

Fixing a Broken Social Contract

Freedom of Religion or Belief in Pakistan



Human Rights Commission of Pakistan

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Foreword

The Supreme Court of Pakistan's 2014 judgement on the rights of religious minorities—better known as the Jilani judgement—is perhaps one of the most important rulings passed in our legal history. It provides a comprehensive framework for monitoring and protecting freedom of religion or belief (FORB) in Pakistan. Yet, for all practical purposes, the country's religious minorities do not enjoy the right to profess and practice their faith freely.

Unfortunately, unlike what the country's founding father envisioned, Pakistan's Constitution does not espouse the notion of equal citizenship. That one must be a Muslim to hold the highest public office in the country, goes against the principle that no citizen will be discriminated against on the basis of race, gender, caste, creed, domicile or faith. It falls to Parliament to ensure that all laws and law-making consistently reflect this ethos, and as members of civil society, we must continue to lobby with parliamentarians on this matter.

We tend to look for administrative solutions to political problems, political solutions to legal problems, and legal solutions to social problems. While a legal framework to protect FORB is critical, we must also acknowledge that our society has become so radicalized that a legal framework or progressive judgement alone will not ease the problems that plague religious minorities. In addition to the state's duty in this context, Pakistan badly needs a sustained social reform movement—one that cuts across class and gender—if it is to build tolerance and mutual respect among all citizens.

We hope that this document provides a small step in this direction.

Harris Khaliq
Secretary-General

Summary

In 2014, the Supreme Court of Pakistan issued a landmark judgment, directing the federal government to initiate wide-ranging measures for the protection of constitutionally guaranteed rights of minority sects and religious communities. Among other directives, the apex court sought establishment of a National Council to act as a watchdog to deal with violation of rights. However, there was no progress on the implementation of the judgment in subsequent years. Considering the significance of the judgment in protection of religious freedoms, among other fundamental rights, the Human Rights Commission of Pakistan filed a public interest litigation (PIL) with the assistance of its allied organisations, requesting the SCP to take note of the matter. During the proceedings, the apex court formed a committee to oversee the implementation of the judgment, empowering it to summon all relevant officials whenever needed. This PIL was filed as part of a 21-month project titled Advocacy and Legal Aid for Religious Minorities (ALARM).

The project also featured another PIL concerned specifically with the issue of access to the places of worship of minority communities. Besides the use of PILs to pursue matters concerning religious freedoms, the project included legal aid and advocacy components. Legal aid was provided in cases where affiliation with a minority sect or religious community was a contributing factor. The advocacy component involved formation of a National Interfaith Working Group as a platform for engagement between minority sects and communities and state actors on key policy issues.

The activities undertaken as part of the above-mentioned interventions have been detailed in the following pages. The report begins with an overview of the state of religious freedoms in the year 2018, covering state- and societal-level challenges concerning administrative and legal discrimination, targeted and mob-led attacks on life and property, anti-blasphemy laws, and forced conversions.

1. An Overview of Religious Discrimination in 2018

Efforts to protect religious freedoms in Pakistan confront multi-tiered challenges, at the state and societal levels.

At the state level, there are discriminatory constitutional provisions and laws that continue to provide the overarching framework for systemic exclusion of minority sects and religious communities from the body politic. This exclusionary juridical framework and a lack of political will on the part of state actors limits the efficacy of fundamental rights enshrined in the Constitution, and progressive legislative developments.

At the societal level, a nationalist ideology based singularly on the majority religious sect, Sunni Islam—propagated through the education system—and economic marginalisation have been the key factors in exclusion of minority sects and religious communities.

This section provides an overview of developments concerning religious freedoms of minority sects and communities in the year 2018. It has been divided into four parts, each covering a distinct theme. The first part elaborates on legal and administrative developments during the year concerning the Ahmadiyya, Christian, and Hindu communities. The second part is about attacks on life, liberty and property motivated by the religious or sectarian affiliation of the victims. In consideration of the political significance of the issue, the third part deals specifically with the misuse of anti-blasphemy laws covering the Supreme Court of Pakistan's (SCP) verdict in Aasia Bibi's appeal against her conviction at trial and high court levels. The final part is on the issue of forced conversions, faced by scheduled-caste Hindu families in Sindh, and the Kalasha community in the Chitral district of Khyber Pakhtunkhwa.

1.1 Legal and Administrative Discrimination

Citizens from minority religions face multiple legal and administrative hurdles in exercising their fundamental rights. Though the case of the Ahmadiyya community is paradigmatic of legal discrimination, citizens from Christian and Hindu communities have also suffered. Laws pertaining to marriage (or lack thereof) are a case in point.

The case of the Ahmadiyya community

With an estimated population in Pakistan of around five million, the Ahmadiyya community has been categorised as non-Muslim under a 1974 constitutional amendment, despite the fact that the community members identify as Muslims. Further, in 1986, a series of changes were made to the country's penal code that criminalised religious practice for

the community. Under these provisions, the Ahmadiyya community was prohibited from referring to its worship places as mosques/masjids, using what were deemed by legislators to be Islamic architectural designs (domes and minarets), as well as salutations and prayer rituals.

These changes, enacted during the martial law administration of General Zia-ul-Haq, are in violation of Article 18 of the International Covenant on Civil and Political Rights (ICCPR) under which the right to manifest one's religion or belief in private or public must be left to the discretion of each individual and there must be no coercion in matters of belief.

Disenfranchised in the 2018 elections. Ever since the passage of these discriminatory legal provisions, the community has withdrawn from public life, including such crucial activities as general elections. In 2018, the issue came to the fore as the country went to the polls for the third consecutive time without any direct military intervention since 2008. Under the prevailing electoral laws, the Ahmadiyya community was left with no choice but to boycott the general elections of 2018 since participation would have entailed community members to declare themselves as non-Muslims. This is so because the electoral laws place the Ahmadiyya community on a separate voters' registration list, declaring them as non-Muslims. This provision has effectively disenfranchised the community that has a sizeable voting age population in many central and northern districts of the Punjab province.¹

A court ruling that aided persecution. Earlier in the year, an Islamabad High Court (IHC) ruling also reaffirmed the state's discriminatory practices against the community. In a petition filed by a far-right extremist political outfit Tehreek-e-Labbaik (TLP), the court ruled in the month of March that declaration of religious affiliation was mandatory for the obtaining of identity documents as well as applying for government jobs. In the verdict, the IHC said that applicants must submit an affidavit to obtain a computerised national identity card (CNIC), passport, birth certificate, registration on the voters' list, and appointment in government and semi-government institutions especially the judiciary, armed forces and civil services. This was targeted towards the Ahmadiyya community since it required community members to identify as non-Muslims to be able to obtain identity documents and state employment.²

¹ For the community's statement, refer to <https://www.dawn.com/news/1421182>; a detailed report on the matter can be found at <https://www.reuters.com/article/us-pakistan-election-ahmadis/the-town-that-doesnt-vote-pakistans-ahmadis-say-forced-to-abstain-idUSKBN1KB079>; Also see the Human Rights Watch's statement <https://www.hrw.org/news/2018/06/28/pakistan-ensure-ahmadi-voting-rights>

² Refer to <https://tribune.com.pk/story/1655551/1-declaring-faith-compulsory-join-army-judiciary-civil-services-ihc/>; <https://tribune.com.pk/story/1648800/1-election-act-case-ihc-wants-2017-census-data-ahmadis/>; and <https://nation.com.pk/10-Mar-2018/ihc-declares-faith-affidavit-compulsory>

The petition had been moved by the far-right political party in the wake of a minor change in the finality of prophethood clause of the lawmakers' oath in the Election Act of 2017. In the clause, the phrase 'solemnly swear' was replaced with the word 'believe', triggering countrywide demonstrations and riots led by the Tehreek-e-Labbaik after which the revision was withdrawn.

