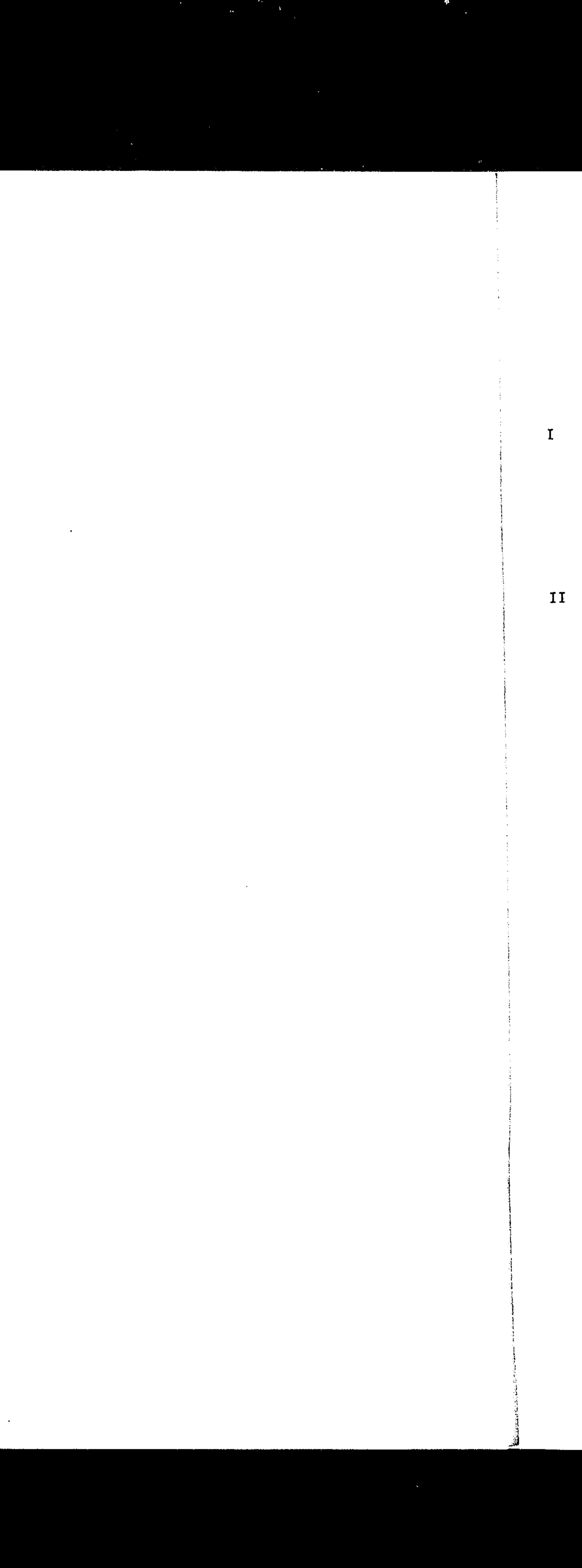
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### THE TRIAL AND TREATMENT OF POLITICAL PRISONERS CONVICTED BY SPECIAL MILITARY COURTS IN PAKISTAN



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# \_\_\_INTRODUCTION

Amnesty International's Concerns

Over 130 prisoners convicted by special military courts of political or politically motivated criminal offences are currently imprisoned in Pakistan. As of early September 1985, at least 38 other political prisoners recently tried by these courts are awaiting the announcement of the verdict in their cases. Amnesty International believes that these prisoners have been deprived of the right to a fair trial and have no opportunity to seek legal redress. The trials and treatment of these prisoners are the subject of this report.

In June 1985, Amnesty International submitted to the Government of Pakistan the memorandum which is published in this report. In this memorandum Amnesty International analysed the procedures of special military courts, established following the imposition of martial law on 5 July 1977, and the provisions of President's Order No. 4 of 1982, invoked in several recent trials before these courts. An important safeguard for the accused in any legal proceedings is the right not to be compelled to testify against oneself, and the memorandum therefore includes case studies which describe the pre-trial custody of some prisoners and reports of the use of torture.

Amnesty International believes that these trials fail to comply with international legal standards for a fair trial in three major respects:

- the lack of independence of special military courts from the martial law authorities, and the implications this has for the impartiality of these courts;
- the denial of the right to a fair hearing, including apparently the acceptance in evidence of testimony reportedly extracted under duress and restrictions on defence rights;
- the denial of the right to appeal to a higher tribunal.

These and other aspects of trials before special military courts are examined in detail in Amnesty International's memorandum to the Government of Pakistan.

While Amnesty International recognises that the number of prisoners of conscience and other political prisoners in Pakistan is at present lower than at other periods since the imposition of martial law, the consistent denial of due legal process to some political prisoners continues to be of major concern to the organization.

This report focusses on only one area of Amnesty International's concerns in Pakistan - the treatment and imprisonment of political prisoners convicted by special military courts without fair trial. Amnesty International's other main concerns include:

- the imprisonment of political prisoners sentenced to terms of

up to three years by summary military courts, which also fail to comply in many respects with international legal standards for a fair trial;

- their right to engage in peaceful political activities;
- community for the profession and practice of their religious faith;
- criminal offences, occasionally resulting in death;
- punishment of flogging on conviction by courts other than special military courts;
- political prisoners convicted by special military courts.

### Background

Pakistan was created in 1947 on the independence of British India as a separate state comprising Muslim majority areas. It originally consisted of two separate wings, East and West Pakistan. In 1971 East Pakistan became the state of Bangladesh. Pakistan is now a federation of four provinces, Punjab, Sind, Baluchistan and North West Frontier Province, each having its own ethnic, linguistic and cultural identity. Questions relating to the establishment of democratic institutions, the role of the armed forces and the balance of power between the center and the provinces have been recurrent themes in the country's political history. Since 1947 martial law has been imposed for varying periods on six occasions, most recently in July 1977. Throughout the periods of office of successive governments, Amnesty International has worked against violations of human rights in Pakistan. In May 1977, for example, the organization published a report detailing the organization's concerns under the government of Prime Minister Zulfikar Ali Bhutto.

The military authorities, headed by General Zia-ul-Haq, assumed power on 5 July 1977 following serious and widespread civil disorder arising from allegations that the general elections, which had returned the Pakistan People's Party (PPP) to power earlier in the year, had been rigged. With the imposition of martial law, fundamental rights guaranteed in the 1973 Constitution were suspended. These included freedom of movement, assembly, association and speech, safeguards against unlawful arrest and detention and a prohibition on the use of torture to extract information. A series of constitutional amendments and martial law provisions drastically restricted the jurisdiction of the civilian courts to review the actions of the martial law authorities and enforce respect for fundamental rights. The former Prime Minister, Zulfikar Ali Bhutto, was charged with conspiracy to murder and sentenced to death after a controversial trial. He was executed in April 1979. In October 1979 all political parties were formally dissolved and political activities were banned. In a report published in January 1982 entitled <u>Pakistan: Human Rights and the Decline of the Rule of</u> Law, Amnesty International presented evidence which pointed to a consistent pattern of gross violations of human rights.

- the arrest and imprisonment of people for the exercise of

- the arrest and prosecution of members of the Ahmadiyya

- reports of torture in police custody of persons suspected of

- the imposition and execution of the death sentence and the

- the practice of fettering and chaining prisoners other than

Despite the 1979 ban, political parties have continued to exist, pressing for elections to be held and a return to civilian government under the provisions of the 1973 Constitution. Organized opposition to the martial law administration has resulted in frequent arrests, often involving large numbers of people. Since 1981 most of the main opposition parties have been allied in a coalition known as the Movement for the Restoration of Democracy (MRD).

Opposition to the martial law administration has usually been non-violent. Political leaders and their supporters defy martial law regulations by making speeches, holding meetings or demonstrations and distributing literature critical of the martial law authorities. In March 1981, however, a Pakistan International Airlines aircraft was hijacked at Karachi Airport by a group calling itself the Al-Zulfikar Organization. Led by the two sons of former Prime Minister Bhutto, Murtaza and Shahnawaz, the Al-Zulfikar Organization was said to be based in Afghanistan and committed to the violent overthrow of the martial law authorities. Since March 1981, thousands of people are believed to have been arrested on suspicion of involvement or association with the Al-Zulfikar Organization and the martial law authorities have held the organization responsible for isolated acts of violence, including murder. People who Amnesty International believes were involved only in non-violent political activities were among those arrested under the blanket accusation of association with the Al-Zulfikar organization.

Many of those arrested since March 1981 have now been released after periods of detention without charge or trial, in some cases for two or more years. Others were eventually tried by military courts and some of these trials are discussed in Amnesty International's memorandum to the Government of Pakistan.

Many of the prisoners arrested on suspicion of involvement in the activities of the Al-Zulfikar Organization were held in incommunicado detention for periods ranging from weeks to several months. Since 1981, Amnesty International has collected detailed testimony from a variety of sources, particularly former detainees, revealing a pattern of ill-treatment or torture of many of these prisoners immediately after arrest.

### <u>Recent Developments</u>

In August 1983, General Zia-ul-Hag, who had assumed the office of President in 1979, announced that elections, which had been postponed twice since the imposition of martial law, would be held by March 1985. National and provincial elections subsequently took place on 25 and 28 February 1985 respectively. With martial law still in force, polling was held on a non-party basis, candidates being required to participate solely as individuals. The elections had been preceded in December 1984 by a controversial referendum, which sought the electorate's approval for the policies of Islamization initiated by President Zia-ul-Haq's government. The President stated that he would regard endorsement of these policies by the referendum as a mandate for his continuation in office for a further five years. Both the referendum and the elections were boycotted by the MRD, and hundreds of government opponents were detained for short periods between December 1984 and April 1985.

On 10 March 1985, prior to the convening of the newly-elected national assembly, President Zia-ul-Haq promulgated amendments to the 1973

Although these amendments were entitled the Restoration of Constitution. the Constitution of 1973 Order (RCO), articles of the 1973 Constitution which guaranteed fundamental rights remained suspended. Article 270-A(1) of the RCO validates all "President's Orders, Martial Law Regulations, Martial Law Orders and all other laws" effected since the imposition of martial law, none of which shall "be called in question in any court on any ground whatsoever". Article 270-A(2), of particular importance to Amnesty International's concern for political prisoners convicted by special military courts, reaffirms <u>inter alia</u> that no sentences passed by any authority exercising powers derived from martial law provisions or president's orders may be challenged in any court. Article 270-A(4) guarantees indemnity to anyone who acts "in the exercise or purported exercise" of powers provided for by martial law provisions. Furthermore, no presidential order may be amended without the approval of the president [Article 270-A(5)].

To date, martial law is still in force, although ministers have given assurances in the national assembly that it would not continue to function alongside the newly elected civilian administration. Moreover, President Zia-ul-Haq confirmed on 21 September 1985 a commitment made earlier by the Prime Minister that martial law would be lifted by 1 January 1986.

In view of the constitutional amendments of the RCO, Amnesty International fears that, even when martial law is lifted, political prisoners convicted by special military courts in manifestly unfair trials will remain without any form of legal redress.

### <u>Special Military Courts</u>

Since the imposition of martial law almost all political prisoners have been tried by military courts. Trials of prisoners charged with lesser offences are conducted before summary military courts. Special military courts hear the cases of prisoners accused of more serious offences.

During the second half of 1984 and early 1985, there was a marked increase in the number of prisoners who had been accused of political or politically-motivated criminal offences and tried by special military courts. In the trials of at least 120 prisoners during this period, President's Order No. 4 of 1982 was also invoked. This order stipulates that proceedings are held <u>in camera</u> and that defence counsel, prosecution and the accused are liable to prosecution if any information about these trials is disclosed without authorization.

Since Amnesty International's memorandum was prepared, the organization has received detailed information on two other trials. One of these is particularly illustrative of Amnesty International's concern regarding the independence of special military courts. The second relates to a trial in which the prosecution's case is said to have rested on statements made by the accused under duress.

The first trial under the provisions of President's Order No. 4 known to Amnesty International was that of Abdul Razzaq Jharna. It was held before Special Military Court No. 50, in Kot Lakhpat Jail, Lahore in 1982. The accused was charged with the murder in Lahore in September 1981 of Chaudhury Zahoor Elahi, a prominent political figure, and his driver. Abdul Razzaq Jharna, a young man, unmarried, is said to have left his family home in Bhakkar and gone to Lahore only shortly before his arrest to try to find work there. According to the prosecution, Abdul Razzaq Jharna

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belonged to the Al-Zulfikar organization.

Following his arrest, Abdul Razzaq Jharna was detained for several months in Lahore Fort, and is reported to have been tortured under interrogation. Two of the witnesses for the prosecution had also been detained at Lahore Fort and were apparently released, without any formal charges having been made against them, on the day they testified in court. Two other prosecution witnesses, persons who were with Chaudhury Zahoor Elahi at the time of his murder, were reportedly unable to identify Abdul Razzaq Jharna. Defence counsel is also understood to have indicated contradictions in the evidence of two expert witnesses relating to the accused's finger prints, by which the prosecution had attempted to demonstrate Abdul Razzaq Jharna's alleged involvement in the offence.

According to the information available to Amnesty International, the court reportedly intended to acquit Abdul Razzaq Jharna. The president of the court, Brigadier Ijaz Ahmed, is said to have formally notified the martial law authorities of this. However, before the verdict was announced in court, Brigadier Ijaz was removed as the presiding officer. A new court was then constituted with the Sub Martial Law Administrator of Lahore, a senior martial law official, as presiding officer. The new court is understood to have relied upon the first court's record of the trial and not to have heard the oral evidence. Defence and prosecution were simply invited to make further arguments to the court.

On 15 January 1983 Abdul Razzaq Jharna was sentenced to death by the second court, Special Military Court No. 54. In the petition for clemency - the only appeal to which the accused is entitled - submitted to President Zia-ul-Haq, reference was made both to the prisoner having been tortured and compelled by the police to make a confessional statement and to the irregularity in the establishment of a second court. The petition was dismissed and Abdul Razzaq Jharna was hanged on 7 May 1983.

One of the most recent trials under President's Order No. 4 of 1982 began in January 1985, <u>in camera</u>, in Attock Fort. Seventeen defendants were charged under the Pakistan Penal Code with "conspiring to wage war against Pakistan", including plotting to kidnap the President, to acquire arms and to assassinate other generals and ministers, and "sedition", including holding meetings and publishing "subversive" literature. Fourteen of the defendants were serving military personnel at the time of their arrest: Major Aftab Chaudhry; Major Nisar Hussain Bokhari; Major Muhammad Sadiq; Squadron Leader Fateh Muhammad Sharzad; Major Abdul Razzaq Malik; Major Muhammad Akhbar Khan Niazi; Major Mahmood Akhtar Shirazi; Major Mustafa Kamal; Lieutenant Colonel Khalid Mahmood; Major Muhammad Khalid; Major Abdul Qayyum; Major Zafar Iqbal; Major Iqtidar Hussain and Major Khalid Waheed Butt. The other accused were Major (retired) Mian Zaheer Ahmad, Deputy Inspector General of Police; Choudhry Riasat Ali, a police inspector; and Raza Kazim, a lawyer. They were arrested mainly in January 1984 reportedly by personnel of the Inter-Services Intelligence (ISI). During the same period a much larger group of military personnel and others is said to have been detained for questioning and subsequently released. Two of the defendants, Major Nisar Hussain Bokhari and Major Muhammad Sadig, together with a third military officer, Squadron Leader Tahir Magsood, were arrested at a house in Lahore, allegedly when taking control of a consignment of arms. Major Nisar was shot and seriously wounded, during his arrest. He was taken to hospital for treatment. His interrogation reportedly began shortly after, when he was still recovering from surgery. It is alleged that he was also held in chains at this time.

The others are reported to have been taken to the offices of the Special Intelligence Branch (SIB) in Rawalpindi, where they are all said to have been held in solitary confinement in small cells without windows. The prisoners were apparently interrogated for five months by personnel of ISI and SIB. According to Amnesty International's information they were subjected to a variety of tortures during this period of interrogation to force them to make confessional statements. The methods of torture which they reportedly suffered include: electric shocks; being strapped to blocks of ice; burning with cigarettes; stuffing chillies into the anus; physical beatings; and deprivation of food. They are also said to have been threatened with reprisals against their families. With the exception of Raza Kazim, who had limited access to his family in mid-March, the men were reportedly held incommunicado until at least May 1984, when a number of them were permitted some access to their families. Others are said to have been unable to see their relatives until August 1984, following their transfer to Attock Fort. Regular visiting facilities were only permitted once their trial started in January 1985. They are also reported to have been held in fetters and chains until the trial began.

Amnesty International has also been informed that immediately after these men were arrested the close relatives of some of them were either taken into custody, or kept under house arrest. Among those kept under house arrest were the wives and children of some of the accused, whose homes were reportedly declared "sub-jails" for approximately three months.

The trial began in Attock Fort in mid January 1985 before Special Military Court No. 64. It was held <u>in camera</u> under the provisions of President's Order No. 4 of 1982. According to Amnesty International's information, most of the 17 prosecution witnesses had taken part in the prisoners' interrogation. The prosecution's case is said to have rested on statements made by the accused under duress, and video recordings of "confessions" made under interrogation. The prosecution also presented as evidence the testimony of two other military officers, Captain Sibtain and Squadron Leader Tahir Maqsood, who had been arrested at the same time as the defendants and are also reported to have been tortured. They had been convicted and sentenced to 10 and 25 years' imprisonment on similar charges in a trial in early January 1985.

