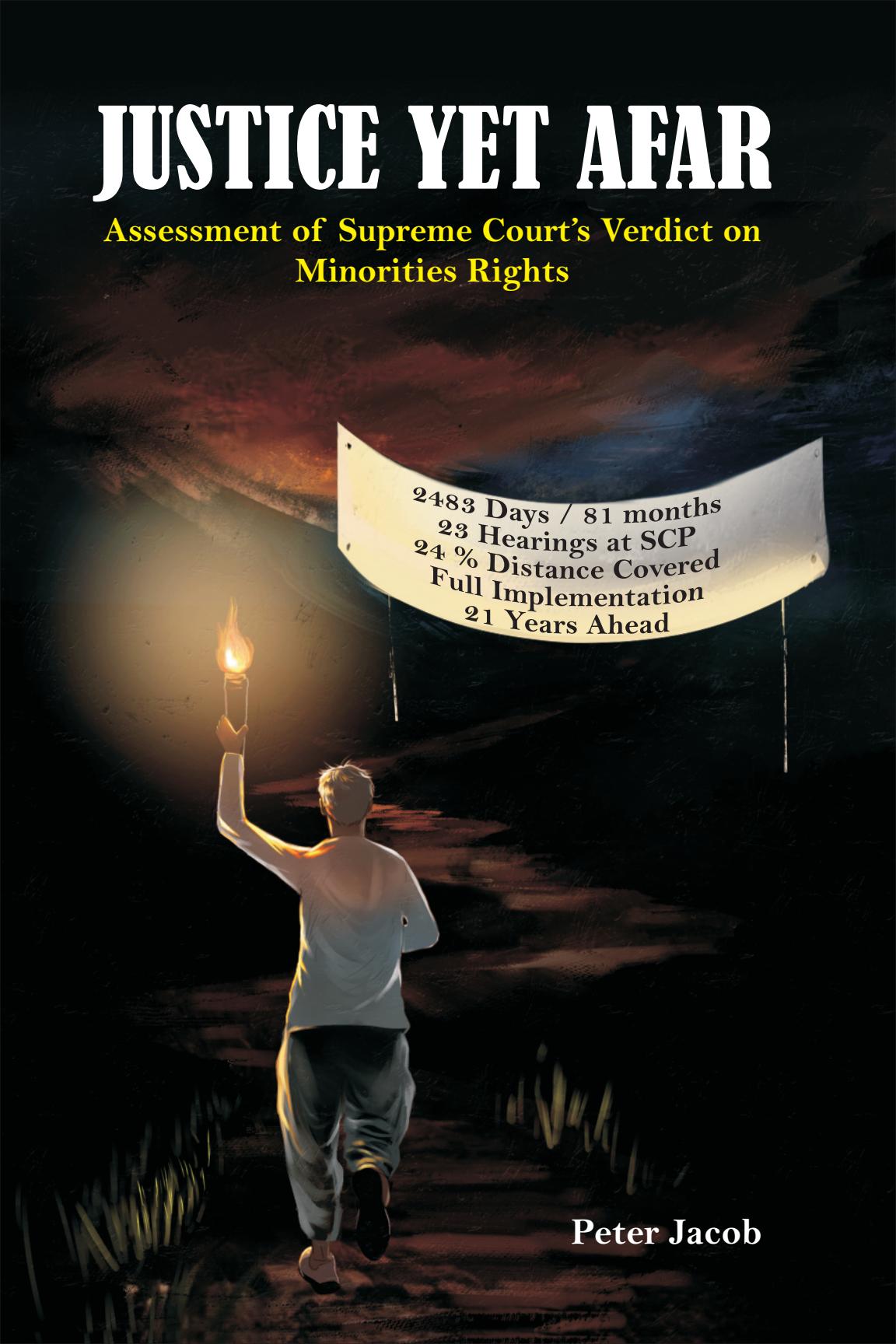


JUSTICE YET AFAR

Assessment of Supreme Court's Verdict on
Minorities Rights



2483 Days / 81 months
23 Hearings at SCP
24 % Distance Covered
Full Implementation
21 Years Ahead

Peter Jacob

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Abbreviations / acronym

AAG	Additional Attorney General
CMA	Civil Miscellaneous Application
ETPB	Evacuee Trust Property Board
FATA	Federally Administered Tribal Areas (Now Tribal district of KP)
IGP	Inspector General Police
KP	Khyber Pakhtunkhawa
MoHR	Ministry of Human Rights
MoRA &	Ministry of Religious Affairs and
IH	Interfaith Harmony
ML&J	Ministry of Law and Justice
N.A.	Not Applicable
N.G.	Not Graded
NADRA	National Database and Registration Authority
NAP	National Action Plan (counter terrorism)
NCM	National Commission for Minorities
PEMRA	Pakistan Electronic Media Regulatory Authority
PCTB	Punjab Curriculum & Textbook Board
SC	Supreme Court of Pakistan
SNC	Single National Curriculum
SPU	Special Police Units

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This report is dedicated to the deep conviction to peoples' rights, courage and friendship that enriched our world in the person of
I A Rehman (1930-2021)

The Foreword he wrote for our last report on this subject is enormously relevant therefore carried here in his everlasting memory.

Author & Team Centre for Social Justice

Foreword

It gives me immense pleasure to associate with and endorse the report on compliance with the Supreme Courts' decision of 19 June 2014 on the problems faced by members of religious minorities. The Supreme Court had very wisely suggested a framework for the protection of the minorities' rights and drawn up something of a minorities' charter. A key recommendation was the creation of a national council to oversee the interests of the minorities. Had these salutary recommendations been accepted the minorities would have found a forum to agitate their problems and hopes of progress towards removal of their grievances would have risen.

Likewise if the plea for a special force to protect the minorities' shrines had been accepted some of the fresh attacks on these sacred sites could have been prevented.

A critical recommendation was the creation of a three-member bench in the Supreme Court for monitoring implementation of the court's recommendations and to receive minorities' complaints. To some extent this recommendation was certainly respected, and the subsequent Honourable benches of the Supreme Court have been passing directives to various branches of administration for implementing the court orders, but this matter has received little attention of the executive branch sadly. The need to change all this is manifest.

Mr. Peter Jacob has won the hearts of all those human rights activists who have been struggling for years to secure to the minorities what is due to them, and he has done this with his customary thoroughness. He has in fact made a solid contribution to the Supreme Court's efforts to secure justice for the long suffering minorities.

I A Rehman

Former General Secretary, Human Rights Commission of Pakistan

Patron-In-Chief, Peoples' Commission for Minorities Rights

Prelude

Judicial pronouncements that merit being called 'landmark' or 'historical', manifest a significant contribution to the public good, protecting rights, providing remedies against injustices, or adding a new dimension of justice. The excitement is about what people consider the transformational value of the verdicts that may bring about changes in attitudes and relationships within a polity or society.

The judgment in consideration¹ has been applauded since it was pronounced in June 2014. Leading jurists, politicians, human rights activists² and, particularly religious minorities in the country, welcomed the verdict with great optimism.³ This judgment has been written about,⁴ discussed in classrooms, and referred to in several petitions in the past five years. It has also earned Justice Tassaduq Hussain Jillani and Pakistan, recognition in the international community.⁵

Imaginably, on retiring from court on June 19, 2014, the bench headed by Chief Justice Jillani must have felt satisfied that they have removed all possible impediments in the way of compliance of the seven orders passed by incorporating order number eight in the judgment paragraph 37. This paragraph provided a mechanism of mandatory follow-up hearings by a Supreme Court Bench, allowing members of minority communities to approach the Court for compliance of the orders without involving high expenditures, etc. The Federal and Provincial governments were assigned some new tasks in the judgment besides their existing responsibilities - neither appealed against the orders, nor sought any clarification. Apparently, the government functionaries understood what the orders required them to do.

