

# Minorities' Rights and Laws in Pakistan: A Critical Analysis

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## Abstract

Overall, the research's centre of attention is on the rights of minorities in Pakistan. Its chiefly briefs about the issues that minorities face in the country. This research aims to highlight the main problems that people other than the Muslim majority in Pakistan face in their daily lives. Observing the experiences of minorities in the country, the research is prepared. The more significant part of the research gives prominence to the major incidents practiced in the country. Moreover, the recent cases are deeply discussed in it. However, the government's positive concerns and practical actions on issues of minorities in the country are described. The legislation made by the legislators for the protection of the rights of minorities is considered. Furthermore, the research results will undoubtedly be the absolute source for learners. Over and above that, the people who are unaware of the situations regarding minorities in the country will get to know the facts and challenges that minorities have faced in the past and the improvements for them in the present. The research document analyses minority rights and the state's and politicians' behaviour towards them. It encompasses the laws and provisions of the constitution regarding the minorities' rights and their implementation on the ground level throughout the country.

**Keywords:** Minorities, Legal Structure, Rights and Duties, Laws for Minorities.

## Introduction

Since the days Pakistan emerged, it has been the known belief of equal rights for both communities that are majority and minority. As a budding state founder, Jinnah advocated for minorities and their rights in Pakistan. There are many stipulations in the legal and constitutional context of Pakistan, with particular fears about minority rights. Yet, numerous initiatives and optimistic features have become a part of politics, governance, and the legal system. Likewise, minorities experience quota in the armed forces as well-trained professions like medical sciences and engineering. However, there is still a dire need to feed the respect and acceptance in the hearts of commoners for minorities.

Although Pakistan is an Islamic state, it functions around the teachings of the Quran and Sunnah. Khattab and Webb (2015) mentioned in the book that the Prophet, emphasizing equality, said,

*"There is no superiority of an Arab over a non-Arab, or of a non-Arab over an Arab, and no superiority of a white person over a black person or of a black person over a white person except based on personal piety and righteousness."*

Moreover, Islam also protects the right to life, property, and worship of minorities around the globe. Therefore, being an Islamic state, Pakistan is required to preserve these fundamental discussed rights.

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Human rights are the most debatable topic of recent times. Everyone has the right to demand it is a human, i.e., the rights that make someone's life peaceful and decent. Pakistan is almost filled up with non-Muslim communities in various places, and these minorities are given their rights according to the teachings of Islam. The constitution of Pakistan gives the Freedom of religion and guarantees minorities to worship and build their worship places.

Besides the rights given to the minorities, they have been facing many difficulties, and their survival in Pakistan has been difficult. Minorities have been facing Blasphemy, Forced Conversations, and Discrimination in the different sectors of society. Many minority communities have started migrating from Pakistan to live their life peacefully, which shows how much they have declined after the demise of Muhammad Ali Jinnah.

The paper is a critical study that embarks upon the need to take steps that can make minorities safer in the Islamic State since the Teachings of Islam give the same message and make the Islamic Ideological State stand on its ideology to prove the words of Muhammad Ali Jinnah to make Pakistan a secular state.

The paper is based upon the research, which is qualitative, while a secondary method of data collection is employed for the study. It is carried out using relevant books, legal reports, past judgments, statutes, and authentic media sources in this regard so that the researcher can reach the intended conclusion.

## **Difference Between Minorities in Today's Pakistan and Jinnah's Vision**

### **Jinnah's Vision**

Muhammad Ali Jinnah, known as Quaid-i-Azam (The Great Leader) and founder of Pakistan, was a man of vision and was trusted by the entire Nation.

When he struggled to get an independent country for the Muslims, Christian communities and its activists stood with Mr. Jinnah in this struggle before getting an independent state. These people not only loved him but supported his ideology. Many leaders like Mr. Pothan Joseph took an active part in his struggle by being an active journalist for the Muslim League.