The trial was held <u>in camera</u>, so precise details of its proceedings have not been public. However, according to reports Amnesty International has received the defendants' lawyers submitted that the "confessions", could not be accepted in evidence because they had been extracted under duress, and had not been recorded according to due legal process. Amnesty International also received reports that three of the accused dismissed their lawyers in February 1985 in protest at restrictions imposed on cross-examination of prosecution witnesses. Sixteen of the accused are believed to have been permitted to call only one witness each, apparently because the court wished to curtail the proceedings. Furthermore, when defence counsel requested copies of the record of the summary of evidence held several months earlier, a procedure providing for a preliminary review of evidence prior to trial before a special military court, this is said to have been refused since the court reportedly denied that it had taken place.

Court proceedings ended in late May 1985. On 14 July the verdict was announced. Twelve of the accused were acquitted, reportedly for lack of evidence. Majors Aftab Chaudhry, Nisar Hussain Bokhari and Muhammad Sadig were sentenced to 25 years' imprisonment, Squadron Leader Fateh Mohammad Sharzad and Major Mahmood Akhtar Shirazi to 10 years'. They have now been

transferred from Attock Fort to prisons in Punjab province. Although Captain Sibtain and Squadron Leader Tahir Maqsood had been tried and convicted prior to these proceedings their sentences of 10 and 25 years' respectively were only publicly announced at this time. The present whereabouts of these two officers is not known to Amnesty International.



Major Aftab Chaudhry



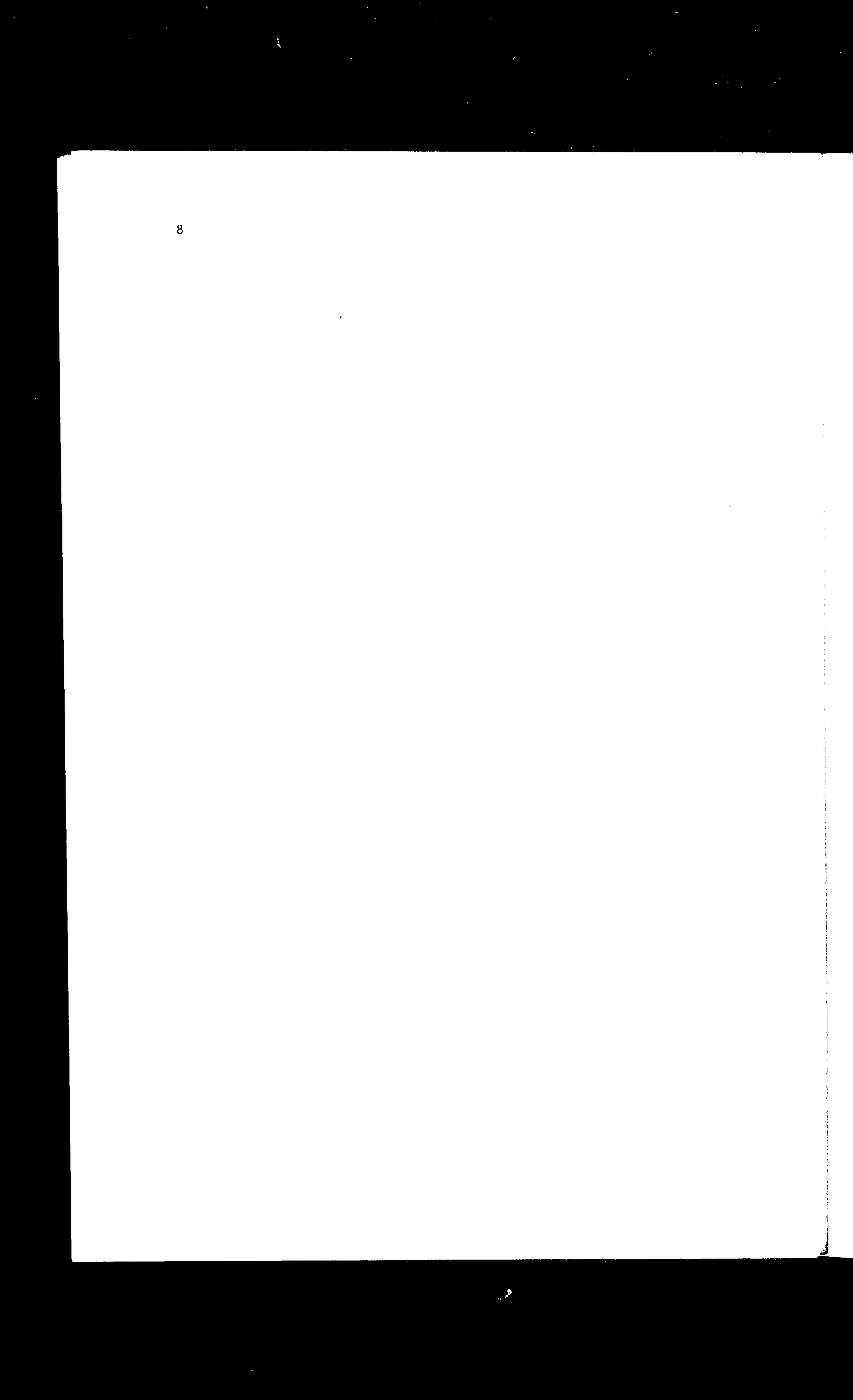
Major Nisar Hussain Bukhari

Amnesty International submitted the following memorandum to the Government of Pakistan in June 1985. In an accompanying letter, the organization sought comments from the government on its contents, which Amnesty International undertook to make public at the time of publication of the memorandum. To date, Amnesty International has received no response from the government.

September 1985



Squadron Leader Fateh Muhammad Shahzad



\_\_MEMORANDUM\_IO\_IHE\_GOVERNMENI\_OE\_IHE\_ISLAMIC\_REPUBLIC\_OE\_PAKISIAN\_ON AMNESTY\_INTERNATIONAL'S\_\_CONCERNS\_\_RELATING\_\_TO\_\_SPECIAL\_MILITARY\_COURTS\_ INCLUDING\_\_PROCEEDINGS\_\_UNDER\_\_PRESIDENT'S\_\_ORDER\_NO\_\_4\_\_1982\_(CRIMINAL\_LAW AMENDMENI\_ORDER\_\_\_19821\_AND\_THE\_\_IREAIMENI\_OE\_\_PRISONERS\_\_IRIED\_\_BY\_\_IHESE COURTS

### 1\_\_\_INTRODUCTION

### Amnesty International's Concern

Amnesty International opposes "by all appropriate means the detention of all prisoners of conscience or any political prisoners without trial within a reasonable time or any trial procedures relating to such prisoners that do not conform to internationally recognized norms" (Statute of Amnesty International, Article 1(b)). The term "prisoners of conscience" is used by Amnesty International to denote persons imprisoned, detained or otherwise physically restricted by reason of their political, religious or other conscientiously held beliefs or by reason of ethnic origin, sex, colour or language, provided that they have not used or advocated violence. Amnesty International works for the unconditional release of all prisoners of conscience. It also works for fair and prompt trials for all political prisoners, including those who may have used or advocated violence, and opposes their detention without trial in accordance with international standards. Amnesty International is therefore concerned that trials taking place before special military courts and trials under President's Order No. 4, 1982 (Criminal Law Amendment Order, 1982) with respect to political or politically motivated offences be conducted according to internationally recognized standards of fair trial.

Amnesty International also opposes unconditionally "the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners" (Statute of Amnesty International, Article 1(c)). It is therefore of serious concern to the organization that special military courts in Pakistan have power to impose death sentences, amputations and floggings, punishments which Amnesty International believes are contrary to international human rights standards. Special military courts imposed the death penalty on over two-thirds of the more than 140 people reported in the Pakistan press to have been sentenced to death mainly for ordinary criminal offences during 1983 and 1984. Amnesty International knows of only three instances during this time in which death sentences imposed by special military courts have been commuted. The punishment of flogging is frequently carried out in Pakistan, in most cases after trial by summary rather than special military courts. Over two dozen sentences of amputation have been imposed in Pakistan since 1977, although Amnesty International has not received confirmation that any of these have been implemented to date. Torture and cruel, inhuman and degrading punishments are absolutely prohibited under international law as reflected in provisions of the Universal Declaration of Human Rights (Article 5), the International Covenant on Civil and Political Rights (Article 7), the United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 3) and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 2). In its General Comment 7(16), the Human Rights Committee affirmed that corporal punishment was prohibited under Article 7

of the International Covenant on Civil and Political Rights. Regarding amputation, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted a resolution in August 1984 recommending that the Commission on Human Rights urge governments of countries in which legislation provides for the punishment of amputation "to take appropriate measures to provide for other punishments consonant with Article 5 of the Universal Declaration of Human Rights". Amnesty International considers that the death penalty and the punishments of flogging and amputation cannot be justified and should never be imposed. Their availability therefore increases Amnesty International's concern regarding the fairness of trials before special military courts.

In recent years Amnesty International has received information from a number of sources that prisoners subsequently tried by special military courts had been tortured during periods of <u>incommunicado</u> detention, sometimes extending to several months, following their arrest. Amnesty International believes it essential that the rights of the defence and the presumption of innocence are fully respected in all legal proceedings and that statements obtained under duress are not used in evidence. The available information indicates that these and other internationally recognized standards have not been observed in trials of political prisoners before special military courts in Pakistan.

In a communication from the Government of Pakistan received in August 1984, Amnesty International was informed that "only a few cases of heinous nature are referred to military courts." Amnesty International has been unable to obtain official information on the frequency of trials of civilian prisoners charged with political or politically motivated criminal offences before special military courts. The information Amnesty International has acquired, however, indicates that such prisoners appear to have been tried consistently before summary or special military courts, contrary to international standards as contained in Article 14 of the International Covenant on Civil and Political Rights.

Amnesty International acknowledges that some prisoners tried by special military courts for political or politically motivated criminal offences have been charged with direct or indirect involvement in acts of violence, including murder. Amnesty International further acknowledges that it is the obligation of governments to prevent and punish all crimes of violence. However, Amnesty International considers it incumbent on governments to respect the human rights of their citizens in all circumstances during such proceedings, in conformity with internationally recognized standards.

In August 1984 the Secretary General of Amnesty International notified the Government of Pakistan of the organization's wish to send its delegate to collect first-hand information on the conduct of special military courts by observing the trial of eighteen defendants before Special Military Court No. 38 which was being held inside Rawalpindi District Jail. No reply was received to this letter and on 1 November 1984 Amnesty International informed the Government of Pakistan that Mr Peter Duffy would observe the trial on its behalf. Peter Duffy is a British barrister and lecturer in law at Queen Mary College, University of London. He is also the editor of <u>European Human Rights Reports</u> which publishes decisions under the European Convention on Human Rights. The Government of Pakistan informed Amnesty International that the delegate would not be allowed to observe the trial because it was being held <u>in camera</u>. Amnesty International thereupon decided to send its delegate to Pakistan to seek information about the trial from government officials and others and about a second trial of 54

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civilians then being held before a special military court in Kot Lakhpat Jail, Lahore, as well as about the operation and procedures of special military courts in general. Peter Duffy was in Pakistan from 12 to 18 November 1984. During this time he had meetings with government officials, lawyers and others. Amnesty International would like to acknowledge the assistance afforded by the government minister and other officials who met Peter Duffy and replied in detail to his questions: His Excellency Sharifuddin Pirzada, then Federal Law Minister and Attorney General of Pakistan, the Hon. Mr Justice Irshad Hasan Khan, Secretary General of the Federal Law Ministry, and Colonel M A Hassan, an expert adviser on the procedures of military courts.

The following report is based on information collected during Peter Duffy's stay in Pakistan and other information obtained since early 1981 by Amnesty International about proceedings before special military courts and the treatment of political prisoners. The report is divided into five sections. The first describes the establishment of special military courts and details the removal of constitutional safeguards to protect prisoners. The second sets out Amnesty International's general concerns in respect of special military courts. The third considers the provisions of President's Order No. 4, 1982 (Criminal Law Amendment Order, 1982) which has been applied in several recent trials of political prisoners before special military courts. The fourth gives details of three trials before special military courts during 1982-1984 in Rawalpindi, Lahore and Karachi. The report ends by setting out Amnesty International's conclusions and its recommendations to the Government of Pakistan.

Throughout this report, Amnesty International makes reference to international human rights standards. In doing so, it acknowledges that Pakistan has not ratified international human rights instruments; in particular it is not a party to the International Covenant on Civil and Political Rights. However, Amnesty International relies on international instruments as evidence of the universal human rights in its mandate which, Amnesty International believes, it is the responsibility of all governments to observe. The international human rights standards to which Amnesty International makes reference in this report are: the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights and interpretations of the Covenant's provisions by the Human Rights Committee, the body established under that instrument to monitor adherence to its provisions; the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly by consensus in December 1984 and the earlier United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the United Nations Standard Minimum Rules for the Protection of Prisoners and Related Recommendations and the Code of Conduct for Law Enforcement Officials. Relevant extracts of the International Covenant on Civil and Political Rights and the United Nations (UN) Declaration on Torture are contained in Appendix I.

# 2\_\_\_\_\_IHE\_\_ESTABLISHMENT\_OE\_\_MILITARY\_COURIS\_AND\_REMOVAL\_OE\_CONSTITUTIONAL SAFEGUARDS\_PROTECTING\_PRISONERS

The present system of military courts in Pakistan was instituted on 5 July 1977 when General (later President) Zia-ul-Haq declared martial law and became Chief Martial Law Administrator. Martial Law Order No. 4 created two types of military court: summary military courts and special military courts. Special military courts have much greater sentencing

powers: unlike summary military courts, they may pass sentences of death, amputation of a hand, life imprisonment, periods of more than three years' "rigorous imprisonment" and flogging of more than 15 lashes. This report only relates to special military courts although some of the concerns expressed regarding their procedures apply equally to summary military courts. Unlike special military courts, summary military courts consist of only one member of the armed forces, generally of the rank of major or its equivalent. In common with special military courts, they are constituted and dissolved on the direction of the martial law authorities. Similarly there is no provision for appeal against conviction or sentence to a higher tribunal. Moreover, defendants before summary military courts are not permitted legal representation, as is at least available to those tried by special military courts; there is only provision for the accused to be assisted by another person, who cannot address the court directly. Summary military courts may impose sentences extending to three years' imprisonment and 15 lashes. Furthermore, Amnesty International's concerns regarding incommunicado detention and the treatment of political prisoners also relate to prisoners other than those tried by special military courts.

The Laws (Continuance in Force) Order issued on 5 July 1977 stated that the Constitution would be held in "abeyance". The fundamental rights conferred in the Constitution were suspended. These included the right to life; the freedom from torture; the freedom of thought, conscience and religion; and the right not to be subjected to retroactive laws. Martial Law Order No. 2, an amendment to the Laws (Continuance in Force) Order issued on 7 July 1977, apparently removed from the High Courts' jurisdiction the authority to hear writ petitions and enforce fundamental rights under Article 199 of the Constitution. However, the superior courts' "continued power of judicial review to judge the validity of any act or action of the martial law authorities" was affirmed in a judgment delivered by the Supreme Court on 10 November 1977 in a case brought by Begum Nusrat Bhutto challenging the legality of the imposition of martial law. The Supreme Court also expressly confirmed that the Constitution remained the supreme law of Pakistan and that the power of superior courts to issue writs of <u>habeas corpus</u> could not be taken away. Although General Zia-ul-Haq, as Chief Martial Law Administrator, had issued a series of martial law orders intended to remove from the ordinary courts any power to question martial law actions, including any proceedings of military courts, the High Courts continued to stay floggings, executions and other sentences passed by military courts when they ruled that due regard had not been paid to the rule of law and the fundamental rights guaranteed by the Constitution.

The Constitution (Second Amendment) Order 1979, issued in October 1979, introduced a new provision, Article 212A, in Pakistan's Constitution. Article 212A dealt with the establishment of military courts or tribunals. It gave the Chief Martial Law Administrator power to establish military courts or tribunals by martial law orders. Article 212A stated that "the jurisdiction and powers of a military court or tribunal shall be such as may be specified in a Martial Law Order issued by the Chief Martial Law Administrator". The article specifically excluded the military courts from any judicial review:

"Notwithstanding anything hereinbefore contained, where any Military Court or Tribunal is established, no other Court, including a High Court, shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the Military Court or Tribunal extends and of which cognizance has been taken by, or which has been transferred to, the Military Court or Tribunal and all proceedings in respect of any such matter which may be pending before such other Court, other than appeal pending before the Supreme Court, shall abate."

This provision was intended to counter Article 199 of the Pakistan Constitution which expressly provided for judicial review and which, the Supreme Court had ruled in 1977, could not be abrogated during martial law. Nevertheless some judges continued to exercise jurisdiction over military courts.

Any remaining judicial control over military court proceedings was ended when President Zia-ul-Haq introduced the Provisional Constitution Order on 24 March 1981. The Provisional Constitution Order validated all actions of the military government since 1977, abrogated the 1973 Constitution of Pakistan except those provisions specifically retained in the Provisional Constitution Order and granted the President power to amend the constitution at will. It also prohibited any legal challenge to the actions of the martial law government, or to any sentence passed by a military court or tribunal. Supreme and High Court judges were required by the military government to take an oath to uphold the Provisional Constitution Order. Some judges refused, and resigned, including the Chief Justice of the Supreme Court of Pakistan. At least five High Court judges were not invited to take the oath and were thus removed from office by a method which bypassed the guarantees of security of tenure for Supreme or High Court judges laid down in the 1973 Constitution. Since the introduction of the Provisional Constitution Order, the judiciary of Pakistan has not exercised supervisory jurisdiction over martial law matters.

