



## Theoretical Perspectives on the Constitutional Development of Minority Rights in Pakistan (2008–2024): A Multidimensional Analysis through Liberal Pluralism, Critical Race Theory, Postcolonial Theory, and Legal Pluralism

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### ABSTRACT

Since its formation in 1947, Pakistan has struggled to safeguard the interests of its religious minorities. The constitutional framework of the country, based on Islamic principles, has also confronted the majority Islamic nation and the minority groups. The constitutional history of the minority in Pakistan is a mixed struggle of rights, representation, and social issues. Although the Constitution of Pakistan promises the rights of religious minorities, their political representation and ensuring their implementation are still low. The paper is a review of constitutional amendments concerning minorities in Pakistan from 2008 to 2024. It looks into the legal reforms, constitutional developments, court activism, and the socio-political issue of influencing minority rights. This paper conducts a multifaceted review on how the constitutional law in Pakistan has developed minority rights within a specified era, using the analytical tools of Liberal Pluralism, Critical Race Theory, Postcolonial Theory and Legal Pluralism. It explores how constitutional amendments and court action, as well as policy initiatives, have tried to safeguard minority populations, whilst noting the structural/societal obstacles that stand in the way of effective practice. The conclusion of the study is that minority rights can be really safeguarded not only through transparent legislation but also through a long-running cultural and political pluralism dedication. The research shows that constitutional protections are meaningless unless institutions maintain their independence, comprehensive policy changes are adopted, and discrimination against diversity is accepted.



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## Introduction

Pakistan was created as a country in 1947 and since then it has been a heterogeneous country and has many religious, ethical, and lingual groups. This diversity has, however, been known as a source and cause of tension since the state has not been able to strike a balance between its Islamic identity and the rights and aspirations of the minorities that are both religious and ethnic. Even though the constitution of the country attempts to promote equality and non-

discrimination provisions, the lead in the provisions made by Islamic schools has domineered often and thus created a systemic exclusion of the minority groups. The minorities, both religious and ethnic (Christians, Hindus, Sikhs, Ahmadis, Baloch, Sindhis, Pashtuns, etc.), have long struggled to have their rights honored and be equally represented in a state that clearly favors its Muslim majority (Ispahani, 2017). The period of 2008 to 2024 in the history of Pakistan has been critical in the context of the constitutional history of Pakistan, as it has introduced overwhelming legal changes and judicial activism, along with societal and politico-legal changes that have supported and hampered minority rights in Pakistani society.

In 2010, the 18th Amendment of the Pakistani Constitution was frequently criticized as an outstanding occasion in the history of the country, as it decentralized power in the direction of provinces and contained sections of protection of minorities (Khan, 2015). This amendment was seen as an endeavor to address the injustices that have been exercised against the minority communities by passing an act of empowering the local governments with regard to addressing the needs of the communities better. However, these provisions have not been exercised in a non-discriminative manner, and the minorities continue to be discriminated against, violated, and marginalized. One such case is the presence of blasphemy laws, which remains a significant barrier to the realization of equality and freedom of religion and belief in the constitution, and the laws are exercised disproportionately against religious minorities (Amnesty International, 2020). All these laws have been invoked to perpetrate acts of violence and persecution against minority groups, establishing a historical pattern of fear and insecurity.

On the same note, the issue of forced conversions of minority women and girls, especially those belonging to the Hindu and Christian communities, showcases the disconnect between constitutional expectations and actual practices (HRCF, 2021). Such cases are commonly paired with claims of force and brutality, but it is quite common that the perpetrators go unpunished in any way due to the biases within the system and lack of political desire. This indicates the continued prevalence of the situation where minority communities lack the necessary protection of the law in the society where religious and cultural rules tend to take a lead over the law and constitution.

Judicial institutions have contributed in both ways in the context. On the one hand, the significant precedents have been introduced in the context of inclusivity and equality by landmark decisions like the Supreme Court verdict regarding minority right protection in 2014 and the recognition of the rights of transgender individuals in 2018 (Yaqoob, 2019). Such decisions have been hailed to be a sign of progress in the fight for minority rights, proving the possible use of the judiciary in checking the acts of discrimination and injustice. Conversely, the occasional application of Islamic principles by the judiciary has strengthened systemic discrimination against the minorities. As an illustration, the interpretation of the Islamic law by the Federal Shariat Court is frequently in conflict with the constitutional provisions on non-discrimination, producing a legal paradox that jeopardizes minority rights (Lau, 2016). This duality corresponds to the tension of the Pakistani legal system as a whole, in which the mutual relations between the secular and religious laws are reflected so far in the experiences of the minority groups.

The situation in Pakistan is aggravated by the socio-political dynamics due to which the minority rights are left unprotected. Political parties, although in some instances they champion the cause of minorities, tend to favor the majority interests in order to keep electorate support. Religious extremism and the power of the conservative factions have

contributed to the further silencing of the minority voices, and even enacting significant reforms will be challenging in such situations (Rumi, 2020). In this regard, minority advocacy groups and civil society organizations have been instrumental in awareness creation and advocacy. Nevertheless, it is a very common practice that these groups are threatened, intimidated, and even subjected to violence, which restricts their efficiency and emphasizes the unstable status of minority rights in Pakistan (Minority Rights Group International, 2022).

This paper aims at presenting an overview of the current standing, the current impediments, as well as lapses in the protection of the minority rights in Pakistan through the synergy of constitutional documents, judicial intervention, and the socio-political climate. It tries to explain how the ongoing advocacy and reform campaign is needed to make the constitutional protection an actual change to the lives of the minorities.

## **Literature Review**

An interesting area of academic and policy concern has been on the constitutional evolution of minority rights in Pakistan against the backdrop of a complicated socio-political and even religious environment in Pakistan. The literature review summarizes the candidates in the research problem and looks at the period between 2008 and 2024. It focuses on legal, political, and social aspects of minority rights and important developments, gaps, and challenges in literature. The review is organized according to four themes that include (1) constitutional amendments and legal reforms, (2) Judicial activism and minority rights, (3) Socio-political challenges, and (4) The role of civil society and international actors. All the themes are covered in depth, and the critical studies and theories to support them are cited.

Constitutional progress toward minorities in Pakistan between the years 2008 and 2024 can be discussed as a complicated process of the interactions between legal systems, socio-political processes, and historical backgrounds. In Pakistan a constitution adopted in 1973 has special provisions that should guarantee rights of religious minorities and state the idea of equal citizenship regardless of a religious background (Patras, 2024; Parveen, 2023). Although these constitutional provisions afford the rights of the minorities, the reality of the actual practice of these rights has been marred with complications such as societal discrimination and indifference among the governments on the enforcement of these rights (Bakhsh, 2020; Rehman, 2021).

The 18th amendment to the constitution in 2010 was a landmark move, as it is a decentralization of power and became much friendlier to political participation among different groups of people, such as religious minorities (Shah, 2012). This amendment was to revert to what the Constitution originally intended: a more inclusive form of governance. The success of this amendment in the establishment of improved positions of the minorities, though, can be argued. Although it is a theoretical special strength of the local governance and representation, minorities have not received real advantages since the still-present socio-political barriers do not allow individuals to take real advantage of them, and the state does not display the necessary commitment to the protection of minority rights in its actions (Bakhsh, 2020).

In addition to this, the relative position of religious minorities in Pakistan has also been historically marginalized through the lens of socio-politics in Pakistan, under which Pakistan positions religious minorities within a larger paradigm of national identity that tends to hold Islamic values above pluralism (Patras, 2024; Parveen, 2023). Specifically, the Christian

population has had to deal with such problems as social marginalization and aggression, and these are further escalated by the absence of legal protection (Mehfooz, 2021; Schwaiger, 2021). It has been reported that irrespective of the fact that the Constitution provides spiritual freedom, in most cases, the daily experience of most of the minorities implies discrimination by the system and the fear of persecution (Bakhsh, 2020; Shah, 2021).

The larger institutional context of the constitution should also be viewed against the backdrop of the identity crisis of the state in the early years of post-independence Pakistan. The state was struggling against colliding visions: a secular-demographic paradigm with colonial origins of the legal system and a religious-nationalist vision on the part of Islamic parties and a part of the ruling elite (Klaus Klug, 2000).

Existing relationships between the state and religious minorities have been furthered by externalities and domestic politics, and they have traditionally shaped the pursuance of the political rhetoric on minority rights (Aziz, 2024). The government has always been imbalanced over the problems of minorities, under the influence of populism combined with extremist ideas, which led to an extremely critical survival of these groups (Bakhsh, 2020; Shah, 2021).

The literature also discusses the conflict between the secular and religious basic philosophies in the Pakistani constitution. The Objectives Resolution (1949), which establishes Islam as the state religion, leads to a tiered citizenship where the Muslims are favored over non-Muslims (Lau, 2016). Such conflict has been especially pronounced in situations involving the use of blasphemy laws, enforced conversions, and rights of religious minorities, including where religious laws frequently outweigh the constitutional protections (HRCF, 2021). However, academicians have claimed that nothing can be done to advance the rights of the minorities in Pakistan unless the nation adheres to secularism and disconnection between religion and state affairs (Kymlicka, 1995).

The decision of the Supreme Court of 2014 relating to the protection of the rights of the minorities stressed the necessity of equal treatment and non-discrimination. The judgement ordered the government to implement practical measures to safeguard the minority groups in the country, such as having a task force to serve their complaints. Nonetheless, societal opposition and political will have been counterproductive in the context of implementing this ruling (Yaqoob, 2019). The 2018 case of the rights of the transgender was a milestone case where the right of the transgender to identify themselves and to have access to education, employment, and healthcare was put into light. This decision was regarded as a first vital step to inclusivity, yet it is not implemented without problems because of the stigma and unawareness in society (HRCF, 2021). Nevertheless, limitations of judicial activism in Pakistan are also pointed out in the literature. Decisions by the judiciary to apply Islamic teachings in some cases have entrenched an institutional discrimination against the minorities. As an illustration, interpretation of the Islamic law provided at the instance of the Federal Shariat Court frequently contradicts the constitutional promises of non-discrimination, a paradox that afflicts the rights of a minority (Lau, 2016). Moreover, the ruling of the court is far too frequently swept aside by the absence of enforcement systems and by the conservative section of the society (Rumi, 2020).

