores having little or nothing to do with religion, to target religious minorities, to further extremist agendas, or a combination of all three motives. The lie or deliberate set-up is extremely obvious in some cases, and yet this does not preclude the registration of an FIR by the police or the mustering of a violent mob by the accusers. There is little regard for the oft-cited, rational observation commonly heard during the aftermath of an accusation, that “no sane Pakistani would intentionally insult any aspect of Islam” – the serious consequences of being labelled as a blasphemer have become widely known. However, reasons for the complicity of the police at this stage can range from sympathy with the accusers to fear for their own safety, or inadequate knowledge of the law. The persecution of a person accused of blasphemy does not depend upon a case being registered formally.

The injustices for a blasphemy defendant continue at the trial stage as well. Local court hearings are often attended by large and vocal groups of supporters from the claimant’s side, particularly if the claimant is influential or supported by a local mullah. Judges at this level are not immune from intimidation and the sentences passed reflect this, frequently defying logic. One lawyer working in this area and known to CSW is of the opinion that, “No blasphemy case has ever been conducted on a fair trial basis.” No one has yet been executed for blasphemy by the state, but many remain in prison for years before being acquitted. Furthermore, blasphemy prisoners are known to face a greater-than-average threat of violence and some have been murdered. On 15 March 2011, Christian blasphemy prisoner, Qamar David, was found dead in his jail cell. The authorities claim he died of a heart attack but his lawyer and others maintain that he was killed.

In the period since Zia’s 1986 amendment, the number of deaths, false convictions, wrongful imprisonments, cases of torture and religious conflict has risen steadily. Ahmadi Muslims and religious minorities initially felt the brunt of these but Pakistanis of any faith are now potential victims. HRCP states that 64 blasphemy accusations were reported in 2010.²⁸ And, according to the National Commission for Justice and Peace (NCJP), at least 966 people were accused under the blasphemy laws between 1986 and October 2009. Of this number, 50 per cent were Muslims, 35 percent Ahmadis, thirteen per cent Christians, one per cent Hindus and one per cent unknown. These figures do not account for the countless unregistered, rumour-based accusations and their consequences.

During this same period, at least 33 people were murdered extra-judicially, in the aftermath of a blasphemy accusation. Notably, 45 per cent of these were Christian, which is a significantly higher proportion than those accused.²⁹ This point underlines the particular implications of a blasphemy accusation for a member of a religious minority group, that is, the higher likelihood of extrajudicial killing and/or attacks on the wider community of the accused (see Korian and Gojra, section 6.4). NCJP claims that “no other law in the name of religion has had a more devastating and massive effect in recent years than the blasphemy laws.”³⁰

On past visits, CSW has heard the blasphemy laws described as “a weapon in the hands of extremists to settle scores,” and this remains a very real concern. Worryingly, there have now been incidents of Islamist extremists moving into areas expressly to target individuals or communities perceived to be a threat to their ideology. The amount of support they receive can depend upon alliances with locally influential religious leaders as well as the

²⁸ *Ibid*, p124.

²⁹ NCJP (2009), *Nothing but the Truth*, Lahore, Pakistan.

³⁰ NCJP (2004), *Human Rights Monitor 2004: A report on the religious minorities in Pakistan*, p.39.

health of existing relationships within the community. Factors such as high-illiteracy, scarcity of basic resources, inadequate state services or a malfunctioning justice system can all be exploited to win popular support or create division.

In prison, those accused of blasphemy face discrimination and religiously-motivated assault from guards and prisoners alike. Lawyers defending blasphemy cases underline that special attention is needed to guarantee the welfare of blasphemy prisoners and their families. The appeal process can take years and, even if acquitted, the accused is marked for life in the eyes of militant Islamists. Most former blasphemy prisoners face death threats and live the remainder of their lives in hiding. Some are placed in 'safe houses' by NGOs, others are forced to regularly change accommodation with their families.

Two decades of misuse of the blasphemy laws has had a damaging impact on social harmony in Pakistan. Crying 'blasphemy' is now a powerful and effective rallying call with which to incite action against a personal enemy. Indeed, during CSW's visit to Pakistan in 2009, one government official told us that the laws were now used more as a means of persecuting individuals than as a formal recourse to justice.

The pervasiveness of such norms suggests that neither reform nor repeal of the laws is likely to have an immediate impact in society. Longer-term initiatives are needed to challenge false perceptions of these laws and change the mindsets which render their misuse acceptable. The interfaith work described in the final section of this briefing is promising in both respects.

6.2. Evolution of national debate

A small but determined minority has been campaigning for the repeal of the blasphemy laws since Zia's second amendment in 1986, with national campaigns organised by religious minority representatives and other civil society actors as early as 1992.³¹ In August 2009, following the anti-Christian violence in Gojra, Punjab, triggered by a blasphemy accusation, the public debate on the laws was reignited. Relatively balanced reporting in the press and on television contributed to greater public sympathy for blasphemy victims and, significantly, a larger number of prominent Muslim voices also started to call for repeal. These included Muslim Members of the National Assembly (MNAs), Sherry Rehman, Jamila Gilani and Bushra Gohar as well as Punjab Governor, Salmaan Taseer. Furthermore, the position of Shahbaz Bhatti as a Federal Minister and the willingness of the government to appoint him at cabinet level meant there was a need to act quickly and make use of the comparably favourable circumstances.³²

During the CSW visit to Pakistan in October 2009, many of those we met were of this opinion, including civil society actors like the Christian Study Centre (CSC) and NCJP. Some made comparisons with the conditions prior to the large-scale public campaign that resulted in the end of the separate electorate system in 2002 and had begun extensive campaigning.

Within the government, Shahbaz Bhatti used this momentum to begin negotiations with fellow MNAs on the nature of potential amendments, as a foundation for introducing a bill into the National Assembly. He proposed the creation of penalties for making false

³¹ Among them were Group Captain (Rtd) Cecil Chaudhry (an experienced human rights activist), Shahbaz Bhatti (the late Federal Minister for Minorities Affairs), NCJP and Asma Jahangir (former UN Special Rapporteur for freedom of religion or belief, former Chairperson of HRCP and current President of the Supreme Court Bar Association in Pakistan).

³² Minister Bhatti was a human rights activist for over two decades, leading first the Christian Liberation Front and then APMA.

accusations of blasphemy, the acknowledgment of the defendant's intent by the courts, a requirement that judges investigate cases before they are registered, and judicial supervision of the police, who are often accused of misconduct. By late 2009, the minister had succeeded in rallying the support of fellow minority representatives within the government, having held a conference on the question of blasphemy law amendments in October 2009. There were, however, persistent voices of opposition from rightwing religio-political parties. In February 2010, a coalition of thirty such parties denounced attempts to amend the laws, claiming that "neither rulers, nor legislature, nor any court has the power" to do so.

