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Minorities under attack: Faith-based discrimination and violence in Pakistan

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,



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1. Introduction

Following growing incidents of violence, intolerance and discrimination towards members of religious and sectarian minority communities across Pakistan, the Human Rights Commission of Pakistan (HRCP) convened the Working Group on Communities Vulnerable because of their Beliefs in June 2010, to bring together representatives from minority groups across Pakistan to address the growing faith-based challenges they face.

Building on the meetings held by the Working Group, FIDH and its member organisation HRCP organised a workshop in Karachi on 25 and 26 January 2014 with representatives from various religious minorities in Pakistan, to discuss the challenges and discrimination on the grounds of belief faced by minority and vulnerable communities across Pakistan, and to develop recommendations on how to end the violence, discrimination, and marginalisation they face. The workshop served as a joint forum for community representatives to exchange views on the problems they face and possible solutions, and aimed at identifying institutional reforms and strategies to enhance freedom of religion as well as the protection of religious minorities in Pakistan. The workshop was an opportunity for representatives from minority communities to learn from one another, and to be exposed to broader perspectives on these issues, through the exchange of experiences with human rights defenders from Pakistan and other countries in the region who were invited to participate. A broad range of communities were represented in the workshop, including the Ahmadi, Bahai, Christian, Hindu, Muslim (among them Shia including Hazara Shias), Sikh, and Zoroastrian (Parsi) communities from across Pakistan. Several HRCP members, international experts, lawyers, lawmakers and media representatives also participated.

International experts invited to the workshop by FIDH included Shawan Jabarin, FIDH Vice-President and Director of Al Haq (FIDH's member organization in Palestine); Rosemarie Trajano, FIDH Vice-President and Secretary General of FIDH's member organization the Philippines Alliance of Human Rights Advocates (PAHRA); Antoine Madelin, FIDH Director for intergovernmental organizations; and Ihsan Ali-Fauzi, Director of the Center for the Study of Religion and Democracy in Indonesia.

The present report is a summary of the main forms of discrimination facing religious minorities in Pakistan that emerged from the testimonies and discussions shared during the two-day workshop, responses to questionnaires which FIDH and HRCP sent out to community representatives, and consultations held by HRCP with community leaders. Although the problems faced by the various minority communities represented in the workshop are not identical, many challenges are similar. This report also highlights a number of recommendations addressed to the government of Pakistan in order to end the violence and the institutionalised discrimination facing these minority groups.

2. Historical context

The origins of Pakistan and emergence of Islamism

The Islamic Republic of Pakistan became an independent sovereign state on 14 August 1947, as a result of the partition of the former British India. Pakistan was formed with the aim to fulfil the right to self-determination of India's Muslims, on the basis of a "two-nation theory" put forth by the All India Muslim League, which described Hindus and Muslims as two different nations living in India. The creation of Pakistan meant carving out a state encompassing Muslim majority areas from the subcontinent, which also entailed massive transfers of Hindu, Sikh and Muslim populations from areas where they were in the minority, often to provinces where they constituted a clear majority. At the time of independence, Pakistan inherited those parts of undivided India that had a majority Muslim population, which resulted in a country divided into two wings of unequal size. In 1971, East Pakistan became the independent state of Bangladesh following a bloody civil war.

Despite this ambition to create a country for the subcontinent's Muslims, when the Pakistani nation was created the pluralistic composition of its society was recognised by its founding fathers and even appears in its flag. The white patch in the Pakistani flag symbolizes the nation's religious minority communities.

Some of Pakistan's founding fathers insisted that creating a homeland for South Asia's Muslims did not entail creating an Islamic state. Mohammad Ali Jinnah, recognized as Pakistan's Quaid-e-Azam (Great Leader), on the occasion of his first speech before the members of the Constituent Assembly of Pakistan in 1947, clearly declared that non-Muslims would be equal citizens in the new country and that every person living in the country was an equal citizen irrespective of his or her community, caste, color or faith.¹

Yet, despite the inclusive values espoused by its founding fathers, Islamism emerged in Pakistan, growing from popular slogans preceding independence, to commonly defining Pakistani nationhood immediately after independence, and subsequently becoming a question of national identity. This sentiment was incorporated into Pakistan's first Constitution, which establishes the country as an Islamic Republic, where its president must be a Muslim and no law can be adopted if not in conformity with the Qur'an.

The Islamic identity of Pakistan was not just a religious issue, but it also became a concrete way for Pakistan's leaders to maintain and justify their hold on power. As Pakistan's first generation of leaders faced growing challenges from Bengali, Baloch, Sindhi and Pushtoon nationalist movements, they found it expedient to appeal to an Islamic national identity as a means of countering the ethnic or cultural divisions arising in the country. Throughout Pakistan's history, Islam has thus often been instrumentalised for narrow political purposes, and successive leaders contributed to the entrenchment of religion in state and government structures.

Rise in violence and persecution

In the 1970s, several elements culminated to contribute to a rise in violent attacks against minority groups in Pakistan: a scramble for power by Pakistan's political parties led to even more instrumentalisation of religious divisions in society; the institutionalisation of discrimination of minorities into legislation by the Islamist governments who came to power; and the militarization of the region, with a proliferation of arms and trained fighters turning to violence to settle conflicts. By the 1980s, violent sectarian attacks, especially targeting the Shia and Ahmadi communities, became ever more commonplace.

