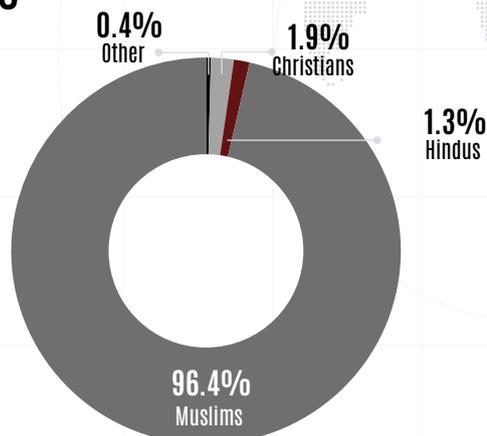




PAKISTAN

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Pakistan was founded at the time of British India's partition in 1947. Only later did the country's more devoted Muslim character assert itself as it began to take a distinctly Islamic orientation under the dictatorship of General Zia ul-Haq, in power from 1977 to 1988. As a consequence, Islamic law (Shari'a) came to play a greater role within the Pakistani legal system.

The population is almost entirely Muslim, mostly Sunnis (between 85 and 90 percent). Shi'as are around 10-15 percent. Religious minorities, mostly Christians, Hindus and Ahmadis, plus some Baha'is, Sikhs, Parsis, and a dwindling Jewish community, are only 3.6 percent.¹ The main ethnic groups are (in percentages): Punjabis (44.7), Pashtuns (Pathans) (15.4), Sindhis (14.1), Saraikis (8.4), Muhajirs (7.6), Balochis (3.6), and others (6.3).²

Pakistan is a signatory to the Universal Declaration of Human Rights of 1948, and ratified the International Covenant on Civil and Political Rights (ICCPR) in 2010. It is therefore obliged under Article 18 to provide freedom of thought, conscience and religion to its people.³

Although Article 2 of the 1973 Pakistani constitution⁴ (amended several times, most recently in 2015) states that "Islam shall be the State religion of Pakistan," the same document ostensibly guarantees rights to religious minorities as well. In fact, in its Preamble, it says that "adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures." Article 20 (a, b) recognises that "every citizen shall have the right to profess, practice and propagate his religion," and that every religious denomination has "the right to establish, maintain and manage its religious institutions."

Article 21 says that "No person shall be compelled to pay any special tax, the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own." Article 22 (1 and 3) contains "Safeguards as to educational institutions in respect of religion," clearly noting that "no person attending any educational institution shall be required to receive religious instruction," and "no religious community or denomination shall be prevented from providing religious instruction for pupils of that community."

In reality however, this article is not fully enforced since many students in public schools are required to attend Qur'anic classes or take Islamic courses; otherwise, they

lose important credits needed to complete the school year. Moreover, in public schools, subjects such as history, literature and mathematics are strongly permeated by Islamic precepts. Recently, the Punjab government has made the teaching of the Holy Qur'an compulsory at the college and university levels.⁵

In Article 260 (3, b) of the constitution, a distinction is made between Muslims and non-Muslims, and this stokes religious bias and fuels discriminatory attitudes towards, for example, the Ahmadi community, which is described as non-Muslim. Article 41 (b) is unequivocally discriminatory since it states that "A person shall not be qualified for election as president unless he is a Muslim." Article 91 (3) also stipulates that the prime minister must be a Muslim. Under Article 203D, the Federal Shariat (Islamic) Court has the power to invalidate any law contrary to Islam and suggest amendments to it.⁶

Pakistan's electoral system is equally discriminatory, a fact highlighted again in the parliamentary elections held in July 2018. Pakistan has a president elected by an electoral college made up of Members of the National Assembly and Members of Provincial Assemblies. There are no countrywide presidential elections.⁷

Pakistan's bicameral parliament includes a 342-member National Assembly and a 104-member Senate. In the lower house, 272 seats are elected according to the first-past-the-post system, while the other 70 seats are reserved, 60 for women (elected via proportional representation) and 10 for non-Muslim minorities (elected in a single, country-wide constituency).⁸ Senators are elected by the country's four provincial assemblies, a reflection of the federal nature of the Pakistani state, but in this case too, seats for women and minorities are reserved.

