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# Advance Unedited Version

Distr.: General  
23 October 2023

Original: English

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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its ninety-seventh session, 28 August–1 September 2023

#### Opinion No. 35/2023 concerning Rohan Ahmad, Usman Ahmad and Tariq Ahmad Shehzad (Pakistan)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,<sup>1</sup> on 12 May 2023 the Working Group transmitted to the Government of Pakistan a communication concerning Rohan Ahmad, Usman Ahmad and Tariq Ahmad Shehzad. The Government submitted a late response on 27 July 2023. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
  - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
  - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
  - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
  - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
  - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability,

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<sup>1</sup> [A/HRC/36/38](#).

or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

## 1. Submissions

### (a) Communication from the source

4. Rohan Ahmad is a national of Pakistan. He usually resides in Lahore, Pakistan. Mr. Rohan Ahmad was 32 years old at the time of his detention in May 2020.

5. Usman Ahmad is a national of Pakistan. He usually resides in Chenab Nagar, Pakistan. Mr. Usman Ahmad was 37 years old at the time of his detention in September 2020.

6. Tariq Ahmad Shehzad is a citizen of Pakistan. He usually resides in Chenab Nagar, Pakistan. Mr. Tariq Ahmad Shehzad was 39 years old at the time of his detention in September 2020.

7. The source reports that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad are Ahmadis who, prior to their arrests, were active members of the Ahmadiyya Muslim Community.

8. Mr. Rohan Ahmad works as a missionary for the Ahmadiyya Muslim Community, operating out of its office in Chenab Nagar. Mr. Usman Ahmad volunteers for the Ahmadiyya Muslim Community's youth organization, Majlis Khuddam Ul Ahmadiyya, serving as its national director of religious education in Pakistan. Mr. Tariq Ahmad Shehzad is a vice-principal at Nusrat Jehan College in Chenab Nagar, which is a college affiliated with the Ahmadiyya Muslim Community.

9. The source submits that the Ahmadiyya Muslim Community has faced particularly harsh treatment under the national laws of Pakistan and by the authorities thereof. The source reports that article 260 (3) (b) of the Constitution of Pakistan explicitly prohibits members of the Ahmadiyya Muslim Community from being referred to as Muslim. Furthermore, sections 298-B and 298-C of the Penal Code of Pakistan criminalize sharing the Ahmadiyya Muslim Community's religion, professing core theological tenets of its beliefs and identifying its members as Muslims.

10. The source claims that the Government has repeatedly used those provisions of the Penal Code, in addition to its provisions relating to blasphemy, to prosecute and imprison members of the Ahmadiyya Muslim Community. In the light of such interference with the right of Ahmadis to practise their religion, several special procedure mandate holders have called for the Government to repeal discriminatory legal provisions against the Ahmadiyya Muslim Community and have raised concerns about the persecution of its members.<sup>2</sup>

11. According to the source, on 15 May 2020, a resident of Lahore filed a criminal complaint with the Federal Investigation Agency against Mr. Rohan Ahmad. In the complaint, it was alleged that, on 27 September 2019, Mr. Rohan Ahmad had sent him a message on WhatsApp inviting him to take part in an essay writing and general knowledge competition held by the Ahmadiyya Muslim Community's youth organization. The complainant also alleged that, in the following weeks, Mr. Rohan Ahmad sent him several messages that linked to websites containing literature of the Ahmadiyya Muslim Community. The complainant specifically mentioned two books – a translation of the Qur'an with commentary from a former leader of the Ahmadiyya Muslim Community and a collection of his writings. The complainant claimed that the books contained content that was blasphemous to Islam and the Prophet of Islam. However, the source notes that the complainant did not identify which portions of the texts amounted to blasphemy. Furthermore, according to the source, the complainant did not specify why there had been a delay of approximately eight months before reporting those events to the authorities.

12. As a result of that complaint, a criminal investigation was allegedly initiated against Mr. Rohan Ahmad. On 26 May 2020, officials of the Federal Investigation Agency reportedly

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<sup>2</sup> OHCHR, "Pakistan must repeal discriminatory measures leading to persecution of Ahmadis, say UN experts", 25 July 2018.

obtained a warrant from the Lahore District Court to search the premises of Mr. Rohan Ahmad's home to look for evidence that he had shared "blasphemous and edited verses of the Holy Qur'an through WhatsApp".<sup>3</sup> The officers reportedly proceeded to execute the search warrant.

13. Reportedly, on 26 May 2020, after obtaining the search warrant, officers from the Federal Investigation Agency's Cyber Crimes Unit of Lahore visited the home of Mr. Rohan Ahmad in Lahore. According to the source, only one of the officers was in uniform, while the remaining officers were in plain clothes. Initially, the officers allegedly failed to identify themselves as government agents, leading Mr. Rohan Ahmad and his family to believe that they were being robbed. The source notes that the officers executed the warrant, confiscating Ahmadiyya literature, mobile phones, a laptop and a tablet.

14. The officers then proceeded to arrest Mr. Rohan Ahmad, without allegedly showing him a warrant for his arrest. During the course of the arrest, officers reportedly beat Mr. Rohan Ahmad and threatened his family. The source reports Mr. Rohan Ahmad was taken to the office of the Federal Investigation Agency in Lahore, where he was interrogated and held until 28 May 2020, at which point he was transferred to the district jail in Lahore.