However, if August 2009 represented a period of greater national sympathy towards victims of the blasphemy laws then the opposite became true from November 2010 onwards. The blasphemy law debate was again flung into the national media when a female defendant, Asia Noreen, (also known as Asia Bibi) became the first woman to be sentenced to death for blasphemy. Her situation caught the attention of a broad spectrum of NGOs in Pakistan but also became a matter of international outcry. Asia Noreen is a Christian and the debate stemming from her case became rapidly polarised along the lines of 'Islam versus the Christian West' and 'conservatives versus liberals'. These dichotomies distracted attention from core problem, that is, legislation which is fundamentally flawed in enabling individuals to take the law in to their own hands. Likewise, the question of proving Asia's innocence became increasingly irrelevant, as one group called for an instant pardon and the other placed a price on her head, without concern for the eventual result of her appeal.

Initially the Government of Pakistan responded with an official investigation into Asia Noreen's case and the creation of a commission to review the blasphemy laws, both headed by Shahbaz Bhatti. However, on 4 January 2011, the Governor of Punjab, Salmaan Taseer, was murdered by one of his bodyguards for his support of Asia Noreen and public opposition to the blasphemy laws. In the weeks that followed, large-scale rallies were organised by extremist groups and rightwing religio-political parties. Tens of thousands marched in Lahore and Karachi in praise of Taseer's killer. The protestors opposed all changes to the blasphemy laws, labelling them as divine Islamic laws. The numbers spoke for themselves in terms of the ability of conservative and extremist religious leaders to rally large crowds of unquestioning supporters. Some commentators have described the blasphemy issue as an easy 'trump card' in these circumstances.

Faced with national unrest at a time of existing instability, the government recoiled, with Prime Minister Gilani stating that there had been no intention to review the laws. Those who had most loudly criticised the laws were left exposed and both Sherry Rehman (former Federal Minister for Information and current MNA) and Shahbaz Bhatti experienced an increase in threats to their lives, some of which were made publicly, without response from the state. On 2 March 2011, less than a month after his reappointment to the new cabinet, Shahbaz Bhatti was assassinated by gunmen as he travelled to work. The killers left pamphlets claiming to be from the Tehrik-i-Taliban Pakistan (TTP) and citing Bhatti's stance on the blasphemy laws as their motive.

6.3. Blasphemy cases

The following cases offer some illustration of the trends described in section 6.1.

- Qamar David: found dead in his Karachi prison cell on 15 March 2011. He had been in jail since being charged with blasphemy Section 295A and 295C on 8 June 2006, his bail requests having been refused. Qamar David was a Christian in his fifties, accused of sending text messages from his mobile phone, making derogatory remarks about the Prophet Mohammed. He owned a paint business in Karachi and was accused by business rivals. Qamar David's case was not ruled upon until 25

February 2010 when, after countless hearings, he was sentenced to life imprisonment by a sessions court in Karachi while his Muslim co-defendant was acquitted of all charges on the same facts. His lawyer, Parvez Choudhry, lodged an appeal immediately and Qamar awaited a hearing from within prison. Throughout the case, both Qamar David and his lawyer faced regular threats and abuse from groups allied with the accusers, both within the courtroom and outside. During his time in the Central Jail in Karachi he reported being beaten, threatened and attacked by the authorities and by other prisoners. Eight days before his death, Qamar David's wife received an anonymous call to say that her husband would be killed. The authorities claim he died of heart failure but his family and lawyer are sceptical, underlining that he did not have a history of heart problems. They have called for an impartial investigation, as have leading rights activists in the country.³³ Qamar David leaves behind a wife and four children who have spent the last five years living in fear and must now survive without the principal breadwinner of their family.

- Mohammed Shafi and Mohamed Aslam: an imam and his son, sentenced to life imprisonment and fined Rs 200,000 (approximately £1,500) on 11 January 2011 for blasphemy. The pair reportedly tore down a poster from outside their grocery store in the Multan area and were charged because it contained Qur'anic verses and was advertising an event on the anniversary of the Prophet's birth. Their lawyer claims that the root of the accusations lies in rivalries between the Deobandi and Barelvi movements within the Sunni Muslim majority. He describes Shafi as a "practising Muslim... the imam of a mosque and he had recently returned from a pilgrimage to Saudi Arabia". He intends to appeal the decision.³⁴
- Naushad Valiyani: an Ismaili doctor accused of blasphemy in Hyderabad in December 2010 after he threw away a business card with the name "Mohammed" written on it. The owner of the card, a visiting medical representative, involved local religious leaders and had him arrested, despite his apologies. Unusually, he was quickly released, after the intervention of another cleric and protests from medical professionals.
- Rashid and Sajid Emmanuel: two Christian brothers, the Rev. Rashid and Sajid Emmanuel, from Dawood Nagar, Faisalabad, were accused of blasphemy on the basis of written insults about the Prophet Mohammed which bore their names. Initial investigations and reports at the time suggested that the allegations were completely fabricated, but that did not avert protest rallies from local Muslims and immediate calls for the brothers' execution. On 19 July 2010, they were shot while in police custody outside court in Faisalabad, just days after handwriting experts dismissed any connection between them and the written insults. A police officer was also wounded in the incident.³⁵ The President of Pakistan and Chief Justice of Lahore both made statements about the murder and police officials involved were charged with negligence. Unrest between Muslims and Christians in the affected areas continued for days after the killings.³⁶

³³ His lawyer recalls the case of Nasreen Bibi, found dead in her cell in 2003. Her death was also attributed to heart failure and calls for an investigation were left unheeded.

³⁴ Dawn News, 'Court convicts imam and son for blasphemy', 11 January 2011. Available at: <http://www.dawn.com/2011/01/11/court-convicts-imam-and-son-for-blasphemy.html>

³⁵ Compass Direct, 'Christians Accused of 'Blasphemy' Slain in Pakistan', 19 July 2010. Available at: <http://www.compassdirect.org/english/country/pakistan/22927>

³⁶ This section of Faisalabad has seen a higher-than-average number of attacks on Christians in past years, both because there is a larger Christian population in the neighbourhood and because of concerted anti-Christian campaigns led by a minority of individuals seeking a Muslim-only area.