In spite of the Revival of the Constitution of 1973 Order announced on 3 March 1985, all sections of the 1973 Constitution covering fundamental rights remain suspended. Article 270A of the Revival of the Constitution of 1973 Order provides a validation of "all President's Orders, Martial Law Regulations, Martial Law Orders and all other laws" made after 5 July 1977 and further provides that they "shall not be called into question, in any court on any ground whatsoever." Nor may any suit or other legal proceedings be taken against any individual or authority acting under powers derived from martial law regulations, orders and any other laws.

# 3\_\_\_\_IHE\_OPERATION\_OE\_SPECIAL\_MILITARY\_COURTS

# 3.1 Pre-trial Procedures and Treatment of Prisoners

Amnesty International believes that pre-trial procedures and treatment of prisoners brought before special military courts have fallen seriously short of international human rights standards.

Prisoners have been held in <u>incommunicado</u> detention by the security authorities during interrogation, at times for some months, prior to being brought before a magistrate. Details of <u>incommunicado</u> detention and reports of torture are provided in the three case studies included later in this report. Since the Provisional Constitution Order of 1981, there has been no effective remedy of <u>habeas corpus</u> for persons detained under martial law and no other means for challenging the legality of their detention.

Amnesty International considers that prolonged incommunicado detention without charge violates internationally established standards. Article 9 of the International Covenant on Civil and Political Rights provides certain basic safeguards against arbitrary arrest or detention. Article 9.3 requires that in criminal cases anyone arrested or detained must be brought "promptly" before a judge or other officer authorized by law to exercise judicial power. The Human Rights Committee has interpreted this provision as meaning that "delays must not exceed a few days"; it noted that most states' laws fix precise time limits. This international standard is clearly violated by the detention of political prisoners in Pakistan without charge or other access to a judge for several months.

Such detention is also contrary to provisions of the Pakistan Criminal Procedure Code. Section 81 of the Criminal Procedure Code states:

person."

Section 167 of the Criminal Procedure Code, dealing with "Procedure when investigation cannot be completed within twenty-four hours", states:

same time forward the accused to such Magistrate.

(2) The Magistrate...may...from time to time authorize the detention of the accused....for a term not exceeding 15 days in the whole....\*

Amnesty International believes that the practice of imprisonment without charge violates the fundamental rights contained in Articles 9.2 and 14.3(a) of the International Covenant on Civil and Political Rights, both of which provide that accused persons should be "promptly informed" of any charges against them. Periods of as much as three and a half years have elapsed between the time of arrest and the serving of precise charges on some prisoners (see in particular 5.1 below.) Prisoners have not been informed of the precise charges against them until a few weeks or even days before the commencement of their trial. In addition, the absence of habeas corpus or any equivalent remedy to those detained without charge clearly violates Article 9.4 of the International Covenant on Civil and Political Rights which requires that anyone deprived of liberty has the right to control by a court of the legality of the detention.

Amnesty International has received many reports that prisoners have been tortured during <u>incommunicado</u> detention in order to obtain confessional statements for use as evidence in special military courts. Torture is absolutely prohibited under international law. In its comment on Article 7 of the International Covenant on Civil and Political Rights, the Human Rights Committee noted the obligation of states to ensure an effective protection against torture. Amongst the safeguards mentioned by

"Person arrested to be brought before Court without delay - The Police-officer or other person executing a warrant of arrest shall....without unnecessary delay bring the person arrested before the Court before which he is required to produce such

"(1) whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of 24 hours... and there are grounds for believing that the accusation or information is well founded, the officer in charge of the police station or the officer making the investigation... shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the

Jommittee were provisions against <u>incommunicado</u> provisions making inadmissible any evidence obtained by torture. The UN Declaration and the UN Convention against Torture (Articles 12 and 15 respectively) explicitly require that no statement which is established to have been made as a result of torture shall be invoked as evidence.

The chapter of the 1973 Constitution of Pakistan concerning fundamental rights, suspended since the Provisional Constitution Order of 1981, specifically prohibits the use of torture in order to extract information and provides that no person accused of an offence be compelled to testify against him or herself (Articles 14(2) and 13(b) respectively). In spite of the promulgation of the Revival of the Constitution of 1973 Order in March 1985, the provisions relating to fundamental rights remain suspended, including the constitutional prohibitions on the use of torture.

Amnesty International is also concerned that many prisoners are kept continuously shackled by leg irons for periods of several months and in some instances for much longer periods. The Pakistan Prison Rules empower the prison authorities to place link or bar fetters on prisoners either as a punishment or for security reasons. The Rules further explain that bar fetters:

"shall be composed of two iron bars joined together by a welded link and attached to ankle rings. The total weight on such fetters including the ankle rings shall not exceed 5 lbs. and each bar shall not be less than 50cm 8mm in length."

According to information received by Amnesty International, blacksmiths are required to secure the rings around prisoners' ankles and to remove them. The welded link which joins the two bars is often fastened to prisoners' waists by chains or belts. The bars run parallel to the legs, hindering movement; thus shackled, prisoners are reported to be unable to bend their legs. When prisoners are confined to their cells, according to Amnesty International's information, it is usual for the welded links to be untied from the waist while the bar fetters remain attached to the ankles. The skin of prisoners' ankles is said to become chafed when bar fetters are worn for extended periods: this can result in infection or other medical problems. The Minister of Law confirmed to the Amnesty International delegate who visited Pakistan in November 1984 that bar fetters are still being used.



Prisoners in Karachi Central Jail in 1983 held in such fetters

The UN Standard Minimum Rules for the Treatment of Prisoners prohibits the use of leg irons in all circumstances. Rule 33 states:

"Instruments of restraint such as handcuffs, chains, irons and strait jackets shall never be applied as a punishment. Furthermore chains or irons shall not be used as restraints...."

Amnesty International believes that the use of bar fetters, leg irons of any description and chains on prisoners in Pakistan violates the prohibition on cruel, inhuman or degrading treatment or punishment under international law, as contained in Articles 5 and 7 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights respectively.

# 3.2 Independence of Special Military Courts

Special military courts consist of three members: two of these (including the President) are military officers; the third member is a First Class Magistrate or a Sessions Judge. The Amnesty International delegate was assured by the government officials with whom he met that special military courts are independent. However, Amnesty International believes there is a serious failure to meet the minimum standard of judicial independence required for criminal courts under Article 14.1 of the International Covenant on Civil and Political Rights. Guarantees of security of tenure are generally accepted as an essential requirement of judicial independence. It is clear from the martial law orders, however, that members of special military courts enjoy no security of tenure. Special military courts are constituted and dissolved at the sole discretion of the convening authority, the relevant Martial Law Administrator, who is directly answerable to the Chief Martial Law Administrator, the President of Pakistan.

Government officials confirmed to the Amnesty International delegate that members of special military courts can be removed and replaced at any stage in proceedings. The delegate was assured that this power is not used so as to influence the decisions of special military courts but Amnesty International has received disturbing reports that members of special military courts have sometimes been removed during proceedings when the martial law authorities had reason to believe that they might either acquit or impose too light a sentence. Amnesty International is not in a position to verify these allegations but the very fact that such interference is possible is itself incompatible with judicial independence.

The lack of independence of special military courts from the executive is further demonstrated by the fact that both their findings and sentences are subject to review and confirmation by the martial law authorities. (The right of appeal is dealt with in detail in Section 3.5 below.) In effect, the final decision on cases before special military courts rests with the executive and not with the judiciary as is required for criminal proceedings under international law. The final review in all cases rests with the offices of the Chief Martial Law Administrator. Special military courts can be instructed by the martial law authorities to reconvene in order to reassess cases. The Karachi case (see 5.3 below) provides a disturbing instance of death sentences being imposed on three defendants after the special military court had reconvened on instructions from the Martial Law Administrator who had earlier confirmed non capital sentences on these defendants. The confirmation and review powers of the martial law authorities would alone suffice to deprive special military courts of the independence from the executive required by international law. The position is aggravated by the combination of these confirmation powers with the absence of any security of tenure for members of special military courts. Amnesty International concludes that special military courts are not independent of the executive and that, in this respect, proceedings before them are in violation of Article 14.1 of the International Covenant on Civil and Political Rights.

### 3.3 The Right to a Fair Hearing

Everyone is entitled to a fair hearing in the determination of any criminal charge against him or her. This is laid down by Article 10 of the Universal Declaration of Human Rights and by Article 14 of the International Covenant on Civil and Political Rights, which lists certain minimum guarantees for defendants in criminal cases.

The government officials of Pakistan assured the Amnesty International delegate that the procedure before special military courts is fair. They pointed out that special military courts follow the procedure laid down for field court martials in the Pakistan Army Act and its Rules. They said that defendants have the right to counsel of their choice, and that proper facilities, including documentation, are provided for preparing the defence. They also observed that the ordinary rules of evidence apply and that a full record of the evidence is taken; they assured the delegate that special military courts do not in practice use their power to record only a summary of the evidence given before them.

Amnesty International, however, has received numerous reports which indicate that the defendant's right to a fair trial has not been respected in proceedings before special military courts in violation of both domestic and international provisions. Mention has already been made of reports that special military courts accept as admissible evidence obtained by torture. The case studies later in this report all provide examples of such allegations. One of the minimum guarantees of a fair trial in criminal cases outlined in Article 14.3(g) of the International Covenant on Civil and Political Rights states that a defendant is entitled "not to be compelled to testify against himself or to confess guilt". In commenting on this provision, the Human Rights Committee has stated that national laws should make "wholly unacceptable" evidence provided by torture "or any other form of compulsion" (General Comment No 13). Quite apart from the illegality of torture itself, the truth of evidence obtained thereby is clearly suspect. The use of such evidence against a defendant in a criminal trial renders the proceedings unfair because it seriously undermines objective investigation of the charges. For the same reason, the use of evidence obtained by torture violates the "right to be presumed innocent until proved guilty" under Article 14.2 of the International Covenant on Civil and Political Rights and Article 11.1 of the Universal Declaration of Human Rights.

Defence rights are also critical to the provision of a fair trial. Amnesty International has received various reports of serious interferences with the minimum defence rights recognised as necessary for a fair trial in criminal cases under the International Covenant on Civil and Political Rights. For example, it is alleged that during the Rawalpindi trial (see 5.1 below) prosecution witness statements were only made available to defence counsel the day before each witness was called. Such action is contrary to the Pakistan Criminal Procedure Code which requires that copies of all witness statements shall be supplied to the accused not later than

seven days before the commencement of the trial (Article 265c). The procedural importance of this provision to the defence is twofold. It allows the defence time to study the papers before the trial and, by requiring all witness statements to be made available, it provides defence counsel with vital information with which to cross-examine prosecution witnesses. The right to have adequate time and facilities to prepare the defence is laid down as a minimum right (Article 14.3(b) of the International Covenant on Civil and Political Rights). Amnesty International is seriously concerned that these rights, critical to the provision of a fair trial, have not been properly respected in proceedings before special military courts.

Many other factors are relevant in providing defendants with a fair trial in criminal cases. Other parts of this report detail Amnesty International's various concerns about special military courts, including the lack of independence of members of special military courts. The independence of the judiciary is an important guarantee of its impartiality: both are essential to providing a fair trial. Later parts of this report detail how the martial law authorities have final decision-making power in special military court proceedings (see 3.5 below) and how President's Order No. 4 of 1982, apparently particularly used in political cases, affects the burden of proof, limits defence rights and removes any discretion from members of special military courts when sentencing defendants who have been convicted (see 4 below). Collectively these points also call seriously into question the fairness of proceedings before special military courts. From the information available to it, Amnesty International concludes that proceedings before special military courts have fallen seriously short of the internationally recognized standards of a fair trial.

# 3.4 The Right to a Public Trial

"The publicity of hearings is an important safeguard in the interest of the individual and of society at large", according to the Human Rights Committee in its General Comment on Article 14.1 of the International Covenant on Civil and Political Rights. The public character of criminal proceedings helps to guarantee a fair trial and to prevent any procedural shortcomings from remaining hidden. A public hearing in itself therefore provides some check on standards. Government officials told the Amnesty International delegate that special military court proceedings are usually public. However, the Government of Pakistan refused Amnesty International's request for its delegate to be admitted to observe the Rawalpindi proceedings. The sanctions of the Official Secrets Act apply to proceedings held under President's Order No. 4 of 1982 (see 4 below). Section 5 of the Official Secrets Act provides for the death penalty or imprisonment of up to 14 years if the unauthorized communication of information directly or indirectly benefits a foreign power or relates to military affairs, and imprisonment of up to two years for the unauthorized communication of other information. Although under the provisions of the International Covenant on Civil and Political Rights the public may be excluded from criminal trials in certain circumstances, such as for reasons of national security, Amnesty International is concerned that public hearings appear in recent cases to be regularly denied when political defendants are being tried before special military courts. National security does not justify a failure to make public judgment in a criminal case; this is spelt out as a specific requirement in Article 14.1 of the International Covenant on Civil and Political Rights. Amnesty International understands from the government officials who met with its delegate that

judgments of special military courts consist simply of a finding of guilt or innocence. There is believed to be no requirement for these courts to provide a reasoned judgment even in cases where the death penalty is imposed.

### 3.5 The Right to Appeal

The right to appeal against criminal conviction is articulated in unqualified terms by Article 14.5 of the International Covenant on Civil and Political Rights:

"Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

Reference has already been made to the complete removal of the jurisdiction of the civil judiciary to review or challenge the legality of the actions of the martial law authorities, including the proceedings and decisions of military courts. Hence no right of appeal to the civil judiciary exists for those convicted in proceedings before special military courts. Government officials confirmed to the Amnesty International delegate that there is no right of appeal to a higher tribunal. However, they explained that decisions of special military courts are subject to a careful process of administrative review. The findings and sentences of special military courts require confirmation by the martial law authorities, and once they have been confirmed the convicted person may petition against the sentence imposed. If the defendant has been sentenced to death, amputation or rigorous imprisonment for more than 14 years, confirmation and petition are dealt with by the Chief Martial Law Administrator; lesser sentences are reviewed by the relevant Martial Law Administrator subject, however, to a final review by the Chief Martial Law Administrator's secretariat. The Amnesty International delegate was told that the secretariats of the Chief Martial Law Administrator and the Martial Law Administrators contain lawyers whose task is to advise on confirmation. He was told that sentences are revised in some 30-40% of cases reviewed and that the review process is detailed in administrative circulars. On 4 December 1984 the Secretary General of Amnesty International wrote to the Federal Minister of Law to request all available documentation relating to the review process for special military court proceedings. As of May 1985 no reply to this letter had been received.

Amnesty International welcomes the Government of Pakistan's recognition that the proceedings of special military courts require review procedures, but believes that the present arrangements fall seriously short of providing appeal procedures which meet the minimum standards laid down in Article 14 of the International Covenant on Civil and Political Rights. The existing procedures in Pakistan are entirely administrative and therefore lack the vital guarantee of judicial independence. The procedures are particularly open to criticism in that the martial law authorities are also responsible for convening special military courts and deciding which cases to bring before them. In effect, the martial law authorities hold both the functions of prosecution and of hearing appeals, which gives rise to serious concern over impartiality of the review mechanisms. Amnesty International therefore considers that the existing review procedures fulfil neither the condition of independence nor that of impartiality required under international law. Indeed such information as the organization has obtained about the operation and scope of the administrative review procedures shows the extent to which special military

court proceedings remain subject to the control of the executive, that is the martial law authorities.

Finally, a concern relating to the fairness of special military courts procedures arises from the combination of the administrative procedure with the absence of a reasoned judgment. The martial law authorities conduct the administrative review on the basis of the record of the evidence and the judgment of the court. However, as noted above, Amnesty International understands that judgments of special military courts are limited to findings of guilt or innocence and reasons are not given even in capital cases. It would therefore appear that the final decision in special military court proceedings rests with officials who have neither heard the witnesses nor have the benefit of the trial court's comments on the evidence they gave.

The preceding paragraphs have detailed several respects in which special military courts fall short of international human rights standards. Amnesty International is concerned because these courts adjudicate in the trial of civilian political prisoners and persons accused of politically motivated criminal offences. Moreover, Amnesty International is concerned that special military courts have regularly imposed the death penalty on persons convicted of ordinary criminal offences, invariably involving murder, and, in a small number of cases, on persons convicted of politically motivated criminal offences.

Amnesty International's delegate was told by government officials that the use of special military courts is declining. However, Amnesty International understands that as of late 1984 special military courts still heard some 50 cases each month. In his letter of 4 December 1984, the Secretary General of Amnesty International requested statistical information about the frequency of the use of special military courts. As noted earlier, no reply to this letter had been received by May 1985. Martial Law Order No. 4 of 1977 gives Martial Law Administrators discretion to refer cases to military courts if they are "of the opinion that it is necessary for the maintenance of law and order, of public tranquility or for expeditious disposal of any case in public interest" (Article 3(1)). Under the Martial Law Instructions (adopted by the Martial Law Administrators), offences under martial law provisions and serious criminal offences are generally tried by military courts, in many cases by special military courts. In practice, since 1977 political prisoners have almost without exception been tried by military courts: hundreds of civilian prisoners charged with politically motivated offences have come before special military courts. The Human Rights Committee has said that the use of military or special courts to try civilians, while not explicitly prohibited, should be "very exceptional and take place in conditions which genuinely afford the full guarantees stipulated in Article 14 of the International Covenant on Civil and Political Rights" (General Comment 13). As indicated above, Amnesty International believes that the use of special military courts to try civilians in Pakistan is commonplace and that the procedures, particularly in cases involving political prisoners, do not afford many of the minimum guarantees required under international law.