15. When conducting a search of Mr. Rohan Ahmad's mobile phone, officers of the Federal Investigation Agency found links to online, publicly available, versions of Ahmadiyya literature. Furthermore, through the interrogation of Mr. Rohan Ahmad and an examination of the seized materials, officers of the Federal Investigation Agency allegedly came to believe that Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad had assisted Mr. Rohan Ahmad in organizing the competitions and sharing the religious texts. The Federal Investigation Agency opened a criminal case against Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad on suspicion of a criminal conspiracy among the three individuals.

16. On 29 September 2020, officers of the Federal Investigation Agency reportedly summoned Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad to the office of the Federal Investigation Agency in Lahore. The source claims that Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad arrived at the station to find that a prominent critic of the Ahmadiyya Muslim Community was also present, seemingly involved in the police action against them. The source notes that, while at the station, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were arrested and their phones were seized and searched. Officers of the Federal Investigation Agency allegedly found that they were in possession of books similar to those that were the subject of the complaint against Mr. Rohan Ahmad. Moreover, it is alleged that the officers believed that Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad had shared those materials with people around the world. The officers reportedly proceeded to combine the investigation into Mr. Rohan Ahmad with that into Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad.

17. It is alleged that Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were held at the office of the Federal Investigation Agency in Lahore until 5 October 2020, when they were transferred to the district jail in Lahore.

18. Reportedly, on 29 June 2021, the Sessions Court of Lahore confirmed charges against Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad. They were each charged under the following criminal provisions: the Prevention of Electronic Crimes Act, sect. 11 (hate speech); and the Penal Code, sect. 295-A (religious incitement), sect. 295-B (defiling the Qur'an), sect. 295-C (derogatory remarks towards the Holy Prophet) and sect. 298-C (criminalization of Ahmadis who claim to be Muslim or propagate their faith).

19. Under the first charge, the Sessions Court of Lahore alleged that the three subjects of the current communication had maliciously outraged the religious feelings and prepared and disseminated blasphemous content, namely, defiled and desecrated a copy of the Holy Qur'an through information systems or devices that had caused sectarian racial hatred among citizens and communities, in violation of both section 11 of the Prevention of Electronic Crimes Act and section 295-A of the Penal Code. The source notes that the fact that the first charge is framed under two separate legal instruments, namely the Penal Code and the Prevention of Electronic Crimes Act, is a procedural irregularity.

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<sup>3</sup> Search warrant issued under section 33 of the Prevention of Electronic Crimes Act.

20. Under the second charge, the Sessions Court of Lahore alleged that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, with common intention, had wilfully defiled or desecrated a copy of the Holy Qur'an by changing the content and translation thereof, which is prohibited by law, in violation of section 295-B of the Penal Code.

21. Under the third charge, the Sessions Court of Lahore alleged that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, with common intention, had deliberately and maliciously outraged religious feelings and prepared and disseminated blasphemous content, namely, derogatory material against the honour of the Holy Prophet through information systems or devices that had caused sectarian racial hatred among citizens and communities, in violation of section 295-C of the Penal Code.

22. Under the fourth charge, the Sessions Court alleged that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, with common intention and in criminal conspiracy, had each intentionally planned to engage the others in order to prepare and transmit the defiled copies of the Holy Qur'an that had been altered through information systems and devices, while professing to be Muslims, in violation of section 298-C of the Penal Code.

23. On each count, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were alleged to have acted with common intention and having abetted one another in the commission of the crimes, in violation of section 34 (acts done by several persons in furtherance of common intention) and section 109 (abetment) of the Penal Code. Additionally, for the fourth charge, the three individuals were alleged to have engaged in a criminal conspiracy in violation of section 120-B of the Penal Code (punishment of criminal conspiracy).

24. On the date on which the charges were confirmed, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad reportedly requested a hearing before the Sessions Court of Lahore in order to be released on bail. On 9 March 2021, the Sessions Court allegedly denied their request to be released on bail on the grounds that the offences for which they were charged, namely sections 295-A, 295-B and 295-C of the Penal Code, were not eligible for bail under section 497 of the Code of Criminal Procedure due to the potential punishments carried by these charges (which carry the possibility of a maximum sentence of imprisonment for 10 years, imprisonment for life and the death penalty, respectively).

25. Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad reportedly subsequently submitted an appeal against the denial of bail to the High Court of Lahore. However, the source notes that, on 26 September 2021, the High Court denied their appeal, affirming the decision of the Sessions Court of Lahore that the offences with which they were charged were non-bailable. It is alleged that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad subsequently appealed the High Court decision to the Supreme Court, but the latter also denied reconsideration of the denial of bail.

26. The source adds that another bail application has recently been filed on behalf of Mr. Rohan Ahmad before the High Court of Lahore. According to the source, it has been pending for several months.

27. It is alleged that the criminal trial of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is pending, as the defendants and their legal counsel have not yet been provided with access to the evidence collected against them by the Federal Investigation Agency during the course of the investigation. The trial date has been allegedly indefinitely postponed due to an injunctive order issued by the High Court of Lahore.