Marriage laws: The Hindu and Christian communities

In Pakistan, Christian marriage has been regulated under the colonial-era Christian Divorce Act of 1896. When the Act was passed, it allowed Christian men and women to seek a divorce only if they suspected their spouse of adultery. For men, a mere charge of adultery was sufficient to divorce their wives. For women, however, evidence was needed to be provided in support of the charge. This meant that, left to the law's devices, Christian women would have to endure abusive marital relations without any redress, and that men could falsely accuse their wives of adultery, a direct assault on the Christian women's dignity.

However, Section 7 of the Act had provided legal grounds for the community members to dissolve their marriage following rules enacted by the common law courts in Britain. During the course of the 20th century, the Matrimonial Causes Act in the English jurisdiction was interpreted such that Christian couples could seek dissolution of their marriage with consent without providing any justifications for it. This facility was not extended to the Christian community of Pakistan since Section 7 of the Act was annulled during General Zia's military-led government in the 1980s.

In 2017, however, the Lahore High Court (LHC) issued a landmark ruling, restoring Section 7 and enabling Christian couples to dissolve their marriage with consent without needing to accuse each other of adultery.³ The LHC ruling was challenged by a member of the community towards the end of 2017.

The intra-court appeal against the ruling was heard several times during 2018, as the Punjab Commission on Status of Women also joined the proceedings in defence of Section 7.⁴ The Commission pleaded the court to dismiss the challenge and uphold the 2017 decision since it had enabled Christian citizens to exercise their fundamental right to enter or leave a marital contract. Furthermore, the Commission maintained, Section 7 was particularly protective of the dignity of Christian women.

During the course of proceedings, the LHC was told that a bill had also been tabled in the National Assembly to endorse the 2017 ruling of the high court. However, the bill has yet to be enacted as law.⁵

³ Refer to the link for the 2017 verdict: <https://sys.lhc.gov.pk/appjudgments/2017LHC2488.pdf>

⁴ PCSW statement on the application can be accessed here: <https://pcsw.punjab.gov.pk/node/262>

⁵ Here is a report of the court proceedings: <https://www.thenews.com.pk/print/382656-lhc-seeks-report-on-christian-divorce-act>

Unlike the Christian community, members of the Pakistani Hindu community had lacked any legal cover for their marital contracts, until the Sindh province—where the majority of the community is based—passed the Sindh Hindu Marriage Act of 2016. In 2017, a similar law was passed by the National Assembly extending legal cover to Hindu marriages in the rest of the provinces as well as the federal capital.

While the Sindh law provided for registration of marriages, it contained no provisions for separation, divorce, or dissolution of marriages.⁶ Further, the lack of accompanying rules meant that the law remained ineffective until 2018 when further provisions were enacted by the provincial assembly. The amended law enabled Hindu couples to seek dissolution of marriages through mutual consent as well as on grounds of desertion, lack of maintenance, and abusive behaviour. The law also allowed Hindu women to seek dissolution of marriage if the husband had contracted a second marriage without their consent. A framework was laid out for custody and maintenance of wife and children in cases where marriage was to be terminated. Finally, the law paved the way for Hindu women to remarry after a divorce.⁷

In the absence of the law, Hindu women were particularly worse off given the possibility that men could contract second marriages during a valid first marriage. The lack of documentation meant that the first wife could have no recourse in such a situation. Another problem associated with the lack of proof of marital documents was the constant distress faced by women in abusive relationships since they could be forced out of their matrimonial homes. Hindu men could deny their first marriage due to the absence of evidence, and the wife would be left with no financial security. In the absence of marriage registration papers, property rights of women and their children were also threatened in the event of the death of their husbands.

Owing to a lack of legislation on marriage, a major issue faced by the community was forced marriages of young Hindu girls at the behest of influential landed families in the rural districts of Sindh. The lack of documentation meant that there was no legal recourse for the families of such girls.

A controversial clause yet to be abolished from both the Sindh and the national bill concerns provision for termination of marriage if either person converts to another religion.

⁶ Refer to the report for the lacuna in the 2016 legislation: <https://tribune.com.pk/story/1530579/sindh-first-pass-law-last-implement/>; also see: <https://scroll.in/article/819841/two-laws-govern-hindu-marriages-in-pakistan-but-neither-addresses-divorce-adequately>

⁷ For details on the changes enacted in Sindh's Hindu Marriage Law, refer to <https://www.dawn.com/news/1410035>

1.2 Sectarian Killings and Mob Attacks

As many as 11 sectarian attacks took place across the country in 2018, according to the annual Security Report compiled by the Pakistan Institute of Peace Studies. The report put the number of deaths in these attacks at 50, while 45 others were injured in these incidents.⁸

The Quetta-based Hazara Shia community continued to bear the brunt of sectarianism. In the month of April alone, the community that has over the years been confined to two neighbourhoods and a ghettoised existence, endured four targeted attacks in which six people were killed.⁹ Marked by their distinctive central Asian features which makes it easier to identify them in public, the Shia Hazara citizens of the country have suffered targeted attacks at the hands of Sunni extremist outfits in Quetta as well as in Karachi. According to statistics compiled by the National Commission for Human Rights (NCHR), more than 2,000 Hazaras have lost their lives in sectarian attacks since 2004. Civil and political rights activists from the community put the number of deaths in such attacks to be much higher.¹⁰

The wave of killings in the month of April led to a hunger strike camp, led by a group of Hazara women, demanding that the Chief of the Army Staff General Qamar Javed Bajwa visit the camp and assure the community of security. The camp concluded after a rare visit of the army chief to the province, where security and law and order has for several years been in the control of the armed forces.¹¹ Subsequently, the matter was also taken up by the Supreme Court, where Chief Justice Mian Saqib Nisar lamented that the community was effectively facing a situation of ethnic cleansing at the hands of Sunni extremist outfits.¹²

Over the last few years, multiple incidents of mob violence following blasphemy allegations have been reported from across the country. Frequently, the targets in these attacks have been members of the minority Christian and Ahmadiyya communities. However, Muslim citizens have also been targeted.

⁸ The details of the report can be found here: <https://www.thenews.com.pk/print/415602-29-percent-decline-in-terrorist-attacks-in-2018-report>

⁹ For details of these four attacks, refer to: <https://www.dawn.com/news/1404396>; HRW statement condemning the terrorist attacks can be found at: <https://www.hrw.org/news/2018/04/30/pakistans-hazara-community-under-attack>

¹⁰ The NCHR report can be accessed here: [http://nchr.org.pk/docs/reports/en14_HAZARA%20REPORT%202018%20final%20for%20mail\(we b\).pdf](http://nchr.org.pk/docs/reports/en14_HAZARA%20REPORT%202018%20final%20for%20mail(we b).pdf)

¹¹ <https://tribune.com.pk/story/1700512/1-targetting-hazaras-will-suffer-twice-much-coas-assures-community-protest-ends/>

¹² <https://www.dawn.com/news/1407011>

Instead of repealing the anti-blasphemy laws, or introducing legislative safeguards to prevent their abuse, the state authorities have adopted a reactionary and law-and-order centric approach, whereby police and other law enforcement agencies intervene only after the attacks perpetrated by Sunni extremist outfits with pockets of organised support.