The social politics environment of Pakistan is a big challenge to safeguard the minorities' rights. Political parties, although sometimes championing the cause of the minorities, tend to focus on the interests of the majority so as to ensure their support at the polls. Minority voices

have also been further marginalized in a wave of religious extremism and the impact of conservative groups, and it has become hard to find a sense of meaningful reform (Rumi, 2020). As one example, the forced conversion of minority women and girls, and especially women and girls belonging to the Hindu and Christian minority groups, demonstrates the difference between the promises enshrined in the constitution and lived experiences (HRCP, 2021). This has been given some representation with the introduction of reserved seats for the minorities in provincial and national assemblies. Nevertheless, they are not effective because of systemic discrimination and lack of opportunities in mainstream politics to express the voice of minorities (Khan, 2015). Religious extremism and the expression of conservative forces have also contributed to closing the free expression of the voices of minority groups, leaving no way to amend the situation with efficiency. The events of 2013, when a church in Peshawar was attacked, and 2021, when the manager of a Sri Lankan factory was lynched in Sialkot, are graphic illustrations of the risk a minority is subjected to (HRCP, 2021).

The role of identity politics in the formation of the constitutional developments has also been brought out in the literature. Thereof, the foundational ideas of a shared Islamic identity have also frequently been utilized to repress and downgrade ethno-religious variety, establishing a related citizenship hierarchy, with an advantage to Muslims versus non-Muslims (Ispahani, 2017). This holds strong implication for the protection of minority rights in Pakistan because the minority groups are generally denied political access and economic opportunities.

Minority advocacy groups and organizations in civil society have been very instrumental in building awareness and increasing pressure. Such organizations have played a significant role in recording human rights violations, legal system changes, aiding minorities, and effectively promoting the cause of minority groups (Minority Rights Group International, 2022). They are, however, vulnerable to threats, intimidation, and violence, and their efficiency is constrained and demonstrates the insecure state of minority rights in Pakistan.

The 18th Constitutional Amendment in Pakistan in 2010 is especially popularly considered as a historical turnaround into the federal system in the country. The amendment tried to solve historical inequalities, expand inclusiveness, and featured the support of minorities and their rights protection (Khan, 2015). Researchers have observed that the amendment made it compulsory to build a National Commission of Minorities that was assigned the mandate of protecting the rights of minorities and acting to redress grievances (Ispahani, 2017). But the history of enforcement of these provisions has been spotty, and the minorities remain systematically disadvantaged through discrimination and marginalization. Indicatively, the blasphemy laws (which overwhelmingly negatively affect the rights of minorities of faith) are the key hindrance to the achievement of the constitutional promises of equality and free exercise of religion (Amnesty International, 2020).

Although the topic of minority rights in Pakistan has extensive literature, there are few gaps. To begin with, the problem with the minority groups, including those like Ahmadis and Sikhs, is not widely studied, since different minorities have some special issues related to their religion and ethnicity. Second, the experience of applying the minority rights is not studied in the region, especially in rural settings where discrimination and violence are frequently more evident. Third, the presence of international actors in terms of lobbying minority rights in Pakistan has not been properly explored. The future study needs to fill these gaps and discuss new methods of safeguarding the rights of minorities.

Despite guarantees set forth in the Constitution of Pakistan in respect of the basic rights of state citizens, the success of the safeguards provided by the constitutional law has been distorted by the emergence of extremist organizations aiming to attack minorities and promote violence and discrimination (Mirjat, 2023).

The drift towards authoritarianism exacerbated this situation in Pakistan, particularly with the consolidation of power that has been taking place on the part of the ruling coalition at the cost of minority rights and representation. The state of poor electoral monitoring and weaponization of state institutions has had the effect of creating an instance in which minority voices are becoming suppressed (Kureshi, 2024).

Conversely, other researchers believe that despite the issues enumerated above, the input of minorities in the development of Pakistan and their strength to counter the dilution of culture indicate a future of desirable change in the framework of the Constitution (Wilson, 2022). Such a viewpoint implies that the directions of advocacy and reform may further increase the safety and voicing of minorities in the future.

To eliminate these issues, comprehensive legal changes have to be made a priority, as well as wider changes in society to accept and tolerate each other. Pakistan, like many other countries, has turned the well-being of the rights of the religious minority into legal issues; they have become very much a part of the identity of the country, its cohesion, and its international image. Building Pakistan would involve prompting religious leaders, representatives of the religious minorities, and the media to enlighten the people on their rights and to facilitate harmonious, tolerant, and unitary relationships among religious groups (Mehndi, 2024).

Summing up, the constitutional system in Pakistan, although in theory it allows the rights of minorities, the actual real world situation is at odds. The social-political tactics and historical marginalization, on the one hand, and the recent constitutional amendments, on the other, make up a multi-dimensional situation within which the dreams of equality and justice for minorities are still not achieved. The current debate over the rights of minorities in Pakistan requires a sharp analysis of not only the legal framework that exists but also the socio-political desire to ensure the rights actually take ground.

## **Research Design**

The research is qualitative, having a doctrinal approach to legal research design. The study aims at undertaking the examination of constitutional amendments, judicial interpretations, legislative enactments, and policy changes concerning the rights of the minorities in Pakistan between 2008 and 2024. It pursues a descriptive and analytical approach in assessing the developments of minority rights in the constitutional context. It also uses a historical approach to follow the evolution of minority rights and the comparative approach to the analysis of the Pakistani legal system in comparison with the international rules of human rights.

## **Theoretical framework**

The paper is a review of constitutional amendments about minorities in Pakistan during 2008-2024 with some literature consideration and implementation of the theories of Liberal Pluralism, CRT, Postcolonial Theory, and Legal Pluralism. Liberal Pluralism highlights the

conflict between the Islamic constitution of Pakistan and commitment to equal citizenship; Critical Race Theory brings out the manner in which the law tends to be applied by reinforcing systemic hierarchies and cultural marginalization; Postcolonial Theory lays out elements of minority rights and their roots in the colonial rule, the formation of state identities, and majoritarian nationalism; and Legal Pluralism reveals the complexities of parallel systems of religious laws, customary laws, and statutory laws.

## **Sources of Data**

### **Primary Sources**

The main primary documents are the Constitution of Pakistan (1973), its amendments of the 2008-2024 period, and the legal framework of the rights of minorities as well. Practical wisdom can also be drawn from the judgments made by the Supreme Court and High Court, particularly those that have interpreted the constitutional safeguards of the minority groups.

Debates and testimony in the National Assembly and Senate, as well as in the parliament, indicate issues of legislation and politics. Practical information regarding the implementation of the minority as well as of the laws related to the minority is available through government policies, official alerts, and Ministry of Law and Justice reports. Also, the official reports and press releases of legislators provide evidence on how the state stands against minority matters.

### **Secondary Sources**

Secondary sources cover books and journal articles on the interpretation and analysis of constitutional law and minority rights in Pakistan. The conditions of human rights and legal loopholes are reported by organizations such as the HRCP, Amnesty International, and institutions of the UN. News articles, policy papers, and expert opinion are other sources of value, as they are able to capture what is going on. Data-driven analysis is obtained through university-based studies and research conducted by think tanks.

## **Research Objectives**

1. To consider the constitutional provisions concerning rights of minorities in Pakistan, especially within Articles 20, 25, 27 and 36 of the Pakistani Constitution.
2. To examine to which degree these provisions of Pakistan are being implemented in the Pakistani socio-political and legal fields.
3. To determine issues that minorities go through despite their protection by the constitution.
4. To make practical suggestions on how to reinforce the constitutional framework and its implementation by enforcing protection of minorities.

## **Scope, Limitations, and Delimitations**

The present paper examines the history of constitutional progression of minority rights in Pakistan between 2008 and 2024, when substantive constitutional reforms, case-law interventions, and policy-based action rapidly took place. It takes a multidimensional approach to analysis upon the foundations of Liberal Pluralism, Critical Race Theory, Postcolonial Theory, and Legal Pluralism in discussing the interaction of constitutional provisions, institutional mechanisms, and reality in the socio-political aspects. The area of the

research includes reviewing the constitutional documents, parliamentary statements, and court judgments that have acquired significance; such analysis also includes the evaluation of governmental policies and commissions, including the National Commission for Minorities, as well as the analysis of symbolic case studies, e.g., the case of Asia Bibi's acquittal and blasphemy law controversies. The use of secondary sources, such as legislative archives, judicial records, scholarly writings, and reputable media reports, has been deployed as primary sources in order to compose a critical historical account of the disparity between formal guarantees and realities on the ground.

The research is limited by decisions and inescapable limits. It is set in the period after the 18th Amendment and only mentions an earlier history through context. Its subject matter pertains only to constitutional and legal aspects as opposed to more sociocultural processes. The choice of case studies is not determined by statistical representativeness but illustrative quality, and the review of documents but not the primary surveys carried out in the field is put forward as analysis. The use of four theoretical perspectives, which facilitates depth in the analysis, implies a rejection of the use of other theories, which may include feminist legal theory or human rights theory. Therefore, insights gained by the research are localized in Pakistan and must be viewed in the Pakistani context in terms of the constitutional and political situation.

### **Ethical Considerations**

This study is mainly reliant on secondary data, and therefore ethical practices are upheld by citing and acknowledging all sources used (legal texts, judicial decisions, and scholarly literature). An attempt is made to be objective by seeking the views of a variety of people and critically recognizing biases in the original content. Legal and policy texts are read accurately so as not to misrepresent them and hence maintain academic integrity and scholarly responsibility.

## **Historical Background of Constitutional Developments on Minority Rights in Pakistan**

### **Foundational Period (1947–1956)**

The issue of minority rights was fundamental to the emergence of the new state when Pakistan was established in 1947. In his address given on August 11, 1947, Muhammad Ali Jinnah guaranteed religious liberation and religious equality of every citizen with a claim to affirm, "You are free... to go to your temples, or to any other place of worship." (Jinnah, 1947). It was a liberal and inclusive vision that minority leaders embraced and that was viewed as the basis of the democratic spirit in Pakistan.

But this vision was upset by the realities involved in post-Partition violence. Rampant communal riots and population exchange between India and Pakistan heightened religious identity, and this caused the minority non-Muslims to be marginalized. The mechanism of safeguarding the minority rights in such an unstable environment did not exist in the modified Government of India Act 1935, which was being used by Pakistan as a temporary constitution (GOP, 1947).

It was in 1949 that there was a significant ideological realignment in which the Objectives Resolution was adopted by the Constituent Assembly. It proclaimed that sovereignty is the



right of Allah, and Muslims would be empowered to live according to Islamic doctrine. Although it had a provision that assured minorities the freedom to worship, it was strongly opposed by the minority representatives because they claimed it would institutionalize discrimination (Constituent Assembly Debates, 1949). Still, this passed and became the ideological preamble to all subsequent constitutions, becoming Article 2-A of the 1973 Constitution.

East Pakistan Hindus were subjected in 1950 to communal violence, causing mass migration to India. The result of this was the Nehru-Liaquat Pact that would seek to protect the minorities in both Pakistan and India. Although the pact had an emphasis on its symbolism, enforcement was still weak (Hasan, 2000).