1. Mohammad Ali Jinnah's first Presidential Address to the Constituent Assembly of Pakistan (11 August 1947); http://www.columbia.edu/itc/mealc/pritchett/00islamlinks/txt_jinnah_assembly_1947.html

Among the attacks targeting Shias, those against the Hazaras in Balochistan (an ethnic minority within the Shia community) are noteworthy. These attacks, which began during General Zia ul Haq's regime in the 1980s, have continued over the subsequent decades, exacerbated by the proliferation of anti-Shia armed groups such as Lashkar-e-Jhangvi (LeJ), Al-Qaeda, and Tehrik-e-Taliban Pakistan. Between January 2001 and October 2011, at least 386 violent murders of Hazaras were reported, and these attacks continue today.² On 10 January 2013, more than 100 Hazaras were killed and 121 injured in twin blasts in Quetta, the provincial capital of Balochistan. The attacks were supposedly committed by the LeJ.

The Ahmadi community in Pakistan is also increasingly the target of violent attacks. An economic and social apartheid and intermittent killings have targeted the Ahmadi community for several decades, but the attacks against Ahmadis have escalated since the 2000s when unknown men opened fire at an Ahmadi place of worship in a village in Sialkot. One of the largest attacks targeting Ahmadis took place on 28 May 2010, when a coordinated attack on two Ahmadi places of worship by the Tehrik-e-Taliban Pakistan killed over 80 people.³

2. State of Human Rights in 2011, report of the Human Rights Commission of Pakistan, 2012, page 84: <http://hrqp-web.org/publication/book/annual-report-2011-english/>

3. http://www.nytimes.com/2010/05/30/world/asia/30pstan.html?_r=1&

3. Discrimination under the constitution and the law

Discrimination against religious minorities of Pakistan was formalized in the country's first Constitution adopted in 1956, and was subsequently reinforced in the 1962 and 1973 revisions of the Constitution.

The Constitution of Pakistan, in article 25 (1), guarantees that “all citizens are equal before law and are entitled to equal protection of law.” Article 5 provides that “adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures,” and article 33 declares that it is the state's responsibility to discourage parochial, racial, tribal, sectarian, and provincial prejudices among citizens. However, these provisions have never been fully implemented in practice, and are contradicted by other provisions of the Constitution. Firstly, article 2 declares that “Islam shall be the State religion of Pakistan,” and article 31 states that it is the government's duty to foster the Islamic way of life. Article 41(2) provides that “a person shall not be qualified for election as President unless he is a Muslim,” and article 227 (1) states that “all existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions.” Even article 20 of the Constitution, which enshrines every citizen's “*right to profess, practice and propagate his religion*” and that “*every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions*”, is “*subject to law, public order and morality*,” and is thus contradicted in law and practice when it comes to the rights of religious minorities in Pakistan.

In addition to the Constitution, many laws have been passed that formalize the discrimination against Pakistan's religious minority groups. Under General Zia Ul Haq's rule (President from 1977 to 1988), the government spared no efforts to bring Pakistan's civil and criminal laws in line with Shari'a law, thus creating legislation that limits the freedoms of non-Muslims. For example, in 1979 the Hudood ordinances were adopted,⁴ and in 1980, religiously-mandated punishments (which include hanging, amputations, and other corporal punishments) were assigned to various violations under Shari'a law, including drinking alcoholic beverages, theft, prostitution, adultery, and bearing false witness. In 1982 and 1986, the notorious blasphemy laws were adopted, and in 1984 the Law of Evidence (Qanun-e-Shahadat) was adopted, which discriminates against both non-Muslims and women with regards to evidence presented in court.

In 1979, Zia Ul Haq also decreed the establishment of a parallel legal system – the Shari'a courts – to try cases under Islamic law. In May 1980, the separate Shari'a benches were reorganised and centralised under the Federal Shari'a Court, with the responsibility to ensure that all legislative acts and judicial pronouncements were compatible with Islamic law. The Shari'a Court system has effectively weakened the jurisdiction of the Superior Courts in Pakistan, and acts as a “super-legislature” as it can order immediate revision of national laws and its rulings are binding on high and lower courts. This legal system is by definition discriminatory to individuals who do not follow the State's interpretation of Islamic law.

4. http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html

Blasphemy laws

The blasphemy laws consist of a group of laws, the centrepiece of which is section 295 of the Pakistan Penal Code (PPC), which provide penalties for blasphemy and other “offences against religion,” ranging from a fine to the death sentence. These laws have been repeatedly condemned by national and international observers as severely contradicting freedoms of expression, of religion and of opinion, and likely to be used as tools for religious persecution of minorities. In 2009, the UN Committee on the Elimination of Racial Discrimination noted that Pakistan’s “blasphemy laws may be used in a discriminatory manner against religious minority groups.”⁵

Although section 295-A of the PPC criminalizes the “*deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Pakistan,*” the other offenses relating to religion outlined in the PPC specifically protect Islam and Muslims, thus limiting the freedom of expression of non-Muslims:

Section 295-B states that “*whoever wilfully defiles, damages or desecrates a copy of the Holy Qur’an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life*”.