However, the compliance with the verdict has been far from

¹S.M.C. No. 1 of 2014 /PLD 2014 SC 699.

²Reema Omar, A Welcome Judgment, Dawn, 14 July 2014. <https://www.dawn.com/news/1118991>

³I A Rehman, SC and Minority Rights, Dawn, 11 April, 2019. <https://www.dawn.com/news/1475329>

⁴<https://iportal.riphah.edu.pk/newspaper/the-minority-judgement/>

⁵The former Chief Justice Tassaduq Hussain Jillani was bestowed upon an International Justice Excellence Award for

impressive 81 months after the verdict. This study concludes that this implementation gap was largely attributable to poor statecraft about minorities, institutional hiccups, and lethargy or inaptitude on part of the implementers (Executive branch). On a systemic level, the vested interest benefitting from a lack of good governance, and absence of rule of law interfered with the progress on specific directives contained in the judgment.

These weaknesses are exemplified in the absence of an oversight body for protection and promotion of minority rights. This negligence is evident for instance, in pending legislation on personal laws for minorities (amendments to the Christian marriage and divorce laws), gaps in administrative measures (Task Force for social and religious tolerance, enforcement of article 22 of the constitution), inability to curb human rights violations (forced marriages and conversions, bride smuggling), and failure to implement affirmative measures to ensure equal opportunities (implementation of job quota).

The Centre for Social Justice (CSJ) endeavoured to bring attention to the unsatisfactory compliance by a) submitting an application before the Supreme Court in October 2015, b) presenting an analysis of the compliance in October 2016,⁷ and by, c) advocating, individually,⁸ as well as in collaboration with other Civil Society Organisations (CSOs).⁹

CSJ along with two more CSOs¹⁰ approached the Supreme Court in May 2018 though without tangible outcome seen till March 2021, even though Chief Justice Gulzar Ahmed issued several order for the compliance of article 22 of the constitution of Pakistan. However, the community leaders and civil society have

^{6u}(viii) The office (of the Supreme Court) shall open a separate file to be placed before a three Members Bench to ensure that this judgment is given effect to in letter and spirit and the said Bench may also entertain complaints / petitions relatable to violation of Fundamental Rights of minorities in the country." (Para 37)

⁷http://csjpak.org/wp-content/uploads/2017/11/CSJ_compliance_judgment_report_final_24.11.16.pdf

⁸<https://tribune.com.pk/story/1249792/minority-rights-report-evaluates-govts-compliance-scs-verdict/>

⁹<https://www.dawn.com/news/1416545>

¹⁰Human Rights Commission of Pakistan, Centre for Social Justice and Cecil & Iris Chaudhry Foundation.

found the formation of the One-Man- Commission (Dr Shoaib Suddle) as helpful in tackling some of the challenges discussed in this report.

In the third study on this topic, CSJ underlines the institutional aspects of the failure in implementation of the judgment. The study touches upon some of the major challenges in public policy, and attitudes or the elements blocking the progress towards realisation of rights of all citizens, particularly the marginalized segments of the population.

This compliance assessment was a unique exercise in its nature and scope and reflects the civil society's desire to support governments in fulfilling its responsibility to protect, promote and fulfil human rights. The CSOs would like to ensure that such verdicts do not land in the darkness of neglect, because no polity or civilised society can achieve accountability regarding rights' violations, without collective efforts for justice.

This report is an acknowledgment that irrespective of controversies and pitfalls, the judiciary in Pakistan has endeavoured to expand the interpretative scope of 'fundamental rights', as guaranteed in the Constitution, in general as well as specific legal principles of 'equality' and 'non-discrimination' through core concepts of the universal framework for human rights protection.¹¹

There is an on-going debate about the effectiveness and efficacy of judicial activism with regards to the suo moto powers under Articles 184 (3) and 199 of the Constitution of Pakistan.¹² It is nonetheless an international norm and has proven to be necessary for strengthening observance of human rights and

¹¹ Zia, Maliha & Bhutta, Ayian, Rights? What Rights? An Analysis of Emerging Human Rights from Constitutional Case Law in Pakistan, Legal Aid Society, Karachi, 2016.

¹² Article 184 (3) "Without prejudice to the provisions of Article 199, the Supreme Court shall, if it considers that a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II is involved have the power to make an order of the nature mentioned in the said Article." Article 199 (2) "Subject to the Constitution, the right to move a High Court for the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II shall not be abridged."

democratic dispensation. These powers basically enable the higher judiciary to address grave human rights violations in countries passing through political turmoil and crisis. The objections are raised from different quarters including the members of judiciary itself, when these discretionary powers are invoked in politically motivated and controversial matters.¹³

The verdict in focus was also a *suo moto*, but the only time the Supreme Court exercised these powers under the leadership of Justice Jillani.¹⁴ Hence use of *suo moto* powers in cases pertaining to human rights violations, is the most logical and legitimate, particularly when accompanied with transparent procedures and institutional accountability. Therefore, implementation on this judgment should not be confused with academic controversy surrounding the effectiveness or legitimacy of judicial activism.

The first report '*When Compliance Fails the Justice*' was published 27 months after the judgment, while the second '*A long Wait for Justice*' was released on the fifth anniversary of the Jillani judgment. '*Justice Yet Afar*' is the third and most updated publication on this topic. The Centre for Social Justice is grateful to its mentors, the petitioners for giving their comments and sharing information.

A former colleague Ms. Farzana Christopher assisted me in the compilation of the first study, '*When the Compliance Fails Justice*' in 2016. Now, I would like to thank my colleagues Ms Shapher Ezra and Ms Faiza Arshad for their assistance in compiling and Ms Xari Jalil for proofing the script.

The CSJ hopes that this study will contribute to a better realization and enjoyment of rights in the country. We also hope it will assist judicial officers, legal fraternity and concerned organs of the government and NGOs. CSJ wishes that the activists among

¹³"*Judicial Activism vs. Democratic Consolidation in Pakistan*", Harris Gazdar, South Asia, Economic and Political Weekly, Vol XLIV No 32, August 8, 2009.

¹⁴Rehman, I A, Minorities' Long Wait, DAWN, 10 January 2019. <https://www.dawn.com/news/1456576>

minorities, who are the primary stakeholders, will use the findings of this report for planning and making well effective interventions in the future.

Peter Jacob

March 31, 2021

1. Executive summary

A systematic assessment of compliance with the landmark Supreme Court Judgment reveals that its implementation is significantly lagging behind. The Federal government was the most defiant respondent. It reported the least number of compliance reports, particularly on three very specific orders by the Supreme Court (1st, 2nd and 4th directive) during all 25 hearings, till March 2021. Reportage from the Ministry of Religious Affairs and Interfaith Harmony, Ministry of Federal Education, was in particular missing or them the Bench found deficient. The only proper reporting came from the ICT Police that tried to provide answers related to compliance. Therefore, no surprise that Federal government scored only 2/25 only.

The provinces provided either insufficient information or actions without result. Government of Punjab sent the most reports followed by Khyber Pakhtunkhawa, Sindh and Balochistan which were largely a repetition of the earlier reports.

Sindh government scored the highest compliance 9/25 while Punjab stood second with 8/25 while being the most populated, developed and resourceful province Punjab could have done better. Balochistan had scored highest number in the first report in 2017 however it has done just better (6/25) than Khyber Pakhtunkhwa (5/25) this time.

