

TABLE OF CONTENTS

1. Introductionp. 1
2. Political developments in Sindh province, August 1990 - March 1992p. 2
3. Patterns of political detention in Sindhp. 8
 - 3.1. Case study: Repeated arrests of legislator Pir Mazhar-ul-Haqp. 8
 - 3.2. Repeated arrests of other opposition party membersp. 13
 - 3.3. Arrests of opposition leaders before and during electionsp. 15
 - 3.4. Arrests of members of the PPP leadershipp. 18
 - 3.5. Mass arrests of opposition party membersp. 19
4. Legislation under which opposition members were detainedp. 22
 - 4.1. Judicial supervision of police custodyp. 23
 - 4.2. Detention by repeated arrests and laying of chargesp. 24
 - 4.3. Detention under the Maintenance of Public Order Ordinance p. 24
 - 4.4. Preventive detention under Sections 107 and 151 of the Code of Criminal Procedure (CCP)p. 25
 - 4.5. Detention under Sections 121, 121-A and 122 of the Pakistan Penal Code (PPC) and under the Prevention of Anti-National Activities Act of 1974p. 27
5. Unacknowledged detention of political prisonersp. 29
6. Torture and ill-treatment of political prisonersp. 33
7. Arrest, ill-treatment and harrassment of family members and associates of political opponensp. 38
8. Possible extra-judicial executions of political opponensp. 39
9. Amnesty International's concerns and recommendationsp. 40
 - 9.1. Arbitrary detentionp. 40
 - 9.2. Procedural safeguards for detaineesp. 42
 - 9.3. Fair trialp. 43
 - 9.4. Torture and ill-treatmentp. 46
 - 9.5. Extra-judicial executionsp. 48

£PAKISTAN

@Arrests of political opponents in Sindh province, August 1990 - early 1992

1. Introduction

Amnesty International has received reports that since the dismissal of the government of Benazir Bhutto in August 1990, hundreds of members of opposition political parties have been arrested in Pakistan, particularly in Sindh, the southernmost province of Pakistan. Most of them are members of the Pakistan People's Party (PPP) and its associated bodies, but some are members of the Sindhi nationalist parties. Many of those arrested were released within hours or days but by the end of 1991 several hundred opposition members were reportedly still under arrest. Some were held under preventive detention laws. Criminal charges were brought against many others, particularly against opposition party leaders, former and current legislators and former members of government, but also against some party workers. When these charges could not be substantiated by the police, new criminal charges were frequently brought, often leading to series of charges and consecutive remand periods which in some cases extended over several months.

While Amnesty International is not in a position to ascertain in all the cases brought to its attention whether criminal charges against opposition members are justified, the evidence collected by the organization strongly suggests that in a large number of cases the detained persons were political prisoners, that is persons who are detained or imprisoned when the motivation of the detaining authorities may be political or when the acts or motivation for which a person is detained or imprisoned may be political. Amnesty International believes that some of those detained in Sindh may be prisoners of conscience, persons detained or imprisoned solely for the peaceful exercise of their political and civil rights such as the right to freedom of association or the right to freedom of expression.

Amnesty International is concerned that many political prisoners in Sindh have reportedly been held in incommunicado detention, and that many have been subjected to torture, including rape, and other forms of cruel, inhuman and degrading treatment. They have frequently been denied access to family and lawyers, and some were reported to have been kept in isolation cells and in shackles. Many of those charged with criminal offences have been tried by special courts which follow procedures that fall short of international standards of fair trial.

Amnesty International has also received reports about deaths in custody of political prisoners following torture and some cases of possible extra-judicial executions of members of political opposition parties in Sindh.

This paper is based on material collected and interviews conducted during a research visit by Amnesty International to Pakistan in December 1991. Some information obtained in the first months of 1992 has
AI Index: ASA 33/03/92 Amnesty International June 1992

Pakistan: Political arrests in Sindh province

also been used.

2. Political developments in Sindh province, August 1990 - March 1992

On 6 August 1990 the President of Pakistan, Ghulam Ishaq Khan, dismissed the government of Prime Minister Benazir Bhutto, in office since 2 December 1988, and dissolved the national and provincial assemblies. He declared a state of emergency but no emergency legislation was promulgated. An interim government under caretaker Prime Minister Ghulam Mustafa Jatoi, the former leader of the Combined Opposition Party in the national assembly, was appointed. In general elections on 24 October 1990 the Islami Jamhoori Ittehad (Islamic Democratic Alliance, IDA), an alliance of nine right-wing and Islamic parties, including the Pakistan Muslim League, obtained a majority with 106 out of 207 contested seats, while the Pakistan Democratic Alliance (PDA), a four-party alliance including the Pakistan People's Party (PPP), won only 45 seats. On 6 November 1990 Mian Nawaz Sharif, the former Chief Minister of Punjab, was sworn in as Prime Minister of Pakistan and lifted the state of emergency.

The four provincial assemblies were also dissolved in August 1990. In Sindh, Pakistan's second largest province with about 24% of the country's population, and the home of Benazir Bhutto, a PPP-Mohajir Qaumi Movement (Mohajir National Movement, MQM) coalition government had assumed office after the provincial elections on 19 November 1988. Following the dismissal of the provincial government, a care-taker government under Jam Sadiq Ali was installed on 7 August 1990. In the provincial elections held on 27 October 1990 the PPP emerged with 46 of 109 seats as the largest single party, but a broad-based coalition of the IDA, the MQM and a number of independents formed the government. Jam Sadiq Ali, a former PPP member who was re-elected as an independent, was sworn in as Sindh Chief Minister on 5 November 1990. After Jam Sadiq Ali's death on 5 March 1992, Muzaffar Hussain Shah was unanimously elected by the provincial parliament as the province's Chief Minister. He was sworn in on 6 March 1992.

Much of the political unrest in Sindh in recent years has been rooted in ethnic conflict. The Mohajir Qaumi Movement (MQM) represents the Mohajirs, literally the refugees, that is the Urdu-speaking Muslims who immigrated from India after the partition of the subcontinent in 1947, and their descendents. The indigenous Sindhi population fears that it will be outnumbered by the immigrants; several nationalist parties, the Jeay Sindh Mahaz (Long Live Sindh Front) led by G.M. Syed, the Jeay Sindh Progressive Party led by Dr Qadir Magsi, the Sindh National Front led by Mumtaz Ali Bhutto and the Sindhi Awami Tehrik (Sindhi People's Movement) have given expression to this sentiment. The Pakistan People's Party, founded in 1967, understands itself as a national rather than as a Sindhi party, but its organizational base and largest membership are located in Sindh, particularly in the rural areas.

Acute ethnic strife in Sindh was prevalent during Benazir Bhutto's period in office. In 1988 the PPP entered into an alliance in Sindh with the MQM which in May 1989 collapsed after the resignation of three MQM ministers following increased ethnic violence in Sindh. The MQM stated it had not received sufficient support from Prime Minister Benazir Bhutto and that the PPP had gone back on promises to release MQM detainees. The alliance was briefly revived in late July 1989, only to collapse again after three months. The MQM then transferred its parliamentary support to the IDA.

Political strife between the PPP and the MQM in Sindh reached a peak in early 1990 when the MQM organized a huge Combined Opposition Party rally on 26 January, followed by a general strike in Karachi on 7 February and a hunger strike in April by MQM leader Altaf Hussain. In the context of a campaign to confiscate illegal arms and to arrest alleged terrorists, the security forces on 26 and 27 May 1990 raided the Purana Qila district in Hyderabad, a Mujahir community, after cutting off essential supplies for three days. In the ensuing riots about one hundred people were killed, leading to further violence in other parts of Sindh. The army was then called in to restore order and several thousand people were reportedly arrested.

After the IDA assumed office in 1990, ethnic conflict in Sindh decreased but the incidence of political and criminal violence has continued to be alarming. For instance in the first ten weeks of 1991 the press reported 738 kidnappings, 304 shootings, 320 murders and 591 persons injured. The provincial government has held the PPP and its allies responsible for politically motivated crimes, but the PPP have denied these charges and have themselves claimed to be the victims of a "political vendetta". Independent observers attribute political violence to the fact that "virtually all major political parties in Sindh maintain well-armed and highly-motivated militias", as stated in "Dawn" of 30 August 1991. There have also been persistent reports that the MQM maintains torture cells whose functioning is thought to have been condoned by the security forces. Amnesty International has not been able to verify these reports.

Both the federal government of Prime Minister Mian Nawaz Sharif and the provincial government in Sindh have pursued a policy of intimidation and confrontation towards the major opposition parties, the PPP and the Sindhi nationalist parties. In an obituary after the death of Sindh Chief Minister Jam Sadiq Ali, the "Times" said on 7 March 1992 that "state terrorism and political persecution were undoubtedly the dominant features of Jam Sadiq Ali's administration". Many political observers in Pakistan believe that the object of Sindh Chief Minister Jam Sadiq Ali was to crush the PPP. One of the measures

Pakistan: Political arrests in Sindh province

apparently taken was to portray the PPP as a terrorist organization which would discredit the party in the perception of the general public and cause its members to defect to other parties.

The Sindh government has on several occasions publicly identified the PPP and its student and youth organizations, the People's Youth and the People's Student Federation, with a shadowy terrorist organization, the Al-Zulfikar Organization (The Sword [of Imam Ali] Organization, AZO). For instance at the beginning of the latest wave of arrests in Sindh in late November 1991, Chief Minister Jam Sadiq said in a press conference on 26 November 1991 that the PPP and AZO are two names for one party and declared: "I have documentary proof ... that the AZO's chief is Nusrat Bhutto and its operational chief is Benazir Zardari". The two individuals named are the co-chairpersons of the PPP. Similarly Irfanullah Marwat, Advisor on Home Affairs to the Sindh Chief Minister, in a statement issued on 16 November 1991, accused the PPP of involvement in terrorism, criminal activities and kidnapping. It was "suffering from cancer which has to be treated in [a] CIA [Crime Investigation Agency] center" he was quoted as saying by the "Frontier Post" of 17 November 1991. The Crime Investigation Agency (CIA), a branch of the police, is alleged to have tortured detainees during interrogation (see: [Pakistan: Reports of torture and death in police custody](#), ASA Index 33/05/91).

The Al-Zulfikar Organization is believed to have been founded in Kabul in the late 1970s by Benazir Bhutto's brothers Shanawaz and Murtaza Bhutto after their father, Zulfikar Ali Bhutto, had been ousted as prime minister and later hanged. The AZO was allegedly active in the early 1980s and may have been responsible for a number of terrorist attacks in Pakistan between 1981 and 1983, including the hijacking of a plane in 1981. Shahnawaz Bhutto died of poisoning in France in 1985 while Murtaza Bhutto now lives with his family in Damascus. After Benazir Bhutto assumed office in 1988, Murtaza Bhutto reportedly stated in a radio interview that the AZO had been disbanded.

Nevertheless, members of the Sindh government and of the federal government continue to hold the AZO responsible for various crimes and to associate it with the PPP. After four Pakistanis hijacked a plane on its flight to Singapore on 27 March 1991, and demanded the release of six PPP prisoners, among them Asif Ali Zardari, Benazir Bhutto's husband, the federal Minister for Home Affairs, Chaudhary Shujaat Hussain, and Sindh Chief Minister Jam Sadiq Ali publicly claimed that AZO members had carried out the hijacking. No inquiry into the incident had then taken place. Later the head of the Federal Investigation Agency, Wahajat Latif, in a press briefing stated that there was no conclusive evidence of the active involvement of the PPP or any AZO members in the crime. The PPP denied any involvement in the operation and accused the government of itself having initiated the hijacking to discredit the PPP.

The federal cabinet, in a meeting attended by the chief ministers of all four provinces on 1 July 1991 declared that it had decided to re-arrest all the political prisoners who had been released by the PPP government in an amnesty in December 1988 and who were now by the federal cabinet considered to be members of the Al-Zulfikar Organization. The PPP maintained that in 1988 only political prisoners, most of whom were members of the PPP and other opposition parties, and who had been sentenced by martial law courts after unfair trials, had benefitted from the amnesty. Benazir Bhutto called the cabinet decision to re-arrest released political prisoners "a clear violation of human rights and blatant state terrorism to mute the democratic forces". Those released in 1988, she said, had been "released after proper legal scrutiny and review of their cases through various government agencies." The cabinet decision, which was not placed before the national assembly for approval and therefore had no legal force, led some PPP members to go into hiding but among the arrests of political activists which began in June and continued

Amnesty International June 1992AI Index: ASA 33/03/92

Pakistan: Political arrests in Sindh province

in July 1991, none appear to have been made specifically on the basis of the cabinet decision. The Minister for Petroleum and Natural Resources, Chaudhury Nisat Ali, stated on 10 July 1991 that "no blanket approval was given by the cabinet to re-arrest those who were released during the PPP regime", and that the cabinet had merely decided to keep close a watch on AZO activities.

The Presidential Order for the dissolution of the national and provincial assemblies in August 1990 had listed five specific alleged violations of the constitution of Pakistan by the PPP government, and accused it of corruption, nepotism, "horse-trading", ineptitude and failure to maintain law and order. Benazir Bhutto called the dissolution of her government "totally illegal" and a "constitutional coup", but a Lahore High Court verdict of October 1990 confirmed that the President's dismissal of her government had been legal and constitutional. The Lahore High Court found that the PPP government had failed, among other things, to pass any substantive legislation, to call a meeting of the Council of Common Interest involving the four provincial governments, and to maintain law and order in Sindh province.

