

PAKISTAN

Open letter to President Musharraf regarding the killing of prisoner of conscience Yousuf Ali

21 June 2002

Dear President,

Amnesty International is deeply concerned at the killing of Yousuf Ali, a prisoner sentenced to death for blasphemy, in Kot Lakhpat Jail in Lahore by another prisoner on 11 June 2002. The organization considers Yousuf Ali to have been a prisoner of conscience, detained solely for his conscientiously held religious beliefs. He was tried and convicted in a trial that fell considerably short of international standards on fair trials. Moreover, the organization believes that the murder could not have been carried out without at least the tacit approval of prison staff and urges you to ensure that anyone found to be directly or indirectly responsible for the murder be held to account. Amnesty International fears that other people detained on blasphemy charges may face similar risks to their lives and physical safety and urges your government to take all possible measures to protect other detainees against similar abuses. Amnesty International also believes that the blasphemy law itself continues to contribute to an atmosphere in which religiously motivated violence flourishes. It should be suitably amended or abolished to prevent abuse.

Amnesty International does not take any position on religious creeds or political opinion of anyone but insists on the right of anyone under international standards to hold and profess such views and opinions.

Background

A case of blasphemy was registered against Yousuf Ali, a Sufi mystic and scholar of Islam, by a member of an Islamist organization on 29 March 1997 who claimed that Yousuf Ali had committed “blasphemy by expressing his determination and views of being the continuity of Holy Prophet Mohammad (PBUH)”. The charges included offences under sections 295A, 295C, 289A, 505(2), 420 and 406 Pakistan Penal Code (PPC). Yousuf Ali was arrested on the same day. When the family received death threats from local religious extremists, Yousuf Ali’s wife resigned her post as Associate Professor of economics at a government college and went into hiding along with their children.

Trial and appeal

Following a police investigation, charges were framed on 1 February 1998. The following trial in a sessions court in several aspects violated Yousuf Ali’s right to a fair trial. The complainant, an office bearer of the *Majlis-e-Khatam-e-Nabuwat* organization [Committee for the Protection of the Finality of Prophethood] - which is

known to have harassed and criminally prosecuted a large number of members of religious minorities, particularly Ahmadi -was not a witness to any of the alleged offences but admitted in court that his information was based on hearsay and media reports. Local Urdu newspapers had extensively vilified Yousuf Ali when it reported that he had claimed prophethood for himself. Most of the hearings took place in the judge's chambers from which the press and the general public were excluded. All evidence was merely oral and inconclusive consisting of eye witness accounts of people who had heard Yousuf Ali's speeches years earlier and who admitted that they neither understood them nor had then felt offended by them. Several of the witnesses conceded that only after the direction of the *Majlis-e-Khatam-e-Nabuwat*, the organization that brought the complaint, did they believe that Yousuf Ali's statements involved any insult to their faith.

Arguments of the defence were largely ignored. Yousuf Ali's statement on oath that he had never described himself as a prophet was not taken into account. All of Yousuf Ali's statements in court about the prophet of Islam were very respectful; indeed he avowed a deep love of the prophet several times. After describing his beliefs in detail in court, he said: "I am not even worth the dust on the shoes of Prophet Mohammad (PBUH)". Moderate Muslim scholars in Pakistan have publicly stated that they found Yousuf Ali's teachings unobjectionable.

The bias of the presiding judge was apparent throughout the trial. He called the accused Yousuf 'Kassab' [liar]. In the judgment, he said, "there is no question of taking any sort of lenient view because the accused is proved to be a 'kafir' [infidel] and 'murtid' [apostate] and any sort of 'tauba' [repentance] in such affair cannot be entertained". Judicial bias in the context of religious issues and with regard to minorities is widespread in Pakistan. **Amnesty International therefore urges the Government of Pakistan to ensure adequate training for all judicial staff in international standards on fair trial and particularly the need for the judiciary to be free from any form of discrimination.**¹

Yousuf Ali was released on bail by the Lahore High Court on 4 June 1999 but the lower trial court cancelled his bail, ignoring the higher court's order, on 4 August 2000. On the next day, he was convicted on most of the charges brought against him and sentenced to death and 35 years' imprisonment and fine.

The appeal against his conviction was lodged in the Lahore High Court in August 2000; it argued inter alia that "the evidence on record does not justify the conviction and sentence of the appellant; the defence version has not at all been taken into account by the trial court ...; matters extraneous to the case have been made the basis of the conviction [and] the impugned judgment has been passed with mala fide intentions...". However, due to the high backlog of cases, the appeal has not begun to

¹See also: *Pakistan: Insufficient protection of religious minorities*, AI Index 33/008/2001, May 2001.

be heard; the Lahore High Court is reportedly currently hearing appeals dating from 1998.

