



Belief and relief
Access to justice for religious minorities

**Report of HRCP Expert Group
on Communities Vulnerable
because of their Belief**



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Human Rights Commission of Pakistan

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Introduction

The challenges to the freedom of thought, conscience and religion have escalated in Pakistan in recent years. Coinciding with a visible spike in intolerance and militant extremism, these have deeply affected minority religious and sectarian groups across the country. The state's failure to appropriately respond to the challenges in line with its obligation to protect all citizens' rights has further compounded the woes of minority religious denominations and sects.

Since it was founded in 1986, the Human Rights Commission of Pakistan (HRCP) has been monitoring the freedom of religious belief in the country and has been conducting related advocacy as an integral part of its mandate. HRCP is guided in this respect by international human rights law, as well as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the UN General Assembly resolution 47/135 of December 18, 1992.

The expert group

In the year 2010, HRCP had established the Working Group on Communities Vulnerable because of their Belief, a forum that brought together representatives of various religious minority communities. The need to establish the working group was felt on account of growing incidents of violence, intolerance and discrimination towards members of minority and vulnerable communities across the country. HRCP considered that to be a particularly difficult time for religious minorities in the country and all indications suggested that the situation was set to aggravate. Therefore, it was considered important that members of religious minority communities should lead the deliberations on the issues that affected them on account of their religious beliefs in order to find solutions. In 2012, the working group transformed into a



more focused expert group and continued to meet to discuss and highlight the concerns of religious minorities. Comprising men and women from both religious majority and minority

communities, the expert group included lawyers, academics and civil society representatives.

Deliberations of the expert group provide the core of HRCP's advocacy regarding freedom of religious belief and also in emphasising equality and protection of all human rights for all human beings irrespective of religious belief.

In 2013, the expert group had met twice, focusing on political rights and issues of representation of religious minorities¹ and on new challenges for religious minority groups and ways to address those.² The expert group held its first meeting in 2014 in July, looking at attacks on places of worship.³ This report is the account of the second meeting in 2014, held on November 8 in Karachi, where the focus was on analysing the impact that religious faith had on access to justice for citizens.

While the words 'religious minority' occur repeatedly in this account of the expert group's proceedings, HRCP has no intention of branding any group as a minority. The objective of this report and indeed of establishing a focused group is to highlight faith-based challenges for all communities in Pakistan, which might or might not have been designated as religious minorities.

HRCP wishes to thank the expert group members and other participants for taking out the time to not only keep the Commission better informed on issues related to freedom of religious belief but also for suggesting solutions and courses of action preferred by the vulnerable communities

¹Political empowerment of religious minorities, HRCP, August 2013, <http://hrcp-web.org/hrcpweb/wp-content/pdf/perm-1.pdf>

²When it rains ... Religious minorities and new challenges, December 2013, <http://hrcp-web.org/hrcpweb/wp-content/pdf/perm-2.pdf>

³In the crosshairs: assault on places of worship, July 2014, <http://hrcp-web.org/hrcpweb/wp-content/pdf/apw.pdf>

themselves. HRCP consistently tries to put forward in all its advocacy efforts the recommendations made by the expert group. These are also articulated in public statements and form part of the concerns raised in meetings with political parties, government officials and representatives of international human rights organisations and foreign governments.

The agenda

During its meeting in Karachi on November 8, 2014, the expert group discussed various aspects of access to justice for the members of religious minority communities and sects. Among other things, the meeting looked at the issues of legal representation; the role and attitude of police and judges and the pressures they faced; social prejudices, discrimination and poverty; and special problems of women from religious minority communities and sects.

The expert group members and other participants familiar with issues of concern for minority religious denominations and sects who attended the meeting included Shyam Kumar, B. Pinto, Ravi Das, Amarnath Motumal, Attu Ram Punjabi, Mangla Sharma, Dr. Neel Kanth, Veerji Kolhi, S. K. Dodani, Pushpa Kumari, Dr Sabir Michael, Zahid Farooq, Michael Javed, Kashif Anthony, Maulana Sadiq Taqvi, Zubaida Mustafa, Prof. Aijaz Qureshi, Karamat Ali and Syed Qasim Hasan Jaferi. Justice (retd) Shaiq Usmani was the chief guest. HRCP Chairperson Zohra Yusuf, Sindh chapter vice-chairperson Asad Iqbal Butt, HRCP executive council members Ghazi Salahuddin, Roland DeSouza and Inder Ahuja and members and staff of the Commission also joined the discussion.

Access to justice

There have been many grounds for considerable criticism of the quality and pace of the administration of justice in Pakistan. Some of the more common ones include the well-documented deficiencies of the law, flaws in the manner in which the laws are implemented, the investigation methods, chronic corruption and the unduly long time that determination of cases takes.