Another dark moment came with the 1953 anti-Ahmadiyya riots in Lahore. Religious parties insisted that the Ahmadis should be declared as non-Muslims and that Foreign Minister Zafarullah Khan was to be expelled. The government declared martial law in Lahore and made a judicial inquiry, which led to the Munir Report. The report noted that religious leaders were unable to give a unilateral definition of a Muslim, leading to the report that a theocratic state would be ineffective and would lead to bloodshed (Munir & Kayani, 1954). This report became a warning report against the bill of religion.

In this same time, constitutional committees were still in the process of establishing a permanent legal framework. Recommendations made by the Basic Principles Committee in 1953 amended the rules of Islamic rule and also provided formal rights to minorities. Nonetheless, there was a proposal to reserve the top state positions for Muslims, and this drew serious concerns from the minority citizens (GOP, 1953).

On March 23rd, Pakistan was declared an Islamic Republic, and the Constitution of 1956 was held at last. It ensured freedom of religion (Article 18), equality before the law (Article 15), and the right to have religious institutions existent (Article 28). Nevertheless, it also introduced segregated voting among the minorities and excluded non-Muslims as eligible to become president (Constitution of Pakistan, 1956). In such provisions, there was a duality institutionalized: there were constitutional rights, but political prohibition was established.

To sum it up, the age of 1947-1956 has been a shift from the types of pluralist democracy vision into a constitutional representation of religion. Although legal protections were given to the minorities, the institutionalization of Islamic ideology in the form of constitutional arrangements established the framework of discrimination set upon the minority in the future.

### **The Constitution of 1956 & Emergence of an Islamic Republic (1956-1962)**

The introduction of the Constitution of Pakistan on March 23, 1956 led to the conversion of Pakistan into an Islamic republic. Although it established democratic elements of universal franchise and bill of rights, it also made religious identity institutionalized to the extent that it locked out minorities from full participation as citizens. The introduction of Article 2, in which Islam was declared as the state religion, introduced a religious hierarchy that made non-Muslim citizens marginal and set the cornerstone on future Islamization (Lau, 2006; Binder, 1965).

Minorities were usually discriminated against on both a legal and social plane regardless of the prescriptions of Articles 10 and 20 that ensured religious freedom and the right to control

religious institutions. According to Newberg (1995), these rights were unevenly enforced, especially at times when there was religious strife. The most evident example as outlined in the constitution was in article 198, where the non-Muslims were excluded from taking office as president and prime minister, an offense to the concept of equal participation in politics (Binder, 1965).

It had some good aspects, such as Article 27, which promised non-discrimination in the provision of public services. But such measures were criticized in action by the supremacy of the identity politics of religion. An example is how a non-existence of judicial activism and a state-supported Islamic ideology granted a free rein to the state-owned institutions to exclude non-Muslim involvement, especially in the civil service and the judiciary, as shown by Dr. Rubya Mehdi (2002).

The minority inclusion was being used to justify the use of separate electorates, which instead left minorities literally isolated politically. According to (Ispahani, 2015; Yusuf, 2012), such a system excluded minority voices and conscripted them as outsiders. On the same note, Article 12 provided cultural safeguards, yet, as demonstrated by Rahman (2012), the most centralized policies curbed the minority languages and cultures and encouraged a monolithic national identity.

The constitution was liberal in rhetoric and, at the same time, constructed in such a way that it acknowledged predominant Muslim identity rather than citizenship inclusivity. As expressed by researchers such as Mehdi (2002) and HRCP reports, scholars attributed the existence of these contradictions to a context that had allowed minority rights to be enjoyed only on paper. The constitution, therefore, set the foundation of the legal culture in Pakistan, where the democratic rights were put in second place following religious exclusivity.

The larger institutional context of the constitution should also be viewed against the backdrop of the identity crisis of the state in the early years of post-independence Pakistan. The state was struggling against colliding visions: a secular-demographic paradigm with colonial origins of the legal system and a religious-nationalist vision on the part of Islamic parties and a part of the ruling elite. According to Klaus Klug (2000), the 1956 Constitution attempted to amalgamate these visions without succeeding in legally protecting the minorities because of the dominance of the latter.

### **The Constitution of 1962 & Bureaucratic Centralization in Pakistan (1962-1973)**

The 1962 Constitution of Pakistan, which was promulgated during the military rule of President Ayub Khan, was the first break to the parliamentary system of democracy and was the further entrenchment of the inhibitory nature of the representational structure that related to the minority rights. In contrast to the older one, the 1962 Constitution implemented the presidential system of government and centralized power in the hands of the executive. It still retains some fundamental rights, but the entire structure of the constitution was a centralization of power and the decline of the part of minority protection as a part of an ongoing religiously biased constitutional development process initiated in 1956.

The most notable example of symbolic/legal continuation was the maintenance of the state religion, which was Islam, as stated in Article 1. Although the original 1956 Constitution did not contain the preamble of the current one citing the Objectives Resolution, it was later added in through Presidential Order No. 5 of 1963, thereby reinstating the religious framing

(Lau, 2006). This decision affirmed the Islamic nature of the state, hence continuing the gap in ideology between Muslims and non-Muslims of the state. According to Martin Lau (2006), this reinsertion was a clear indication that even in an alleged modernist regime, the state was not willing to divorce religion and the government.

Despite the provisions of fundamental rights, which were identified in Articles 9 to 20 of the 1962 Constitution, the freedom of religion, the freedom of speech, and equality before the law, the application of the rights brought limited results. It did not provide an independent judiciary in the Constitution, and it had numerous restrictions with regard to judicial review. Paula Newberg (1995) notes that under Ayub, the executive overshadowed the judiciary, which had no effect in protecting the minorities through the courts. This resulted in the community (the Ahmadi community especially) facing growing pressure and what can only be described as agitation of the masses and state inactivity that culminated into the events of the 1974 declaration of Bhutto.

Despite the modernization and secularization of the Ayub period (1958-1969) that placed its focus on the modernization of public life, minorities were underrepresented in national decision-making organs and civil service. State centralization and nationalization policies tended to enhance dissolution of the minority-operated educational, healthcare, and charitable organizations, particularly in the cases of Christian and Hindu organizations (Malik, 2002).

The constitutions of Pakistan between 1962 and 1973 granted formal rights with a legal foundation to the minorities of religious freedom, equality, and protection of their culture. But those rights were in practice invalidated by important provisions in the constitution, especially those provisions that made Islam the state religion and limited high offices to Muslims with separate electorates. This action entrenched in the law a second-class status of religious minorities and set up a precedent toward even more exclusionary legislation in the later Zia regime.

### **The 1973 Constitution: Reinstitutionalizing Rights (1973-1977)**

The Constitution of Pakistan of 1973 was a restoration of parliamentary democracy and contained explicit guarantees on rights of minorities. Yet, at the same time, it became enshrined into the state system with Islamic ideology. Article 2 of the constitution gave explicit status to Islam as the state religion, and Articles 227-231 meant that all legislation would be in accord with the injunctions of Islam, resulting in gradual legal Islamization (Lau, 2006).

Nonetheless, the constitution also had progressive clauses concerning the minority rights. Article 20 provided every citizen with the right to preach, practice, and propagates his or her religion, whereas Article 21 rescued people from taxation, which could be used to encourage religions to which they did not belong. Article 22 outlawed compulsory teaching of religion in educational facilities to those who belonged to different religions. Article 25 secured the right of equality before law, whereas Article 36 declared minority rights to be guarded. These articles proposed the inclusive model, but they were compromised by the socio-political reality (Newberg, 1995; Rahman, 2012).

One of the biggest constitutional changes for minorities came in the year 1974 when the Second Amendment was passed. An additional clause, that is, Article 260(3)(b), was added to declare Ahmadis as non-Muslims. This was a critical point since it was the first exclusion of

a religious group in the state constitutionally as part of the Muslim identity that followed after (Ispahani, 2015). This amendment was in the form of democratic language, yet it was driven by increasing religious populism and political accommodation.

Article 106 (3) reserved 10 seats in the provincial assemblies for the non-Muslim minorities, and the provision of the minority representation in the National Assembly was guaranteed by Article 51 (4). Nonetheless, these seats were taken up through separate electorates, which isolated the minorities in pure mainstream politics and placed them into sectarian silos (Yusuf, 2012). This model of voting undermined their politics and entrenched discrimination.

Moreover, the Council of Islamic Ideology, instituted through Article 228 and granted its authority in Articles 229-231, gained influence in examining laws to make certain that they were Islamically compliant. Despite being advisory, it strengthened the idea of a state that was slowly orienting itself to conservative religious interpretations and reduced the space on the legislative agenda to protect the minorities (Mehdi, 2002).

Although the constitution was rhetorically tolerant to religious beliefs, the minorities were progressively shunned by the elements of law, politics, and society from 1973 to 1977. The incompatibility of the democratic spirit with religious exclusivism was further increased, leading to a greater Islamization of the country involving the military rule of General Zia.

The political compromise that was made by Zulfikar Ali Bhutto with religious parties, including Jamaat-e-Islami, permitted the clerical parties to exert even more pressure to Islamize. This coalition proved vital to Bhutto in getting right to power, but it also emboldened the religious conservatives, which curtailed the civic space of minorities and those in opposition. According to Rubya Mehdi (2002), the seeds of future discriminatory laws, particularly under the Zia regime, had been sown under the regime of Bhutto when the state-sponsored exclusion of religions was normalized.

To sum up, the era between 1973-1977 was the one in which Pakistan consolidated its constitutional identity into majority Islam, and religious minorities were progressively marginalized in law and in social life. The Second Amendment was bringing a monumental change in the state policy: the policy, realizing the religious diversity, now proceeded to legislate its religious borders. Although the Bhutto administration did not eradicate the institutions of democracy, the use of religious legitimation resulted in the processes of the constitution, which had a negative effect on equal citizenship and pluralism. This era established a legal and ideological buildup towards the Islamization project of the eighties, in which minority rights would face even more attacks.

### **Islamization & Institutional Marginalization of Minorities (1977–1988)**

General Muhammad Zia-ul-Haq as subsequent of the military coup of 1977, in his turn suspended the democratic process and implemented a policy of Islamization that had far-reaching impact on the legal, constitutional, and socio-political systems in Pakistan. One may argue that in actuality, the 1973 Constitution was still in effect but as the regime of Zia found in 1973 it developed sweeping amendments and ordinances that altered the dynamic between the state and religion and, thus those that were citizens of non-Muslim faith.

The main ideological change that took place in Zia was the reinvention of the state as a theocratic polity after it was made into a pluralistic Islamic republic. Zia ensured that Sharia

rules and regulations became institutionalized by way of presidential orders, such as the Prohibition (Enforcement of Hudood) Order, 1979, and the Qanun-e-Shahadat Order, 1984. Even though these legislations did not directly target minorities, they developed a legal framework that unfairly discriminated against the minorities, particularly with regard to the categories of evidence, punishments for criminal acts, and judicial interpretation (Mehdi, 2002; Lau, 2006).