While this guarantees some representation for such groups, female and minority candidates are virtually excluded from running for the other (more than 300) seats. This situation has led many non-Muslim politicians to align themselves with Muslim-led political parties, which is less effective in terms of promoting policies aimed at improving the situation of minorities. Candidates elected to reserved seats are still bound by party discipline, even if that means ignoring the concerns of their own community.⁹

The status of religious minorities is further affected by Pakistan's so-called "blasphemy laws", introduced by General Zia-ul-Haq between 1982 and 1986. Strictly speaking,

they are not laws but amendments to the Pakistan Penal Code,¹⁰ namely Sections 295B, 295C, 298A, 298B, and 298C, which severely restrict freedom of religion and freedom of expression. Punishable offences include "defiling" the Qur'an and insulting the Prophet Muhammad, which carry maximum sentences of life imprisonment and the death penalty respectively.

As the concept of "blasphemy" is quite broad, the notion is easily abused to sanction various types of conduct, including irreverence towards people, objects of worship, customs and beliefs. While Section 295A protects all religions from "Deliberate and malicious acts intended to outrage religious feelings", the section's next paragraphs and Sections 298B and 298C exclusively target conduct deemed anti-Islamic.

Historically, Pakistan's legal system is a combination of English Common Law and Shari'a, but the legal practices are Islamocentric, especially since the Penal Code was amended in the 1980s.¹¹ It is not surprising, therefore, that between 1947 (when Pakistan was founded) and the 1980s (when amendments were introduced), only six blasphemy cases were recorded, compared to 1,550 cases filed between 1987 and 2017.¹²

Even though in the period under review some people accused of blasphemy were released, including the now well-known Ms. Asia Bibi,¹³ the volume of cases and death sentences for blasphemy has not decreased.

Accusations of blasphemy have been made against both Muslims and members of religious minorities; however, when non-Muslims are involved, accusations often result in lynching, mob attacks on entire neighbourhoods, and extrajudicial killings. Furthermore, the number of minority believers accused of blasphemy is highly disproportionate to their share of the population. Out of the 1,550 people accused of blasphemy between 1986 and 2017, 720 were Muslims, 516 Ahmadis, 238 Christians, 31 Hindus, and 44 unknown. This means that 46.45 percent of the accused were Muslims (who are 96.4 percent of the population), while 50.7 percent involved minorities (who are 3.6 percent of the population). Of these, 33.5 percent were Ahmadis, 15.3 percent were Christians and 2 percent were Hindus.¹⁴

Of particular concern are Sections 298B and 298C of the Pakistan Penal Code, which were promulgated under Zia-ul-Haq via Ordinance XX of 1984.¹⁵ The latter made it a

criminal offence for Ahmadis to call themselves Muslims or to refer to their faith as Islam.

According to Omar Waraich, head of South Asia desk at Amnesty International, “There are few communities in Pakistan who have suffered as much as the Ahmadis”.¹⁶ Some sources mention that between 1984 and 2019, 262 Ahmadi were killed because of their faith, 388 have faced violence and 29 Ahmadi mosques have been destroyed.¹⁷ By law, they cannot have their own mosques, or make the call to prayer, and in order to vote they have to either be classified as non-Muslims or adhere to one of the mainstream currents of Islam.¹⁸

The persecution of Ahmadis goes back to the movement’s foundation in the late 19th century. Although Ahmadis accept Muhammad as a prophet, they are considered heretical by mainstream Muslims because they believe that their founder, Mirza Ghulam Ahmad, was the Mahdi, a messianic figure in Islam. He also believed that he was the reincarnation of Muhammad, Jesus and the Hindu god Krishna.¹⁹

In July 2020, the Punjab Provincial Assembly passed a bill, the Protection of the Foundation of Islam Act (Tahaffuz-e-Bunyad-e-Islam), which is of great concern. The new law essentially imposes a Sunni definition of Islam. It bans any printed material deemed offensive to Muhammad and other holy religious figures, and requires people when speaking about the prophet himself precede his name with the title “Last prophet of God” (Khatam-an-Nabiyyin), followed by the Arabic invocation “Peace be upon him” (sallallahu alaihi wasallam).²⁰

Education is another domain where blasphemy allegations and violence against minorities are growing. In its seven-year study titled “Education and Religious Freedom: a fact sheet”,²¹ the National (Catholic) Commission for Justice and Peace found that school and college curricula promotes discrimination against non-Muslims. According to the report, “Factual inaccuracies, historical revisionism, and easily recognisable omissions teach a version of history that is decidedly monolithic, reinforce negative stereotypes and create a narrative of conflict towards religious minorities”.²²

School curricula and textbooks play an essential role in promoting a culture of intolerance towards minorities and there is much concern about the so-called Single National Curriculum (SNC), scheduled to be implemented in

2021.²³ The Human Rights Commission of Pakistan has expressed concern that the SNC might “violate the constitutional guarantee that no member of a religious minority will be required to ‘receive religious instruction’ not relevant to their own religion”.²⁴

