

Freedom of Religion or Belief for the Religious Minorities in Pakistan

Policy Brief

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1. Introduction

Freedom of religion or belief (FoRB) is part of the broader human rights framework and closely linked to other universal human rights and fundamental freedoms, i.e. freedom of expression, freedom of assembly and association, and the right to non-discrimination.

This brief, based on literature review, assess the status vis-a-vis the right to Freedom of Religion or Belief of religious minorities in Pakistan and highlight the factors that have led to intolerance, disrespect, exclusion and violence against religious minorities. The brief aims to analyse the links between violence and discrimination that restrict the Freedom of Religion or Belief for the religious minorities. The brief looks at the issues and challenges faced by religious minorities and explore constitutional guarantees and loopholes, international commitments. The brief also offers recommendations for the local and global stakeholders to improve the FoRB situation for religious minorities and sects in the country.

2. Country Context

Pakistan, a federal parliamentary republic with Islam as a state religion, is a country of diverse cultures, ethnicities, languages, religions, sects and sub-sects. According to latest (2017) census, of 207.68 million population of Pakistan¹, 96.47% are Muslims and only 3.53% comprises other religions including; Hindus, Christians, Ahmadis, and other smaller groups such as Parsis/Zoroastrians, Ba'hais, Sikhs, Buddhists and schedule caste² The majority Muslim population is divided into the Sunni sect (80 per cent) comprising various sub-sects (i.e. Deobandi, Brelvi), and a sizeable Shia minority sect (20 per cent) and its off-shoots (i.e. Bohra, Ismaili). The non-Muslim minority includes Hindus, Christian, Sikh, Parsis, Jains, Kalashas and the Ahmadis. Joint population of Hindus and Scheduled Caste makes up 2.14% or 4.44 million, and is the largest religious minority in Pakistan.³

In Pakistan, religious freedom remains under constant threat due to the country's political ideology, discourse on national identity and repressive laws. The religious divide within the majority Sunni Islam and the fact that the vision of an Islamic state has never been clear, have contributed to the dilemma and led to manipulation of religion by the power elites to serve certain ends. Moreover, constraints in the Constitution and legislation, weak judicial system and law enforcement, social exclusion, discrimination against minorities in educational curriculum, impunity for faith based crimes, lack of accountability and rising extremism are other contributory factors have led to intolerance, prejudices, hatred and violence against religious minorities.

Religious minorities confront human rights violations and abuses both by the state and not-state actors. Aside social exclusion and religious discrimination, the forms of violence include persecution through misuse of blasphemy law, forced conversion and forced marriages of non-Muslim girls, attacks on places of worship.⁴ Hate crimes, riots, desecration of holy sites and terrorist attacks on Ahmadiyya, Hazara Shi'a, Hindu and Christian population indicate alarmingly rising religious extremism and lack of effective legal protection mechanisms for minority rights in

the country.⁵

Ahmadi community is subjected to discriminatory laws, forbidden to identify themselves as a Muslim and practice their faith. Hate speech to incite violence against Ahmadis, banning their entry in their own mosques and vandalizing their graves are regular occurrences in the province of Punjab.⁶ The Shia Muslims, particularly, Hazara Shia, are victims of sectarian violence and often persecuted by Sunni militant groups in Balochistan and other parts of the country. Hundreds of people belong to the Hazara community has been killed in these incidents. The Hindu and Christian population live in constant danger and face denial of equal rights and legal and institutional discrimination. Incident of forced conversion and forced marriages, attacks on religious places and false charges of blasphemy are frequent occurrences in Sindh and Punjab province.

3. Constitutional Framework and Legislation

The Constitution of Pakistan grants twenty-three enumerated fundamental civil and political rights to all citizens (Articles 8 to 28), irrespective of religion, race, cast, creed, ethnicity or gender. Civil liberties, i.e. freedom of speech and expression, of assembly and association, of movement and vocation, and fundamental rights such as security of person, safeguards as to arrest and detention, right to fair trial, right to information, to education, are all guaranteed in the Constitution. Articles 20 to 22 specifically relate to freedom to profess, practice and propagate religion.