The expert group began the deliberations by acknowledging the obstacles for all citizens to access justice but noted that citizens other than Muslims seemed to have even greater difficulties in the pursuit of justice. The participants in the meeting said:

- As far as disputes among members of one or more religious minority communities were concerned, parties in the civil and criminal cases could generally expect that there would not be much faith-based prejudice in favour of one and against the other. However, the same could not always be said when one of the parties was from the majority faith and the other from a religious minority group. Members of minority faiths were at much greater disadvantage if they were accused of 'offences against religion' under the penal code. On account of social biases, even in instances which were not apparently religiously motivated getting justice was more difficult for citizens who did not subscribe to the majority faith.
- It had not been uncommon for the individuals accused of 'offences against religion' to be killed even before the veracity of the charge against them had been established by a court of law.

Tragedy all around

I sympathise with the religious minorities and sympathise with them for their losses but the residents of Karachi in this room know about the March 2013 Abbas Town bombing in Karachi too, where more than 100 people were killed. Does anyone know what their fault was? That they were Shias? At least four bodies have not been traced so far. When would justice be done for those families?

It is important to acknowledge that in our country, particularly among Muslims, disrespect and violence over any perceived disagreement have become widespread. The responsibility for this disrespectful attitude lies with our mosques, and our religious, social and legislative institutions. We should all see whether they are doing what they have been tasked with doing. Implementation of pro-people laws has been neglected. Only laws that protect the interests of people in places of power are being adopted. Police are not the protectors of the law or the public but protect thugs, narcotics mafia, parliamentarians and *waderas*.

Nothing would change until society reflects on what is being preached from the pulpit. Where is the punishment for those indulging in hate speech? The people are never told to treat religious minorities with fairness and compassion. Only divisiveness is preached. If the institutions, legislation and implementation are pursued with the right motives things can be reformed.

– *A representative of the Shia community*

- It had not been uncommon for the individuals accused of 'offences against religion' to be killed even before the veracity of the charge against them had been established by a court of law.
- The lawyers representing such accused or the judges acquitting them, or even seen to be giving them due process rights, were threatened. This might not always have to do with religion, as rights groups had noted that accusations such as blasphemy, desecration of religious books and charges against Ahmadi citizens of posing as Muslims were increasingly being used to seize money or property or to settle vendettas.

- The constitution acknowledged citizens' right to a fair trial. However, even Muslim citizens had difficulties in engaging and retaining a lawyer if they were accused of 'offences relating to religion' under the penal code. The case of Junaid Hafeez in Multan was one example where no lawyer agreed to represent the blasphemy accused. Eventually Rashid Rehman, HRCP coordinator for the region, became Hafeez's counsel. He was threatened inside a courtroom and in the presence of a judge to quit the case. When he

Sorrows, theirs and ours

Looking at the scale of killing that have occurred in the Shia-dominated Hazara Town in Quetta and Abbas Town in Karachi, we can say with certainty that the bloodshed that has hit Hindus and Christians is much less in comparison. Ours has become a sick society where the perpetrators are ruthlessly killing those they might on another day call their own and equally ruthlessly they are killing us, the religious minorities. When they can kill in *karo kari* incidents their own daughters, who they have lovingly raised for years, why would it surprise anyone if they do not hesitate to kill someone who is not a Muslim? We need medicine as a society for this malady where intolerance and a thirst for blood have come together to wrought havoc. I still believe that a clear majority among the Muslims in Pakistan is with us. That is a good, positive beginning.

– *A representative of the Hindu community from Sindh*

- did not do that he was assassinated in the HRCP office in Multan.
- Although the right to a fair trial and the associated due process guarantees had been written into the constitution, for blasphemy accused a trial, much less a fair one, had become difficult. Members of religious minorities did not generally find a lawyer. Even when someone agreed to represent them, they usually

asked for such a steep fee that it was beyond the capacity of the accused or their families. A man who had contested the Sindh Assembly election from the PS-55 constituency against a powerful landowner was booked in a blasphemy case on the day of Holi.

Voting with their feet

Scared by faith-based violence, discrimination and impunity for the perpetrators, many Christians have been trying to leave Pakistan. In a recent demonstration, I saw Christians trying to get their pictures taken so they could be used to build a case for seeking asylum in another country. The Quaid-e-Azam had not created Pakistan so that its minorities would have to seek asylum in the US or Canada.

– A representative of the Christian community

When a Hindu lawyer appeared before the magistrate, the latter said to the lawyer: “He (the accused) is an ignorant villager and has blasphemed but you (the lawyer) seem sensible and should have known better than agreeing to represent someone who has blasphemed.”