The following individuals have all been in prison on blasphemy charges for substantial periods while their appeals are pending. Their cases are symptomatic of widespread problems in the Pakistani legal system, regarding both the enormous backlog of cases waiting to be heard by the courts and the particular dangers experienced by blasphemy prisoners from religious minority groups:

- Augustine Ashiq 'Kingri' Masih (also known as 'Ghungari' Masih): sentenced to death on 29 June 2002, for blasphemy against the Prophet Mohammed under Section 295C. He converted to Islam in 1997 at the instigation of Rana Nisar, the complainant in this case. According to APMA, he is still on death row, awaiting an appeal hearing, which means that there has been practically no movement in his case for almost a decade.
- Baba Zaman (also known as Qari Mohammed): a prayer leader in his seventies, from the Ahmadiyya Muslim community, he was charged with blasphemy under Section 295C on 23 June 2008. Soon after the accusation, his accusers declared an Islamic duty for him to be punished with death and an attempt was made on his life. Zaman's attempts at registering charges against his accusers only resulted in the police filing further fabricated charges against him. His current lawyer cites the influential position of his accusers as the reason for this. Baba Zaman was sentenced to life and now resides in Bahawalpur Central Jail.
- Waji-ul-Hassan (also known as Murshad Masih: charged with blasphemy under 295A and 295C, and "the use of derogatory remarks" under section 298A, in Iqbal on 21 March 1999, Hassan was convicted on 27 July 2002. He was given the death sentence, a ten year and three year prison sentence and fines totalling Rs 270,000 (approximately £2,000). He has been on death row since 2002 and converted to Christianity while in prison. After countless postponements and partial hearings, his appeal resulted in the conviction being upheld by the Lahore High Court on 29 September 2010. Hassan's accusers have lost no momentum in following his case and they are thought to be responsible for a dramatic increase in direct threats to his lawyer following his High Court appearances.

6.4. Blasphemy laws and violence: Korian and Gojra, Punjab province

The following example was one of the highest profile incidents of recent years and was a landmark tragedy which played a central role in reigniting the blasphemy law debate.

Arson attacks against Christian targets broke out in the village of Korian on 30 July 2009, following a spurious allegation of the desecration of a Qur'an. Two days later, on 1 August, large-scale mob violence took place in the Christian quarter of nearby Gojra, Toba Tek Singh district, Punjab province.

The earlier attack, in Korian village, was precipitated by a spurious allegation of blasphemy against a local Christian, Talib Masih. The allegation was that his family had desecrated a Qur'an during his son's wedding ceremony earlier that week.³⁷ It was alleged that instead of throwing notes of currency into the air, as is customary at a wedding, the Christians had been throwing pieces of the Qur'an cut into the size of currency notes. Talib Masih was ordered to explain himself to a sham *panchayat* (village council), formed only for that purpose and with the participation of men from outside the area. HRCP report that he was

³⁷ According to Compass Direct News, the allegation actually originated from a dispute between Christians at a wedding and Muslims at a funeral, in which mourners at the latter asked those at the wedding to stop playing music, but they refused.

beaten and blackmailed by this group.³⁸ The Punjabi Minister for Law, Rana Sanaullah, was cited by Compass Direct News as denying any truth in the allegations.

The violence in Korian village began after local clerics used local mosque loudspeakers to announce the blasphemy charge and muster a mob in the evening of 30 July. The Christians heeded an announcement of attacks from the village mosque, and fled into nearby fields. Just under 60 houses were looted and burnt in Korian.

The original dispute was thought to have been resolved by Christian and Muslim community leaders after the first wave of violence. However, an even larger mob gathered two days later in the Christian colony of neighbouring Gojra. They used petrol to set fire to houses and used vehicles to break down the walls, while shouting anti-Christian chants. The Gojra residents had had little warning and not all were able to escape. Some sought refuge with Muslim neighbours but the attacks resulted in the death of eight Christians – one was shot, another suffered a heart attack and six died in their burning house. Seven of those who died were from the same family. At least 50 houses and their contents were destroyed in this second wave of violence, bringing the total to over 100, and livestock belonging to Christians was burnt or stolen. Two churches were also damaged. The assailants blocked the main road into the village, preventing access for the fire brigade and police for several hours. They later clashed with the police.

The large-scale riots in Gojra town on 1 August were propelled by Islamist militants including, it is thought, members of the banned group, Sipah-e-Sahaba, who have been implicated in other incidents as well. At Sadar police station in Toba Tek Singh, a First Information Report (FIR no. 426/09) was filed against Christians Talib and Mukhtar Masih, parents of the groom at the wedding, under PPP section 295B. The mob also allegedly demanded that the district police officer shoot Talib Masih and his son on the main road of the village, but he refused.

Police were initially criticised for a slow response and for failing to forestall the Gojra attacks but later began making arrests. High-level officials visited the village subsequently, including the late Shahbaz Bhatti and the Chief Minister of Punjab, Shahbaz Sharif, who ordered the Police Commissioner of Faisalabad to initiate an inquiry immediately. The government later established a commission of inquiry into the attacks, led by a high court judge in Lahore. Hundreds of statements were taken.³⁹

The percentage of Christians in Gojra is over twice the national average, at 6.58 per cent. The majority of the perpetrators of this violence remain at large, which means that this group must live with the fear of further attacks. Indeed, following threats and attacks from those released on bail, the central victims and witnesses of the original violence have been forced either to go into hiding or to leave Pakistan altogether, which leaves very little hope of convictions being secured in this case.

6.5. Threats to the lives of human rights defenders

Lawyers and human rights activists in Pakistan can face death threats and harassment. Those defending people accused of blasphemy are in particular danger, with threatening calls and physical assault a regular occurrence for some lawyers.

³⁸ HRCP (2010), *State of Human Rights in 2009*, Lahore, Pakistan, p124. Available at: <http://www.hrcp-web.org/pdf/Annual%20Report%202009.pdf>

³⁹ It should be noted that many individuals unconnected to the incident attempted to submit information after the deadline and then lodged complaints when they were refused.

CSW has reported on repeated threats made against the life of Parvez Aslam Chaudhry, who has experienced years of persistent threats and physical attacks. He is Chairman of the Lahore-based legal group, 'Legal Aid for Destitute and Settlement' (LADS), and has defended a large number of blasphemy cases in the High Court.

The most recent risks to Chaudhry and his family intensified in connection with the blasphemy case of Mr Waji-ul Hassan, whom he had been defending, and whose death sentence was upheld in September 2010 by the Lahore High Court. Between 30 September 2010 and 22 February 2011 a group of four men repeatedly followed Chaudhry and members of his family. They also came to his house late at night with weapons, twice visited and searched his office, passed on threats via his staff and are likely to have been behind the frequent threatening phone calls to the family and an attempt to kidnap Chaudhry's teenage son.

Chaudhry has experienced a large number of threats and attempts on his life in the past, both from mobs attending court cases and from unidentified individuals. However, this pattern represented a new, more concerted targeting of him and his family.

One further example is that of a long-term associate of LADS, who has experienced premeditated attempts to endanger him and his family since June 2010. On more than one occasion, they have found torn pages of the Qur'an on their property, a clear attempt to frame them for blasphemy, and this has made it necessary for them to move house three times since June 2010. Most recently, in March 2011, the father and son of the family were physically attacked.