The reports of the One-Man-Commission revealed that compliance was expected from Gilgit Baltistan and Azad Jammu and Kashmir as well, nevertheless, no report had been submitted on their behalf during the period under report. In the accumulative picture, the Federal and Provincial governments together did not achieve beyond 24 percent compliance on the judgment. The trend is consistent in the third assessment report prepared by CSJ. With this pace of progress, approximately 21 more years will be needed to achieve full compliance of this judgment.

The analysis was conducted using various indicators to assess

performance of the overall compliance of the judgment is hardly satisfactory and reflects some serious obstacles including lack of will amongst decision-makers and implementers.

The compliance reports reflect a great deal of inaction on part of the implementers generally known as bureaucracy. Among the seven initial orders, relatively better compliance was observed regarding security of places of worship, and reservation of job quota, although serious gaps in implementation were found in these two as well. The Supreme Court bench conducting follow-up hearings was obliged to summon attendance of the top government functionaries of provinces as well as the Attorney General of Pakistan and warning along with timeline had to be given by the Bench on repeated occasions.

None of the reports that were brought before the Supreme Court suggested any substantive discussion at House or Standing Committees levels in provincial and federal parliaments. None of the five cabinets or inter-ministry level meetings had been carried out to discuss implementation of the verdict.

The report at hand adds five chapters on qualitative assessment on four issues and a commentary on the case law regarding the issues of concern for minorities in order to offer readers a historical perspective.

In conclusion, this study shows that the progress on compliance with the judgment neither satisfies stakeholders' concerns, nor the bench. Some practical recommendations have been made mostly addressed to federal and provincial governments and subsidiary bodies, the civil society and minority rights organizations, and one recommendation is addressed to the honourable Supreme Court of Pakistan.

Research Methodology

Beginning from an article for The News,¹⁵ the second on this subject, the author has been involved in the follow up of the Jillani judgment, as an applicant¹⁶ and as a witness to most of the proceedings since 2018. The researcher relied mainly on the papers presented by provincial governments and federal government's ministry and departments during the proceedings of the Supreme Court,¹⁷ as well as the applications (CMAs) about non-compliance, official websites and publications.

This assessment benefits from the progress reports submitted to the bench by the One-Man-Commission¹⁸ which reflected that reporting and action on part of the government departments and ministries has improved, though the implementation on the judgment is yet lingering on. Therefore the reports of the One-Man-Commission were an updated account of the responses to questions about compliance, and proved to be a record of immense importance.

The researcher interacted frequently with the petitioners in this case including those who participated in the suo moto proceedings in 2013-2014 as well as the petitioners of the follow up hearings. The researcher also reviewed relevant policy papers and minutes of meetings, digging deeper into the legal, administrative, legislative, and public policy processes in the context of Pakistan. The research methodology had to be a blend of academic and journalistic tools of investigation.

The author would like to acknowledge that accessing government records and data is nowhere close to a free flow of information recognised as a fundamental right under article 19-A of the Constitution of Pakistan. The researcher overcame

¹⁵ Jacob, Peter Judging By Rights, August 30, 2015. http://tns.thenews.com.pk/judging-rights/#.V_xm9VV9600

¹⁶ CMA 4821 in particular.

¹⁷ CMA Nos. 7327 (09/08/2018), 9541 (01/11/2019), 5689 (26/06/2018), 8523 (03/10/2018), 0019 (04/01/2021) 6378 (14/07/2018), 5688 (25/06/2018), 923-P (05/10/2020) and report on 27/11/2020, in addition to applications / reported submitted in the Court which were assessed in the previous two reports of CSJ.

¹⁸ Reports 1-8 presented by the One-Man- Commission to the Bench that conducted hearing between February 2019 and March 2021.

limitations by narrowing the focus, as well as following alternative means of verification, keeping track of developments throughout the research process. The findings and assertions are cross-checked and properly referenced. Charts and tables are used for clarity and brevity. The language used here is adapted to the needs of a general readership.

I. The judgment

The Apex Court merged seven applications into a proceedings initiated by the court itself, after a suicide bomb attack on September 22, 2013 on the All Saints Church, Peshawar. Other matters included 1) threats to Kalash tribe and Ismailies in Chitral; 2) alleged forced conversion of Hindu girls to Islam; 3) compensation for the victims of terrorist attack in Peshawar; 4) illegal occupation of a) Hindu Gymkhana Karachi, b) Christian Mission School, Karachi; 5) the desecration of historical Hindu Temple of Amrapur Asthaan; six other incidents of desecration of Hindu Temples /places of worship in Sindh Province; 6) registration of Hindu and Christian marriages by the NADRA and Local Council Authorities; and 7) the issue of Samadhi of Hans G. Maharaj, in Karak.

Instead of issuing orders for only selected and specific cases, the court gave directions that would instead provide institutions, and mechanisms for the redressal of these issues in the long term. The judgment also highlighted relevant principles of justice: the equal rights of non-Muslim citizens, particularly the right to religion, conscience and propagation of faith while interpreting the constitution. This emphasising on the minorities' right to religious freedom is unique in jurisprudence in Pakistan so far.

In the legal reasoning, the judgment alluded to Article 18 of ICCPR, International Covenant on Civil and Political Rights and corresponding Article 20 of the Constitution of Pakistan on the right to religious freedom. Moreover, it referred to UN

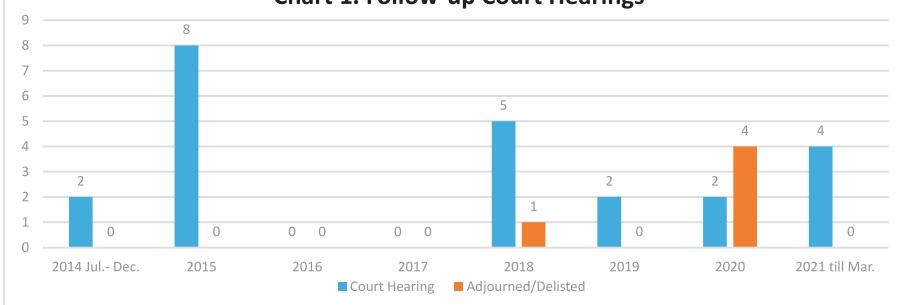
Declaration on the Elimination on All Forms of Intolerance and of Discrimination Based on Religion or Belief. A summary of the court orders is given below in Table 1.

No .	Orders Passed by the Court	Government
1.	Constitute a taskforce for developing a strategy of religious tolerance.	Federal
2.	Curricula be developed at school and college levels to promote a culture of religious and social tolerance.	Both
3.	Take steps to ensure that hate speech in social media is discouraged and delinquents are brought to justice.	Federal
4.	Constitute a National Council for minorities' rights for, inter alia, to monitor the practical realization of the rights and safeguards provided to the minorities with a policy for safeguarding and protecting minorities' rights.	Federal
5.	Establish a special Police Force with professional training to protect the places of worship of minorities.	Provincial
6.	Ensure enforcement of relevant policy directives regarding reservation of quota for minorities in all services.	Both
7.	Law enforcement agencies should promptly take action including registration of cases against violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities.	Provincial
8.	The Court office shall open a separate file to be placed before a three member bench to ensure that this judgment is given effect to / bench may entertain complaints to violation of fundamental rights of minorities.	Supreme Court Office

II. Follow-up Hearings

As shown in the chart below, after a zealous start in 2014 and 2015, there were no hearings in the latter two years. However since June 2018, there have been quite a few hearings. The judicial proceedings are dependent on several factors, largely on the number and quality of the applications that have been brought to the bench. At the end of the day, the implementation rests with the executive branch and their departments that are represented by their lawyers, who can delay the matters for a long time as evident.