Mob justice

The expert group met only four days after the grisly murder of a Christian couple in Kot Radha Kishan town near Lahore by a mob, for allegedly desecrating a copy of the Holy Quran. The mob brutally beat the couple and proceeded to burn them in a brick kiln where they worked. It was reported that at least the woman had survived the mob beating and was still alive when she was burned along with her dead husband.⁴ It later emerged that the woman was pregnant when she was murdered.

⁴See Annex-I for HRCP's preliminary findings of the couple's murder.

The expert group expressed grave alarm over the incident and much of the initial discussion during the meeting focused on 'mob justice'.

The group members noted that mob violence against those accused of blasphemy or desecration of the holy Quran had been an oft-repeated occurrence. The participants in the meeting stated:

- Mobs and individuals had been increasingly keen to 'administer justice' themselves in cases where blasphemy or desecration of religious books was alleged. In July 2014, in Gujranwala district, not too far from Lahore, three female members of the Ahmadi community, including two minors, had been killed and eight Ahmadis injured when a mob attacked and torched five houses and several vehicles over alleged blasphemy by a member of the community. In September 2014, a police constable had shot and wounded a 70-year-old British-Pakistani man with a history of mental illness in a Rawalpindi prison where he was on death row after his conviction on the charge of blasphemy.
- It was important to understand and correctly interpret mob justice and the place of impunity in the scheme of things. The Kot Radha Kishan incident must not be seen in isolation. This had happened amid clear signs of growing intolerance. The perpetrators had seen so many examples of impunity that they were certain that they would get away with murder. That was where the whole point regarding access to justice became crucial. There were many in the religious minorities who did not have that access and many others who did not have faith that they would be given justice. The roots ran deep and stopping this now

would take nothing short of social change and stiff penalties for those who abused the law to further their designs.

- The Kot Radha Kishan incident must not be allowed to be brushed under the carpet because a pregnant woman had been burned alive. There had a lot of respect for women in the subcontinent. In Pakistan the country was referred to as the motherland and yet a woman had been done to death in such an appalling manner. Irrespective of civil society outrage for the time being, it was important to see who got punished for the couple's slaying. It had been reported that around 50 people had been arrested. HRCP and other human rights organisations should monitor the case and ensure that the persons directly involved in planning and carrying out the killings were punished, and the punishment was proportionate to the quantum of the culprits' involvement. That would serve as a deterrent.

Unprecedented savagery

What happened to a Christian couple near Lahore ought to be enough to make us hang our heads in shame that we live in such a society where such a brutality is not only possible but occurs over and over again. We have seen mob justice in the name of religion before and I doubt this will be the last instance.

How the mob in Kot Radha Kishan decided the fate of the Christian couple is reminiscent of what happened in the stone age or perhaps not even then. When mutual bonds snap between people because of discrimination, to the extent that they no longer mingle or sit down with each other, then these distances give birth to such barbarity.

– A Karachi-based member of the expert group

- With neither a local government system in place nor any other mechanism bringing people closer together and facilitating systematic engagement with each other at the local level, there was little chance to prevent such brutalities once passions had been enflamed. The people of the subcontinent were very emotional with respect to religion. When it came to religion, they would doubt even those that they had been living with for decades.
- Outrage over instances of mob justice was one thing, but such social behaviours had not developed overnight. In the last few major incidents in Sindh, large mobs had gathered to threaten the religious minorities and to force the police to act on charges, however baseless, made against religious minorities. In one incident in Badin on the day of Holi, when children were throwing Holi colours on each other, around 1,500 members from the majority community had turned up to claim that Hindus had committed blasphemy because someone had written something on a road with Holi colours. Not one person among the huge crowd had advised them against acting that way. If anyone made such an effort that would have been an avenue of hope. Religious tolerance had been prevalent in Sindh until not too long ago. Hyderabad had been a bastion of tolerance, an area where the people could speak openly. However, at times when members of religious minority communities took out rallies now, cases were registered and clerics attacked them. This had happened suddenly that people in Sindh had been told that some people were liable to be killed because they had been accused of disrespecting revered Muslim figures. They did not even bother to find out if

the blasphemy charge held any truth or that the provisions of law should apply to all worship places and revered personalities of all religions.

So what now?

Places of worship, including mosques, temples and churches will have to play their role if things are to improve. Political parties, at least those that citizens from the religious minority communities vote for, should raise their voice so that the elements engaging in such barbarity also come under pressure. The political parties do not do this because of the pressures they face and because of an appeasement policy. The law may require an inquiry at the level of the superintendent of police over a charge of blasphemy, but the complainants and the mobs they often managed to raise do not allow for such an occasion; they do their own inquiry and become judge, jury and executioner. So including senior police officers as a safeguard is not working. The best thing would be to make good laws and to implement them. I would not demand that those behind the Kot Radha Kishan killings too should be burned in a kiln furnace but surely the state must want them to be punished. Some people may say that I am saying this more in hope than expectation. A Christian man, Sawan Masih, accused of blasphemy in Lahore's Joseph Colony neighbourhood in March 2013 had been sentenced to death in March 2014.

