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6th Youth Parliament Pakistan

A Report on

Status of Religious Minorities in Pakistan

March 2015

PILdAT
Pakistan Institute of
Legislative Development
And Transparency

Secretariat Youth Parliament Pakistan



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PREFACE

After the successful completion of 5 terms since 2007, the 6th Youth Parliament Pakistan was launched in June 2014. The specific objectives of the Youth Parliament Pakistan (YPP) programme are to inculcate democratic culture and spirit of tolerance for others views among the youth; to expose them to the political and parliamentary processes; to facilitate youth to express their views on various national, international, regional and local issues thereby helping the government and society at large to better understand the concerns of the youth; to groom the leadership potential of the youth of Pakistan by exposing them to peaceful and democratic resolution of differences especially at a time when various parts of Pakistan are suffering from conflict and extremism. Finally this provides a forum to the youth of Pakistan to understand how the Parliament works as the supreme public representative institution in a democracy.

The YPP has its own 2-party system, Leader of the House and Opposition, as well as an augmented system of Parliamentary Committees with Committee Chairpersons, Vice Chairpersons and Secretaries.

The Youth Parliament Standing Committees of the 6th Youth Parliament Pakistan (2014), as a part of the learning process, have been tasked with conducting reviews of national policies through research based analysis and with developing cogent policy alternatives for the Parliament and the Government of Pakistan. The six Youth Parliament Standing Committees for the current term are:

- Youth Parliament Standing Committee on National Security
- Youth Parliament Standing Committee on Foreign Affairs
- Youth Parliament Standing Committee on Energy
- Youth Parliament Standing Committee on Law, Justice & Human Rights
- Youth Parliament Standing Committee on Education & Youth Affairs
- Youth Parliament Standing Committee on Finance, Economic Affairs & Planning

The Committees have gone through a process of intensive research, consultations with policy experts and internal review within Committees before putting together their proposals. The initial findings were shared with the Secretariat Youth Parliament Pakistan and the Steering Committee Youth Parliament Pakistan who gave their comments on these drafts. After incorporating these inputs, the reports are finalized by individual Committees and thereafter presented on the floor of the House for further recommendations and feedback from the entire strength of the YPP. Going through this rigour the participants not only experienced the process of drafting policy in a democratic fashion but also formulated useful recommendation in the form of this report,

The reports are compiled and finally published for the purpose of dissemination through media briefing and report launch event at the closure of third YPP Session of the 6th YPP term. More importantly all the reports will be presented by the Members of YPP to the corresponding Standing Committees of the National Assembly and Senate, in the effort to incorporate the voice of the youth in the national policy making process. The authors of the reports, the MYPs, are to take the lead in lobbying for the recommendations they have devised, to civil society, media and to a greater audience. The reports are also available online at www.youthparliament.pk.

The 6th Youth Parliament Pakistan (2014-2015) is supported by the *Danish International Development Agency, Government of Denmark*, as recognition of the importance of young people's development in democracy and democratic practices.

Disclaimer

The Secretariat of Youth Parliament Pakistan has provided unbiased feedback in a timely manner on the research reports and the scientific value of the work done by MYP's. The Secretariat has given guidance in ensuring the content is clear, concise, and relevant to the current pool of knowledge in regard to originality, and interest to the readers. The opinions, findings or recommendations expressed in this report belong to the authors and do not reflect the views of PILDAT or DANIDA.

EXECUTIVE SUMMARY

Youth Parliament of Pakistan's Standing Committee on Law, Justice and Human Rights has prepared its first report on the 'Status of Religious Minorities in Pakistan'. This is primarily a qualitative study for which secondary sources of data collection and analysis have been employed. The main objectives of this study were to: a). study the existing laws and policies that have been made to secure the status of religious minorities up till now, b). the effectiveness of those policies or laws c). to suggest new policy alternatives (where needed). The committee has concluded that although there are set of rules designed to safeguard the rights and interest of religious minorities in Pakistan, however, the elusive terminology of the current legislation has in fact allowed for the misuse of sections 295-298 PPC in particular, and has resulted in the persecution of minorities. The law which is supposed to protect the citizens has become a tool for promoting intolerance. The committee through this report has thus suggested a few alternative measures which the state must take to ensure the protection of religious minorities in Pakistan. First of all the representation of all the religious minorities shall be increased in the Parliament. The fixed quota for the religious minorities in the civil military services of Pakistan shall also be fixed and/or increased. The system of separate electorate should also be re-instated. For transforming the intolerant society into a pluralist society as envisioned by Jinnah, the state should take measures to revise the curriculum and to make sure that it is free of hate speech and intolerance towards religious minorities and reflects the true spirit of Islam. The state must also take all necessary measures to make sure that it abides by the international treaties that Pakistan has ratified and also make serious efforts to implement the fundamental rights in letter and spirit to safeguard the status of minorities. Lastly and most importantly, the Parliament of Pakistan should make an amendment to make article 36 'Protection of Minorities' a part of Fundamental Rights thereby bringing it under the operational part of the constitution.