28. The source reports that, in October 2021, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad made a request to the High Court of Lahore for the Government to provide them with access to copies of the evidence prior to the commencement of the trial. However, the High Court has reportedly yet to rule on their request for access to evidence. The High Court issued the injunctive order to halt the trial while it considers an interlocutory appeal from the defence counsel. The defence's appeal reportedly challenged the trial court's attempt to conduct the trial before it was provided with access to the evidence obtained by the prosecution. Allegedly, the trial will proceed after the High Court has decided whether

the prosecution is required to provide the defence with full access to the evidence collected by the investigators.

29. According to the source, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad remain in pretrial detention in the district jail of Lahore. They are continuing to file new applications requesting reconsideration of the decision to deny bail before the Supreme Court. However, those applications have not been granted.

30. The source submits that if Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad are found guilty, they face the possibility of life imprisonment. Furthermore, if specifically convicted of section 295-C (derogatory remarks about the Holy Prophet) of the Penal Code, the defendants may be punished with death.

#### *Legal analysis*

31. The source submits that the arrest and detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is arbitrary under categories II, III and V. The detention is arbitrary under category II because the detention of the above-mentioned individuals resulted from and amounts to reprisal for the legitimate exercise of their rights to freedom of thought, conscience and religion, as well as their right to freedom of expression. It is arbitrary under category III because their arrest, detention and prosecution failed to meet the minimum standards of due process. Lastly, the detention is arbitrary under category V because their arrest, detention and prosecution resulted from discrimination against them.

32. In relation to category II, the source recalls that the right to freedom of thought, conscience and religion is protected by article 18 of the Covenant, to which Pakistan acceded in 2010. The right to religion is also protected under article 18 of the Universal Declaration of Human Rights, as well as article 20 of the Constitution of Pakistan. The rights contained in article 18 of the Covenant include the freedom of all persons to have or to adopt a religion or belief of their choice and freedom, either individually or in community with others and in public or private, to manifest their religion or belief in worship, observance, practice and teaching. In its general comment No. 22 (1993), the Human Rights Committee explains that article 18 encompasses freedom of thoughts on all matters, personal conviction and the commitment to religion or belief.<sup>4</sup> Furthermore, the Human Rights Committee has determined that the freedom to prepare and distribute religious texts or publications is an activity that is integral to the conduct by religious groups of their basic affairs and, accordingly, is protected under article 18 of the Covenant.<sup>5</sup>

33. In the present case, the activities that serve as the basis of the detention of the above-mentioned three individuals fall within the scope of the right to freedom of religion. The express grounds for detaining them are the allegations that they desecrated the Qur'an and prepared and disseminated blasphemous content by sending links to it. The source notes that what the authorities refer to as a desecrated copy of the Qur'an is a translation thereof containing a commentary by a former leader of the Ahmadiyya Muslim Community. It is a holy book of the Ahmadiyya Muslim Community. The book is used by the Ahmadiyya Muslim Community for religious instruction and guidance, in the practice of its members' religious faith. It was not in any way created to insult or blaspheme other Muslims, but instead it is a core component of the Ahmadiyya Muslim Community's practice of its members' sincerely held religious beliefs. As a result, possessing that book and other religious texts is a protected activity under the right to freedom of religion.

34. Moreover, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad are detained in relation to publishing that book and other religious texts online and sharing links to those publications. However, the Human Rights Committee has already determined that distributing religious texts is protected by the right to freedom of religion. As a result, the alleged publication and distribution of the religious texts of the Ahmadiyya Muslim Community is a legitimate exercise of its members' right to freedom of religion, argues the source.

<sup>4</sup> Human Rights Committee, general comment No. 22 (2013), para. 1.

<sup>5</sup> *Ibid.*, para. 4.

35. Accordingly, both possession and distribution of the book and other religious texts is protected under the right of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad to freedom of religion. Thus, detaining them on the basis of those activities amounts to a restriction of their right to freedom of religion, as protected under article 18 of the Universal Declaration of Human Rights and article 18 of the Covenant.

36. The source also notes that none of the exceptions mentioned in article 18 (3) of the Covenant apply in the present case. The source recalls that article 18 (3) provides that freedom of religion may only be limited by the State when such restrictions are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The Human Rights Committee has been clear that any limitation must not be applied in a manner that would vitiate the rights guaranteed in article 18.<sup>6</sup> Furthermore, limitations on the right to freedom of religion may not be imposed for discriminatory purposes or applied in a discriminatory manner.

37. In the present case, the continued detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad does not fall within the scope of any permissible limitation on the right to freedom of religion. Their possession, preparation and publication of religious texts does not threaten public safety, order, health, morals or the rights of others. As a result, the authorities cannot justify detention under any of the enumerated grounds for restricting freedom of religion, argues the source.

38. Moreover, the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is the result of discriminatory action by the Government on the basis of their religious beliefs. The source argues that the claim that possession of the above-mentioned book amounts to possession of a “defiled Qur’an” is a refusal by the Government to recognize the sincere religious beliefs of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad as legitimate. The refusal to recognize their religion as legitimate, coupled with their prosecution on the basis of practising their religion, demonstrates that their detention is imposed for discriminatory purposes.

39. As no exception applies to the Government’s restriction of the right to freedom of religion of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, the source contends that their detention and continued prosecution amounts to a violation of article 18 of the Universal Declaration of Human Rights and article 18 of the Covenant.