Despite government pledges, however, not even the trial had started with relation to an enraged mob that had rampaged through the Christian-majority neighbourhood where Sawan lived, ransacking and torching over 100 homes. Destruction of property aside, there were copies of Bible in Christians' homes.

– A participant at the meeting

- It was difficult to find the words to describe how tragic the Kot Radha Kishan incident had been. The issue was not that the couple was from a religious minority community. The brutality and callousness that were witnessed were the real issue and these had both become attributes of society. All the incidents

discussed by the expert group were of injustice and denial of justice which were not confined to minorities. All over the country murders in the name of so-called honour took place. Injustices such as these were not confined to any one segment. When the entire system was beset by injustice the weaker communities of course got more injustice. The paramount problem was eliminating injustice from society and good legislation and implementation of existing laws was needed.

- After the Kot Radha Kishan incident the pattern of indifference towards the victims' plight seemed to be changing. When Salmaan Taseer had been assassinated, not many people had raised their voice and there had been few demonstrations. Lawyers had showered rose petals on Taseer's killer, which was a shameful act. But after the Kot Radha Kishan incident a different sort of outrage and protests by Muslims, Hindus and Christians had been witnessed. That trend must not be abandoned. With *dharnas* (sit-ins) in vogue in the country, civil society should also perhaps consider a sit-in to highlight all these things and use the media as an ally.

Civil society's role

The expert group analysed civil society's response to access to justice for religious minorities and highlighted the need for more visible and direct action. During the deliberations it was stated:

- After the Kot Radha Kishan killings the religious minority communities, especially Hindus and Christians, had not made much noise. That the Punjab chief minister had felt compelled to make

some remedial announcements might have had more to do with the pressure his government had been under because of the sit-ins in Islamabad. Had that pressure not been there, the compensation might not have been five million rupees but perhaps closer to one million rupees. He might also not have felt the need to promise land for the family of the victims.

- The solution to the access to justice problem would not and could not be mere legislation for the sake of it. Social work was needed, including community development, and there was a need to revive community organisations. The NGOs working in Karachi now were at the stage that they were as a result of what had gone on in the 1990s. The credibility of leadership of the religious minority communities had not been developed and the church had also not been able to play the active role that it used to. Holding press conferences was not enough. Civil society needed to reflect on the extent to which it had used and channelised the available international human rights mechanisms.
- The other important matter related to the future. The citizens and civil society must review what was being taught to the nation's children because that was where they picked up biases on who they should eat with or whose utensils they must avoid, or who was dirty because he came from a certain religious faith.
- Whenever members of minority communities exchanged views on such incidents, they were scared and exercised self-censorship, always apprehensive lest they upset someone or utter anything that could in any way be interpreted as offensive. The situation had not always been like that.

Things had changed in the last three decades. The present generations had now learned to live in fear and self-censorship.

- The constitution contained all human rights guarantees, including freedom of religious belief, and faith-based violence and hate speech still occurred in the country. This disease of faith-based discrimination and violence was rooted in the past. The feudals, the mullah and the security establishment were the holy cows that had repeatedly come forward in various forms and sometimes worked behind the scenes to protect their interests. Without highlighting the role played by these three groups and the consequences of that role civil society could not persuade the people of the need to pull together to improve the situation.
- Enlightened Muslim religious scholars had stood by the religious minorities and condemned the faith-based hatred and killings. But the real problem were the clerics in the slums, who started a mosque wherever they saw some land that they could occupy and founded a madrassa there and started poisoning young minds. Then that mosque or madrassa, even if that had been established in a park or on a road, could not be removed. It was madrassas like that which produced the zealots that packed courtrooms to pressurise judges in cases against members of religious minorities.
- The circumstances of the country were not so bad until the 1970s. During the dictatorship of Zia-ul-Haq, the outlook of the state changed, efforts were made to tinker with the culture and intolerance permeated society to such an extent that every community faced difficulties. Members of religious minorities faced that

intolerance more than other citizens. This was something for which the struggle must continue and HRCP and civil society must sustain the struggle.

Time to stand up

Amid the attitude that has taken root in society it seems that the constitutional human rights provisions are trumped by provisions regarding Islamic ideology. How is it that when the minorities are targeted in instances such as Kot Radha Kishan, members of the mob present at the time are so full of hate for members of minority communities that they do not even consider them human beings? How else can anyone be able to kill a human being and set their bodies on fire?