Section 295-C provides that “*whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet (peace be upon him) shall be punished with death or imprisonment for life, and shall also be liable to fine*.”⁶

In 1990, the Federal Shari’a Court (FSC) ruled that “*the penalty for contempt of the Holy Prophet (...) is death and nothing else,*” and on 1 May 1991, the death penalty became mandatory for persons convicted under section 295-C.⁷

Following several trumped up accusations under section 295-C and complaints from civil society that the law was being abused to facilitate religious persecution, the government amended section 295-C so that any charges filed for this crime had to be based on an investigation completed by a police officer with the rank of at least superintendent. However, observers agree that this amendment is procedural rather than substantive, and that the abusive application of this law has not changed.

Section 298 of the PPC is also noteworthy in that even though it provides for the protection of “*the religious feelings of any person*” and not only Muslims, it criminalises speech and any form of expression even if the latter does not represent a direct or immediate incitement to violence, discrimination or hostility. The vague nature of criminalising “*any word*” or “*any sound*” or “*any gesture*” that can be interpreted as having “*the deliberate intent of wounding the religious feelings of any person*” is problematic and prone to abuse of the law, particularly in a context with strained religious sensitivities and divisions. The UN Special Rapporteur on the independence of judges and lawyers, during her mission to Pakistan in 2013, received reports that in cases involving the blasphemy laws “judges have been coerced or pressured to decide against the accused, even without supporting evidence, and that lawyers, in addition to their reluctance to take up such cases because they are afraid for their security, are targeted and forced not to represent their clients properly.”⁸

The blasphemy laws have thus been used against NGOs, minorities, academics and journalists alike, in a sometimes very arbitrary manner, to curtail freedom of expression and opinion. On 8 July 2003, for instance, Munawar Mohsin Ali of the Frontier Post was sentenced to life

5. Concluding observations of the UN Committee on the Elimination of Racial Discrimination, 16 March 2009, para 19: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fPAK%2fCO%2f20&Lang=en

6. Pakistan Penal Code: <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

7. PLD 1991FSC 10 (Ismail Qureshi vs the Government of Pakistan)

8. UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Addendum : Mission to Pakistan, 4 April 2013, A/HRC/23/43/Add.2, paras 56-61: <http://www.refworld.org/docid/51b9a0794.html>

imprisonment and a fine by Peshawar District Sessions Court for publishing a “blasphemous” letter in the 29 January 2001 edition of the paper.⁹

Discriminatory employment policies

Supposedly to prevent discrimination in employment in the public sector, a quota system was put in place during the regime of General Zia Ul Haq, reserving five percent of public sector jobs for minorities, and the other 95% of jobs being on the basis of open merit including minority candidates. However, in practice this system does little for affirmative action, and in fact exacerbates social discrimination and stereotypes against minorities. This is because many municipalities fill their five percent quota by employing only minorities in undesirable positions such as sanitation workers. In some communities there have even been reports of announcements for such jobs indicating that Muslims need not apply.

Land grabbing and evacuee property

When the country of Pakistan was created, many non-Muslim communities left their homes in areas that were to become Pakistani territory to live in India. During this sudden exodus, they left behind many properties and land, including temples and places of worship and land with religious symbolism. Soon after independence, a trust was established under federal law, called the Evacuee Trust Property Board, to manage the property, notably places of worship, that were left behind by non-Muslim communities. Although this Board is entrusted with the upkeep and protection of such properties and does not have the right to sell any of these properties, much of the land under the Board’s control has been left uncared for, has been occupied, and/or sold.

This is notably the case for properties belonging to the Hindu community. In Hyderabad alone, of the 350 temples and gurdwaras, only between five to ten are privately managed, the rest were either occupied or have been sold. Only one temple is currently still maintained by the Evacuee Trust Property Board.

A significant proportion of land that belonged to the Hindu community who left the country in 1971 after war broke out between Pakistan and India, notably in Tharparkar, in the Sindh province, was taken unlawfully by area feudals, and has not been returned even after 40 years. It is reported that the government leased this land to individuals outside of Tharparkar, and not to the Hindu haris (farmers) who lived there.

In Sindh, most of the burial places that belonged to the Shudras and the untouchables, have been taken over by Muslims, and Hindus belonging to lower castes were not allowed to bury their dead there.

The Evacuee Trust Property Board has evidently failed to fulfil its management and upkeep mandate, allowing many places of worship to fall into disrepair and ignoring squatters on the land under their purvey. There have also been accusations of active collusion: the last Chair of the Board, Mr. Asif Hashmi, is accused of having illegally sold property under the Board’s control.

The composition of the Evacuee Trust Property Board itself is also problematic, with very few board members coming from a religious minority. The Chair of the Board has also never been a non-Muslim. This is especially problematic for members of the Hindu faith, whose religion dictates that Hindu temples may only be managed by Hindus.

Discriminatory personal status laws

There are no codified personal status laws for Hindus and Sikhs in Pakistan, leaving the members of these communities vulnerable when wanting to marry or divorce, seek redress regarding family matters, or even travel abroad, as they cannot prove their personal status

9. FIDH report “In Mala Fide”, 2005, pp. 33-34: <https://www.fidh.org/en/asia/pakistan/IN-MALA-FIDE-Freedoms-of>

through any legally recognized documentation. In 2013, the UN Committee on the Elimination of Discrimination against Women expressed its concern at the multiple legal systems in Pakistan on marriage and family relations and the lack of applicable Hindu and Christian laws.¹⁰

Weak representation in legislative assemblies

The representation of minorities in assemblies in Pakistan remains weak. While the National Assembly was reformed in 2002, increasing the total number of seats to 342, the number of seats reserved for minority representatives was not increased and remains at ten. A proposed constitution amendment bill was moved in the National Assembly in January 2014 seeking an increase in the representation of minorities in the national and provincial legislatures.¹¹ However, in November the government rejected the proposal, claiming that such an increase of seats reserved for minorities at the National Assembly, the Senate and the Provincial Assemblies was not possible until a new population census was conducted.¹²

Because political parties representing religious minorities would not stand a chance of being elected in Pakistan due to the makeup of the electorate, minorities usually cast their votes for liberal secular parties, notwithstanding the fact that these parties actually do very little to protect the rights of minorities.