The making of the anti-blasphemy laws, and specifically, Sections 295-B and 295-C of the Pakistan Penal Code (PPC) were among some of the most prominent law reforms. Even though Section 295-C, providing the death penalty or a life sentence if an individual disparages the name of Prophet Muhammad (PBUH), was implemented in 1986, it chilled religious freedom and how the minorities could express themselves at the time (Ispahani, 2015). These laws were to be used to prevent interreligious provocation, but because of their loose terminology, they were widely abused, disproportionately affecting Ahmadis, Christians, and Hindus (HRCF, 1990).

In 1984, the anti-Ahmadi Ordinance XX was issued, which criminalized religious expression of the Ahmadis, forbidding them from identifying themselves as Muslims or using Islamic names, greetings, or terms. Not only did this law infringe on Article 20 of the Constitution (freedom of religion), but it also exposed Ahmadis to prosecution under the laws and physical violence in society (Newberg, 1995; Rahman, 2012). It formed a contradiction where a community with constitutional protection could be placed in jail on the basis of practicing its own religion.

Religious education in addition to Islamic values was also stressed by the regime of Zia using the state institutions. Islamic learning was made compulsory in the school curricula, and the non-Muslim students were at many times influenced to be members or face discrimination. In spite of Articles 22 and 25, aimed at protection against forced religious education and guaranteeing equality, the practices of education at this time promoted a majoritarian Islamic identity and contravened inclusiveness (Rahman, 2004).

Another important axis was political exclusion. The minorities were still represented through separate electorates that were further solidified by Zia in a bid to separate the polity using religious lines. They were also only elected by their own communities as minority representatives, which resulted in further isolation of the minority from national politics and influences on their policies (Yusuf, 2012). The system, which was maintained till 2002, compelled minorities to become farther removed.

According to scholars, the Islamization policy of Zia was a major break in constitutional development in Pakistan. According to Mehdi (2002), it is a selective revival of Sharia, which is more politically oriented than a revival of religion. Newberg (1995) states that the judiciary, which plays an important role in terms of constitutional compulsion, did not take any measures against discriminatory acts owing to the authoritarian and ideological orientation of the state.

According to the critics, it was more a consolidation of authoritarian controls rather than about religious morality that has been promoted in the Islamization drive. In pursuit of power, the regime of Zia surrendered pluralism to secure the majority of power by assuaging religious parties and suffocating criticism by making use of theological conformity (Talbot, 1998; Ahmed, 2011). Further, the introduction of separate electorates not only made

minorities politically disenfranchised but also, when combined with democratic exclusion, continued into the 1990s.

It was during 1977-1988, when the religious discrimination was institutionalized in terms of the formulations in both the law and form in Pakistan, that the concept of religious discrimination was formally entrenched in Pakistan. That the efforts to reconcile religious identity and inclusive governance under the 1973 Constitution turned into the state-sponsored marginalization and legal oppression with Zia-ul-Haq. The Ahmadi question and the blasphemy laws, the Federal Shariat Court, and the separate electorate system became institutionalized precursors to second-class citizenship of non-Muslims. The impact of these changes has been lasting, with most of them existing in the legal and social system in Pakistan even today.

### **Democratic transition in post Zia era (1988–1999)**

After the demise of General Zia-ul-Haq in 1988, democratic regimes came back into power; however, the repressive laws he had institutionalized, especially on the minorities, did not change. Despite the leadership change, no major constitutional amendments reforming minority rights came up (International Crisis Group, 2014). Articles 20 and 36 of the 1973 Constitution that promote religious freedom and protection of the minorities remained unimplemented in earnest (GoP Constitution, 1973).

Enacted laws like the blasphemy laws, especially Sections 295-B and 295-C of the Pakistan Penal Code, were militarized during this era. In addition to the above, though presented in the guise of safeguarding religious feelings, such laws were abused in order to sort out interpersonal conflicts and incriminate Christians, Ahmadis, and Hindus (HRCP, 1997; Amnesty International, 1994). According to the report on International Religious Freedom (1999), the case of a 16-year-old Christian teenager, Salamat Masih, who was sentenced to death under 295-C and finally acquitted, demonstrated the risks of societal and judicial pressure.

This was the time when Ordinance XX (1984) was enforced in the most extreme way against the Ahmadi community. They arrested Ahmadis on the grounds that they were impersonating Muslims or that they used the Islamic greetings or because they published religious writings (USCIRF, 2000). Article 260(3)(b) of the GoP Constitution excluded the Ahmadis as Muslims were unanimously accepted (GoP Constitution, 1973), entrenching religious discrimination as an institutionalized consequence (International Commission of Jurists, 2022).

The system of separate electorates, which was maintained during this whole time period, placed minorities on the edge of normative politics. Although it was meant to guarantee or create representation, it led to the issue of political ghettoization and diminished power of the minority in national policy formulation (Weiss, 1999). The only people who were allowed to vote were the non-Muslims, but for the non-Muslim candidates, therefore affirming second-class citizenship (Minority Rights Group International, 1997).

The National Commission for Minorities was formed in 1990, though it was neither legislative nor constitutional. It came under the Ministry of Religious Affairs and did not have any say with regard to law or policy and thus was more of a placating mechanism by

and large (HRCP, 1995). Often its recommendations were not followed, and the concerns of the minorities were kept out of national discussion (US State Department, 1999).

There was more violence against minorities. Very notable is the Shanti Nagar attack of 1997, when Christian dwellings and places of worship were looted and incinerated following false blasphemy claims. The police were non-responsive, as those people who committed such atrocities were seldom punished (ICG, 2002). These incidents were an indicator of poor minority protection by the state and increased intolerance in the society.

Overall, the 1988 to 1999 era witnessed the persistence of the discriminatory arrangements, even with the arrival of democracies. Political expediency, fear of religious retaliation, and radicalization of the society inhibited reforms. The minority people were politically disenfranchised, socially susceptible, and legally defenseless in the regime that was officially mandated to grant equality but in reality applied exclusion (Shah, 2014; Rehman, 2000).

### **Musharraf Era—Partial Liberalization (1999–2008)**

The development of minority rights in Pakistan between 1999 and 2008 has been a convoluted issue during the reign of General Pervez Musharraf, where rhetoric liberalism was exhibited without much reform taking place and structural discrimination. After a military takeover in October 1999, Musharraf adopted the image of a moderate reformer, coining the phrase ‘Enlightened Moderation.’ Nevertheless, even after some minor positive changes in legislation, profound structural discrimination against minorities still defined the legal and political arena.

One such important legal change was to end the separate electorate system in 2002 through the conduct of the general elections order (CGE) of 2002, which reinstated the joint electorates of minorities after two decades. This reform was ushered in, and religious minorities were enabled to vote with the Muslim majority, and this was welcomed largely by religious minority leaders and civil society groups (HRCP, 2002). This reversal was an affirmative move towards political integration that reversed the experience of segregation under Zia. Nonetheless, its critics observed that it was a top-down executive decision that was not debated by parliament and was controversial as far as its sustainability is concerned (Weiss, 2003).

The position of Ahmadis did not change. Their religious identity remained criminalized by the anti-Ahmadi Ordinance XX, and the hate speech against them often appeared in prime time on television along with regular publication in the pamphlets of religious groups without government consequences. Some of the Ahmadi religious establishments were demolished in the course of this violence, and the community continued to be politically and socially isolated (USCIRF, 2008). The constitutional definition of Muslim (Article 260(3)(b)) was not changed, and Ahmadis continued to be unable to vote as Muslim even with the joint electorate, essentially having a separate voter list to themselves—reflective of institutionalized ostracizing.

Even though the regime of Musharraf also provided reservation seats to the minorities, i.e., 10 seats in the National Assembly under Article 51 and Article 106, and provided reservation seats in the Provincial Assemblies, they did not represent direct elections but rather were taken up by the political parties through proportional representation. This meant minorities in the parliament were subjected to party direction and had no independent mandate; thus, their

ability to control policy was low (Rehman, 2007). Moreover, a significant number of political parties hardly used minorities in the nominations concerning general seats, which strengthened tokenism as opposed to a genuine process of inclusion.

The National Commission for Minorities (NCM) was retained in the Ministry of Religious Affairs, and it was not given any statutory powers. More often than not, its membership was politically inclined, and its recommendations never were followed through. The judgments of human rights organizations of its being counter-effective and lacking interdependence were voiced (HRCP, 2005). The stepping stones in transforming the commission into a flourishing entity that could safeguard the interests of the minorities could not be realized in the face of weak constitutional support.

During the Musharraf era, religious violence and discrimination continued to take place. In 2002, churches were bombed in Bahawalpur and Taxila, and Hindu temples were desecrated in Sindh in 2005 because of blasphemy claims. The reaction of the state was largely reactive and did not introduce any prevention or judicial reform.

Even the textbooks and curriculum were not unbiased towards the religious minorities. Despite small revisions initiated by the Ministry of Education in response to the hate content, the majority of the provincial curricula remained focused on the majoritarian Islamic account, sidelining the contribution of the non-Muslims with regard to the history and culture of Pakistan (Rahman, 2004; Nayyar & Salim, 2003; ICG, 2004).

Moreover, the level of religious violence and hate speech increased throughout this course of time. There were frequent mob attacks, forcible conversions, and sectarian hate against minority communities, mostly Christians and Ahmadis. The state, to a large extent, had not acted firmly against such acts, which violated Articles 9, 14, and 25, which stipulate the right to life, dignity, and equality before the law.

In spite of those structural concerns, there were some institutional expressions. A Minorities Commission was set up, but this could not receive a budget or legislative responsibilities, nor could it enforce the implementation of its decisions. Commentators such as Shah (2014) and HRCP (2008) emphasize that, albeit using minority representation as a foreign relations issue, the Musharraf government made no attempts to significantly reform its policies further, as it would become unpopular with conservative religious groups as well as political partners.

In a nutshell the years 1999–2008 left a mixed legacy. The distribution of seats for minorities and the return to joint electorates were two examples of moves taken in the direction of a progressive reconciliation of divides, but they lacked significant structural changes. Important laws that had been discriminatory, especially those directed against the Ahmadis and those found under blasphemy laws, went without any change. The liberal pose of the Musharraf regime did not face the established religious intolerance in policing, judiciary, and education. In this way, the constitutionally guaranteed right to equality (Article 25) in Pakistan was not very effective for the religious minority.

So in effect, there were minimal reforms that were taking place under authoritarian liberalism, and symbolic inclusiveness was covering a structured practice of exclusion. The structural discrimination in the form of laws, political arrangements, and education was left more or less unbroken and underlines how the state could not organize or failed in the organization of a neutral ground between religious groups.