It is great that many people from the majority community resist faith-based excesses but resisting that in a room is no longer enough. We do all these things. We have this forum here in which we actively participate. We hold public demonstrations. Now all minorities look towards clerics from the majority faith who know in their heart that this is wrong. If they stand with us then it will send a message to everyone victims, perpetrators and spectators alike that not all Muslims think like this.

All mosques in Pakistan, from the union council level to the provincial level, should be registered and a database maintained. There should be at least some criteria for appointment of prayer leaders and those who deliver sermons. If they indulge in hate speech then that can be investigated. The onus is on those clerics and religious leaders from the majority who consider that members of religious minorities are also Pakistanis. All the true people of Pakistan should help us, because we cannot do anything by ourselves. They must stand by our side and resist this madness.

– *A member of a minority religious group from Sindh*

- The news media, both print and electronic, had a lot to answer for as the situation of religious minority communities had deteriorated. The print media had particularly ignored challenges in the religious minorities' access to justice. It had either not covered

incidents of their victimization and persecution at all or carried them as single-column news on the inner pages to avoid any backlash from extremists.

- The media had persistently failed to follow up after covering an occurrence such as the Kot Radha Kishan killings. Even though the media had reported the gory details of the tragic killing, no one had bothered to cover the impact the killings had on other residents in the area, and that did not mean just Christians. The media did not confront or expose the mischief makers.
- There was an urgent need to acknowledge and address the vacuum in the news media where the views of members of religious minority communities were either not solicited or not aired or published.

Political parties' responsibility

Members of the expert group emphasised the role of the political parties in improving the situation and at the same time regretted the lack of interest among most political parties to confront the faith-based challenges facing members of religious minority communities. They said:

- Everyone advocating for equal rights must be bold and speak out. No change could come without the political parties but all political parties were already saying that once they came to power they would make Pakistan an Islamic state. None of them had said or done anything substantial for the religious freedoms or equal treatment of religious minorities. The political parties and the society would have to admit that they had failed in providing protection to the people. These things could not change without the support of the political parties.

- The system of election had offered mute representatives for religious minorities. They had not raised their voice for their supposed electorate in parliament because either they lacked the courage to do that or it had not been their priority. The minority communities had noted that few of their

The bond of humanity

In the Kot Radha Kishan incident and in all the other incidents cited today, religious fanaticism, bias and ignorance are the common elements. All of us from different religions are here because we share the bond of humanity. All around us we see countless incidents of religious fanaticism, through which religion is being maligned. I am a Pakistani, a Muslim but when all of us sitting here talk about human rights, humanity is the common strand. Things have now come to a stage where whatever I say is perceived with an eye on which religion or sect I happen to belong to. For the sake of improving the justice system, we have to think above religion. Accepting each others' belief with respect, tolerance and unity would help promote tolerance and humanism. The clerics need to do a lot of soul-searching for pursuing nothing beyond their own bread and butter and instigating clashes when it has suited them. The highlighted problems, of legislation and policing, would need to be taken up at a much wider scale so humanity can be spared of the brutalities it faces. We can take the recommendations to the political parties and the judiciary. Perhaps the expert group can be slightly expanded so that other intellectuals, scholars and clerics can be invited.

– A participant in the expert group meeting

'representatives' had come from poor economic background and that had somehow confirmed their suspicion that, one way or another, the financial standing of such representatives had played a part in their nomination. There had been complaints that this should have been highlighted by the media.

- In the last five years or so HRCP and other human

rights organisations had made a lot of noise. But that had not had the desired impact. The media had also raised the issue but the violations had not only persisted, they had increased. Excesses against members of both the religious majority and the minorities were growing, but the latter were really being mowed down. The blasphemy law had been used to victimise both the majority and the minority, but the impact had been greater on the latter on account of their vulnerability. Civil society holding meetings behind closed doors, even if media was invited, might not lead to anyone speaking openly about this.

For the people?

All of the country's affairs are supposedly dealt with in parliament. In the last three decades parliament has gradually but visibly gotten weaker. Parliamentarians have also become increasingly self-centered. They have been accused, with some justification, for the flaws in parliament and for acting as a rubber stamp to protect vested interests. The weaker segments whether they are Muslim, Christian, Hindu or Ahmadi have been paying the price. This is a fight for personal interests and what we can call misplaced priorities. If either the federal or the Sindh government was really sincere, not a single child would have died amid the drought and malnutrition in Thar.