However, Article 20, *Freedom to profess religion and to manage religious institutions*, has made this fundamental right conditional and restricted its application through the addition of 'Subject to law, public order and morality'. According to legal experts this Article facilitates discriminatory amendments in any other law (i.e. Pakistan Penal Code). Article 36 stipulates that 'The State shall safeguard the legitimate rights and interest of minorities, including their due representation in the Federal and Provincial services'. The Constitution in some of its articles stipulates several conditions relating to religion which have direct or indirect implications on religious minorities. Article 2 states that Islam is a state religion; Article 31 seeks to foster Islamic way of life; Article 41 disqualifies non-Muslim for the position of President; Article 91 (3) disqualifies non-Muslim for the position of Prime Minister.

The Objectives Resolution, the preamble of the Constitution, was made a substantive part (Article 2 A) of the Constitution through an amendment in 1985. It contains two provisions to safeguard the minority rights. '*Wherein adequate provision should be made for the minorities **freely** to profess and practice their religion and develop their culture*'; and '*Wherein adequate provision should be made to safeguard the legitimate interests of minorities and backward and depressed classes*', thus establishing that non-Muslim members of the State are to be treated differently—

as minority—and by implication, not as equal citizens but whose ‘legitimate interests’ are to be safeguarded.¹

Pakistan’s legal framework is derived from two sources: English common law of colonial era which covers the bulk of civil and criminal codes, and Islamic jurisprudence, or Sharia, that covers specific offenses under Hudood Ordinances promulgated in 1979. A number of Sharia’s provisions, particularly on blasphemy, were incorporated in Pakistan Penal Code between 1982 and 1986. The Sharia laws have specifically impacted the rights of the minorities and institutionalised the discrimination against religious minority groups posed a threat to their security as a citizen of Pakistan.⁷

4. International Framework for the Freedom of Religion and Belief

Freedom of religion or belief is guaranteed by article 18 of the Universal Declaration of Human Rights. The UN International Covenant on Civil and Political Rights (ICCPR), a core human rights treaty, provides the framework in relation to the right to freedom of thought, conscience and religion or belief (Article 18); the right to freedom of opinion and expression (Article 19); and the right to equality before the law and the prohibition of discrimination (Articles 2(1), 3, 24, 26 and 27). The other two international treaties that vouchsafe rights of the minorities are Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities.

Pakistan ratified the ICCPR in 2010, initially with reservations on nine articles of the Covenant. In 2011, the state withdrew reservations on articles 6, 7, 12, 13, 18, 19 and 40. This was done to secure the GSP Plus status granted by the European Union. Pakistan has retained reservations on articles 3 and 25. The reservation on Article 3 focuses on Personal Law and Law of Evidence², and reservation on Article 25 is restricted to the election of the President of Pakistan.³ Furthermore, Pakistan has not signed the First and the Second Optional Protocols to the treaty.

Pakistan has made a commitment to translate international treaties in country’s domestic legislation in order to improve the protection and promotion of human rights. Also, in order to maintain GSP+ status, Pakistan is obliged to effectively implement these conventions. The Universal Periodic Review (UPR) of Pakistan took place in 2008, 2012 and 2017. Pakistan has

¹ Hisam, Z. & Qureshi, Y., Religious Minorities in Pakistan, Constitutional Rights and Access to Judicial System—A study of Socio-Legal Constraints, PILER, Karachi.

² Article 3 “The Government of the Islamic Republic of Pakistan declares that the provisions of Article 3 of the International Covenant on Civil and Political Rights shall be so applied as to be in conformity with Personal Law of the citizens and Qanoon-e-Shahadat.”

³ Article 25 : “The Government of the Islamic Republic of Pakistan states that the application of Article 25 of the International Covenant on Civil and Political Rights shall be subject to the principle laid down in Article 41 (2) and Article 91 (3) of the Constitution of Pakistan.”

received a number of recommendations on various human rights issues but discrimination against religious minorities and the freedom of religion and belief have remained the key areas of concern throughout.