An application for bail after conviction was filed arguing that the trial had been unfair and the conviction based on insufficient evidence. However, the Lahore High Court rejected the petition without hearing. Subsequently a bail application was filed in the Supreme Court of Pakistan but its first hearing in January 2001 was adjourned as a judge on the bench refused to hear it as he had been on the Lahore High Court bench that granted bail to Yousuf Ali two years earlier. At its next hearing in January 2002 a judge who had earlier handled the case in an administrative capacity in the Lahore High court refused to hear the case. The lawyer representing Yousuf Ali has pointed out to Amnesty International that there is no legal bar in such situations as they do not involve a clash of interest.

Conditions of detention

After the conviction, Yousuf Ali was taken to a six foot by six foot death cell in Kot Lakhpat Jail in Lahore where he was held in solitary confinement. During his detention at Kot Lakhpat Jail, Yousuf Ali was held in a C class death cell; a petition to upgrade the class of his detention was heard several times and then referred to a larger bench which had not come to a decision. Yousuf Ali was reportedly denied adequate medical care for his ailments, including dystonia of hands and face, an impairment of muscle tone leading to involuntary contractions and muscular pain for which he received physiotherapy while free on bail.

He received visits by members of his family once a week; though a right of all prisoners, Yousuf Ali's family members had to regularly pay bribes to avail of this right. Yousuf Ali's lawyer who had adequate access to his client, and friends reported to Amnesty International that Yousuf Ali made several friends in jail and bore his imprisonment with equanimity. Another prisoner, Rehmat Shah Afridi, a newspaper owner and editor in chief of *The Frontier Post*, sentenced to death after a possibly unfair trial for alleged drug offences, was an eye witness to the killing and reported: "During my stay in the same block, I used to have detailed meetings with Yousuf and found him to be a humble practising Muslim."

Amnesty International urges the Government of Pakistan to ensure that all detainees can without discrimination enjoy all the rights guaranteed under the law in Pakistan and international human rights standards, including adequate medical care and regular access to family and legal counsel.

The murder

The circumstances in which a pistol could be brought into the jail and used against a prisoner in a death cell remain unclear. Local newspapers reported that on 11 June, prisoners from Block Seven, including Yousuf Ali, were shifted to Block One in an unscheduled move. As Yousuf Ali was taken to a cell in Block One, its inmate,

Mohammad Tariq alias Mota pulled out a pistol and shot Yousuf Ali dead at point-blank range. Local media reported that Tariq, an Islamist activist who had been sentenced to death in May 1999 in a murder case and is on trial for two other murders, admitted that the pistol had been in his possession for some four months. Another convicted prisoner was quoted in local newspapers as saying that the jail administration provided the opportunity for the murder when they accepted bribes to allow the pistol to be brought into the prison.

While human rights and minority rights organisations in Pakistan have condemned the killing, several Islamist groups have publicly welcomed it and offered to pay compensation to obtain the release of the perpetrator who in some parts of the national media has been praised for his deed. The *Sunni Tehrik*, a Sunni militant organisation has reportedly demanded that the government hand the murderer over to them in exchange for his weight in gold. No action has been taken against those who publicly praise religiously motivated violence and thereby contribute to the perpetuation of such abuse. **Amnesty International calls on the Government of Pakistan to take action against anyone who publicly encourages violence and discrimination and to publicly condemn such violence as a signal that such violence will not be tolerated.**

The jail administration has clearly failed in its duty to take adequate measures to ensure the safety of detainees when they permitted the transfer of a prisoner convicted of blasphemy to a cell occupied by a known member of a prohibited sectarian organisation, the *Sipah-e-Sahaba Pakistan*, which is known to have threatened and attacked people they suspect of blasphemy. Other detainees held on blasphemy charges are equally at risk in this prison and other jails of Pakistan. According to the non-governmental Human Rights Commission of Pakistan, 79 people were accused of blasphemy in 59 new cases in 2001; three were sentenced to death and three others were given life imprisonment. **Amnesty International calls on the Government of Pakistan to take urgent measures to ensure the safety of all detainees currently held on charges of blasphemy.**

According to local media reports, two jail wardens and the assistant superintendent of the Kot Lakhpat Jail were subsequently arrested on charges of negligence. The Jail Superintendent, Mian Farooq Nazir resigned as the killing took place while he was on duty. The Governor of Punjab meanwhile announced that an official police inquiry into the killing was underway. A preliminary inquiry was undertaken by the deputy Inspector General of Prisons, Punjab, on the day after the murder. He has reportedly already submitted his report to the government. It is not known if any criminal charges have been brought against any of the people directly or indirectly responsible for the death of Yousuf Ali, beyond mere charges of negligence.