After the Independence, Mr. Jinnah kept up his promise of equality and a secular state for all citizens of Pakistan. During his Speech on 11th August 1947, he said that:

*"You are free; you are free to go to your temples; free to go to your mosques or any other places of worship in the State of Pakistan. You may belong to any religion or cast or creed that has Nothing to do with the business of the state".*

Mr. Jinnah's approved from the Muslim League's core committee the flag of Pakistan to have white colour along with white to show the entire world that non-Muslims are equal and integral parts of the newly made state. His vision was clear that he did not want non-Muslims to go through the problems Muslims faced in British-ruled India. He thought that Muslims, as a minority, after becoming the majority, would feel the status of being a minority and would offer a sense of security and love to the minority community in a newly made state.

Mr. Jinnah's thoughts and actions proved that he believed in an Islamic state ideology that protects everyone irrespective of caste, creed, religion, or language. It is known that, after the Independence, Mr. Jinnah went to a church in Karachi to celebrate 1st Christmas in the newly made state with Christians.

### **Christian's Specific Role in Independence**

Christian communities stood alongside Mr. Jinnah to get a new state for Muslim brothers. Punjab was a significant problem during the struggle between the Indian National Congress and the All-India Muslim League due to its resources, geography, and religious population.

Both parties wanted to get the maximum part of Punjab, and to get it, the Punjab Assembly was the only solution, which mainly comprised Sikhs and Hindus.

Muslims did not have much of the territories in Punjab, resulting in fewer seats for the All-India Muslim League, which was becoming a problem. Still, the Christians, who were members of the Punjab Assembly, including Mr Dewan Bhadar, SP Singa, C E Gibbon, and Choudhry Fazal Elahi, decided to stand with the All-India Muslim League.

During the voting, when these Christian Leaders entered the Assembly, Master Tarah Singh shouted, "Whoever demands Pakistan will get Qaberastan." Still, in reply, SP Singa called, "We will have the bullets in our chest, but we will get Pakistan."

After the voting, both parties got an equal number of votes, 88, but with the addition of these three Christian leaders, the All-India Muslim League got 91. Then, Christians were counted to be part of Pakistan, which also decided the boundary of Punjab later.

### **Hindus' Specific Role in Independence**

Munsi (2022) explained that Christians and Hindus, known to be 2nd the minority, also played an essential role in the creation of Pakistan. Joginder Nath Mandal strongly supported Mr. Jinnah and stood with him throughout the struggle for a newly made state. Joginder Nath Mandal belonged to the lowest hierarchical tier, Dalits, known as the Untouchables. Considering the socio-economic condition of the Dalits, which was equal to the Muslims in British-ruled India, Joginder Nath decided to be with Mr. Jinnah instead of Mr. Gandhi during the struggle.

Joginder Nath Mandal is known to be the first law minister of Pakistan. Later on, he also presided over the historic session of the Constituent Assembly, where Mr. Jinnah took oath as Pakistan's earliest governor-general, and he was also titled Mr. Jinnah as the Quaid-I-Azam in the same session.

Choosing a minority member to preside over a session was an idea to mainstream the minorities. The fact that a minority member was elected to preside over the session indicates the new state's progressive mindset, which bodes well for the future. Pakistan was founded through the unwavering efforts of a minority group of Indians on the subcontinent (Balouch, 2022). When an interim government was formed after the elections in 1946, Both leading parties of that time had to nominate a representative to operate as ministers in the government. Joginder Nath was named from the side of the All-India Muslim League. Joginder Nath also supported the Objective Resolution later on. The exact resolution argued over the opinions that It supports Mr. Jinnah's secular state into a religious state.

### **Today's Minorities**

Minorities in today's Pakistan are different from Quaid's vision. Even the principle of Unity, Faith, and Discipline from Quaid could not make it easier for minority communities to live peacefully in Today's Pakistan. Many people from minority communities are serving Pakistan with complete dedication and devotion toward the Nation while facing countless difficulties. Many Pakistani non-Muslims have played an active role in the betterment of Pakistan.

Justice Mr. Bhagwan Das and Justice A R Cornelius have served Pakistan as its Chief Justice. Cecil Chaudhry, Peter O Reilly, and Mervyn L. Moddlecoat have served as Air Force Pilots. Besides these, many Pakistani non-Muslims are serving in different fields, such as Doctors, Lawyers, State Officials etc.

In the recent past, there have been countless attacks on minority communities, Including the Attack on Hindu Temple and Sikh Gurdwara in Ghotki, Sindh, and Nankana Sahib, Punjab, respectively. Christian communities were also attacked when an entire society of Christians got burnt to the Ashes in Lahore, Punjab (Ispahani, 2015).