5. Forms of Violence: Current Situation

Hate Speech: In any society, hate speech if not curbed, encourage violence or attacks on an individual or group of individuals on the basis of religious orientation, race, gender, caste, disability, national origin and ethnic origin. In Pakistan, several laws address hate speech such as Section 505 (2) of the Pakistan Penal Code (PPC) that makes creating or promoting “feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities” punishable. Section 8 of the Anti-Terrorism Act prohibits acts intended or likely to stir up sectarian hatred through “threatening, abusive or insulting words or behaviour” including possession, display, publication, and distribution of such material in recorded, visual image, or sound form. Moreover, section 11 of the Prevention of Electronic Crimes Act also deals with hate speech, prohibiting the preparation or dissemination of information that “advances or is likely to advance interfaith, sectarian or racial hatred”.⁸ Despite laws, hate speech flourishes with impunity in the speeches of religious leaders, textbooks, print and electronic media including sermons delivered by clerics in the mosques.⁹

Forced Conversion and forced marriages: A manifestation of violence against vulnerable minority community members, usually Hindus and Christians, forced conversion of faith, has become a frequent occurrence. Physical, emotional and/or psychological violence is used to ensure a religious conversion. The victims of forced conversions are abducted and submitted to force, duress and/or threats. Forced conversion in Pakistan is the result of the absence of legal protection, impunity and ill treatment towards religious minorities resulting in Hindus and Christian women being vulnerable to these crimes.

According to an estimate, 20 or more Hindu girls are abducted and converted every month in Pakistan. The most vulnerable areas for forced conversions in Sindh are the Thar region (Umerkot, Tharparkar and Mirpur Khas districts), Sanghar, Ghotki, and Jacobabad.⁴ Majority of victim belongs to Dalit communities who are landless, poor and work in agriculture sector and where their women and young girls becomes easy target of abduction, rape, forced conversion and marriage. Several cases of rape and harassment against this community go unreported or with impunity. Due to fear of abduction and forced conversion of their young girls, many families migrate to India each year and many of girls drop out from school.

Attacks on Places of Worship: Incidents of attacks on places of worship is the result of growing intolerance and hate in society against religious minorities. Prevalence of stereotypes and distorted notion of ‘jihad’ in attacking non-Muslims and desecrating their places of worship earn

⁴ Forced Conversion of Minority Girls and Women in Pakistan, Submission from the World Sindhi Congress to the 2017 UPR session, file:///Users/zeenathisam/Downloads/JS9_UPR28_PAK_E_Main.pdf

a place in heaven.¹⁰ There would be hardly few incidents where the culprits have been arrested and sentenced. The government failure to curb these attacks has curtailed freedom for religious minorities in Pakistan to practice their religion freely.

There is no exact data of attacks on worship places but hundreds of temples and churches have been vandalized, demolished or attacked by bomb blasts where number of people of minority faith have lost their life. Only in 2020 and 2021, seven major temples were vandalized by Islamist in different part of the country including centuries old historical temples.¹¹

Persecution under Blasphemy Law: The law has been misused by extremists against Religious Minorities (non-Muslims) for their personal interests. Number of innocent people have been imprisoned, forced to leave the country or killed by religious fundamentalists. Fair trial in cases of blasphemy cases is very difficult due to the pressure of religious extremists on the judiciary and lawyers.¹²

The text of the blasphemy laws is religion-specific and highly discriminatory. Furthermore, this law does not make any distinction between an intentional deliberate action and an unintended mistake. Most of the blasphemy cases are based on false accusations.¹³ According to the UN Human Right Committee, blasphemy laws are fundamentally incompatible with Pakistan's obligations under international law. In April 2021, the European Union Parliament passed a resolution expressing concern about Pakistan's blasphemy laws and their misuse.

6. Factors impacting Freedom of Religion or Belief

Constitutional and legal constraints: Some of the articles in the country's Constitution have direct or indirect implications on religious minorities. Article 2 states that Islam is a state religion; Article 31 seeks to foster Islamic way of life (Principles of Policy); Article 41 disqualifies non-Muslim for the position of President; Article 91 (3) disqualifies non-Muslim for the position of Prime Minister. Article 2A, inserted by Ziaul Haq in 1985 made the Objectives Resolution a substantive part of the Constitution. The *Islamic Provisions* (Articles 227 to 231) stipulates that all laws shall be brought in to conformity with the Quran and the Sunnah. These Articles lay the ideological ground for inequality and discrimination between Muslims and non-Muslims. The Article that has fundamentally changed the course of treatment to the religious minorities was inserted through the Constitution (Second Amendment) Act 1974 by Z. A. Bhutto. The amended Article 260 (3a) defines Muslim and (3b) defines non-Muslim stipulating the Ahmadiyya sect as non-Muslim.⁵ Discrimination against religious minorities was further institutionalized through the insertion of sections in the Pakistan Penal Code with problematic text thus paving the way