These experiences are symptomatic of a threat to the activities of human rights defenders and activists in Pakistan – a crisis that speaks to the weakness of the rule of law in the country. Moreover, it reflects the increasing boldness with which those working on controversial issues like the blasphemy laws are targeted, particularly activists from minority backgrounds. It is a serious concern that an increasing number of NGOs are deeming it necessary to lower the profile of their work, as a result of direct threats.

7. Treatment of apostates

7.1. Attitudes towards apostasy in Pakistan

"Not a single institution in Pakistan is for Muslim converts." (Christian pastor working with apostates from Islam, October 2009)

There is a distinct difference between the experiences of those born into minority religions and those who have chosen to leave Islam, known as apostates. The mere fact of being viewed as an apostate creates a whole new level of risk – apostasy can be considered as the ultimate act of blasphemy in Islam. Although the Qur'an does not prescribe a temporal punishment for the act of apostasy, the vast majority of traditional Islamic theology and jurisprudence has advocated the death penalty for a mentally sane male apostate and life-long imprisonment or harsh treatment for a female apostate. In practice however, both male and female converts have been murdered in Pakistan. Proponents of the death penalty (whether state-approved or extra-judicial) have legitimised their stance from the sayings and deeds attributed to the Prophet Mohammed, his companions and subsequent caliphs.⁴⁰ It is in this context that family members or Muslim extremists justify the extra-judicial killing of apostates in Pakistan.

⁴⁰ CSW (2008), *No Place to Call Home: Experiences of Apostates from Islam, Failures of the International Community*, Surrey, UK, p4.

The decision to leave Islam provokes extreme, and often violent, reactions in Pakistani Muslim society. It is a step that can result in loss of home, family, livelihood and even life. Furthermore, it isolates converts from mainstream society. Frequently, when the family of an apostate decides to make the conversion known, they inform the local Muslim cleric and he in turn may grant permission for an honour killing, on the basis that the apostate must be punished for this perceived act of blasphemy.

Some of the key trends in apostasy cases include: violent reactions of those closest to the convert (underpinned by questions of family honour); tracing and abduction of converts by these same family members, even a long time after the initial conversion; and the extreme danger faced by those supporting apostates. Particular emphasis should be given to the lack of support for converts in Pakistan. CSW has been told that it is not uncommon for local police to note fictional causes of death where an honour killing is carried out. This reluctance to prosecute the aggressor can be due to personal sympathy with the motive or intimidation from those behind the crime. As already indicated, converts cannot rely on help from family and friends or even the mainstream church. They live a partial life, often in hiding.

7.2. Individual cases

- A: A converted to Christianity in 1996, having previously been a Muslim preacher or *Maulvi*. He has a job and a family but spends much of his time and money on the care and support of other Muslim-background Christians. Experience has taught him that the mainstream church is reluctant to shelter converts because of the likelihood of retaliation from local Muslims. He said, “No one is willing to give shelter – they’ll be killed too”. As a result, A encourages fellowship between converts, so that mutual support can become possible, both financial and spiritual. Marriages between converts are central to this strategy.
- B: B is a girl in her teens who converted to Christianity in 2009. When her parents discovered this, they punished her by pouring petrol on her and setting it alight, causing 40 per cent burns from the neck to the knees. B was advised not to inform the police, because it would alert too many people to her conversion. She is now living in hiding, in a state of depression.
- C and D: C and D are a married couple. C was born a Christian and D became a Christian in 1996. A number of attempts have been made to threaten and attack them over the years but, when CSW met them in October 2009, they had just been forced into hiding due to more serious threats received after they agreed to shelter B (above). At the time, their children were being looked after by friends. They had not been successful in attaining help from the church. Both had had to leave their jobs temporarily and A was trying to support them with his own money.
- E: In summer 2009, E’s father discovered that he had left Islam and he assaulted him, fracturing his arm. E approached A, who provided shelter and treatment for him. E is a talented artisan specialising in hand embroidery and had been able to earn a small amount from business that A sent to him, working from the home of A’s friends.
- Omar John: In 2007, Omar converted to Christianity and his family reacted by setting him on fire. He left his home in the north-west of Pakistan and moved south, but was abducted by his family and taken back. Allegedly, he was then pushed off a cliff by his brother-in-law and killed. Police recorded the incident as suicide, claiming that the deceased had mental problems, but this is disputed.

8. Treatment of the Ahmadiyya Muslim community

Over 3,500 Ahmadi Muslims have been implicated under the “anti-Ahmadiyya laws” since 1984, each potentially facing prison sentences of two years or more. As of October 2009, 70 Ahmadi mosques had been demolished, sealed, occupied by mobs or set alight, all with the tacit complicity, if not active participation, of state parties.

The Ahmadi Muslims CSW met in Pakistan said that the situation had worsened ‘under the current democratic government’. At least 99 Ahmadis were killed in religiously-motivated attacks in 2010, and 67 were charged on account of their religion.⁴¹ Over 80 of those killed died in the simultaneous suicide bombings of two major Ahmadi mosques in Lahore on 28 May 2010. Individual killings include the shooting of a 70-year-old retired professor called Muhammad Yusuf by masked gunmen, as he tended his son’s grocery store in Lahore in January 2010; the shooting of 48-year-old Ahmad Shakir in Karachi in May 2010; and the shooting of 39-year-old Rana Zafarullah in Sanghar, Sindh in March 2011.

During CSW’s visit in October 2009, we were presented with documentary evidence illustrating that Ahmadis are discriminated against in their economic activity, political life and educational activities and are at risk of violent persecution. The striking feature in many of the cases, which distinguishes their plight from those of other persecuted groups, is the complicity of the state and the blame or further harm inflicted upon the Ahmadiyya community after an incident. The interests of ‘public order’ are frequently cited as justification for discriminatory action that violates the constitutional right to freedom of religion. In February 2009, four rockets were fired at an Ahmadi-owned industrial plant and, in June of the same year, an Ahmadiyya cemetery was desecrated in Toba Tek Singh. In the latter instance, the authorities subsequently revoked the allotment order granted to the community twenty years previously.

Ahmadi Muslims are the only group to be denied the right of assembly under Pakistani law,⁴² with applications to hold an annual conference being ignored in recent years, and the only community for whom a form of separate electorate system still applies during elections.⁴³ Ahmadi citizens are listed in an electoral roll separate from that of other voters. Moreover, voters are required to register using a form for Muslims or non-Muslims, with the former including a statement that voters must sign, explicitly excluding the Ahmadiyya community from the category of Muslim. Ahmadis are therefore forced to choose between stating that they are not Muslim (by signing the form for non-Muslims) and not voting at all – most opt for the latter.