– A representative of the Christian community

- The joint electorate system had been brought about after a lot of hard work. It might have shortcomings but it was aimed at inclusiveness. Perhaps after a couple of elections, there would be an improvement in how the parties engaged with the joint electorate system. That would force the political parties that campaigned for votes from minority communities to

reflect on how they treated the minorities. The long-term benefit and not the short-term scenario alone should be focused on.

Role of police and judges

The expert group members and other participants stressed the importance of the role of police and the judiciary in ensuring that members of religious minority communities did not get a raw deal in terms of access to justice.

- There were two main complaints against the police. One was that when members of minority communities were accused of committing offences related to religion the police arrested the accused to pacify the accusers and the mobs that followed. The inquiry mandated under the law before lodging a case generally did not take place. Secondly, members of religious minorities often thought that when they lodged cases with the police on account of faith-based violence and harassment the police stood not with the victims but with the perpetrators of criminal acts.
- Judges hearing cases of offences relating to religion faced a lot of threats and were pressurised through threats and zealots packing the courtroom to convict the accused. The same was the case when courts were asked to judge cases of forced conversion. There had been instances of judges receiving threats from people who said they knew where the judge's children went to school, etc.
- Two prominent politicians, Punjab governor Salmaan Taseer and federal minister for minorities' affairs Shahbaz Bhatti, who had called for reforming the blasphemy law, had been killed. Taseer was killed by

one of his own guards. Lawyers had showered the killer with rose petals when he was brought to court. The judge who had convicted the killer had faced so many threats that he had to go abroad. What happened to Salmaan Taseer, Shahbaz Bhatti and Rashid Rehman was part of the immediate context for the access to justice challenges for religious minorities. Also part of this background was the account of the judge who had sentenced Taseer's killer to death and how progressive religious scholars such as Javed Ghamidi had to flee the country after saying that the treatment of the accused under the blasphemy law was not in conformity with Islamic injunctions. When people could be killed for calling for reform of such laws and for speaking out on behalf of victims of apparent injustice and miscarriage of justice, the risk to the lives of the accused themselves could be imagined.

- Mob justice reared its head in societies where the state and its institutions were weak. In the last 67 years, there had been no real effort to strengthen the organs of the state; only individual personalities had been strengthened. It had just been suggested that we should be bold and adopt stringent laws. In the 1990s, anti-terrorism courts had been established and it was hoped that they would confront violent crime. But the quality of justice and not the number of courts and laws made a difference. The election commission had been ineffective and fingers had been raised about its performance but no reform had taken place. Unless the screening process was strengthened it would be difficult to have a quality product.

Safeguards notwithstanding

Some safeguards may have been introduced in theory to prevent the abuse of the blasphemy law but they do not matter. Citizens who are not from the majority faith are at a disadvantage in these things. The government is expected to work for the rights and welfare of all citizens in society. Yet from the prime minister to members of the provincial legislature all public representatives take an oath to promote the Islamic ideology. This is what the education also seeks to promote and the constitution too guarantees the same. This is the promise that all the governments that we have had have made. Who should we look towards then?

When the case of Anjali [a young Hindu girl that her family said had been a victim of forced conversion] came up for hearing, around 1,500 people had gathered outside the magistrate's court. The magistrate had two guards. How dare he not give in to the demand of the mob? There is a law that stipulates a penal term for anyone marrying a minor girl or facilitating such a marriage. But minor Hindu girls are converted and married and no one says anything. What good is a law then?

Ten days ago we had announced that we would hold a demonstration for Anjali and after the announcement seven more girls had been abducted. We had to add their names to the demonstration as well.

– A member of the expert group

- Administrative measures were also needed in order to ensure the access to justice for the religious minorities. Article 2A of the constitution stated that there would be complete protection for the minorities. The constitution contained other guarantees to that effect as well. In theory, the law afforded access to justice and the right to a fair trial to all citizens. The problem was that when citizens' rights were violated they had to seek redress from a human judge, who had biases and notions borne out of his upbringing and culture. A judge should be able to decide cases while being aware of and above his biases.

Challenges for women

The participants in the expert group meeting said that the challenges faced by women from religious minority communities were more pressing because of a combination of their belief and gender. Abduction and forced conversion of young girls from minority communities, mainly Hindus in Sindh, was highlighted as a major concern.