In 2020, the government created a National Commission on Minorities (NCM). This was prompted by an order by the Supreme Court of Pakistan in June 2014 to set up an agency to protect minorities,²⁵ a decision influenced by an attack against a church in Peshawar in September 2013.²⁶ In May 2020, the Ministry of Religious Affairs and Inter-religious Harmony also notified the reconstituted National Commission for Minorities and its mandate to ensure that the places of worship of non-Muslim communities are preserved and maintained in functional conditions. However, the NCM’s status is uncertain, since it is simply an ad hoc body set up by the federal cabinet and not an agency established by a law, and its powers are limited. What is more, Ahmadis are not represented in this body because, to quote Information Minister Shibli Faraz, they do not “fall [with]in the definition of minorities”.²⁷ Last but not least, since the adoption of the 18th Amendment to the constitution in 2010, minorities have become a provincial issue, and the NCM has no legal power to enforce its resolutions.²⁸

Marriage is another major legal matter that has affected religious minorities. For Christians, there was some improvement. In 2019, the Supreme Court of Pakistan ruled that Christians could register their marriages with an official marriage certificate.²⁹

Still there was not much else. Under Pakistani law, the minimum age of marriage is 18 years, but this has been constantly put aside by courts that accept Islamic marriage practices that allow girls to marry when they have their first period.³⁰

This issue is particularly sensitive because of the forced marriage and conversion of Christian and Hindu girls. To deal with the situation, the Sindh provincial assembly passed the Sindh Child Marriage Restraint Act in 2013, the only province to do so; yet, the same province has the highest number of forced marriage cases. Some kidnapped girls have been returned to their families during the period under review, but the law cannot annul Islamic marriages even if it can be proven that the girl was underage when she was married.³¹

A national law seems necessary. The Pakistani Senate tried to tackle the issue in 2020. Its Standing Committee to Protect Minorities from Forced Conversions began looking into the matter in July 2020.³² The Protection of Rights of Minorities Bill was introduced in the Senate in August, but the Standing Committee on Religious Affairs and Interfaith Harmony rejected it a month later on the grounds that “minorities in Pakistan have already been granted several rights.”³³ In November the bill was reintroduced in the Senate. If approved, it would ban forced conversions and anti-minority content in textbooks, and would impose seven years in prison and a fine for forced conversion and 14 years in case of forced marriages involving members of minorities.³⁴

INCIDENTS AND DEVELOPMENTS

During the period under review there have been scores of incidents affecting freedom of religion as well as positive and negative developments.

On the plus side, since Prime Minister Imran Khan and his Tehreek-e-Insaf Party came to power in August 2018, a few positive steps have been taken in favour of minorities.

The government took on extremists led by Tehrik-e-Labaik Pakistan (TLP) who demanded that Asia Bibi’s acquittal in October 2018 be reversed. Instead, the authorities arrested members of the TLP’s leadership.³⁵

Regarding Hindus and Sikhs, just days before the 550th anniversary of the birth of Sikhism’s founder, Guru Nanak, on 12th November 2019, the government opened the Kartarpur corridor allowing Sikh pilgrims to visit the Gurdwara Darbar Sahib, one of Sikhism’s holiest shrines, located in Pakistan’s Punjab Province. For Sikh pilgrims from India, the corridor cuts down travel time, cost and red tape at the border.³⁶

Despite such progress, life for members of Pakistan’s minorities remains difficult. This is also true for Pakistan’s Shi’a community, the country’s largest minority, which continues to be the target of violent attacks. In particular, the Shi’a Hazara community, based mainly in Quetta, Balochistan, has often been attacked by militants. A report released by the National Commission for Human Rights stated that 509 Hazaras were killed and 627 injured in various acts of terrorism in Quetta during the last five years.³⁷

It is also not surprising that persecution against the Ahmadiis continued in the past couple of years since Prime Minister Khan publicly supported anti-Ahmadi laws and groups during the 2018 election campaign. Once elected, Khan appointed an Ahmadi, Dr. Atif Mian, to the Economic Advisory Council (EAC), but following protests by members and supporters of his own party, he reversed his decision.³⁸

Terrorism against minorities also continued unabated. The country ranked fifth in the Global Terrorism Index 2019 and was one of the 10 countries that accounted for 87 percent of terrorism-related deaths in 2018.³⁹

The Shi’a Hazara community was frequently targeted. A suicide attack on 12th April 2019 at a vegetable market in Quetta’s Hazar Gunji area, left 21 people dead and 50 others severely wounded. The market is frequented by Hazara traders. The attack was claimed by the Islamic State group.⁴⁰