Following the dissolution of the national assembly, the President on 23 August 1990 set up several disqualification tribunals under the Parliament and Provincial Assemblies (Disqualification for Membership) Order, 1977 and the Parliament and Provincial Assemblies (Disqualification for Membership) Rules, 1990. The disqualification tribunals are empowered to disqualify persons found guilty of "misconduct" from holding public office for a period of seven years but not to sentence them to imprisonment. "Misconduct" is defined to include "bribery, corruption, jobbery, favouritism, nepotism, wilful maladministration ... and any other abuse of whatsoever kind of power or position". A disqualification tribunal consists of a High Court judge appointed by the President. By the rules laid down in August 1990, the presiding judge may not adjourn proceedings for more than two days and the day-to-day presence of the accused at the hearings is mandatory. An appeal against the tribunal's decision may be made to the Supreme Court of Pakistan.

The federal Minister in charge of Cabinet Division, Fakhar Imam, on 11 March 1991 stated before the national assembly that a total of 18 so-called "references" or misconduct charges had been brought against members of the former government. Benazir Bhutto, PPP co-chairperson and leader of the opposition in the national assembly, is reportedly subject to five references before the disqualification tribunal in Karachi and two before the Special Tribunal in Lahore instituted against her between September and December 1990. The charges include distribution of prime land at below market price, awarding of a gas quota to a relative, favouritism in the appointment of civil servants, misuse of secret funds and wrongful allocation of electricity and a rice export contract. As the simultaneous proceedings in Karachi and Lahore which require her continuous presence in court severely hamper her role as an elected member of the national assembly and as leader of the opposition, Benazir Bhutto filed several petitions to have the references pending in the disqualification tribunal in Lahore transferred to Karachi where she lives and where her husband is detained. The petitions filed on several different grounds have all been dismissed. None of the references against Benazir Bhutto have been concluded.

Presidential references were also brought against several other former PPP members of cabinet or parliament. Among them are former members of the National Assembly (MNA) Hakim Ali Zardari and Mumtaz Bhabha, and former federal ministers Khwaja Ahmed Tariq Rahim and Faisal Saleh Hayat. On 24 April 1991 former federal minister for law and parliamentary affairs Iftikhar Hussain Gilani was found guilty of misconduct and disqualified from public office by a disqualification tribunal in Peshawar. On appeal the Supreme Court of Pakistan suspended the decision of the tribunal on 27 April 1991. On 30

Pakistan: Political arrests in Sindh province

June 1991 former MNA Rae Rashid Ahmad Khan, in October 1991 former MNA Sardar Muqem Khan Khose and in November 1991 former federal minister Mian Ghulam Maneka were disqualified. Appeals in all cases are pending.

Several international observers have questioned the motivation for initiating such proceedings during an election campaign. A member of the UK Parliamentary Human Rights Group who attended some of the hearings against Benazir Bhutto in October 1990 concluded that the proceedings were "misconceived and partisan", served to "compromise the judiciary" and were brought for political motives by the federal government against its principal opponent. "They [the government] clearly hoped that the references could be rushed through the courts in time for a disqualification to be pronounced before the elections on 24th October; and further that Ms Bhutto would be so tied up in having to fly from court to court that she could not effectively participate in the electoral campaign".¹ Others have pointed out that the proceedings of the disqualification tribunals, though purporting to be civil inquiries, are criminal or quasi-criminal in nature and the respondents should therefore be afforded all the legal protection granted to an accused in an ordinary criminal trial.² The non-governmental Human Rights Commission of Pakistan has similarly pointed out that the "special tribunals against members of the outgoing government were noisily launched during the run-up to elections and the charges were repeatedly cited in the media in a bid, it was seen, to run down the party in the eyes of the voter".

3. Patterns of political detention in Sindh

Two main patterns of political detention have emerged during the past two years in Sindh: the arrest of individual opposition leaders, often through the use of successive detention orders based on apparently unrelated criminal charges, and mass arrests of opposition supporters.

Shortly after the dismissal of the PPP government in August 1990 criminal charges were brought against Benazir Bhutto's husband, Asif Ali Zardari, and other prominent PPP leaders, former government members as well as Members of the National Assembly (MNAs) and Members of the Provincial Assembly (MPAs). In many cases, when the charges proved to be without foundation, new criminal charges were registered, leading in some cases to series of unsustainable charges and successive remand periods amounting in some cases to months. It appears that such charges against opposition members were not founded on any real evidence of their having committed an offence but were brought for political reasons. Amnesty International considers them to be political prisoners and is concerned that many may have been prisoners of conscience.

In successive waves of mass arrests hundreds of PPP workers were arrested. These waves of arrest began in December 1990 when hundreds of opposition activists in Sindh were arrested as part of a campaign against crime in the province. Following several violent incidents in 1991, including the murder of a judge of the Special Court for the Suppression of Terrorist Activities, PPP members were accused of being responsible and were arrested in large numbers though often there appeared to be no prima facie evidence linking them with the events. Other mass arrests occurred during demonstrations. The detainees were mostly members of the PPP and its associated organizations in Sindh, members of Sindhi nationalist parties and also dissident members of the MQM. Many of those arrested were not charged and were

¹The Benazir Bhutto trials. Report by Lord Gifford, QC, on the mission to Pakistan. 1990

²Brendan P. McGivern: Report of the Canadian observer to the special court proceedings in Pakistan. 1991
Amnesty International June 1992AI Index: ASA 33/03/92

Pakistan: Political arrests in Sindh province

released after hours or days in police custody.

3.1. Case study: Repeated arrests of legislator Pir Mazhar-ul-Haq

The case of Pir Mazhar-ul-Haq may serve to illustrate one aspect of the pattern of political detention that has been practised in Sindh during the past two years. Repeated arrests, apparently without foundation, have been used to prevent opposition legislators from fulfilling their responsibilities as members of parliament and to obstruct the non-violent political activities of other opposition leaders.

Pir Mazhar-ul-Haq, a lawyer, was elected to the provincial assembly of Sindh in November 1988 and appointed provincial minister for law and parliamentary affairs by the PPP government in Sindh. He was again elected to the Sindh provincial assembly in October 1990 despite his detention from 20 August to 27 October on seven successive criminal charges and two preventive detention orders. In each case except one, he was cleared by the police or the trial court because of lack of evidence. In 1991 10 further criminal charges were brought against him, and a warrant of arrest was issued in March 1992. Pir Mazhar-ul-Haq now lives in self-imposed exile outside Sindh to avoid further detention.

Pir Mazhar was arrested on 30 August 1990 at about 2.30pm by Station House officer (SHO) Hussain Bux Panhwar of Rukhan police station, Dadu. Pir Mazhar's wife found out his place of detention on the evening of the same day but the police would not disclose the reasons for the arrest. On 1 September 1990 Pir Mazhar was produced before the magistrate in Dadu in connection with a First Information Report (FIR No 48/90) which had been registered three and a half months earlier at Rukhan police station under Sections 365-A (kidnapping for ransom), 395 (dacoity), 452 (trespassing after preparing for assault), 511 (attempt to commit offences) of the Pakistan Penal Code (PPC) and Section 17(3) (robbery, punishable with amputation) of the Hudood Ordinance. Pir Mazhar's name was not shown in the FIR. He was remanded in police custody for eight days, from 31 August to 7 September 1990, without the magistrate recording any reason for ordering remand. During the remand period Pir Mazhar was not permitted access to defence counsel or family members.

On 7 September 1990 the remand period expired. A bail application filed on behalf of Pir Mazhar before the Special Court for the Suppression of Terrorist Activities in Hyderabad was to have been heard on 9 September; on 7 September the police dropped the charges against Pir Mazhar as there was no evidence against him. The bail application became inapplicable as the magistrate granted the discharge of Pir Mazhar from police custody.

Despite the discharge order, Pir Mazhar was not released, though a report from the SHO to the magistrate declared Pir Mazhar's release on 7 September. Instead Pir Mazhar was re-arrested on the same day in Dadu police station on the strength of another FIR (No 112/90) registered on 19 July 1990 at K.N. Shah police station under Sections 365-A (kidnapping for ransom), 149 (responsibility of members of an unlawful assembly for offences committed by that assembly) and 148 (rioting) of the PPC. His name was not mentioned in the FIR. He was remanded in police custody from 8 to 14 September 1990 without being brought before the magistrate and without the magistrate giving any reasons for ordering remand. A bail application relating to the second FIR was filed before the Special Court for the Suppression of Terrorist Activities, the hearing of which was to take place on 15 September 1990. On the expiry of the remand period on 14 September, the police stated that it had been unable to produce any evidence against

Pakistan: Political arrests in Sindh province

Pir Mazhar, so his release was requested and granted; his bail application accordingly became inapplicable.

Pir Mazhar was again not released, though the police report showed that he had been released on 14 September at 2.00pm. A third remand was obtained for the period 15 to 25 September 1990 in connection with yet another FIR (No 65/90) registered on 8 June 1990 at Bhan Sayeda police station under Sections 365-A (kidnapping for ransom), 452 (house trespass), 395 (dacoity) of the PPC and Section 17(3) (robbery) of the Hudood Ordinance. Again the FIR did not contain Pir Mazhar's name. He was not produced before the magistrate nor did the magistrate give any reasons for ordering remand.

While in police custody Pir Mazhar applied for and was awarded the ticket of the PPP for contesting the forthcoming general elections in October 1990 as the party's candidate in Dadu. In the elections in November 1988 he had won over 90% of votes. He filed his nomination papers for the provincial elections while in police custody .

After the Bhan Sayeda police station had cleared Pir Mazhar of the third charge, the Dadu district magistrate passed an order on 22 September 1990 by which Pir Mazhar was to be detained under Section 3(1) of the Maintenance of Public Order Ordinance (MPO) of 1960, for a period of 30 days. He was then transferred from Dadu police station to the Central Prison in Hyderabad. The memorandum of grounds of detention accompanying the detention order states that Pir Mazhar "is a hardened criminal. He has given shelter to dacoits of the gang of Ali Ahmad Baladi, provided them arms and ammunition and also returned the abductees from the dacoits on ransom grounds. He has caused such harrass[ment] and havoc among the public of the locality. As such his remaining at large would be hazardous for the maintenance of law and order and public peace and tranquility."

Pir Mazhar's wife filed a constitutional petition in the High Court of Sindh on 19 September 1990 alleging that the detention of her husband was illegal and malafide; "... no other prospective aspirant for the assembly seat has a chance for success and therefore the caretakers in power now can only stop Pir Mazhar by denying him the freedom of campaigning for the elections." The petition was amended at the end of September to include reference to the allegedly unlawful detention under the MPO. It stated that there had been no complaint against Pir Mazhar prior to his arrest on 30 August as to his constituting a danger to public order. The High Court of Sindh on 2 October 1990 declared in its judgment that there was no valid ground to detain Pir Mazhar and that the detention order under the MPO had been passed "without lawful authority and ... of no legal effect. ... he shall be released forthwith."

Despite the release order of the Sindh High Court Pir Mazhar continued to be held in the Central Jail in Hyderabad. On 4 October 1990 he was informed that he was now detained under the Sindh Crime Control Act of 1975 for allegedly having associated with dacoits and for posing a danger to the community. Though the Sub-Divisional Magistrate of Dadu who issued the new preventive detention order had also directed that Pir Mazhar be produced before him on 7 October 1990, the prisoner was not actually brought before any magistrate. The High Court of Sindh on 9 October 1990 granted bail to Pir Mazhar in this new case and on 2 December finally quashed this order on 2 December 1990 as untenable.

On his release on 10 October 1990 he was re-arrested at the gate of the Central Prison in Hyderabad by the SHO of Dadu police station and returned to police custody in Dadu. At midnight of 10 October the SHO of Bhan Sayedabad police station took custody of Pir Mazhar and transferred him to that police

Pakistan: Political arrests in Sindh province

station. Pir Mazhar reported to Amnesty International that in Bhan Sayedabad police station he was handcuffed in a standing position to the prison cell window bars from just after midnight to 10.15am of 11 October 1990. "All along I was held in a stinking cell ... with an uncovered toilet without flush system, full of mosquitos and flies and lot of rats running over my body ... I was not even allowed to make water which had a terrible effect on my kidneys". As the news of Pir Mazhar's detention and ill-treatment spread, there was a public protest outside the police station and a general strike following which Pir Mazhar was transferred back to the Dadu police station. An examination by the medical officer of the Civil Hospital in Dadu on 15 October found "brown bruises on the anterior parts of both wrists" which "appeared to have been caused by some hard and blunt substance such as handcuffs or tying the hands with some cloth. The injury was about 3-4 days old at the time of examination." Pir Mazhar subsequently registered a private complaint against the two police officers allegedly responsible for the ill-treatment. In March 1992 one of the accused, the SHO of Bhan Sayedabad police station was free on bail and the other accused had not yet been served with the charge, so that the hearings were repeatedly postponed.

Pir Mazhar was again remanded in police custody, together with former MPA Naban Khan Lund who was also contesting the provincial elections, from 11 to 18 October 1990 in connection with FIR 104/90 registered in Bhan Sayedabad police station under Sections 365A (kidnapping for ransom) and 34 (offence committed with others) of the PPC. A bail application filed in the Special Court for the Suppression of Terrorist Activities was rejected on 15 October on technical grounds. A new application to the Dadu Sessions Court, arguing that the names of both the men had not been mentioned in the FIR and that the remand order contained no grounds for granting remand, was filed the following day. Their lawyer, Shafi Mohammad Memon, was himself detained at the Dadu police station when he attempted to obtain the detainees' signatures on 16 October. He was subsequently himself charged with criminal offences and held under a preventive detention order, which the Sindh High Court quashed on 27 February 1991.

On 17 October interim bail was granted to Pir Mazhar by the Dadu Sessions Court. This order was later confirmed by the Sessions Court in Dadu on 10 November 1990 which stated that "there is no iota of evidence against the present two applicants [Pir Mazhar and Naban Khan Lund]".