The cases mentioned above inform us that, after giving their entire life, Minorities in Pakistan are facing all the problems that used to happen before 1947. These attacking events make an alarm for the whole Nation to make Pakistan Secular and follow the forgotten principles given by Quaid.

### **Difficulties Faced by Minorities in Pakistan**

Minorities in Pakistan occupy 5% of the population. Having that much smaller ratio in numbers, minorities have not been able to survive peacefully in Pakistan since its independence. Pakistan, soon after independence, converted from a secular state to a religious form because of the absence of Mr. Jinnah in the newly made state. Whether it's the migration of Joginder Nath Mandal, the first law minister of Pakistan, in 1950 Shia Sunni sectarian attacks from 1987s to 2000s, or Forced Conversions of Hindu Girls in Sindh, minorities have always found it difficult to survive in Pakistan.

Out of all the difficulties, Blasphemy Issues, Discriminatory Remarks, and Forced Conversion have been the highlighted issues of minorities in Pakistan, including many others.

### **Blasphemy**

Pakistani law has a group of Blasphemy laws in PPC in sections 295 to 298. This chapter itself makes a few discriminations for Minorities. Section 295 (A) is about the "premeditated and evil aim to offend the religious sensibilities about any class of Pakistani nationals," while other laws are protecting Islam and Muslims, that's why it limits the Freedom of Expression for Minorities.

Section 295-B says, "Anyone who knowingly defiles, ruins, or dishonours a manuscript of the Holy Qur'an or an excerpt from it, or who uses it in an offensive way or for an illegal purpose, faces a life sentence in jail.". Section 295-C says that "Anyone who tarnishes the holy name of the Prophets (peace be upon him) through words, whether orally or by writing, or through visible depiction, or any accusation, exaggeration, or insinuation, direct or indirect, faces the death penalty or life in prison as well as a fine.

In 2009, the UN Committee on the Elimination of Racial Discrimination said that Pakistani blasphemy laws are used as a sort of discrimination against minority groups. The UN Special Rapporteur, on her visit to Pakistan in 2013 to learn about the independence of Judges, got to know that "Judges are pressurized and forced to decide against the accused without having any evidence and Lawyers feel unsafe to take up cases of such persons because they are warned for their life, gets attacked and their families are targeted.

The report mentioned above became a living example when Notan Lal, A Hindu School Teacher in Ghotki Sindh, was attacked by one of his students due to his grudges. Notan Lal gave him an example of Prophet Muhammad (Peace Be Upon Him) and how much he was professional in his job. The student misguided his fellows and attacked the Notan Lal and a Hindu Temple in Ghotki. None of the Students who were present there witnessed in favor of Notan Lal, and he was convicted for a lifetime and is now spending his life in Sukkur Centre Jail.

### **Discrimination**

Discrimination has been a long-lasting issue for the minorities of Pakistan since its Independence. It is said that the reason for the migration of Joginder Nath Mandal, the first-ever Law Minister of Pakistan, was the bureaucracy's Discrimination towards him after Mr. Jinnah's demise. Officials used to call him "the Untouchable" since he belonged to the lowest hierarchical order in Hinduism, which compelled him to migrate to India in 1950. Minorities face Discrimination in several places and in several positions, too.

The Education system in Pakistan has been discriminatory from Primary to Higher Education. The way history is taught to the students at schools, who even start to create an opinion regarding everything, does not truly reflect the realities and ignores the recognition and appreciation of non-Muslims in the struggle for the Independence of Pakistan.

It is written in the Mutalya-e-Pakistan for the class of 11th and 12th in Sindh Textbook Board, "Hindus and Sikhs have killed lacs of women, children and many young brutally, who are the enemy of Humans. In class 8th, it is written that Muslims supported Hindus in Political Movements to get Independence from British rule, but Hindus always cheated on Muslims. In class 9th, It is written that

*"Muslims and Hindus worked together, but this unity did not work for long, and Hindus started cheating Muslims."*

Now, for a child, who has started growing an opinion, what would impact this on his mind? Instead, the word The Congress or any other non-discriminatory remark should have replaced Hindu.