- The question was that when an elderly male from the majority faith did not understand his religion, knew neither what the holy Quran nor *hadith* said, then how much could a teenaged Hindu girl know of Islam? A Hindu girl from Mirpur Mathelo had been sent to Darul Aman where a parliamentarian's goons could meet her at will but the girl's parents were not allowed to see her. That case had been decided by the chief justice of Pakistan at the time and questions had been raised about the quality of justice. Mob justice would strengthen with all this going on. Until respect for citizens irrespective of their religious faith was given paramount importance things would not change no matter how many laws were made.
- The snatching of girls from religious minorities and their forced conversion to Islam and marriage with Muslim, even in the presence of earlier marriage of the girls, had not been stopped because of lack of interest and commitment both by the political parties and the media.
- In the villages of Sindh, forced conversion of girls and young women had become a new problem, which had not been noticed by the media earlier. There was also the issue of bonded labour which had affected hundreds of thousands of people, most of whom were Hindus. All of this was happening in a feudal system

and the wives and daughters of those freed from debt bondage through the efforts of civil society were punished with rape and murder. When the victims of bonded labour approached the courts to seek freedom from modern-day slavery the people accused them of making a livelihood out of blackmailing landowners.

Twisted notions of justice

I was at a conference where five or six district judges were also present. They were saying that even though the law now prohibited the marriage of a girl younger than 18 years but if a case came to them they would decide it in line with the Islamic injunctions. A respected civil society activist intervened to say that until and unless parliament or superior courts did not change or strike down the law the judges would have to decide the matter as per the law and not according to their whims.

– A civil society representative

- Even under the general law, anyone younger than 18 years of age was considered a minor and even if someone wished to register a case against a minor it would not proceed unless filed through a guardian court and a guardian appointed. Then in cases where there was prima facie forced conversion of minor girls, what was the worth of a religious leader presenting a marriage certificate and an affidavit that she had converted. The affidavit and the marriage were both illegal.
- The manner in which zealots had packed and surrounded the courtroom in the Rinkle Kumari case would have people think that it was not a case of conversion of a Hindu girl but the Panipat battle itself. After the case remained pending in a district court in

Sindh for over two years, the girl was taken to Rajanpur district of Punjab without intimation to the judge already hearing the case and a statement by the girl was produced and the Rajanpur judge ordered that the girl should not be disturbed. How could the Rajanpur district judge entertain the case when it was already pending in a district court under the Sindh High Court? The counsel representing the girl's family was not given any notice. This showed how helpless and frustrated the minority community felt and how it did not have effective protection or support from the government in such cases.

- Families of abducted girls felt that the system was pitted against them and sometimes just gave up, often after threats that their other daughters would be abducted.

Conclusions & recommendations

The expert group made a number of observations and recommendations with a view to overcome the hurdles in members of religious minority communities' access to justice. The expert group said that most of the recommendations it had made to the authorities following earlier deliberations had not been heeded and thus reiterated their importance in improving the situation.

The group noted in further observations:

- All citizens faced obstacles in accessing justice but citizens from religious minority communities had greater difficulties in the pursuit of justice. In disputes among members of one or more religious minority communities, parties in the civil and criminal cases generally do not encounter much faith-based prejudice. However, the same was not always the case when one of the parties was from the majority faith and the other from a religious minority group. Members of minority faiths were at much greater disadvantage if they were accused of 'offences against religion' under the penal code. In this context it was important to take proactive steps to ensure that they are able to enjoy the rights to fair trial, all the due process rights, and other human rights without discrimination on account of their religious faith.
- It has not been uncommon for the individuals accused of 'offences against religion' to be killed even before the veracity of the charge against them has been established. It is important to understand and correctly interpret the so-called mob justice and the

place of impunity in the scheme of things. Mob justice is a manifestation of pervasive religious intolerance and brutalisation of society. The right to a fair trial acknowledged in the constitution would be meaningless if mob justice is to become the standard response following accusations such as blasphemy and desecration of religious books. Award of compensation and arrest of members of the mob alone do not constitute adequate response to violence by mobs. It is important to raise awareness about the challenges facing the religious minorities and promote tolerance to prevent recurrence in the future. Human rights organisations should monitor such case to ensure that the persons directly involved in planning and carrying out the violence were punished, and the punishment was proportionate to the quantum of the culprits' involvement. That would serve as a deterrent.

- Increasing occurrence of mobs attacking religious minorities and their places of worship in Sindh was an unfortunate development as the region had been known for its very peaceful Sufi tradition. Active measures are needed to stop the spread of this malady.
- Places of worship, including mosques, temples and churches must play their role to foster tolerance and expose bigotry. Civil society organisations and political parties should raise their voice so that the elements engaging in faith-based violence could be stopped. Political parties in particular must not shirk their responsibility any longer to confront the faith-based challenges that have mushroomed on their watch. They must share with the people their vision for tackling intolerance and fostering harmony and

peaceful co-existence. Decisive steps must also be taken to promote tolerance and harmony in society.