In the meantime, on 16 October 1990, the first informant in FIR 104/90, Mohammad Ashraf and the alleged abductee, Mohammed Hafeez Rehman, had sworn affidavits stating that the two accused were in no way connected with the offence. Mohammad Ashraf declared under oath that Bhan Sayedabad police station "... SHO Malik Muhammad Usman due to his personal grudge and political enmity has arrested Pir Mazharul Haq and Naban Khan Lund ... pressing upon us for giving statement ... against Pir Mazhar and Naban Khan Lund who are well-reputed persons and have got no direct or indirect connections in the above case." Muhammad Hafeez Rehman's affidavit further declares that he was threatened by the SHO to implicate the two men who are "not involved in any criminal activities".

Despite the grant of interim bail by the Sessions Court, Pir Mazhar was not released on 17 October. He and Naban Khan Lund were detained in the Dadu police station charged under Sections 225 (obstructing the lawful apprehension of another person), 506 (criminal intimidation), 353 (criminal assault of a public servant), 148 (rioting armed with deadly weapon) and 149 (participation in offence committed by an unlawful assembly) of the PPC in FIR 232/90; remand was granted first from 18 to 19 October 1990 then until 21 October 1990. Bail was granted on 21 October 1990; this case is still pending against Pir Mazhar. On 21 October 1990, the day of his release on bail, Pir Mazhar was re-arrested by officers of the Dadu police station under FIR 47/90 and charged under Section 365-A (kidnapping for ransom) of the PPC;

AI Index: ASA 33/03/92 Amnesty International June 1992

Pakistan: Political arrests in Sindh province

remand was ordered from 22 to 28 October 1990. In this FIR, too, Pir Mazhar was not mentioned by name, nor had the complainant mentioned in the FIR any other unidentified accused beside the five specifically named accused persons. Pir Mazhar was not produced before the magistrate ordering remand. Interim bail was granted on 23 October and release orders served to the detaining police station. Instead Pir Mazhar was re-arrested on charges under Section 365-A (kidnapping for ransom) under an unnamed FIR, (FIR 24/90) registered in K.N. Khan police station, which requested the Dadu police to continue the detention of Pir Mazhar in Dadu. Remand was ordered from 24 to 30 October 1990, but on 27 October the case was closed for lack of evidence against Pir Mazhar. On the same day he was declared re-elected to the provincial assembly of Sindh and finally released at 11pm.

In June 1991 10 further criminal cases registered in different police stations in Karachi were brought against Pir Mazhar and another MNA of the PDA, Sayed Khurshid Shah, under Sections 364 (kidnapping)/34 (offence committed with others), 365-A (kidnapping for ransom) of the PPC and under the Arms Ordinance for illegal possession of arms and ammunition. Neither of the two accused men were identified in the FIRs. The investigating officer on 6 August 1991 deleted the names of Pir Mazhar and Khurshid Shah in the five cases registered under the Arms Act from the police statement, as there was no evidence of their holding unlicensed arms.

Three of the accused in the remaining five cases declared in sworn affidavits on 20 January 1992 that they had not made any statements implicating Pir Mazhar and Khurshid Shah: "The prosecution under duress, coercion and torture made upon us, obtained our signatures on some blank papers which have subsequently been shown as our statements under Section 164 [provision governing statements recorded before a magistrate] of the Code of Criminal Procedure allegedly recorded before the learned A.M. [Additional Magistrate], C.I.A. [Crime Investigation Agency] Karachi on 9.6.1991, involving some former PPP. leaders, namely Syed Khurshid Ahmed Shah, M.N.A., and Pir Mazhar-ul-Haq, M.P.A. The fact is that I never made such statements before the Magistrate as alleged nor was I produced before such Magistrate on 9.6.1991." The supposed confessionals were cited as evidence by Irfanullah Marwar, Advisor on Home Affairs to the Sindh Chief Minister, in a press conference on 8 June 1991 when he was reported to have declared that Pir Mazhar "was 99.9% involved in the kidnapping". Warrants of arrest in connection with the five pending cases were issued against Pir Mazhar and Khurshid Shah in early March 1992. Pir Mazhar left Sindh in June 1991 to live in another part of Pakistan. Similarly MNA Khurshid Ali Shah today reportedly lives outside Sindh in self-imposed exile.

3.2. Repeated arrests of other opposition party members

Numerous other members of opposition political parties, including legislators, have also been subject to apparently politically motivated detention through repeated arrests.

Afaq Shahid, a former PPP MNA from Sindh was likewise detained from 19 November 1990 to 9 July 1991 on a succession of criminal charges. He was elected to the national assembly in 1985 from West Karachi district and unsuccessfully stood for elections in 1988 and 1990. After his arrest by the CIA in November 1990 in Karachi, Afaq Shahid was reportedly remanded in police custody in connection with six unnamed and old FIRs on the charges of kidnapping, dacoity and murder; when the police found no evidence against him in any of these cases and ordered his release from police custody on 31 December 1990, he was further detained under the Maintenance of Public Order Ordinance under three separate

Pakistan: Political arrests in Sindh province

orders for 30 days each. On the orders of the Sindh High Court he was released on 10 April 1991, but was reportedly rearrested from the jail premises and returned to the CIA center on a new charge of which he was cleared on 24 April. He was then detained until 2 May 1991 without charge. He was not produced before any magistrate during this time, nor remanded in custody. On 2 May Afaq Shahid was charged with a murder that had taken place in 1988 and was reportedly transferred to Hyderabad Central Jail. On 23 May he was reportedly returned to Karachi on the order of the Sindh High Court, but detained again in connection with arson and rioting charges registered in Hyderabad. On 22 June he was once again declared innocent of the charge, but the police in two hearings did not inform the court that Afaq Shahid had been cleared of the latest charge, so remand was extended until 3 July. On that day the court was informed that Afaq Shahid had already been released on 22 June after having been cleared of the latest charge, although in fact he was still being held under police guard in a hospital to which he had been transferred for treatment. He was re-arrested on 3 July on leaving the court and held in police custody in hospital. On 9 July 1991 he was released on orders of the Sindh High Court after he complained that he had been detained for eight months although the police had failed to produce any evidence against him.

Khawaja Mohammad Awan, a PPP member of the Sindh provincial assembly and former minister in the PPP provincial government, was similarly arrested on successive criminal charges. On 7 February 1991 he was arrested on the charge of illegal possession of arms. A Special Court for the Suppression of Terrorist Activities in Karachi acquitted him on 19 October. After his release from judicial custody he reportedly told the press that during his detention he was twice promised that all charges would be dropped against him if he joined the IDA. On 20 October 1991 Khawaja Mohammad Awan was arrested again, this time on the charge of involvement in a bomb blast that took place in Karachi on 5 October, when Khawaja Mohammad Awan was still in custody. The case is still pending. Khawaja Mohammad Awan is at present free on bail and lives in self-imposed exile.

The PPP MPA Haji Muhammad Siddiq Shoro was similarly charged with nine consecutive criminal offences and repeatedly remanded over the period 20 March 1991 to 31 June 1991. Siddiq Shoro's name was not mentioned in any of the FIRs under which he was held. He was finally cleared of all the charges by the investigating police as there was no evidence against him in any of the alleged offences.

Former MNA and former federal minister Shahnawaz Junejo, former senator Masroor Ahsan, PPP MPAs Ali Mohammad Hingoro, Haji Siddiq Shoro and Naban Khan Lund and the MNA from Badin, Bashir Ahmed Halepota, were also reportedly arrested and charged with successive criminal offences, mostly involving old and unnamed FIRs.

Many individual PPP workers have also reportedly been charged with successive criminal offences. For instance PPP activist Imdad Obhaya of Bhanoo Goth, Khairpur district, was arrested in the first week of April 1991 in connection with a criminal offence under an FIR registered in 1986 (78/1986) in Baberloi police station. He was acquitted on 22 April 1991 by the Sessions Judge, Khairpur; as he emerged from jail, he was detained by Baberloi police and handed over to the SHO of the "A" Section police station, Khairpur. He was held in police remand under the Sindh Crimes Control Act until 18 May, when the police report was submitted to the magistrate who remanded him in judicial custody.

Imdad Obhaya was released on bail on 5 June 1991, but was re-arrested just outside the jail gate and taken to "A" Section police station, Khairpur. Remand in that police station was ordered from 6 to 15 June and from 15 to 19 June in connection with another FIR registered in 1988 (25/1988). As there was no

evidence against him, he was to have been released on 19 June. Instead he was re-arrested in the police station itself in connection with yet another FIR of 1987 (87/1987) and remanded from 20 to 27 June and again from 27 June to 4 July 1991. On being cleared of this charge for lack of evidence, Imdad Obhaya was re-arrested in the same police station in connection with an FIR of 1986 (203/1986) and remanded in police custody from 4 to 10 July and again from 11 to 17 July. Again he was acquitted and re-arrested in the same police station on another FIR registered in 1986 (26/1986) and remanded from 18 to 24 July, then from 25 to 31 July 1991. Upon acquittal he was re-arrested in the same police station on the basis of an FIR of 1991 (102/1991) and remanded from 1 to 8 August, then from 8 to 14 August. After acquittal in this latest case Imdad Obhaya was held in the police station without any order of remand until he was moved to Sobhodero police station on 28 August. He was held there without any charge until 13 September when he was moved to Sorah police station. His detention by Sorah police station was shown in the police record to have been carried out on 15 September 1991 under Section 13-D of the Arms Ordinance for illegal possession of arms. Imdad Obhaya's lawyer informed Amnesty International that this process of arrest and re-arrest which began in April 1991 continued after September 1991 as well (see also p.32).

3.3. Arrests of opposition leaders before and during elections

Another form of political arrest has been the short-term detention and abduction by the police, apparently intended specifically to prevent opposition leaders from participating in elections or parliamentary votes. Amnesty International has not been able to independently verify all of the reported arrests set out in the following paragraphs. Most of the information on these arrests derives from reports in Pakistani newspapers and communications from local human rights groups.

Arrests of leading members of the opposition party, particularly those holding office as MPAs and MNAs severely interfered with their ability to fulfil their political responsibilities, such as attending parliamentary sessions, working in their constituencies or taking part in elections. Both under the caretaker government and under the elected government of Jam Sadiq Ali arrests reportedly occurred before elections; among the arrested persons were a large number of candidates and political leaders supporting them. The latter group allegedly included several members of the previous provincial assembly and of the national assembly. Such arrests were reported to have taken place before the general elections to the national assembly on 24 October 1990, the provincial assembly on 27 October 1990, the Senate by-election on 1 December 1990, the national and provincial by-elections on 10 January 1991, the Senate elections on 14 March 1991 and the Jacobabad by-elections on 29 June 1991. The "Frontier Post", Peshawar, stated in its issue of 1 March 1991, "The arrest of PDA MNAs, MPAs and leaders on the eve of by-elections has become a matter of routine."

Before the general elections to the federal and provincial assemblies in October 1990 a large number of PPP members, both party leaders and party workers, were arrested. The case of Pir Mazhar-ul-Haq, a former MPA and provincial law minister, has already been outlined (see pp.8). Similarly on 1 September 1990 Rahim Bakhsh Wassan, brother of former MPA and provincial minister Manzoor Hussain Wassan and himself a candidate in the provincial elections, was detained under Section 3(1) of the MPO by order of the District Magistrate, Khairpur. A constitutional petition challenging the detention order was filed in the Sindh High Court; on 12 September the petition was allowed and the detention order quashed.

Pakistan: Political arrests in Sindh province

In a letter to the Chief Election Commissioner on 15 October 1990 the PPP complained that a large number of other PPP candidates were at that time in detention in order to intimidate them or to hamper their campaigning. The PPP alleged that the arrests of the 27 PPP candidates, campaigners and local office bearers it named in the letter, had taken place on the basis of old and unnamed FIRs, and that frequently when the charges had been shown to be untenable, new charges were brought against these people.

Several PDA legislators were reportedly detained in order to prevent them from participating in by-elections by the provincial legislature for two vacant seats of the Senate, the upper house of parliament, on 1 December 1990. PDA MPA Abdul Ghafoor Nizamani stated in the Sindh provincial assembly on 19 December 1990 that he had been arrested on 30 November 1990 by the police who told him that they had orders to arrest him under the MPO. He was reportedly taken to Khairpur Gambo police station and released after the vote in the evening of 1 December, without any detention order or warrant of arrest having been shown to him. Similarly Mir Hayat Talpur, PPP MPA from Degree, Tharparkar district, was reportedly detained on the way to the assembly on 1 December to cast his vote in the Senate election; the police allegedly held him in a private house until evening on the ground that he did not have his car registration papers with him. The PPP MPA Haji Amir Bux Junejo was reportedly similarly detained on his way to the assembly on 1 December, while the MPAs Taj Mohammad Sheikh, Mohsin Shah Bukhari, Syed Qabool Mohammad Shah, Ghulam Shah Jillani and Harri Ram were reportedly arrested on 29 November without warrant or detention order and released after the Senate election.

"The Far Eastern Economic Review" of 31 January 1991 reported that during national and provincial by-elections on 10 January 1991, held to fill seats vacated by legislators returned in the general elections from more than one national or provincial constituency, former Sindh chief minister Aftab Sahban Mirani, former Sindh assembly speaker Syed Abdullah Shah and some other PDA leaders were unlawfully detained. Their detention reportedly followed widespread arrests of PDA workers in Badin and Thatta districts.