Article 22 of the Constitution of Pakistan 1973 states, "No person, attending any educational institution, shall be compelled to participate in any religious activity other than their own." Over the years, the government has increased the content of Islam in secular subjects, too, especially in Urdu and English subjects. Even though the Class 1 Urdu textbook 'Meri Kitab' is intended for a secular class, 16 of the 43 lessons promote Islamic principles. While teaching scientific inventors, solely Muslim inventors are highlighted in the curriculum.

While students can theoretically take either an Islamic Studies or a secular ethics curriculum, the latter is rarely provided in public schools since officials believe that there aren't sufficient enrolments in the subject to support hiring a teacher.

In 2009, the United Nations Committee on the Rights of the Child expressed concern about records that children of religious minorities were being denied access to religious education and practice and urged Pakistan's government to ensure that children have the option of participating in religious education classes. The Committee also criticized Pakistan's "persistent discriminatory societal behaviour in case of youngsters part of a religious class." It made many proposals about how the Pakistani government should direct the issue. These problems exist even today, and the government has yet to act on the Committee's findings.

Admissions to Higher Educational institutes are also discriminatory. While taking the entrance exams, about 15 to 20 grades are awarded to the students known as Hafiz-e-Quran, who have memorized the Holy Quran. Compared to Minorities, they are not given such an advantage when memorizing their religious scripture.

Hate speech is also common in educational institutions, with an emphasis on the Ahmadi group. Teachers at numerous academic institutions are accused of using offensive speech and calling for the murder of Ahmadis. According to reports, institutions have expelled Ahmadis after filing complaints.

Throughout General Zia Ul Haq's dictatorship, A quota system was put into place, allocating 5% of government sector positions to minorities, with the rest 95% of jobs being selected on the basis of open merit, which included minority candidates. In practice, however, this approach accomplishes little to promote positive action and, in fact, worsens social exclusion and prejudice towards minorities because many towns meet their 5% requirement by solely employing minorities in low-wage jobs like sanitation employees. There have even been instances of job postings in some localities stating that Muslims are not required to apply.

In Pakistan, there are no established personal status laws for Hindus and Sikhs, making them vulnerable when they want to get married or divorced, seek justice for family concerns, or even go overseas because they cannot verify their status through legally recognized papers. The UN



Committee on the Elimination of Discrimination Against Women raised concern in 2013 about Pakistan's numerous legal systems on marriage and personal relations, as well as the absence of Hindu and Christian laws that apply.

The Parliament of Pakistan lacks the representation of minorities in its houses. The Constitution of Pakistan has been discriminatory itself, too. Article 41 (2) says that "One shall not be elected as President unless he is Muslim." The same goes for the appointment of Prime Minister and Chief Minister in respective Articles. These discriminatory clauses of the Constitution limit the powers and freedom of expression for minorities in Pakistan.

When the number of seats in the National Assembly was increased in 2002, reserved seats for minorities remained the same at Ten. A bill for a constitutional amendment was moved in January 2014 to expand the number of reserved seats for minorities in the National Assembly, Senate, and Provincial Assemblies. The government rejected the bill, declaring that an Increase in chairs is only possible once the population census is conducted. Political parties privately nominate all religious minorities for representation in provincial and federal legislatures. As a result, these appointed officials have little options but to follow the party line. Considering this, no legislation protecting religious minorities has been passed in Pakistan.

In Pakistan's whole history, this is the first time that a Hindu was elected as a member of the National Assembly in the General Elections 2018, which shows the weak representation of minorities in political activities.

### **Forced Conversions**

Forced Conversions have been an alarming and the most serious issue for the Minorities of Pakistan since the 2000s. It is alleged that minor girls of Minority communities are kidnapped and converted to Islam without their will. Religiously marginalized women experience significantly more Discrimination; they frequently become sexually harassed, kidnapping, forced marriage, and forced conversion. Most individuals 'converting' to Islam are under the age of 18 speaks eloquently about the converts' fragility and motivation (Jahangir, 2022).