Chart 1. Follow-up Court Hearings



III. Supplementary orders for compliance (Refer to Table 1 in the annexure).

A bench conducting the subsequent hearings regarding compliance of the court order had to be instructive in matters, from proper security of places of worship to perennial matters of governance.¹⁹ The court was obliged to repeat orders for implementing the job quota; conducting meetings with different officials and community leaders; controlling hate speech; requiring preparation of lists of places of worship, etc.,²⁰ which suggests that the attitude of the government officials was hardly proactive: it was negligent towards supplementary orders, as it had been towards the original orders given by the Supreme Court in June 2014.

¹⁹ Annex Table 1.

²⁰ Ibid.

Besides standing orders for NADRA, the Federal government, and the governments of Sindh, Punjab and Khyber Pakhtunkhawa (KP), were also reminded through compliance orders, during 10 follow-up hearings.

On the issue of the Hindu Marriage law, the Supreme Court Bench had to issue orders to the Sindh government and the Government of Pakistan. From January to November 2015, 10 specific orders had to be passed by the court for tabling a Hindu Marriage Bill in the cabinet and the parliament for approval. The court was also obliged to give a timeframe for compliance, realizing that flexibility could entail further non-compliance.

IV. A bench was not constituted therefore hearing did not take place between January 2016 and February 2018.

V. Resumption of hearings March 2018 – March 2021

A bench was constituted and hearings resumed after applications were made to the Supreme Court, including the one in 2018, by Human Rights Commission of Pakistan (HRCP), Centre for Social Justice (CSJ) and the Cecil and Iris Chaudhry Foundation (CICF) - CMA 4821, focusing on the issue of non-compliance. Advocate Saqib Jillani appeared on behalf of the applicants. 13 hearings have taken place between June 2018 and March 2021.

A summary of the supplementary order is presented below that will help readers to evaluate the response of the government(s) and line departments on various areas of compliance. (Refer to annexure for a table and a brief sketch).

1. Orders on 11 March 2018

Bench: Chief Justice Mian Saqib Nisar, Justice Ijaz Ul Ahsan

The court referred the order to the Human Rights Case No. 2017-B of 2018, in the matter regarding the non-payment to the victims of a terrorist attack on a church in Quetta on 17.12.2017. The court ordered the payment of the pending compensation. Additionally, a notice was issued to the ADC, AC, SSP, Police Surgeon, “as to why, the case of misconduct was not initiated against them departmentally, for the delay caused and for the lapse committed, for delayed payment of compensation. Besides why they should not be personally held, (and) liable to pay mark-up to the persons entitled, for the period they have been deprived of the money.” (The compensation was subsequently paid to the victims).

2. Orders on 11 June 2018

Bench: Chief Justice Saqib Nisar, Justice Umar Ata Bandial, Justice Ijaz Ul Ahsan

1. The Court referred to the complaint No. 4821 filed by HRCP, CSJ and CICF, and observed in the order sheet that the recommendations made in the order had “not been implemented in letter and spirit by the federal and provincial governments. Therefore, we specifically direct the Federal Government, the Chief Secretaries of all four provinces and the Chief Commissioner, Islamabad Capital Territory, to submit their reports regarding the compliance of the directions contained in Paragraph No. 37. The needful shall be done without fail within 15 days from today.

2. In the case of non-compliance, all those responsible for such non-compliance including the Federal Secretary/Secretaries concerned shall appear in person before this Court to explain why action should not be taken against them as matter has been lingering on since 2014. We are disappointed and dismayed that no concrete steps have been taken to implement the said directions.”



3. 28 June 2018 (Adjourned)

Bench: Chief Justice Saqib Nisar, Justice Umar Ata Bandial, Justice Ijaz Ul Ahsan.

AAG requested adjournment to allow more time for response, which was granted.

4. 27 August 2018 (Adjourned)

Bench: Chief Justice Saqib Nisar, Justice Umar Ata Bandial, Justice Ijaz Ul Ahsan

The hearing was adjourned due to non- availability of the Counsels of the petitioners.

5. Orders on 9 October 2018

Bench: Chief Justice Saqib Nisar, Justice Faisal Arab, Justice Ijaz Ul Ahsan

“In this judgement in this court, TORs were referred to for making necessary changes to the set-up of educational curricula, provincially as well as federally, to promote the culture of religious and social tolerance. We will consider the constitution of a committee, comprising members from all the Provinces as well as Federal Government and headed by Mr. Justice (Retd.) Tassaduq Hussain Jillani, former Chief Justice of Pakistan, if the same is acceptable to him, in order to ensure that the judgment of the Supreme Court, mentioned above is sufficiently honoured and complied with.”

6. Orders on 24 October 2018

Bench: Chief Justice Saqib Nisar, Justice Umar Ata Bandial, Justice Ijaz Ul Ahsan

The Chief Justice observed that Justice Jillani was requested to become a part of the implementation process. He has “expressed reservations. Therefore, Dr. Shoaib Suddle is appointed as Chairman of the Committee, the terms of reference are provided in paragraph 37 of the judgment. Let the report of the Committee be submitted within a period of six weeks.”

7. Orders on 1 January 2019

Bench: Chief Justice Saqib Nisar, Justice Umar Ata Bandial, Justice Ijaz Ul Ahsan

The Court was informed that Dr. Shoaib Suddle would like to gain some clarity about the terms of reference. The court agreed to provide that.

8. Orders on 3 January 2019

Bench: Justice Umar Ata Bandial, Justice Faisal Arab, Justice Ijaz Ul Ahsan

The court heard private members of the commission appointed by the courts. The court was informed on the lack of budget and working space. The AG submitted that all federal and provincial governments were making efforts to implement the directions given in paragraph 37 in case.

9. Orders on 8 January 2019

Bench: Chief Justice Saqib Nisar, Justice Faisal Arab, Justice Ijaz Ul Ahsan

The Court issued the order for appointment of Dr. Shoaib Suddle as Commissioner for three months period that can be extended from time to time by the court. A committee composed of Mr. Saqib Jillani, Additional Attorney General and Mr. Ramesh Kumar, MNA to assist the One-Man-Commission.

10. Orders on 19 February 2020

Bench: Justice Faisal Arab, Justice Ijaz Ul Ahsan

“The Ministry of Religious Affairs and Interfaith Harmony is taking the stance that expenses ought to be incurred by the Chairman/Members of the Commission from their own pocket and thereafter they can seek reimbursement from the concerned Ministry. This creates an unnecessary burden on the Chairman/Members of the Commission and causes delays. It was also pointed out to us that a sum of **Rupees Seven Million was disbursed to the Commission** last year but the same **had to be surrendered** to the government because such disbursement was made only a few days before the expiry of Financial Year and **could not be utilized.**”

The court ordered to furnish the office space in the building of ETPB within three weeks and the expenses are not to be taken from the Commission. Systematically accounts and records shall be open to audit by the concerned Government agencies. Any expenses in excess of Rs500,000/- will require an approval of this court. **All Federal and Provincial ministers/ departments/ organizations/ entities shall cooperate with the commissions for the effective completion of its task.**

6 October 2020 (Adjourned for 15th October 2020)

15 October 2020 (Delisted for 23rd October 2020)

11. Orders on 23 October 2020

Bench: Chief Justice Gulzar Ahmed, Justice Faisal Arab, Justice Ijaz Ul Ahsan

The court ordered that until next hearing, Commissioner Shoail Suddle shall prepare a further report and file the same before the court.