Similarly the elections of ten senators in the provincial assembly on 14 March 1991 were reportedly preceded by several arrests. Among the arrested persons were the five MPAs of the PDA from Karachi: Abdul Sattar Lighari, Lal Bux Bhutto, Abdul Hakeem Baluch, Hanif Soldier and Haji Khan Chachar. They were reportedly detained from 19 and 20 February 1991 in government rest houses under police guard. While three of the MPAs were reportedly released after the elections, Hanif Soldier and Haji Khan Chachar were on the election day reportedly conducted by Anwar Nizamani, a Special Assistant to the Chief Minister, to the polling station in the Sindh Assembly Committee room. They then cast their open votes in the presence of the Provincial Election Commissioner. Hanif Soldier was reported to have admitted before other MPAs immediately after the election that the threat to life and honour of members of his family had forced him to defect to the IDA. The other three MPAs prevented from participating in the Senate election reportedly lodged complaints about their illegal detention before the speaker of the national assembly in Islamabad and to the Prime Minister's Inspection Commission, but to Amnesty International's knowledge no action was taken on these complaints.

3.4. Arrests of members of the PPP leadership

AI Index: ASA 33/03/92 Amnesty International June 1992

Pakistan: Political arrests in Sindh province

Several members of the highest ranks of the PPP were also arrested in connection with alleged criminal offences such as kidnapping for ransom and conspiracy leading to shooting at camps of members of the MQM on 22 August 1990. Among them are Asif Ali Zardari, an elected MNA and the husband of former Prime Minister Benazir Bhutto, MPA Ghulam Hussain Unar, former chief minister of Sindh and currently leader of the opposition in the Sindh assembly Syed Qaim Ali Shah, former ministers Manzoor Wassan, Shah Nawaz Junejo and Ameer Hyder Kazmi, and former senator Masroor Ahsan.

Amnesty International is not in a position to ascertain if the criminal charges brought against Asif Ali Zardari and other high PPP leaders are justified. The organization is, however, concerned that these PPP members may have been charged due to their political affiliation and that their trials may not be fair. The proceedings of the Special Courts for the Suppression of Terrorist Activities violate international standards of fair trial in a number of ways (see pp.44). Amnesty International is further concerned that in February 1991, within weeks of the charges being brought against Asif Ali Zardari, parliament passed two bills which extended the death penalty to the offence of kidnapping for ransom and which empowered Special Courts for the Suppression of Terrorist Activities to try this offence.

Asif Ali Zardari was arrested on 10 October 1990 on the charge of kidnapping for ransom of a British businessman. After the maximum remand period of 14 days in the custody of the police, Zardari was transferred to Landhi District Jail in Karachi, where except on a few occasions he has been held in solitary confinement. An FIR lodged on 14 April 1990 and the subsequent police statement identified Ghulam Hussain Unar as the principal accused. The name of Zardari was not mentioned in these reports. Zardari was first named as a co-accused in a second FIR lodged on 24 October 1990, at the time when he stood for election in constituencies in Sindh. Asif Manzoor Hussain, who allegedly carried out the kidnapping, was granted pardon in January 1991 and turned "approver" or witness of the prosecution against Zardari. The trial of Ghulam Hussain Unar, Asif Ali Zardari and others by a Special Court for the Suppression of Terrorist Activities in Karachi had not been concluded by the end of 1991.

In six other criminal cases, now consolidated, Asif Ali Zardari and a number of PPP leaders are being tried by a Special Court for the Suppression of Terrorist Activities in Karachi. They were formally charged at the end of September 1991 with having criminally conspired to create panic in Karachi and to terrorise MQM supporters. As a result of this alleged conspiracy, shooting at several camps of MQM workers took place on 22 August 1990 in Karachi in which some 23 persons were reportedly killed and many injured. Among the accused are Syed Qaim Ali Shah, Manzoor Wassan, Shah Nawaz Junejo, Ameer Hyder Kazmi and Masroor Ahsan. Most are at present in judicial custody, while some are free on bail.

3.5. Mass arrests of opposition party members

The first wave of mass arrests occurred under the caretaker government of Ghulam Mustafa Jatoi less than a week after the dismissal of the PPP government. Those detained included the personal secretary of former Prime Minister Benazir Bhutto and several PPP workers. They were reportedly detained without any warrant or show of reason for arrest and released within days. Shortly after the government of Mian Nawaz Sharif assumed office, hundreds of PPP workers and members of its student wing, the People's Students Federation (PSF), were reported to have been arrested in December 1990 and January 1991 under cover of a campaign against crime in the province. Many of those arrested were not charged at all,

Pakistan: Political arrests in Sindh province

while some were placed under 30-day detention orders under the MPO.

Several waves of arrest occurred in 1991 after violent events for which the government held the PPP responsible, apparently without first undertaking any investigation. For instance after the murder of judge Nabi Sher Junejo in June 1991 Sindh Chief Minister Jam Sadiq Ali publicly held the PPP responsible for the crime. The PPP denied any involvement. Similarly Advisor on Home Affairs to the Sindh Chief Minister, Irfanullah Marwat, alleged after the murder of police sub-inspector Malik Ehsan, an investigating officer in a kidnapping case in which Asif Ali Zardari is a co-accused, that the Zardari family had sought to "eliminate an important witness".

Following the murder of Nabi Sher Junejo, the presiding judge of a Special Court for the Suppression of Terrorist Activities in Karachi, of his bodyguard and a driver on 18 June 1991, several hundred members of the PPP were arrested immediately; within the following week another 2,500 were reportedly arrested in what Benazir Bhutto described as an "anti-PPP conspiracy". According to PPP sources over 2,000 of the prisoners were PPP leaders and members, 500 belonged to the Jeay Sindh Students' Federation, 200 to the Jeay Sindh Mahaz, 175 to the Sindh National Front and about 100 to other parties. Most were subsequently released, but at least three PPP members, Akram Memon, Bashir Baloch and Rajab Ali Brohi, continue to be held in detention since then and are charged with the murder along with eight others stated to be absconding. The three arrested PPP members alleged during their trial by a Special Court for the Suppression of Terrorist Activities in Karachi that they had been tortured in police custody to extract confessions. Their cases are still pending. All three were seen to be wearing shackles when produced in court.

On 27 August 1991 Sub-Inspector Malik Ehsan, an investigating officer in cases pending against Asif Ali Zardari and reportedly identified by Pakistan Students' Federation activist Rahila Tiwana (see p.35) as one of the CIA personnel involved in torturing her, was killed in a gun attack by unknown assailants in Karachi. About 25 PPP workers were reportedly arrested in connection with the murder, although a police spokesman put the number at 18. While most were released within days, three of those arrested were charged. To Amnesty International's knowledge the case has not yet come up for hearing.

According to eye-witnesses a large number of people were reportedly arrested on 4 August 1991 during and after a hunger strike called by the PDA. PPP sources claim that around 3,000 people were arrested while the government denied any arrests. Most of those detained were released within hours or days, but some continued to be held considerably longer. Among them was Dr Khatumal Jeevan, the PDA Hindu minority MNA from Mirpurkhas, whose whereabouts were not known until he was released after about a month.

The latest large wave of arrests in Sindh began on 26 November 1991 and lasted into the beginning of December. Prominent among those reportedly arrested were Sher Mohammad Baloch, president of PPP, Karachi East; Naeem Hasmi, organizer of PPP, Karachi Central; Saeed Chawla and Shaikh Zaheer, candidates in 1990 for national and provincial assembly seats respectively, Dr Sikander Mandhro, president of PPP, Badin district; Zahoor Alam Rind, president of PPP, district Sanghar; Mirza Ashiq Mirza, president of PPP, district Hyderabad and Dr Mussarat Khawaja, president of People's Doctors Forum. The majority of those arrested were, however, regular party workers.

The opposition have claimed that over 2,000 PPP and Sindh People's Students Federation (SPSF)

Pakistan: Political arrests in Sindh province

members were arrested mostly from their homes without warrants of arrest during this crackdown, while Sindh Chief Minister Jam Sadiq Ali declared that only 318 alleged members of the AZO had been arrested. Prime Minister Mian Nawaz Sharif expressed his support for the Chief Minister's action in Sindh when on 2 December he said "The current crackdown in Sindh is against these [terrorists] elements and not the political workers ... It is the duty of the Government to take notice of any violence of law in the land. Therefore, we extend our support to the provincial government to net the anti-social elements." Thousands of PPP activists were reported by the international media to have gone into hiding. At the end of the year hundreds remained in detention.

The PPP viewed the arrests as directly related to the impending local elections. The PPP had also planned to hold its Central Executive Committee meeting on 28 November and the All Parties Conference on 29 November.

In early 1992 Pakistani newspapers reported a crackdown on the leadership and activists of the Jeay Sindh Mahaz (Long Live Sindh Front). Its ailing leader, G.M. Syed, was on 18 January placed under house arrest for making a speech on 17 January, his 89th birthday, demanding a separate Sindhi homeland, as he had done several times in the past. The FIR registered on 19 January 1992 charged G.M. Syed and six others with offences under Sections 121-A (conspiracy to wage war against Pakistan), 123-A (condemnation of the creation of the state of Pakistan and advocacy of abolition of its sovereignty), and 153 (promoting enmity between different groups) of the PPC and Section 13 of the Prevention of Anti-National Activities Act of 1974, as the "accused persons created not only feelings of hatred and enmity between different provinces of Pakistan but also condemned the creation of Pakistan while advocating at the same time ... the disintegration of the country and independence of Sindhu Desh." On 15 February 1992 non-bailable warrants of arrest were issued by a Special Court for the Suppression of Terrorist Activities in Karachi against eight absconding Jeay Sindh Mahaz activists and a member of the Pakistan Seraiki Party which represents the interests of the Seraiki minority in Sindh and Punjab; a hearing in the sedition case against G.M. Syed and these eight persons was to be held on 26 February 1992, then postponed again without any hearing having taken place.

G.M. Syed had been previously arrested by the PPP government in October 1989 for allegedly burning the flag of Pakistan. He was released by the interim government in September 1990 and the treason charge was withdrawn in 1991 when a rapprochement between the IDA and the Jeay Sindh Mahaz was reached. Chief Minister Jam Sadiq Ali had reportedly declared the day before G.M. Syed's birthday in 1992 that the Jeay Sindh Mahaz leader was a "true patriot".

Arrests of small groups of PPP and PSF members were also reported throughout late 1990 and 1991, many of them on the charge of being members of the AZO. In September and October 1990, for example, 10 PSF activists were reportedly detained in Nawabshah, Jacobabad, Khairpur and Larkana by the paramilitary Rangers and taken to Pano Akil Cantonment; on 31 October they were transferred to "A" Section police station in Sukkur and on 1 November 1990 were charged in FIR 168/1990 with criminal offences under Sections 121 (waging war against Pakistan), 121-A (conspiracy to wage war against Pakistan) and 122 (collecting arms with the intention of waging war) of the PPC and Section 13 of the Prevention of Anti-National Activities Act of 1974. The Special Court for the Suppression of Terrorist Activities in Khairpur took up the case which by the end of 1991 had not been concluded. Similarly, 28 members of the SPSF were arrested in rural Sindh in late August/early September 1990 on charges of being members of the AZO; the whereabouts of all of them could not be ascertained by the end of 1991

Pakistan: Political arrests in Sindh province

(see p.31).

The central convener of the Sindh People's Prisoners Relief Committee, Syed Mehboob Shah Bukhari, in August 1991 released a list of 46 PPP and SPSF workers who had been arrested between August 1990 and August 1991 on the suspicion of being AZO members in Sindh alone. It is not known to Amnesty International how many political prisoners in all were held under these charges.

4. Legislation under which opposition members were detained

While a large number of political prisoners in Sindh were unlawfully held by the police and released after hours or days, some were detained after the authorities brought criminal charges against them. Others were held under the Maintenance of Public Order Ordinance, and yet others under other preventive detention laws, including the Prevention of Anti-National Activities Act of 1974 and Sections 121, 121-A and 122 of the Pakistan Penal Code and Sections 107 and 151 of the Code of Criminal Procedure.

The arrest and detention of political prisoners in Sindh has frequently been without lawful authority, either because political prisoners were held arbitrarily by the security forces without reference to any law at all or because detention procedures did not satisfy the requirements of Pakistan law. Detention without lawful authority is prohibited by Article 9 of the constitution of Pakistan which states "No person shall be deprived of life or liberty save in accordance with law." Amnesty International is concerned that political prisoners in Sindh have frequently been held in unlawful detention and have been denied the legal safeguards available under Pakistan law.

Arrest and detention without any show of reason is clearly unlawful and violates both the safeguards laid down in the constitution of Pakistan and international human rights standards. The following sections indicate the ways in which the arrest and detention of political prisoners in Sindh violate the legal requirements of arrest and detention as contained in Pakistan law. The concluding section of this paper outlines the ways in which some of Pakistan's laws and procedures relating to arrest, detention and trial of political prisoners violate international human rights standards.

4.1. Judicial supervision of police custody

The procedures followed in many of the arrests on criminal charges reported to Amnesty International do not satisfy the requirements of the Pakistan Code of Criminal Procedure (CCP). It provides in Section 61 that "No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not ... exceed twenty-four hours ...". Section 167 further lays down: "(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within twenty-four hours ..., and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station ... shall forthwith transmit to the nearest magistrate a copy of the entries in the diary ... relating to the case, and shall at the same time forward the accused to such magistrate. (2) The Magistrate to whom an accused person is forwarded ... may ... authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days, in the whole. ... (3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing."

Pakistan: Political arrests in Sindh province

If during investigation it "appears to the officer making investigation that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to the magistrate, such officer shall, if such person is in custody, release him on his executing a bond ..." (Section 169). If the investigation suggests a reasonable ground for proceeding, the accused is sent to a magistrate who is empowered to take cognizance of the offence on the basis of the police report and initiate a trial. There is no specific legal provision to protect a person from being arrested on a new charge on being cleared of an earlier one.