40. Moreover, the source argues that the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad violates their right to freedom of expression. The source recalls that article 19 (2) of the Covenant provides that everyone should have the right to freedom of expression; the right should include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media. The same right is protected under article 19 of the Universal Declaration of Human Rights. Freedom of expression is also guaranteed in the Constitution of Pakistan under article 19. The right to freedom of expression as provided in article 19 (2) of the Covenant is not limited by form or subject matter. As the Human Rights Committee explains, in its general comment No. 34 (2011), the right protected by article 19 (2) includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others. It includes cultural and artistic expression, teaching and religious discourse.<sup>7</sup> Moreover, all forms of expression are covered, including electronic and Internet-based modes of expression.<sup>8</sup>

41. According to the source, in the present case, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad are detained, in part, due to their preparation and transmission of religious texts related to their membership of the Ahmadiyya Muslim Community. Their activities are a form of religious expression that used the Internet to convey religious materials and information. Such activities fall within the scope of protected expression under article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant.

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<sup>6</sup> Ibid., para. 8.

<sup>7</sup> Human Rights Committee, general comment No. 34 (2011), para. 11.

<sup>8</sup> Ibid., para. 12.

Accordingly, their detention on the basis of such activities amounts to a restriction of their right to freedom of expression.

42. The source argues that none of the exceptions to article 19 (3) of the Covenant apply in the present case. The source recalls that article 19 (3) of the Covenant provides that freedom of expression may only be restricted when provided by law and necessary for respect of the rights or reputations of others or for the protection of national security or of public order, health or morals. The Human Rights Committee has held that such government limitations in accordance with article 19 (3) must meet a strict test of justification.<sup>9</sup>

43. The source concludes that, as no exception applies to the Government's restriction of the right to freedom of expression of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, their detention and continued prosecution amounts to a violation of article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant.

44. In relation to category III, the source argues that the authorities have violated the right of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad not to be subjected to arbitrary arrest. It is recalled that article 9 (1) of the Covenant, which confirms the right to liberty and freedom from arbitrary detention, states that no one shall be deprived of liberty except on such grounds and in accordance with such procedure as are established by law. That right is also enshrined in article 9 of the Universal Declaration of Human Rights and principles 2 and 36 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

45. The source argues that, at the time of each arrest, there were no warrants issued for the arrests of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad. Although the arrests complied with criminal procedure in Pakistan, which does not require a warrant for the offences for which they were arrested, the absence of such a requirement for a warrant under national law does not exempt the Government from its international obligations in relation to due process.

46. Moreover, the Government had the opportunity to obtain a warrant from a judicial authority, particularly in the case of Mr. Rohan Ahmad, as authorities obtained a search warrant to search his home immediately prior to his arrest. However, the authorities chose not to seek a warrant for his arrest. The requirement for a warrant is a key safeguard to protect against arbitrary arrest and the failure to obtain a warrant for the arrest of the above-mentioned individuals amounts to a violation of their procedural rights. Accordingly, their arrest was arbitrary in violation of article 9 of the Universal Declaration of Human Rights, article 9 (1) of the Covenant and principles 2 and 36 (2) of the Body of Principles.

47. Furthermore, it is argued that the Government has violated the right of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad to release pending trial. In this context, the source recalls that article 9 (3) of the Covenant provides for the right of an individual to release pending trial. Pretrial detention under that provision should be the exception not the norm and must be justified based on the circumstances. The Human Rights Committee has found that detention pending trial must be based on an individualized determination that such detention is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. Pretrial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances.<sup>10</sup> Principles 38 and 39 of the Body of Principles confirm that, except in special cases, a criminal detainee is entitled to release pending trial.

48. The source recalls that, in the present case, Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were denied bail on the basis that they were charged under sections 295-A, 295-B and 295-C of the Penal Code, which precludes individuals being released on bail under section 497 of the Code of Criminal Procedure. As a result, the courts denied bail because denial is mandatory for the above-mentioned charges. The source argues that the blanket bail denial on the basis of being charged with a particular crime is a violation

<sup>9</sup> Human Rights Committee, *Park v. Republic of Korea* (CCPR/C/64/D/628/1995), para. 10.3.

<sup>10</sup> Human Rights Committee, general comment No. 35 (2014), para. 38.

of the right to release pending trial and, accordingly, the Government has violated the due process rights of the three individuals by denying them bail on this basis. However, even if the courts had considered the factors that are required under international norms on due process, there is no evidence to suggest that the three defendants pose a threat to public safety as they have never engaged in violent activity in the past. Moreover, there is no evidence that they could destroy any evidence not already collected by investigators or that they are a flight risk. As such, there were no circumstances present that could reasonably justify the period of detention without trial.

49. The source concludes that the Government has thus violated the rights of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad that are protected under article 9 (3) of the Covenant, as well as principles 38 and 39 of the Body of Principles.

50. Lastly, in relation to category III, the source submits that the Government has violated the right to be tried without undue delay. It recalls that article 14 (3) (c) of the Covenant guarantees that each individual subject to arrest shall be tried without undue delay. The Human Rights Committee has explained that an important aspect of the fairness of a hearing is its expeditiousness<sup>11</sup> and in cases in which the accused are denied bail by the court, they must be tried as expeditiously as possible.<sup>12</sup> The right to be tried without undue delay is further reiterated by principle 38 of the Body of Principles.