25 November 2020 (Adjourned for 30 November 2020)

30 November 2020 (Adjourned till next hearing)

12. Orders on 5 January 2021

Bench: Chief Justice Gulzar Ahmed, Justice Ijaz Ul Ahsan, Justice Munib Akhtar

The court ordered EPTB to start the reconstruction of the Hindu Shrine in the Karak district of Khyber Pakhtunkhwa that had been damaged by a mob. The court also directed the board to submit in details of all functional and non-functional Hindu temples and Gurdwaras.

13. Orders on 8 February 2021

Bench: Chief Justice Gulzar Ahmed, Justice Ijaz Ul Ahsan

1. Dr. Ramesh Kumar states that ETPB has still not discharged the amount Rs38 million that are owed to the Pakistan Hindu Council. The Chairman, Evacuee Trust Property Board (ETPB) should be asked to bring the cheque on the next date of hearing.
2. Dr. Ramesh Kumar may submit accounts to Chairman ETPB.

3. Dr. Ramesh Kumar further states that the Government of Punjab be prepared to restore the Prahlad Temple and ETPB is also ready to fund the work whereas the Commissioner of Multan has raised an issue of security. The Chairman, ETPB shall appear in the court on the next hearing.
4. The Chief Secretary, Punjab ensured the release of the funds, and proper arrangements for it shall be made along with all security features and the restoration work of the Mandir in Multan in time for the festival. The Chief Secretary of Punjab shall personally take an interest and ensure the compliance of the court order.
5. The Court ordered the Secretary, Minister of Federal Education to submit a report and shall be made available to the court on the next hearing in regards to curriculum that fully comply with the Article 22 of the Constitution of the Islamic Republic of Pakistan.

14. Orders on 15 February 2021

Bench: Chief Justice Gulzar Ahmed, Justice Ijaz Ul Ahsan, Justice Mazahar Ali Akbar Naqvi

1. Dr. Ramesh Kumar may submit appropriate accounts to the KP government.
2. The Chief Secretary, Punjab was directed to ensure compliance of order, dated 8-02-2021 in letter and spirit in two weeks (restoration of Parahlad Mandir in Multan and holding Holi festival there on 28 March 2021).
3. Return the Katas Raj Temple complex in District Chakwal to ETPB within two weeks (which had been taken over by the Government of Punjab thorough unlawful transfer).
4. Ministry of Education was directed to submit duly signed report in two weeks regarding compliance of order dated on 08-02-2021.
5. None of the properties under ETPB to be used by any boards, or employees sold out or transferred to any person. The Chairman ETPB to provide data of amounts received from leases, and the duration of leases. Chairman ETPB to present the report in person in two weeks.

15. Orders on 31st March, 2021**Bench:** Chief Justice Gulzar Ahmed, Justice Ijaz Ul Ahsan

1. Government of KP will ensure that construction work of the Samadhi is done as soon as possible. The Chief Secretary, KP shall ensure that compliance is made.
2. Submit report for retrieval/return of the control/management of Katas Raj Temples from Government of the Punjab to ETPB before the next date of hearing.
3. Report by the Secretary, MoFEPT is very unsatisfactory. Submit a report before the next date of hearing stating that the task has successfully been achieved.
4. Prahlpuri Temple, Multan has to be restored. In any case, an amount of Rs.103.949 million is required for rehabilitation and restoration of the Temple. In the report, completion time for rehabilitation and restoration of the Mandir is given as twelve months.
5. A report has been filed by the ETPB. We do not agree with the Chairman ETPB. ETPB take action of retrieving all the aforesaid properties from illegal occupants and also restore the status of ETPB properties to be restored to the Trust. Take action against the employees who have indulged in illegal activities of mishandling and mismanaging and dolling out the properties of ETPB, weeding out of bad elements from E T P B a n d t h e properties belonging to it are secured. Let a report in this regard be filed by the Chairman, ETPB before the next date of hearing.
6. In the meanwhile, we direct the Auditor General of Pakistan to conduct a forensic audit of all ETPB properties which came in its domain on promulgation of ETPB Act, 1975 and their present status. Let such exercise be done by the auditor General of Pakistan within a period of three months and as report in this respect be made available to the court for our perusal.

VI. Ranking: The compliance in the light of report submitted, challenged and court's observations

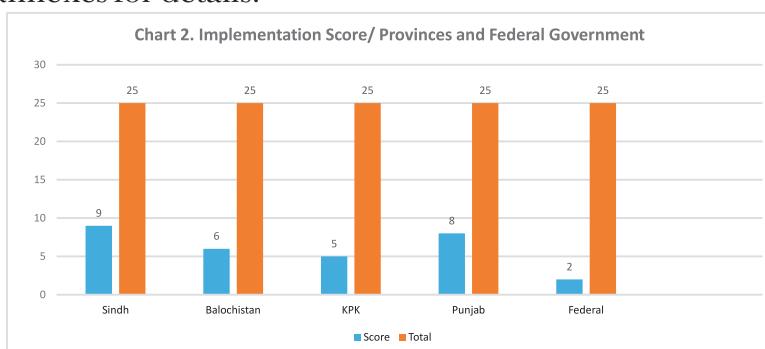
Criteria

This study grades compliance of the court order, on the basis of reports submitted to the Supreme Court and to the One-Man Commission. The applications to the court challenging the lack of compliance were definitely taken into consideration. In case of conflicting claims by the government and by the members of the minority community, the author relied on fact-checking through authoritative sources including credible media reports.

Ranking

No compliance, or claim, is awarded a zero, while symbolic compliance without manifested results is given a 1; small actions with some result or compliance without any claims gets a score of 2. Substantial compliance with considerable delay receives a score of 3. Anything that is nearly complete is given a 4. A full compliance with manifest results gets a score of 5. The claims of compliance without proof were verified through independent reports, including reports of violations in the mainstream media.

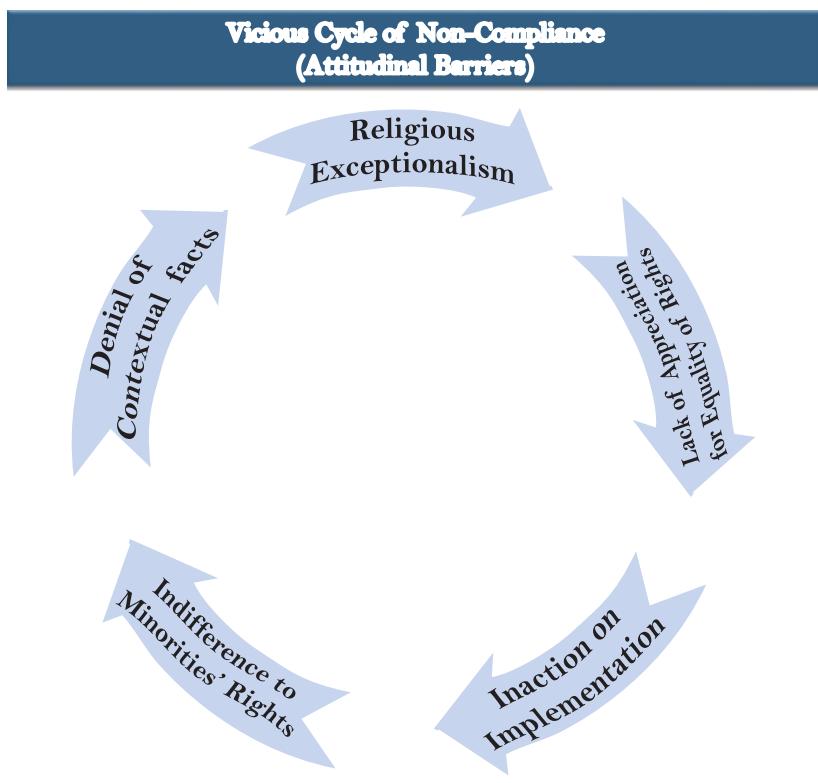
Those marked NR (not ranked) actions taken by the government are mentioned here to acknowledge the supportive action, though these are excluded from scoring as these are not directly related to the orders. Actions marked NA (Not Applicable) are those which were directed to other governments in the orders or their constitutional mandate or function. Please refer to Table 3-7 in annexes for details.