Hundreds of Hindus, Sikh, and Christian girls are abducted and converted every year, according to human rights organizations. According to the National Council of Churches in Pakistan (NCCP), the number of Christian girls abducted each year is increasing. Alleged forced conversions of Kalash community females have also been reported in the media. The majority of the victims are low-caste Hindu and Christian women. A growing number of forced conversions are taking place in the southern Sindh districts and the south of Punjab districts and its neighbouring territories. According to reports, among the victims include children as young as 12.

Harris Khalique, A Pakistani journalist writing in Indian Newspaper, claimed that 'Abductions, rape, and lengthy sexual exploitation in captivity are commonplace among wealthy Muslim farmers. Some well-known religious institutions openly support these alleged crimes. By turning a blind eye, state institutions, the police, and politicians have aided the tendency.'

Pakistan Hindu Council stated that Forced Conversions are the reason for the migration of many Hindus to India. According to Pakistan's 2017 Universal Periodic Review to the UN Office of the United Nations High Commissioner for Human Rights (OHCHR), Every month, on average, 20 Hindu girls are kidnapped in Pakistan, forced to convert to Islam, and then married to their kidnapers. According to the Human Rights Commission of Pakistan's annual report for 2018, the southern region of Sindh saw over 1,000 forced conversions of Christian and Hindu girls. According to Forbes, human rights organizations estimate that 1,000 such girls are forcefully converted to Islam each year. Because many incidents go unreported, this number could be substantially higher. The number of forcefully converted females is estimated to be over 1,000 every year, according to a 2020 US media report. The Pakistani administration, on the other hand, dismissed the findings as "rubbish and unfounded."

### **Prevailing Rights and Laws in Pakistan for Minorities**

Minorities have been a prominent part of Pakistan and played an essential role in its Independence. From Objective Resolution to The Constitution of Pakistan, 1973, Lawmakers have given every right to a non-Muslim that a Muslim is enjoying in the Islamic State of Pakistan. As Pakistan is a state of Islamic Ideology, all of its laws are made according to the Injunctions of Islam. The Constitution of Pakistan, 1973, says that any law against the injunctions of Islam shall be counted as null and void. It explains that every human right or right of minorities shall be according to the Injunctions of Islam.

### **Minorities' Rights Under Islam**

There are many propagandas made regarding the maltreatment of non-Muslims in the Islamic State of Pakistan in Western countries. Non-Muslims claim they were mistreated due to their religion. However, an examination of Islamic teachings on minorities' rights reveals that the propaganda of the West is not valid. The teachings of Islam do not discriminate against anyone based on caste, color, creed, faith, or religion; it teaches the brotherhood among different religions and people and asks them to profess and practice their religion freely.

The Holy Quran says that "There is no compulsion in religion," and the Prophets of Islam said, "unto you your religion, and unto me my religion."

All minorities had ultimate religious freedom in the first Islamic kingdom established by the Prophet (PBUH) in Medina. He told minorities they would have the same opportunities to live happy lives (Singh, 2007). Non-Muslims could also integrate into Medina at leisure. They were granted political rights, including the opportunity to vote in presidential elections. They had the same right to vote as everyone else. Even as he lay dying, he instructed his followers to ensure the safety of non-Muslims (Ali, 1980). Non-Muslims are not only treated with enormous tolerance in Islamic states but they are also permitted with the highest administrative posts so that they can play a part in the state's development. They are free to practice their religion, carry out their religious duties, and build places of worship and schools where their kids can get an education that aligns with their faith or creed.

### **Minorities' Rights Under the Constitution of Pakistan 1973**

The Constitution of Pakistan has provided several articles promising the entire practice of their religion and professing every ritual of different faiths. Article 20 gives the citizens complete freedom to practice, proclaim, and religion. Article 21 describes the process of Taxation in respect of beliefs. This article exempts everyone from paying any tax to maintain any religious institute. At the same time, Article 22 of the Constitution protects religious educational institutes.

Many more rights are described for every citizen, including the non-Muslims of the State.

Equality of rights is guaranteed under the Constitution. Article 25 deals with the equality of the citizens before the law and elaborates that every citizen will be protected equally. The supremacy of law underpins this right. It indicates that in Pakistan, minorities receive the same level of constitutional protection as other people and are not discriminated against but treated equally. For example, on February 17, 2012, Amina Tarrar, a non-Muslim mother, was awarded custody of her 11-year-old daughter by the Lahore High Court because a young girl should live with her mother. The order was made in response to a plea filed by Ingrid Branden Burger, a French citizen, asking for custody of her daughter Amina from her ex-husband Razzaq Tarrar, a citizen of Phalia Tehsil Mandi Baha Uddin region.