At least two major incidents involving blasphemy mobs attacking the minority Christian community were reported in 2018. In the incident reported from Faisalabad, the police registered a blasphemy First Information Report (FIR) against six Christian residents after a mob gathered and threatened to attack Christian households in the Illahi Abad neighbourhood of the city. As in other such cases, the complainant was a cleric in a local mosque, who accused the six men of having insulted a naat (verses in the praise of the Prophet Muhammad). The community representatives claimed that the charges were fabricated. They maintained that after a fight among children, some associates of the cleric defiled Bible verses written on the wall of the local church and tried to paint the name of a religious party on it. When the church administration resisted the attempt, a mob gathered and, subsequently, the FIR was registered against six men.¹³

The other incident took place in the Shahdara suburb of Lahore district where a Christian teenager and his cousin were charged under Section 295-C of the Pakistan Penal Code (pertaining to blasphemy against the Prophet Muhammad) under pressure from a mob gathered by activists of the Sunni extremist Tehreek-e-Labbaik. Since the allegation was related to an image posted on a popular social media platform through a cell phone, a Federal Investigation Agency team took charge of the investigation. Subsequently, one of the two men attempted suicide during the investigation—apparently after he was tortured and forced to sexually assault his cousin. He suffered serious injuries.¹⁴

In both cases, under threats from activists of Sunni extremist outfits, Christian families were forced to abandon their homes and leave the neighbourhoods in search of safety, as no protective measures were taken by law enforcement agencies.

In 2018, the Ahmadiyya community also fell victim to mob violence in two incidents that exposed the complicity of state officials at the local level in the persecution of the community.

¹³ <https://www.christiantimes.pk/2700-case-6-christians-registered-blaspheming-islamic-poetry>, <https://www.persecution.org/2018/02/26/six-pakistani-christians-charged-blasphemy-allegedly-insulting-islamic-poetry/>

¹⁴ <http://tns.thenews.com.pk/story-patras-sajid-masih/>, <https://www.pakistanatoday.com.pk/2018/02/24/fia-officials-forced-me-to-have-sex-with-main-blasphemy-accused-claims-injured-suspect/>

In the incident that took place in April, a community place of worship in Sialkot district was demolished by a mob in the presence of municipal administration officials who were undertaking a separate demolition operation at an adjacent building of historic significance for the community.¹⁵

The mob was led by a prayer leader at a nearby mosque and included activists of the anti-Ahmadiyya organisation Khatm-e-Nabuwat Youth Force.

Regarding the adjacent building, the community maintained that they had undertaken renovations after fulfilling all legal requirements. However, the municipal administration claimed that there were irregularities in the affair that led to the decision to undo changes made in the structure by the community. Regardless, the mob that gathered on the scene and demolished the place of worship was not stopped by the administration, and after the incident, the municipal officials and the district police kept passing the buck for the failure on each other.¹⁶

The second incident was reported from Ghaseet Pura village of Faisalabad in August. The mob attack on the place of worship was triggered over a minor quarrel among members of the Ahmadiyya community and the majority Sunni sect. At least six Ahmadis were injured in the attack. Later, the matter was resolved with the intervention of the political leadership of the area who oversaw a settlement between the two sides.¹⁷

1.3 Blasphemy Laws and the Asia Bibi Verdict

Offenses related to blasphemy in the Pakistan's legal corpus date back to the colonial era. Sections 295, 296, 297 and 298 were introduced in 1860, and 295-A in 1927. These sections are generic and cater to all religious denominations. However, under the military government of General Zia-ul-Haq, additional laws were introduced specific to Islam, including those targeting the minority Ahmadiyya community. These include Sections 295-B, 295-C, 298-A, 298-B, and 298-C.

The passage of these laws in the 1980s led to an exponential rise in the number of blasphemy cases. While seven cases were registered after the passage of the first set of laws before Partition and in the 1980s, the number of cases shot up to 1,335 between 1986 and 2014, according to statistics compiled by the National Commission on Peace and Justice.¹⁸

At least 75 people have been murdered extrajudicially following accusations

¹⁵ <https://www.dawn.com/news/1409714>

¹⁶ HRCP's statement on the incident can be found here: <http://hrcp-web.org/hrcpweb/vandalism-at-ahmadi-worship-place-unacceptable/>

¹⁷ <https://www.dawn.com/news/1428784>, For the community's report on the incident, please see: <https://www.rabwah.net/mob-attacks-ahmadi-mosque-in-faisalabad/>

¹⁸ Please see: <https://herald.dawn.com/news/1154036>

of blasphemy since the amendments made to the penal code in 1986. The majority, 39, were identified by the state as Muslims, followed by 23 Christians and nine Ahmadis.

A study conducted by the Centre for Social Justice, a rights-based non-profit organisation, has shown that almost three quarters of the blasphemy cases registered since the 1986 amendments are in the Punjab province. Within the province, the highest number of cases has been reported from the provincial capital of Lahore.¹⁹

The most frequently used laws in these instances have been 295-A (outraging religious feelings), 295-B (desecrating the Quran), 295-C (defiling the name of the Prophet Muhammad) and 298-A (defiling the names of the family of the Prophet Muhammad, his companion or any of the caliphs).

In a landmark judgment in 2018, the Supreme Court acquitted Aasia Bibi, a Christian woman convicted of blasphemy at trial and high courts. Aasia had been incarcerated since her conviction at the trial stage in 2009 over a case registered by a cleric in her village in the central Punjab district of Nankana Sahib.

In its verdict, the apex court highlighted what rights activists have been pointing out for years: false accusations based on flimsy evidence are used in blasphemy cases to settle personal vendettas. The court rejected the evidence brought against Bibi as weak, and underscored the need for legislation to prevent abuse of the law.²⁰

In the wake of the judgment, the Sunni extremist Tehreek-e-Labbaik party called for countrywide protests. The party leaders and activists blocked major thoroughfares and intersections in the federal and provincial capitals for three days, bringing public life in these cities to a standstill. Multiple incidents of mob violence against life and property of citizens were reported from across the country. The TLP leadership, meanwhile, issued fatwas (religious edicts) to its followers to kill Aasia Bibi, her lawyer, and the SCP judges on the bench that delivered the verdict.

Security high alerts were issued for the judges' enclave in Islamabad and prominent Christian neighbourhoods in Lahore and Karachi, and Sunday congregations in major churches were postponed.

¹⁹ The study has been referenced in this newspaper article: <https://tribune.com.pk/story/1657005/1-74-blasphemy-cases-pakistan-originate-punjab-reveals-report/>; also see: http://www.fides.org/en/news/63854-ASIA_PAKISTAN_Record_of_blasphemy_cases_in_Punjab_it_is_urgent_to_listen_to_the_cry_of_the_innocent?utm_source=divr.it&utm_medium=twitter

²⁰ The judgment in the Aasia Bibi case can be accessed here: http://www.supremecourt.gov.pk/web/user_files/File/Crl.A._39_L_2015.pdf

The law enforcement and internal security apparatus remained unable to deal with the developing situation and ultimately the government had to strike a deal with the TLP. Under the deal, the government agreed to let the TLP leadership file a review against the SCP verdict, meaning that Aasia would remain in confinement until a decision was reached on the review. The government also agreed not to press charges against all those involved in mob attacks during the three-day demonstrations.²¹

1.4 Forced Conversions: Sindh's Scheduled-Caste Hindus and the Kalasha Community

Forced conversions is a multi-layered issue, involving social and economic factors. Over the years, the scheduled castes—Bheel, Meghwar and Kohli—among the Hindu community in the Sindh province have been the most affected. In 2018, however, the issue was also raised by rights activists among the Kalasha community in the remote region of Khyber Pakhtunkhwa's Chitral district.

For the Hindu community of Sindh, the issue of forced conversions revolves around socio-economic marginality of the scheduled castes (since most such cases involve scheduled-caste households in bonded labour, as opposed to upper-caste), the deeply embedded social institution of shrines built to Muslim saints, and the aggressive expansion of religious organisations with evangelical aspirations. In this situation, according to rights activists based in the affected region, the state's law enforcement and judicial institutions further tilt the balance of power against the scheduled-caste Hindu community by failing to extend protection against politically and economically influential segments.