Amnesty International believes that the impunity for religiously motivated violence has led to the continuation of such abuses in Pakistan. In 1992, another detainee accused of blasphemy, Tahir Iqbal, died in Kot Lakhpat Jail apparently of poisoning. An inquiry was undertaken but apparently not completed and no one was

held to account for the death. Others, including Ayub Masih, a Christian sentenced to death for blasphemy, have been attacked by fellow detainees in jail without any action being taken against those guilty of abuse or jail staff suspected of connivance in such acts. Similarly, Manzoor Masih, who had been accused of blasphemy and released on bail, was shot dead in 1995 in front of the Lahore High Court; despite a range of eye witnesses, no one was held to account for the murder. Lawyers defending people accused of blasphemy have also been targets of violence; a judge of the Lahore High Court, Justice Arif Iqbal Bhatti, was shot dead in 1995 after he had acquitted two people earlier convicted on blasphemy charges. Still others merely suspected of blasphemy have been murdered by fanatical opponents. In none of these cases is Amnesty International aware of any official condemnation of such acts, any action being taken against the perpetrators or adequate measures to prevent their recurrence. **Amnesty International calls on the Government of Pakistan to clearly and publicly condemn such acts, investigate them promptly, independently and impartially and ensure that those responsible are held to account.**

Several human rights organisations alerted the media and various authorities in the weeks before the killing of Yousuf Ali that detainees held on blasphemy charges in several jails in Punjab province had been threatened by other prisoners who claimed sympathies with extremist organisations. No steps appear to have been taken by prison authorities to prevent religiously motivated attacks. **Amnesty International urges the Government of Pakistan to act upon any warning of religiously motivated violence by taking adequate measures to prevent it, protect its potential victims and punish its perpetrators.**

The blasphemy laws

Amnesty International has repeatedly pointed to the fact that the blasphemy laws of Pakistan by their vagueness facilitate abuse and the arbitrary detention of people who differ from the majority in their religious beliefs.² Dozens of people have over the years been charged with religious offences; in all the cases known to Amnesty International, the charges of blasphemy and of other religious offences were arbitrary, founded solely on the individual's minority religious belief or unfounded and malicious accusations brought by individuals against others in the majority Muslim community. The available evidence in all of the cases suggests that charges were brought in order to intimidate and punish members of minority religious communities or those who entertained divergent opinion on religious matters, or in the context of personal or economic rivalry or to gain political advantage. Amnesty International is concerned that the current use of the laws relating to religious offences violates the right to freedom of religion despite constitutional guarantees of such freedom.

The blasphemy law under section 295C provides for the mandatory death sentence for anyone found guilty of 'insulting the name of the Prophet'. Amnesty

²For details see: *Pakistan: Use and abuse of the blasphemy laws*, AI Index: ASA 33/08/94, July 1994.

International opposes the death penalty in all cases as a violation of the right to life; moreover international human rights standards provide that the death penalty, where it is retained, should only be imposed for the most serious crimes, involving loss of life. Amnesty International also believes that the blasphemy laws of Pakistan have contributed to an atmosphere of intolerance and religiously motivated violence in which some people appear to feel empowered to take the law into their own hands and to attack and kill those suspected or accused of blasphemy irrespective of a final court decision about the case.

Amnesty International frequently calls for the abolition or amendment of laws under which people can be held as what Amnesty International believes to be prisoners of conscience. The organization is aware that under the provisions of the constitution of Pakistan, the Government of Pakistan cannot abolish the death penalty for the offence of blasphemy or do away with sections of the PPC relating to religious offences altogether. However, **Amnesty International calls on the Government of Pakistan to take all possible measures to prevent the abuse of the laws while they remain in force by introducing and strengthening legal safeguards.**

While legal changes are required to end the prevalent abuses of the laws relating to religious offences, the current atmosphere of intolerance and readiness to use violence against those who dissent, also needs to be urgently addressed. **Amnesty International calls on the Government of Pakistan to take adequate measures to spread awareness of human rights, particularly the right to equality and freedom from discrimination.**

I look forward to receiving your response to any of the issues raised in this letter.

Yours sincerely,

Irene Khan
Secretary General