

POLICY BRIEF



Pakistan

Sustained discrimination of religious minorities

Pakistan was founded on religious grounds as an independent nation in 1947, consisting of two geographically separate regions. East Pakistan, to the east of India separated by more than a thousand miles from West Pakistan. In 1972, East Pakistan challenged West Pakistan and declared independence from it and became Bangladesh.¹ Pakistan is an electoral democracy today with the military applying influence over security and other policy issues.²

Article 2 of the Constitution of Pakistan establishes Islam as the state religion with the requirement that all laws are consistent with Islam.³ The Constitution also instituted the Federal Shariat Court (FSC) to examine and decide whether any law or provision is “repugnant

to the injunctions of Islam.” The FSC comprises eight judges, including three *ulemas* who are required to be well versed in Islamic law.⁴ The FSC has jurisdiction⁵ to examine any law it considers contradictory to injunctions of Islam at its own initiative or can hear any case appealed by the government or a private citizen raising similar objections. As per constitutional provisions, the government is required to amend laws as directed by the FSC even without passing legislation.⁶

Ninety six percent of Pakistanis are Muslims while the rest of the population consists of Hindus, Christians, Sikhs, Buddhists, Baha’is and Zoroastrians.⁷ According to the Constitution, the state should “safeguard the legitimate rights and interests of minorities,” secure

¹ Pakistan and Bangladesh, World Regional Geography. Available at open.lib.umn.edu/worldgeography/chapter/9-3-pakistan-and-bangladesh.

² “Pakistan: Country Dossier”, World Watch Research, Open Doors, January 2022, pp. 11. Available at opendoorsanalytical.org/wp-content/uploads/2022/01/Pakistan-Full-Country-Dossier-January-2022.pdf (password: freedom). Also see, Freedom in the world – Pakistan Country Report, Freedom House Report 2022. Available at freedomhouse.org/country/pakistan.

³ The Constitution of Islamic Republic of Pakistan. Available at na.gov.pk/uploads/documents/1333523681_951.pdf.

⁴ Constitution (Amendment) Order 1980 (P.O. no. 1 of 1980). Available at: www.pakistani.org/pakistan/constitution/orders/po1_1980.html.

⁵ Article 203D, Constitution of Pakistan, 1973. In its appellate jurisdiction, the FSC has exclusive jurisdiction to hear appeals from the decision of any criminal courts under any law relating to enforcement of Hudood Law. Hudood offences include *zina* (extramarital sex), *qazf* (false accusation of *zina*), theft, and consumption of alcohol.

⁶ On Trial: The Implementation of Pakistan’s Blasphemy Laws, International Commission of Jurists, November 2015, pp 14. Available at www.icj.org/wp-content/uploads/2015/12/Pakistan-On-Trial-Blasphemy-Laws-Publications-Thematic-Reports-2015-ENG.pdf. In 1990, the FSC had ruled that the alternate punishment of life imprisonment in blasphemy cases was repugnant to the injunctions of Islam and therefore death penalty was mandatory under section 295-C of Pakistan Penal Code (blasphemy). The government did not appeal to the Supreme Court and therefore, this interpretation by the FSC is now binding on all courts.

⁷ United States Department of State 2022 Report on International Religious Freedom: Pakistan, US State Department (IRFR 2022), April 2022. Available at www.uscifr.gov/sites/default/files/2022-04/2022%20Pakistan.pdf.

the well-being of the people irrespective of creed, and discourage sectarian prejudices.⁸ In reality, the rights and interests of religious minorities are not fully protected. Some minorities are not recognized, such as the Ahmadis, and as such they face challenges accessing basic civil, social and political rights such as housing, and the right to vote.⁹ Likewise, Christians suffer from institutionalized discrimination. They are often relegated to the lowliest of jobs, such as sanitation work, by the authorities.¹⁰ A high proportion of Christians also work as bonded brick-kiln laborers.¹¹ Hindus face systematic discrimination in accessing jobs, housing and government welfare.¹² In recent years, the increase in anti-Shia attacks show growing sectarian intolerance towards Muslim ‘minorities’ as well.¹³