One of the accusations frequently used to provoke anti-Ahmadiyya sentiments is that the teachings of their founder challenge the finality of the prophethood of the Prophet Mohammed. Ahmadi leaders say this is a misrepresentation of their beliefs.⁴⁴ It is however safe to assume that when authorities grant permission for an ‘End of Prophethood’ conference, as the Government of Punjab did in April and October 2009, there is an implicit

⁴¹ HRCP (2011), *supra* note 2, p127.

⁴² Article 16 of the Pakistani Constitution guarantees this right but it is ‘subject to any reasonable restrictions imposed by law in the interest of public order’, which leaves room for restrictions to be imposed under section 298 of the PPC.

⁴³ Until 2002, non-Muslims in Pakistan had been confined to voting for candidates of their own faith for nearly two decades. This was abolished and a joint electorate system restored after nationwide campaigns. Those at the helm of the campaign maintain that the separate electorate essentially categorised religious minorities as lesser citizens in the social consciousness of Pakistan.

⁴⁴ In that they believe that further prophets are acceptable but distinguish these from those bringing new scripture, like Mohammed himself.

anti-Ahmadiyya agenda at work. Furthermore, some commentators criticise such events for providing a platform for extremist Muslim clerics.

Ahmadis interviewed by CSW in Pakistan were adamant that an end to state discrimination would mean an end to social marginalisation. They described the root of the problem as the 'atmosphere of persecution' provided by the state and in which the anti-Ahmadiyya minority could promote its agenda. One person commented that if the laws were repealed today, social persecution would end within five years.

The Ahmadiyya community campaigns alongside religious minorities in Pakistan, though its members do not consider themselves to be a non-Muslim minority, but very much part of the Muslim ummah (community). Due to the prevailing situation in Pakistan, they seek to protect their rights and to fight discrimination via any legitimate route, and if that is only available under minority laws then the Ahmadis will engage in that process as well.⁴⁵ They argue that, where a government edict declares Ahmadis to be non-Muslim and puts the community at a disadvantage under the law, then it is the duty of that government to provide protection from the sectarian violence that ensues as a result of the state position.

9. The impact of religious extremism on freedoms of religion and expression

"There was a direct link between the rise of the Taliban and the suppression and oppression of the minorities and of all those whose beliefs differed with those of the extremists who dared to expose hatred and violence in the name of religion." (HRCP Annual Report 2010, p2 - regarding the religious freedom situation in 2010.)

Increasingly in Pakistan, the language of religion is being used to justify or rally support for violence and intolerance, even though other major factors like poverty, feudalism or personal enmity are clearly at play as well. This is by no means a new phenomenon for a nation in which religious and national identity overlap significantly and where successive national and provincial leaders have manipulated Islam for political ends, as the trump card with which to gain majority support. However, there is good reason to view the current discourse with still more concern than its predecessors. This is because of both the exclusivity of the extremist ideology now being promoted and the fertility of the ground in which it is being planted.

In its current form, the Islamism of Pakistan's extremists is characterised by a narrowly conservative theology (dictated by a minority within the Sunni tradition); an expectation that the Pakistani state institutions should necessarily uphold the interests of Islam; vehement anti-Western sentiment (which erroneously includes Pakistani Christians); religious intolerance; and the violent suppression of dissenting and/or alternative voices, whether Muslim or non-Muslim.

9.1. Muting the public discourse

An extremely narrow version of Islam is now being promoted by Islamists and conservative religio-political parties in Pakistan, to the exclusion of all other versions – the public space for debate is rapidly shrinking, with the loudest, most aggressive voices sidelining other claims to free expression.⁴⁶ The outworking of this ideology, which is powerfully illustrated by the assassinations of Shahbaz Bhatti and Salmaan Taseer, has triggered polarised

⁴⁵ Ahmadiyyas were accepted as Muslims in Pakistan for nearly 100 years (until the 1974 declaration). They contend that they were declared non-Muslim for political, not theological reasons, the motivation being the then government's need to increase support among right-wing religious leaders.

⁴⁶ For more on the particular ideology and outworking of militant Islamism in Pakistan see, for example, Mullick, F. & Mehrunnisa, Y. (2009), *Pakistan: Identity, Ideology & Beyond*, Quilliam, London.

responses from civil society actors. Some have resolved to campaign all the more strongly, while others have removed themselves from the public realm altogether.

Moreover, it is important to note that the present extremism is building upon foundations laid three decades ago, under Zia's Islamisation campaign. Terms like "Zia's children" or "the Zia generation" are being used to describe the large segment of Pakistani society educated or trained under his regime. One recent example is the unforeseen support of a group of 200-300 lawyers for the killer of Salmaan Taseer, in stark contrast to the pro-democracy role played by the lawyers' movement during the State of Emergency under Musharraf in 2007-08.⁴⁷ Radicalisation in Pakistan has affected far more than simply those who affiliate themselves with the Pakistani Taliban or the many banned outfits such as Sipah-e-Sahaba or Lashkar-e-Taiba.

That said, both the violent extremists and the secular elite are minorities in this country of over 180 million. With both competing for the allegiance of the majority, it remains difficult to assess where most loyalties really lie, or the extent to which the debate is seen as relevant to the daily lives of those not directly affected by the accompanying violence. Arguably, the greater coercive power currently lies with the former group.

9.2. Religiously-motivated violence

Religiously-motivated violence affects religious minorities in Pakistan, as well as occurring between different sections of the Muslim community. A religious leader is frequently the most influential person in the community and their influence extends far beyond the remit of purely spiritual or political leadership. Where this power is abused by individuals or hijacked to serve extremist agendas, relatively small events can be used to incite disproportionate violence, particularly where religious intolerance is already being fostered. Indeed, rallying calls through mosque loudspeakers are a widespread element in incidents of mass violence, despite the fact that this is illegal under Pakistani law.⁴⁸

Blasphemy allegations are a common and effective trigger for mob violence (see section 6) and, in the case of Christians, actions taken in the West can also be used to incite aggression. For example, the burning of the Qur'an, orchestrated by an American pastor, Terry Jones, led to a backlash against Christians in some parts of Pakistan, despite attempts by the Pakistani Christian community to denounce the act. On 28 March 2011, seven to eight men vandalised and attempted to break into St Thomas' church, a Roman Catholic building in Wah Cantonment, to the northwest of Rawalpindi. This was a comparatively minor incident, but its significance stems from the fact that it occurred in a high security area that typically sees very little unrest. There is also a risk of Hindu minorities feeling the brunt of anger over decisions made in India concerning Muslims.⁴⁹

According to HRCP, 2009 saw an increase in violence against minorities and a failure of government agencies either to take preventative measures or ensure justice in the aftermath.⁵⁰ If anything, 2010 saw a further deterioration of religious freedom in this respect. During the worst periods of 2010, multiple attacks on individual Christians were being reported each week, the majority taking place in the Punjab. Sikhs and Hindus have also been targeted – at the beginning of 2010, the body of Jaspal Singh was found in the

⁴⁷ Gall, C (2011), 'Pakistan faces a divide of age on Muslim law', New York Times, 11 January 2011, available at: <http://www.nytimes.com/2011/01/11/world/asia/11pakistan.html>.