Whoever qualifies as a Pakistani citizen is eligible for all types of public service, regardless of religion, color, sex, or descent. Non-Muslim nationals of Pakistan are given a specific quota in government services. The reason why non-Muslims work in almost every field, including education, defense, the judiciary, and administration. Non-Muslims are even given high-

ranking positions, such as the first two Chiefs of Army Staff, General Frank Walter Meserve and General Sir Douglas Gracey. The Pakistan Air Force's first three Vice Air Marshals were also non-Muslims. Cecil Chaudhry, a non-Muslim army officer, played a vital role in the 1965 Indo-Pakistan war and was awarded the Sitara Jurat medal in honor of his excellent contributions. Many non-Muslims also work in the judiciary. In 2007, Rana Bhagwan Das was elevated as the Chief Justice of Pakistan—thousands of non-Muslims work in education and health care. A Christian doctor named Dr. Donald Bose performed Pakistan's first heart surgery in 1959. Non-Muslims have equal access to electronic media, and several have received high honors from Pakistan. Shabnam, Dr. Durdana Butt, Nelo, Rachel Gill, Jia Ali, Sunita Marshall, Benita David, and others are non-Muslim celebrities.

The Constitution gives every citizen, including non-Muslims, the Right to Freedom of movement, assembly, speech, association, occupation, and expression. They are free to participate entirely in Pakistan's political system and to criticize the government. A Christian daily publication called Pakistan Christian Post offers Christian perspectives on politics without fear of retaliation. Minorities have the right to peacefully assemble in any area of the country under the freedom of association. They also enjoy the freedom to migrate around Pakistan and live in any area of the country. There are numerous non-Muslim colonies throughout Pakistan, including in the country's major towns. Freedom of conscience and the freedom to profess, practice, and spread any religion, as long as it does not disrupt public order or morals. Minorities have the freedom to practice any religion they choose. They are not compelled to follow any faith. Minorities can make their holy sites and execute their religious ceremonies. Muslims, too, take part in religious celebrations. In Pakistan, there are numerous temples and churches. Muslims respect non-Muslims' houses of worship, and the government even protects them.

Minorities are not subject to taxes that might be used to advance a religion other than their own and are free to enroll in any educational institution. Numerous Christian educational institutes are administered entirely by Christians. These institutes provide Christian education to students. Students from all over Pakistan attend the Christian-run Forman Christian College and University in Lahore. These Christian institutions are free to operate without disturbance from the government. There has never been an incidence of minorities being forced to pay money for the spread of religions other than their own. Minorities have the freedom to travel and live anywhere in the country. Nobody has ever been refused the right to live in the country because of their caste, race, creed, or religion.

## **Conclusion**

Minorities, as discussed in the paper, have been at the receiving end of the plight in Pakistani society. Tracing the situation back into history, it has been assessed that minor religious groups had their due position under the secular style of Jinnah's leadership. They did play a role in earning Pakistan an independent status. With the passing of time and newer governments, intolerance emerged based upon the misrepresentation of the country's ideals and misquote of the basic injunctions of Islam.

In Today's Pakistan, minorities have been facing several issues which have forced them to migrate from Pakistan. The problems consist of Blasphemy, where many non-Muslims have faced injustice by dealing with fake scenarios, and even the authorities have been unable to play an essential role in it. Besides, Discrimination has been another problem where even education has been discriminatory to non-Muslims, and they have been facing this problem even in the legislative process. The biggest issue has been the forced conversions, where an average of 1000 girls are forcefully converted to Islam, as mentioned in the paper. The situation has been alarming, and the administration has concluded it as rubbish.



While facing all these problems, The Holy Quran and the Constitution of Pakistan have given equal rights to all the minorities prevailing in the state. The Quran is an embodiment of 'no-compulsion in religion.' The Constitution of Pakistan 1973 has given equality rights, professing their religion and freedom. The ball is now in the court of administrative authorities to abide by the constitutional and Quranic commandments to make this country a living space for all, irrespective of religious identity.

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