## **Constitutional Amendments on Minority Rights in Pakistan between 2008 and 2024**

The period between 2008 and 2024 was one of the dramatic stages of constitution and law development in Pakistan, and the majority of these developments had severe outcomes in terms of the rights of the religious and ethnic minorities. The developments also reflect the dynamics of the shifting political, social, judicial environment of the country and the related procedure of balancing both Pakistan as Islamic nation and ideologies of equality and non-discrimination and inclusivity. This section will explore the constitutional amendments, judicial decisions, and legislative changes with details and also show their role in minority communities and the problems that still persist.

### **Early reform: Post-Musharraf transition (2008-2013)**

This is the Pakistan People's Party (PPP)-led government of 2008-2013, which came into power after a long military regime by General Pervez Musharraf. During this period, minimal improvement was made regarding the legislative rights of religious minorities as well as incidences of persecution through the blasphemy laws and increased Islamist extremism. Although certain symbolic action was undertaken, it continued to discriminate against the Hindus, Christians, Ahmadis, and other minorities in a systemic way.

### **Constitutional & Legislative Developments**

The subsequent result of this democratic transition in Pakistan saw the enactment of the Eighteenth Amendment. This act established a broad sweep of devolution within which many of the subjects (education, culture, social welfare, law and order) are devolved to the provinces and increases functions to the parliament. It did not establish new rights that were specific to the minority but it buttressed the friction free sphere of guarantees that already existed-Articles 20 (religious freedom), 22 (safeguards in education), 25 (equality), and 36 (state protection of minorities) -in the more provincialized governance order (Constitution of Pakistan, 1973; Constitution (Eighteenth Amendment) Act, 2010). According to scholars and policy reviews, the devolution placed more provincial roles on the protection of places of worship, policing mob violence, and curricular purging, which is the core of minority protection, as well as highlighted capacity limits (Constitution of Pakistan, 1973; World Bank, 2011). The allocation of the National and Provincial Assemblies to Non-Muslims is still held by dint of Article 51 and Article 106 (Constitution of Pakistan, 1973).

On the federal-executive level, the Ministry of Minorities Affairs (devolved/abolished in 2011) had been succeeded by a Ministry of National Harmony (Islamabad) in 2012 continued in order to retain a federal interlocutor; this development was negatively proportioned by observers as concealing particular minorities advocacy (Ministry of Religious Affairs & Interfaith Harmony; U.S. Department of State, 2013). In addition, the National Commission on Human Rights Act (2012) has been adopted by parliament, which introduces the framework of an NHRI (which started functioning in 2015), applicable to the monitoring of the attacks on minorities and UPR follow-up (UN CAT, 2017; UNDP, 2013).

## **Policy Signals & Representation**

Through symbolic gestures, the government has marked a National Minorities Day on 11 August (2009) through which it tries to emphasize the vision of pluralism by Jinnah (U.S. Department of State, 2009; Dawn, 2024). In 2009, Islamabad and provinces also granted 5 percent quota of government jobs to the religious minorities in the general service; unbalanced implementation in subsequent years occurred, and an example of a lawsuit that referred to the quota in the same practice in the province was reported (Christian Today, 2009; The News on Sunday, 2018; Sindh High Court Order Sheet; UCA News, 2023).

## **Violence, Prosecutions, and Judicial Responses**

This was a test run of constitutional assurances under outrageous happenings:

**Gojra & Korian (Punjab), Jul-Aug 2009:** Eight Christians were killed, and around 100 houses were destroyed after blasphemy allegations; rights activists criticized policing and prosecution before many accused were later freed again—as evidence of the challenges of impunity (U.S. Department of State, 2009; Global Ministries, 2014; ICC, 2018).

**Ahmadis Mosques Lahore, 28 May 2010:** The targeted killings of 94 Ahmadis during organized arrests appeared as a critical reform in forms of violence against the Ahmadis; international organizations demanded protection and action to end impunity (Human Rights Watch, 2010; Amnesty International, 2010/2021).

**Assassination of Shahbaz Bhatti, 2 March 2011:** The federal minister of minorities, who advocated the reform of blasphemy legislation and the defense of Asia Bibi, was murdered in Islamabad, receiving UN condemnation, and highlighting the dangers faced by cabinet ministers who stand up to defend minority rights (OHCHR, 2011; USCIRF, 2016).

**Joseph Colony (Lahore), 9 March 2013:** Following a blasphemy allegation, over 100 houses and two churches were burned down; civil society and media reported on police inaction and demanded prosecutions to act as deterrence (Dawn, 2013a; Dawn, 2013b; HRCP, 2021).

On 22 Sept 2013 in All Saints Church (Peshawar), 85 or 86 worshippers were killed by a twin-suicide attack, the deadliest church attack in Pakistan, setting off a suo motu inquiry that became part of the 2014 Supreme Court Jillani judgment (establishes subsequent guidelines on places of worship, school curricula, and a minorities commission) (CRIN, 2014; Saiya & Manchanda, 2021).

Legally, the judicial means of procurement via suo motu grew in these years in the Supreme Court to push executive agencies after communal attacks, although deterrence at the systems level remained imperfect as investigations and protection of witnesses were poor and the blasphemy regime (s.295-C PPC) was yet to be reformed despite the rise in cases (Human Rights First, 2012; Khan et al., 2014; USCIRF, 2012).

## **International Reviews & Commitments**

At the 2012 Universal Periodic Review, Pakistan endorsed 126 recommendations, among them those aiming at the greater protection of religious minorities and actions against the

misuse of the blasphemy laws, although an explicit repeal or amendment was not deferred; the compilation of the UN and NGO submissions had noted forced conversions, sectarian violence, and discrimination on religious grounds against the Ahmadis (UPR-Info, 2013; OHCHR/Refworld, 2012; Human Rights Asia, 2012). The following documentation of UPR (2017) followed little improvements and continued risks (OHCHR, 2017; HRW, 2017).

### **Synthesis: Gains vs. Gaps**

The forms of these gains included new institutional scaffolding (NCHR Act 2012), symbolic recognition (Minorities Day), job-quota promises and an increase of attention in courts. The differences were dramatic, as there were no significant efforts made to fulfill the heavily touted revisions to the blasphemy laws, quotas and safeguards were implemented unevenly, there was no real growth in capacity despite the delegation of roles, and profile cases were particularly impunity (USCIRF, 2012; UPR-Info, 2013; World Bank, 2011; HRCP, 2021). The same forces provided the contours of agenda and constraints of the more activist Supreme Court jurisprudence and personal-status reforms that transpired after 2014.

### **Development during the PML (N) Era from (2013-2018)**

The period was the era of evolution and constant fight about minority rights in Pakistan. These were times, when a lot of legislative work, landmark judgments, and more discourse on the freedom of religion and equality were witnessed. Such reforms were however limited by institutional barriers and political sensitivities among other things and failure in implementation activities.

### **Major Incidents Shaping Policy and Judicial Action**

Publicity regarding major offenses against minority groups fueled legislative and judicial actions. The arson of the Joseph colony in Lahore (March 2013) proved the housing rights of minority Christians very insecure, as hundreds of families were forced to leave their homes after blasphemy accusations (HRCP, 2014). On the same note, the bombing of the All Saints Church in Peshawar in September 2013 killed more than 80 worshipers, the largest Christian-targeted attack in Pakistan's history (BBC News, 2013). Minority protection was stimulated to become more legally active as a result of these cases.

### **After Jillani Judgment - Constitutional Roadmap**

The Supreme Court of Pakistan made the landmark decision on *Suo Motu* Case No. 1 of 2014 which was issued on 19 June 2014, following the Peshawar church bombing. Demands of the ruling given by the Justice Tassaduq Hussain Jillani:

- Establishment of a National Council of Minorities.
- Special police forces should be established to protect places of worship.
- Legal action through enforcement of Article 20 and Article 25 of the Constitution on hate speech.
- Curricular review to encourage religious tolerance in education.
- A record of periodical compliance reports to check up on the state performance (Jillani Judgment, 2014).

This ruling has become a constitutional milestone in promoting the rights of the minorities in Pakistan.

## **Legislative Advances**

### **Hindu Marriage Laws between 2016 and 2017**

The Sindh Hindu Marriage Act, 2016, was the pioneer of the legislation in the provinces, and then the Hindu Marriage Act, 2017, is the national act that became the law in other provinces (Constitution of Pakistan, 1973; Government of Pakistan, 2017). These laws made it possible to enter into legal marriage, claim better inheritance rights, and establish identity documentation for Hindu citizens (HRCP, 2018).

### **Sindh Child Marriage Restraint Act, 2013 (Act XV of 2014)**

Sindh has been leading in making the legal marriage age 18 years for both genders and criminalizing violations. This was an important step in regard to minority girls, who were under threat of kidnapping and forced marriage, especially those that were Hindu and Christian girls (CSW, 2016; HRCP, 2015).

### **Forced Conversion Bill 2016 in Sindh**

Forced conversions were to be made a crime by the Criminal Law (Protection of Minorities) Bill, 2016, enacted by the Sindh Assembly. However, the bill remained un-signed during the governorship because of the religious community resistance and left such a gap in the legislation (CSW, 2016; ICG, 2016).

## **Policy Commitments and Implementation Gaps**

After the 2014 attack on Army Public School (APS), the federal government propagated the National Action Plan (NAP), which had mechanisms to reduce the role of hate speech and security of places of worship (Government of Pakistan, 2015). Although these were the measures stipulated in the Jilani Judgment, the human rights monitors noted an uneven enforcement in the rural and militancy-affected areas (HRCP, 2016; Amnesty International, 2016).

### **Electoral Controversies and Disenfranchisement of Ahmadis**

The Elections Act, 2017, brought electoral laws under one roof but then plunged the country into a political crisis when the wording of the Khatm-e-Nabuwat (finality-of-prophethood) oath to be taken by candidates was changed. Following protests by people, the original text was restored by parliament at a fast pace (Dawn, 2017). Nevertheless, Ahmadis were structurally disenfranchised by the use of separate electoral rolls and by the compulsory religious declaration (USCIRF, 2018).

### **Violence that is based on blasphemy rooted over years**

Mob violence continued in spite of the apparent existence of the legal system. This was the case in 2014 when Christian couple Shama and Shahzad were lynched in Kot Radha Kishan due to a blasphemy allegation, although some of the perpetrators involved were later

acquitted in 2018, yet the incident highlighted how impunity is rife among the perpetrators (Amnesty International, 2018).

The latter events in the case of Asia Bibi showed the political conditions under which the prospect of amending the blasphemy laws could ever have occurred. The fact that on 31 October 2018 she was acquitted by the Supreme Court confirmed the necessity to follow all the procedures in court but was soon followed by the mass protests throughout the country that indicate the tense environment of the changes in these laws (BBC News, 2019).