⁴⁸ Under section 3 of the Misuse of Loudspeakers Act, 1965, the use of mosque loudspeakers is limited to the call to prayer and the Friday sermon in Arabic.

⁴⁹ HRCP (2011), *supra* note 2, p130, citing the Indian High Court's verdict regarding ownership of the land occupied by the Babri Mosque before it was destroyed by Hindu extremists two decades ago.

⁵⁰ HRCP (2010), *supra* note 39, p123-4.

Khyber District of Khyber Pakhtunkhwa. He was one of three Sikh men abducted during that period and for whom the abductors, thought to be Taliban, demanded large ransoms. NCJP described the Sikh community in the area as, “easy prey for militants” as well as highlighting the problems such as kidnapping and property-grabbing faced by Hindus in Sindh and Balochistan.⁵¹

There has been a marked increase in the level of fear among members of minority communities, particularly following the assassinations of Salmaan Taseer and Shahbaz Bhatti. The question being repeated by church leaders is, “If the government cannot protect its ministers, what hope is there for ordinary people?”

Violence against minority sections of the Muslim community has also been on the rise in 2009-2010. In 2009, the Shi’a community was repeatedly targeted by suicide bombers during the holy month of Muharram, culminating in an attack on a large Ashura procession in Karachi, which killed over 30 people and injured at least 60. The Ahmadi Muslim community experienced much violent persecution during this period, including the devastating twin bombing of two mosques in May 2010, as described in the previous section.

Throughout 2010, Sufi shrines were also attacked, such as the popular Data Dabar shrine in Lahore, which attracts Muslims from all backgrounds in Pakistan. The suicide bombing at this site on 1 July 2010 killed over 40 people and injured around 175. Most recently, on 3 April 2011 a double bombing occurred at the Sakhi Sarwar shrine in the Dera Ghazi Khan District of Punjab, during a busy festival period. This attack, the impact of which was on a similar scale to Data Dabar, was claimed by the Pakistani Taliban, reportedly carried out as revenge for the Pakistani military’s operations in the north-west. However, the testimony of a third suicide bomber, whose explosives had not fully detonated, indicated that his instructions were “to kill non-Muslims”.

We see illustrated here both the pluralism (or confusion) in the motives behind such attacks and an attempt to define who qualifies as a Muslim and who does not. The inconsistency that abounds between different terrorist groups and among individuals at leadership and operational levels means that nuanced, multi-layered responses are required by the state. However, the one constant is the assumption that vigilante violence and murder is a legitimate strategy, once again underlining the urgent need for the rule of law to be fully established in Pakistan.

9.3. Religiously-motivated discrimination

Discrimination against religious minorities in Pakistan is visible at all levels of society and, as in the case of religiously-motivated violence, it most directly affects the poorest and least influential people – those who cannot retaliate. A case in point would be the instances of inequitable aid distribution after the catastrophic floods in 2010: Muslims and non-Muslims alike had had their lives devastated, but a number of Pakistani aid outlets refused to give food and other basic necessities to religious minorities and Ahmadi Muslims. The state claimed that these were agencies with connections to extremist groups. A further example is the unwillingness of poorer Christians to report crimes to the local police, whether because of existing bias or the risk of officers being manipulated by those responsible. It is common for a false case to be lodged against a claimant by way of punishing them for the original complaint.

⁵¹ NCJP (2010), ‘Press Release - Rising crimes against religious minorities is an alarm bell: NCJP’, 25 February 2010.

9.3.1. Education

Education is of pivotal importance in the long-term fight against extremism and religious intolerance in Pakistan, having the potential to foster either harmonious or intolerant religious attitudes. Just as we are now witnessing the results of Zia's education policies of the 1980s, the nature of contemporary education policies will play a large part in determining the condition of the country in 20-30 years' time.

A number of significant studies have been completed on religious discrimination in the education system in Pakistan. One of the best known is 'The Subtle Subversion: The State of Curricula and Textbooks in Pakistan' (2003).⁵² This report looks at problematic content within learning materials and their potential for political and ideological manipulation. It argues that the state education policy (created under Zia's government) encourages a bias towards Islam and glorifies the military, while fuelling negative perceptions of religious minorities and misrepresenting key developments in Pakistan's history. At a private school visited by CSW in October 2009, staff had found it necessary to omit whole modules in the Social Studies course, due to the distorted content of the textbooks available. State schools do not enjoy such flexibility. A new textbook policy was agreed in 2006 but it is yet to be implemented nationwide, so previous versions are still in circulation. However, the devolution of the education ministry to provincial levels in 2010 has already triggered the early stages of an overhaul of state curriculum textbooks in certain parts of the country.

One of the concerns highlighted by NCJP is the compulsory nature of Islamic Studies in schools. Officially, non-Muslims are not obliged to attend but, in practice, the prescribed alternative course, known as 'Ethics', is often under-resourced and those non-Muslim students who choose it risk further marginalisation.

A 2009 joint study by the HRCP and the Sustainable Development Policy Institute (SDPI) found that other influences (such as displays and extra-curricular activities) within public schools are providing a counter-weight to discriminatory materials.⁵³ Although, it is clear that much remains to be done if a positive, respectful attitude towards minority faiths is to develop, as opposed to mere 'tolerance'. Indeed, NCJP believes that children continue to be indoctrinated from a young age in state schools, viewing this as a larger threat than the oft-criticised *madrassa*-led education. Furthermore, the research of the UK-based counter-extremism NGO, The Quilliam Foundation shows that only a small minority of Islamist militants in Pakistan have attended a *madrassa*, and that a majority are actually university graduates.⁵⁴

Ahmadi Muslims have frequently been the target of explicit discrimination in the education sector, with the tacit approval of the state, which has not intervened. In June 2008, 23 Ahmadi students were excluded from Punjab Medical College at one time, four of them in their final year of studies. This followed a month of intimidation, including physical aggression, from fellow students and indifference from those in power. In 2009, all of the Ahmadi teachers working at Qurban High School in Lahore were dismissed, allegedly after pressure from local Muslim clerics.

⁵² Nayar, A.H. & Salim, A. (2003), *The Subtle Subversion: The State of Curricula and Textbooks in Pakistan*, Sustainable Development Policy Institute (SDPI), Islamabad.

⁵³ HRCP / SDPI (2009), *Enhancing religious understanding and promoting tolerance in education*, Lahore.

⁵⁴ Mullick, F. & Mehrunnisa, Y. (2009), *Pakistan: Identity, Ideology & Beyond*, Quilliam, London. The research for this report was carried out in the Punjab province.