Members of Youth Parliament Standing Committee on Law, Justice & Human Rights



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Chairperson
(YP35-PUNJAB16)



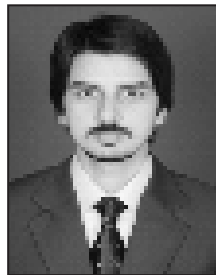
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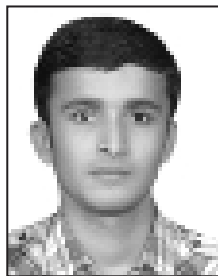
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Introduction

Pakistan can be characterized as an immensely plural country which is composed of diverse religious, sectarian and ethno-linguistic groups. The country has an overwhelmingly Muslim community which accounts for 90 per cent of its 142 million inhabitants. The Muslim population however belongs to several doctrinal groups. Sunnis are in the majority amongst Muslims, with Shia Muslims and Zikris facing discrimination. In 1974, the National Assembly of Pakistan has declared Ahmadis (also called Qadianis) a non-Muslim minority. There are several Christian denominations, Bahais, Buddhists, Hindus, Jains, Kalasha, Parsis and Sikhs who are identified as non-Muslim Pakistanis (Malik, 2002).

Defining a Minority

The international legal framework does not have a universally agreed upon definition for the term 'minority'. However, the UN Sub-Commission on Human Rights has provided the following definition:

“A group of citizens of a state, consisting of a numerical minority and in a non-dominant position in that state, endowed with ethnic, religious, or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if not implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law” (Deschenes, 1985).

The Constitution of Pakistan (1973) defines citizens as either “Muslims” or “non-Muslims.” The definition implies that a Muslim is the person who believes in one God and the finality of the Prophet-hood of Muhammad (Peace be upon Him). Moreover, he/she does not recognize any person as a prophet or a religious performer who claimed or claims to be a prophet after Muhammad (Peace be upon Him). Under this classification non-Muslims are clearly those who do not fall within the constitutional definition of Muslim and include Christians, Hindus, Sikhs, Buddhists, Parsis, and Ahmadis.

Religious Minorities in Pakistan

Jinnah's Vision

Muhammad Ali Jinnah, the founder of Pakistan, while addressing the First Constituent Assembly of Pakistan said:

“... You are free; you are free to go to your temples, you are free to go to your mosques or to any other places of worship in the State of Pakistan. You may belong to any religion or caste or creed – that has nothing to do with the business of the State ... We are starting with this fundamental principle: that we are all citizens and equal citizens of one State. Now, I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not so in the religious sense because that is the personal faith of each individual, but in the political sense as citizens of the state” (Burke, 2000).

Religious Minorities & the Constitution of Pakistan

Pakistan as a state has a long history of constitutional development. The religious minorities within the boundaries of Pakistan have always been promised protection along with a guarantee of equal fundamental rights- be it the Objectives Resolution (1949) or the three subsequent constitutions (1956, 1962 and 1973). According to Article 25 of Pakistan's Constitution (1973) 'all citizens are equal before law and are entitled to equal protection of law'. According to article 26 (1) there 'shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence etc. in respect of their access to places of public entertainment or resort'. Similarly article 27 (1) gives 'protection against discrimination on basis of religion etc. on appointment in service of Pakistan if he/she is qualified otherwise'. Article 36 of the constitution provides for the protection of minorities and states that the 'State shall safeguard the legitimate rights and interest of minorities, including their due representation in the Federal and Provincial services'. Article 36 is part of Constitution's second chapter 'Principles of Policy' which is a non-operative part of the constitution as the observance of these principles is

Table 1: Statistics of Religious Minorities in Pakistan (1981 Census)

Total Population (est.)	Muslims	Christians	Hindus	Ahmedis	Parsis	Buddhists	Sikhs	Others
84,253,644	81,450,057	1,310,426	1,276,116	104,244	7,007	2,639	2,146	101,009

dependent upon resources being available.