In the absence of credible statistics, there are different estimates put forth by different human rights organisations. In the third Universal Periodic Review of the human rights situation in Pakistan under the auspices of the United Nations Human Rights Council, rights organisations reported that on average at least 1,000 cases of abduction, forced conversion, and marriage of women and girls from religious minorities are reported from the country every year.²²

The typical pattern associated with forced conversions involves abduction of underage girls by men from influential landed families. When the girl's family approach the police, the abductors make them testify that they got married and converted of their free will. However, the crucial point here is the

²¹ <https://www.bbc.com/news/world-asia-46080067>, <https://www.aljazeera.com/news/2018/11/pakistan-blasphemy-protests-called-government-deal-181102195242761.html>

²² A joint submission by rights organisations under the Pakistan Dalit Solidarity Network can be accessed here: <https://idsn.org/wp-content/uploads/2017/09/Alternative-report-UPR-Pakistan-on-Dalits-2017.pdf>

age of the person involved in such a conversion. An attempt was made in 2016 to address this legal lacuna by introducing the Sindh Criminal Law (Protection of Minorities) Bill following relentless advocacy by minority rights groups based in the southern province. The bill was passed by the provincial assembly but the death of the then Sindh governor, Saeeduz Zaman Siddiqui, and counter-mobilisation by Islamist parties, prevented the bill from being enacted.²³ The Islamists were opposed to the minimum age requirement defined in the bill for a consensual conversion. In 2017, the provincial government announced that it would review the bill so that the legal process for its passage could be initiated. However, no action has yet been taken.²⁴

On the positive side, the year saw the first-ever election of the Dalit woman to the Senate. Krishna Kumari Kohli, who was elected on a Pakistan People's Party ticket, had herself endured regressive patriarchal customs as she was married off at the age of 15, and suffered socio-economic marginality in the form of bonded labour during her childhood. In her inaugural speech in the Senate, Kohli vowed to strengthen existing legislation and to introduce new laws to tackle forced conversions, underage marriages, and so-called honour-based crimes against women.²⁵

The story of the Kalasha community has similar subtexts. The Kalasha are a religious as well as ethnic minority, known for their dances and bright costumes in their ritual celebrations of seasonal change every spring and fall. Of late, community activists have complained in their public statements that the proliferation of mosque and seminary networks of Sunni Islamist parties as well as lucrative opportunities have provoked a wave of conversions of young Kalasha girls that straddle the fine line of consent. The activists also highlight the detrimental effect of the public education sector's bias towards the majority religion's texts and traditions. In contravention of Articles 18 and 27 of the ICCPR, Kalasha children must take Islamic studies—a grievance the community shares with other minority religions in the country.²⁶

²³ <https://tribune.com.pk/story/1287146/sindh-governor-refuses-ratify-forced-conversion-bill/>; For details, also see: <https://www.birmingham.ac.uk/Documents/college-artslaw/ptr/ciforb/Forced-Conversions-and-Forced-Marriages-in-Sindh.pdf>

²⁴ <https://www.dawn.com/news/1341326/ppp-to-again-take-up-protection-of-minorities-bill-in-assembly>

²⁵ Please see: <https://www.dawn.com/news/1393815>

²⁶ For a detailed report on the matter, please see: https://www.washingtonpost.com/world/asia_pacific/an-ancient-community-in-pakistan-fades-as-conversions-to-islam-take-a-toll/2018/11/11/a5187be6-dd22-11e8-8bac-bfe01fcdc3a6_story.html?utm_term=.e2a404aa7546

2. Advocacy and Legal Aid for Religious Minorities

Against this backdrop, the Human Rights Commission of Pakistan (HRCP) along with its partners undertook a 21-month project titled Advocacy and Legal Aid for Religious Minorities (ALARM). The project interventions were designed to deal with both state- and societal-level challenges to the protection of religious freedoms. In terms of the former, two public interest litigations (PILs) have been initiated, besides extending legal aid to the members of minority sects and communities incarcerated on charges in which religious affiliation is a contributing factor. At the societal-level, the project has put together a National Interfaith Harmony Working Group (NIFWG) as a platform for representatives of minority sects and communities to engage with state actors on key policy issues.

2.1 Public Interest Litigation

Though PIL in Pakistan has become synonymous with judicial overreach following Chief Justices Iftikhar Muhammad Chaudhry and Mian Saqib Nisar's terms in office, the global concept has a different history. PIL evolved in the 1950s and 1960s in the US, coinciding with the civil rights movement. It was centred around law firms that extended legal representation to the underrepresented and underrepresented population groups in the areas of environment, consumer rights, civil liberties, and minority rights. In Pakistan, legal experts widely refer to two prominent cases in the 1980s as the origin of this form of legalism: *Benazir Bhutto v. Federation of Pakistan* and *Darshan Masih v. State (Maryam S. Khan)*. While the former was concerned with the civil-military imbalance and the military's meddling with politics, the latter was a class action suit concerning bonded labourers in the brick kiln industry.²⁷

Taking cognisance of the efficacy of PILs in facilitating access to justice for marginalised groups, HRCP incorporated it into the framework of the project. Two issues were selected in view of their national relevance in securing the fundamental rights of religious minority communities.

Protection of minorities' places of religious significance

The first PIL filed with the assistance of the AGHS Legal Aid Cell concerned the overarching theme of protection of places of worship and religious significance for minority communities. It also sought to contribute to efforts towards expanding public discourse on the country's cultural and archaeological heritage. This is significant in view of the Islamisation of national culture promoted by the religious right-wing in institutions of the state and civil society, leading to marginalisation and, on occasion, suppression of cultural norms and practices of religious minorities.

²⁷ The paper can be accessed here: <https://ideaspak.org/images/Publications/Social-Exclusion-and-Marginalization/Public-Interest-Litigation-in-the-Supreme-Court.pdf>

The case in question concerns access to a prominent Buddhist site, the Dharmarajika stupa, located in the Taxila Cantonment and listed among the world heritage sites by the United Nations Education, Science and Cultural Organisation, while also protected as an antiquity under the country's Antiquities Act of 1975.

An encroachment on the site area, owned by the Archaeology Department of the Punjab province, has rendered the stupa inaccessible to local as well as foreign visitors, the latter being part of delegations organised by the Archaeology Department. Through a case initiated in the Lahore High Court in January 2018, HRCP is assisting petitioners to seek binding directives for the provincial authorities to remove the encroachment and restore public access to the site.²⁸

The ultimate objective is to set a precedent for the protection of sites of religious and cultural significance for minority communities. This will have significance for the persecuted Ahmadiyya community whose places of worship have frequently come under attack from violent mobs incited by far-right Sunni clerics. As mentioned above, even in 2018 one of the Ahmadiyya community's main worship sites in Sialkot, a central Punjab district bordering India, was attacked by a mob acting in collusion with municipal and police authorities. The minarets and dome constructed at the 100-year-old site were razed to the ground and the worship place desecrated by attackers who claimed that the community was renovating an attached building without the requisite permission. In their statements to the media, the community representatives maintained that the renovations were completely in accordance with the law, and were undertaken after fulfilment of legal formalities. An HRCP fact-finding mission that visited the attack site and recorded witness testimonies also corroborated the community's version.