- Effective measures should be introduced to prevent individuals and mobs from taking the law into their hands and violators must be prosecuted and punished without exception.
- Denial of access to justice as well as mob violence following accusation of offences against religion under the penal code have been adding to a sense of alienation among minority communities. Conscious efforts need to be made to reassure members of these communities that obstacles to their access to justice would be removed on priority and in consultation with them.
- Discrimination in the constitution and in other laws should be done away with to send a clear message of equality of all citizens, irrespective of religious belief, before the law.
- The threats to lawyers representing religious minority groups must be taken seriously and responded to swiftly. The lawyers and judicial officers in all tiers of administration of justice must be protected from intimidation and any threats made against them must be investigated to identify, prosecute and punish those making the threats. Access to effective legal representation and preventing a show of force in and around courtrooms to protect judges against intimidation must also be ensured.
- Police must be trained to deal with mobs and dispensing their duties without giving in to unlawful demands by mobs and other pressure from extremist elements. Oversight mechanisms must be put in place to ensure that rights of citizens are not compromised on account of either bias among policemen or their capitulation to mob demands.

- Civil society must come up with new strategies to keep the spotlight firmly on all manners of denial of freedom of religious belief and diversify its activities on the theme.
- The religious minority communities have serious misgivings about the quality of their representation in parliament and there is an urgent need under the joint electorate system to make the minority representatives more accountable to the communities they are supposed to represent.
- Despite lofty claims by the authorities to clamp down on hate speech, all of the usual sources spewing hatred remain active. The abuse of the mosque loudspeakers in that respect also continues unabated. The laws against hate speech need to be implemented across the board without any exception. Responsible Muslim religious scholars must condemn injustices towards religious minorities and condemn faith-based hatred and killings. They should expose faith-based divisiveness and bigotry and include in their preaching calls for treating religious minorities with fairness and compassion.
- The citizens and civil society must review what is being taught to the nation's children because that is where they pick up biases on who they should eat with or whose utensils they must avoid, or who is dirty because he comes from a certain religious faith.
- The local government system and other mechanisms bringing people closer together could act as a bulwark against unbridled violence and hate mongering at the local level. Steps towards reviving local government institutions and facilitating systematic engagement across communities at the local level should be encouraged to prevent

- brutalities once passions have been enflamed.
- The news media should offer insight into the factors that have led to aggravation of the challenges for religious minority communities and expose the mischief makers. It must follow up on incidents of violence and also cover their impact on the affected community. The media should also actively seek and broadcast the views of members of religious minority communities in its coverage of issues.

Annexures

Annex-I Text of HRCP preliminary fact-finding into murder of Christian couple

Press release

HRCP slams Christian couple's murder over desecration charge

Lahore, November 5: The Human Rights Commission of Pakistan (HRCP) has expressed grave concern over a mob beating to death a Christian couple at a brick kiln where they worked, in Kot Radha Kishan. The couple's bodies were later burnt in the kiln.

In a statement that the Commission issued after on the preliminary findings of a team sent to the area, HRCP said: "HRCP is shocked and saddened beyond words by the callous murder of the couple and their unborn child. An HRCP team that went to the site of the tragic killing did not come across any evidence of desecration of the Holy Quran.

"It appears that the murdered man, Shehzad, had a dispute over wages, or recovery of advance that the kiln owner had extended to two families of Muslim labourers who had escaped. The kiln owners had asked Shehzad to repay the amount extended to the escaped families because he had introduced them to the owners.

"It appears that Shehzad and Shama, his wife, had been severely beaten up at the kiln and locked up in a room. Some witnesses say that Shehzad had died in the beating. Shortly

afterwards, when word of alleged desecration was spread to nearby villages and announcements made through mosque loudspeakers, a mob of hundreds headed towards the kiln.

“Meanwhile, four policemen at a nearby post visited the kiln and demanded that the couple should be handed over to them otherwise they would be killed by the mob that was headed that way. However, the HRCP team learned that the kiln owners instructed their employees not to hand the couple over and the policemen were also beaten up.

“HRCP is still trying to get the police version and the DPO had said that the police were investigating the matter and around 40 persons had been arrested including the kiln owner.

“We do not want to influence the investigation in any manner. However, HRCP must voice its outrage at the tragic killing and state that the chances of the couple getting any benefit of doubt diminished when they were accused of desecrating the Holy Quran. The religious belief of the victims also apparently did not work in their favour. HRCP earnestly hopes that this fact would not be lost on the authorities and would persuade them to reflect on their obligation to protect all citizens. The inability of the police to rescue the couple despite reaching the site is stark evidence of the state's vanishing writ. The individuals, whether at the kiln or in nearby villages, who instigated violence against the victims, and those who prevented their rescue must be brought to justice. The exploitation of kiln workers is an essential part of the context of the tragic killing and this incident should lead to accelerated efforts to ensure that slavery-like practices that continue despite a promise in the constitution cease without further delay.”

Zohra Yusuf
Chairperson