⁵ Hisam, Z. & Qureshi, Y., Religious Minorities in Pakistan, Constitutional Rights and Access to Judicial System—A study of Socio-Legal Constraints, PILER, Karachi.

for the abuse of the law. Religious minorities are frequently victimized through fake charges of blasphemy under Section 295 B and C of the Pakistan Penal Code.

Weak Judicial system and law enforcement: District and session courts, or the lower tiers of the judicial system, first approached by the citizens to seek justice, are the weakest in terms of capacity, efficiency and empowerment. The first information report (FIR) is registered by a police inspector, who in most cases potentially biased against religious minorities due to the prevalent prejudices. Though rules and processes are there but these are often subverted. Lack of coordination between departments, insufficient law enforcement personnel, and lack of willingness of higher officials to deal with the crime on time and in just manner, result in perpetuation of violent acts against religious minorities.

Social Exclusion: Lack or denial of resources, rights, goods and services through subtle or crude means have pushed the majority members of religious minority communities to the fringe of society. Notions of untouchability and defilement associated with low-caste Hindus and those Christians who engage in sanitation work are manifestation of extreme discrimination. Social discrimination creates barriers that hinder the minority's access to basic entitlements and opportunities as citizens. Though legally, non-Muslims have equal rights to education, health, housing, public services and infrastructure but social discrimination translates in to exclusionary practices and procedures, depriving the minority communities of full benefit of the facilities.

Discriminatory Educational Curriculum and the Media: Number of studies on the subject of education systems and curriculum in Pakistan indicate that the content of textbooks of public schools and colleges are full of prejudices against non-Muslims and incite sectarian hatred and violence.¹⁴ Thus education becomes a tool of indoctrination, inculcating in the young minds incorrect and biased views of the minorities' religions and belief. The way history is taught in Pakistan has distorted realities, and failed to recognize and appreciate the diversity of the country and the role of non-Muslims in the nation-building of Pakistan. Media has also been used as a tool in the indoctrination process. At times media distorted facts and sensationalized issues, whipping up emotions. Media often overlook or fail to report important details of the cases pertaining to violence against the minorities thus creating assumptions about the accused. The media also fall short in adequate follow up of the news and neither highlight the verdict of the cases nor the punishment meted out to the culprits.

7. Conclusion

Pakistan is a country of diverse cultures, religions, beliefs and traditions. The religious minorities, 4% of the total population, comprise Hindu and Schedule Caste, Christians, Sikh, Ahmediyya, and other smaller groups. Minorities are concentrated in Sindh and Punjab Provinces and face several challenges such as oppressive legislation, social discrimination, psychological intimidation due to false accusation in blasphemy cases, harassment, hate speech, mob violence, attacks on religious places, forced conversion and forced marriages.

Though the Constitution of Pakistan grants a number of fundamental civil and political rights to

all citizens (Articles 8 to 28), irrespective of religion, race, cast, creed, ethnicity or gender, but Article 20, *Freedom to profess religion and to manage religious institutions*, has made this fundamental right conditional and restricted its application through the addition of 'Subject to law, public order and morality'. A number of Sharia's provisions, particularly on blasphemy, incorporated in Pakistan Penal Code, have specifically impacted the rights of the minorities and institutionalised the discrimination against religious minority groups posed a threat to their security as a citizen of Pakistan.

8. Recommendations

Freedom of religion or belief contributes to mutual respect, trust, understanding and equality among peoples of different religions and beliefs. To achieve this aim, collaborative approach is required involving the state, civil society organizations, especially those working on human rights and tolerance and non-discrimination agendas, the faith leaders, youth, national and provincial human rights government institutions and the media. Following are several recommendations:

Repeal blasphemy laws particularly sections 295-A, 295-C, 298-A of the Pakistan Penal Code, or amend the laws in compliance with international human rights standards,

Curb unlawful and criminal activities of individuals or groups against religious minorities or sects to attack on their religious places, falsely accuse them in cases of blasphemy, or incite or engage in violence against others based on allegations of blasphemy, must be brought to justice and duly punished.