In 2018, the issue of vulnerability of spaces associated with the minority community also came to the fore following the acquittal of Aasia Bibi, a poor Christian woman who was incarcerated for nine years on charges of blasphemy. Security alerts were issued for churches and prominent Christian neighbourhoods in major cities after the far-right religio-political outfit Tehreek-e-Labbaik took to the streets against the Supreme Court's decision in the case. Paramilitary rangers had to be deployed in Youhanabad, a Christian locality in Lahore where two major churches were attacked by militants during a Sunday mass in March 2015, killing at least 15 worshippers and injuring more than 70. According to several community-based online news

²⁸ For further details of the case, please refer to the following newspaper reports: <https://morning.pk/story/6446>, <https://www.pakistantoday.com.pk/2018/01/19/petition-to-secure-ancient-buddhist-site-near-taxila-filed-in-lhc-report/>, and <https://www.dawn.com/news/1383146>

portals, the church leadership refrained from making public statements of support of Aasia as a sense of fear and insecurity prevailed during the three-day long protests.²⁹

The Dharmarajika stupa case is still pending as the respondents and the government departments concerned have yet to submit their arguments. At the latest hearing on 15 January 2019, notices were issued to the respondents in this regard.

Supreme Court 2014 judgment on minorities' rights

The second PIL concerned a landmark Supreme Court judgment on safeguarding minority rights issued in suo motu proceedings following a ghastly suicide attack at a church in Peshawar that resulted in the loss of at least 127 lives.³⁰

Noting the lack of any institutional mechanism for enforcement of fundamental rights of minority communities, the apex court issued a set of wide-ranging directives to the federal government. These included:

- Establishment of a task force to develop a strategy of religious tolerance, including measures such as reform of school curricula in accordance with the United Nations Declaration on the Elimination on All Forms of Intolerance and Discrimination Based on Religion or Belief.
- Measures to discourage hate speech against minorities on social media platforms.
- Constitution of a National Council for Minorities' Rights to monitor the enforcement of rights and safeguards provided to the minorities under the Constitution and the law.
- Establishment of a special police force to protect the places of worship of minority communities.
- Enforcement of a job quota for minorities in all services.

In addition to these directives, the apex court sought the formation of a three-member bench to oversee the implementation of the judgment. In view of the lack of any concrete progress on the judgment, HRCP in collaboration with the Centre for Social Justice and the Cecil and Iris Foundation moved an application in the Supreme Court in June 2018, seeking enforcement of the aforementioned directives.

²⁹ <https://www.ucanews.com/news/pakistani-churches-on-alert-following-asia-bibi-acquittal/83768>, <https://fp.brecorder.com/2018/11/20181101420344/>

³⁰ Details of the attack and SCP's immediate notice can be found here: <https://www.dawn.com/news/1086794>; the verdict can be accessed here: http://www.supremecourt.gov.pk/web/user_files/File/smc_1_2014.pdf

The application recorded the status of implementation of directives issued in the 2014 judgment, and made recommendations to the court on the basis of a study undertaken by the National Commission for Justice and Peace, a non-government organisation.

On the establishment of a strategy for promotion of religious tolerance, the application identified lack of coordination among the relevant federal ministries—Interior, Human Rights, Religious Affairs and National Harmony, Law and Justice, and Planning, Development and Reforms—as a major reason for the lack of progress on the directive. The court was asked to direct the federal government to constitute an empowered inter-ministerial and cross-sectional implementation committee to oversee tasks delegated to individual ministries—drafting a policy of national harmony (Religious Affairs), establishment of a peace unit (Planning, Development and Reforms), and establishment of district-level peace committees (Interior and provincial Home departments).

Regarding curriculum reforms, the application noted that some measures had been taken by provincial governments but there was a general lack of will on the part of provincial authorities, particularly textbook boards, to implement the directive. It highlighted that the federal government and the provincial government of Khyber Pakhtunkhwa seemed least interested in initiating reforms, as there was a widespread prevalence of hate material in school curricula.

A province-specific assessment showed that some revisions were undertaken in the Punjab, without a complete audit and removal of hate material. In Sindh, the Education and Literacy Department reported that it was working on revisions in textbooks from grade 1-5 to incorporate material for interfaith harmony. These revisions included restriction of Islamic religious texts to textbooks on Islamiyat. Earlier, textbooks for Urdu and Sindhi also contained such texts. As in the Punjab, there was no progress on elimination of hate material from the curricula in Sindh.

The application stated that the Religious Affairs and Inter-Faith Harmony Department of Balochistan had been prompted in 2014 to recruit teachers for the subject of ethics, and to ensure timely provision of textbooks. The department was also asked to exempt non-Muslim students from studying Arabic at schools.

Though revised curricula for grades I–V had been prepared, it had yet to be implemented through the provincial Education Department. The provincial Police Department reported taking some action against publishers and individuals spreading hate material, but independent assessments showed that more concerted efforts were still needed to remove hate material from textbooks.

The application further noted that hate speech had been made a cognisable offense in the Prevention of Electronic Crimes Act 2016, and action had yet to be initiated by the Federal Investigation Agency and other law enforcement agencies on hate speech against religious minorities on social media platforms.

A key direction issued by the Supreme Court in the 2014 judgment was related to the constitution of a National Council for Minorities. In the wake of the judgment, lawmakers from opposition parties moved two private members' bills in the National Assembly in 2015 and 2016 seeking the establishment of a Minority Rights Commission. The bills contended that the commission could lay the groundwork for the constitution of the Council. The treasury benches, however, took little interest in the issue, and so the bills failed to make any progress.

Another direction that held great promise was the establishment of a police unit dedicated to the security of minorities' places of worship. The issue of security of worship places was discussed in nine SCP orders for compliance issued during follow up hearings after the 2014 verdict. However, the application noted, there had been no progress on implementation of the direction at federal or provincial levels.

A province-wide assessment showed that a proposal had been floated in the Punjab to induct 13,000 personnel for the special police unit. The Human Rights and Minority Affairs Department in the province then requested the office of the Inspector General of Police to prepare a list of minorities' worship places and to share a security plan for these sites with the department. The Police Department submitted the security plan to the SCP only after the gruesome suicide attacks at two churches in Youhanabad left 15 dead and many others injured. The application noted that no information was available on the subsequent developments. In Balochistan, arrangements were made for the security of 54 worship places across the province on religious occasions such as Sunday prayer services and festivals like Holi, Easter, and Christmas. However, these measures alone were inadequate as attacks on minorities continued. Three attacks on Shia Hazara pilgrims claimed 63 lives in 2014/15. The Christian community lost 10 members in three attacks, claimed by Daesh, during the months of December in 2017 and April in 2018.

Reports from Sindh and Khyber Pakhtunkhwa suggested that no concrete measures had been taken on the establishment of the police force. In Sindh, the need for such a force to also deal with instances of land grab was raised, as land affiliated with several temples and philanthropic bodies like the Young Men's Christian Association was reported to have been grabbed by influential people.

No major breakthroughs were witnessed in any of the four provinces or the

Centre regarding the reservation of a five percent job quota. In fact, a study of public advertisements undertaken by the applicants showed that discriminatory practices against minorities persisted in the public sector as the only types of jobs reserved for them were in the sanitation services. The study also showed that on occasion appointments made on merit in the lower grades were also shown as evidence of success of the jobs reservation policy.

The province-specific assessment showed that in the Punjab directives regarding the five percent quota were conveyed to all provincial departments, and a decision was taken by the cabinet that in the event that there was a shortage of eligible candidates to meet the five percent quota in a particular recruitment cycle, the seats to be filled would be added to the subsequent cycles.

Despite these measures, however, the statistics provided by the provincial government showed that the share of minorities in government service remained at around two percent—far lower than the five percent benchmark.

In Balochistan, directions were issued to all provincial departments to raise the minorities' quota from three to five percent in all fresh recruitment cycles. Several non-Muslims have been appointed to higher grades in the bureaucracy as well as to the High Court of the province. However, no comprehensive information was available to ascertain whether the quota was being observed.

Similarly, lack of data makes it difficult to ascertain the extent to which the increase in the quota from three to five percent was implemented during recruitment cycles in Sindh and Khyber Pakhtunkhwa.