Despite the aforesaid constitutional safeguards, the Pakistani state where failed to guarantee the equal rights and equal opportunities to its Muslim and non-Muslim citizens, there it somehow allowed the obscurantist forces to operate against the religious minorities.

Pakistan and the International Treaties

Pakistan became the member of United Nations Organization in 1948. Being a member state it has a responsibility towards carrying out the mission of UN. The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly (in 1948) provides in its article 1 that, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (UDHR, 1948).

The International Convention on Civil and Political Rights (ICCPR), which has been ratified by Pakistan in June 2010, provides in its article 27 that "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language" (ICCPR, 1966).

The ICCPR (1966) also guarantees the right to freedom of religion and states that 'a state may derogate from this right only if the observance of a religious practice or other form of religious expression constitutes a genuine threat to the public peace. It may do so only to the extent necessary to prevent such a disturbance'.

Status of Ahmedi Minority in Pakistan

The issue of Ahmadis or Qadianis is not a new one in Pakistan. The religion of Ahmadis is almost an hundred years old belief system originating in undivided India's Qadian area (birth place of Mirza Ghulam Ahmad who professed to be the founder of this religion). The problem of Ahmadis as a separate community soon began to surface in Pakistan right after its creation in 1947. The first riots against Ahmadis were propelled by Jamat-e-Islami's then Emir Maulana Maudoodi which led to huge protests and violence against them in 1940's and early 1950's. This led to the First ever martial law declared in the history of Pakistan with G.O.C of Lahore General Azam Khan declaring Martial law in Lahore in 1954. But the issue of Ahmadis did not come to an end at this point in time. 1972, under Zulfikar Ali Bhutto's government they were officially and formally declared as "non-Muslims". This declaration of a

community as heretics by the state and government of Pakistan was a first step towards their alienation and persecution of members of their community from the mainstream society. Later on, Zia-ul-Haq's government further marginalized them by introducing 295-C i.e. the Blasphemy laws in Pakistan.

Today, the problem with blasphemy laws is not its content but its implementation. The problem with Blasphemy laws is that they are often misused by mainstream Muslims to settle personal feuds or political issues between traditional Muslims and Ahmaddiya community. This has again and again led to various events all resulting in the death and destruction of the life, property and persons of the Ahmaddiya community. The Criminal Procedure code has ostracized the Ahmaddiya community to such an extent that any Muslim can go to a court or 'thana' and can register an F.I.R against any Ahmaddiya by claiming that such and such Ahmaddi was heard saying the Islamic greeting "Assalam o alaikum".

In the opinion of this report, the persecution and alienation of the deprived Ahmaddiya community cannot come to an end until and unless few measures are taken by the government which are as follows:

First of all, there should be an independent committee to monitor that reports/complaints being booked by police under 295-C are genuine or fabricated to settle personal vengeance? This would ensure free and fair implementation of blasphemy laws. The committee should monitor whether any person has actually committed any blasphemy against the Prophet (P.B.U.H) and Islam or not?

Secondly, although very difficult to even imagine but until and unless the government doesn't remove them from tag of "Non-Muslims" on Ahmadiis, it is hard to imagine any betterment in the perception of Mainstream Muslims regarding the Ahmadiya community.

Status of Christian Minority of Pakistan

According to the post-modern school of thought, an individual is mainly shaped by the dominant discourses in the society in which he or she lives. This correlation between an individual and the dominant discourse of a society has implications for understanding how the state defines citizenship. In Pakistan, the nature of citizenship is understood in the context of the fact that whether a person is a "Muslim" or a "non-Muslim." Anyone who does not fall under the former definition as discussed previously is considered a minority.

It is usually understood that when a state legally recognizes a minority it provides the member of that minority group with effective rights protection within that state. However, for Pakistan it has not been the case (Faruqi, 2011). For instance, the Pakistani Christians like many other non-Muslims, have fewer chances to move up the socio-economic ladder and they are usually kept out of higher positions both in the civil and armed forces – which feeds into a greater sense of inequality (Malik, 2002).

The minority–majority relationship in Pakistan can be looked at through two ways. First, the majority wants to assimilate the minorities on its own terms while on the contrary the minorities like to preserve their cultural, religious and ethnic identities (Malik, 2002). Also, historical legacy still remains significant as Muslim-Christian relationship is shaped by two narratives; one relates to perceptions of Christians in Islam and the other to the persistence of caste prejudices in Pakistan that have their origins in the caste structures of the pre-partition Indian subcontinent (Gregory, 2008). This inadvertently gives rise to a passive socio-religious conflict that can lead to the incitement of religious hatred. Also, there are allegations of collusion between law enforcement authorities and Muslim clerics to illegally expropriate land owned by religious minorities, lodging false cases of different nature against them etc.