In early September 2020, Sunni extremist groups organised at least four unprecedented anti-Shi’a demonstrations during which Shi’as were described as “heretical” and “infidels”,⁴¹ this amid the apparent indifference of Pakistani authorities.⁴²

That same month, at least five Shi’as were killed in different parts of the country in sectarian violence, while more than 30 blasphemy cases were filed against Shi’as. At least one Shi’a congregation was attacked and several videos appeared on social media showing Shi’as forced to accept the Sunni historical view of the caliphs.⁴³

On 8th May 2019, during the holy month of Ramadan, a bomb exploded near Data Darbar, an important Sufi shrine in Lahore, crowded with hundreds of pilgrims, killing 13. Hizbul Ahrar, a splinter group of Jamaat-ul-Ahrar and Tehrik-i-Taliban Pakistan, claimed responsibility.⁴⁴

Ahmadi places of worship were also targeted. On 6th February 2020, a crowd stormed a 100-year-old Ahmadi mosque in Kasur, Punjab. The local authorities gave in to pressure from the extremists and handed over the mosque to them.⁴⁵ In October 2019, another Ahmadi mosque was “razed” in Bahawalpur District.⁴⁶ In July 2002, an Ahmadi cemetery was desecrated in Punjab.⁴⁷

On a positive note, some people convicted for blasphemy had their sentences overturned. Asia Bibi, a Christian

woman sentenced to death for blasphemy in 2010, was finally acquitted by the Supreme Court of Pakistan on 31st October 2018; however, as a result of large-scale street protests, she had to wait until January 2019 for her acquittal to be upheld again. Subsequently, she moved with her family to Canada.⁴⁸ Sawan Masih, another Christian, was also acquitted of blasphemy on 5th October 2020.⁴⁹

Such cases cannot, however, erase the long years spent in prison by the two accused. What is more, they represent isolated successes. In fact, blasphemy cases continue to rise; for example, in August 2020 alone, there were 42.⁵⁰

Prof. Khalid Hameed, head of the English Department at the Government Sadiq Egerton College in Bahawalpur, was stabbed to death by one of his students on 20th March 2019 for allegedly making derogatory remarks against Islam.⁵¹

In September 2019, the principal of the Sindh Public School, in the town of Ghotki (Sindh Province), was arrested for allegedly blasphemous comments about the Prophet Muhammad. This was followed by street protests and a strike. As a result, the principal's school was damaged and a Hindu temple was vandalised.⁵²

In December 2019, Junaid Hafeez, a 33-year-old university lecturer, was sentenced to death for blasphemy. He had been arrested in March 2013 on charges of posting derogatory comments about the Prophet Muhammad on social media.⁵³

In another incident, Tahir Ahmad Naseem, a US citizen was killed on 29th July 2020 in a courtroom in Peshawar. He had been arrested for blasphemy in April 2018 after claiming to be a prophet. A video went viral on social media showing the suspected killer telling people in the courtroom after the murder that the Prophet Mohammad had told him to kill the blasphemer.⁵⁴

In August 2020, a Muslim leader in Abidabad, Nowshera Virkan, accused a Christian, Sohail Masih, of insulting Islam. Police took Masih into custody on 5 August after he was attacked by a mob. His family was forced to flee.⁵⁵

The violence and discrimination against Pakistan's Hindu community continued as well. On 30th June 2020, Jamia Ashrafia, a leading religious school in Pakistan, issued a fatwa against the construction of Islamabad's first-ever Hindu temple since it would be "aiding in a bad deed".

Islamabad High Court also issued a notice to the Capital Development Authority that the temple did come under the master plan for the city.⁵⁶

Meanwhile, the problem of abducted Christian and Hindu girls got worse. Asad Iqbal Butt, chairperson of the Human Rights Commission of Pakistan, noted that the number of victims had doubled since 2018, to 2,000 per year.⁵⁷ Kidnappers, often with the complicity of corrupt police officers and court officials claim that the girls are over 18 and marry of their own free will. Pleas by parents with identity papers showing the true age of the girls have failed far too often to stop forced marriages and conversions.

