



**Submission by the Ahmadiyya Muslim Community
UK**

**to the All-Party Parliamentary Group for
International Freedom of Religion or Belief**

for its hearing on

***‘The Plight of Minority Religious or Belief Groups
in Pakistan and as Refugees: Addressing Current
UK & UNHCR Policy’***

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The Persecution of Ahmadi Muslims in Pakistan

Circumstances Ahmadi Muslims living in Pakistan currently face; both vis-à-vis State and non-State actors

The Ahmadiyya Muslim Community is the only religious community in Pakistan to be targeted by the state on grounds of faith. In 1974 Prime Minister Bhutto amended Pakistan's Constitution to declare Ahmadis as non-Muslim for the purposes of law. Then in 1984 the Government of Pakistan (under General Zia) enacted Ordinance XX, making it a criminal offence for Ahmadis to call themselves Muslims.

As confirmed in the country guidance case of *MN and Others* 2012] UKUT 389 (paragraph 119ii), these anti-Ahmadi laws restrict the way in which Ahmadis are able to openly practise their faith not only prohibits preaching and other forms of proselytising but also in practice restricts other elements of manifesting one's religious beliefs, such as holding open discourse about religion with non-Ahmadis, even where this does not amount to proselytising (MN and others, paragraph 119).

The prohibitions include:

- openly referring to one's place of worship as a mosque;
- referring to one's religious leader as an Imam;
- referring to the call to prayer as azan;
- calling themselves Muslims; and
- referring to their faith as Islam (MN and others, paragraph 119i).

Sanctions include a fine and imprisonment and – if blasphemy is found – there is a risk of the death penalty. There is also a risk of lengthy incarceration if the penalty is imposed (MN and others, paragraph 119i).

Impact: These laws have emboldened other state actors and extremists to harass, attack and kill Ahmadis in Pakistan. In particular, Ahmadi Muslims in Pakistan are:

Denied the right to life - The deadliest attack on the community occurred in May 2010, when extremists attacked worshippers during Friday prayers at two Ahmadi mosques in Lahore, killing 86 people.

Denied the right to vote - Laws prevent Ahmadi Muslims from voting unless they declare themselves as non-Muslims. Ahmadis were the only community who could not vote in the country's recent national elections.

Denied the right to worship - Ahmadi Muslim mosques across the country have been sealed, and minarets demolished, by police under pressure from extremists.

Denied the right to dignity after death - Mobs and police have destroyed and defaced graves bearing Qur'anic inscriptions.

Denied the right to practise their faith – Ahmadis are restricted in building new houses of worship, holding public conferences or other gatherings, and travelling to Saudi Arabia for religious purposes.

Denied the right to education: In schools and educational institutions Ahmadis are routinely harassed and discriminated against on the basis of faith. Ahmadi students have been expelled, removed from classes and targeted for abuse.

Current UK and UNHCR policy regarding Ahmadi Muslims and Recommendations for Change

The Upper Tribunal country guidance case of *MN and Others* [2012] held that the anti-Ahmadi laws are discriminatory and against the fundamental right to religious expression, at [115]. If one is able to demonstrate that he/she engages in behaviour contrary to the anti-Ahmadi laws then he/she is deserving of international protection at [2(i)]. This country guidance case represents a significant shift in the understanding of the plight of Ahmadi Muslims in Pakistan.

Required changes

However, a number of difficulties have arisen in the interpretation and application of the current and law and policy:

- **Prima Facie group status:** First, *MN* does not go far enough. Given the unique and sustained state sponsored persecution of Ahmadis in Pakistan, Ahmadis should be afforded prima facie refugee status in order to ensure all necessary legal protections are in place. According to the *UNHCR Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status* at [13]: “Prima facie recognition is based on readily apparent, objective circumstances in the country of origin or former habitual residence assessed against the refugee definition being applied to that situation.” The UNHCHR recognises at [10] that a prima facie approach is appropriate in relation to groups of similarly situated individuals who share a readily apparent common risk of harm, such as religion, which exposes them to risk. Further, the UNHCR note at [15] that “where there is evidence of persecution against an entire group on account of a 1951 Convention ground, refugee status should be recognized pursuant to the 1951 Convention.” This applies directly to Ahmadis given the systemic state sponsored nature of the persecution in Pakistan against the entire group of Ahmadis in Pakistan on the grounds of religion.
- **Prima Facie individual procedures:** In any event, prima facie status ought to be accorded to Ahmadis following individual assessment. As affirmed by *UNHCR Guidelines No .11* (above) at [40], in the context of individual procedures, a prima facie approach allows a simplified or accelerated processes based on a presumption of inclusion. Adopting a prima facie approach in individual procedures operates to provide an “evidentiary benefit” to the applicant in the form of accepting certain objective facts. Refugee status would be provided to those Ahmadis who can establish that they belong to the pre-established “beneficiary class”, unless there is evidence to the contrary. Thus, Ahmadi Muslims would be afforded protection in belonging to this “beneficiary class”. As recognised by the UNHCR at [41] adopting a prima facie approach in individual procedures has many advantages, not least those of fairness and efficiency. This evidentiary benefit of prima facie refugee status ought to be applied to Ahmadis for the above reasons.
- **‘Preaching’ – wrong test:** UK caselaw used to focus on whether a person preached but it is now extended by *MN* to any Ahmadi Muslim who behaves in a way contrary to the anti-Ahmadi laws in Pakistan. Yet we experience that interviewing officers still focus, contrary to *MN*, only on preaching. As a

result if one has not preached or his claim to have preached is found not credible then the case is refused.

- **Internal Relocation:** UK law fails to recognise that there is no option of internal relocation for Ahmadis within Pakistan. The *UNHCHR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan* at (pg. 43) confirms: “For Ahmadis who practice their faith openly or who have been the target of threats and/or attacks by fundamentalist Sunni groups, such as the Pasban Khatme-Nabuwwat, there is no viable IFA/IRA given the countrywide reach of such groups, compounded by the reported lack of effective State protection.” The UK CIG, entitled *Pakistan: Ahmadis* (pg. 7 at [2.4.1]), runs contrary to the UNHCHR Guidelines in so far as it suggests that, “where an Ahmadi is at risk of local hostility from non state actors they may be able to avoid this by moving elsewhere in Pakistan, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.”
- **Adjournments:** First-Tier Tribunal decisions also lack consistency, as some Immigration Judges will grant an adjournment pending evidence required from the AMA UK, whilst others believe they can safely determine such a case without this vital decisive evidence . This is a clear violation of direct guidance from the Upper Tribunal in *MN* which states comprehensive verification from AMA UK forms part of the judicial fact-finding process.