With the exception of one representative from a religious minority who directly contested and won the election for a seat in the Sindh provincial legislature, all the other Parliamentarians from religious minorities in the provincial and national legislatures were internally nominated by their political parties. These nominated representatives thus have little choice but to toe the party line. Against this backdrop, there has been no legislation passed in Pakistan to protect religious minorities.

The Ahmadis: Legalised persecution

In addition to the discrimination against all non-Muslims enshrined in the Constitution and Pakistan's legislation, the Ahmadi community faces particularly acute discrimination, and is signalled-out in both the Constitution and certain laws.

Under the rule of Zulfikar Ali Bhutto (Prime Minister from 1973 to 1977), in September 1974 the Second Amendment to the Constitution of Pakistan was passed, which declares Ahmadis to be non-Muslims¹³, despite the fact that Ahmadis do consider themselves Muslims, and observe Muslim practices as part of their religion.

This anti-Ahmadi sentiment was further institutionalised in 1984, when President Zia Ul Haq passed Ordinance 20, often referred to as the "Anti-Ahmadi Ordinance," adding two new sections to the PPC that specifically criminalise the practice of the Ahmadi religion:

Section 298-B prohibits Ahmadis from the "*misuse of epithets, descriptions and titles ... reserved for certain holy personages or places*," thus criminalising the expression of Ahmadi beliefs regarding the Holy Prophet, his family, and Ahmadi places of worship.

Section 298-C prohibits any Ahmadi from publicly referring to himself as a Muslim or referring to his faith as Islam, and criminalises preaching and proselytising by Ahmadis. It also provides punishment for any Ahmadi who "*in any manner whatsoever outrages the religious feelings of Muslims*," a law that is not only discriminatory but also dangerously ambiguous and open to abusive interpretation.

10. Concluding observations on the fourth periodic report of Pakistan, UN Committee on the Elimination of Discrimination against Women, CEDAW/C/PAK/CO/4, 27 March 2013, para 37: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPAK%2fCO%2f4&Lang=en

11. "Bills to increase minority seats tabled", Dawn, 29 January 2014: <http://www.dawn.com/news/1083494>

12. "Minorities face disappointment", The Express Tribune, 13 November 2014: <http://tribune.com.pk/story/790338/minorities-face-disappointment/>

13. <http://www.pakistani.org/pakistan/constitution/amendments/2amendment.html>

Members of the Ahmadi community claim that thousands of Ahmadis have been persecuted for violations of this Ordinance, for perceived offences such as having a Muslim name, sporting a beard or claiming to be Muslim. An estimated 2000 cases have been brought against Ahmadis under the Blasphemy Laws since their adoption; more generally, approximately 4000 Ahmadis have been prosecuted under various laws because of their faith.

In January 2002, the Conduct of General Election Order was passed, reforming voters lists in Pakistan, which were previously divided along religious lines. Following this reform, a joint electoral system was adopted whereby all Pakistani citizens are registered in a single voters list, with the exception of Ahmadis. The latter are the only religious group excluded from the main voters list, and are registered on a separate list as “non-Muslim”, yet no other non-Muslim group is included in this separate list. As of today, two voters lists persist: one for the Ahmadis, one for every other citizen in Pakistan.

Representatives from the Ahmadi community emphasize that Ahmadis are not a minority, but are nonetheless extremely vulnerable in Pakistan, as the discrimination against them is sanctioned by the State.

Summary of Criminal Offences Relating to Religion in the Pakistan Penal Code (PPC)

Section of the PPC	Description of the crime	Possible penalties
295	Injuring or defiling places of worship, with intent to insult the religion of any class	Up to two years imprisonment, or fine, or both
295A	Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs	Up to ten years imprisonment, or fine, or both
295B	Defiling, damaging or desecrating the Holy Qu’ran or of an extract therefrom	Imprisonment for life
295C	Use of derogatory remarks, by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, in respect of the Holy Prophet Muhammad	Death penalty, imprisonment for life, or/and fine
296	Disturbing religious worship or religious ceremonies	Up to one year imprisonment, or fine, or both
297	Trespassing on places of worship or burial places with intent to insult the religion of any person	Up to one year imprisonment, or fine, or both
298	Uttering any word, making any sound, making any gesture, or placing any object in the sight of any person with the intent to wound the religious feelings of that person	Up to one year imprisonment, or fine, or both
298A	Use of derogatory remarks, by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, in respect of holy personages of Islam	Three years imprisonment, or fine, or both
298B	Misuse, by Ahmadis, through words, either spoken or written, or through visible representation, of epithets, descriptions and titles reserved for certain holy personages or places of Islam	Three years imprisonment or/and fine
298C	An Ahmadi, calling himself a Muslim, or preaching or propagating his faith, or outraging the religious feelings of Muslims, or posing himself as a Muslim	Three years imprisonment or/and fine

4. Impunity for faith-based crimes

For the past several decades, the Pakistani authorities have continuously failed to adequately protect minorities from faith-based violence. Even when some governments made pledges to bring perpetrators of faith-based crimes to justice, these promises have remained unfulfilled with regards to crimes committed against non-Muslims. The State's failure to fight impunity for such crimes is seen as a tacit approval, and has resulted in rising religious intolerance and more overt acts of discrimination and violence against minorities.