Amnesty International has been informed about many cases in which these provisions have been ignored. The cases of Pir Mazhar-ul-Haq, Afaq Shahid and Imdad Obhaya have been described in some detail, and in each of them some of the legal requirements governing arrest under Pakistan law have been ignored. For example Imdad Obhaya was for some time held in police custody although no remand order had been issued by a magistrate; Pir Mazhar-ul-Haq was not brought before a magistrate each time a new remand order was issued and several remand orders did not state reasons for ordering remand. Similarly S.M. Saleem, a PPP member and lawyer practicing in Mirpurkhas who was charged with a series of criminal offences, pointed out several breaches of the law when he submitted an affidavit as part of a constitutional petition to the Sindh High Court, Karachi, in January 1992. After his arrest on 27 November 1991 he was detained in Town police station, Mirpurkhas. He was presented to a magistrate on 30 November 1991 rather than within the stipulated 24 hours. S.M. Saleem testified further that during his detention in Digri police station from 13 to 27 December and in Umerkot police station since 27 December 1991 he was not produced before the magistrate ordering his remand, nor was he informed of the charges under which he was held. During the detention periods in Mirpurkhas and Digri police stations he was not interrogated at all nor did any identification parade or any other form of investigation take place.

4.2. Detention by repeated arrests and laying of charges

The practice of repeatedly arresting persons and laying a series of criminal charges against them may not technically violate Pakistan law. Amnesty International is, however, concerned that detention by repeated arrests and laying of charges is a form of arbitrary detention which violates Article 9 of the constitution of Pakistan and Article 9(1) of the International Covenant on Civil and Political Rights which states that "No one shall be subjected to arbitrary arrest or detention." Amnesty International is further concerned that in the cases described in the report, the practice of repeated detention under successive charges has apparently been prompted by the detainees' involvement in legitimate political activities and organizations.

Justice Muhammad Munir Khan observed in a judgment of the Multan bench of the Punjab High Court on 19 June 1991 that Section 54 of the CCP, which regulates arrest without warrant, and Section 167 of the CCP, which governs procedures for obtaining remand, do not entitle the police to make repeated arrests under different charges. When arrested, a person should be deemed to have been arrested in all the cases registered against him at that police station and should be interrogated about the allegations in all the charges brought against him. Justice Muhammad Munir Khan reportedly added that it would be desirable for the police to inform the magistrate in the remand application if there were more than one charge against the person in respect of whom remand is sought. He subsequently instructed the Inspector General

Pakistan: Political arrests in Sindh province

of Police of Punjab to ensure that the provisions of Section 54 of the CCP are not misused by the subordinate officers and urged the Home Secretary of the Government of Punjab to ensure that successive remands of an accused person are not allowed. It is not known to Amnesty International if the High Court of Sindh has made a similar ruling.

4.3. Detention under the Maintenance of Public Order Ordinance (MPO)

The MPO empowers the authorities to detain people for up to three months if there are any grounds to believe that they are "acting in any manner prejudicial to public safety or the maintenance of public order". A review board may extend such detention up to eight or 12 months, depending on the grounds of detention. Detention orders under the MPO - though the MPO is a detention instrument of the executive - are subject to judicial review by way of appeal to the provincial High Court. Amnesty International has received a number of reports of cases in which the High Court of Sindh has found such detention to be unlawful and ordered the release of the persons held under the MPO as in the cases of Pir Mazhar-ul-Haq and Afaq Shahid. Such judicial remedy, however, may not always be effective; as noted above the order of the Sindh High Court for the release of Pir Mazhar-ul-Haq was not followed by the police. The organization is also concerned that some political prisoners in Sindh have arbitrarily been detained for weeks and sometimes months on detention orders under the MPO which did not satisfy the requirements of the laws governing this form of administrative detention.

In declaring the detention of Afaq Shahid under the MPO invalid, Chief Justice Saeeduzzaman Siddiqui and Judge Imam Ali G. Quazi reportedly observed: "The executive authorities should ... bear in mind that the indiscriminate exercise of power under the preventive detention laws by agencies subordinate to them may ultimately adversely affect the working and credibility of the Government. We sincerely feel that, in order to promote public confidence in the executive actions of the government and to deter the officers having vast powers under preventive laws ... from depriving a citizen of his right of freedom, ... the Government should consider promulgation of special laws authorizing the superior courts, while declaring the actions of such functionaries of Government to be without jurisdiction, malafide or malicious, to award suitable punishment ... against the officials found guilty of exercise of power in such indiscriminate manner."

Human rights lawyers in Pakistan have also pointed out that the criticism by the international community and national human rights organizations about the abuse of the MPO to detain prisoners of conscience and other political prisoners have led to changes in the patterns of arrest in Sindh such that government opponents have come to be more frequently arrested on repeated criminal charges rather than under administrative detention orders.

4.4. Preventive detention under Sections 107 and 151 of the Code of Criminal Procedure (CCP)

A large number of persons arrested in November 1991 were held on non-criminal charges under Sections 107 and 151 of the CCP. Amnesty International has received copies of several petitions and related affidavits filed by prisoners held under these sections which suggest that many of the detention orders issued in November 1991 may have been politically motivated and did not fulfil the requirements of Pakistan law.

Pakistan: Political arrests in Sindh province

Section 151 empowers a police officer to effect a preventive arrest: "A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented." Section 107 empowers a magistrate to issue a warrant of arrest in respect of any person "likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace, or disturb public tranquility". He may then "require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year, as the magistrate thinks fit." The magistrate is under Section 112 of the CCP required to pass an order in writing "setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is in force, and the number, character and class of surety (if any) required." The magistrate "may detain him in custody until such bond is executed or, by default of execution, until the inquiry is concluded ..." (Section 117(3)). The order to execute a bond has to be communicated to the person concerned, if he is already in custody; if he is to be arrested, it has to be presented to the person concerned along with the warrant of arrest (Sections 113-115). The magistrate shall then proceed with the enquiry, but no charge need be framed.

Amnesty International is concerned that many of the police reports on the basis of which magistrates issued detention orders in November 1991 failed to reveal the facts on which the magistrates could reasonably determine that the requirements of Section 107 had been fulfilled. For instance, a report of the SHO of Tando Jam police station on 28 November 1991 merely states that Mohammad Amin and Raees Dinal Khan of Abri, Hyderabad district, "are active workers of the Pakistan People's Party and have been creating a disturbance in the area and there is apprehension of breach of the peace as a result of their activities." Another police report regarding the arrest of PPP workers Zamir Ahmed and Bashir Ahmed on 28 November 1991 in Liaqatabad, Karachi, reads: "On 28. 11. ... these two accused persons were instigating trouble, for this reason the people of the area got angry. Therefore breach of the peace is apprehended and these people are being arrested."

In some cases brought to Amnesty International's notice the magistrates' remand orders contained gross distortions of fact. For instance the Additional Sessions Judge, Hyderabad, after hearing an appeal (51/1991) of PPP workers Mohammad Amin and Raees Dinal Khan from Abri, Hyderabad district, set aside the detention order as "illegal and without jurisdiction" because it misrepresented facts. The SHO of Tando Jam police station had arrested the two men on 28 November 1991 and brought them before a magistrate under Sections 107 and 151 of the CCP alleging that they "are active members of the PPP and have been creating disturbance in the area and there is apprehension of breach of the peace as a result of their activities." The magistrate's order of remand, however, stated, "there is dispute between the informant SHO Tando Jam and you, and you are trying to disturb the peace. You are therefore abusing, beating and threatening dire consequences to the informant SHO ... All these illegal activities on your part clearly indicate that you are committing breach of peace and disturbance of public tranquility." The Sessions Judge concluded that "the learned magistrate did not apply his mind to this report" and had "mechanically issued the order".

The order to execute a bond as required under Sections 112 and 117 was in a number of cases reportedly not issued, with the consequence that the prisoners concerned could not be released before the enquiry was concluded, as was the case with Mohammad Amin and Raees Dinal Khan.

Pakistan: Political arrests in Sindh province

In other cases the requisite order to execute bond under Section 112 was issued, but the magistrate reportedly refused to accept bond or surety. For instance Munawar Ali Khan of Hussainabad, Hyderabad, in an affidavit of 2 December 1991 submitted along with a petition to the Sessions Court, Hyderabad, declared that he had stood surety on 28 November for two prisoners, Shafi Muhammad and Sher Muhammad. Both had been arrested on 26 November and were remanded to judicial custody in Nara Prison, Hyderabad. The Sub-Divisional Magistrate, Latifabad, Hyderabad, refused to accept the surety papers both on 28 and 30 November. Under Section 122 of the CCP a magistrate may indeed refuse to accept surety, "provided that, before so refusing to accept ... any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held ...". In this case the magistrate allegedly stated that he refused surety because "the prisoners are PPP members".

4.5. Detention under Sections 121, 121-A and 122 of the Pakistan Penal Code (PPC) and under the Prevention of Anti-National Activities Act of 1974

Throughout the period after the dismissal of the PPP government, but particularly in late 1990, groups of people have been arrested on the charge of being members of the Al-Zulfikar Organization (AZO). Persons suspected of being members of this alleged terrorist organization are charged under Sections 121 (waging war or attempting to wage war against Pakistan), 121-A (conspiracy to wage war against Pakistan), 122 (collecting arms with the intent of waging war against Pakistan) of the PPC and Section 13 of the Prevention of Anti-National Activities Act of 1974. Amnesty International is concerned about reports that the legal requirements of arrest and detention of alleged members of the AZO under these sections of the PPC and the Prevention of Anti-National Activities Act are routinely ignored by the detaining authorities and that such arrests and detention have frequently been without legal authority.

Several different FIRs against alleged AZO members seen by Amnesty International are identically worded setting out the reasons for arrest in very general terms. They contain the phrase "it is reliably learnt" without naming the source of information, and do not provide a sufficient statement of facts to support the allegation against the accused. They do not describe specific criminal acts allegedly perpetrated by the persons charged. For instance the FIR registered in Hyderabad on 1 November 1990 which charges 28 SPSF activists with AZO membership reads:

"It is reliably learnt that an anti-state organization styled as "Al-Zulfikar" is busy in terrorist/subversive and anti-state activities in Sindh. 28 (twenty-eight) members of this organization belonging to Hyderabad Range were apprehended by law-enforcing agencies and some with assault weapons and handed over to police. These persons who are members of "Al-Zulfikar" Organization conspired against the sovereignty and integrity of Pakistan in that they got themselves employed/engaged, took oath for anti-state activities and were sent to India for terrorist training. They were deputed to different places in Sindh to carry out their anti-state missions and to wage war against Pakistan. Their names are ..."

Amnesty International is concerned that the FIRs do not adequately inform the detainees of the details of the charges brought against them as is required by the Pakistan Code of Criminal Procedure.

No court in Pakistan may take cognizance of offences against the state (Sections 121 - 130 of the PPC) "unless upon complaint made by order of, or under authority from the Central Government or the

Pakistan: Political arrests in Sindh province

Provincial Government concerned, or some officer empowered on this behalf by either of the two governments" as laid down in Section 196 of the CCP. Under Section 196-B of the CCP, a District Magistrate may "order a preliminary investigation by a police officer not below the rank of Inspector" who may then upon being so instructed make the complaint on behalf of the government.

These legal requirements seem to have been routinely ignored in charges brought against alleged members of the AZO. For instance in the case of the ten student members of the PSF charged under the relevant sections on 1 November 1990 in Sukkur, no such complaint on behalf of the government had reportedly been made. In the case of five alleged AZO members, among whom was Mohammad Sadique Umrani, a PPP MNA and former provincial minister in Baluchistan who was arrested on 28 September 1990, the required authority was reportedly obtained after the court had already taken cognizance of the case. The relevant FIR had been registered on 1 November 1990, the Special Court for the Suppression of Terrorist Activities had framed the charges on 13 June 1991 and framed them again after transfer to another court on 16 July 1991. On 24 July the trial court took judicial notice of the fact that no complaint had been made on behalf of the federal or provincial government. On 20 August 1991 an inspector of the police appeared before the court on behalf of the prosecution and submitted that he had applied for the complaint and would hand it over on the next hearing. It was issued on the same day by the home ministry of the government of Sindh.

Under the provisions of the Prevention of Anti-National Activities Act of 1974 the magistrate may not proceed to register a complaint and order remand on the basis of the FIR submitted by the police. Rather some further requirements have to be fulfilled: Section 16 of the Prevention of Anti-National Activities Act of 1974 states that "no court shall take cognizance of any offence punishable under the Act except with the previous sanction of the Federal Government or Provincial Government or any officer authorized by either Government ...". The sanction issued by the government must specify names of persons, facts allegedly constituting the offence and reasons for issuing the sanction. Further, Section 3 requires that a notification be issued by the government which declares the organization concerned an anti-national organization.

In most cases of alleged membership in the AZO reported to Amnesty International a proper sanction from the relevant authorities stating that there was sufficient cause for suspecting the defendants of involvement in anti-national activities and for therefore prosecuting them had not been obtained. For instance in the case of Mohammad Sadiq Umrani and four others (see above), no such sanction had been obtained and placed on court record before the court took cognizance of the cases. To Amnesty International's knowledge the AZO has not formally been declared an anti-national organization as required by Section 3 of the Prevention of Anti-National Activities Act. This would imply that nobody may on the basis of his alleged membership in the AZO be legally charged with anti-national activities. It appears that the magistrates registering complaints against alleged members of the AZO and ordering their remand acted without lawful authority, and that the Special Courts for the Suppression of Terrorist Activities unlawfully assumed jurisdiction in these cases when they framed the charges and started proceedings.

5. Unacknowledged detention of political prisoners

Political prisoners in Sindh were frequently held in unacknowledged detention for several days,

Amnesty International June 1992AI Index: ASA 33/03/92

Pakistan: Political arrests in Sindh province

sometimes even weeks. Some were reported to have been transferred from one police station to another making it even harder for their families to find out their whereabouts. When family members filed habeas corpus petitions in the High Court, police officers reportedly concealed the truth from the courts. In some cases contempt of court proceedings were reported to have been initiated against police officers for allegedly withholding facts about detention.