9.3.2. Employment

This briefing will not assess in detail trends in employment discrimination, but there exists ample evidence to suggest that religious discrimination in this form is a pervasive issue. The following examples are illustrative.

Discrimination persists in public and private institutions alike. In the past CSW has been told that there is an unwritten rule that Hindus may not join the armed forces; that Christians are denied promotion to the top levels of public service; and that generally minorities face discrimination in the fields of education and employment.

There are frequent instances of faith-based discrimination against Ahmadi Muslims in the business and employment sectors. Examples range from a hospital refusing an Ahmadi tender for a business contract, to the Pakistani Air Force threatening disciplinary action. In most cases, the Ahmadi faith is explicitly cited as the justification.

Discrimination can of course take the form of daily prejudice from colleagues in the workplace. CSW has met one lady who experienced this while working for an NGO, as a result of her conversion to Christianity. When a junior member of staff began to suspect that she was a Muslim-background Christian, he sought proof and spread rumours within the organisation. Her work was made near impossible through the disobedience of her juniors, not to mention the emotional strain of being outcast at her place of work.

10. State attitudes to religious freedom

10.1. Initiatives taken under the current government

10.1.1. Progress

At Pakistan's Universal Periodic Review (UPR) by the UN Human Rights Council in 2008, the then new government expressed a commitment to minority rights, as follows:

On the issue of minorities, Pakistan noted that in addition to being an integral part of the society and enjoying equal civil and political rights, the new Government had expressed its resolve to continue to safeguard their rights and ensure their representation in all national institutions, through affirmative action, as well as review statutes which lead to discrimination.⁵⁵

Since then, the Government of Pakistan has shown itself to be considerably more disposed towards making human rights guarantees than its predecessors, at least at a federal level. Its ratification of the ICCPR and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) another in 2010 is testimony to this, despite the disappointing reservations to the ICCPR (see section 5.1.1). However, ratification of international human rights treaties has not led to the implementation of their principles on the ground.

With regards to freedom of religion or belief more specifically, the promotion of the post of Federal Minister for Minorities Affairs to cabinet level, in November 2008 (along with the establishment of the Ministry itself)⁵⁶ and the appointment of a prominent Christian human rights activist to that position, as well as his reappointment after the cabinet was downsized in 2011, represented a significant attitudinal shift for the Pakistani state.

⁵⁵ UNHRC (2008), *Report of the working group on the universal periodic review – Pakistan*, A/HRC/8/42, UN General Assembly, 4 June 2008.

⁵⁶ Issues relating to minority communities used to be addressed from within a Ministry for 'Minorities, Culture, Sports, Tourism and Youth Affairs'.

Following the minister's assassination in March 2011, it remains to be seen whether the state will take adequate measures to continue his work. Despite being one of the smaller ministries, the Ministry for Minorities Affairs proved itself to be far more than a token gesture during 2009-2010. Gains made for minorities since the end of 2008 include:

- The declaration of a "National Minorities Day" to be celebrated on 11 August each year, the date of Jinnah's landmark speech to the constituent assembly of 1947;
- The creation of a five per cent quota for minority applicants in federal government jobs, and the eventual extension of this principle to the provincial level;
- The recognition of non-Muslim religious holidays, including Christmas day;⁵⁷
- A 50 per cent increase in the state development fund for minorities;
- The establishment of district-level "interfaith harmony" committees;
- Remission (during religious festivals) of the sentences of prisoners from minority communities involved in minor crimes, a privilege already granted to Muslims.⁵⁸
- The introduction of four reserved minority seats in the Senate;
- The allocation of property rights to the minority population living in Islamabad's *katchi abadies* (informal slums not usually recognised by the State),⁵⁹ a majority of whom are Christian;
- A declaration that the official Urdu translation of 'Christian' would henceforth be recognised as *Masihi* (the correct Urdu equivalent of 'follower of Christ') instead of *Essahi* (a variation on the Arabic name for Jesus Christ);
- The construction of prayer rooms for non-Muslims in prisons across the country, previously only available in a handful of prisons.

The above progress was not only an illustration of the persistence of Minister Bhatti and his staff but, more importantly, it was a clear sign that the senior echelons within the government were responsive responding to the interests of minorities. This is commendable when one considers the broader security and governance questions monopolising the priorities of the government.

The Government of Pakistan has been vocal in its dedication to minority rights, in both international and domestic settings, as illustrated by the following quotes:

"...I also wish to reiterate the commitment of the democratic government of the Pakistan Peoples Party (PPP) to continue to fight along with our Christian brothers and sisters for the rights of all Minorities and deprived people in the country. Together we will struggle for establishing a liberal and pluralistic society in Pakistan in which every citizen is allowed to participate freely in the social, political and economic development of Pakistan irrespective of his cast, creed and colour. Let me also reiterate on this occasion our pledge that the PPP will continue to uphold the right of the Christians, indeed of all minorities, to be treated as equal citizens of the state and allowed to partake in its development on an equal footing."
(Asif Ali Zardari, President of Pakistan, 25 December 2009.)

The talks with President Zardari examined "the situation in Pakistan, with particular reference to terrorism and the commitment to create a society more tolerant and harmonious in all its aspects."

⁵⁷ 25 December is also a public holiday because it is the birthday of founding father, Mohammed Ali Jinnah.

⁵⁸ This point was announced at the state Interfaith Christmas Celebrations, 2009, and Minister Bhatti was later witness to prisoners being released in time to spend Christmas with their loved ones.

⁵⁹ This issue has long been a point of contention for minority religion slum-dwellers, principally because there exists another category of state-approved slums, the legal status of which allows for provision of state services and utilities.

(Dawn News, quoting a Vatican Press Statement after the President's meeting with the Pope, 1 October 2009.)

One further area of progress has been Pakistan's signalling of the end of the 'Combating Defamation of Religion' campaign at the UN. Pakistan has played the leading role in this campaign on behalf of the Organisation of the Islamic Conference (OIC) for the past twelve years. Resolutions introduced under this campaign had been widely criticised for being unworkable, inconsistent with individual freedoms and for effectively justifying domestic blasphemy laws such as those in Pakistan. However, on 24 March 2011, the UN Human Rights Council passed a newly worded resolution introduced by Pakistan. It affirmed traditional human rights and called for "a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs". The shift can be seen as a result of long-term international lobbying efforts and bilateral negotiations but a final catalyst was arguably the negative publicity surrounding Pakistan's own blasphemy laws in the wake of the assassinations of Salmaan Taseer and Shahbaz Bhatti. Pakistan should be commended for this change in international policy.

10.1.2. Deficiencies

Notwithstanding the above progress, there remains a large gulf between advances in government policy towards minorities and the reality of life for these groups in Pakistani society, particularly within communities where government policy can have little immediate impact. As one NGO put it, "There is a significant gap between the message of the Pakistani Government's message to the people and the reality of action at an individual level."