The application noted that the issue of employment quotas for minorities was tied to the poor level of education among minorities. Accordingly, to ensure recruitment from among minorities to higher grades in the public service, affirmative action was needed in admissions to higher education institutions in the country. The application therefore requested the court to direct the authorities to set aside a five percent quota for students from minority communities in higher education institutions. Besides this, the application also sought the establishment of a regulatory body to oversee the implementation of these quotas.

The last two directives in the 2014 judgment concerned (i) action, including registration of cases, against violation of fundamental rights or desecration of minorities' places of worship, and (ii) the establishment of a three-member bench of the apex court to monitor progress on the implementation of the judgment.

As regards action against violations, the application noted that no compliance report had been submitted by any of the provinces on steps taken to this effect.

Further, regarding the establishment of a bench dedicated to monitor implementation of the judgment, the application stated that after the passage of the judgment an SCP bench continued hearing complaints (identifying slow or no progress) from November 2014 to October 2015. As many as 10 hearings took place during this period. The eleventh hearing scheduled in December 2015 could not take place as the bench was not constituted following the retirement of the then Chief Justice Jawwad S. Khawaja.

The application was fixed for a first hearing on 11 June 2018, at the Supreme Court's Lahore registry. Directions were issued for the federal and four provincial governments, as well as the administration of the Islamabad Capital Territory (ICT), to submit reports pertaining to compliance with the judgment.

Subsequent hearings proceeded without any concrete action until 9 October 2018, when the office of the Attorney General of Pakistan submitted a report on the implementation status of the 2014 judgment.

Subsequently, on 24 October 2018 the SCP formed a committee headed by Dr Shoaib Suddle, a former tax ombudsperson, and gave it time to evaluate the Attorney General's report. At the latest hearing in January 2019, the court empowered Dr Suddle to oversee the implementation of the 2014 judgment. The committee, under his watch, was empowered to seek assistance from any government authority in the centre or the provinces. However, the commission's term, which was three months, expired in April 2019. At the time of publication, no steps had been taken by the court to extend its term. HRCP has recommended that a three-member bench be constituted to complete the implementation of the 2014 judgment.³¹

2.2 Access to Legal Aid

The legal aid component of the project was initiated in view of the minority communities' multi-tiered marginality, rooted in the peculiar relationship of religious identity, law and (socio-economic) class, and caste positions.

Since religious identity formed the basis of the establishment of the State in 1947, it figured predominantly in the political process underlying the development of the country's Constitution, setting the stage for legal discrimination against minority groups.

Although the Constitution of 1973 guarantees fundamental human rights to all citizens regardless of their religious identity, subordinate class and caste positions of many within minority communities means that exercise of these rights is not as straightforward as envisaged in the text of the Constitution.

³¹ <https://www.pakistantoday.com.pk/2019/04/24/retirement-of-former-cjp-may-negatively-impact-religious-minorities/>

Additionally, as research on racial and religious minorities in other jurisdictions has shown (the literature on the Black Lives Movement in the US is an example), ghettoisation and profiling of members of these communities, coupled with absence of opportunities for socio-economic uplift, often lead to a vicious cycle of poverty and petty crime. This necessitates positive discrimination of the kind envisioned through the legal aid component of the project.

Against this backdrop, the ALARM team devised the following criteria for provision of legal aid:

- Membership of a religious minority group
- Minority religious status a key factor in targeting of a victim
- Some direct or indirect link to issues of freedom of religion.

To undertake a preliminary assessment, the ALARM team, comprising representatives of the AGHS Legal Aid Cell, conducted visits to prisons in Lahore, Kasur, Faisalabad, and Multan districts of Punjab.

The first prison visit was carried out in March 2018 in Multan. All 23 minority prisoners in the Central Jail belonged to the Christian community. Of these, seven convicted prisoners signed powers of attorney allowing the project team to provide legal representation in court.

In May 2018, the team visited the Central Jail in Lahore. Here too, all 150 minority prisoners belonged to the Christian community. The team met 52 convicted prisoners and 25 still under trial. Of these, 29 convicted and 11 under trial prisoners signed powers of attorney, enabling the project to extend legal assistance to them. In the District Jail of Lahore, visited in June 2018, the team met 40 minority prisoners, all of whom belonged to the Christian community. Of these, 28 prisoners signed a power of attorney document.

In the Central Jail of Kasur, visited in August 2018, the team secured powers of attorney from two prisoners, while a further 18 sought consultation services only.

The visit to the Central Jail of Faisalabad took place in September 2018. As many as 16 minority prisoners serving sentences after convictions signed power of attorney documents, while another 29 sought legal consultation only.

The project team did not expect many inmates to openly discuss their stories of discrimination or abuse in prison, given the repercussions the narrators would have to face afterwards. However, during one-on-one conversations, the team obtained testimonies from a few inmates (whose identity was duly protected) regarding discrimination and harassment on the basis of their religious identity.

When identity becomes a crime

Asif Masih, a resident of Lahore, complained that he was picked up from his home in an area identified with the Christian community. At the police station, he was falsely implicated in 11 petty crimes including theft, robbery, and trespass. Similarly, many inmates complained that they were picked up in drug peddling cases only because they belonged to the Christian community, known among law enforcers for holding permits to sell alcoholic beverages.

One of the prisoners complained that he was pressured by investigating officers to change his religion if he wanted to be acquitted of the charges framed against him. A second prisoner complained that another man (a Muslim) was held on similar charges but freed while he was nominated in the FIR and put on trial.

The perception that inmates do not openly share stories of discrimination and abuse out of fear of reprisal was strengthened by the project team's observation that most complaints received during group sessions concerned police stations, rather than prisons.

A few prison-related discriminatory practices raised during these sessions concerned remission of sentences and (lack of) worship facilities. Inmates across all prisons visited during the project complained that remission of sentence was offered to Muslims on religious grounds, but not to non-Muslims.

A vicious cycle of petty crime and poverty

The case of Punjab's Christian minority. Some major trends emerged from these visits, which were incorporated into the legal aid component of the project. First, an overwhelming majority of the inmates were found to be members of the Christian community. Second, the majority of the cases entailed petty crimes such as trespass, theft, robbery, and drug peddling. In a few instances, after thorough investigation of the circumstances surrounding the cases, the project team also took cases of inmates under trial for attempted murder and sexual assault. Third, in a number of cases, under-trial inmates were the primary breadwinners for their families who were unable to afford legal counsel for them, and counsellors arranged by the State would not pursue cases with much attention, given the burden of cases public defenders are required to deal with. In a number of cases, inmates were facing similar charges of petty crimes in multiple FIRs registered against them. There were also instances where inmates complained about discriminatory treatment by public defenders.

Fourth, there were widespread complaints about false charges, with instances where the latest technologies such as biometric verification facilities were used to wrongly implicate individuals (see box on Nauman Masih's case). These trends were well in accordance with circumstantial evidence regarding the vicious circle of poverty and petty crime in major neighbourhoods housing the Christian minority across cities and towns of the Punjab.

Technology and profiling

Nauman Masih, a resident of Kot Kamboh area of Lahore, complained that a police team raided the butcher's shop where he was employed, and took him with them for interrogation. At the police station, when the interrogators took Nauman's thumb impressions using a biometric machine, and ran a search in their case history, they found out about a cell phone theft case in which he had served a sentence some years earlier. Using that as a pretext, they added Nauman's name in four FIRs filed in the station against unidentified criminals.

Abusive marital relationships. The project team also extended assistance to Christian women stuck in abusive marital relationships. Cases pertaining to dissolution of marriage, provision of maintenance allowance, guardianship of minors, and judicial separation were taken up in this regard.

One of three cases for judicial separation has been successfully dealt with during the project cycle, while the rest remain pending for hearings in family courts.

The petitioners had approached the AGHS with complaints about abusive spouses. They sought separation on grounds of physical and mental torture.