Manzoor Hussain Wassan, former provincial minister for transport and youth affairs under the PPP government and, after his election in 1990, MPA and chief whip of the PDA in the Sindh assembly, was arrested apparently by plain clothes police officers on 16 December 1990 from his residence. He was reportedly taken to Khairpur police station, then Sorah police station, Khairpur district and Tajal police station, Khairpur district on 17 December, transferred to Khanwah police station on 18 December, to Sorah police station on 19 December, back to Khairpur police station on 20 December, to Abdul Rehman Khan police station in Kungri on 21 December, on 23 December to Sobho Dero police station, and on 14 December again to Khairpur police station. On 26 December Manzoor Wassan was reportedly transferred to judicial custody in the Central Prison in Sukkur.

As his arrest on 16 December had apparently been effected by plain clothes police officers it was initially assumed that he had become the victim of a kidnapping. Following a privilege motion by a PDA MPA to ascertain the whereabouts of Wassan, Chief Minister Jam Sadiq Ali stated on the floor of the Sindh assembly on 19 December 1990 that the opposition chief whip had not been arrested by the Sindh government and advised the opposition to register an FIR regarding the "disappearance" of Wassan.

On the same day Muhammad Ali Wassan, nephew of Manzoor Hussain Wassan, attempted to register an FIR for kidnapping in Ferozabad police station but the police refused to register it; later on the same day he filed a constitutional petition against illegal detention of Manzoor Hussain Wassan and for registry of an FIR in the Sindh High Court. On 24 December the Khairpur police station informed the court that Wassan was not in its custody, and that there was no charge pending against him in Khairpur district. On the orders of the Sindh High Court an FIR was registered against the police officers from Khairpur police station who had been observed to arrest Wassan. On 27 December the Senior Superintendent of Police, Khairpur, informed the Sindh High Court that Wassan had been arrested on 25 December from his village Kot Digi in connection with two FIRs, FIR 232/1990 under Sections 307 (attempt to murder), 336 (endangering life of others), 148 (rioting), 149 (unlawful assembly) of the PPC and Section 13-D of the Arms Act, and FIR 261/1990 under Section 13-D (illegal possession of arms) of the Arms Act, both registered at Kot Digi police station on 31 October 1990 and 25 December 1990 respectively.

Muhammad Ali Wassan on 27 December 1990 filed a contempt of court application against the Senior Superintendent and the Deputy Superintendent of Police, Khairpur, for having made false statements to the Sindh High Court about the detention of Wassan. In a counter-affidavit both police officers denied the allegations and that Manzoor Ali Wassan had been arrested on 16 December 1990. Rather, they stated on oath, that Wassan had gone into hiding to avoid arrest in connection with FIR 232/1990. Wassan was then arrested, they declared, on 25 December 1990 by SHO Kot Digi, and, as an unlicensed gun was found on him, FIR 261/1990 was additionally registered.

Mohammad Ali Wassan replied to the counter-affidavit by a further affidavit, reiterating all his earlier allegations. He also pointed out that a press party had accidentally discovered Wassan in a police station and photographed and interviewed him there. Wassan was in the photographs shown to hold newspapers

Pakistan: Political arrests in Sindh province

of the day. Wassan was freed on bail by a High Court order on 21 March 1991, but was shortly afterwards arrested in connection with the MQM firing case in which a number of PPP leaders were also charged.

Another case of unacknowledged detention in which political prisoners were frequently transferred to different police stations which prevented their families from finding them, relates to twenty-eight members of the Sindh People's Student Federation (SPSF) (see p.21). They were arrested in late August-early September 1990 from their native villages in the rural districts of Sanghar, Dadu, Badin, Nawabshah, Thatta and Hyderabad in Sindh reportedly by the paramilitary Rangers and taken to Hyderabad cantonment. They were handed over to the CIA, Hyderabad, on 1 November 1990 and an FIR (No 248/1990) was registered against them on that date in Cantonment police station, charging them with criminal offences under Sections 121 (waging war against Pakistan), 121-A (conspiracy to wage war against Pakistan), 122 (collecting arms to wage war against Pakistan) of the PPC and Section 13 of the Prevention of Anti-National Activities Act of 1974. The trial of the 28 students began in early 1991 before a Special Court for the Suppression of Terrorist Activities but bail was granted on 19 January 1992 by orders of the Sindh High Court.

One of the students then to be released was Mohammad Yusuf Solangi, who had been arrested on 7 September 1990 from Dangri village in Dadu district; instead he was immediately re-arrested by officers of the Kotri market police station and subsequently handed over to the police station at Johri. Yusuf Solangi's brother, Mohammad Manzoor Solangi, sent a telegram to the Chief Justice of the Sindh High Court informing him that he had come to know that his brother was under unlawful detention in Johri police station. The High Court treated the telegram as a habeas corpus petition and summoned the SHO of Johri police station to dispose before the court on 18 February 1992. The SHO denied that Yusuf Solangi was detained in Johri and that he knew anything about his whereabouts. When Mohammad Manzoor Solangi insisted during the hearing that he was certain that his brother was under detention in Johri, the Chief Justice, Justice Saeeduzzaman Siddiqui, ordered the District Judge, Dadu, over the phone immediately to search Johi police station. The SHO from Johi was meanwhile made to stay on the High Court premises. Yusuf Solangi was found in Johri police station and contempt of court proceedings were initiated against the SHO. The hearing date was to be 24 February 1992. The Chief Justice also reportedly directed the Advocate General to ensure that the complainant, Mohammad Manzoor Solangi, was not implicated in a false case.

Another detained student, Mir Hasan Umrani, was after the grant of bail on 19 January 1992 transferred to Hyderabad market police station, then to a police station in Sanghar district from which he sent a telegram to the Sindh High Court complaining about his illegal detention. The Sindh High Court ordered that he be produced in court on 28 January 1992 and, after he had given an affidavit about his detention, ordered his release and also issued an order that Mir Hasan Umrani not be re-arrested without court order. The Sindh People's Lawyers' Committee reportedly claimed that the Sindh government reacted to Umrani's release by dispersing the other prisoners of the group to police stations in different districts of Sindh.

On 24 February habeas corpus petitions were moved in the Sindh High Court alleging that four of the 28 detained SPSF members, Qazi Mumtazuddin, Suleman Sumroo, Nek Mohammad Dahiri and Qurban Dahiri, who had also sent telegrams to the Chief Justice about their illegal detention, were held in various police stations in Sanghar district, then transferred to Khipro police station and eventually sent to Taluka Theel police station in Jacobabad. The police officers of all the cited police stations denied any

Pakistan: Political arrests in Sindh province

knowledge of the whereabouts of the four prisoners during a High Court hearing on 26 February. Qazi Mumtazuddin's father stated in the court that he had himself seen his son at Khani police station in Sanghar district. The lawyer, Bahadur Ali Naqvi, appearing on behalf of the SPSF activists declared in court that it was well-known that whenever the police feared judicial raids, they transferred prisoners to other police stations. The next hearing was to take place on 10 March 1992.

Another recent instance of the police defying the orders of the judiciary and misleading the courts in the context of habeas corpus petitions filed to trace people held in unacknowledged detention was reported to have taken place in September 1991 in Sukkur. Imdad Obhaya, a PPP activist from Bhanoo Goth, Khairpur district, was charged with several consecutive criminal offences, for which the police were eventually unable to provide supportive evidence (see p.15). Upon the expiry of remand on 14 August 1991, Imdad Obhaya was held in "A" Section police station, Khairpur, up to 28 August without any remand order; at 4 pm of that day he was handed over to the SHO of Sobhodero police station, on 13 September to the SHO of Sorah police station, where on 15 September he was charged with another criminal offence under the Arms Ordinance.

On 7 September 1991 Imdad Obhaya's brother, Allah Obhaya, filed a constitutional petition under Article 199 of the constitution of Pakistan in the Sukkur bench of the Sindh High Court against his brother's unlawful detention. During the High Court hearing on 18 September 1991, the Assistant Attorney General, Zawar Hussain Jafferri, denied that Imdad Obhaya was being held in Sorah police station as claimed.

The Superintendent of the High Court, Abdul Quader Soomro, was immediately sent on an unannounced visit to the Sorah police station, where he found Imdad Obhaya in the lockup. He told the police officer present that the prisoner and the daily diary of the police station were to be produced before the Sukkur branch of the High Court that very day. Head Constable (HC) Pir Bux then reportedly snatched the station diary from the Superintendent's hands and ran away. HC Ghulam Shabir detained the Superintendent of the Sindh High Court from around noon until 6.00pm in the police station. When he released the Superintendent in the evening, he refused to let him take either the prisoner or the station diary with him.

Upon the Superintendent's report, of which Amnesty International has obtained a copy, an FIR under Sections 353 (assault on public servant to prevent him from discharging his duty) and 342 (wrongful confinement) of the PPC was registered against HC Ghulam Shabir. On 19 September 1991 a show cause notice was issued against HC Ghulam Shabir as to why action for contempt of court should not be taken against him; contempt of court proceedings were initiated against HC Pir Bux on 24 September. As Ghulam Shabbir had absconded, a non-bailable warrant of arrest was issued on 26 September.

After Ghulam Shabir finally surrendered on 20 November 1991, he filed an unconditional apology to the Sindh High Court on 11 December 1991. In the accompanying affidavit he declared that "due to misunderstanding the learned Superintendent of this Honourable High Court has reported against me ... I have great regard and respect for the Honourable Court and cannot even imagine to defy the orders passed by this Honourable Court." Imdad Obhaya, he declared was the "most dangerous, desperate and hardened criminal of Khairpur district" and as "no heavy contingent of police force" was then available at the police station to safely escort Imdad Obhaya, he had requested the Superintendent of the Sindh High Court to await the SHO who was to have decided on how to safely take the prisoner to court. Pir Bux had, he said, run away with the station house diary to fetch the SHO.

Pakistan: Political arrests in Sindh province

On 12 December 1991 Ghulam Shabir was granted bail. By March 1992 the hearing of the criminal case and the contempt of court case pending against him had not begun. At that time, Imdad Obhaya was reportedly still in custody on yet another criminal charge.

6. Torture and ill-treatment of political prisoners

Political prisoners held in unacknowledged detention, as well as some other political prisoners, have been denied regular access to family and lawyers and to adequate medical care. The Pakistan-based Lawyers' Committee for Human Rights and Legal Aid stressed in its report on political detention in 1991 that a large number of detainees are held in solitary confinement in so-called "bund [closed] cells", from which they are released only for one hour in the morning and in the evening. For instance Asif Zardari (see p.18) is known to have been kept in solitary confinement since his arrest in October 1990. Political prisoners are also reported to be kept in handcuffs and shackles, including bar fetters. Lawyers representing political prisoners report that their clients are frequently brought to court hearings in chains and leg irons.

Political prisoners held in police custody are frequently subjected to torture and other forms of cruel, inhuman or degrading treatment (see: [Pakistan: Reports of torture and death in police custody](#), AI Index: ASA 33/05/91). The purpose of torture appears to be the extraction of confessions, although in some cases torture has been used to obtain information on the political activities of opposition parties. High-ranking party members seem to be less at risk of being ill-treated, possibly because of the degree of publicity which would surround any allegation that they had been tortured. Yet even an MPA like Pir Mazhar-ul-Haq was reportedly subjected to ill-treatment such as being chained by the wrists to the window bars of his cell for several hours (see p.11).

Ordinary party workers appear to be at far greater risk of torture or cruel, inhuman and degrading treatment. In a number of instances reported to Amnesty International, detainees were allegedly tortured to make them confess to acts of terrorism or that they had committed crimes under the instruction of members of the PPP leadership. Witnesses against prominent PPP members have reportedly been subjected to torture to make them implicate these persons in substantive crimes. In the kidnapping case against Asif Ali Zardari and other PPP members, confessions by two co-accused, Najibul Hassan and Asif Manzoor, implicating Zardari were retracted by them in court as the two men stated that their confessions had been obtained from them under duress and physical torture. In the MQM shooting case, in which several PPP leaders are charged with criminal conspiracy to create panic and terrorize MQM supporters, four of the prosecution witnesses in court retracted their confessional statements in March 1991 on the ground that they had been extracted under torture. One of them, Zahid Sayed, a PPP youth leader, declared on oath on 5 March 1991 before the Special Court for the Suppression of Terrorist Activities in Karachi, that he had been tortured to make him admit the participation of Zardari and other PPP members in the conspiracy. He stated that after his arrest on 23 December 1990 in Karachi by the Saddar police the Crime Investigation Agency (CIA) during interrogation had hung him upside down for several hours and applied electric shocks to him. When after two weeks of ill-treatment his sister was brought before him, stripped and threatened with rape he signed the alleged confession implicating Zardari.

In July 1991 Amnesty International drew the attention of the Government of Pakistan to the case of Rahila Tiwana, divisional vice-president of the PSF (Girls Wing). After her arrest in late December 1990 by the CIA in Karachi she was reportedly hung upside down and beaten during interrogation and made to

Pakistan: Political arrests in Sindh province

sign blank papers after she had refused to implicate members of the PPP leadership in a murder case. Rahila Tiwana has been charged with two criminal offences, possession of illegal arms and murder. The first case was reportedly registered by the police nearly two weeks after her arrest, the second case relates to an incident which occurred in 1987 and she had apparently not been named in the report registered by the police at the time. She was released on bail in mid-June 1991 and by the end of 1991 her case had not been heard. Amnesty International knows of no action taken so far to investigate the allegations and to bring the alleged torturers to justice.

Several other incidents of torture have been reported to Amnesty International. For instance Essa Baloch, tried by a Special Court for the Suppression of Terrorist Activities in Karachi for allegedly participating in a bomb attack on the Central Secretariat in Karachi, stated in court that he had been hung upside down and whipped. His wife, Khurshid Begum, reported that when she saw her husband during a hearing on 13 November 1991 she was distressed to see that his hands were bleeding as the skin had been scraped off. The court reportedly recorded his statement but to Amnesty International's knowledge no investigation into the allegation of torture has been initiated.