Sexual violence of women and girls from minority communities

Every year, almost one thousand Christian women and girls between the ages of twelve to twenty five years are abducted, forcefully converted, and married to their abductors.¹⁴ The victim’s family usually registers a complaint with the local police station, but the girl often remains in the custody of the abductor during the judicial proceedings. Meanwhile, she may be subjected to sexual violence, rape, forced prostitution, domestic abuse or human trafficking.¹⁵ In certain cases putting up resistance to the abductors have led to death.¹⁶ Women and girls from Hindu community are also subjected to widespread forced conversion.¹⁷ In forced conversion cases, the authorities often fail to uphold the law and have demonstrated disregard toward religious freedom.¹⁸

The law on marriage in Pakistan is governed by the personal laws applicable to each community.¹⁹ As per

the Hanafi school of law, the marriage of an adult Muslim who has attained puberty and is of sound mind is void if it lacks either party’s consent. Likewise, even though a minor may be married on the basis of consent provided their lawful guardian (*wali*),²⁰ ratification of this consent is necessary when that individual attains puberty. There are reported incidences, however, where girls as young as twelve to fourteen years were forcibly converted and married to their abductors. Clerics conducting these marriages justify them by stating that the girls had reached puberty or age of consent according to the Sharia.²¹ Various courts have also ruled in favor of the abductors and clerics.²² The Child Marriage Restraint Act of 1929 (No XIX) sets the minimum age of marriage for a girl at sixteen years and various sections in the Pakistan Penal Code (PPC)²³ recognize and provide remedies for abduction, kidnapping and forced marriage. Nevertheless, conversion to Islam through marriage, irrespective of whether it was conducted under inducement or force, is generally accepted as valid by both society and the courts.²⁴

Islamization of education

In 1972, the government of Pakistan nationalized the nation’s private Christian schools as part of its commitment to universalize free education.²⁵ At that time, although Pakistan’s educational system was burdened by poor quality education and dilapidated physical infrastructure, it was largely secular. A few years later, the National Education Policy and Implementation Program of 1979 infused rigid Islamic content into the educational system, leading to significant Islamization of the curriculum.²⁶ The current public curriculum includes derogatory remarks in textbooks against religious minorities. Hindus especially are depicted as

⁸ United States Department of State 2019 Report on International Religious Freedom: Pakistan, US State Department (IRFR 2019). Available at www.state.gov/wp-content/uploads/2020/05/PAKISTAN-2019-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf.

⁹ United States Department of State 2022 Report on International Religious Freedom: Pakistan, *Ibid.*, pp. 29.

¹⁰ “Pakistan: Country Dossier”, *Ibid.*, pp.6.

¹¹ Contemporary Forms of Slavery in Pakistan, Human Rights Watch, 1995. Available at www.hrw.org/reports/pakistan957.pdf.

¹² Poor and Desperate, Pakistani Hindus Accept Islam to Get By, The New York Times, October 2020. Available at www.nytimes.com/2020/08/04/world/asia/pakistan-hindu-conversion.html.

¹³ Religious Minorities in Pakistan, Minority Rights Group International, 2002. Available at www.refworld.org/pdfid/469cbfc30.pdf.

¹⁴ Report on Forced Marriages and Forced Conversions in the Christian Community of Pakistan, Movement for Solidarity & Peace, April 2014. Available at [d3n8a8pro7vhmx.cloudfront.net/msp/pages/162/attachments/original/1396724215/MSP_Report_-_Forced_Marriages_and_Conversions_of_Christian_Women_in_Pakistan.pdf?1396724215](https://cloudfront.net/msp/pages/162/attachments/original/1396724215/MSP_Report_-_Forced_Marriages_and_Conversions_of_Christian_Women_in_Pakistan.pdf?1396724215).

¹⁵ *Ibid.*

¹⁶ Forced conversion of Hindu girls in Pakistan’s Sindh remains rampant, April 2022. Available at www.aninews.in/news/world/asia/forced-conversion-of-hindu-girls-in-pakistans-sindh-remains-rampant20220419225618/.

¹⁷ *Ibid.*

¹⁸ *Ibid.*, pp.14.

¹⁹ Abduction for Forced Marriage – Rights and Remedies in Bangladesh and Pakistan. Available at www.soas.ac.uk/honourcrimes/resources/file55687.pdf.