51. The source recalls that, in the present case, the three defendants have been held without bail for more than two years. The source submits that, in part, the reason for the delay has been due to the Government's failure to provide the defence counsel with access to the evidence collected against the three defendants without any justification. Without providing access to those materials, the trial cannot commence. The three defendants have filed a petition with the High Court in Lahore to obtain access to investigators' evidence but have not yet received such access. As a result, the responsibility for the unjustified delays rests, according to the source, with the Government. The trial delays, particularly while the above-mentioned individuals are held in pretrial detention, lack any legitimate justification. According to the source, the Government has therefore failed to provide promptly a trial for Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, in violation of article 14 (3) (c) of the Covenant.

52. Lastly, in relation to category V, the source submits that the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is the result of discriminatory action by the Government on the basis of their religious beliefs. It is argued that the three individuals were targeted entirely on the basis of their membership of the Ahmadiyya Muslim Community. The Government has refused to recognize the defendants' religion as legitimate and is prosecuting them for engaging in peaceful activities that are a component of their religion. It is only because the individuals are members of a Muslim sect that is not recognized by the authorities of Pakistan that they are detained; were they members of the religious majority in Pakistan, they would not be a target of prosecution. As a result, their detention is a direct result of the Government's discriminatory attitudes and practices against the Ahmadiyya Muslim Community.

**(b) Response from the Government**

53. On 12 May 2023, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information by 11 July 2023 about the current situation of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad. The Working Group also requested the Government to clarify the legal provisions justifying their detention, as well as its compatibility with the State's obligations under international human rights law and, in particular, with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of the three individuals.

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<sup>11</sup> Human Rights Committee, general comment No. 32 (2007), para. 27.

<sup>12</sup> *Ibid.*, para. 35.



54. The Government submitted its response on 27 July 2023, which was after the deadline. The Government did not request an extension of the time limit for its reply, as provided for in the Working Group's methods of work. Consequently, the Working Group cannot accept the reply as if it were presented within the time limit.

## 2. Discussion

55. In determining whether the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>13</sup> In the present case, the Government has chosen not to challenge in a timely fashion the prima facie credible allegations made by the source.

### (a) Category I

56. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without any legal basis.

57. The source submits that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were arrested without arrest warrants and not informed, at the time of arrest, of the reasons for their arrests. The Government in its late reply submits that they were arrested by the Federal Investigation Agency in accordance with the applicable law and procedure after issuing notices to them, as sufficient evidence existed to arrest them.

58. While the Government in its late reply also asserts that the accused have been exercising their rights under the constitutional and legal requirements regarding due process and fair trials, the Working Group emphasizes that, even if the detention is in conformity with national legislation, regulations and practices, it is entitled and indeed obliged to assess the circumstances of the detention and the law itself to determine whether such detention is also consistent with the relevant provisions of international human rights law.<sup>14</sup>

59. Article 9 (2) of the Covenant provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for the arrest and shall be promptly informed of any charges. The Working Group has previously stated that, for deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.<sup>15</sup> This is typically<sup>16</sup> done through an arrest warrant or equivalent document.<sup>17</sup> The reasons for an arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint.<sup>18</sup> That right is procedurally inherent in the right to liberty and security of person and the prohibition of arbitrary deprivation of liberty, under articles 3 and 9, respectively, of the Universal Declaration of Human Rights, article 9 (1) of the Covenant and principles 2, 4 and 10 of the Body of Principles. In addition, any form of detention or imprisonment should be ordered by, or be subjected to the effective control of, a judicial or other authority under the law, the status and tenure of which should afford the strongest possible guarantees of competence, impartiality and independence, in accordance with principle 4 of the Body of Principles. The Working Group therefore finds a violation of articles 3 and 9 of the Universal Declaration of Human Rights and article 9 (1) and (2) of the Covenant.

<sup>13</sup> A/HRC/19/57, para. 68.

<sup>14</sup> Opinions No. 1/1998, para. 13; No. 82/2018, para. 25; No. 36/2019, para. 33; No. 42/2019, para. 43; No. 51/2019, para. 53; No. 56/2019, para. 74; No. 76/2019, para. 36; No. 6/2020, para. 36; No. 13/2020, para. 39; No. 14/2020, para. 45; and No. 32/2020, para. 29.

<sup>15</sup> In cases of in flagrante delicto, the opportunity to obtain a warrant will not be typically available.

<sup>16</sup> Human Rights Committee, general comment No. 35 (2014), para. 23. See also opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39.

<sup>17</sup> Human Rights Committee, general comment No. 35 (2014), paras. 21–23; and opinion No. 30/2017, paras. 58 and 59.

<sup>18</sup> Opinion No. 2021/85, para. 69.