However, there are areas in which state action remains wholly deficient. The issue of the blasphemy laws is one of these, as illustrated by this year's policy u-turn away from any attempt to amend the laws. It is striking that so many minor concessions have been made in the interest of minorities in the past fourteen months and yet the single greatest demand, reiterated repeatedly for over two decades, has been left untouched. The plight of the Ahmadiyya Muslim community is one further example, with explicit state discrimination cited as the catalyst for broader social marginalisation, as already discussed.

Both the blasphemy laws and anti-Ahmadiyya provisions were raised by multiple states at Pakistan's UPR in 2008. It is possible to draw parallels between these two examples in terms of their sensitivity and the potential to engender negative reactions from right-wing religio-political parties and violent extremist groups, if change is attempted. It is unfortunate that the Government of Pakistan regularly denounces the extremism in the country and yet fails to take a stand on the very issues with the potential to divide moderate Muslims from the violent minority.

The law and order situation remains a primary concern in Pakistan, with vigilantism on the rise and corruption and inefficiency persisting among members of the judiciary and the police force. At present, the state is neither preventing nor punishing this behaviour - effectively handing over justice to the most powerful or influential parties in any given region. The more vulnerable groups in society, such as minorities and poorer communities, are often the worst affected.

With regards to bias and bad practice frequently experienced by religious minorities at the hands of local officials, the Ministry for Minorities Affairs has plans to launch a Minority Rights Awareness Programme. This would include local education campaigns, training for the police on the humanity of all accused and the need to reserve judgement for the courts, and training for district judges on the importance of impartiality. The late Shahbaz Bhatti was the major driving force behind these plans, but it is hoped that they will still proceed under his successor.

President Zardari's government has shown itself to be better disposed towards freedom of religion or belief in Pakistan, but this must be balanced against the influence of the military, right-wing religio-political parties, influential religious clerics and landowners. The current administration is yet to take (and maintain) a strong stand in the face of this significant opposition.

11. Combined interfaith and development initiatives – a need of the time

The terms 'interfaith harmony' and 'peace-building' have long been buzzwords among NGOs working at the grassroots level on faith or conflict-related issues. Under the current government, 'interfaith' has become a state term of choice as well. The use of this term in the Pakistani context is encouraging, particularly in areas of the country where inter-religious conflict is never far from the surface of communal relations.

Tackling misconceptions and prejudice based on religion is an essential component in uniting communities and lessening the likelihood of religiously-motivated violence in the future. However, this work must be done alongside developmental initiatives. There is a need to combat the role played by poverty in exacerbating religious violence and in providing a foothold for Islamic extremists to gain ground. Voids left by inadequate employment opportunities, health and education services and justice mechanisms are all open to exploitation by those who can provide quick-fix solutions, as the Pakistani Taliban have been seen to do in Khyber Pakhtunkhwa. Indeed, it is the opinion of one high-profile human rights activist that interfaith initiatives cannot be effective if the human development needs of the nation are not addressed in parallel. Likewise, the same argument could be made for combining interfaith work with issues of local justice and politics. Interfaith dialogue does not exist in a vacuum and is best conducted in the context of issues already pertinent to a community.

11.1. Examples of best practice

Potential best-practice examples exist among state initiatives and civil society alike.

The late Minister for Minorities Affairs, Shahbaz Bhatti, was deeply committed to promoting interfaith harmony. At a national level, one of his most significant achievements was a National Interfaith Consultation in July 2010, which brought together senior religious leaders of all faiths from across Pakistan. It was the result of months of negotiations⁶⁰ and culminated in a joint statement denouncing violent acts of terror in Pakistan. Bhatti used this common point of concern to unite the parties. That is not to say that all differences were eradicated – the blasphemy laws remained a point of tension – but relationships built through agreement on a less controversial issue can be seen as means to facilitate negotiations on the more divisive questions.

At the local level, Bhatti's District Interfaith Harmony Committees were intended to not only ensure fair representation of all faith groups in a community initiative, but also to act as an early warning system for religiously-motivated violence and facilitate conflict resolution in the aftermath. It is in the interest of all in the community to avert interference from extremist groups seeking to gain support by inciting violence against non-Muslims.

Among the many civil society initiatives, the Christian Study Centre (CSC) in Rawalpindi provides an example of initiatives designed to address more holistic needs through the lens

⁶⁰ Shahbaz Bhatti had developed personal relationships with many of those who attended. He was on good enough terms with the leading imams of each province to be invited to speak at their mosques on more than one occasion.

of interfaith harmony.⁶¹ CSC is effective at grassroots level, among public servants like teachers, and in policy circles. There are three strands or phases to its activity: a “dialogue of the mind” (through academic discourse and research); a “dialogue of the heart” (through relationships and grassroots interaction); and a “dialogue of life” (through practical programmes encouraging interfaith cooperation). They place emphasis on the latter in an attempt to move interfaith dialogue away from simply identifying similarities between faiths and towards unity around common problems faced by a community or rights activists with similar objectives.

The majority of CSC’s work is carried out in the Punjab and Khyber Pakhtunkhwa because of the high concentration of Christians and extremist groups respectively. Through its partners, CSC has established 660 peace networks in Punjab province and Khyber Pakhtunkhwa, in which both genders are encouraged to participate and minorities represent 44 per cent of participants (41 per cent of these are Christian). CSC has a weekly radio programme on a station broadcast within a 100 mile radius of Islamabad. The session usually includes a message from a religious leader, some discussion, music and a radio play illustrating cooperation between faiths in practical situations. The use of local language press releases and radio programmes has been particularly effective in Khyber Pakhtunkhwa, where interfaith work is still relatively new. CSC also has slots on Radio Pakistan, Lahore, which is broadcast to most of the Punjab. One staff member explained that, “there is a need to spread interfaith dialogue beyond the same faces – media can play a role in reaching the weakest”. Indeed, the public and state responses have been positive.

CSC appears to act on the frontlines of practical, reality-based interfaith work and has much experience to share and is a leader in some sectors. It is telling that Radio Free Europe/Radio Liberty (funded by the US government) also launched a station in January 2010, to counter the broadcasts of religious extremists in Khyber Pakhtunkhwa and FATA. CSC remains grounded in the knowledge that anti-minority groups are present even in communities where short-term peace has been secured, and its strategies reflect this reality.

⁶¹ CSC encapsulates a broad range of experience, expertise and resources, as well as having an established, respected reputation in the area of peace-building and interfaith work. This reputation appears to be accepted by a number of high-profile Muslims clerics (both Shi’a and Sunni) and the state authorities. CSC’s partner organisations come from across the country and work in a diverse range of sectors, the common denominators being human rights or peace-building.