The project team received two complaints regarding dissolution of marriage, which were pursued in accordance with Section 7 (restored following the landmark Lahore High Court judgment of 2017, discussed earlier in the report) and Section 10 of the Divorce Act of 1896.

The two women sought dissolution of their marriages on grounds that their husbands had deserted them and they were living separately now. In one of the cases decided in favour of the complainant, the couple had been separated for six years but the woman could not get out of the marital relationship because she lacked resources to engage legal counsel. The other case is still pending a hearing in the family court.

Four petitions for provision of maintenance allowance and two for guardianship of minors also remain pending hearings in the respective courts.

Discriminatory recruitment practices. The project team also used the legal aid component to take up an issue that highlights the multi-tiered marginality of the community. Across government ministries and departments, there has been a widespread practice of recruiting only Christian citizens for sanitation work and other menial jobs. This is a discriminatory practice that violates multiple constitutional provisions and institutes discrimination on the basis of religious identity of a group.

In the case in question, the project team has sued the Health Department of the Punjab province for publishing a job advertisement in leading national dailies (dated 3 January 2018) seeking applications for janitorial positions only from non-Muslims.

2.3 Advocacy for Protection of Religious Freedoms

Through PIL and legal aid components, the ALARM project sought the promotion of minority communities' religious freedoms by taking recourse to protections in the Constitution. Essentially, these activities served to strengthen the existing social contract between state institutions and citizens from minority communities.

However, a need was also felt to engage voices from within these communities to get their perspective and insights on further strengthening the social contract—such that it would enhance minority groups' capability to exercise their religious freedoms. Arguably, the electoral and the parliamentary process in the country provides a mechanism to engage minority communities. Under the existing framework, minority communities can access legislature on reserved seats through nomination by political parties. However, the process lacks democratic procedures insofar as representation in the legislature is based on a system of nomination by party leaderships, rather than through election by the communities themselves.

The work of community-based minority rights groups provides a useful corrective to this situation by promoting deliberative democracy on issues concerning minority rights within the civil society.

While these groups engage in advocacy and lobbying, there is no systematic mechanism to consolidate their work (in the civil society) and channel it for incorporation into relevant public policies. Under ALARM, a National Interfaith Working Group (NIFWG) was conceived as just such a mechanism—traversing the border of the state and civil society and serving the dual purpose of (i) generating recommendations following a deliberative process, and (ii) advocating for the incorporation of those recommendations

into public policies concerning freedom of religion and belief.

Against this backdrop, the project team put together a 19-member body with representation of Hindu, Sikh, Christian, Bahai, Ahmadiyya, Ismaili, Noor Bukhshi, and Shia communities from all four provinces and the Gilgit-Baltistan region. The NIFWG also included prominent rights activists, veteran journalists, and government representatives. At its first meeting, the group undertook a comprehensive discussion on the state of religious freedom vis-à-vis different minority communities. Towards the end of the first session of the meeting, the group decided to undertake fact-finding missions to all four provinces to engage communities at the grassroots and gather information which would then form the basis of the advocacy campaign. It also decided to commence its activities with a visit to community neighbourhoods in the Islamabad/Rawalpindi area.



The second session featured a discussion among prominent rights and political activists including former Senators Farhatullah Babar and Afrasiab Khattak, former Member of the National Assembly (MNA) Bushra Gohar and serving MNA Ramesh Vankwani. The purpose of the session was for the NIFWG to discuss broader issues that could be highlighted and addressed with stakeholders in the Parliament and its committees, and through other governmental authorities and non-governmental entities.

During the discussion, former Senator Babar stressed the need for the NIFWG to engage state institutions concerned with protection of human rights. Among these, he mentioned the National Commission for Human Rights, the Ministry of Human Rights, and human rights committees of the Senate and the National Assembly.

Babar further suggested that, working with these bodies, the NIFWG should raise the need for setting up caucuses in the Parliament and in provincial

assemblies where causes of religious minorities could be taken up on the pattern of the existing caucuses for women's rights.

Former MNA Bushra Gohar raised the issue of renowned economist Atif Mian's appointment and removal from the Economic Advisory Council, the top advisory body on the economy. Mian's appointment had been cancelled following backlash from the far-right religious lobby over his Ahmadiyya faith.

Gohar also suggested that the NIFWG should engage political parties, particularly those known for their secular-liberal credentials. She lamented that even these parties were frequently seen covering to the far-right on issues of religious freedoms.

The visit to community neighbourhoods in Islamabad/Rawalpindi area was facilitated by the Christian rights organisation, the Christian Study Centre.



The project team, including members of the NIFWG, visited Hindu community neighbourhoods in the vicinity of Maharishi Valmik Swamiji Mandir, one of the three temples of the community in the Islamabad/Rawalpindi area where worship rituals are arranged regularly. Afterwards, it went to Christian neighbourhoods in the Lal Kurti area of Rawalpindi where a session was held with community members.

The visits highlighted how issues concerning religious freedoms were intertwined with those concerning housing rights and provision of public goods such as education and healthcare, as well as a dearth of decent employment opportunities.

A thin line between security and insecurity

The case of the Hindu community in Chaklala. At the Maharishi Valmik Swamiji Mandir, Pundit Mir Chand, the caretaker briefed the project team about the history of the area and recent developments that had created difficulties in access to the worship place for the community in the surrounding neighbourhoods.

He said the temple was built in 1935 and, over the years, the Chaklala cantonment had developed and expanded around the premises. As regards the community in the surrounding areas he said many had left over the years, and at least 250 households were still settled and using the temple for worship purposes. A major reason for the out-migration was the gradual expansion of the cantonment on land previously owned by the community members. The caretaker complained that the compensation paid for the land was inadequate, leaving many members who had been evicted from the area in hardship and poverty.

The project team also learnt about recent attempts by the Chaklala cantonment board authorities to take over the Mandir. These attempts were strongly resisted by the community, and the matter was taken to court which found in favour of the community.

Regarding the community's access to the worship place, the caretaker mentioned that this had been impeded by the necessity to pass through various security cordons and seek permission of military authorities to enter the area. However, he mentioned that over time the trip from the residential quarters to the temple had become easier as military authorities had become familiar with residents. Of late, however, the community along with Christian and Muslim households in the area were being made to move to another locality further away.



The caretaker said that there were concerns among the community about losing their properties to state authorities. He added, however, that the presence of military installations had also given a sense of safety to the community. According to him, the additional layers of security provided by the military for their installations in the area had meant that the Hindu population had also been protected.

Threat of evictions, lack of municipal support. During the visit to Christian settlements in Lal Kurti, the project team held discussions with several community members and learnt about a prevailing sense of insecurity regarding the status of the land on which the community was settled.

Owing to a lack of affordable housing in the Islamabad/Rawalpindi region, the Christian community is mostly settled in slums without property documentation. This has also meant that the community has remained deprived of amenities such as piped water, sanitation services, and utilities like electricity and natural gas. A few slums have been regularised by the municipal authorities, while others still lack basic facilities and residents continue to face the threat of eviction.

The project team was also told about the lack of access to quality education and healthcare as well as employment facilities.

3. The Visibility of Religious Minorities in the 2018 Elections

Pakistan's religious minorities constitute just under four percent of its total population of roughly 205 million. Arguably, the state is not doing enough to protect the rights of religious minorities and has significant involvement in religious matters and/or personal beliefs. This use of religion for political purposes in turn creates space for the misuse of religion—in this case, Islam—for political gain.

Just prior to the general elections of 2018, the Ahmadiyya community released a press statement announcing its disassociation from the upcoming elections on grounds of discriminatory treatment. To register as voters, members of the Ahmadiyya community are required to either renounce their faith or agree to be part of a separate electoral list that classifies them as 'non-Muslims'.