# 4. PRESIDENT'S\_ORDER\_NO\_\_4.\_1982\_(ALSO\_KNOWN\_AS\_THE\_CRIMINAL\_LAW\_AMENDMENT ORDER.\_1982)

The Criminal Law Amendment Order 1982 was introduced in March of that year by President's Order No. 4. The full text of this order is contained in Appendix II. The Order gives the Martial Law Administrators power to direct that a considerable number of offences may be tried under its provisions either before a special military court or before a special tribunal consisting of a judge, former judge or person qualified to be a High Court judge. Proceedings held under the Order are subject to the Official Secrets Act. Beyond general assurances that its use has been rare government officials did not give the Amnesty International delegate details of how often the Order has been invoked. Amnesty International therefore lacks precise information on how often the Order has been used, but has received reliable reports of several recent important trials held under the Order involving over one hundred political prisoners. The Order was applied in all three cases examined in the case studies later in this report. Concern about the possible effect of the Order on the right to a fair trial caused Amnesty International to ask that its delegate be allowed to observe the Rawalpindi proceedings. Amnesty International regrets that the Government of Pakistan did not permit its delegate to obtain first hand information by observing the proceedings. The following observations are therefore necessarily based on an examination of the provisions of the Order in the light of such information as is available to Amnesty International.

The Order contains a number of provisions which Amnesty International considers may be inconsistent with the right to a fair trial. Article 8 of the Order stipulates that the procedure of a field general court martial shall be followed but also lays down certain important provisions which restrict the rights of the defence. The tribunal has discretion to refuse to hear any defence witness if "satisfied that the accused intends to call or examine such witness to cause vexation or delay or to defeat the ends of justice" (Article 8(A)). The International Covenant on Civil and Political Rights provides an accused the right to the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her (Article 14.3(e)). No provision is made in the Order to restrict prosecution witnesses. Although some limitation on witnesses in criminal proceedings may be compatible with international human rights standards, Amnesty International is concerned about the generality of the exclusion power, since Article 8(A) is not confined to cases of "vexation or delay" but includes the undefined category of the "defeat of the ends of justice". The Order also provides that no single witness shall be examined or cross-examined by more than one prosecutor or defence counsel without the express permission of the president of the court (Article 8(f)). Although the effect of the provision is unclear, Amnesty International has received reports that this has been interpreted in practice as meaning that where several accused are tried jointly only one defence counsel is permitted to cross-examine each witness on behalf of all the defendants. It has been alleged that this practice has hindered the presentation of an effective defence in cases where individual accused have wished to offer different defences. It would thus appear inconsistent with the right to a defence under Article 14.3(d) of the International Covenant on Civil and Political Rights and to restrict the defendant's right "to examine or have examined the witnesses against him" under Article 14.3(e) of the International Covenant on Civil and Political Rights.

Other provisions of the Order also give rise to concern. Article 11(1) allows the court to dispense with oral evidence in respect of witnesses "whose attendance cannot be procured without an amount of delay

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which is unreasonable in the circumstances". Article 11(2)(ii) makes admissible any statement recorded by a magistrate. Together these provisions allow the scope of cross-examination to be restricted and may therefore interfere with the rights of the defence.

Amnesty International has received many reports that the rights of the defence have not been properly respected in proceedings held under this Order. The case studies later in this report provide details of these allegations which have included limited facilities for defence counsel communicating with the defendants contrary to Article 14.3(b) of the International Covenant on Civil and Political Rights and restrictions on adjournments under Article 10 of the Order.

Amnesty International is also concerned about the provisions relating to the admissibility of evidence. As already noted Amnesty International has received reports that some prisoners held in pre-trial custody have been tortured in order to extract confessions. Article 11(2)(i) of the Order gives rise to particular concern in this connection. The Pakistan Evidence Act 1872 (sections 25 and 26) states explicitly that no confession made to a police officer is admissible in criminal proceedings and that, in the case of persons in custody, only confessions made in "the immediate presence of a Magistrate" may be used in evidence. Article 11(2)(i) of the Order excludes this long standing safeguard of Pakistani law and makes admissible:

"Any statement made by a person who is examined at the trial as witness or as an accused person which may have been recorded by a Magistrate or by an officer during the course of investigation of the case under trial or in the course of the investigation of any other criminal case". (Emphasis added).

Government officials confirmed to the Amnesty International delegate that this provision makes confessions to investigating officers admissible as evidence. These officials stressed that such confessions would not have strong probative force, but Amnesty International is concerned that this provision has removed a safeguard against the use as evidence of confessions obtained by torture. This concern is heightened because the Order has been used in cases involving political prisoners who were detained for up to three years before trial and who were allegedly tortured during this period. Moreover, special military courts are alleged to have admitted as evidence the uncorroborated testimony of an accomplice and hearsay evidence such as the testimony of an officer regarding the interrogation of a prisoner which he had not witnessed.

Article 13 of the Order is also of concern to Amnesty International. It places the burden of proof on the accused in a wide range of circumstances:

"Where any person accused of having committed a scheduled offence is found to be in possession of, or to have under his control, any article or thing which is capable of being used for, or in connection with, the commission of such offence, or is apprehended in circumstances which tend to raise a reasonable suspicion that he has committed such offence, or intended to commit such offence, he shall be presumed to have committed the offence unless he can prove that he had not in fact committed the offence or not intended to commit such offence."

Article 11 of the Universal Declaration of Human Rights and Article

14.2 of the International Covenant on Civil and Political Rights provide that everyone charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The Human Rights Comittee has commented on this provision: "by reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt."

In his discussions with government officials the Amnesty International delegate raised the compatibility of Article 13 of the Order with the presumption of innocence. The government officials observed that Article 13 created a rebuttable presumption and that the prosecution retained the obligation to prove guilt beyond reasonable doubt.

Despite this, Amnesty International believes that the loosely worded formulation of this provision may conflict with the basic right of any defendant to be presumed innocent until found guilty by a court of law. There are many articles which can be used for innocent purposes but whose possession or control alone apparently suffice to bring the presumption into play without any evidence specifically linking the article to the offence charged. While recognizing that it may sometimes be legitimate to shift the burden of proof to an accused person in specific circumstances, Amnesty International is concerned that the practical effect of Article 13 may be routinely to place the burden of proof on the accused, thereby seriously violating the presumption of innocence.

The existence of the wide presumption of guilt under Article 13 is made more disturbing by the provision which immediately precedes it in the Order. Article 12 provides that people convicted in proceedings under the Order must receive the maximum sentence and should receive no remission of sentence when imprisoned:

"The tribunal or court may pass any sentence authorised by law provided that -(A) In no case shall the sentence of imprisonment passed by the tribunal or court in respect of a scheduled offence whether

(A) In no case shall the sentence of imprisonment passed by the tribunal or court in respect of a scheduled offence, whether committed before or after the commencement of this order, be less than maximum sentence provided for in the law under which the offence is punishable, and
(B) Where the law under which a scheduled offence is punishable provides for a sentence of death or imprisonment for life and the tribunal or court passed a sentence of imprisonment for life, it shall record its reasons therefor.
(C) A person sentenced by the tribunal or court to imprisonment shall undergo the full term of imprisonment and no remission of sentence provided for in the Prisons Act, 1894 (IX of 1894), or the rules made thereunder shall be admissible to him."

According to the government officials who met the Amnesty International delegate the rigour of Article 12 is mitigated in practice by the proceedures for administrative review of sentences by the martial law authorities. However, as already stated (see 3.5), Amnesty International believes that the administrative review procedures do not comply with the right to an appeal to a higher tribunal, interfere with the independence of special military courts and give rise to concern on grounds of bias and of violation of the right to a fair trial. Article 12 of the Order, when enforced, further restricts the independence of the members of special military courts acting under its provisions. Mandatory sentences in limited circumstances do not in themselves necessarily interfere with

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judicial independence; however, the combination of the wide scope of presumption in Article 13 with the obligation to impose the maximum sentences in all cases interferes with the traditional discretions of a trial court to such a degree as to call seriously into question its independence.

In the light of the provisions of the Order already mentioned, Amnesty International is particularly concerned about those which allow for <u>in</u> camera trial and apply the sanctions of the Official Secrets Act to the disclosure of information about proceedings under the Order. Article 8(C) allows the court to order in camera trial if it "so deems fit and when so ordered no person except the accused persons, the prosecution, defence counsel and the witnesses shall be allowed to enter the premises of the court." <u>In camera</u> trial, generally inside a prison, is routine for proceedings under the Order, according to the information received by Amnesty International. Whether or not a trial is held in camera, Articles 8(D) and (E) prohibit anyone attending proceedings from disclosing, printing or publishing information about the trial without permission of the court. Disclosure of "any document or information" concerning proceedings under the Order to "any person other than a person who is officially connected with the preparation or conduct of the....case" is deemed an offence under the Official Secrets Act (Article 9 of the Order). As stated earlier, under Section 5.3(a) of the Official Secrets Act the death penalty may be imposed for offences in relation to the military affairs of Pakistan.

Taken in isolation and in narrower terms, some of the provisions of the Order would not necessarily conflict with the rights of the defendant in criminal proceedings. However, any assessment of the fairness of criminal proceedings must take into account the overall effect of procedural provisions and their application in practice. On the basis of its examination of President's Order No. 4, 1982 (Criminal Law Amendment Order 1982), Amnesty International concludes that it has the effect of violating the right to a fair trial in many respects. This conclusion is supported by information which the organization has received about certain trials held under the Order: details of three trials are given in the case studies immediately following. The respects in which the general procedure and operation of special military courts fall short of international human rights standards have already been detailed. Amnesty International believes that the application of President's Order No. 4, 1982 (Criminal Law Amendment Order 1982) compounds the irregularities in the proceedings of special military courts contributing further to the manifest unfairness of trials held under such procedures.

# 5\_\_\_\_CASE\_STUDIES

# <u>Rawalpindi, August-December 1984</u>

Eighteen persons were tried before a special military court held in Rawalpindi District Jail under the provisions of President's Order No. 4, 1982. They were charged under Section 120B of the Pakistan Penal Code with criminal conspiracy to overthrow the government. According to the information available to Amnesty International, the 18 defendants are understood to have been accused of visiting Libya during the period August to October 1980, where they allegedly engaged in military training with the

5.1 The trial of 18 prisoners before Special Military Court No. 38

object of returning to Pakistan to promote terrorist activities. They are not known to have been accused of any specific subversive act following their return to Pakistan. According to the information available to Amnesty International the defendants did not deny the accusation of having been in Libya for periods of between two and three weeks, but disputed the motivation alleged to be the cause of their visit.

The first of this group to be arrested were Jehangir Ahmed Khan, Tariq Khurshid, Zawar Hussain Malik and Rana Muhammad Mansha, who were picked up from their homes in Lahore late at night or in the early hours of the morning of 5/6 January 1981 by personnel of the Inter-Services Intelligence (ISI). A fifth person, Zahoor Ahmad Malik was arrested at Rawalpindi on 7 January. They were taken to Attock Fort, some 50 miles from Islamabad, where they were kept for five months. For the first 45 days, they were held in solitary confinement, entirely <u>incommunicado</u>, in what have been described as cave-like underground cells. One defendant claimed that although he was not beaten, he was tied with ropes and compelled to stay awake for 48 hours. Others are reported to have been physically assaulted, although Amnesty International does not have full details of their treatment. The prisoners were reportedly denied food for two or three days and were constantly threatened that they would be killed. A habeas corpus petition was submitted to the Lahore High Court in January 1981 on behalf of some of these prisoners. Although the High Court ordered the Punjab Government to produce the prisoners, the Punjab Government appealed to the Supreme Court, challenging the right of jurisdiction of the High Court to entertain a petition on behalf of prisoners held under the Pakistan Army Act. The Supreme Court referred the question of jurisdiction back to the High Court. No ruling is known to have been made prior to the promulgation of the Provisional Constitution Order of 24 March 1981 which prohibited any challenge in any court to any action undertaken by the martial law authorities.

On 16 March 1981, over two months after the initial arrests, a First Information Report was reportedly registered concerning the case of those arrested. The First Information Report is the recording of an alleged offence by the police which initiates a criminal investigation. Later that month, the prisoners were taken to Islamabad and investigation of their case is understood to have been handed over to the Federal Investigation Agency (FIA). After a few days, they were returned to Attock Fort where they were held together in one cell. It is believed that some of the prisoners were then able to communicate with their families for the first time since their arrest. It is unclear what facilities were permitted to all the prisoners at this time. Some appear to have been allowed interviews, although Amnesty International understands that none of the five men saw their families more than twice during the first five months of their imprisonment. Others were apparently only permitted writing facilities.

The prisoners remained at Attock Fort until 28 May 1981, when they were sent to Rawalpindi and produced before a summary military court, which authorized their remand under FIA custody for five days. On 2 June 1981 statements of the prisoners were recorded before a magistrate and the prisoners were then sent to Rawalpindi District Jail.

Meanwhile, other people had been arrested. Munawar Hussein Bokhari was arrested on 24 March 1981, and Muhammad Saeed Akhtar and Samiullah Khan on 27 March. Munawar Hussein Bokhari was released after interrogation by the Inter-Services Intelligence on 15 April but re-arrested on 7 July. Both Muhammad Saeed Akhtar and Samiullah Khan were taken to Attock Fort where

they were reportedly held <u>incommunicado</u> until their statements were recorded on 2 June. They were then sent to Rawalpindi District Jail. Kamran Rizvi and Mubarak Shah were arrested on 4 or 5 May. Kamran Rizvi was reportedly first interrogated by Inter-Services Intelligence personnel and after some 14 days was sent to Lahore Fort, where his interrogation continued. He was transferred to Kot Lakhpat Jail, Lahore, on 26 July and then to Rawalpindi District Jail in early August. He is reported to have been physically beaten during his interrogation both by the Inter-Services Intelligence and when in Lahore Fort, and was only able to see his family for the first time in late August, almost four months after his arrest. In September, Kamran Rizvi was brought to trial before a special military court in Rawalpindi in connection with another case. He was charged together with Muhammad Shafi and Jamil Abbassi with "promoting the feelings of enmity or hatred between different classes", "creating alarm and despondency amongst the public, bringing hatred and disaffection towards the martial law administration", "propagating the cause of a political party" through possessing leaflets and documents and "unlawful possession of arms", which, in Kamran Rizvi's case, consisted of empty cartridges. All three prisoners were convicted: Kamran Rizvi and Muhammad Shafi to 10 years' imprisonment; Jamil Abbassi to 14 years'. Muhammad Ramzan Janbaz was arrested on 2 June and Ahmad Nawaz Khan on 16 June. By mid-1981 more than half the 18 defendants in the Rawalpindi trial had been arrested.

In mid-February 1982 three more people were arrested: Mehboob Ahmed Khan, Zamir Ahmed Gilani and Tanvir Zaman. All three are reported to have been beaten during interrogation. Mehboob Ahmed Khan was first held in the custody of the Criminal Investigation Agency (CIA) in Faisalabad for seven days. He was then transferred to Lahore where he is said to have spent some 22 days in solitary confinement in Birdwood Barracks (also known as the Red Fort). He was also detained in Lahore Fort. He was finally remanded in judicial custody after appearing before a summary military court on 25 April. Zamir Ahmed Gilani and Tanvir Zaman were both reportedly beaten in Birdwood Barracks prior to their judicial remand on 4 March.

Finally, Abdul Wahid was arrested on 9 March 1982, Inayat Ali Hashmi sometime during the second half of 1982, probably in October, and Iqbal Mustafa Jan on 26 November 1983.

Two other people continue to be held in connection with this case: Mansoor Ahmed, who was arrested on 17 November 1980, and Nazir Baluch, who is believed to have been arrested in February 1981. Both these prisoners were originally alleged to have become "approvers". An approver is a co-accused, who confesses guilt and accuses others of the same offence, appearing as a witness for the prosecution. However, in January 1982 they are reported to have petitioned the summary military court which authorized their continued remand every fortnight, claiming that they were forced to become approvers. They requested that their names be added to the list of the accused. No action appears to have been taken on this. During the trial of the 18 defendants, Mansoor Ahmed and Nazir Baluch were declared witnesses hostile to the prosecution. Amnesty International has received reports that both prisoners were physically tortured during interrogation. As of May 1985 these two prisoners are reported to be on trial before a military court in Rawalpindi. Amnesty International does not have further information on this trial.

When the 18 prisoners were initially remanded in custody, they were said to be held under several sections of the Pakistan Penal Code: 302 (murder); 120B (criminal conspiracy); 121A (conspiracy to commit the offence of waging or attempting to wage war or abetting waging of war

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against Pakistan); 122 (collecting arms, etc. with intention of waging war); 123 (concealing with intent to facilitate design to wage war) and 109 (abetment of offences); and under Martial Law Regulation No. 13. Martial Law Regulation No. 13 states: "No person shall, by words, either spoken or written, or by signs, or by visible representation, or otherwise, bring or attempt to bring into hatred or contempt or excite or attempt to excite disaffection towards the Armed Forces or any member thereof, or in any manner whatsoever spread or attempt to spread any report calculated to create alarm or despondency amongst the public. Maximum punishment, Rigorous Imprisonment for five years and or whipping up to 10 stripes." From the time of their initial remand until August 1983, the group of prisoners was produced fortnightly before a summary military court which authorized their continued detention. From then on, they were no longer produced in court but their remand was reportedly effected on paper by the appropriate authorities. Bail petitions submitted in early 1983 on behalf of some of the prisoners who had then been held for two years without charge or trial were rejected.

No precise charges were brought against the prisoners until 8 July 1984. They were then presented by the jail authorities with a chargesheet detailing four counts under the Pakistan Penal Code: criminal conspiracy; conspiracy to wage war against Pakistan; collecting arms and ammunition with the intention of waging war; and concealing the existence of designs to wage war. Two days later, this chargesheet was reportedly withdrawn without explanation. On 28 July, the prisoners were reportedly summoned to the jail superintendent's office where a revised chargesheet was read out to the prisoners by an army lieutenant colonel and major. The revised chargesheet included only one charge, criminal conspiracy. The prisoners were reportedly denied a copy of the second chargesheet.