In early September 2020, 14-year-old Hindu girl, Parsha Kumari, was kidnapped in Mori District, Khairpur (Sindh), and was reportedly converted by force and married to her abductor, Abdul Saboor Shah.⁵⁸ A similar case was that of Jagjit Kau, kidnapped at gunpoint on 27th August 2018 in the city of Nankana Sahib. After months of rumours, including unsubstantiated claims that she had been returned to her family, Jagjit was placed at the Darul Aman women's shelter in Lahore. On 12th August 2020, a court ruled that she should return to her husband, ostensibly on her request.⁵⁹

Christian girls are victims of such crimes, cases are so numerous we will just cite the still active case of Huma Younus, a 15-year-old, was kidnapped on 10th October 2019 in Karachi by Abdul Jabbar, a Muslim, who raped her, forcibly converted her to Islam and then forced her to marry him.⁶⁰ Although her parents provided documents attesting to her being underage - confirmed later by medical examination, the High Court of Sindh on 3rd March 2020 upheld the marriage, citing that she had already had her first period and could therefore contract marriage,⁶¹ this despite that the Sindh Child Marriage Restraint Act forbids marriage under the age of 18. Her family's lawyer said that Huma spoke with her parents on the phone and told them that she had been forced to have sex with her captor, thus becoming pregnant, and that she is confined in a single room in the house where she is being held.⁶² As of November 2020, Huma Younus is still captive.⁶³ The case of Arzoo Raza, a 13-year-old Christian girl, shows an active involvement of the Judiciary and other instances of government to elucidate claims of legality of the said marriage. Arzoo was kidnapped and forced to marry a 44-year-old Muslim man. In this case, the Sindh High Court initially considered the marriage valid, accepting her

abductor's arguments; but after a medical examination, the same court found that she was a minor and ordered that she be returned to her family. A further hearing on 23rd November 2020 ruled that Arzoo should stay at a government-run shelter until she was 18.⁶⁴

Even after liberation, life in Pakistan for freed girls remains grim. Maira Shahbaz's case shows how difficult it is. The 14-year-old Catholic girl was kidnapped in Madina Town, near Faisalabad on 28th April 2020. On 4th August Lahore High Court recognised her marriage as valid but two weeks later she escaped her captor. Maira and her family went into hiding after receiving repeated death threats.⁶⁵

For Pakistan's Cardinal Joseph Coutts, "The issue of kidnapping, forced conversions and forced marriages should be dealt with based on fundamental human rights, rather than making it a religious issue".⁶⁶ In a plea for respect of minority rights, he explained that, "It is the responsibility of the State to provide protection, to ensure justice to every citizen, without distinction of creed, culture, ethnicity and social class."

Unfortunately, these rights are still not guaranteed in Pakistan, as was evident during the first outbreak of COVID-19. While the virus - dubbed by some the "Shi'a virus" - was spreading, there were numerous reports of food aid and protective equipment denied to Hindus and Christians.⁶⁷ In Karachi's Korangi area, local Christians were allegedly forced to recite the "Kalima", the Islamic declaration of faith, in order to receive rations. As they refused, they were denied needed essentials; by contrast, the Catholic Church distributed food and other basic items to all the needy irrespective of religious differences.⁶⁸

Regarding COVID-19 measures, while churches and temples in Punjab and Sindh were voluntarily closed by their respective religious leaders after an increase of infections, mosques remained open. The government, fearing a backlash, chose not to intervene.⁶⁹

PROSPECTS FOR RELIGIOUS FREEDOM

Despite Prime Minister's Imran Khan's election promise of a "Naya Pakistan", a new Pakistan, in which "civil, social and religious rights of minorities"⁷⁰ are guaranteed, the road to such a reality is still very long and full of obstacles. His vision of building a modern "State of Medina" akin to the model laid down by the Prophet Muhammad 14 cen-

turies ago is contributing to radicalisation in a political system already highly permeated by Islamism.

As the aforementioned long but not exhaustive list of incidents indicates, religion in the Asian country is still a source of discrimination and denial of rights. It is therefore not surprising that in 2018 the US State Department designated Pakistan as a Country of Particular Concern.⁷¹

Discrimination, blasphemy, abduction of women and girls, and forced conversions still haunt the everyday life of religious minorities. The persistent use of school textbooks and curricula with sectarian content against Shi'as and members of minorities leaves little hope for the future.

To all this must be added the proliferation of Islamic terrorist groups, often perpetrators of attacks against Shi'as and religious minorities. Tehrik-e-Taliban Pakistan and its associated groups constitute the greatest threat to the country's internal security while the Islamic State Khorasan Province is particularly adept at exploiting Pakistan's fragile sectarian fault lines. In May 2019, the Islamic State announced the creation of a "Wilayat Pakistan" (Pakistan Province) after claiming multiple attacks in the province of Balochistan.⁷²

Pakistan's proximity to Afghanistan, its close involvement in ongoing US-Taliban talks and intra-Afghan dialogue, and Afghanistan's presidential elections will certainly affect Pakistan's internal security.⁷³ This in turn will have an impact on already dim prospects for religious freedom in the country.

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