The Constitution of the Islamic Republic of Pakistan upheld the rights and protection of the religious minorities. Article 22 (1) of the Part II, Chapter 1 of the constitution ensures 'special safeguards' as to educational institutions in respect of religion. Article 36 of the part II, Chapter 2 further states that the 'state shall safeguard the legitimate rights and interest of minorities including their due representation in the Federal and Provincial Services' whereas Article 40 of the part II, Chapter 2 highlights that 'the state shall endeavor to preserve and strengthen the relationship with the Muslim world as well as with the states of Asia, Africa and Latin America and shall also participate in the promotion of international peace'.

The highest offices of the land, as a matter of fact, have been constitutionally closed to the religious minorities despite all the constitutional safeguards that have been enumerated above (Malik, 2002). Constitutional protection aside the Criminal Law i.e. the Pakistan Penal Code (PPC) is seen as discriminatory in this regard specifically section 295A, B, C and 298-A (Faruqi, 2011). In case of the interplay between the Blasphemy laws and the Law of Evidence, consequences have been quite literally lethal for some

Christians. Many Christians have found themselves accused of blasphemy on the basis of nothing more than the say-so of one or more Muslim accusers, often with a personal grudge or objective in mind, have then found themselves promptly thrown into jail, often for months or years, where they are subject to violence from other inmates and to torture from police and prison staff (Gregory, 2008).

Aside from religious feuds (backed by the law or otherwise) and socio-cultural/economic deprivation, the problem of 'policy of appeasement' in favor of the rightist parties and factions has further marginalized these religious minorities. This has led to rise in cases of socio-psychological depression among these communities. Suicide, abject poverty, immensely unhygienic living conditions and a high rate of unemployment are all linked to official policy (Malik, 2002).

Parliament, executive and judiciary constitutes the basic pillars of any state; disconnect among any of them has graver practical implications. However, the gap between the legislature and the executive in particular is felt significantly especially in the developing nations. In fact the institutions in the developing nations are still in their transitory phases hence the melt-down makes some institutions more significant and powerful than others. The above cumulative evidence is instructive of the fact that in Pakistan the legislature-executive disconnect i.e. laws are made without weighing its practical implication, is stopping the way of effective legislation and various factors *inter alia* are involved i.e. political pressure, religious backlash/ religious riots, communal violence etc. which makes this issue more complex and multi-faceted.

Status of Hindu Minority in Pakistan

Hindus in Pakistan makes the largest non-Muslim religious minority and constitutes almost 1.8 percent of the country's total population (Population Census Organization, 1998). Majority of the Hindu population is concentrated in Pakistan's southern province of Sindh and in the south-western province of Balochistan (US Commission on International Religious Freedom, 2012).

The anti-Hindu sentiment and violence in Pakistan is not a new thing but actually dates back to the partition of the Indian Sub-continent in 1947. Hindus in Pakistan are routinely affected by communal incidents in India and violent developments on the Kashmir conflict between the two nations. For example, after the demolition of Babri Masjid by Hindu extremists in

India contributed to the rise of attacks on Hindus in Pakistan (Malik, 2002).

Acts of violence against religious minorities are reportedly on the rise and hate speech against this particular community is reported to be tolerated with impunity (Human Rights Watch, *World Report 2012*). In Balochistan and Sindh provinces, for example, it is reported that Hindus from the Brahmin and higher castes are increasingly at risk of violence and abduction for ransom, and the authorities are allegedly unable or unwilling to provide effective protection (Human Rights Commission of Pakistan, 2011).

Due to security threats about 150 Hindu families have migrated to India in 2011. Their lives, property and temples have also come under attack or been subject to unlawful expropriation by the local Muslim community. The authorities have been unsuccessful in taking adequate measures to protect this community from acts of violence and to bring the perpetrators of law to justice. Moreover, the blasphemy laws have been used against the religious and sectarian minorities. The allegations on basis of blasphemy are often motivated by personal vendettas and have often resulted in the lengthy detention of, and occasional violence against Hindus (UNHCR, 2012).

Hindu women in particular have been subject to sexual and gender based violence (US Department of State, 2011). Women and young girls, particularly in Sindh, are reportedly subject to abductions for the purposes of forced conversion at the hands of Muslim. Such abductions are often accompanied by sexual violence and may result in the forced marriage of the victim to her abductor (US Commission on International Religious Freedom, 2012). Until recently, Pakistan didn't have any law to protect the Hindu women from the pretext of forced conversions using marriage as a ruse. The Parliament, however, has passed the Hindu Marriage Act recently which is being considered as a ray of hope in resolving this particular issue.