60. The source submits that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad have been denied bail. The grounds for denying bail provided by the courts are that the offences for which they were charged, namely sections 295-A, 295-B and 295-C of the Penal Code, are not eligible for bail under section 497 of the Code of Criminal Procedure. As a result, the courts denied bail because denial is mandatory for the above-mentioned charges. The Working Group has found that non-bailable offences imply in effect mandatory pretrial detention.<sup>19</sup> In its jurisprudence, the Working Group has confirmed that mandatory pretrial detention – in the present case, sections 295-A, 295-B and 295-C of the Penal Code – violates a State’s obligations under international human rights law.<sup>20</sup> As the Human Rights Committee has stated, pretrial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances.<sup>21</sup> The Working Group recalls the view of the Human Rights Committee, as well as its own recurrent findings, that pretrial detention must be the exception and not the rule, should be ordered for as short a time as possible<sup>22</sup> and must be based on an individualized determination that it is reasonable and necessary, taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.<sup>23</sup>

61. Courts must examine whether alternatives to pretrial detention would render detention unnecessary in the case in question.<sup>24</sup> Mandatory pretrial detention deprives judicial authorities of one of their essential functions as members of an independent and impartial tribunal, namely, assessing the necessity and proportionality of detention in each case. The imposition of mandatory pretrial detention for certain offences reverses the burden of proof, so that those subject to ongoing criminal proceedings are automatically detained without a balanced consideration of non-custodial alternatives to detention.<sup>25</sup> In the present case, the Working Group concludes that an individualized determination of the circumstances of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad was absent and, as a result, their detention lacked a legal basis and was ordered in violation of article 9 of the Universal Declaration of Human Rights, article 9 (3) of the Covenant and principles 38 and 39 of the Body of Principles. Their prolonged pretrial detention illustrates the importance of that fundamental legal principle of personal liberty.

62. For those reasons, the Working Group considers that the deprivation of liberty of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad lacks a legal basis and is thus arbitrary, falling under category I.

**(b) Category II**

63. The source alleges that the deprivation of liberty of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is arbitrary because their arrest and subsequent detention amount to a reprisal for their legitimate exercise of the rights to freedom of thought, conscience and religion.

64. The Working Group notes that the situation of Ahmadis remains under close scrutiny by United Nations entities.<sup>26</sup> The Working Group has previously determined that the

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<sup>19</sup> Opinions No. 8/2020, paras. 77 and 78; and No. 14/2022, para. 79.

<sup>20</sup> Opinions No. 57/2014, No. 24/2015, No. 16/2018, No. 53/2018, No. 61/2018, No. 75/2018, No. 14/2019, No. 64/2019 and No. 8/2023. See also [A/HRC/19/57](#), paras. 48–58; and [A/HRC/42/39/Add.1](#), paras. 36–38.

<sup>21</sup> Human Rights Committee, general comment No. 35 (2014), para. 38.

<sup>22</sup> See, for example, opinions No. 57/2014, para. 26; No. 8/2020, para. 54; No. 5/2021, para. 43; and No. 6/2021, para. 50. See also Human Rights Committee, general comment No. 35 (2014), para. 38; and [A/HRC/19/57](#), paras. 48–58.

<sup>23</sup> Human Rights Committee, general comment No. 35 (2014), para. 38.

<sup>24</sup> *Ibid.*; and United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, guideline 15.

<sup>25</sup> Human Rights Committee, general comment No. 35 (2014), para. 38; opinion No. 8/2020, para. 78; and United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, guideline 15 (the burden of proof must be met in a manner known in detail to the detainee, complete with supporting evidence, including those who are defendants in security-related cases).

<sup>26</sup> See [www.ohchr.org/sites/default/files/Documents/Issues/Religion/Submissions/CSOs/01.aml.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Religion/Submissions/CSOs/01.aml.pdf).

detention of several individuals from the Ahmadiyya Muslim Community on blasphemy charges was arbitrary under category II, as they were deprived of their freedom merely for exercising their legitimate right to freedom of religion and conscience, as guaranteed by article 18 of the Universal Declaration of Human Rights.<sup>27</sup> The Working Group recalls that the obligation of Pakistan to respect the freedom of conscience and religion of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad derives from article 18 of the Covenant. As interpreted by the Human Rights Committee in its general comment No. 22 (1993), as a consequence of freedom of religion, in conjunction with freedom of thought and belief (art. 18) and freedom of expression (art. 19), all persons may express their opinions in public or private, including on matters of religion, noting that the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to prepare and distribute religious texts or publications.<sup>28</sup>

65. Moreover, there is a substantial body of reliable information that supports the source's position that the arrest and detention of the individuals was motivated solely by their religious beliefs as members of the Ahmadiyya Muslim Community. For example, the Human Rights Committee in its concluding observations on the initial report of Pakistan stated that it was concerned by the blasphemy laws, including sections 295 and 298 of the Penal Code, which carried severe penalties, including the mandatory death penalty (sect. 295-C), and reportedly had a discriminatory effect, particularly on Ahmadis (sects. 298-B and 298-C).<sup>29</sup> Moreover, the arbitrary arrest and detention of members of the Ahmadiyya Muslim Community on the basis of their faith has been well documented by other special procedure mandate holders. For example, the joint statement by several United Nations human rights experts highlighted that Ahmadis were particularly vulnerable to violations under laws on offences related to religion, targeted by laws regulating new technologies and social media platforms, with the aim of suppressing their dissenting views and beliefs and the target of discrimination, exclusion, hate campaigns and violence, including arbitrary arrests and detentions.<sup>30</sup>