Several PPP members reported to Amnesty International that they had been subjected to torture during interrogation about party activities while being held on criminal charges of which they were within a short time cleared and about which they were not questioned at all. One PPP worker stated to Amnesty International in December 1991:

"On 12 November [1991] in the night police came in several vans to my residence in ... in Karachi. They broke the doors and forced their way in. ... They took me to ... the local police station and informed me that there had been an attempt on the life of ... an official ... a month ago and that I was arrested in connection with this attack. They covered my eyes with cloth and started beating me with a stick. They had ... removed my clothes and beat me mostly on my back. The next day they made me do ... exercises so that my body would not get stiff after the beating. They kept asking me ... about my party, about the political activities we planned. They released me on the ... following day around midnight. After two days the same thing happened again, I was ... again questioned about the activities of our party. On 16 November I was brought ... before a magistrate who remanded me in police custody for one week in connection ... with the attack on the official. The remand was extended by three days, then I was ... released as there was no evidence against me. During my second detention in the police station I was not systematically beaten like the first time, only occasionally..."

Particularly in the interior of Sindh from where news does not easily reach the national press or urban-based human rights activists, torture of political workers in police custody appears to be widespread. A PPP worker from Hyderabad told Amnesty International how his leg had been broken in a beating he received in a police station in late November 1991 in Hyderabad.

"Police and Rangers arrested me in the morning of 20 November 1991 ... in ... Hyderabad where I had gone for some work. They blindfolded me in the van and took ... me to an unknown place. I was handcuffed at the back. They took me to a place where ... other people were also being beaten. They did not allow me to sleep for 24 hours. For ... three days they beat me with fists and sticks on the legs and on the body. They kept ... asking me how many people were sent to India for training, when we went there for training. They also wanted me to make a statement against Benazir Bhutto which I ... refused. At one stage they removed my bandage over the eyes briefly and showed me ... another person hung upside down

Pakistan: Political arrests in Sindh province

and threatened to do the same to me if I did not cooperate. I was released after five days, no charges were brought against me. When I went to the doctor he put my leg in plaster because it was broken."

He added that he was too afraid of possible police reprisal to register a case against the police regarding his arrest and torture.

The 28 SPSF activists detained from August/September to 31 October 1990 in the custody of the paramilitary Rangers as suspected members of the AZO, also reported being repeatedly tortured. They were allegedly blindfolded for most of their time in detention which affected their eyesight; they were reportedly subjected to beating and electric shocks, denied sleep and sometimes hung upside down. Further, "they tied stones to our genitals, even now there is blood in our urine", Mahboob Chandio was quoted as saying in "Newslines" of August 1991. Another one of this group of prisoners was quoted in the same report as saying, "when I pleaded innocence they resumed hitting me with a leather rod, interrupting the beating only to give me electric shocks. My mouth started bleeding and I became unconscious. The torture continued for a fortnight." At the beginning of their trial before a Special Court for the Suppression of Terrorist Activities in Hyderabad in early 1991 they reportedly showed the marks of torture on their bodies to the judge, Shamsuddin Siddiqui, and submitted written complaints. The court ordered a medical examination but to Amnesty International's knowledge none was carried out.

Another SPSF activist named Anisurrehman, who had been arrested on 31 December 1990 on a number of criminal charges, similarly declared under oath before the Special Court for the Suppression of Terrorist Activities in Karachi on 23 April 1991:

"As my nickname is Tipu, therefore the police officers thought by mistake that I was old Hijacker Tipu. I was given special torture by police till they were satisfied that I was not Hijacker Tipu. ... Police pressed me to sign a written statement amounting to my confession involving the leadership of People's Party in series of heinous crimes. I continued to refuse and they continued to torture. ... I was again shifted to the cell of Malik Ehsan [CIA] .. He [Ehsan] told me that now as a last resort he will bring my mother and sister to the police station and then he will see how I am not broken. I surrendered and told him that I would do whatever he likes but he should not bring my mother and sister. ... I was given a written statement to read out before a video camera. I read it according to their direction and signed the papers which they asked me to sign."

Amnesty International has also received many reports from victims, local human rights groups, women's organizations and lawyers suggesting that female political prisoners have been raped in police custody. Khurshid Begum, aged about 35, recounted to Amnesty International that after attending the court hearing of her husband Essa Baloch's case on 13 November 1991 (see p.35), some police officers in civilian clothing forcibly took her in a police van to an unknown place after blindfolding her. "An inspector with two companions in uniform came inside and they attacked me. I started crying and shouting, then the Inspector told his companions to remove my clothes. They beat me up, abused and raped me brutally." Khurshid Begum reported that in the middle of the same night she was taken by police van to an unknown part of the city and abandoned. She stated that after her ordeal she was afraid to file a complaint with the police as she feared further ill-treatment. To register a case of rape the victim has to have a medical examination performed within a very short time after the incident to substantiate her charges; to be accepted in court the medical examination must be carried out by police medical staff. Women's groups in Pakistan told Amnesty International that custodial rape is rarely brought to trial as the victims are

Pakistan: Political arrests in Sindh province

invariably too fearful to approach the police for the required medical check-up. Khurshid Begum filed a petition in the Sindh High Court on 15 December 1991 in which the police personnel were charged with gang rape and the Government of Sindh and the Inspector General of Police, Sindh, were made respondents. On orders of the Sindh High Court an FIR was eventually registered at Malir Colony, Karachi, on 26 December 1991 charging three police officers under Section 365 (Kidnapping or abduction with the intent to secretly and wrongfully confine a person) of the PPC and Sections 11 (kidnapping of women to compel them to marriage or intercourse) and 16 (detaining a woman with criminal intent) of the Hudood Ordinance.

Those responsible for torture are rarely brought to justice. Press reports of incidents of torture sometimes make reference to "investigations" being carried out, without specifying the nature of such investigations. They seem to refer most frequently to in-house inquiries carried out by the local police, which seem at the most to sometimes result in transfer or, often temporary, suspension of the police officers concerned. Amnesty International is not aware of any police officer convicted for the infliction of torture.

Amnesty International has received some reports about deaths of political prisoners in police custody following torture. A particularly tragic recent instance is the death of Naseeruddin who was arrested apparently in a case of mistaken identity by the Special Investigation Cell on 24 October 1991 in Karachi instead of Naseer Baloch, a political activist wanted in connection with the murder of Judge Junejo. After three hours in police custody his body was reportedly taken to Civil Hospital, Karachi. Police claimed that Naseeruddin had died in hospital of a heart attack. Naseeruddin's family reportedly refused to take possession of the body before a post mortem examination was undertaken. The autopsy report was, however, apparently not made public, but the Urdu "Daily Jang" of 16 December 1991 reported that the police surgeon had confirmed that Naseeruddin's death occurred as a result of torture. Several police officers of the Special Investigation Cell in whose custody Naseeruddin died have reportedly been dismissed or suspended, but no one had reportedly been arrested by year end. Amnesty International does not know if any inquiry into the death has been initiated.

7. Arrest, ill-treatment and harassment of family members and associates of political opponents

In the later part of 1991 arrests of wives and children of political activists were reported when these activists could not be found or when pressure was sought to be brought on political prisoners. These prisoners were in some cases also reportedly subjected to ill-treatment or torture. For instance the 16-year-old son of Khurshid Begum, Zulfikar Baloch, was arrested by police on 4 October 1991 together with his father from their home in Malir, Karachi. He was released on 12 October 1991 reportedly in bad physical condition. According to the testimony of his mother, Khurshid Begum, his shoulders were dislocated, his body was bruised and swollen all over. During interrogation about his father and his associates he had reportedly been hung upside down and beaten. He was again arrested on 1 November 1991 and his mother could not ascertain his whereabouts until 16 December, when the Special Investigation Cell of the police in Karachi admitted that Zulfikar was in their custody, allegedly on a criminal charge.

The father and brother of Rahila Tiwana (see p.35) were arrested on 24 December 1990 and hung upside down by the wrists all night in the CIA center. Her father had reportedly not been involved in politics. She reported that during her interrogation on 25 December she could hear their screams from the next room.

Pakistan: Political arrests in Sindh province

Rahila Tiwan's father was reportedly kept in police custody for four days and released after he allegedly paid a large amount of money to the police.

Particularly during the wave of arrests that began in November 1991 family members were reportedly arrested when political activists sought by police could not be found. For instance in Nawabshah several elderly parents were reported in the Pakistani press to have been arrested when young activists were not found at home.

8. Possible extra-judicial executions of political opponents

There have been some reports during the past two years of staged killings - also known as "encounter killings" - of political activists after their arrest by the police. In most of these cases of allegedly deliberate and extra-judicial killings it has been impossible independently to verify the circumstances in which these killings occurred. In July 1991 Amnesty International brought some cases of possible extra-judicial executions to the attention of the Pakistan Government but so far has not received any reply.

Amnesty International is concerned that in at least one case reported to the organization a political opponent may have been the victim of an extrajudicial execution. On 27 October 1990 a member of the Frontier Constabulary was reported by eye-witnesses to have deliberately killed Zulfikar Ali Domki, a supporter of the PPP candidate of his tribe in Kashmore.

The incident reported to Amnesty International by eyewitnesses took place in Kashmore, Jacobabad district in Northern Sindh, on the day of the provincial assembly elections on 27 October 1990. The majority of voters in this area are members of the Domki tribe or clan, whose candidate, Ghalib Hussain Domki, stood for elections on a PPP ticket. According to eyewitness accounts people queued up to cast their votes in front of polling station Mithan Mohar in the early morning of 27 October when at approximately 8.20am two jeeps drew up in front of the polling station. The persons getting out of them, among them reportedly Afzal Jan Mazari, brother of the IDA candidate Salim Jan Mazari, now a provincial minister in Sindh, opened fire on the waiting voters and also hit some with rifle butts. When bullets hit the polling station two polling agents, Mahsood Ahmed Domki and Zulfikar Ali Domki, ran out to seek shelter elsewhere. Mahsood Ahmed Domki and a man coming out of a nearby house were shot dead. Several eyewitnesses report that the Frontier Constabulary, present to maintain law and order during elections, did not take any action to halt the assault but joined in firing on the voters. A witness reported to Amnesty International: "The Frontier Constabulary present on the spot instead of arresting the killers joined in the act. One of its officers, a havildar [constable] shot at ... Zulfikar killing him instantly." Several other people were injured and the ballot boxes were removed by the assailants.

An FIR relating to the killing of the three men was registered with the police in Buxtapur, Kashmore, on 27 October 1990, after the police had initially refused to accept it as it implicated the IDA candidate. It is not known to Amnesty International if the authorities have initiated any inquiry into the incident.

9. Amnesty International's concerns and recommendations

Amnesty International has received the names of more than 600 persons arrested in Sindh between

Amnesty International June 1992AI Index: ASA 33/03/92

Pakistan: Political arrests in Sindh province

August 1990 and December 1991, apparently arbitrarily detained because of their involvement in or association with the activities of legal political opposition parties. The total number of people detained during this period must be assumed to be much higher. At the end of the year several hundred political prisoners were reportedly still in detention, among them a number of possible prisoners of conscience.

In a number of cases, political prisoners were held unlawfully on the basis of preventive detention orders, while others were remanded in police custody for lengthy periods on the basis of successive criminal charges without apparent foundation. Scores of political opponents of the government were detained without charge, some in unacknowledged detention. Some were allegedly subjected to torture or other cruel, inhuman or degrading treatment.

9.1. Arbitrary detention

The arbitrary detention of political opponents violates the constitution of Pakistan which in Article 9 states: "No person shall be deprived of life or liberty save in accordance with law". The widespread practice of repeatedly laying criminal charges against political prisoners and of detaining them under consecutive remand orders effectively circumvents the constitutional guarantee against arbitrary arrest and detention. Arbitrary detention also violates Article 9 of the Universal Declaration of Human Rights which stipulates that "No one shall be subjected to arbitrary arrest, detention, or exile." The International Covenant on Civil and Political Rights (ICCPR) states in Article 9(1): "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest and detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Amnesty International urges the Government of Pakistan to ensure that all those political prisoners that are unlawfully or arbitrarily detained be charged with a recognizable criminal offence and tried promptly or else released. The organization further urges the Government to provide compensation to anyone unlawfully detained, as provided under Article 9(5) of the ICCPR: "Anyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation."

Amnesty International is also concerned that during the arrests of political prisoners reported in 1990 and 1991 the legal and human rights safeguards available under Pakistan law were frequently violated. Frequently arrests were found to be unlawful by the High Courts as legal requirements had been ignored. Amnesty International is further concerned that some of the laws of Pakistan, for instance those governing administrative detention, do not fully agree with international human rights standards. Amnesty International urges the Government of Pakistan to ensure that all legal requirements pertaining to arrest and detention are strictly enforced and full legal safeguards are made available to political prisoners according to international standards.

Administrative detention legislation, the body of laws that permit executive government authorities to detain people without charge or trial, is extensively abused in Pakistan to intimidate and silence political prisoners and prisoners of conscience. The constitution of Pakistan provides in Article 10(3-9) for administrative detention for a period of up to three months, which can be extended by a review board to eight or twelve months, depending on the grounds of detention. The article specifies that administrative detention laws will apply to "persons acting in a manner prejudicial to the integrity, security or defence of

Pakistan: Political arrests in Sindh province

Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services". Article 10(3) at the same time removes from any person held under preventive detention legislation the right to a number of constitutional safeguards laid down in the earlier sections, including the right to be promptly informed of the grounds for detention, to be permitted to consult a lawyer of their choice, and to be produced before a magistrate within 24 hours of arrest. Under Article 10(5) an administrative detainee must be informed of the grounds for their detention within 15 days, but the detaining authorities "may refuse to disclose facts which such authority considers it to be against the public interest to disclose."