Note: The Governments of Gilgit-Baltistan (GB) and Azad Jammu and Kashmir (AJK) did not submit the requisite information relating to the 5% minority quota, even after the lapse of more than four months, despite the issuance of repeated reminders. The IGPs of Punjab, GB and AJK have also not yet submitted their proposals for the establishment of Special Protection Units to their respective governments, for which they were reminded repeatedly by the One-Man-Commission.²¹

Observations and Conclusion

Unfortunately, this is a fact that there is a chain of difficulties with regards to understanding and aptitude of the implementing machinery or bureaucracy. Making a following cycle of attitudinal barriers:



²¹ 8th CMA submitted by One-Man-Commission to the Court in March 2021.

²² PLD 2014 SC 699, Para 8.

The bench conducting the hearings of SMC SC 1, 2014 had noted with astonishment:²²

“The Court also found that the inaction on the part of law enforcement agencies was on account of the lack of proper understanding of the relevant law. For instance, the Court was surprised when the learned Additional Advocate General, Sindh, on Court query submitted that the desecration of places of worship of minorities was not blasphemous and not an offence under the Pakistan Penal Code. When he was confronted with Section 295 PPC he had nothing to say but to concede that desecration of places of worship of even a non-Muslim is an offence under the PPC.”

An analysis of the response from provincial and federal governments leads to following qualitative indicators to the barriers:

1. In all, the concerned ministries and officials did not report compliance until called by the bench. For instance, compliance of registering non-Muslim marriages with NADRA was not reported.
2. The action on part of the government came fast where it involved:
 - a) Issuing notifications or communication, in job quota for instance in all provinces.
 - b) Deployment of security personal around places of worship in Punjab, ICT, etc.
 - c) Allocations and expenditure scholarships (Punjab), purchase of land for cemeteries in KP for instance.
3. The government action and reports failed to mention the outcomes or concrete results achieved, for instance, number of appointments made under job quota. Moreover the steps taken to address the hurdles blocking full implementation.

²²PLD 2014 SC 699, Para 8.

4. The compliance reports were submitted to the Bench and One-Man-Commission with considerable delays, which may be due to following:
 - a) The action regarding compliance was already weak or missing,
 - b) Lack of inter and intra office coordination,
 - c) Weak institutional functioning; such as record keeping was not in proper state.
5. It was observed that the reportage to the bench in particular relied on official rhetoric i.e. normative assurances in the law, institutional arrangements such as Interfaith Peace Committees rather than elaborating of substantive social and religious harmony achieved. The question of substantive equality of rights does not appear to be a criteria that government departments adopting in their reporting.

Some government action is reflecting defiance or avoidance of implementing the remedial action towards minority citizens. For instance, the Court had to order a stern action against the district administration and senior police official who failed to transfer compensation to the victims of Methodist Church Quetta.²³

²³ Order sheet 17.12.2017.

Minorities' Rights in the Precedent Law

The judgments given by the higher and superior courts in Pakistan, present diverse trends, with regards to protecting the rights of religious minorities over the decades. While noticeably, the issues related to personal or family laws dominated in the litigations before the 1980s, the collective or community concerns remained in focus in the latter period. Apparently, it happened so because the structural and systemic challenges for minorities increased considerably after the secession of East Pakistan in the early 1970s.

After 1985 the minorities increasingly approached the courts seeking protection of their socio-economic interests, and their civil and political rights. Two major concerns were prominent in the minorities' choice for seeking legal remedies. The first was about policy of nationalisation of educational institutions in 1972 that impacted the Christian, Parsi, Ahmadi communities in particular. As these communities lost their educational institutions, the social vibrancy and relevance of these communities also diminished, which the Christian community, in particular struggled to retain using the option of litigation.¹

Second, the Islamisation of the education and political system during the 1970s and 1980s undeniably increased the minorities' apprehension about their existence and wellbeing. Therefore, with fading political space, these communities resorted to legal remedies in order to protect their rights and freedoms. However, the remedies provided to various litigants varied from weak to moderate and regressive to progressive judgments.

Most notably, some of these judgments have shaped the overall discourse on rights and a pathway to where we are as a nation. A few verdicts are discussed below that proved to be hugely consequential in defining the rights of minorities as well as their space in the society or a lack of it.

¹Kamran Tahir Dr., Jacob Peter, Lessons from Nationalisation of Education policy of 1972, Centre for Social Justice, 2020, P.32.

The Nationalisation of Educational Institutions

In 1987, a division bench of the Supreme Court of Pakistan headed by Justice Nasim Hassan Shah passed an important judgment regarding Church properties in *The Christian Educational Endowment Trust, Lahore Vs Deputy Commissioner Lahore²* and others on an appeal against a judgment of the Lahore High Court³ of 1982 which had allowed the property belonging to the plaintiff to be used for purposes other than the objectives of the Trust i.e. supporting education at the Forman Christian College, Lahore. The Court overturned the decision of the Lahore High Court in favour of the Trust. The judgment stated:

“Merely because the privately managed schools, along with their assets were to vest in the Government, under the terms of para 5 of Martial Law Regulation 118, it did not imply that the Government had become the owner in relation to the buildings wherein schools or colleges were being run. The intention of M.L.R. 118 manifestly was only to take over the management of the institutions and not to confiscate the property in which the privately managed school was being run.”⁴

At that time the courts were seized with several complaints of trespasses by the administration in Punjab⁵ or the facilitation thereof, to the private individuals in misappropriating communal properties. Therefore, the Court must have realized that the state apparatus was showing disrespect to the independence of communal properties. The church-managed properties were being grabbed through corrupt practices.

In another similar case⁶ in *Roman Catholic Church Vs Government of Punjab and others* (1999 CLC 1389), the Lahore High Court repeated the above ruling⁷.

²1987 SCMR 1189.

³Writ Petition No.3387 of 1981 at Lahore High Court.

⁴Supra 1.

⁵Nationalization was implemented in Punjab and Sindh only for Urdu medium schools.

⁶1999 CLC 1389.

⁷1987 SCMR 1197.

Over the decades, results showed that the successive governments maintained inaptitude towards quality education in general and denationalization in particular. However, the minorities were not the only affected party, or the beneficiaries of the change of policy. In fact, the entire nation paid a heavy price for the nationalisation policy because of the declining standard of education after 1972. Consequently, the pockets of quality education exist mainly in the private sector.

These judgments eventually paved the way for the denationalization of some of the educational institutions. Nevertheless, the policy was resisted in Punjab hugely therefore, 44 percent of the church-run schools in Punjab were denationalised, whereas 73 percent in Sindh till 2020 (*Kamran and Jacob, Lessons from Nationalisation of Education Policy 1972, 2020*).