Like all other religious minorities, Hindus are also subject to discrimination in admission to higher education institutions, have had difficulty in getting their NIC's issued and have been discriminated in other areas of socio-political life. It has also been reported by different international and national sources that public school textbooks include some derogatory remarks against minority religious groups, particularly Hindus. Religious intolerance, which is the root cause of acts of violence and discrimination against religious minorities, is still widespread in our country's education system (UNHCR, 2010).

Conclusion

The policy of Islamization in 1980's, the subsequent rise of Taliban insurgency and the patronage of extremists groups by different political and religious groups in Pakistan have contributed to the intolerance and acts of violence against the religious and sectarian minorities of Pakistan.

The vague terminology of the current legislation has in fact allowed for the misuse of Sections 295-298 PPC, and has resulted in the persecution of minorities and the poor by providing the dishonest complainant with a mechanism for settling personal vendettas through the flawed system of justice. The law which is designed to protect people has actually become a tool for promoting intolerance. Although a majority of those charged under this law are Muslims, yet the law has made the non-Muslims even more vulnerable. In addition to this, the manner in which the flawed laws are propagated by the religious groups in Pakistan has resulted in vigilantism and mob violence. The state has consistently failed to intervene and protect its people against violence by maliciously motivated elements and the certainty of impunity has encouraged them to commit lawlessness.

Insertion of section 298A into the PPC during the process of Islamization is considered as a threat for the religious and sectarian minorities in Pakistan. Although the Blasphemy Laws apply to all Pakistanis alike, whether Muslims or Non-Muslims, however the religious minorities are more prone when it comes to the misuse of this law. According to various national and international human rights organizations article 298B and 298C of PPC, coupled with the Blasphemy laws, has further institutionalized the marginalization of the Ahmedia Community in Pakistan. The abstruse legislation and the lack of procedural safeguards, these laws are open to widespread abuse and have reportedly been used to harass and target religious minorities, as well as to settle personal scores or carry out personal vendettas.

After extensive literature review, the committee members have unanimously agreed upon few essential measures that the state authorities need to take in order to strengthen Pakistan from within. The minorities have very limited representation in the Parliament so there is a dire need to increase the reserved seats for the religious minorities. Moreover, the Parliament must have representation of all the religious minorities including Ahmedis, Christians, Hindus, Sikhs, Parsis etc. and each shall be allotted seats according to their population ratio. The quota for religious minorities in civil and military services of Pakistan shall be fixed and/or increased. The system of separate electorate should also be re-instated in order to secure fair representation for the minorities.

Secondly, at the social front, the state should take measures to revise the curriculum and to make sure that is free of hate speech and intolerance towards religious minorities and reflects the true spirit of Islam.

Thirdly, the state should take all necessary measures to make sure that it abides by the international treaties that Pakistan has ratified and also make serious efforts to implement the fundamental rights in letter and spirit to safeguard the status of minorities.

The composition of our criminal justice system includes Police, Prosecution and Courts among others. A criminal case is first registered as an FIR with the Police; the Prosecution carries out investigation upon it, the Courts then check whether the investigation carried-out was impartial and concerns of both the aggrieved parties are addressed adequately. Legal and executive/administrative lapse happens, usually, at the first two stages i.e. the Investigation of Police and the duty of the Prosecution to determine the impartiality of that investigation. There's no check whatsoever on either the former or the later which makes it difficult for the Courts to determine whether or not there were some executive shortcomings in the Investigation. To improve the system, the investigation carried out by police shall be supervised by a judicial officer.

Section 298B and 298C of the PPC shall be amended and made objective in nature along with ensuring an independent and accessible judicial system that can dispense justice timely.

Lastly and most importantly, of Pakistan must make an amendment to make article 36 'Protection of Minorities' a part of Fundamental Rights. Article 36 is presently part of the 'Principles of Policy' which states that the principles under this chapter shall be regarded as being subject to the 'availability of resources'. The Constitution of Pakistan does not include as to what pertains to the availability of resources and do not provide any kind of timeline as by when these principles will be implemented effectively by the state. So article 36 which is meant to secure the status of religious minorities is a part of non-operational part of the constitution. In fact it renders all other fundamental rights of the minorities useless by linking the implementation of article 36 with availability of resources. Until and unless the religious minorities are given proper constitutional safeguards, we cannot expect Pakistan to be a pluralist society.

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