The UN Special Rapporteur on Administrative Detention has emphasized that administrative detention should be used only as an exceptional measure, and should not be employed to bypass the safeguards of the regular judicial framework (Report of the Special Rapporteur on Administrative Detention submitted to the UN Sub-Commission on Prevention of Discrimination and the Protection of the Minorities in 1989). Amnesty International believes that there is no justification for denying persons held under administrative detention legislation any of the fundamental rights which are laid down in Articles 9 and 14 of the ICCPR.

To protect against future abuse of administrative detention, Amnesty International believes that the grounds on which administrative detention orders may be issued should be reviewed, leading to the formulation of precise guidelines designed to ensure that administrative procedures are not used to detain people who should not be arrested at all or who do not pose an extreme and imminent threat to security or who should be charged and tried under ordinary law. Such guidelines should explicitly prohibit administrative detention for the expression of non-violent political beliefs and for the peaceful exercise of the right to freedom of expression and association.

9.2. Procedural safeguards for detainees

Amnesty International is also concerned about the widespread practice of not or not immediately and fully informing political prisoners of the charges under which they are held. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the United Nations General Assembly in December 1988, states in Principle 10: "Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him." Principle 12 sets out in detail what information shall be recorded and conveyed to the detainee.

Regarding the conditions of detention of political prisoners Amnesty International is particularly concerned about the widespread use of incommunicado and unacknowledged detention, which violates the rights of detainees to inform relatives of their detention and to have early and consistent access to legal counsel and family. Rule 92 of the Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in its resolutions 663 (XXIV) of 1957 and 2076 (LXII) of 1977, requires that the detainee himself "shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interest of the administration of justice and of the security and good order of the institution."

Pakistan: Political arrests in Sindh province

Principle 16(1) of the Body of Principles further stresses that prisoners are entitled to promptly inform family members or other appropriate persons "after each transfer from one place of detention or imprisonment to another". Amnesty International is concerned that this right has been routinely violated in the many cases of repeated transfers of prisoners from one police station to another which have been reported to the organization.

Principle 18 (3) of the Body of Principles lays down the right of the detainee to have access to a lawyer "without delay". In the interpretation of this requirement the UN Basic Principles on the Role of Lawyers provides in Principle 7 that detainees "shall have prompt access to lawyers, and in any case not later than forty-eight hours from the time of arrest or detention".

Access to a lawyer and family members may be suspended or restricted only in "exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order" according to Principle 18(3) of the Body of Principles. Whatever exceptional circumstances may temporarily justify limiting access of the detainee to his or her family and lawyer, "communication ... with the outside world ... shall not be denied for more than a matter of days" according to Principle 15. Amnesty International believes that whatever exceptional circumstances may seem to justify temporarily limiting access to family and lawyers, it is imperative for the protection of all detainees that the Pakistani legal requirement to bring a detainee before a magistrate within 24 hours of arrest be observed in all cases.

Amnesty International therefore urges the Government of Pakistan to ensure that political prisoners can exercise their right immediately to inform their families about their place of detention and to be given immediate and consistent access to family and legal counsel in accordance with the relevant international human rights standards.

Amnesty International is also concerned about the reported practice of the executive authorities to ignore or render ineffective orders of the judiciary, as when police officers misguide representatives of the judiciary seeking the location of political prisoners following the filing of habeas corpus petitions. It is obvious and crucial to the maintenance of the rule of law that enforcement agencies have a fundamental duty to obey the law and the judiciary which applies the law. Amnesty International calls on the Government of Pakistan to investigate all cases where its law enforcement officials are allegedly in contempt of court or have otherwise obstructed the course of justice and to institute all necessary disciplinary and criminal proceedings against such law enforcement personnel.

9.3. Fair trial

Amnesty International further calls upon the Government of Pakistan to ensure that all those political prisoners against whom recognizable criminal charges have been brought receive a prompt and fair trial in accordance with international standards for fair trial. Amnesty International is concerned that political prisoners in Sindh are at present tried in courts whose procedures do not conform to the minimum standards for fair trial as laid down in international human rights instruments such as the ICCPR.

Amnesty International fears that some political prisoners may be tried by Special Courts for Speedy Trial set up for a period of three years under the a constitutional amendment passed by the parliament of Pakistan in July 1991. Several ordinances promulgated in 1991 regulate the proceedings of the speedy

Pakistan: Political arrests in Sindh province

trial courts. In December 1991 Amnesty International raised with the Government of Pakistan its concern that the procedures of the Special Courts for Speedy Trial do not conform to the minimum standards for fair trial as laid down in international human rights instruments (see: [Pakistan: Special Courts for Speedy Trial](#), AI Index ASA 33/23/91). The organization pointed out that the procedures of the Special Courts for Speedy Trial violate the right of the defendant to a fair hearing including the right to a public trial, the right to present a full defence, the right to be presumed innocent until proven guilty and the right to appeal. Amnesty International therefore urges the Government of Pakistan to retry all political prisoners tried by such courts before regular courts affording them all the legal safeguards available under Pakistan law and to transfer all cases of political prisoners presently pending before such courts to regular courts which should rehear all evidence presented to the Special Courts for Speedy Trial prior to the transfer.

Most of the political prisoners in Sindh are at present tried by courts set up under the Suppression of Terrorist Activities (Special Courts) Act, 1975, which has been amended several times. The Act was adopted in 1975 in order to "make special provisions for the purpose of suppressing acts of sabotage, subversion and terrorism and to provide for speedy trial of offences committed in furtherance of or in connection with such acts". It empowers the Federal Government and on its direction the Provincial Government to set up as many special courts as it may consider necessary; these courts have the exclusive jurisdiction to try offences set out in the schedule contained in the Act. These include political acts where violence is not involved such as sedition and also political offences involving violence such as waging or attempting to wage war against Pakistan. The procedures of the Special Courts for the Suppression of Terrorist Activities contain most of the legal deficiencies of the Special Courts for Speedy Trial. Additionally this legislation includes a provision which completely denies the accused the right to be presumed innocent until proven guilty and permits an accused to be convicted on the basis of vague, circumstantial evidence. Under Section 8 of the Act the accused is presumed guilty if found in the possession of, or in control of, any article which is capable of being used for the commission of any offence under the Act, including non-violent political offences. Under Section 8 the accused is also "presumed to have committed the offence" if he has "been apprehended in circumstances which lead to ... a reasonable suspicion that he has committed" a scheduled offence. Once the prosecution has established that the defendant possessed the article concerned or was apprehended in the specified circumstances the burden of proof lies with the defendant to prove his innocence. The provision of Section 8 of the Act clearly violates Article 14(2) of the ICCPR which states: "Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to the law." The UN Human Rights Committee set up under the ICCPR observed in General Comment 14(7) that the presumption of innocence is "fundamental to the protection of human rights", and that "the burden of proof of the charge is on the prosecution and the accused has the benefit of the doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt."

Amnesty International has raised its concerns regarding the procedures of the Special Courts for the Suppression of Terrorist Activities with successive Governments of Pakistan, including during a visit to Pakistan in 1989 and a subsequent memorandum to the Government issued in May 1990 (see: [Pakistan: Human rights safeguards: Memorandum submitted to the Government following a visit in June-August 1989](#), AI Index: ASA 33/03/90). To date the Government has not replied to Amnesty International's concerns and recommendations.

The setting up of special courts whose procedures differ significantly from those of the regular courts violates the right to be tried by the established legal procedures of one's country. Article 2 of the United

Amnesty International June 1992 AI Index: ASA 33/03/92

Pakistan: Political arrests in Sindh province

Nations (UN) Basic Principles on the Independence of the Judiciary states:

"Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals."

Amnesty International is concerned that the setting up of Special Courts for Speedy Trial and of Special Courts for the Suppression of Terrorist Activities violates this fundamental principle. The organization therefore urges the Government of Pakistan to review the legislation leading to the setting up of the special courts and to implement the safeguards set out in the UN Basic Principles on the Independence of the Judiciary and to ensure that as a minimum all political prisoners are accorded the safeguards for fair trial set out in Article 14 of the ICCPR.

Amnesty International is also concerned that many of the trials of political prisoners in Sindh were not open to the public. For instance in October 1991 journalists were not permitted to attend the trial regarding the MQM shooting cases; in the same month the press was also barred from attending the trial of Jeay Sindh Mahaz activists before a Special Court for the Suppression of Terrorist Activities heard in Karachi Central Jail. The ICCPR in Article 14(1) provides that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law" and that the press and the public may not be excluded except in exceptional and well-defined circumstances.

9.4. Torture and ill-treatment

Amnesty International is concerned about the widespread use of torture and other forms of ill-treatment including rape, reportedly used by police and paramilitary personnel to extract confessions, to exert pressure on detainees to make them implicate other political opponents in crimes and to intimidate them. Methods of torture have included suspending prisoners from their wrists or ankles, beating prisoners, threatening to harm the relatives of prisoners, depriving prisoners of sleep and food, and rape of women detainees or relatives of political prisoners. Amnesty International is concerned that the widespread practice of holding detainees in incommunicado and unacknowledged detention creates an environment in which torture and ill-treatment are more likely to occur as law enforcement personnel are able to act with impunity. Investigations into reported cases of torture in Pakistan are at most perfunctory and have not to Amnesty International's knowledge led to any convictions of the persons responsible for ordering or using torture.

The prohibition against torture is one of the most fundamental norms in international law. The Universal Declaration of Human Rights clearly states in Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Pakistan is not a signatory to the UN Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment which makes it binding (in Article 2(1)) upon its signatories to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." Amnesty International once again urges the Government to ratify or accede to this fundamental Convention. Ratification of this instrument will not in itself end torture in Pakistan but it will provide a basic framework within which the Government can work towards the eradication of torture.

Pakistan: Political arrests in Sindh province

Torture is prohibited in a limited sense by Article 14(2) of the Constitution of Pakistan which says: "No person shall be subjected to torture for the purpose of extracting evidence." Until very recently, torture has not been defined as an offence under the Pakistan Penal Code. However, under the Qisas and Diyat Ordinance which was first promulgated in September 1990 and has been re-promulgated several times since, a form of torture does appear as a separate, punishable offence. Under the Ordinance, the causing of hurt by any person to extort "any confession or any information which may lead to the detection of any offence or misconduct ..." is defined as a separate crime. The crime is subject to the kind of punishment provided for the form of hurt caused, including qisas or equal punishment for the hurt caused, together with imprisonment. In its memorandum to the Government of Pakistan in May 1990, Amnesty International had recommended that torture be introduced in criminal law as a specific criminal offence and that a wider definition be introduced in the constitutional prohibition of torture in keeping with the definition contained in Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. While welcoming the inclusion of a form of torture as a criminal offence under the Qisas and Diyat Ordinance, Amnesty International remains opposed to the provision for it to be punished in a manner in itself considered cruel, inhuman or degrading by international human rights standards. In July 1991 Amnesty International raised its concern about recent reports of torture and deaths in police custody (see: Pakistan: Reports of torture and death in police custody, AI Index: ASA 33/05/91) with the Government of Pakistan but has to date not received any reply.

Amnesty International once again calls on the Government of Pakistan to ensure that police officers be clearly instructed that torture, including rape, is an offence, that all instances of torture be investigated by an independent and impartial body, that the results of such an investigation be published promptly and that the alleged perpetrators be brought to justice. Amnesty International also recommends that incommunicado detention, during which most instances of torture are reported to have taken place, be strictly limited, that prompt and regular access of the prisoner to legal counsel, medical care and family be ensured, that the authorities entrusted with detention and interrogation be separated and that clear guidelines governing interrogation and the prohibition of torture be issued to all police personnel.

Amnesty International also once again urges the Government of Pakistan that all cases of deaths in custody alleged to result from torture be thoroughly, promptly and impartially investigated. As outlined in Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the UN Economic and Social Council in 1989 and endorsed by the UN General Assembly on 15 December 1989 in resolution 44/162: "There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions... Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible and any pattern or practice which may have brought about the death. It shall include an adequate autopsy, analysis of all physical and documentary evidence and statement of witnesses". The results of such inquiry should promptly be made public and the alleged perpetrators be brought to justice.

9.5. Extra-judicial executions

Possible extra-judicial executions, some of which may have taken place in the context of so-called encounter killings, are of particular concern to Amnesty International. Extra-judicial executions by security personnel are strictly prohibited by Article 9 of the Constitution of Pakistan which states: "No person

Pakistan: Political arrests in Sindh province

shall be deprived of life or liberty save in accordance with law." Extra-judicial executions violate the Universal Declaration of Human Rights which unequivocally states in Article 3: "Everyone has the right to life, liberty and security of person." Similarly the ICCPR lays down in Article 6(1): "Every human being has the inherent right to life. This shall be protected by law. No one shall be arbitrarily deprived of his life." The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions in Principle 1 lays down: "Governments shall prohibit by law all extra-judicial, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances"

Amnesty International urgently calls on the Government of Pakistan to implement the preventive measures recommended by the Principles for the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. It further calls upon the Government promptly to initiate a full, independent and impartial inquiry into such killings to establish the circumstances in which they occurred and whether any of them were the result of unlawful and unnecessary use of lethal force by the security forces. The terms of reference and findings of such an enquiry should be made public at the earliest opportunity and any members of the security forces alleged to be responsible for the killing should be brought to justice.

Amnesty International further calls on the Government to ensure that all law enforcement personnel are clearly instructed that in accordance with international standards contained in the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly on 17 December 1979, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders in September 1990, lethal force may not be used except in genuine life-threatening circumstances and only as a last resort.

Finally, Amnesty International recommends that the Government of Pakistan seriously consider the accession to or ratification of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.