In 2009, anti-Christian violence erupted in Gojra in the province of Punjab, with the torching of houses in arson attacks and the murder of eight Christians including four women and a child. No one was found guilty of the murders or the torching of houses, and five years later, there is a general feeling among Pakistani society that the perpetrators will not be punished.

A symbolic example of the challenges of seeking justice for faith-based crimes in Pakistan is the case of the murder of the Governor of Punjab, Salman Taseer. Taseer had spoken out in support of Asia Bibi (a Christian woman who is on death row for blasphemy charges), which generated opposition from extremist religious groups. Apparently as retaliation for his views in support of the protection of religious minorities, Taseer was killed in cold blood by one of his bodyguards, who promptly confessed to the murder. The bodyguard was arrested, and due to his confession and lack of remorse, and the clear incriminating evidence, a judge gave him the maximum sentence for murder. A massive wave of public protests ensued against the judge and the sentence from large groups of people who saw the bodyguard as a hero of Muslim values. The judge was thus forced to flee the country after the verdict as the authorities felt they could not protect him against street mobs and violence. Although Taseer's murderer was convicted, this case illustrates how violence against minorities is not only tolerated by publicly supported, and how even in a case where the evidence was clear and the murderer confessed, the struggle for justice for this faith-based crime was hard won. The UN Special Rapporteur on the independence of judges and lawyers cited this case in her April 2013 report on Pakistan, noting that this was an emblematic example of the pressure and risks faced by judges and lawyers trying cases of faith-based crimes. The UN Special Rapporteur concluded that this climate of fear in which the judiciary operates has resulted in judges being "reluctant to condemn suspected ... religious extremists for fear of reprisal, thus, the delivery of justice is negatively affected," leading to impunity for such crimes.¹⁴

14. UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Addendum : Mission to Pakistan, 4 April 2013, A/HRC/23/43/Add.2, paras 52-54: <http://www.refworld.org/docid/51b9a0794.html>

5. The role of the media

The reach and diversity of Pakistani media has grown considerably over the last two decades. Before 2004 there were only newspapers that reported mainstream news stories; today the Pakistani public has access to television channels, independent publications, and electronic media that represent a broader range of views. Nevertheless, there remains a considerable bias with which the grievances of minorities, their activities and events are projected in the media.

Discrimination through the media is particularly acute against the Ahmadi community. Hate campaigns against Ahmadis have been carried out in an organised manner, through stickers placed on buses, wall chalking, and distribution of pamphlets. In Khatam e Nabuwat conferences taking place across Pakistan, clerics openly incite their followers to kill Ahmadis. This hate speech is often covered by the media, but the legitimacy of such statements is rarely questioned, nor is the perspective of the Ahmadis represented.

On 7 September 2008, during a prime-time discussion on a popular Urdu TV channel, an anchorman commemorated the 1974 amendment to the Constitution which declares Ahmadis as non-Muslims, and stated that “Ahmadis Wajibul Qatl” (that Ahmadis should be killed). The following day an Ahmadi doctor was shot dead in the Mirpurkhas district of Sindh, and the subsequent day another person from the same community was assassinated in the Nawabshah district of Sindh. Although incitement to murder is a crime under Pakistani laws, neither the anchorman nor the channel that aired his hate speech were indicted nor charged.

The media judiciously reports conversions of non-Muslims to Islam, most often portraying these as positive stories, but remains silent on the “organised conversions” taking place, particularly in Sindh, where several madrasas have forcibly converted non-Muslims, abducted Hindu girls to forcibly convert them to Islam, or accused non-Muslims of blasphemy.

Prejudice and stereotypes also prevail in the media. The negative images portrayed of the Hindu community echo those that prevailed within the politics of undivided India in the 1920s; the media project the Hindus as agents of India, and Hindu characters in television programs and films are depicted as “opportunists”, “usurers” and “unpatriotic” to Pakistan. Christians are portrayed as “agents of the West,” and Ahmadis are referred to within Urdu newspapers as “Jewish agents,” disloyal to Pakistan and enemies of Islam. The state fails to protect these communities against such defamation and intimidation.

6. Discrimination in education

The education system in Pakistan is both discriminatory in its content and the level of access to education given to members of minority groups, and has also helped fuel hatred against minorities through the proliferation of negative stereotypes in school curricula. These curricula, notably those of public schools, have been thoroughly examined by several organisations that have concluded that they portray a society that is not protective of minorities. 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.

Discrimination prevails in the context of admissions to colleges and universities. Several higher education institutions implement a quota system that disadvantages non-Muslim students. For instance, at the Quaid-e-Azam University in Islamabad, each department may only enrol a total of two non-Muslim students. Even if a non-Muslim student achieves high enough scores to be admitted to the University, they are refused admission if they fall beyond the quota, and the University will instead admit a Muslim student with a lower merit score.

Admissions to professional colleges are also discriminatory. During the admissions exams, between 15 and 20 additional marks (varying from province to province) are given to students who have memorised the Holy Qu'ran. Comparable advantage is not available to minority students who memorise or are otherwise well versed in their religious scriptures. These additional marks are also available to students applying for secular studies, such as in medical and engineering colleges and universities.