Nine of the prisoners were reported to be held continuously in bar fetters since at least January 1983. Seven others were put into bar fetters during early 1984. In July 1984, lawyers acting on behalf of the accused attempted to secure the removal of their fetters by submitting a petition to the Lahore High Court. Before the Lahore High Court, the Additional Advocate General, Punjab, contested the court's jurisdiction over the case. He argued that since the decision to keep the prisoners in fetters had been made by the Superintendent of Rawalpindi District Jail, only the Rawalpindi bench of the Lahore High Court could hear the petition. In a written reply to the Lahore High Court, the Superintendent of Rawalpindi District Jail submitted that the prisoners were held in fetters since they were "dangerous prisoners" who would attempt to escape. No ruling is known by Amnesty International to have been made on this petition, presumably due to the question of jurisdiction. The prisoners are believed to have been held in fetters both during and after their trial.



Some of these prisoners held in fetters in Rawalpindi District Jail during 1983. The fetters have been temporarily unclasped from the waist

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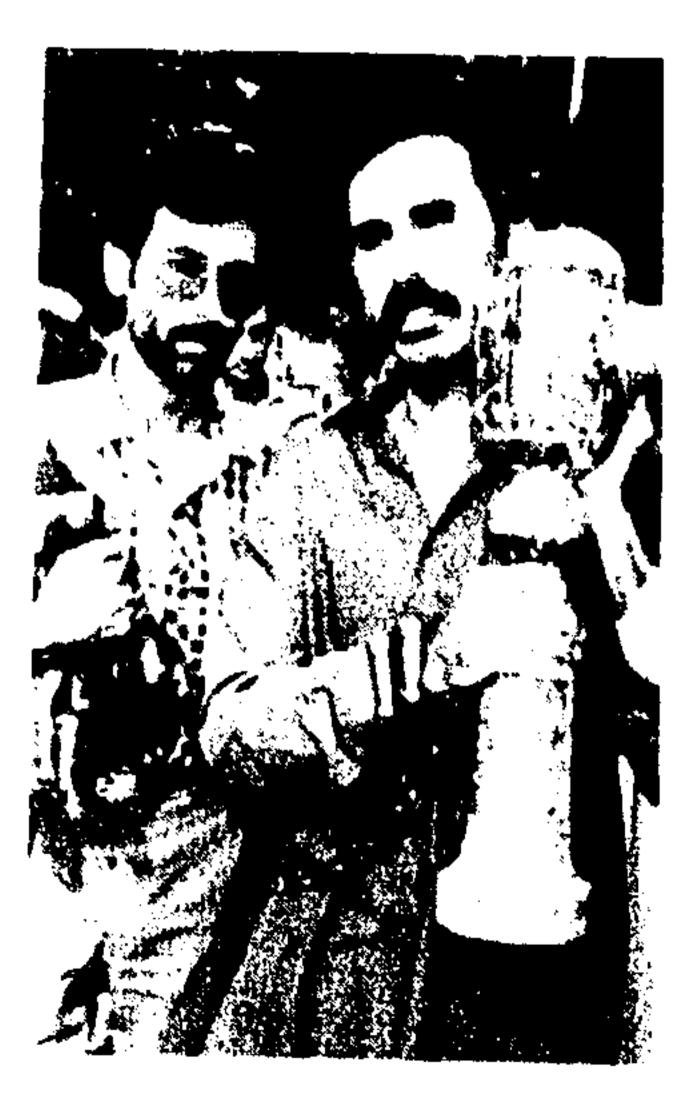
In addition to complaints about their incarceration in bar fetters, the prisoners have protested at other conditions of their detention. In particular, they have complained of inadequate medical treatment for several of them who had developed various ailments during their detention.

The trial before Special Military Court No. 38 is believed to have begun on 31 July 1984. The prisoners were reportedly given access to the panel of lawyers who had agreed to defend them only a few days before the trial commenced, thereby denying them adequate facilities for the preparation of their defence. Before the trial began, the accused were required to undertake in writing that they would not disclose information on the court's proceedings. For the first month of the court's sessions, the accused were reportedly denied visits from their relatives, who had previously been able to meet the prisoners either weekly or fortnightly since their initial remand. However, from the end of August 1984 their weekly visits were resumed.

The trial is believed to have progressed on an almost daily basis until the second week of October 1984, when it was announced that the defendants had decided to dismiss their counsel and boycott their trial in protest at the way it was being conducted. Complaints made by the prisoners relating to trial procedures were that defence counsel was restricted in the cross-examination of prosecution witnesses and that documentation essential to the preparation of the defendants' case was not provided to defence counsel until the day before they were to undertake cross-examination. The prisoners are also reported to have protested that one of the accused, Tariq Khurshid, had been unable to see his father prior to the latter's departure for the United Kingdom to undergo a heart operation, in the course of which he died. When an application had been made by the prisoner to the court for this interview, the President of the Court is reported to have been unable to give a ruling and referred the matter to the Office of the Judge Advocate General, which refused the request.

The boycott of proceedings lasted only about one week. The court is understood to have accommodated some of the prisoners' complaints. Hearings resumed and continued until sometime in December 1984. Tariq Khurshid was permitted to attend his father's funeral where he was one of the pall bearers, although he was made to wear fetters throughout his funeral.

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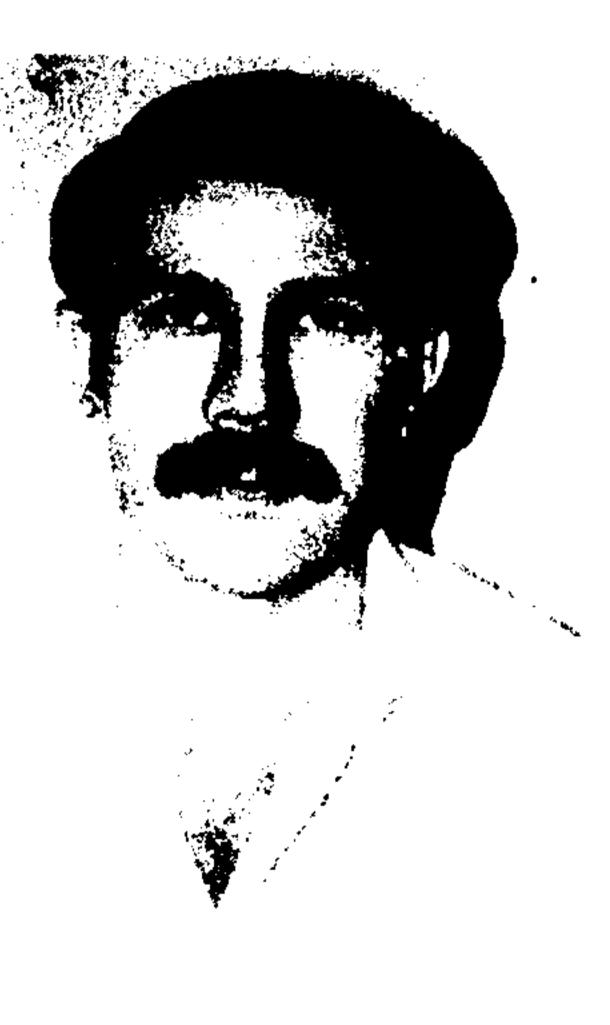
Tariq Khurshid, chained and also kept in fetters, during his father's funeral Between then and 10 March 1985, the court reserved its judgment. On 10 March 1985 it was announced that 13 of the accused had been found not guilty and were acquitted while five -- Rana Muhammad Mansha, Zawar Hussain Malik, Tariq Khurshid, Zahoor Ahmad Malik and Kamran Rizvi -- were convicted and sentenced to life imprisonment, meaning in Pakistan a term of 25 years. According to the information available to Amnesty International, this is only the third instance when prisoners charged with political or politically motivated offences have been acquitted by a special military court. In one of the two other instances, those acquitted were subsequently re-tried on fresh charges.

In announcing the sentence, it was stated that the five convicted prisoners could submit mercy petitions to the Chief Martial Law Administrator, President Zia-ul-Haq. According to press reports, one of the defence counsel stated that the five would be submitting a request for "revision", a provision available under Section 131 of the Army Act (which governs the procedures of military courts) for any person who "considers himself aggrieved" by a finding or sentence handed down by a military court. The "revision" is to be submitted to the Martial Law Administrator and Governor of Punjab province. As of May 1985 the five convicted prisoners are held in Mianwali or Faisalabad Jails, Punjab. (Details of these five prisoners are contained in Appendix III.) Amnesty International understands that they all continued to be held in fetters at that date.



Top row (left to right) Zawar Hussain Malik, Rana Muhammad Mansha and Kamran Rizvi Bottom row Tariq Khurshid

All were sentenced to 25 years' imprisonment, together with Zahoor Ahmad Malik, in March 1985



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### 5.2 The trial of 54 prisoners before Special Military Court No. 60, <u>Lahore, August-December 1984</u>

Fifty-four prisoners were brought to trial before a special military court held in Kot Lakhpat Jail, Lahore, held under the provisions of President's Order No. 4, 1982. Another 42 persons were listed on the chargesheet as accused in this case, all of whom are understood to be resident abroad and were therefore declared "absconders". (Names and details of the 54 accused are provided in Appendix IV.) All 54 prisoners were charged with criminal conspiracy and sedition, under Sections 120B and 124A respectively of the Pakistan Penal Code. The charge of criminal conspiracy, including membership of Al-Zulfikar, made reference to the object of committing murders of persons such as judges, highly placed government officers and members of the police and armed forces. Since the hijack of a Pakistan International Airlines aircraft in March 1981, responsibility for which was claimed by an organization calling itself Al-Zulfikar, the Pakistan authorities have accused the Al-Zulfikar organization of several murders and other acts of violence to overthrow the government. Al-Zulfikar, reportedly based abroad, is said to be headed by the sons of the former Prime Minister of Pakistan, Zulfikar Ali Bhutto, who was convicted on charges of conspiracy to murder and executed in 1979. The chargesheet further mentioned several murders committed during the period September 1981 to September 1983, in which the accused were said to have acted as conspirators. None of the 54 prisoners was charged with having direct responsibility for any of these acts of murder. Four persons had already been convicted of some of these offences by special military courts and executed prior to the commencement of the trial of the 54. The charge of sedition made reference to attempts to "excite disaffection towards (the) lawfully established Government of Pakistan by writing and distributing subversive material and issuing interviews and statements in foreign media",

At least 18 of the 54 prisoners are believed to have been arrested by the end of 1981, well before some of the murders referred to in the chargesheet occurred. A few were arrested during 1982 and others in 1983. Several of those arrested in 1981 have already been tried once by special military courts and sentenced to lengthy periods of imprisonment in connection with other alleged offences, for example the possession of arms. Others were held without precise charge until charges were brought in this case in August 1984. Most of the prisoners were arrested in Punjab province, mainly in Sialkot, Lahore and Rawalpindi.

Amnesty International does not have full details of the arrest and pre-trial detention of all 54 prisoners, but has received reports that some of them were held <u>incommunicado</u> for periods of up to several months in Lahore Fort and elsewhere, during which time they are said to have been tortured. Since 1982 Amnesty International has received the following information relating to the treatment of some of these prisoners:

Muhammad Sabir Hussain was arrested on 4 December 1981 from his home in Lahore, together with two of his brothers. One brother was released the next day, the other after 19 days in police custody. With the exception of a brief meeting with one of his brothers at the police station where he was first held, Muhammad Sabir Hussain is understood to have been denied contact with his family until some six months after his arrest, when he was finally transferred to Kot Lakhpat Jail. He had first spent 23 days in police cells, where he is said to have been beaten with a cricket bat.

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Muhammad Ejaz Bhatti was arrested on 26 December 1981 when he and his father are said to have reported at the Civil Lines Police Station in Lahore, at the request of the authorities. He was immediately placed under arrest and taken to Moghalpura Police Station, also in Lahore. He is reported to have been hung upside down and beaten, and revived with cold water when he lost consciousness. The police are said to have prepared a report while he was at the police station stating that he had been captured on 29 December when trying to flee his parents' home and found in possession of a grenade. He was transferred to Lahore Fort on 12 January 1982 and was kept there until March, when he was sent to Kot Lakhpat Jail. His family was able to see him for the first time, three months after his arrest, on 24 March. On 11 April, Muhammad Ejaz Bhatti is understood to have been returned to Lahore Fort for a further 10 days. During this period he is reported to have been beaten, especially on the legs, burned with cigarettes and denied food and sleep for prolonged periods. When he was sent back again to Kot Lakhpat, he was reported to be suffering from persistent nose bleeding and to have scars indicative of burn marks. His legs were also said to be very swollen. Muhammad Ejaz Bhatti was tried in early 1983 by a special military court on charges of possession of explosives and was sentenced to 14 years' imprisonment.

Afterwards he was sent to Lahore Fort for about five months. In Lahore Fort he was reportedly beaten and deprived of food and sleep for two or three days at a time. Denial of food and sleep was reported to have occurred after the prisoner refused to answer questions during interrogation.



Muhammad Sabir Hussain held in New Central Jail, Multan, May 1985. The following month, his fetters are understood to have been removed

Nasim Iqbal was reported to have been arrested in March 1981. His family was apparently unable to obtain any response from the martial law authorities as to Nasim Iqbal's whereabouts, and was only permitted to see him some eight months after his arrest. When first visited by his family Nasim Iqbal was reported to have lost a considerable amount of weight and to be in a weak state. He had been held in Lahore Fort where, according to a former prisoner who was held with him but subsequently released, he had been hung upside down for prolonged periods and beaten when he refused to answer questions.



the accused prior to the trial. Two of these three newly-appointed lawyers are believed to have subsequently withdrawn from the case. Refusing to accept the court-appointed counsel, the majority of the 54 prisoners continued with their boycott of the court's proceedings and undertook a Muhammad Ejaz Bhatti, now serving two hungerstrike in protest at the procedures in their trial and their sentences of 14 and 25 years' imprisonment, conditions of detention, including their incarceration in fetters. believed to run consecutively In mid-October 1984 five of the prisoners began a hungerstrike. Others joined the hungerstrike in stages until, by mid-November, 31 of the prisoners were reported to be involved in the hungerstrike action and six were reported to be in a precarious condition. Visits from relatives were suspended from the day the hungerstrike began. Several lawyers from Lahore who reportedly wished to dissuade the prisoners from their protest were also denied permission to visit them. Relatives of some of the 54 prisoners outside Kot Lakhpat Jail protesting at the trial held before a military court In addition to receiving complaints of torture during interrogation as The trial of the 54 prisoners began in mid-August 1984 under the The prisoners are understood to have ended their hungerstrike at the end of November. By that time, all but four of the accused were reportedly boycotting the trial and refusing to appear in court. In December 1984, court hearings were completed. The court reserved its judgment until 6 March 1985 when it was announced that all 54 accused were sentenced to 25 1984). years, a term of life imprisonment. Later in March, most of the 54 prisoners were transferred from Kot Lakhpat Jail, either to Mianwali Jail In early September, it was announced that the accused intended to or the New Central Jail, Multan. It is understood that as of May 1985 these prisoners continue to be held in fetters. Some of the 54 prisoners convicted in the Kot Lakhpat trial, held in fetters in Sahiwal Central Jail, May 1985 Left to right back row: Khokhar Mohammad Boota, Abdul Hamid Niazi, Taalat Jafri, Unknown, Abdul

detailed above, Amnesty International understands that almost all of the 54 prisoners were held continuously in fetters during their detention in Kot Lakhpat Jail. provisions of President's Order No. 4. A panel of several lawyers from among names proposed by the accused were engaged to represent them. It appears that prior to the commencement of the trial, defence counsel had not been able to obtain documentation such as the First Information Report and statements made by the accused recorded by a magistrate. According to a report in the daily newspaper <u>Dawn</u> (23 August 1984) the court directed defence counsel to submit in writing to the court requests for these, as well as other objections raised by defence counsel over the court's functioning and procedures. Four days later, the court is reported to have rejected the written applications made by defence counsel (<u>Dawn</u>, 27 August boycott proceedings in their trial to protest at the court's rejection of all the applications made by their defence counsel. Particular attention was drawn to the procedure of oath-taking by prosecution witnesses, who were reportedly not required to take an oath on the Koran. According to newspaper reports, the accused therefore withdrew power of attorney from the panel of defence lawyers. The president of the court then contacted several other prominent Lahore lawyers, requesting that they take over the defence of the 54 prisoners. These persons reportedly indicated their willingness to conduct the defence if they could be granted a meeting with the accused to ascertain their wishes. When this was not allowed, this

second group of lawyers refused to participate in the proceedings. However, the accused reportedly said they wished to continue with the services of those who had originally been appointed to their defence provided that this panel of lawyers be accorded full opportunity and facilities to conduct their defence. No agreement seems to have been reached in this respect since the court subsequently appointed three new lawyers to conduct the defence, none of whom had been named on the list originally submitted by





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Sheikh Qayyum, Unknown Left to right front row: Unknown, Akhlaq Shah, Javed Iqbal, Iqbal Pervez Masih, Aurangzeb Zafar, Nazim Iqbal

The trial of five prisoners before Special Military Court No. 2, <u>Karachi, September 1982-September 1983</u>

Between March and May 1981, five people, Muhammad Ayub Malik, Muhammad Essa Baluch, Abdul Nasir Baluch, Rasool Bux and Saifullah Khalid, were arrested and accused of involvement in the hijack of a Pakistan International Airlines aircraft on 2 March 1981. (Details of these individuals are provided in Appendix V.) A year and a half after their arrest, the five prisoners were brought to trial before Special Military Court No. 2, held <u>in camera</u> in Karachi Central Jail. They were jointly charged with "committing or attempting/conspiring to commit the offence of hijacking, or abetting the commission thereof" under Martial Law Regulation No. 29. An alternative charge, of abetting the hijack, was also filed against all five under Martial Law Regulation No. 36. Three persons, Abdul Nasir Baluch, Rasool Bux and Saifullah Khalid, were charged under Martial Law Regulation No. 8 with illegal possession of firearms.