Take all necessary measures to ensure adequate protection of all judges, prosecutors, lawyers and witnesses involved in blasphemy cases.

Curb hate speech Ensure that all cases of hate speech and hate crimes are thoroughly and promptly investigated and that perpetrators are prosecuted and, if convicted, punished. Moreover, state ensures to provide compensation to the victims/family, minority group of their loss including property.

Reform curriculum and promote diversity through other means Review school textbooks and curricula with a view to removing all religiously biased content, incorporate human rights education therein and continue to regulate madrasas.

Take educational measures that foster respect for religious or belief diversity not only in schools but also in other institutions, i.e. museums, libraries, cultural heritage centers, festivals, tv programs etc.

Implement Supreme Court Judgment of 19 June 2014 and expand the scope of Article 20 as defined in the judgment to include freedom of conscience, thought, expression, belief and faith.
Create a mechanism to comply the following Supreme Court directions:

take appropriate steps to ensure that hate speeches in social media are discouraged and the delinquents are brought to justice under the law;

establish a Special Police Force with professional training to protect the places of worship of minorities.

the concerned law enforcement agencies take prompt action in all cases of violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities, including the registration of criminal cases against the culprits.

Legislate to prevent cases of forced conversion and child marriages.

- Devise legislation through stakeholders' consultation for criminalizing forced conversions and under age forced marriages;
- Ensure allegations of forced conversion and forced marriage are independently, impartially and promptly investigated with a view to apprehending the perpetrators to bring them to justice in proceedings that guarantee the right to a fair trial;
- ensure that victims have the right to access to justice and to an effective remedy and ensure convicted/involved individual or institution punished and banned.
- Revise the Child Marriage Restraint Act to set the minimum age of marriage 18 years regardless of gender and ensure the law is implemented effectively.

Facilitate the role of civil society, faith leaders and media to build upon existing religious diversity and develop a cohesive society

- Encourage civil society organizations to engage in advocacy efforts to ensure legislation and policies as well as practices, are in line with international standards;
- Make it mandatory for faith leaders to speak out strongly against activities that constitute incitement to discrimination, hostility or violence. They should proactively and systematically engage with state authorities in policy advocacy issues of religious minorities;
- Develop a code of ethics for the media that ensure respect for religious diversity through unbiased and accurate information and counter negative stereotypes and prejudices against religious minorities.

End Notes

¹ <https://www.pbs.gov.pk/content/brief-census-2017>

² <https://www.pbs.gov.pk/sites/default/files/population/2017/tables/pakistan/Table09n.pdf>

³ Dalit Justice Defenders Report Pakistan December 2021

⁴ The Diplomat “Religious Minorities in Naya Pakistan” March 16, 2020
<https://thediplomat.com/2020/03/religious-minorities-in-naya-pakistan/>

⁵ RFI “Religious Freedom Landscape Report Pakistan 2020”

⁶ Human Rights Watch – 28 session of the Pakistan [Submission to the Universal Periodic Review of Pakistan | Human Rights Watch \(hrw.org\)](#)

⁷ HRCPC Pakistan Report “Minorities under attack: Faith-based discrimination and violence in Pakistan”

⁸ BHOLO BHI civil society organization <https://bolobhi.org/stirring-up-hatred/>

⁹ MRG Policy Brief –Cost of hate speech <https://minorityrights.org/publications/hate-speech-punjab-ncjp/>

¹⁰ <https://www.dw.com/en/pakistans-disappearing-temples-and-churches/a-16424654>

¹¹ <https://www.opindia.com/2021/08/list-of-hindu-temples-attacked-in-pakistan-since-2020-details/>

¹² ICDR Dalit Justice Defenders Report Pakistan

¹³ ICJ briefing paper July 2021 violation of the rights to freedom of religion or belief in Pakistan.

¹⁴ [‘Curriculum of hatred’: Biases in school textbooks remain strong, says report \(tribune.com.pk\)](#) Report of Jinnah Institute in Tribune May 02 2012