While Article 22 of the Constitution of Pakistan provides that no one is compelled to study religion other than his or her own, the reality is different. Over the years, in primary and secondary schools, the government has increased the prevalence of Islamic references in subjects other than Islamiyat (Islamic studies), especially in English and Urdu textbooks and literature. For example, out of the 43 lessons in the Class 1 Urdu textbook 'Meri Kitab', 16 promote Islamic teachings, even though this textbook is meant to be used for a secular class. In addition, when teaching the history of scientific inventions, the curriculum only focuses on Muslim inventors.

While in theory students have the option to study either Islamiyat or a secular ethics course, the latter is often not offered in public schools, as authorities claim that there are not enough students interested in taking the course to justify hiring a teacher for that purpose.

In 2009, the UN Committee on the Rights of the Child noted with concern reports of children of religious minorities having been restricted in studying and practising their religion, and urged the government of Pakistan to ensure that children have the choice whether or not to participate in religious education classes.¹⁵ The committee also condemned the "*persistence of discriminatory societal attitudes and discrimination against children belonging to [inter alia] a religious group*" in Pakistan, and issued several recommendations to the Pakistani authorities to address this problem.¹⁶ To date, these issues still persist and the government has yet to implement the Committee's recommendations.

Beyond the public school system, religious schools (*madrasas*) have proliferated across the country, and have been found to promote fundamentalism, militancy and sectarianism. In

15. UN Committee on the Rights of the Child Concluding Observations on Pakistan (CRC/C/PAK/CO/3-4), 2 October 2009, para 43-44: <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-PAK-CO4.pdf>

16. UN Committee on the Rights of the Child Concluding Observations on Pakistan (CRC/C/PAK/CO/3-4), 2 October 2009, para 30: <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-PAK-CO4.pdf>

2012, the UN Committee on the Rights of the Child documented how these institutions were responsible for the recruitment of children into religious armed groups and their participation in hostilities.¹⁷ The United Nations Educational, Scientific and Cultural Organization (UNESCO) further reported an increase in the recruitment of children from such religious schools for training as suicide bombers.¹⁸

In the 2002 Madrasa Registration Ordinance, the Pakistani authorities committed to registering these madrasas and to introducing secular subjects into their curricula. However, in 2009 the UN Committee on the Rights of the Child noted that a large number of these schools remained unregistered and the introduction of secular subjects in the curricula had only been partially implemented.¹⁹ These issues remain unresolved today.

Hate speech is also proliferated within educational institutions, targeting in particular the Ahmadi community. In several academic institutions, teachers have allegedly been engaging in hate speech and inciting people to kill Ahmadis. When Ahmadis have complained they have reportedly been expelled from the institutions.

17. Compilation prepared by the Office of the UN High Commissioner for Human Rights for the UPR on Pakistan, 13 August 2012, para 59: <http://www.refworld.org/pdfid/506d3d412.pdf>

18. The Quantitative Impact of Conflict on Education, 2011, p. 48: <http://unesdoc.unesco.org/images/0021/002145/214576e.pdf>

19. UN Committee on the Rights of the Child Concluding Observations on Pakistan (CRC/C/PAK/CO/3-4), 2 October 2009, para 80-81: <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-PAK-CO4.pdf>

7. Other issues of concern

In addition to the four main issues explained above, which emerged as the key concerns shared among all the minority groups who contributed information to this report, there were a few other important challenges and difficulties facing certain minority groups in Pakistan which deserve mentioning.

Lack of recognition in the national census

The most recent census of the Pakistani population dates back to 1998. It states that 96.28 percent of Pakistanis are Muslims, 1.59 percent Christians, 1.6 percent Hindus, 0.25 percent Ahmadis, 0.25 percent are from the scheduled castes and 0.07 are described as “others”.

Minority representatives refute these numbers and in the absence of a recent census, it is unclear whether the size of the different minority groups has grown or dwindled. A national census weighs particular importance as it ensures that minority population is not under-counted within development schemes, government initiatives, and through proportional quota and representation systems in different government institutions.

Moreover, representatives from minority communities take issue with the use of the term “others” to lump together communities that do not fall within the 5 main religious categories.²⁰

Forced and coerced marriage

Forced marriages of girls take place under majority religious law which deems puberty as a licence for marriage. In 2013, the UN Committee on the Elimination of Discrimination against Women denounced the persistence of forced marriages and forced conversions in Pakistan and the continued use of religious law to justify such crimes.²¹

While in Muslim law the consent of parents or a wali (guardian) of the bride (whether minor or not) is taken otherwise the marriage remains unrecognised, the same principle does not apply when a Hindu girl is being converted and married to a Muslim man, so many Muslim men seek out young Hindu girls to forcibly convert and marry, as they legally need not bother with getting the girl’s guardian’s consent or permission.

Court rulings have supported such discrimination, notably legally recognising the apparently coerced conversion of a seven year-old Hindu girl to Islam, or by legally dissolving a married Hindu woman’s first marriage to a Hindu man so that she can be forcibly wed to a Muslim man.

The societal discrimination is such that the media has published positive stories on Christian girls converting to Islam and marrying Muslim men, when at the same time reports have been received of mobs of Muslims attacking Christian homes simply because a Christian man is courting a Muslim woman.