²⁰ Child marriages may be validly contracted under Muslim personal law. However, it is punishable under the Child Marriage Restraint Act.

²¹ United States Department of State 2022 Report on International Religious Freedom: Pakistan, *Ibid.*, pp. 28.

²² Lahore High Court on Forced Conversion of a Minor and International Human Rights Law, September 2021. Available at ghrd.org/lahore-high-court-on-forced-conversion-of-a-minor-and-international-human-rights-law/.

²³ See Pakistan Penal Code (Act XLV of 1860).

²⁴ Report on Forced Marriages and Forced Conversions in the Christian Community of Pakistan, *Ibid.*, pp.14.

²⁵ An Evaluative Study Of Primary Education In The Light Of Policies And Plans In Pakistan (1947–2006), Parveen S, Journal of College Teaching & Learning (TLC), 2011, pp. 5(7), 17-25.

²⁶ Connecting the Dots: Education and Religious Discrimination in Pakistan A Study of Public Schools and Madrassas, United States Commission on Religious Freedom, November 2011. Available at [www.uscfr.gov/sites/default/files/resources/Pakistan-ConnectingTheDots-Email\(3\).pdf](http://www.uscfr.gov/sites/default/files/resources/Pakistan-ConnectingTheDots-Email(3).pdf).

enemies of Islam and Pakistan in school textbooks.²⁷ In predominantly Muslim schools, students from minority communities are forced to eat food on separate tables.²⁸ Extra marks are granted based on a student's ability to memorize passages from the Quran. The ongoing discrimination compounded with the often poor economic backgrounds of religious minority students discourages students of religious minority communities from continuing higher studies, leading to a very high percentage of school drop-outs and lower education levels for religious minorities.²⁹

“Even unproven allegations of blasphemy can incite a violent public response and result in years of unjust imprisonment for the accused blasphemer.”

The Single National Curriculum (SNC) created by the government in July 2020 requires students to undergo even more Islamic religious teaching in compulsory subjects irrespective of their religion.³⁰ Since 2021, grades one to five have already started to follow the curriculum brought in by the SNC. The SNC, however, directly violates Article 22 of the Constitution, which provides that “no person attending any education institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.”

False accusations in blasphemy case

Pakistan's blasphemy laws are the second strictest in the world after Iran.³¹ Section 295 of the PPC lays down the punishment for blasphemy, which ranges from several years in prison to the death sentence. However, the FSC held in 1990 that the only punishment for blasphemy against Prophet Mohammad, as laid down in section 295C of the PPC, is death penalty. This interpretation of the FSC is yet to be reversed and therefore, death penalty is considered to be the de-facto punishment for any blasphemy charge under section 295C.³² While the law provides little protection to someone charged with

blasphemy, the punitive action against those who misuse this law does little to deter abuse of the law. A person who makes a false accusation of blasphemy can only face proceedings under section 182 of the PPC, which entails a maximum punishment of six months or a mere 3,000 Pakistani Rupees fine. The law is often misused as a tool to settle personal scores.³³ Even unproven allegations of blasphemy can incite a violent public response and result in years of unjust imprisonment for the accused blasphemer. As of 2021, eighty nine alleged blasphemers were killed extrajudicially. Despite being less than 0.01 percent of the population, Christian women represent the highest number of female alleged blasphemers. Religious groups and affiliated persons, followed by security officials most commonly make blasphemy allegations against religious minorities.³⁴ Increasingly, blasphemy charges are being levelled against persons with mental illness, reflect personal disputes related to land or water, complaints against the design of a place of worship, result from a spelling error or picture shared on social media.³⁵ The accused need not have intended harm or to blaspheme but could spend years of their lives imprisoned and sometimes even face death.



A Christian man, who learnt to read and write after he turned 40, praying in a community church in the suburbs of a Pakistani city in the midst of terrorist threats during Christmas season.

²⁷ Connecting the Dots, *Ibid.*, pp.42.

²⁸ Attitude of Secondary Level Christian students toward Muslim Teachers at convent Girls high school, F. Gill, Okara. Thesis, University of Education.