Muhammad Ayub Malik, Muhammad Essa Baluch, Abdul Nasir Baluch and Rasool Bux were arrested between 31 March and 4 April 1981, from either their homes or their places of work in Karachi. The arrests were reportedly conducted by personnel of the Inter-Services Intelligence and Federal Investigation Agency. The prisoners are reported to have been held incommunicado for several weeks in various interrogation centers, including Illaco House, Karachi, said to be used by the Federal Investigation Agency; Malir Cantonment, reportedly used by Inter-Services Intelligence as an interrogation center; an unknown location in Clifton, reported to be run by the army's Field Intelligence Unit; and Baldia Camp, on the outskirts of Karachi. The fifth person, Saifullah Khalid, was arrested on 19 May 1981 in Sadda, North West Frontier Province (NWFP). After spending some three weeks in several different places of detention in NWFP, he was transferred to Karachi, where he was kept <u>incommunicado</u> for a further two months. According to reports received by Amnesty International, the prisoners were tortured during interrogation. Alleged methods of torture included being deprived of sleep, use of electric shocks and exposure to high powered lights.

Approximately three months later, in mid 1981, the prisoners were transferred to Karachi Central Jail. After their transfer to prison, it is understood that the prisoners were permitted visits from close relatives either once or twice a month. However, one of the five prisoners, complained that he was further ill-treated in the jail when, together with 10 other political prisoners, he was transferred to a part of the prison known as the <u>Bund</u> (closed) Ward for 10 days. (According to the information available to Amnesty International, confinement in the <u>Bund</u> Ward is generally for purposes of punishment, although the organization does not know why this group of prisoners was transferred there, nor the date between mid 1981 and early 1984 at which the transfer occurred.) When held in the <u>Bund</u> Ward, the prisoners were reportedly beaten by prison guards armed with wooden sticks. The eleven prisoners were also kept in bar fetters throughout the 10 days . Although some of the prisoners are reported to have requested medical treatment for injuries due to persistent beatings and incarceration in bar fetters, this was said to have been refused by the prison authorities.

According to the information available to Amnesty International, the chargesheet filed against these prisoners was dated January 1982, some 10 months after their arrest. However, the prisoners were reportedly not informed of the precise charges against them until shortly before the commencement of their trial in September 1982.

The trial lasted approximately one year. It is reported to have been held in camera, although it is unclear to Amnesty International whether provisions of President's Order No. 4 were invoked at the commencement of the trial. However, on 26 March 1984, several months after trial proceedings had been completed, the then Governor and Martial Law Administrator of Sind province, Lieutenant General S. M. Abbasi, issued an order directing that "the provisions of Article 11 of the President's Order No. 4 of 1982 (dealing with Special Rules of Evidence) shall be applicable in case Crime No. 11/81 of Crime Circle-I, Karachi, with effect from 13 March 1981." This retrospective application of President's Order No. 4 suggests that the order had not been applied during trial proceedings. It did have effect however when, in August 1984, orders were issued for the court to reconvene and reassess its findings, described below.

Although the trial was held <u>in camera</u> and little is known of its proceedings or procedures, Amnesty International has been informed that the prosecution's case rested largely on statements made by the accused reportedly under duress. It is also alleged that certain documentation was not made available to defence counsel, such as the report of the police officer investigating the case, thereby denying defence counsel the opportunity of effective cross-examination when the officer appeared as a witness for the prosecution, and that the court refused to adjourn on one occasion when defence counsel was unable to attend.

Although court proceedings concluded in September 1983, no verdict in the case was made public. However, according to official documentation in Amnesty International's possession, on 23 September 1983 the court sentenced Muhammad Ayub Malik to 14 years' imprisonment, a fine of 150,000 rupees and 10 lashes; Abdul Nasir Baluch to death; Muhammad Essa Baluch to 14 years' imprisonment, a fine of 200,000 rupees and 10 lashes; Rasool Bux to seven years' imprisonment; and Saifullah Khalid to 14 years' imprisonment, a fine of 300,000 rupees and 12 lashes. The prisoners were not informed of these sentences, even after the terms of imprisonment were duly confirmed on 19 May 1984 by Lieutenant General Jahan Dad Khan, the recently appointed Martial Law Administrator of Sind province, in accordance with the procedures governing the findings of special military The sentence of death on Nasir Baluch required confirmation by courts. the Chief Martial Law Administrator, President Zia-ul-Haq.

Three months later, on 28 August 1984, Lieutenant General Jahan Dad Khan, cancelled his Confirmation Order of 19 May. No explanation is given for this on the Cancellation Minute, according to the copy in Amnesty International's possession. Two days later, on 30 August, Lieutenant General Jehan Dad Khan issued a Revision Order. This stated:

I, Lieutenant General Jahan Dad Khan, Martial Law Administrator Zone 'C', hereby direct that Special Military Court No. 2, Karachi Division which tried accused (1) Muhammad Ayub Malik s/o Ghulam Sarwar Malik, (2) Abdul Nasir Baluch s/o Wali Muhammad Baluch, (3) Muhammad Essa s/o Faiz Muhammad Baluch, (4) Rasool Bux s/o Nabi Bux Baluch and (5) Saifullah Khalid alias Sain Khalid s/o Muhammad Ali Jouhar in case FIR No. 11/81, of FIA Crime Circle No. 1, Karachi from 22 Sep 82 to 23 Sep 83 will reassemble at Karachi on the date and time to be fixed by the President of the court for the purpose of revising the finding and sentence against the accused persons in the light of following observations:-

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The accused abetted one of the most heinous offences of terrorism committed against society wherein innocent persons, having no fault of theirs are kept hostages and their families put through un-told torture and misery. In this case there are no mitigating circumstances warranting award of lesser sentence to accused No. 1, 3 and 5. Accused No. 2 has already been awarded sentence of death. Therefore, the court may consider awarding of sentence of death to these accused persons as well. Accused No. 4 who is found guilty under MLR-8 for possessing unlicenced arms/ammunition has been awarded seven years RI. The court may also consider enhancing his sentence on revision as MLR-8 is punishable with 14 years RI.

After having considered above mentioned points the court should re-peruse the evidence on record and revise their finding and sentence in respect of accused (1) Muhammad Ayub Malik, (2) Abdul Nasir Baluch, (3) Muhammad Essa, (4) Rasool Bux and (5) Saifullah Khalid alias Sain Khalid,

3. The Revision Order would be read in closed court, after that the court would record its fresh finding/sentence as deemed appropriate.

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The court reconvened on 23 and 24 September 1984 reportedly without notification either to the defence or prosecution and duly revoked the original findings and sentence. The court's revision order stated:

"The court having attentively considered the observations of the confirming authority and whole of the proceedings in the light of 'ORDER' dated 26 March 1984 by Lieut. General S M Abbasi, Martial Law Administrator Zone C directing the provisions of Article 11 of the President's Order No. 4 of 1982 (dealing with Special Rules of Evidence) in this case FIR No 11/81 of FIA, Crime Circle I, Karachi with effect from 13 March 1981, do now revoke their findings and sentence, and find and sentence the accused persons as indicated on the respective schedules."

Muhammad Ayub Malik, Saifullah Khalid and Muhammad Essa Baluch were sentenced to death and Rasul Bux to 14 years' imprisonment. Abdul Nasir Baluch's death sentence was confirmed. The four death sentences were forwarded to the Chief Martial Law Administrator and these were approved on 26 October 1984. Some 10 days later, the five accused were informed, for the first time, of the outcome of their trial.

All four prisoners sentenced to death submitted clemency petitions to President Zia-ul-Haq, the only avenue open to them. On 1 March 1985, it was announced that the requests for clemency from Muhammad Ayub Malik, Saifullah Khalid and Muhammad Essa Baluch had been accepted and their death sentences commuted to periods of imprisonment. Abdul Nasir Baluch's petition was rejected and he was hanged in Karachi Central Jail on 5 March 1985.



The information contained in this memorandum has been compiled by Amnesty International from a number of sources, including officials in Pakistan. As stated earlier, the report covers only the procedures of special military courts, together with the treatment of political prisoners tried by such courts during 1983 and 1984. However, many of the recommendations made below apply equally to summary military courts as well as to the treatment of prisoners in general. Amnesty International is concerned that the treatment of political

prisoners and their trial before special military courts fails to comply in many respects with both national and international standards pertaining to fair trial and the treatment of prisoners. Although the chapter of the 1973 Constitution of Pakistan dealing with fundamental rights has been suspended since the promulgation of Provisional Constitution Order (PCO) of 24 March 1981, the Criminal Procedure Code contains certain safeguards for prisoners. However, Amnesty International believes that such provisions have been regularly disregarded in the cases of prisoners arrested by armed forces personnel and special intelligence operatives in connection with politically motivated offences.

Amnesty International believes that special military courts are neither independent nor impartial, as required under Article 14.1 of the International Covenant on Civil and Political Rights. They are established and dissolved solely on the orders of the martial law authorities. There are no guarantees of security of tenure for members of special military courts. Two of the three members of these courts, including the president, are serving armed forces personnel who, although some are believed to have had some legal training, do not have the benefit of the extensive training and experience which is generally required from civil judges trying criminal offences. Amnesty International has received disturbing reports

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# 6\_\_\_CONCLUSIONS\_AND\_RECOMMENDATIONS

# <u>6.1. Special Military Courts</u>

Abdul Nasir Baluch, who was hanged in March 1985

that during the course of trials instructions on rulings have been received from the authorities responsible for directing prosecutions, the Judge Advocate General's Office. In recent trials before special military courts examined by Amnesty International in this report it appears that statements made by the accused under duress have been admissible as evidence, contrary to Article 14.3(g) of the International Covenant on Civil and Political Rights, the UN Declaration and the UN Convention against Torture and, it has been alleged, in some instances the prosecution's case has rested largely on such statements. Special military courts permit no judicial review of their findings and sentence, in violation of Article 14.5 of the International Covenant on Civil and Political Rights, but are simply subject to review and confirmation by the martial law administrators, who also act as the prosecuting authorities.

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Amnesty International has also noted that trials before special military courts other than those cited in this report have recently been held under the provisions of President's Order No. 4 of 1982. Amnesty International is concerned that procedures introduced under President's Order No. 4 further contribute to the unjust process inherent in the operation of special military courts. Under President's Order No. 4, Article 8(C) a case may be heard <u>in camera</u> if the court "so deems fit". The broad language of this provision is contrary to the right to a public hearing contained in Article 14.1 of the International Covenant on Civil and Political Rights which is qualified only by certain special circumstances. The closed nature of the proceedings is reinforced by the provision for prosecuting under the Official Secrets Act any person involved in the trial who discloses information on its proceedings without authorization. In view of observations above on the lack of independence and impartiality of special military courts, this compounds the sense that justice cannot be seen to be done in any case held under these circumstances. The broadly worded provisions restricting the right of the defendant to call witnesses on his behalf (Article 8A) may, in practice, conflict with Article 14.3(e) of the International Covenant on Civil and Political Rights which stipulates that defence and prosecution should have equal rights to summon witnesses. The changes to the rules of evidence further indicate that such trials do not conform to traditional judicial proceedings and the shifting of the burden of proof is so widely worded that it may conflict with the right of an accused to be presumed innocent, contained in Article 14.2 of the International Covenant on Civil and Political Rights. The removal of judicial discretion in sentencing further undermines the independence of the court.

In the light of these findings, Amnesty International wishes to submit the following recommendations for the prompt consideration of the Government of Pakistan:

<u>Recommendation 1.</u> In accordance with the Government of Pakistan's expressed intent to withdraw martial law provisions, Amnesty International respectfully recommends that special military courts be abolished. The organization further recommends that all cases of prisoners charged with politically motivated criminal offences currently in progress before such courts be suspended and transferred to courts providing the minimum legal safeguards for a fair trial contained in Article 14 of the International Covenant on Civil and Political Rights.

<u>Recommendation 2.</u> Amnesty International is concerned at the consistent lack of independence and absence of impartiality in the proceedings of special military courts since their establishment and respectfully recommends that the cases of all prisoners previously sentenced by such courts for politically motivated criminal offences be annulled and that these prisoners be re-tried before a court constituted according to the provisions of Article 14 of the International Covenant on Civil and Political Rights. Pending their re-trial, Amnesty International respectfully requests the Government of Pakistan to consider a prompt examination by the appropriate judicial authority of the nature of the charges brought against these prisoners taking into account bail facilities under Section 497 of the Criminal Procedure Code as amended by Ordinance LXXI of 1979 (December 1979) and Ordinance XXXII of 1983 (December 1983) which, with certain reservations, provides bail for persons held on capital charges when their trial has not been completed within two years of their arrest.

<u>Recommendation 3.</u> Amnesty International is concerned that several provisions of President's Order No. 4 of 1982 (Criminal Law Amendment Order, 1982) contravene internationally recognized standards for fair trial as set out in Article 14 of the International Covenant on Civil and Political Rights, and alter substantially and detrimentally rules on evidence, as contained in the Evidence Act, 1872. Amnesty International respectfully recommends the Government of Pakistan to introduce legislation providing for the immediate withdrawal of President's Order No. 4 of 1982.

# 6.2. Incommunicado detention and reports of torture

Amnesty International has received consistent reports that some prisoners held incommunicado have been tortured, and that statements extracted under duress have been used as evidence in court proceedings. It is the view of Amnesty International that the practice of holding prisoners incommunicado during interrogation for periods extending to some months without producing them before a court and preferring charges is contrary to Sections 81 and 167 of the Pakistan Criminal Procedure Code, to Article 9.2 of the International Covenant on Civil and Political Rights, Article 9 of the Universal Declaration of Human Rights and to provisions under A, Part II, Section C of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The torture of any prisoner is prohibited by Article 7 of the International Covenant on Civil and Political Rights, a provision from which no derogation is permitted under any circumstances, and this is reiterated in the UN Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 3) and the recently adopted UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 2).

In view of its concern regarding the treatment of prisoners, Amnesty International submits to the Government of Pakistan the following recommendations:

<u>Recommendation 4.</u> Amnesty International respectfully recommends that the Government of Pakistan immediately revives articles of the Constitution of 1973 pertaining to fundamental rights, thereby reinforcing its commitment to the prohibiton of torture and of the use in evidence of statements extracted under duress. Amnesty International also recommends that further to prevent the occurrence of torture the Government of Pakistan makes legal provision for any person who has been arrested to be permitted immediate access to a lawyer; that the prisoner should be able to notify his or her family immediately of this arrest and his or her whereabouts and that relatives be allowed access to the prisoner within 48 hours of this time, with visits continuing regularly throughout the period of detention; and that those arrested should have the right to a medical examination

immediately after arrest and regularly thereafter, with records of these kept and made available for subsequent investigation of any allegations of ill treatment. Amnesty International respectfully draws the attention of the Government of Pakistan to provisions under A, Part II, Section C of the UN Standard Minimum Rules for the Treatment of Prisoners concerning prisoners under arrest or awaiting trial.

<u>Recommendation 5.</u> Amnesty International respectfully recommends that the Government of Pakistan institutes an immediate review with regard to personnel authorized to conduct arrests, interrogation methods and practices and arrangements for the immediate post-arrest custody and treatment of persons arrested, and that a regular and systematic examination of these be maintained with a view to preventing the occurrence of torture, in accordance with Article 6 of the UN Declaration against Torture. Moreover, Amnesty International requests that the Government of Pakistan ensures compliance with the provisions of Sections 81 and 167 of the Criminal Procedure Code that an officer executing a warrant of arrest brings the person arrested before the appropriate court without delay and that continued detention without charge beyond 24 hours is duly authorized by a magistrate.

<u>Recommendation 6.</u> Amnesty International respectfully recommends that the Government of Pakistan implements measures to abolish torture and other forms of cruel, inhuman or degrading treatment or punishment and prevents its occurrence; in the furtherance of these objectives, Amnesty International recommmends that the Government of Pakistan ensures that prompt and impartial investigations into allegations of torture be undertaken, in accordance with Article 9 of the UN Declaration against Torture, and in Article 12 of the UN Convention against Torture, the findings of which should be published in full. Amnesty International also recommends that if it is established that torture appears to have taken place, proceedings be instituted against the alleged offender to establish legal responsibilty, in accordance with Article 10 of the UN Declaration against Torture. Amnesty International further recommends that the Government of Pakistan makes clear provision in criminal law against the offence of torture and incorporates within this both attempt to commit torture and any act by any person which constitutes complicity or participation in torture; and finally, that where it is proved that an act of torture has been committed by or at the instigation of a public official, the victim obtain redress and adequate compensation, according to Articles 11 and 14 respectively of the UN Declaration and Convention against Torture.

<u>Recommendation 7.</u> Amnesty International respectfully recommends that the Government of Pakistan ensures that the training of law enforcement personnel and of other public officials responsible for the safe custody of prisoners includes reference to national and international standards for the treatment of prisoners, including the UN Standard Minimum Rules for the Treatment of Prisoners, the UN Declaration on the Protection of All Persons from Torture and the Code of Conduct for Law Enforcement Officials.