20. Life at Risk, a report of the HRCP Working Group on Communities Vulnerable because of their Belief, 2011: <http://hrcp-web.org/hrcpweb/wp-content/pdf/ff/5.pdf>

21. Concluding observations on the fourth periodic report of Pakistan, UN Committee on the Elimination of Discrimination against Women, CEDAW/C/PAK/CO/4, 27 March 2013, para 21 and 37: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPAK%2fCO%2f4&Lang=en

Further discrimination against Ahmadis

The discrimination against Ahmadis is enforced through public policies limiting their access to education, professional opportunities, and basic political and civil rights. For example, when filling out the application form for a Pakistani passport, anyone who mentions his religion as Islam is asked to pledge that she or he is not an Ahmadi, or risk being charged under section 298-C of the PPC.

Ahmadis are not allowed to have public places of worship, and are thus confined to their homes for their religious ceremonies. The official Ahmadi newspaper, which is only allowed to circulate among paid subscribers, does not have the right to promote the Ahmadi faith, be it directly or indirectly.

Jizya: The price of being Sikh

A major problem facing the Sikh community is the discriminatory jazia, a fee in exchange for being able to practice one's faith, enjoy communal autonomy, and to be entitled to Muslim protection from outside aggression. Only Sikhs, not other minorities, need to pay this fee to non-state actors [militants]. Several reports have been received of Sikhs being killed in public places for not paying this protection fee.

According to representatives from the Sikh community, there are several groups that demand to be paid this tax. If Sikhs need to travel to Peshawar, they have to pay a tax to Mangal Bagh; if travelling to Malakand district, then a tax must be paid to the Fazlullah group; and so on. The amount of the tax is usually about Rs 25,000 (18.88 Euros) per person.

Community representatives said that when they raised the issue with government ministers, they are told helplessly that ministers too are paying some sort of fee to buy protection from the Taliban.

8. Conclusion

Over the past several decades, successive governments in Pakistan have created and perpetuated an institutionalised discrimination against members of religious minority groups and minority Muslim sects from different parts of Pakistan. Discrimination in law and practice is still witnessed notably through a separate list for Ahmadi voters; the absence of codified personal law for Hindus and Sikhs; and the lack of effective representation for religious minority groups.

Hatred is being fomented in society through the inappropriate representation of minorities in curricula and in school textbooks, and children are being denied the right to choose the religion they wish to study, if any.

Throughout the pattern of religious discrimination, women and girls suffer doubly, notably through the practice of forced conversion and forced marriages.

Perpetrators of faith-based violence do not fear justice due to rampant impunity for such crimes, which in turn fuels the perpetration of further crimes. The judges and lawyers involved in the prosecution of these crimes are prevented from operating due to the absence of or inadequate protection of their individual safety.

The Pakistani authorities have failed to ensure equality, dignity, rule of law and the protection of human rights of all Pakistanis, and thus rendered themselves responsible for serious violations of international human rights law, including the two International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights, as well as the Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child, and the Convention on the Elimination of Discrimination Against Women.

This pattern of systematic discrimination has created a social environment whereby religious and political violence has spread throughout the country, at the hands of a small group of extremist elements. Such violence has also been insufficiently addressed by the authorities, notably with the lack of State response to militants demanding jizya (protection money) from Sikhs in FATA.

The violence, while initially targeting religious minorities, now also threatens the liberal and secular voices in Pakistan and those who defend them, notably the independent media, who are increasingly subject to threats and attacks.

Although Pakistan has not ratified the Rome Statute of the International Criminal Court, it is useful to recall that religious persecution constitutes a serious attack on human dignity or grave humiliation or a degradation of human beings. When this is part of a widespread and systematic practice, which is the case in Pakistan, these attacks can be qualified as a crime against humanity.

9. Recommendations

To the Government of Pakistan

Reforming legislation and government policies

- Ensure that all national laws and policies comply with Pakistan's obligations under international human rights law, in particular the International Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1966), the Convention on the Rights of the Child (ratified in 1990), the Convention on the Elimination of All Forms of Discrimination Against Women (ratified in 1996), the International Covenant on Economic, Social and Cultural Rights (ratified in 2008) and the International Covenant on Civil and Political Rights (ratified in 2010).

In particular, laws and constitutional provisions that discriminate on the basis of belief or religion must be reviewed or repealed, including:

- all Ahmadi-specific laws, including sections 298B and 298C of the Pakistan Penal Code
- constitutional provisions regarding the compliance of law with Islamic injunctions
- provisions relating to proselytism, conversion and apostasy, which deny individuals the freedom to change religion or the freedom to manifest one's religion or belief, either individually or in community with others, in public or in private
- blasphemy laws
- the Hudood Ordinances
- Adopt a single electoral list for all citizens, which does not include any distinction based on religion.
- Abolish any mention of religion on passports, identity cards, or government application forms.
- Establish a high level independent body to examine the issue of religious conversions with a view to protecting individuals from forced conversions. In particular, the government must take a stand on forced conversion of girls from religious minority communities and outlaw any inducement or threat to a minor or adult to convert to another faith, including through marriage.
- Develop and adopt inclusive personal status laws for Hindus and Sikhs, including laws which ensure that marriages and divorces of couples from minority communities are legally registered on equal standing as marriages and divorces of Muslim couples.
- Immediately establish an independent and well-resourced National Commission for Minorities, as instructed by the Supreme Court in June 2014, with a mandate to ensure protection from intimidation and discrimination, and to address complaints and issues facing religious minorities. The terms of reference of this Commission should include mandatory regular meetings, a minimum working budget, the creation of a secretariat, and a membership that is comprised largely of representatives from minority and vulnerable communities.
- Ensure that minorities can participate in economic and public life without discrimination, including monitoring employment practices and prosecuting those found to discriminate against minority applicants. Moreover, laws should be passed and enforced to criminalize the display of signs by shops or other businesses indicating that members of particular minority communities are unwelcome.
- Ensure the participation of minorities in government decision-making mechanisms, including through quotas and reserved seats in government and Parliament, and the establishment of consultative bodies on the national and local levels. In addition, the ban on non-Muslims for the posts of President and Prime Minister and other high offices should be removed.
- Adopt legislation that allows the federal government to over-rule any provincial legislation that downgrades the status of minorities in the provinces or restricts their empowerment or admission to educational institutions and employment at the provincial level.