66. The Working Group further recalls the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981), which protects the right to freedom of thought, conscience and religion,<sup>31</sup> including the freedom to write, issue and disseminate relevant publications in these areas.<sup>32</sup> In addition, the Working Group recalls the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), which protects the right of persons belonging to religious minorities to profess and practise their own religion freely and without interference or any form of discrimination.<sup>33</sup>

67. Nothing in the case of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad demonstrates that any of the permitted restrictions on freedom of expression found in article 19 (3) and on freedom to manifest religion or beliefs found in article 18 (3) of the Covenant applied. Their possession, preparation and publication of religious texts does not threaten public safety, order, health, morals or the rights of others. As a result, the authorities cannot justify detention under any of the enumerated grounds for restricting freedom of religion. As observed by the Human Rights Committee, article 18 (3) is to be strictly interpreted and restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.<sup>34</sup> As a result, the alleged publication and distribution of the religious

<sup>27</sup> Opinions No. 10/1996 and No. 7/2023.

<sup>28</sup> Human Rights Committee, general comment No. 22 (1993), para. 4.

<sup>29</sup> [CCPR/C/PAK/CO/1](#), para. 33.

<sup>30</sup> Joint Statement of the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on minority issues, "International community must pay attention to the persecution of Ahmadi Muslims worldwide", 13 July 2021.

<sup>31</sup> Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55), art. 1 (1).

<sup>32</sup> *Ibid.*, art. 6 (d).

<sup>33</sup> Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135), art. 2 (1).

<sup>34</sup> Human Rights Committee, general comment No. 22 (1993), para. 8.

texts of the Ahmadiyya Muslim Community is a legitimate exercise of their right to freedom of religion.

68. For those reasons, the Working Group finds that the deprivation of liberty of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is arbitrary under category II and breaches articles 18 and 19 of the Universal Declaration of Human Rights and articles 18 and 19 of the Covenant.

**(c) Category III**

69. Given its finding that the deprivation of liberty of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is arbitrary under category II, the Working Group wishes to emphasize that, in such circumstances, no trial should take place. However, as they are facing prosecution, the Working Group will now consider whether the alleged violations of the right to a fair trial and due process were grave enough to give their deprivation of liberty an arbitrary character, such that it falls within category III.

70. The source submits that the Government has violated the right to be tried without undue delay, noting that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad have been held without bail for more than two years. The source submits that, in part, the reason for the delay has been due to the Government's failure to provide the defence counsel with access to the evidence collected against the three defendants, without any justification, which impedes the commencement of the trial. The three defendants have filed a court petition to gain access to the evidence but have not yet received such access. As a result, the responsibility for the unjustified delay rests, according to the source, with the Government. The Government in its late reply does not rebut those specific allegations and sets out the procedure followed by the individuals that resulted in the denial of bail.

71. Under articles 9 (3) and 14 (3) (c) of the Covenant, anyone arrested or detained on a criminal charge is entitled to trial within a reasonable time and without undue delay. The reasonableness of any delay in bringing a case to trial must be assessed in the circumstances of each case, taking into account the complexity of the case, the conduct of the accused and the manner in which the matter was dealt with by the authorities.<sup>35</sup> The Human Rights Committee has stated that an important aspect of the fairness of a hearing is its expeditiousness and that, in cases in which those accused are denied bail by the court, they must be tried as expeditiously as possible.<sup>36</sup> The delay in the present case was exacerbated as Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were not given a bail hearing and their detention was not reviewed by a judicial authority, as discussed above.

72. In the light of the Working Group's finding that the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad was arbitrary under category II because it resulted from the peaceful exercise of their rights, any delay in trying their case is unreasonable.<sup>37</sup> The Working Group considers that the three individuals' pretrial detention of more than two years is unacceptably long and is in violation of articles 9 (3) and 14 (3) (c) of the Covenant and principle 38 of the Body of Principles.

73. Noting the Government's failure to provide the defence counsel with access to the evidence collected against Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad, the Working Group recalls that the effectiveness of legal counsel is fundamentally related to the principle of equality of arms, as enshrined in article 11 of the Universal Declaration of Human Rights and article 14 of the Covenant, which protect the right to have adequate time and facilities for the preparation of one's defence. The Government in its late reply submits that the right of the individuals accused to hire counsel of their choice was met but does not address the allegation that the access of their counsel to evidence was denied. In those circumstances, the Working Group finds that their right to adequate time and facilities for the preparation of their defence under article 14 (3) (b) of the Covenant was violated and

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<sup>35</sup> Human Rights Committee, general comment No. 35 (2014), para. 37; and general comment No. 32 (2007), para. 35. See also [CCPR/C/VNM/CO/3](#), paras. 35 and 36.

<sup>36</sup> Human Rights Committee, general comment No. 32 (2007), paras. 27 and 35.

<sup>37</sup> Opinions No. 8/2020, para. 75; No. 16/2020, para. 77; and No. 10/2021, para. 78.

contrary to principles 17 (1) and 18 (1) and (2) of the Body of Principles.<sup>38</sup> Those violations of due process and fair trial rights are all the more egregious considering the fact that the three individuals are facing serious charges that carry the possibility of a sentence of life imprisonment and the death penalty. The Working Group recalls the Human Rights Committee's guidance that it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of proceedings in cases involving capital punishment.<sup>39</sup>

74. For the reasons above, the Working Group concludes that the violations of the fair trial and due process rights of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad are of such gravity as to give their deprivation of liberty an arbitrary character, falling within category III. The Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

**(d) Category V**

75. The source submits that the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad is the result of discriminatory action by the Government on the basis of their religious belief.