<u>. Conditions of detention and cruel, inhuman or degrading treatment or</u> <u>6.3.</u> <u>punishment</u>

Amnesty International is concerned that political prisoners have been held without precise charge for periods of up to three and a half years in conditions which fail to comply with domestic provisions, as contained in

the Pakistan Prison Rules, or international standards as outlined in the UN Standard Minimum Rules for the Treatment of Prisoners, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Reports received by Amnesty International indicate that in some instances prisoners have not received necessary medical treatment, have been denied visits from relatives, have been subjected to beatings in prison and have been denied facilities to which they were entitled under the Prison Rules. Of particular importance, Amnesty International believes that considerable numbers of prisoners are being held in a variety of bar shackles and fetters, prohibited by the UN Standard Minimum Rules referred to above.

Amnesty International welcomes the appointment during 1984 by the Government of Pakistan of a Commission on Jail Reforms. Amnesty International understands that as of late May 1985 this commission is finalizing its findings for presentation to the government.

<u>Recommendation 8.</u> Amnesty International respectfully recommends that the Government of Pakistan gives legislative effect to the immediate abolition of the use of all bar fetters, shackles and chains, either as instruments of restraint or for purposes of punishment, prohibiting entirely the imposition of such instruments on prisoners.

<u>Recommendation 9. Amnesty International respectfully recommends that, when</u> considering the report of the Commission on Jail Reforms, the Government of Pakistan reviews the Pakistan Prison Rules on the basis of the provisions of the UN Standard Minimum Rules, the International Covenant on Civil and Political Rights and the Code of Conduct for Law Enforcement Officials, incorporating in particular adequate facilities for medical services and visits to prisoners. Amnesty International further recommends that a special examination be made into current provisions for the punishment of prisoners, especially the practice of confining prisoners to a <u>Bund</u> Ward and the corporal punishment of prisoners reported to Amnesty International, the latter being strictly prohibited under international standards.

<u>Recommendation 10.</u> Amnesty International believes the punishments of flogging and amputation are contrary to the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Articles 5 and 7 respectively. Amnesty International respectfully recommends that the Government of Pakistan suspends immediately the implementation of such punishments and prohibits the further imposition of them.

# <u>6.4. The Death Penalty</u>

Amnesty International is aware that death sentences are imposed in Pakistan not only by special military courts, but also by ordinary criminal courts, for a wide range of offences under the Pakistan Penal Code, martial law regulations and Islamic ordinances. Amnesty International remains opposed to the imposition and implementation of the death penalty in all cases without reservation on the basis that it violates the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and thus urges the Government of Pakistan to give serious consideration to the abolition of the death penalty. Amnesty International records here particular reservations regarding sentences of death imposed by special military courts.

Amnesty International respectfully draws the attention of the

Government of Pakistan to Resolution 1984/50 of the United Nations Economic and Social Council adopted on 25 May 1984. Annexed to this resolution is a list of safeguards guaranteeing protection of the rights of those facing the death penalty, expressly approved in the resolution. Among these are:

- women.")

Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory."

Amnesty International believes that all three of the safeguards cited above have been infringed through the implementation of death sentences imposed by special military courts in recent years.

Recommendation 11. Amnesty International respectfully recommends that, in accordance with its earlier recommendation on the re-trial of prisoners convicted by special military courts, the Government of Pakistan immediately commutes all death sentences imposed by special military courts which have yet to be carried out.

6.5. Accession to International Human Rights Standards

Finally, Amnesty International draws attention to repeated calls by the United Nations upon all governments to ratify the international covenants on human rights. Within Asia, regional non-governmental organizations have endorsed this call.

Recommendation 12. In order to help secure the effective protection of human rights in Pakistan, Amnesty International respectfully recommends that the Government of Pakistan accedes to the International Covenant on Civil and Political Rights, together with the Optional Protocol, and signs and ratifies without reservations the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by consensus by the UN General Assembly on 10 December 1984.

"3. Persons under 18 years of age at the time of the commission of the crime shall not be sentenced to death". (This provision is also incorporated in the International Covenant on Civil and Political Rights, Article 6.5 of which states: "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant

Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights....

### APPENDIX\_\_\_\_

Extracts from the International Covenant on Civil and Political Rights

### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### Article 9

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and should occasion arise, for execution of the judgement.

Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

### Article 14

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (<u>ordre public</u>) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any crim be entitled to the following minimum

- (a) To be informed promptly and understands of the nature an him;
- To have adequate time and (b) his defence and to communi choosing;
- (c) To be tried without undue  $d\epsilon$ To be tried in his presence (d) or through legal assistance informed, if he does not right; and to have legal as: cases where the interests payment by him in any su sufficient means to pay for
- To examine, or have examir (e) to obtain the attendance and behalf under the same condit (f) to have the free assistant
- understand or speak the lang (g) Not to be compelled to testi guilt;

In the case of juvenile persc account of their age and the desirab

Everyone convicted of a crim sentence being reviewed by a higher

When a person has by a final 6. and when subsequently his conviction on the ground that a new or newly has been a miscarriage of justice, result of such conviction shall proved that the non-disclosure of th attributable to him.

No one shall be liable to 7. which he has already been finally co law and penal procedure of each coun

# Extracts from the United Nations from Torture and Other Cruel, Inhuma

# Article 1

For the purpose of this severe pain or suffering, whether ph by or at the instigation of a publ obtaining from him or a third persor for an act he has committed or is su him or other persons. It does not inherent in or incidental to, lawfu]

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minal charge against him, everyone shall m guarantees, in full equality:	St
d in detail in a language which he nd cause of the charge against	or
facilities for the preparation of icate with counsel of his own	<u>Ar</u>
elay; e, and to defend himself in person	de
e of his own choosing; to be	wa
t have legal assistance, of this	em in
sistance assigned to him, in any	111
of justice so require, and without	
uch case if he does not have it:	<u>Ar</u>
ned, the witnesses against him and d examination of witnesses on his	
tions as witnesses against him;	ma
nce of an interpreter if he cannot	ac
guage used in court;	de
ify against himself or to confess	ap re
	or
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ons, the procedure shall be such as will take bility of promoting their rehabilitation.	Ar
me shall have the right to his conviction and	<u></u>
tribunal according to law.	pr
decision been convicted of a criminal offence	de
n has been reversed or he has been pardoned discovered fact shows conclusively that there	of
the person who has suffered punishment as a be compensated according to law, unless it is he unknown fact in time is wholly or partly	Ar
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be tried or punished again for an offence for onvicted or acquitted in accordance with the	CO
ntry.	Ar
	cr a
Declaration on the Protection of All Persons	im
an or Degrading Treatment or Punishment	
	Ar
	_
s Declaration, torture means any act by which	de
hysical or mental, is intentionally inflicted	CO
lic official on a person for such purposes as	bee
n information or confession, punishing him	Ar
uspected of having committed, or intimidating	
include pain or suffering arising only from,	
l sanctions to the extent consistent with the	to

tandard Minimum Rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman degrading treatment or punishment.

### <u>cticle 3</u>

No State many permit or tolerate torture or other cruel, inhuman or egrading treatment or punishment. Exceptional circumstances such as a state of ar or a threat of war, internal political instability or any other public mergency may not be invoked as a justification of torture or other cruel, nhuman or degrading treatment or punishment.

### <u>rticle 5</u>

The training of law enforcement personnel and of other public officials who ay be responsible for persons deprived of their liberty shall ensure that full ccount is taken of the prohibition against torture and other cruel, inhuman or egrading treatment or punishment. This prohibition shall also, where opropriate, be included in such general rules or instructions as are issued in egard to the duties and functions of anyone who may be involved in the custody treatment of such persons.

### <u>ticle 6</u>

Each State shall keep under systematic review interrogation methods and ractices as well as arrangments for the custody and treatment of persons eprived of their liberty in its territory, with a view to preventing any cases torture or other cruel, inhuman or degrading treatment or punishment.

### <u>cticle 7</u>

Each State shall ensure that all acts of torture as defined in article 1 re offences under its criminal law. The same shall apply in regard to acts nich constitute participation in, complicity in, incitement to or an attempt to ommit torture.

### rticle 8

Any person who alleges that he has been subjected to torture or other ruel, inhuman or degrading treatment or punishment by or at the instigation of public official shall have the right to complain to, and to have his case mpartially examined by, the competent authorities of the State concerned.

### <u>rticle 9</u>

Wherever there is reasonable ground to believe that an act of torture as efined in article 1 has been committed, the competent authorities of the State oncerned shall promptly proceed to an impartial investigation even if there has en no formal complaint.

### cticle 10

If an investigation under article 8 or article 9 establishes that an act of orture as defined in article 1 appears to have been committed, criminal

proceedings shall be instituted against the alleged offender or offenders in APPENDIX\_II accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the Text of President's Order No. 4 of 1982, the Criminal Law Amendment Order, 1982 alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings. <u>Article 11</u>

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

### <u>Article 12</u>

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

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Whereas it is expedient to provide for the trial by a special tribunal or a special military court of certain offences and for matters ancillary thereto, now, therefore, in pursuance of the proclamation of the day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following order:

<u>1. Short title, extent and commencement</u> - (1) This order may be called the Criminal Law Amendment Order, 1982, (2) It extends to the whole of Pakistan (3) It shall come into force at once.

<u>2. Definitions</u> - In this order, unless there is anything repugnant in the subject or context - (a) "Court" means a Special Military Court constituted under this order, (b) "Scheduled offences" means the offences specified in the schedule to this order, (c) "Special Public Prosecutor" means a person appointed by the Martial Law Administrator for the conduct of prosecution under this order, or (d) "Tribunal" means a special tribunal constituted under this order. <u>3. Order to override other laws - The provisions of this order shall have</u> effect notwithstanding anything contained in the code of criminal procedure, 1898, (act V of 1898), the Evidence Act, 1872 (1 of 1872), or any other law for the time being in force.

4. Constitution of tribunal or court - For the trial of scheduled offences, the Martial Law Administrator may, by order, constitute, (a) special tribunal consisting of person, who is, or had been, a Sessions Judge or is or has been, or is qualified to be a Judge of a High Court, or (b) a Special Military Court consisting of the following persons, namely:

(I) An Army Officer not below the rank of Lieutenant Colonel, who shall be the President of the court,

(II) A Magistrate of the First Class exercising powers under Section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898), and (III) An Army officer not below the rank of a Major.

5. Place of sitting - The tribunal or court shall sit at such place as the Martial Law Administrator may specify in this behalf.

6. Jurisdiction of tribunal or court - (1) Such specific cases relating to scheduled offences, where committed before or after the commencement of this order, as the Martial Law Administrator may, by order in writing, direct shall be triable by the tribunal or the court.

(2) If through death, illness or any other cause, the person constituting the tribunal or, as the case may be, the President or any member of the court is unable to continue to perform his functions, the Martial Law Administrator may, by order in writing, appoint thereto another competent person in his place. Provided that the tribunal or court shall not, merely by reason of any change in its constitution or membership, be bound to recall and re-hear any witness who had given evidence prior to such change, and it may act on the evidence already given or produced before it.

<u>7. Commencement of proceedings</u> - As soon as may be after the constitution of the tribunal or court, the special public prosecutor shall take steps to forward to the tribunal, or, as the case may be, court a statement of the case on behalf of the prosecution, together with a list of formal charges of offences alleged to have been committed by each of the accused person reciting the law under which each such offence is punishable, and a list of witnesses whom it is intended to produce in support of each charge.

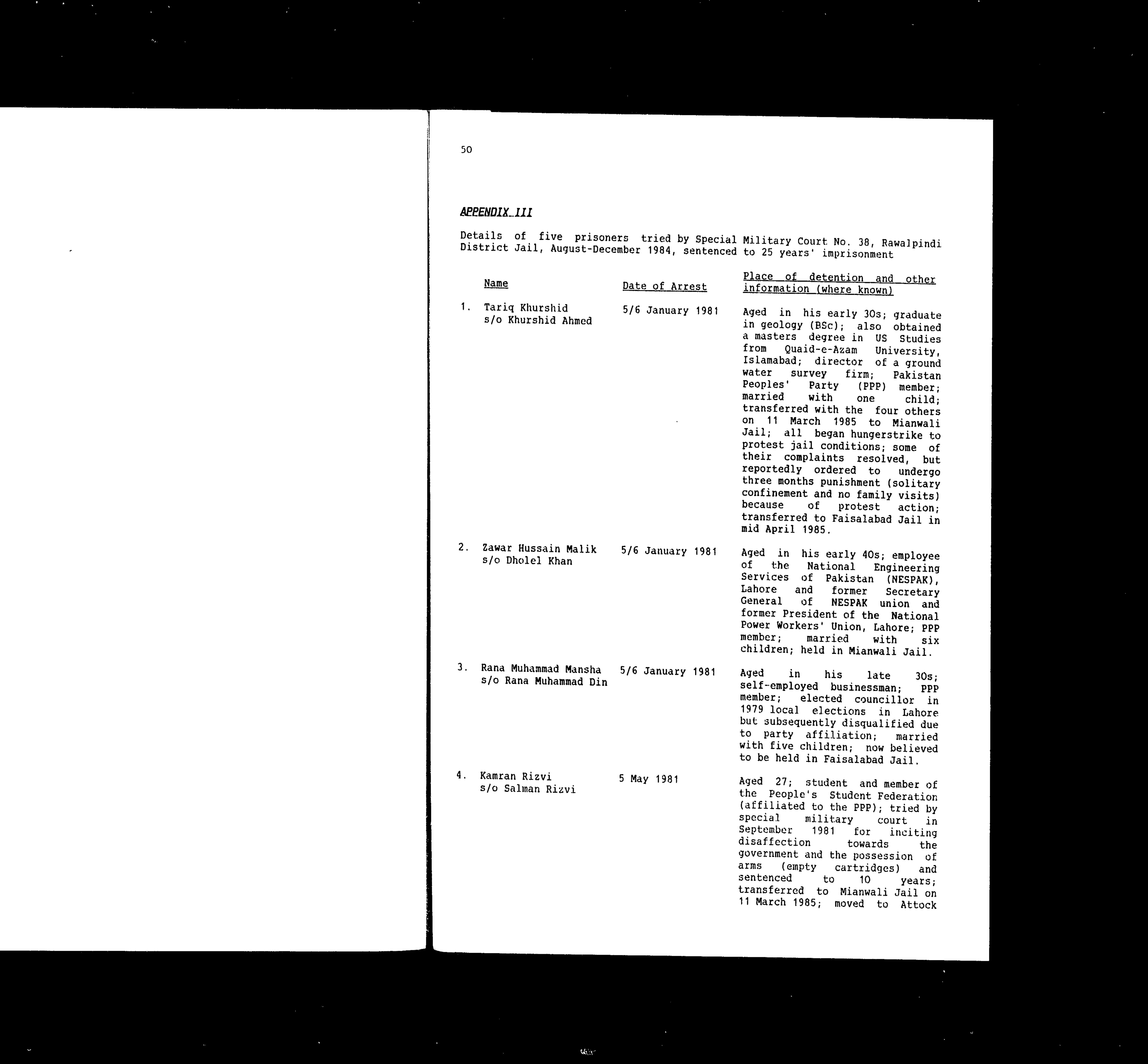
Provided that the submission of a list of witnesses under the article shall not preclude the prosecution from submitting additional names of witnesses or any other evidence at any subsequent stage of the prosecution evidence in the