Fighting impunity

- Engage in judicial reform and training to ensure that the judiciary, particularly at the district level, addresses bigotry within its ranks and respects equal rights for all citizens in its judgments, regardless of an individual's faith or religion.
- Establish independent inquiries into the recent cases of large-scale killings of certain religious groups, and ensure that those responsible for the killings are brought to justice in accordance with internationally recognized guidelines for fair trial.
- Work to prevent kidnapping for ransom targeting religious minority communities – especially in Baluchistan – through professional training of police officers and vetting mechanisms to identify police officials involved in abetting kidnappers.

Educational reform

- Implement effective complaint procedures and accountability mechanisms to ensure that all educational establishments, including primary and secondary schools, higher education colleges and universities, protect all students from discrimination on the grounds of their religion.
- Foster parliamentary consensus for regulating Islamic madrassas and mosques to prevent their use for the promotion and propagation of anti-minority propaganda and hate speech against non-Muslims.
- Revise and screen national curricula and all textbooks from elementary to college levels to ensure no appearances of hate speech or distortions of history that discriminate against minority groups, and to ensure that religious studies at elementary and secondary schools cover all religions.
- Eliminate religious or faith-based questions on forms for admission to educational institutions in order to avoid discrimination on the basis of religious affiliation.

Media reform

- Demand that the Pakistan Electronic Media Regulatory Authority (PEMRA) develop effective systems to monitor and penalize violations of its Code of Conduct for Media and Broadcasters and Cable TV operators, which states that “No programme shall be aired which contains an abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race or caste, national, ethnic or linguistic origin, colour or religion or sect, sex, sexual orientation, age or mental or physical disability.”
- Call on media houses to set up mechanisms for monitoring and accountability that discourage irresponsible and inaccurate reporting while taking note of public incitements to violence or hate speech against any segment of society, particularly religious minorities.
- Establish easily accessible public complaints cells that allow citizens to lodge complaints against the publication and broadcast of hate speech.

To Member States and Observers of the United Nations Human Rights Council:

Under the Council's agenda item 4, as well as under item 3 during interactive dialogues with the Special Rapporteur on freedom of religion or belief:

- Urge Pakistan to protect the right to freedom of thought, conscience and religion, and to protect religious minorities from all forms of violence and discrimination.
- Urge Pakistan to repeal all discriminatory laws and Ahmadi-specific laws, and amend its domestic legislation to bring it into line with international human rights standards, in particular the so-called blasphemy laws, Hudood ordinances, and provisions relating to proselytism, conversion and apostasy.
- Unambiguously reaffirm the right to freedom of expression as enshrined in international human rights law, which clearly defines acceptable restrictions to this freedom, and oppose any attempt to restrict free expression on the basis of so-called “defamation of religion”.
- Condemn in the strongest terms discrimination on religious grounds and violence committed in the name of religion, including targeted attacks and acts of terror

committed in retaliation for alleged “blasphemy” or criticisms of religion.

On the occasion of the second Universal Periodic Review (UPR) of Pakistan, scheduled for 2017:

- Follow-up on recommendations made during Pakistan’s first UPR in 2012, in particular regarding
 - repealing blasphemy laws,
 - ensuring that there is no impunity for those who commit acts of violence against religious minorities, including those belonging to the Shia sect, Ahmadis, Hindus, Sikhs and Christians, and
 - reviewing school curricula in order to eliminate prejudice against religious minorities.
- Continue to call on Pakistan to accept recommendations it did not accept during its first UPR.

To the United Nations treaty monitoring bodies:

The Committee on the Elimination of Racial Discrimination must:

- Follow up on and reiterate its last concluding observations on Pakistan, dated 16 March 2009, which remain unaddressed, in particular
 - violations of the right to freedom of religion and the risk that blasphemy laws may be used in a discriminatory manner against religious minority groups, who may also be members of ethnic minorities;
 - Pakistan’s obligation to ensure that all persons enjoy their right to freedom of thought, conscience and religion, without any discrimination based on a person’s faith, race, color, descent or national or ethnic origin; and
 - inadequate media representation of issues concerning all ethnic and religious minorities.

The Human Rights Committee should:

- Call on the Government of Pakistan to submit its initial report on implementation of the ICCPR, which has been overdue since 23 October 2011.
- Include Article 18 (the right to freedom of thought, conscience and religion) in the list of issues it will adopt prior to its initial review of Pakistan.



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Its mission notably includes:- to work for the ratification and implementation by Pakistan of international human rights instruments

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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

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