²⁹ An estimated 22.8 million children aged 5-16 are out-of-school, UNICEF.org/Pakistan.

³⁰ Set up to fail: Pakistan's Single National Curriculum will only make life harder for religious minority children, FoRB in full, July 2021. Available at forbinfull.org/2021/07/19/set-up-to-fail-pakistans-single-national-curriculum-will-only-make-life-harder-for-religious-minority-children.

³¹ Respecting rights? Measuring the world's blasphemy laws, US Commission on International Religious Freedom, July 2017. Available at www.uscirf.gov/sites/default/files/Blasphemy%20Laws%20Report.pdf.

³² There's no compulsion in religion, Journal of Islamic State Practices in International Law, July, 2021. Available at dro.dur.ac.uk/8781/1/8781.pdf?DCC71+DDD19+dla0mb+dul4eg.

³³ These accusations could often arise out of personal disputes, arguments or ongoing battles over land ownership.

³⁴ Blasphemy Cases in Pakistan: 1947 – 2021, A Report by Center for Research and Security Studies, 2021. Available at crss.pk/blasphemy-cases-in-pakistan-1947-2021/#_ftn14.

³⁵ Explained: Pakistan's emotive blasphemy laws, Al Jazeera, May 2014. Available at www.aljazeera.com/features/2014/5/17/living-in-fear-under-pakistans-blasphemy-law#:~:text=With%20blasphemy%2C%20there%20is%20no,accused%2C%20they%20cannot%20defend%20themselves.

Recommendations:

To ensure the fundamental rights of Christians and other minority faith adherents, Open Doors makes the following recommendations:

1 The Pakistani Government as well as state governments and local government officials should take proactive steps to address the forceful abduction and conversion of women and girls from religious minorities by:

- Ensuring that any federal or provincial law related to protection of children from violence, abduction, abuse, exploitation, rape, trafficking or death abides by the definition of child as someone who has not attained the age of eighteen years at the time of the commission of the offence according to the Zainab Alert, Response and Recovery Act, 2020
- Creating a multi-disciplinary and multi-faith trained taskforce to conduct fair and objective investigations regarding the circumstances surrounding the conversion and marriage while simultaneously providing safety to the victim to ensure uncoerced testimony
- Training judges to interpret laws in accordance with international human rights norms and legislation
- Creating a secure and anonymous reporting mechanism to hold accountable public officials who discriminate against, violate rights of, or fail to protect religious minorities in cases of forceful abduction and marriage. Concurrently, ensure criminal penalty is levied on false allegations in such cases

2 The International Community and Donor Governments should support Pakistan Government's efforts towards protecting women and girls from abduction, rape, trafficking or death by:

- Providing training capacity in advance crime scene investigation, intelligence gathering, and crime scene management for efficient policing and ensuring incentives for public policy to include awareness for rights of women and children and minorities enshrined in the Pakistani Law
- Allocating financial resources along with technical know-how for a nation-wide toll-free helpline to report a missing child or abduction

3 To ensure equal opportunities in education and non-discrimination of children from religious minorities:

- The International Community should urge the Pakistan government to amend the Single National Curriculum in accordance with Article 22 of the Constitution guaranteeing no student "shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own"
- The Pakistani government as well as provincial governments should ensure the removal of all discriminatory content against religious minorities from the curricula making it a criminal offence if someone fails to comply
- The Pakistani government should enact the Minorities Access to Higher Education Bill, 2019 ensuring five percent of total seats in higher education are reserved for students from minority communities

4 To prevent children from being forced into child labor and to ensure they have access to education, the International Community should work along with the Pakistani Government to conduct a study mapping out the areas where child labor is prevalent and support local NGOs providing free legal aid and rehabilitation.

5 To prevent the current misuse of the Blasphemy law and the misinterpretation of section 295 of the Pakistan Penal Code, the International Community should:

- Expand interactions and contact with law makers and state level officials from Pakistan, and encourage them to repeal the law, or alternatively, reform it to prescribe the requisite of intention and additionally, create harsher penalties within the law, at par with the penalties prescribed for the act of blasphemy itself, to prevent and punish false accusations of blasphemy, thereby, ensuring the accuser receives equal penalty.

Any questions? Please email advocacy@odcan.org