It is worth comparing the stance of various political parties on safeguarding the interests of religious minorities. The manifestos released by selected political parties in Pakistan before these general elections assert the following:

<p>Awami National Party (ANP)</p>	<p>Repeal amendments made to the 1973 constitution relegating religious minorities to secondary-citizen status</p> <p>Implement legal and administrative measures against violence and discrimination</p> <p>Allocate a minimum of 5% of general seat tickets to religious minority members</p> <p>Increase job quotas</p>
<p>Awami Workers Party (AWP)</p>	<p>All laws to be based on secular principles</p> <p>Annulment of all laws that discriminate between citizens on the basis of religion, class, gender, or ethnicity</p>
<p>Muttahida Majlis-e-Amal (MMA)</p>	<p>Protection of the rights of minorities, their land and property, places of worship</p> <p>Demand for acceptance and respect for their religious practices and customs</p>
<p>Pakistan Muslim League (Nawaz) (PML-N)</p>	<p>Enactment of the Punjab Sound System Regulation Act</p> <p>Minorities to be able to freely profess and practice their religions and develop their cultures</p> <p>Right to freedom of thought and expression</p>

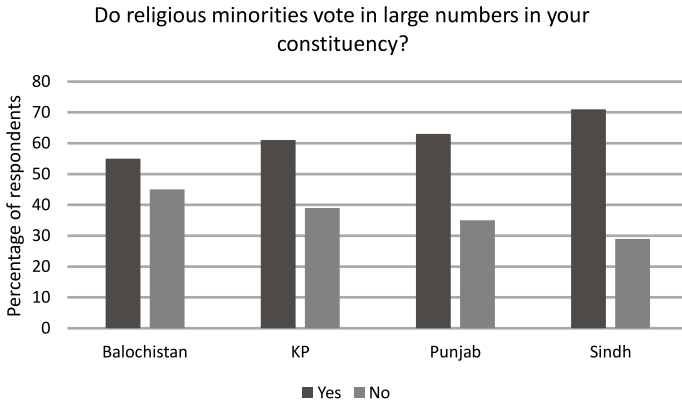
Pakistan People's Party (PPP)	Pledge to promote and reaffirm Pakistan's pluralist foundations Ensure vulnerable minorities can enjoy their fundamental rights Zero-tolerance policy towards violent extremism Effective role of the National Commission for Human Rights Freedom of expression
Pakistan Tehreek-e-Insaf (PTI)	Vow to protect the civil, social, and religious rights of minorities, their places of worship, property and institutions Establish an independent National Commission on minorities and provincial commissions/departments Strict action against hate speech and violence against minorities Organise inter-faith dialogue

3.1 HRCP's Survey of Voter Participation Among Religious Minorities

Bearing in mind the level of participation of religious minorities during the general elections, the Human Rights Commission of Pakistan conducted pre-poll surveys as well as polling station surveys on election day across 64 constituencies, which produced the following data.³²

Surveys conducted in areas with a high concentration of religious minorities sparked interesting debates in the days leading up to the election. When members of these minorities were asked about their participation or the anticipated results of the upcoming elections, most said that the elections seemed to be a platform from which non-Muslims had certainly been invited to participate, but were expected to stay on the fringes and cast their votes for parties that had done little to protect their rights. Given this, it is difficult to assume that these groups would approach the process of voting with much eagerness.

³² This data is based on a sample of roughly 300 respondents across Pakistan and should be taken only as indicative of a trend.



However, despite the results of these pre-poll surveys, the Election Commission of Pakistan (ECP) released information on voters who had participated in Pakistan's general elections, which showed an increase of 30% in minorities' participation over the previous election. This represents roughly 3.63 million, up from 2.77 million registered in the electoral rolls for the 2013 general elections. Of these, Hindu voters maintain a majority among religious minorities.

3.2 Consultations on the General Elections 2018 and Rights of Religious Minorities

HRCP organised four consultations to discuss the general elections and rights of religious minorities. The consultations were organised in the following cities on the following dates:

- Lahore: 28 May 2018 ³³
- Faisalabad: 30 May 2018 ³⁴
- Gujranwala: 25 June 2018
- Hafizabad: 29 June 2018

The consultations were organised in collaboration with the Centre for Social Justice. The purpose of the consultations was to discuss the participation and role of religious minorities in the general elections. Participants included human rights activists, representatives of various political parties, and members and representatives of religious minority communities. The discussion at these consultations focused on the way forward to ensure economic, political, and social inclusion of religious minorities in the national mainstream. The participants pointed out issues such as religious

³³ <https://dailymtimes.com.pk/245603/take-our-demands-seriously-if-you-want-our-vote-minorities/>

³⁴ <https://www.humsub.com.pk/137412/shazia-george-2/>

discrimination in the education system, implementation of job quota, and institutional protection for minorities' rights that successive governments have failed to address.

One of the main demands made in the consultations was for the constitution of an autonomous, independent, and permanent National Commission for minorities' rights with a mandate to investigate violations of the rights of minorities as well as contribute advice on policy matters. The participants of the consultation in Lahore also demanded the implementation of the June 2014 judgment of the Supreme Court of Pakistan reaffirming the rights of non-Muslim citizens. Political representatives who contest elections with the hope of becoming parliamentarians were urged to address the genuine concerns of religious minority communities in the Parliament. The participants at all the consultations affirmed their commitment to strengthening the democratic process and rule of law by participating fully in the electoral process with the understanding that their grievances and concerns can only be properly addressed if they are represented in the mainstream political process.

4. Recommendations

First and foremost, it is critical that the state promptly take steps to implement the Supreme Court judgement of 2014. HRCP recommends the institution of a three-member Supreme Court bench to direct this implementation.

The state must ensure that its policies are in keeping with the spirit of the 2014 judgement. This means ensuring that the right to manifest one's religion or belief in private or public be left to the discretion of the individual, with no coercion in matters of belief. The declaration of religious affiliation, for example, should not be mandatory for obtaining identity documents or for applying for government jobs.

Better coordination is needed among the relevant federal ministries—Interior, Human Rights, Religious Affairs and National Harmony, Law and Justice, and Planning, Development and Reforms—to implement the 2014 judgement. In this context, an inter-ministerial and cross-sectional implementation committee should be constituted to oversee tasks delegated to individual ministries, such as drafting a policy of national harmony (Religious Affairs), establishing a peace unit (Planning, Development and Reforms), and establishing district-level peace committees (Interior and provincial Home departments).

The 2017 ruling of the Lahore High Court, restoring Section 7 of the Christian Divorce Act of 1896, should be upheld. The bill endorsing this ruling should be passed into law to enable Christian couples to dissolve their marriage with consent, without needing to accuse each other of adultery.

The Sindh Criminal Law (Protection of Minorities) Bill protecting religious minorities against forced conversions must be passed without capitulating to pressure from religious outfits who object to the bill. Similar legislation should be enacted by the other provinces and at the national level to protect all religious minorities across the country.

It is critical that, at the very least, legislative safeguards be introduced to prevent abuse of the blasphemy laws so that false accusations and weak evidence not be used to settle personal vendettas.

Beleaguered religious minorities such as the Shia Hazara community in Quetta need greater support and security from the state to allow them to participate safely in economic and social life without being relegated to ethnic 'ghettoes', ostensibly for security reasons.

Law enforcement authorities, prison staff and public defenders must be sensitised to treating suspects/inmates/clients from religious minorities without any bias.

Caucuses should be set up in Parliament and in the provincial assemblies where causes related to religious minorities can be taken up on the pattern of the existing women's rights caucuses.

An autonomous, independent and permanent national commission for minorities' rights should be constituted with a mandate to investigate violations of the rights of minorities as well as contribute advice on policy matters.