### **International bodies: Monitoring and Assessment**

To be more exact, the international bodies, especially the United States Commission on International Religious Freedom (USCIRF) and the UN Human Rights Council, repeatedly stated the frequently evident rise of systematic forms of human rights violations on religious grounds in Pakistan by including the latter in the lists of concerns or lists of countries of particular concern (USCIRF, 2018; UNHRC, 2017).

### **Synthesis: Gains vs. Gaps**

The period between 2013 and 2018 in Pakistan witnessed an array of events that, symbolically at least, registered progress in the rights of the minorities. Three legislative landmarks can be highlighted: the enactment of new Hindu Marriage Acts, the Jilani Judgment on the electoral rights, and the banning of child marriage in Sindh. Collectively, these had the effect of communicating the picture of increased jurisprudential safeguards on the minorities. But empirical history takes a different view. The macro-level benefits were primarily limited to statutory publications, whereas the micro-level indicators, compulsory conversions, political marginalization of the Ahmadis, hostilities occasioned by blasphemy laws, and biased implementation of the jurisprudence remained unchecked. The enduring legacy, then, consists of a discontinuity of formal gains with continued insecurity, discrimination, and enforcement deficiencies.

### **Development of Minority Rights in Pakistan from (2018–2024)**

It was a complex era in the history of minority rights in Pakistan because there was a two pronged process of institutional strengthening and persistence of hostility in the society. This timeline consist of the Pakistan Tehreek-e-Insaf (PTI) government from 2018 to 2022, and the Pakistan Democratic Movement (PDM) coalition from 2022 to 2023 as well as the caretaker government before the general elections in 2024. Popular reforms at the local level were heterogeneous and largely reactionary given the rampancy of the socio-political conservatism as against constitutional promises bestowed by Articles 20, 22, 25, 36, 51 and 106 of the 1973 Constitution of Pakistan.

In as much as initiatives geared towards promoting peace between religions, like the Kartarpur Corridor (2019), gained international prominence as a sign of interreligious harmony, fundamental structural problems of religious minorities prevailed and in many instances deteriorated (ICG, 2022).

## **Interventions in Courts but Little Execution**

The Jillani Judgment of the Supreme Court (PLD 2014 SC 699) remained a legal token of minority rights. Nevertheless, its recommendations, such as the creation of a national council of minorities, setting up of police task forces, and the need to restructure school curricula, were not realized to any major extent even by 2024. Various suo motu proceedings by the SC (e.g., SM 1/2022 on forced conversions) reckoned the lack of protection by the government and their failure to institutionalize the same (Dawn, 2022; HRCP, 2023).

## **The Use and Abuse of the Law against Blasphemy and Loopholes**

It also involved misuse of the law of blasphemy, mostly Sections 295-B and 295-C of the Pakistan Penal Code. There was a series of arrests and subsequent imprisonment of dozens of individuals since 2018 and over the five and a half years with vague accusations mostly of the Ahmadis, Christians, and Hindus (Amnesty International, 2021). Despite its legal precedent, the case of Asia Bibi (2018) showed that any interference with the judicial independence was systematically impaired at the very moment of pronouncing words of indignation and of religious extremism. She was even grounded in exile, though the Supreme Court had decided that she was innocent, and nothing about her legal clearness raised changes to laws (BBC, 2019).

The state never managed to enact procedural protection against abuse of these laws. The suggestion of judicial review or punishment for making bogus claims was not accepted due to heavy pressure by religious extremist groups such as Tehreek-e-Labbaik Pakistan (TLP), who attained prominence during this period (ICG, 2022).

## **Forced Conversions and Gender-Based Violence**

The forced conversion, particular to Hindu and Christian girls under the age of consent, became one of the most outrageous tendencies. More than 100 such cases were documented yearly only in Sindh and Punjab by human rights organizations (CSW, 2022). Since then, although drafts of legislation criminalizing forced conversions continued to be introduced (in 2016 and 2021 in the province of Sindh, as the Sindh Forced Conversion Bill, and in 2021 at the federal level), no such legislation ever passed, as safeguards were resisted by religious parties and clerics (HRCP, 2023).

Such legislative non-action indicates the political neglect and legal impunity of the non-Muslim women, and it poses big questions in regard to equal citizenship and access to justice, which are rights that non-Muslims can have under Articles 25 and 36 of the Constitution (Constitution of Pakistan, 1973).

## **Personal Laws and Civil Rights**

There were advancements in matters connected to minority personal laws. In 2021, the Sindh Hindu Marriage Act was also amended to simplify the divorce, child custody, and maintenance, especially for women who find themselves in difficult situations (NCHR, 2022). Punjab enacted the Sikh Marriage Registration Rules in the 2020s, providing a provincial legal recognition of Sikh marriages. These laws, however, were implemented with loopholes because of bureaucratic procedures and ignorance by the masses.

### **Single National Curriculum (SNC) and education**

The Single National Curriculum (SNC), which was tried to be implemented in 2020 in order to standardize educational levels, was massively criticized as being Islam-centric and did not contain any pluralistic information. It has forced minority students to study Islamic content, which is prohibited by Article 22(1) because the provision does not allow religious teaching without prior acknowledgment (HRCP, 2021; NCHR, 2022).

Even within textbooks that had been revised under the SNC, the historical figures of non-Muslims were excluded, and the way of building minorities was also stereotypical or unseen. Even after the provision in the constitution, the discrimination in terms of the curriculum persisted to perpetuate the social exclusion.

### **Institutional Developments: Cosmetic to the Hilt**

The National Commission for Minorities (reconstituted in 2020) had no statutory or constitutional foundation, and its members were largely political appointees with no grassroots connection with minority groups. This was a weak advisory position of the commission, and its consultations were hardly followed when making policy (USCIRF, 2023). On the same note, provincial minority commissions were passive or less funded.

Reserved seats (Articles 51 & 106) continued, but not tokens given to minorities by way of general elections to effectively embrace tokenism and participation. The reserved seats were mostly utilized by political parties to appoint their loyalists as opposed to grassroots leaders.

### **Violence and intimidation: Unabated**

Tolerance of religion further intensified. There were some cases of mob lynching and church vandalism—the most notable being the Jaranwala attacks in August 2023, where more than 20 churches were burned after blasphemy charges were made (Dawn, 2023). The reaction to the state was that of reaction and not prevention. Law enforcement could not stop or address effectively this sort of case, even despite legal protections granted by Articles 20 and 36 of the Constitution.

### **International Involvement & Advocacy**

The issues of forced conversion, hate speech, blasphemy law, respect for the views of the minorities, etc., rose during the UN Human Rights Council in Pakistan 2018, and its next turn of 2023 under the Universal Periodic Review (UPR) presented with Pakistan. Pakistan agreed with some of the recommendations, which dwelled on the recommendation of anti-discrimination actions, inclusion of minority groups in the policymaking process, and safeguarding women in minority groups (UNHRC, 2023).

### **Advocacy with the Media and Civil Society**

The Human Rights commission of Pakistan (HRCP), Amnesty international, and the Christian solidarity worldwide (CSW) provided additional depth to documentation and advocacy and demanded agenda on forced conversions, hate speech and fair representation (HRCP, 2021; CSW, 2022).

## **Unfulfilled Promises and Reforms**

### **Failure to enact forcible conversion laws**

Although there were signs of forced conversions, especially among Hindu and Christian girls in Sindh, the Sindh Criminal Law (Protection of Minorities) Bill, which was facing a lot of controversy, did not make it through at both the provincial and federal legislatures because of political opposition by partners in religion (CSW, 2022). This unresponsiveness of the legislature created a vacuum in the law.

### **Misuse of blasphemy law**

During this period, the breaking of legal violations linked to blasphemy was worsened by the provisions in S. 295-298 of the Pakistan Penal Code, and high-profile ones became infamous because of the Sialkot lynching (2021) and Jaranwala attacks (2023), demonstrating how lethal legal loopholes and lynch mob are (USCIRF, 2023).

In spite of having some of the highest profile symbolic policy of the government in the 2018-2024 the opening Kartarpur Corridor and the relaunch of the National Commission on Minorities, those could not serve as a masking action towards institutionalized discrimination, legal marginalization and increasing social violence against minorities. Its state failed to pass any legislative policies aimed at reforming the legislation regarding blasphemy and fighting forced conversions as well as to be responsive to judicial injunction, proving once more that cosmetic pluralism alone is not sufficient to replace the actual equality.

## **A Multidimensional Analysis through Liberal Pluralism, Critical Race Theory, Postcolonial Theory, and Legal Pluralism**

To effectively examine the constitutional development of minority rights in Pakistan between 2008 and 2024, this review paper will utilize four major theories of analysis: Liberal Pluralism, Critical Race Theory (CRT), Postcolonial Theory, and Legal Pluralism. These frameworks offer a multiple prism through which to analyze of the legal, political and social processes that define the experiences within the minority groups in Pakistan. All the theories present different ideas concerning the problems and perspectives of minority rights in the constitutional and social-political context of the country. These frameworks are combined in the hope that the article will give an in-depth idea of the developments so far, the constraints that it is confronted with, and the way that minority rights are expected to proceed in Pakistan.

### **Liberal Pluralism**

Liberal Pluralism is founded on the ideas of democracy, equality, and preservation of individual and group rights. It also underlines the necessity of developing a political and legal framework where a number of different identities could be accommodated, and all citizens have equal rights to participate in it, irrespective of their religious, ethnic, or cultural affiliation. The context of the analysis of the situation in Pakistan with the help of Liberal Pluralism is to see whether the constitutional amendments and law reforms that will be staged between 2008 and 2024 correspond to such standards.



**Use in Pakistan:** The case of use in Pakistan will include the adoption of the 18 th Amendment (2010) to the Constitution of Pakistan that devolves its powers to the provinces and offers a framework towards securing the rights of the minority which can be considered as an attempt to adopt or embrace pluralism. The amendment attempted to end the issue of past marginalization of minority communities, empower local governments and create inclusivity. As an instance, the amendment introduced a National Commission of Minorities to protect the rights of the minorities and entertain grievances. Nonetheless, these provisions have not been realized to a great extent, and the minorities are still subject to systemic discrimination and isolation. Liberal Pluralism shows a disparity between the constitutional guarantees and the actual enforcement of the same and the applicability of greater resources to intensify the implementation of minority rights.

**Challenges:** The Islamic nature of the Pakistani constitution mostly competes with the ideas of Liberal Pluralism. A typical example is the Objectives Resolution (1949) that identifies Islam as the state religion, and as such, it establishes a tier of citizenship in which the Muslims are favored over the non-Muslims. Such conflict between religious and secular values presents a great threat to the achievement of pluralism in Pakistan. What adds to the failure of minority rights protection is the issue of the lack of political will and even the interference of religious extremists (Ispahani, 2017).