76. In the discussion above concerning category II, the Working Group established that the detention of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad resulted from the peaceful exercise of their rights under international law. The Working Group recalls that it has repeatedly stated in its jurisprudence that when detention results from the active exercise of civil and political rights there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination.<sup>40</sup>

77. The Working Group recalls several non-cumulative indicators that serve to establish the discriminatory nature of detention. Those include the following: the deprivation of liberty was part of a pattern of persecution against the detained person, including, for example, other persons with similarly distinguishing characteristics have also been persecuted; or the context suggests that the authorities have detained a person on discriminatory grounds or to prevent them from exercising their human rights.<sup>41</sup> In that regard, the Working Group recalls that it has previously concluded that Ahmadis in Pakistan are persecuted and deprived of their freedom merely for exercising their legitimate right to freedom of religion and conscience.<sup>42</sup> Moreover, it notes that, according to several human rights experts, Ahmadis are often denied access to public service employment on religious grounds and are particularly vulnerable to violations under laws on offences relating to religion (blasphemy laws). They are also targeted by laws regulating new technologies and social media platforms, with the aim to suppress their dissenting views and beliefs, enhance control of their minority communities and further increase their persecution through coordinated online hate campaigns and, in certain cases, online coordinated acts of collective punishment. They have often been the target of discrimination, exclusion, hate campaigns and violence, including arbitrary arrests and detentions, verbal and physical attacks in the public sphere, as well as attacks against their cultural sites and places of worship.<sup>43</sup>

78. The source argues that the allegation that the possession of the above-mentioned book amounts to possession of a "defiled Qur'an" is a refusal by the Government to recognize the sincere religious beliefs of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad as legitimate, which, coupled with their prosecution on the basis of practising their religion, demonstrates that their detention is imposed for discriminatory purposes.

<sup>38</sup> Human Rights Committee, general comment No. 32 (2007), para. 32.

<sup>39</sup> *Ibid.*, para. 38.

<sup>40</sup> Opinions No. 88/2017, para. 43; No. 13/2018, para. 34; No. 59/2019, para. 79; No. 36/2020, para. 75; No. 42/2020, para. 93; No. 62/2020, para. 74; and No. 75/2022, para. 91.

<sup>41</sup> [A/HRC/36/37](#), para. 48.

<sup>42</sup> Opinion No. 7/2023, para. 72.

<sup>43</sup> Joint statement of the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on minority issues, "International community must pay attention to the persecution of Ahmadi Muslims worldwide".

79. In the light of the source's prima facie credible submissions, the Working Group finds that Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad were deprived of their liberty on discriminatory grounds, based on their religious faith and opinions. Their detention violates articles 2 and 7 of the Universal Declaration of Human Rights and article 26 of the Covenant and contravenes articles 1–4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It is therefore arbitrary, falling within category V.<sup>44</sup> The Working Group refers the present case to the Special Rapporteur on freedom of religion or belief and to the Special Rapporteur on minority issues, for appropriate action.

**(e) Concluding remarks**

80. The Working Group expresses its serious concern about blasphemy laws in Pakistan and the criminalization of Ahmadis for practising their faith. It would welcome the opportunity to carry out a country visit to Pakistan to work constructively with the authorities in addressing its concerns in relation to the arbitrary deprivation of liberty. The Working Group made a request to the Government on 11 June 2018 to conduct a country visit. As an elected member of the Human Rights Council from 2021 to 2023, Pakistan is well placed to demonstrate its commitment to human rights by inviting the Working Group to carry out a visit.<sup>45</sup>

**3. Disposition**

81. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Rohan Ahmad, Usman Ahmad and Tariq Ahmad Shehzad, being in contravention of articles 2, 3, 7, 9, 18 and 19 of the Universal Declaration of Human Rights and articles 9, 14, 18, 19 and 26 of the International Covenant on Civil and Political Right, is arbitrary and falls within categories I, II, III and V.

82. The Working Group requests the Government of Pakistan to take the steps necessary to remedy the situation of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

83. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

84. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad and to take appropriate measures against those responsible for the violation of their rights.

85. The Working Group requests the Government to bring its laws, particularly, sections 295-A, 295-B, 295-C, 298-B and 298-C of the Penal Code, into conformity with the recommendations made in the present opinion and with the commitments made by Pakistan under international human rights law.

86. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief, for appropriate action.

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<sup>44</sup> Opinion No. 7/2023, para. 72.

<sup>45</sup> The Government made a voluntary commitment prior to its election to the Human Rights Council to continue to strengthen cooperation with the special procedures, including by arranging visits of the High Commissioner for Human Rights and the special rapporteurs" (A/75/119, para. 30 (p)).

87. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

#### 4. Follow-up procedure

88. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad;

(c) Whether an investigation has been conducted into the violation of the rights of Mr. Rohan Ahmad, Mr. Usman Ahmad and Mr. Tariq Ahmad Shehzad and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Pakistan with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

89. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

90. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

91. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>46</sup>

*[Adopted on 28 August 2023]*

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<sup>46</sup> Human Rights Council resolution 51/8, paras. 6 and 9.