Importantly, the Federal government recommended denationalisation in 1984 the progress remains an uphill task in Punjab till 2020. The Khyber Pakhtunkhwa government also took over the Edwards College Peshawar in 2019, contrary to the denationalisation policy

The Separate Electorate⁸

1. The writ petition patronised by Bishop John Joseph since 1987 regarding the delimitation of constituencies for the minority seats under the separate electorate system remained pending in the Supreme Court of Pakistan. This application became redundant in 2002 as the separate electoral system was changed to proportional representation for minorities.⁹
2. During the General Elections of 1993, the members of Awami Workers (Socialist) Party, attempted to file nomination papers from two provincial constituencies, (one each in Lahore and Karachi) on general seats supposedly reserved for Muslims. The move was spearheaded by renowned jurist Abid Hassan Minto.

⁸An apartheid style electoral system that remained in effect for 22 years (1979 -2001), which stipulated voting along the religious identity, hence each voter elected members from their faith communities.

⁹Author's interview with Late Bishop, who complained about the pendency of the application.



Therefore a petition was filed at Supreme Court pointing out that Article 106 of the constitution imposed no restriction on the candidature of non-Muslim citizens regarding their candidacy for provincial assembly seats, therefore, the Christian candidates of his party (Chaudhry Naeem Shakir and Saleem Khokhar), should be allowed to contest election on general seats.¹⁰

Initially, the Supreme Court bench headed by Chief Justice Nasim Hassan Shah allowed the submission of the nomination papers however on the insistence of the Election Commission of Pakistan, the respondent, the Supreme Court declined the petition on the ground that an allowance on two seats will render the entire election process questionable (Jacob, The News, 15 Oct. 2017).

The move was an important legal and political strategy that exposed the imbedded discrimination and contradictions in the separate electorate though the petition failed therefore never made it to the law journals.

Bonded Labour

In 1988 and 1989, a bench headed by Chief Justice of Pakistan, Justice Muhammad Afzal Zullah issued a landmark verdict in relation to bonded labour at brick kilns (Darshan Masih Vs The State).¹¹ Justice Zullah treated a telegram sent to him as an application attracting the invocation of public interest litigation under Article 184 (3) of the constitution. The telegram sent on behalf of labourer's stayed;

"Chief Justice Supreme Court of Pakistan, We plead for protection and bread for our family. We are brick kiln bonded labourers. We have been set at liberty through the Court. And now three amongst us have been abducted by our owners. Our children and women are living in danger. We have filed complaint. No action taken. We are hiding like animals without

¹⁰ <https://www.thenews.com.pk/tns/detail/564190-advocate-good-causes>

¹¹ PLD 1992 SC 385.

protection or food. We are afraid and hungry. Please help us. We can be contacted through Counsel Asma Jahangir. Our state can be inspected. We want to live like human beings. The law gives no protection to us. Darshan Masih (Rehmatay) and 20 companions with women and children Main Market Gulberg, Lahore".¹²

Although the petition made no reference to the religious identity of the plaintiffs (Christian), it is well known fact that a large number of victims of bonded labour practiced in different sectors in the country belong to the minority religious communities. Therefore, the verdict in this case was a moment of jubilation for the bonded labourers across the country.

The verdict sought to abolish the enslavement tactics such as advance loans (Peshgi) offered to the brick kiln labourers, violation of labour laws, mistreatment and illegal detentions on part of the brick kiln owners. Moreover, given the systemic nature of violations, the verdict eluded a reformative approach by assigning responsibilities to different stakeholders. The office of Advocate General was assigned the oversight of bondage in labour, the Bar Council was to provide legal aid and journalists were directed to report such cases in collaboration. The police were instructed to exercise restraint and investigate properly when complaints against labourers were brought.

Blasphemy Laws

1. The Federal Shariat Court on the application in *Muhammad Ismail Qureshi Vs Pakistan, through Secretary, Law and Parliamentary*¹³ sought a direction to cancel the option of life imprisonment and to make death sentence mandatory under the offense of offering insult to Prophet Muhammad (PBUH) under Section 295 C, P.P.C.

Maulana Saeeddudin Sherkozi, Maulana Salauddin Yousaf, Maulana Abdul Shakoor, Maulana Fazal Hadi, Maulana Abdul

¹² PLD 1990 Supreme Court 513.

¹³ Shariat Petition No.6/L of 1987, (1990), available at <http://khatm-e-nubuwat.org/lawyers/data/english/8/fed-shariat-court-1990.pdf>

Falah, Maulana Subhan Mahmood, Mufti Ghulam Sarwar Oadri, Maulana Gohar Aman and Maulana Riazul Hassan Noori, were called to assist the Court with the interpretation of the Islamic Fiqh on this issue. The learned Jurisconsults did not agree on a singular answer to the question, however, relying on a minority opinion the Court accepted the application and directed the federal government to amend the Pakistan Penal Code in order to make the death sentence the mandatory punishment through an act of parliament. The conclusive order stated;

“In case, this is not done by 30th April, 1991 the words “or imprisonment for life” in Section 295-C, PPC. shall cease to have effect on that date.”¹⁴

It is a well-known fact that the law in question has been a source of despicable and numerous violations in the country and huge embarrassment internationally. Moreover, it impacted the quality of life, liberty and wellbeing of religious minorities immensely and beyond their proportion in population. Yet, it did not cross anyone's mind that religious minorities by virtue of their belief are different, and cannot be subjected to the requirements of respect similar to believers of the faith. The Court also ignored the fact that the point of view of the religious minorities was not even taken into account.

It goes without saying that the Federal Shariat Court (FSC)¹⁵ is a thoroughly discriminatory system that does not manifest minimal standards of equality for non-Muslim litigants. For instance, a non-Muslim lawyer is not allowed to represent in the FSC (Article 203 E (4), Constitution of Pakistan) while the verdicts of the FSC applicable on the minority as well.

2. The outcome of *Zaheer-ud-din Vs The State*¹⁶ was perhaps the most regrettable and most consequential. It bears the mark of the aspiration of sectarian outfits which high-jacked the country using the concepts of apostasy and blasphemy.

¹⁴PLD 1991 Federal Shariat Court, decided on 30th October 1990.

¹⁵Article 203 E (4) of the constitution of Pakistan.

¹⁶1993 SCMR 1718.

In this case, the Supreme Court turned down a petition challenging criminalization of the use of Islamic terminology and epithets by the members of Ahmadi community. Moreover, it vindicated the imposition of restrictions on the propagation of Ahmadi faith. Therefore, on one hand the verdict validated the induction of new laws, Section 298-B and 298-C, in the P.P.C. through martial law ordinance XX of 1984. On the other hand, it narrowed the scope of religious freedom and rights in the country in the following years. Its sad effects were to be borne by all citizens, particularly the minorities.

The judgment also held that the courts in Pakistan were allowed to determine what constitutes a particular “religion”. Moreover, that the state of Pakistan had a responsibility to protect Islam. The court also tried to find relevance of the aforementioned inductions in the Penal Code with property rights, or intellectual property for that matter. The judgment stated;

“For example, the Coca Cola Company will not permit anyone to sell, even a few ounces of his own product in his own bottles or other receptacle, marked Coca Cola, [...].“The principles involved are: do not deceive and do not violate the property rights of others”.¹⁷

Subsequently, although relief was provided to the victims after prolonged trials, various judgments given by the Higher and Superior Court in the cases under the blasphemy laws failed to remove confusion on whereas the misconceptions about the applicability and efficacy of law got strengthened. Hence those verdicts neither helped create deterrence against the abuse of blasphemy laws nor helped improve the situation vis-à-vis country's image.