**Future Prospects:** Liberal Pluralism implies that secularism and the de-relationalization of state affairs are elements that are needed to achieve meaningful advancement of minority rights in Pakistan. This is coupled with the reform of discriminatory laws, including blasphemy laws, giving the minorities equal representation in political and judicial institutions.

### **Critical Race Theory**

Critical Race Theory (CRT) could be described as a theory used to analyze issues about how inequality and marginalization could be perpetuated because of systemic racism and power structures. Although CRT emerged and first saw use when examining racial discrimination in the United States, it has since been employed to look at other instances of systemic abuse, such as religious and ethnic discrimination (Delgado & Stefancic, 2017). While in Pakistan, CRT offers a resource tool through which to conceptualize the systematic discrimination experienced by religious and ethnic minorities by way of legal, political, and social systems.

**Use in Pakistan:** CRT can show the ways in which the legal and constitutional system of Pakistan perpetuates institutionalized discrimination against the minority. An example of a tool of oppression is blasphemy laws that mostly target religious minorities to suppress the freedom of thought and expression to enforce the status of the majority Muslim population (Amnesty International, 2020). The laws incite fear and insecurity, and the minorities find themselves exposed to mob rule, and the accusations against them are untrue. Likewise, the discrimination against the ethnic minorities, i.e., the Baloch and Sindhis, demonstrates the interaction of the religious and ethnic discrimination in Pakistan's power structures.

**Intersectionality:** The concept of intersectionality held by CRT is particularly applicable in Pakistan, where there is a tendency of religious and ethnic identity combination conferring. Case in point is that of Ahmadis, who are non-Muslims by law in Pakistan; they are discriminated against due to their religious views as well as ethnicity. CRT shows the importance of these overlapping identities increasing the marginalization of minority groups

(Lau, 2016). On top of this, gender is a significant factor that shapes the experiences of the minority women, as they do not experience the same hardships as other women; they have additional challenges like forced conversions and honor-based violence.

**Future Prospects:** CRT proposes that to eliminate systematic discrimination in Pakistan, there is a need to restructure the locus of power in a radical way. This involves questioning the supremacy of religious majorities, as well as ethnic majorities, and transforming discriminating legal frameworks and empowering minority populations at the same time by aid of education and advocacy.

### **Postcolonial Theory**

The impact of colonialism on postcolonial society as seen in terms of the political, social, and cultural life of postcolonial societies is studied in the Postcolonial Theory. It reiterates the extent to which the colonial legacies, including the drawing of arbitrary lines and the upraising of particular identities, still implicate the experience of committed communities (Said, 1978). Postcolonial Theory can be used to explain the impact of the colonial past and the country after independence, as it had a tendency to identify with the Islamic religion in the pre-independence constitution formulations and minority rights in Pakistan.

**Use in Pakistan:** The colonial background can be observed in the legal and constitutional system present in Pakistan, which still has the British colonial laws on it, including the blasphemy laws. But it is the focus on the Islamic identity since independence that has added to the exclusion of the minority communities. Objectives Resolution (1949) and the following changes to the constitution have increased the power of Sunni Islam at the disposal of the minorities (Ispahani, 2017). The Postcolonial Theory underlines the way in which these historical and ideological legacies produce the reality of minorities in Pakistan.

**Identity Politics:** Postcolonial Theory is also enlightening to the extent that identity politics play an important role in constitutional developments. Ethnic and religious differences have been repeatedly crushed by placing more value on the uniformity of an Islamic identity than on a system of tiers within the society of citizenship that upholds and disperses power amongst Muslims at the expense of non-Muslims. This poses huge concerns on the safety of minority rights in Pakistan (Rumi, 2020). As an illustration, political marginalization of minority groups and failing to provide them with economic opportunities can be viewed as a reflection of the colonial legacies.

**Future Prospects:** According to Postcolonial Theory, the decolonization of the legal and constitutional order of Pakistan is required in order to be perceived as considering equality and justice towards minority groups. This incorporates another redefinition of national identity that is both cosmopolitan and inclusive of diverse people and that resists the hegemony of religious and ethnic majorities.

### **Legal Pluralism**

Legal Pluralism can be termed as the coexistence of various legal systems in one society, e.g., formal state laws and informal customary laws or religious laws. The framework is especially applicable in Pakistan, where the interaction between the constitutional laws and Sharia and the resultant jurisprudence tend to cause tensions and contradictions (Griffiths, 1986). The

concept of Legal Pluralism offers a perspective with which to analyze the effects of these two clashing systems of law on minorities and their rights.

**Its applicability in Pakistan:** In Pakistan, constitutional laws and Islamic jurisprudence usually come into conflict and act against the rights of minorities. As an illustration, there is how the Federal Shariat Court interprets the tenets of Islamic law, but this must be in harmony with the constitutional provisions of not being discriminated against under the equality principle. This forms a legal paradox situation where the rights of the minority theoretically are taken care of but in practice are destroyed by the laws of religion (Lau, 2016). Moreover, informal legal structures, e.g., jirgas and panchayats, enforce many discriminatory actions on portrayed minority groups.

**Challenges:** Legal Pluralism brings out the difficulty associated with harmonizing secular and religious laws within a nation where religious law is thoroughly enshrined in law and constitution, such as Pakistan. Such a conflict is notable, especially in the situations with the laws on blasphemy, forced conversions, and the rights of religious minorities, where religious laws tend to override constitutional guarantees (HRCP, 2021).

**Prospects of the Future:** Legal Pluralism argues that in Pakistan there is a need to harmonize formal and informal legal systems in order to safeguard the rights of minorities. This involves amending the discriminatory legislation, enhancing the rule of law, and the attainment of legal literacy amongst the minority population.

### **Synthesis of Theoretical Frameworks**

The blend of these theoretical frameworks provides a sufficient understanding of constitutional evolution of minorities in Pakistan. Liberal Pluralism also highlights the gap between the promises of the constitution and their implementation, unlike CRT, which illustrates the discrimination and power structure that can never cease to recreate the inequalities. Postcolonial Theory places such dynamics in a Pakistani colonial and post-independence background, and Legal Pluralism is concerned with correlation between the formal and the informal legalities. Taken together, this framework sets out multi-dimensional analysis of the problems and potential of minority rights in Pakistan.

### **Implementation and Challenges**

Although Pakistan has gone far with constitutional and legal enactments in safeguarding the rights of minorities, affecting them has not been without difficulties. Lack of political will, systematic discrimination, religious extremism, societal prejudices, institutional weaknesses, and the inability of the constitution to provide securities to the minority communities have discouraged the effective enforcement of the constitutional provisions. This section will have a detailed discussion of the major issues when it comes to the realization of minority rights protections and the ongoing obstacles that the minorities have to go through in Pakistan. It also brings out particular examples and case studies to expose points of contrast between promises made by constitutions and realities.

#### **Systemic Discrimination**

One of the biggest problems in Pakistan at the systemic scale is discrimination of religious and ethnic minorities. In spite of the provisions in the constitution that state that they should

be equal and not be discriminated, the minority groups continue to be marginalized with regards to education, employment, housing and justice.

**School:** Minority children also get discriminated against in school; this is manifested in biased curriculum, unrepresentability, and bullying. As an instance, the curriculum in most public schools focuses on Islamic teachings and has not much spot for the cultural and religious backgrounds of the minority communities. The result is low enrollment and a high dropout rate among minority children. An example is that in Sindh, Hindu students have alleged to be compelled to attend classes on Islamic studies, and as such, this has pushed them away from their own religious identity (Ispahani, 2017). Moreover, minority students are haunted by harassment and discrimination by both their fellow students and the teacher, and this builds a hostile learning environment.

**Employment:** Minorities usually get the low-paying menial jobs, and also there is less representation of minorities in government jobs and the service industry. To illustrate, the legally non-Muslim Ahmadi community is estimated to have major discriminatory obstacles to employment because of discriminatory laws and social bias. The Ahmadis tend to be omitted in government appointments and experience discrimination in the workplace, which includes bullying and refusal to get promotions (HRCF, 2021). Christians are also overrepresented in the extremely stigmatized and dangerous occupation of sanitation.

**Housing and Property Rights:** This is the right to own and rent property, which the minority communities tend to struggle with. Due to the biases in the society, most of the minorities in urban areas are often denied the chance of living in Muslim-dominated neighborhoods. Land grabbing and forced evictions are prevalent in the rural areas, especially towards the Hindu communities in Sindh. In other words, for example, in Umerkot, the Hindu community has complained of a variety of land seizures by powerful landlords, with little chance of justice (Rumi, 2020).

### **Blasphemy Laws and Their Abuse**

The controversial and violence-prone blasphemy laws in Pakistan amount to the criminalization of any offense perceived as being insulting to Islam, especially those against the religious minorities. Such laws have been misused quite a bit to go after Christians, Hindus, Ahmadis, and other minorities to cause fear and insecurity.

**High-Profile Cases:** The 2011 assassination of Punjab Governor Salmaan Taseer, who campaigned to reform its blasphemy laws, and of Minorities Minister Shahbaz Bhatti in the same year, the former of whom defended his continued arrest on blasphemy charges, raise concern about the risks to those who speak out on behalf of the minority. The eminence of religious extremism and the failure to change discriminatory laws are highlighted by these cases (Amnesty International, 2020).

**Influence towards minorities:** The violence against minorities and even mistreatment has been justified under the notion of blasphemy laws. An ordinary example is that of the case of a Christian woman (Asia Bibi), who was finally freed after spending almost ten years on death row because of blasphemy allegations. Asia Bibi and her family fled Pakistan although they were not imprisoned since they were in danger of life (HRCF, 2021). Similarly, lynching of a Sri Lankan factory manager in Sialkot in 2021, under the accusations of the so-called

blasphemy, introduces the mob violence and mob rule, which often victimizes vulnerable communities.

**Legal Reforms:** The reform of blasphemy laws has also been very vocal; however, the laws are still preserved because of their solid representation by the religious circles as well as political parties. Any move to amend these laws has been faced with acts of violence and threats, and it has not been politically expedient for lawmakers to propose a change to these laws (Khan, 2015).

### **Forced Conversions**

Forced conversions of minority girls and women, mostly of Hindu and Christian religion, have been a recurring problem in Pakistan. These cases are usually characterized by the accusations of intimidation, force, and absence of any justice avenue for the victims and their relatives.

**Legislative Front:** During 2022, an effort was made in the form of the Sindh Criminal Law (Protection of Minorities) Bill to criminalize forced conversions also in order to provide protection to the minority groups. However, the bill received strong criticism from the religious circles and was shelved, indicating the cost of enacting effective reforms (Rumi, 2020).

**Effect on Minorities:** The forced conversions highlight this dissociation between promises and implementations offered by the constitution. Even though the constitution grants equal rights and religious liberty, the minority groups do experience systematic discrimination and violence. As an example, the case of Huma Younus, a Christian girl supposedly abducted and coercively converted to Islam, attracted international concern to the problem of forced conversions in Pakistan. At the same time, despite the legal battles, Huma is still being held as the common-law prisoner by her alleged kidnapper, which demonstrates the inability of the minority victim to use the law (HRCP, 2021).