8. Power and procedure of tribunal or court - A tribunal or court shall exercise the same powers and follow the same procedure, as that of a field by an officer during the course of investigation of any other criminal case. general court martial under the Pakistan Army Act, 1952 (XXXIX of 1952), and the (ii) Any statement of a person recorded by an officer exercising the powers rules made thereunder, and shall be competent to regulate its proceedings, of a Magistrate of the first Class or that person himself in his own handwriting provided that or under his signatures, and (A) The tribunal or court may refuse to examine or call any witness produced (iii) Any tape-recorded speech or statement of a person, provided that the by the accused or called at the instance of the accused if the tribunal or court voice of the speaker or the maker of the statement has been identified by a is satisfied that the accused intends to call or examine such witness to cause competent witness. vexation or delay or to defeat the ends of justice. (3) No objection to any document or property seized in the course of (B) After all the evidence is recorded, the tribunal or court shall hear the investigation being received in evidence shall be entertained on the ground that prosecutor and defence counsel and on conclusion of the same shall record its the same was not seized in accordance with the procedure prescribed in law. findings and sentence and forward the proceedings to the Martial Law <u>12. Sentence to be passed by tribunal or court - (1) The tribunal or court</u> Administrator for confirmation. may pass any sentence authorised by law provided that -(C) The trial may be ordered to be held in camera, if the tribunal or the (A) In no case shall the sentence of imprisonment passed by the tribunal or president of the court so deems fit, and when so ordered no person except the court in respect of a scheduled offence, whether committed before or after the accused persons, the prosecutors, defence counsel and the witnesses shall be commencement of this order, be less than maximum sentence provided for in the allowed to enter the premises of the tribunal or court. law under which the offence is punishable, and (D) No person attending the trial, including a party, advocate and witness, (B) Where the law under which a scheduled offence is punishable provides for shall divulge or disclose the proceedings of the tribunal or court to any person a sentence of death or imprisonment for life and the tribunal or court passed a unless authorised to do so by the tribunal or, as the case may be, the president sentence of imprisonment for life, it shall record its reasons therefor. of the court. (C) A person sentenced by the tribunal or court to imprisonment shall (E) No one shall print or publish anything relating to trial or the undergo the full term of imprisonment and no remission of sentence provided for proceedings of the tribunal or court without the prior approval of the tribunal in the Prisons Act, 1894 (IX of 1894), or the rules made thereunder shall be or, as the case may be, the president of the court. admissible to him. (F) No single witness shall be examined or cross-examined by more than one <u>13. Burden of proof</u> - Where any person accused of having committed a prosecutor or defence counsel, except with permission of the tribunal or, as the scheduled offence is found to be in possession of or to have under his control, case may be, the president of the court, and any article or thing which is capable of being used for, or in connection with, (G) The charge, findings and sentence shall, together with the confirmation the commission of such offence, or is apprehended in circumstances which tend to or non-confirmation of the proceedings, be promulgated in such manner as the raise a reasonable suspicion that he has committed such offence, or intended to Martial Law Administrator may direct. commit such offence, he shall be presumed to have committed the cffence unless 9. Application of Section 5 of Official Secrets Act, 1923 - Every person he can prove that he had not in fact committed the offence not intended to who being in possession of any document or information concerning the commit such offence. proceedings in a case before the tribunal or court by virtue of participation <u>14. Provisions of counsel for undefended accused persons</u> - The tribunal or therein, whether as a witness or as an officer of the court or otherwise, court may at any stage of the case direct that a counsel to be selected by the discloses such document or information to any person other than a person who is tribunal or court, as the case may be, shall be engaged at the expense of the officially connected with the preparation or conduct of the said case shall be Provincial Government to defend any accused person who is not represented by deemed to be guilty of an offence under Section 5 of the Official Secrets Act, counsel and may also determine the fee to be paid to such counsel. 1923 (XIX of 1923) <u>15. Power to punish for contempt - The tribunal or court shall have power</u> Exception - The provisions of this article shall not apply to any to punish any person who obstructs or abuses its process or disobeys any order communication between any accused person and his counsel which is made bonafide or direction or does anything which tends to prejudice the case of any party for the purposes of the defence of such accused person in the case. before it, or tends to bring it or any of its members into hatred or contempt, <u>10. Restriction on adjournment</u> The tribunal or court shall not adjourn or does anything which, by law, constitutes contempt of court, with simple the proceedings for any purpose unless it is of opinion that the adjournment is imprisonment which may extend to six months, or with fine, or with both. in the interest of justice, and in particular no trial shall be adjourned by <u>16. Petition to the President and Chief Martial Law Administrator - (1) Any</u> reason of the absence of the accused person if such accused person is person sentenced by the tribunal or court may, within thirty days of the order represented by counsel or if the absence of the accused person or his counsel of the tribunal or court, as the case may be, submit a petition has been brought about by the accused person himself or if the behaviour of the (A) To the President and Chief Martial Law Administrator, if the sentence is accused person prior to such absence has been in the opinion of the tribunal or one of death, and court such as to impede the course of justice, but in any such case the tribunal (B) To the Martial Law Administrator, in any other case. or court shall proceed with the trial after taking necessary steps to appoint a (2) The President and Chief Martial Law Administrator or the Martial Law counsel to defend any accused person who is not represented by counsel. Administrator, as the case may be, may pass such order on a petition submitted <u>11. Special rules of evidence - (1) The tribunal or court may receive in</u> to him under Clause (1) as he may deem fit. evidence, for such purpose as it may deem fit, any statement recorded by a Magistrate made by any person who, at the time of the trial, is dead, or whose attendence cannot be procured without an amount of delay or expense which is unreasonable in the circumstances. (2) The tribunal or court may receive in evidence -(i) Any statement made by a person who is examined at the trial as a

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witness or as an accused person which may have been recorded by a Magistrate or

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# APPENDIX\_III

Details of five prisoners tried by Special Military Court No. 38, Rawalpindi District Jail, August-December 1984, sentenced to 25 years' imprisonment

<u>Name</u>	<u>Date of Arrest</u>	<u>Place of de</u> information (
Tariq Khurshid Ahmed s/o Khurshid Ahmed	5/6 January 1981	Aged in his in geology (B a masters de from Quaid- Islamabad; d water surve Peoples' Pa married wi transferred w on 11 March Jail; all b protest jail their compla reportedly o three months confinement a because of transferred t mid April 198
Zawar Hussain Malik s/o Dholel Khan	5/6 January 1981	Aged in his of the Na Services of Lahore and General of former Preside Power Workers member; man children; hele
Rana Muhammad Mansha s/o Rana Muhammad Din	5/6 January 1981	Aged in self-employed member; election 1979 local election but subsequent to party aff with five chill to be held in
Kamran Rizvi s/o Salman Rizvi	5 May 1981	Aged 27; stu the People's (affiliated to special mil September 19 disaffection government and arms (empty sentenced transferred t 11 March 1985;

# <u>Place of detention and other</u> (where known)

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is early 30s; graduate (BSc); also obtained degree in US Studies d-e-Azam University, director of a ground firm; /ey Pakistan Party (PPP) member; with one child; with the four others ch 1985 to Mianwali began hungerstrike to conditions; some of laints resolved, but ordered to undergo punishment (solitary and no family visits) of protest action; to Faisalabad Jail in 85.

s early 40s; employee Aational Engineering Pakistan (NESPAK), former Secretary NESPAK union and dent of the National .s' Union, Lahore; PPP Married with six ld in Mianwali Jail.

his late 30s; businessman; PPP ected councillor in elections in Lahore ntly disqualified due ffiliation; married ildren; now believed J Faisalabad Jail.

tudent and member of Student Federation to the PPP); tried by nilitary court in 1981 for inciting 1 towards the the nd the possession of cartridges) and 10 to years; to Mianwali Jail on j; moved to Attock

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<u>Place of detention and other</u> APPENDIX\_IV Date of Arrest Name <u>information</u> Details of 54 prisoners tried by Special Military Court No. 60, Kot Lakhpat on 25 March and held there Jail Jail, Lahore, August-December 1984, sentenced to 25 years' imprisonment solitary confinement, 1n reportedly as punishment for tention in Punjab shouting anti-government slogans <u>other information</u> when in Mianwali Jail. Returned to Mianwali Jail on 5 April but subsequently moved to Jhelum e; detained in Sahiwal Jail; in effect said to be serving sentence of 35 years since two sentences reportedly ; detained in Sahiwal not to run concurrently. Zahoor Ahmad Malik 7 January 1981 Aged in his early 40s; lecturer detained in nwala; s/o Haji Ghulam Isa at Sir Syed College, Rawalpindi; Central Jail PPP member; married; held in Mianwali Jail. detained in Multan Jail pindi; detained in ntral Jail in his 50s; a manual worker Aged pindi; detained in and member of the PPP from Dera tral Jail Ismail Khan, North West Frontier Province (NWFP); transferred to detained in .kot; Peshawar Jail, NWFP following his ntral Jail acquittal. No reason for his continued detention is known. A Sialkot; detained in ntral Jail • ate 20s; reportedly TB; from Faisalabad; Kot Lakhpat Central <u>Place of Detention and other</u> <u>Name</u> <u>Date of Arrest</u> <u>information</u> 10. ; detained in Multan Jail Mansoor Ahmed November 1980 Aged in his mid 20s; employed in 11 detained kot; in a bookshop in Rawalpindi; PPP ntral Jail member; held in Rawalpindi District Jail in fetters. 12 detained kot; in ntral Jail Nazir Baluch February 1981 Graduate; reported to have worked Pakistan for radio; 13 Yar Khan; detained in married; held in Rawalpindi ntral Jail District Jail in fetters. 14.

5. The following prisoner, one of the 13 persons acquitted in the above trial, remains in detention Muhammad Ramzan Janbaz s/o Atta Muhammad The following prisoners also arrested in connection with this case were tried by Special Military Court No. 38, Rawalpindi in May-June 1985, similarly charged with criminal conspiracy. No verdict in their trial has been announced

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	<u>Name</u>	<u>Reported date of</u> <u>arrest (where</u> <u>known)</u>	<u>Place of dete</u> province and (where known)
Ι.	Ikhlaq Shah s/o Ashfaq Ahmad	1981	From Lahore; Central Jail
2.	Muhammad Salim Abbas s/o Latif Hussain Shah	17 April 1983	From Sialkot; Central Jail
3.	Munawar Asim Bhatti s/o Rehamad Ullah	-	From Gujranv Bahawalpur Ce
1.	Javed Akhtar s/o Abdul Ghani	1983	From Lahore; New Central J
5.	Naeem Akhtar s/o Muhammad Usman	1982	From Rawalpi Mainwali Cent
5.	Ashfaq Ali s/o Farzand Ali	-	From Rawalpi Sahiwal Centi
7.	Laiq Ali s/o Ghulam Ali	1983	From Siall Mianwali Cent
3.	Rana Farhat Ali s/o Ghulam Ali	1983	Lawyer; from Mianwali Cent
).	Sufi Muhammad Amin s/o Muhammad Sadiq	24 March 1981	Aged in lat suffers from detained in J Jail
).	Muhammad Anwar Bhatti s/o Muhammad Din	1983	From Sialkot New Central (
1.	Muhammad Asghar s/o Fazal Hussain	1983	From Sialko Mianwali Cent
2.	Muhammad Azam Bhatti s/o Muhammad Hussain	12 May 1983	From Sialko Mianwali Cent
}.	Abdur Razzaq Bajwa s/o Nazir Ali	17 April 1983	From Rahim Ya Mianwali Cent
1.	Muhammad Ejaz Bhatti s/o Hayat Muhammad	December 1981	Student; al 14 years detained in Jail

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ilready sentenced to in another trial; Multan New Central

	Name	<u>Reported date of</u> <u>arrest (where</u> <u>known)</u>	<u>Place of detention in Punjab</u> province and other information (where known)	29
15.	Muhammad Boota Khokhar s/o Karim Baksh	15 June 1983	From Lahore; detained in Sahiwal Central Jail	30
16.	Muhammad Asif Butt s/o Mohamnmad Din	13 August 1981	Student of law at Punjab University; from Sialkot; detained in Multan New Central Jail	Υ.
17.	Muhammad Azam Butt s/o Ghulam Qadir	1983	Student; from Faisalabad; detained in Bahawalpur Central Jail	31.
18.	Hafiz Nusrat ud Din s/o Miraj Din	1981	Aged in his early 30s; farmer; reported to suffer from asthma; from Rahim Yar Khan; detained in Bahawalpur Central Jail	32.
19.	Abdul Hamid Niazi s/o Muhammad Abdullah	8 September 1981	From Bakkar; reported to suffer from TB; detained in Multan New Central Jail	33.
20.	Abid Hussain s/o Altaf Hussain	_	From Sialkot; detained in Mianwali Central Jail	34,
21.	Muhammad Amjad s/o Khairat Muhammad	1983	From Sialkot; detained in Sahiwal Central Jail	35.
22.	Ghulam Hussain s/o Bagh Din	1983	From Sialkot; detained in Bahawalpur Central Jail	Ψ
23.	Muhammad Hussain s/o Amir Hussain	August 1981	Aged in his late 20s; from Bahawalphur; detained in Mianwali Central Jail	36. 37.
24.	Javed Iqbal s/o Muhammad Sadiq	4 December 1981	Already sentenced to 25 years; suffers from serious dental problems; from Lahore; detained in Sahiwal Central Jail	38.
25.	Masud Iqbal s/o Mukanam Ahmed Khan	August 1981	Servant; already sentenced to 14 years; from Lahore; detained in Multan New Central Jail	
26.	Nazim Iqbal s/o Zafar Iqbal	<b></b>	From Lahore; detained in Sahiwal Central Jail	39.
27.	Tallat Jafari s/o Fazal Ellahi Shakeel	_	From Sialkot; detained in Sahiwal Central Jail	40.
28.	Mian Muhammad Jehangir s/o Ali Muhammad	23 March 1981	Former councillor of Lahore Municipal Corporation and lawyer; already sentenced to 14 years; detained in Multan New Central Jail	

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54 <u>Reported date of Place of detention in Punjab</u>

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		Reported date of	<u>Place of c</u>
	<u>Name</u>	<u>arrest (where</u> <u>known)</u>	<u>province and</u> (where known
29.	Muhammad Yusuf Khattak s/o Muhammad Islam	1981	From Laho Mianwali Cent
30.	Muhammad Aslam Ludhianvi s/o Muhammad Shafi	. May 1981	From Mianwald 30s; form of PPP, H District; sh to suffer from detained j Jail, North Province
1.	Arshad Mahmood s/o Rehmat Ullah		From Sialkot; to 18 years; New Central J
2.	Tallat Mahmood s/o Muhammad Rafiq	1982	From Sialko Mianwali Cent
3.	Zahid Mahmood Butt s/o Muhammad Asghar	23 April 1983	From Sialkot; New Central J
4.	Muhammad Rafi Malik s/o Muhammad Shafi Malik	25 February 1982	Aged in his Faisalabad; from TB; det Central Jail
5.	Iqbal Pervez Masih s/o Sain Bhagat	16 November 1981	Aged in his Faisalabad; Central Jail
6.	Muhammad Siddiq Mirasi s/o Nawab Din	1983	From Sialk Bahawalpur Ce
7.	Sheikh Ghul Muhammad s/o Sheikh Bashir Ahmad	1981	Former Gener PPP in Gujr Bahawalpur Ce
3.	Mehr Atta Muhammad s/o Ghulam Qasim		Already sen former Genera PPP in Bakkar from TB; de Central Jail
	Khan Muhammad s/o Sachoo Khan	22 July 1981	Aged in his la Yar Khan; de Central Jail
	Hamid Saeed Piya s/o Saeed Ahmad	22 January 1982	Aged in his Rawalpindi; d Central Jail

nd other information

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hore; detained in ntral Jail

li; aged in his late rmer General Secretary Rahim Yar Khan Khan shopkeeper; reported rom a heart ailment; in Peshawar Central West :h Frontier

; already sentenced detained in Multan Jail

kot; detained in ntral Jail

t; detained in Multan Jail

is late 20s; from reported to suffer etained in Bahawalpur

is late 30s; from detained in Sahiwal

lkot; detained in Centra Jail

eral Secretary of the jranwala; detained in lentral Jail

entenced to 18 years; eral Secretary of the ir; reported to suffer Jetained in Multan New

late 30s; from Rahim detained in Mianwali

is early 20s; from detained in Sahiwal



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Name	<u>Reported date of</u> <u>arrest (where</u> <u>known)</u>	<u>Place of detention in Punjab</u> province and other information (where known)
Sheikh Abdul Qayyum s/o Sheikh Abdul	16 November 1981	Aged in his late 20s; former Assistant Manager at a utility store; from Rawalpindi; detained in Sahiwal Central Jail
Muhammad Rafiq Babar s/o Muhammad Hussain	1981	From Lahore; detained in Mianwali Central Jail
Malik Attiqur Rehman s/o Habibur Rehman	1983	From Sialkot; detained in Multan New Central Jail
Muhammad Sabir Hussain s/o Abdul Aziz	4 December 1981	former student activist; already sentenced to 18 years; from Lahore; detained in Multan New Central Jail
Muhammad Saeed s/o Muhammad Sharif	1983	From Sialkot; detained in Bahawalpur Central Jail
Muhammad Riaz Sajid s/o Muhammad Sharif	1982	Aged in his early 20s; from Rawalpindi; already sentenced to 18 years; detained in Multan New Central Jail
Ghulam Shabir Ahmad s/o Muhammad Ramzan	1981	From Bakkar; detained in Sahiwal Central Jail
Muhammad Zubair Shad s/o Master Noor Muhammad	1983 1	From Gujranwala; detained in Mianwali Central Jail
Muhammad Shafi s/o Amir Khan	<b>4 May 1981</b>	Former labour leader; already sentenced to 10 years; from Rawalpindi; detained in Bahawalpur Central Jail
Mufti Muhammad Shafi s/o Sher Muhammad	19 April 1983	From Daska; detained in Bahawalpur Central Jail
Riaz Shahid s/o Shah Muhammad	8 August 1983	From Lahore; detained in Faisalabad Central Jail
Muhammad Tahir s/o Khushi Muhammad	1983	From Sialkot; already sentenced to 18 years; detained in Multan New Central Jail
Muhammad Younis s/o Karim Baksh		From Sialkot; former labour leader; detained in Mianwali Central Jail
Aurangzeb Zafar s/o Jalat Khan	1982	Aged in his early 20s; former General Secretary of the People's Student Federation; from Rawalpindi; detained in Sahiwal Central Jail

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# PENDIX Y

etails of the five prisoners tried by Special Military Court No. 2, Karachi, eptember 1982-September 1983

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<u>Name</u>	<u>Date and Place of</u> <u>Arrest</u>	<u>Other Informa</u>
Abdul Nasir Baluch s/o Wali Muhammad Baluch	1 April 1981 from his home, Karachi	Aged in his m Pakistan St union and P with six chi March 1985 Jail
Muhammad Essa Baluch s/o Faiz Muhammad Baluch	1 April 1981, while on duty at Karachi Airport	Aged 27; gu Security For member; children; commuted imprisonment; Central Jail
Rasool Bux s/o Nabi Bux Baluch	4 April 1981 from his home, Karachi	Aged in his l at a textil member sinc married wi sentenced imprisonment; Central Jail
Saifullah Khalid s/o Muhammad Ali Jouhar	19 May 1981 in Sadda, North West Frontier Province	Aged in his activist in Student Fed to the PP commuted imprisonment; Central Jail
Muhammad Ayub Malik s/o Ghulam Sarwar Malik	31 March 1981 from his home, Karachi	Aged in his 1 an export-imp member; dea to 25 yea detained in

# <u>nation</u>

mid 40s; driver at
Steel Mills; trade
PPP activist; married hildren; hanged on 5 in Karachi Central

guard in the Airport 'orce, Karachi; PPP married with two death sentence sentence to 25 years' t; detained in Karachi

late 50s; labourer ile mill, Karachi; PPP nce its formation; with eight children; to 14 years' years' t; detained in Karachi

is late 20s; student n the Sind People's ederation, affiliated PPP; death sentence to 25 years' t; detained in Karachi

late 20s; worked in mport business; PPP eath sentence commuted to 25 years' imprisonment; detained in Karachi Central Jail