**Attitudes of society:** The societal tendencies of looking down at minority religions lead to a lot of forced conversions. The conservative groups and religious leaders often justify such practices as being acts of enlightenment as opposed to violence. Such societal complicity complicates the process of addressing the problem with the help of legal and policy modifications (Ispahani, 2017).

### **Political Will Deficit**

Political parties worry about popular interests to retain an electoral majority, and this sabotages the attempts to safeguard minority rights. The political unwillingness to fight the systemic discrimination of minorities and violence is still one of the major obstacles to realizing constitutional promises.

**Minority Reserved Seats:** Though the number of reserved seats given to minorities in the National Assembly and in provincial assemblies was increased as a part of the Election Act of 2017, representatives of minorities often might not have the influence and resources required to represent their population. As such, the Ahmadi community, which is technically a non-Muslim group given the legal status, is, in reality, locked out of the political arena because of the discriminatory laws and a bias in the society (Ispahani, 2017).

**Failure to Enforce Laws:** Although the laws guarantee protection to the minority rights as provided in the constitution and as passed by courts, the government has, in many instances, refused to act on them. In this example, the National Commission for Minorities has been cited to lack independence and has not been serving its purposes well under the 18th Amendment (Khan, 2015).

### **Religious Fanaticism and Discrimination in the Society**

Increased religious fundamentalism and the voice of conservative forces have further sidelined the opinions of minorities, and there can be little change in the system. Prejudices and religious intolerance in a society tend to cause violence, hate speech, and social exclusion in minority communities.

**Minority violence:** The minority groups can be victims of violence, such as attacks on places of worship and mob violence. Case in point, the 2013 church attack in the Pakistani city of Peshawar and the 2021 lynching of the manager of a Sri Lankan factory in Sialkot are grim reminders of how minorities are vulnerable (HRCP, 2021).

**Hate Speech:** Racism and hate speech towards minorities are very common in Pakistan with the involvement of religious fundamentalists and conservative pundits. This has generated an atmosphere of fear and insecurity among the minority communities, further contributing to their marginalization (Amnesty International, 2020).

### **Gaps in Implementation**

The gap between the constitutional promises and their implementation is a significant obstacle on the way to security of minority rights. Even though policies like a constitution and legal reforms offer protection to minority groups, they are facing systematic discrimination and exclusion from the systems.

**National Commission for Minorities:** The national commission regarding minorities, granted by the 18th amendment, has received criticism because of its lack of neutrality and capacity to break the systematic discrimination. Blasphemy laws, forced conversions, and attacks on minorities due to hate speech are some of the main issues that the Commission has not responded to (Ispahani, 2017).

**Judicial Activism:** The court has been very apt in organizing minority rights by landmark verdicts; however, conveying the verdicts into action has been held off by the opposition towards the verdict and absence of political will. As an illustration, the Supreme Court decision in 2014 regarding securing the rights of minorities has not resulted in practical changes in the reality of minority groups (Yaqoob, 2019).

### **Recommendations and future prospects**

Pakistan has been unable to implement constitutional and legal safeguards to minority rights due to a system of discrimination, political will, extremist religious forces, and biases in society. Although there have been considerable constitutional advances, minorities are still marginalized, violated, and excluded. To overcome these challenges, there needs to be an appropriate combination of efforts by political, judicial, and social institutions and active initiatives on the part of the minority communities and civil society. It is only with consistent

advocacy and reforms that Pakistan can make efforts to ensure that constitutional guarantees are turned into practical actions to positively change the lives of minority populations.

## **Constitutional & Legal Reforms**

### **Enhance Constitutionally Safeguarded Inquiries**

The constitution should be amended to guide Articles 20, 25, and 36 to clearly outlaw discrimination based on religion in all government institutions, such as the armed forces, judiciary, and civil services.

**Solution:** Creation of Minority Rights Protection Amendment with strict language that bans discrimination in all the offices in the state and cities, schools and services.

**Justification:** This would fill out a gap between constitutional ideals and administrative reality.

**Comparative References:** India and South Africa both have similar constitutional provisions to the relevant ones found in Clause 29 and 30 of the Indian Constitution (right to culture) and the Bill of Rights in South Africa) have been adopted to garner legally binding protections.

### **Discriminatory Laws Review and Reform**

Abuse of the blasphemy laws, especially the Pakistan Penal Code (PPC) 295-298, is putting the safety of minorities at risk.

**Suggestion:** Develop a system of mandatory judicial inquiry prior to registration of FIRs in blasphemy cases, as well as criminalize false accusations and impose harsh punishments thereupon.

**Evidence:** More than 2,000 individuals have been charged with blasphemy between 2009 and 2023, and a large percentage of them belonged to minorities (HRCF, 2023).

### **Execution of the Jillani Judgment**

In 2014, the *Suo Moto* Case No. 1 of 2014 (also known as the Jillani Judgment) required creation of special task forces, curriculum reform and creation of a National Council of Minorities.

**Suggestion:** An annual report of compliance by the federal and provincial governments needs to be tabled before Parliament.

**Impact:** This would guarantee accountability in the execution of landmark judicial protection.

## **Institutional Mechanisms**

### **National Commission of Minorities (NCM)**

Nowadays, the NCM works as an advisory body whose decisions have no force.

**Recommendation:** Transform the NCM into a constitutional institution that would be equally provided with a suo motu remit, an independent budget, and a proportional representation in relation to the demographics of the minority.

**Case Example:** In the case of the Election Commission of Pakistan (ECP), it functions independently with a constitutional shield—this kind of autonomy would help in making the NCM stronger.

### **Quota Systems Reinforcement**

The current 5 percent of slots that the minorities are allocated in the federal services of the country are usually left unoccupied because of the biasness in recruitment and ignorance.

**Recommendation:** Increase the quota to 7 percent and announce an annual compliance audit in the Pakistan Economic Survey.

**Impact:** This will add more transparency and responsibility in the representation of the people in the fields of governance.

### **Police Minority Liaison Units**

The violence and conversions in the communities tend to be unreported, usually out of fear.

**Recommendation:** Establish the Minority Protection Units in all district police headquarters with officers who have received the training on how to deal with complaints in a confidential manner.

## **Education and Curriculum Reform**

### **Inclusive Curriculum Development**

Religious bias is present in textbooks in a number of the provinces, with non-Muslim people being marginalized (NCHR, 2022).

**Suggestion:** Eliminate the derogatory language and establish interfaith discourses as suggested by the UNESCO in the Guidelines on Education for Peace and Tolerance.

**Evidence:** Based on research conducted by the Sustainable Development Policy Institute (SDPI), early education bias has promoted intolerance.

### **Alternate Religious Education**

The minority non-Muslim students at times have no option but to learn Islamic studies.



**Suggestion:** Compulsory Islamic Studies among non-Muslims should be changed to ethics games and comparative religion studies.

**Implementation:** The Federal Ministry of Education provides the standardized curriculum to every province.

### **Teacher Training**

Lots of educators unintentionally perpetuate stereotypes.

**Recommendation:** Implement a requirement that teachers be required to take diversity and tolerance training during their certification process.

### **Socioeconomic Empowerment**

#### **Minority Development Funds**

Minorities are prone to exploitation because of economic marginalization.

**Recommendation:** District Ministry of Minority Development boards should be formed to manage special budgetary allocations to education, healthcare, and housing.

#### **Minorities Legal Aid**

The victims of mob violence or coerced conversions earn disadvantages of the law.

**Solution:** Establish Minority Legal Aid Cells in law departments at the provincial level by the state and tracked by the judiciary.

### **Employment—Entrepreneurship Programs**

**Suggestion:** Provide minority-owned businesses, particularly those in rural Sindh and South Punjab characterized by extreme marginalization, with microfinance loans and reduce taxes.

### **Reforms along the lines of judiciary and law enforcement**

#### **Special Fast-Track Courts**

**Proposal:** Instituting special courts that handle the crime related to minorities in order to bring them to closure within 6 months.

**Impact:** Minimizes delays, which many times enable intimidation or coercion of victims.

#### **Sensitization Bias Programs**

**Recommendation:** Police, prosecutors, and judges should be sensitized on matters relating to human rights in a compulsory manner.

**Evidence:** Parallel training in Sri Lanka had decreased tension between the police force and the community in ethnically mixed-up areas.

### **Police model of community policing**

**Proposal:** The expansion of citizen policing liaison committees should cover the minority elders in the mediation of conflicts and early warning infrastructure.

### **Political Representation**

#### **Direct elections to minority seats**

Today, seats allocated to minorities in assemblies are done by using party lists that make them less accountable.

**Proposal:** Modify the Representation of the People Act so as to permit direct election of minority reserved seats.

### **Representation of Local Government**

**Proposal:** Enact proportional representation in municipal structures that have areas of decision-making with regard to local development.

### **Social and Cultural Interventions**

#### **The Media and Harmony**

**Proposal:** Carry out nationwide interfaith messages via the media through television, radio, and social media.

**Implementation:** PEMRA to force TV channels to give airtime to interfaith programs.

### **Commissions on Interfaith Harmony**

**Proposal:** Provinces should be stipulated on harmony councils between ulema, priests, and the civil community that compromise on religious controversies.

### **Conservation of Heritage Sites**

**Recommendation:** Establishing a Religious Heritage Protection Authority within the Ministry of Culture that will be restoring minorities' places of worship and historical landmarks.

### **Conclusion**

The constitutional development in Pakistan between 2008 and 2024 is a paradox; a legal process that on face value guarantees equality but continues to be stunted by the legacy of past exclusion, religious nationalism, and socio-political lethargy. Although some of the amendments, like the 18th, introduced decentralization and acceptance of minority protections, they have been largely negated due to little enforcement, populist politics, and deeply rooted social biases. The example of judicial interventions serving as catalysts of inclusivity has been present not infrequently, but it has not given compensation to the rulings and institutional trends that underpin religious hierarchies in favor of universal citizenship.

The actual practice of living as minorities in the country, marked by discriminatory laws, forcible conversions, mob attacks, and lack of political representation, is worlds apart as compared to the principles of the universal Constitution. This disjuncture reveals that it is not simply to right the language of the law that is the genuine issue but to alter the structural and cultural realities behind which any attempt at reforming the law is merely a symbolic approach rather than substantive approach. In effect to implement more than window dressing on its constitutional safeguards, Pakistan will need to grapple with the contradiction between its Islamic culture, and its observance of pluralism as well as the adoption of proper protection mechanisms of the law and the establishment of a political ethic that values diversity as a resource, rather than a threat. Until we facilitate such a shift, the rights of minorities will be more of a constitutional dream than a reality.

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