For instance, the verdict of the Supreme Court in *Asia Bibi Vs State*¹⁸ the first 10 pages were devoted to defend the concept of blasphemy laws, even though some parts defied logical reasoning. For instance, under the authority and command of the Constitution and the Law, “it is the

¹⁸ Criminal Appeal No.39-L of 2015, https://www.supremecourt.gov.pk/downloads_judgements/Crl.A._39_L_2015.pdf

duty of the State to ensure that no incident of blasphemy shall take place in the country.”¹⁹

Personal Laws

1. In 1992, Chief Justice Afzal Zullah gave another historical judgment in *Inayat Bibi Vs Issac Nazir Ullah* case interpreting the Succession Act of 1925. He set aside the scope of customary practices by holding that Christian female heirs had the right to a share equal to male heirs.
2. On 19th June 2017, Justice Mansoor Ali Shah, Chief Justice of Lahore High Court, issued a judgment on a matter related to the grounds for dissolution of marriage (divorce) in Christian marriage, which were part of the original enactment though annulled in 1981 during General Zia ul Haq's rule. The Court held elaborate hearings involving Christian legislators, Church and civil society leaders. Finally, the Court, expanding on the enactment and jurisprudence in different countries, restored the grounds under Section 7 of the Divorce Act of 1869 governing Christian marriages.
3. A Supreme Court Bench headed by Chief Justice Saqib Nisar settled a long standing issue which worried the Christian community throughout Pakistan. Since the Christian family laws predating Pakistan did not have inbuilt intersections with the new procedures and mechanisms with regards to registration of marriages, certification of marriages, etc.

The Chief Justice on a complaint regarding non-registration of Christian Marriages²⁰ held that the appointees of the churches governed by respective canon laws do not require a license from the Ministry of Human Rights and Minorities Affairs. The court issued specific directions to National Database and Registration Authority (NADRA) and the Union Councils throughout Pakistan to register Christian marriages and issue certificates in accordance with the law.

¹⁹Ibid, para 15.

²⁰Human Rights Case N. 32642 of 2018

The Jillani judgment

The Supreme Court verdict of 19th June 2014 is a stand-alone example in the midst of a mixed trend. It took the concept of Public Interest Litigation further towards hard-core fundamental rights i.e. freedom of religion or belief. This was the only *suo moto* proceedings initiated by Chief Justice Tassaduq Hussain Jillani. It left a mark on subsequent judgments related to minorities' rights. Remarkably, the judgment is that it provides an agenda for the structural and systemic reforms not merely to the benefit of minorities but Pakistan as a whole.

Perhaps that is the reason why structural hurdles block the granted implementation in letter and spirit.

Conclusion

In this stratum, the precedent law in Pakistan is a mixed bag of favourable and unfavourable judgments that either facilitated or stalled enforcement and enjoyment of rights by the religious minorities.

The best verdicts were also best examples of judicial interpretation of rights in the context. These verdicts broke away from tradition of treating the rights of minorities in the light of states' preference of majority faith in part of the constitution.

At the time of *Darshan Masih Vs State and Inayat Bibi Vs Isaac*, Pakistan was not a party to many human rights treaties in 1992 therefore the judgment heavily relied on the fundamental rights regarding safeguards from slavery and inhuman treatment (Article 11) and right to dignity of a (human) person (Article 14) in the constitution.

However, the latter judgments, particularly the Jillani judgment, placed an emphasis on international human rights law and the philosophies of democratic governance and religious freedom which goes hand in hand with safeguards to other liberties.



Qualitative Assessment-1

The Tale of National Commission for Minorities

Clarification: The Supreme Court opted to use the term “Council” for Minorities in directive iv) of the Judgment, by all means that suggests induction of a human right body similar to the National Commission for Human Rights. Therefore, there is the view that prefers the proposed body should be called a “Commission” to make it consistent with other human rights bodies. While there are arguments on both sides, the author is of the view that as long as the focus remains on independence, autonomy, functions, composition, and formation of a statutory body, calling it either Council or Commission should not make any difference.

a) Backdrop of NCM

Although in a different setting, the first mention of the Commission for Minorities in the history of Pakistan is found in the Delhi Pact, also known as Liaqat-Nehru Pact signed on 8 April 1950. In this Pact, India and Pakistan agreed to keep the proceedings of respective (National) Commissions open to participation by the other country.¹ Importantly, this arrangement carried the potential of addressing the imbalance in the minority and majority equations in both countries and thereby improving bilateral ties as well.

The preamble of the agreement required the two countries to adhere to profound principles and values of democracy and civility in the following manner:

“The Governments of India and Pakistan solemnly agree that each shall ensure, to the minorities throughout its territory, **complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and**

¹<http://www.commonlii.org/in/other/treaties/INTSer/1950/9.html>

personal honour, freedom of movement within each country and **freedom of occupation, speech and worship, subject to law and morality**. Members of the minorities shall have **equal opportunity with members of the majority community to participate in the public life of their country, to hold political or other offices**, and to serve in their country's civil and armed forces.”

The following paragraph reflects that the summit meeting took into account that Pakistan was lagging behind in trying to develop legal norms, though democratic governance was desired:

“Both Governments declare these rights to be fundamental and undertake to enforce them effectively. The Prime Minister of India has drawn attention to the fact that these **rights are guaranteed** to all minorities in India by its Constitution. The Prime **Minister of Pakistan has pointed out** that a **similar provision exists** in the Objectives Resolution adopted by the Constituent Assembly of Pakistan. It is the policy of both Governments that the enjoyment of **these democratic rights** shall be assured to **all their nationals without distinction.**”

In the following decades, different Commissions for Minorities were constituted under executive powers in both countries to safeguard the rights and representation of numerically smaller groups – or vulnerable communities - based on religious identity.

Internationally, the countries were strengthening their accountability regarding observance and fulfillment of the rights of their citizens.² The permanent Commission setup was called the National Human Rights Institution by the United Nations and other international bodies. (Till 2021, over 100 countries had set up the human rights commission and equal opportunity commission, etc. looking after the rights of marginalized sections

²<http://www.commonlii.org/in/other/treaties/INTSer/1950/9.html>

in particular).³

Pakistan lagged behind its South Asian neighbours. For instance, India, established a National Minorities Commission in 1993, after passing a Union level law, followed by several state laws and the formation of the Minority Rights Commission. In contrast, Pakistan relied on ad-hoc arrangements.

In 2001, Shaheen Sardar Ali and Javaid Rehman's book, '*Indigenous Peoples And Ethnic Minorities of Pakistan*', briefly mentioned the National Commission for Minorities (NCM). However, no substantial work on NCM's credit could be mentioned⁴ whereas various human rights violation against minorities continued.⁵

An assessment of different ad-hoc NCMs would help find out various impediments blocking the establishment of a statutory NCM in Pakistan; nevertheless important for the protection of rights of religious minorities.

b) Composition, Mandate and Functions

There is a great deal of confusion about when the present-day NCM was rolled out. The Year Book 2015-16 of the Federal Ministry of Religious Affairs and Interfaith Harmony (MoRA & IH), states: "The NCM was established through a Resolution as a result of Federal Cabinet decision dated **23rd August, 1993**".⁶

This was changed in the following Year Book⁷ published by the MoRA & IH which claimed that the, "NCM was constituted through a Resolution, as a result of Federal Cabinet's Decision vide Case No. 194/15/90 on **02.07.1990**".

It appears that the MoRA & IH was not even clear about the

³Global Alliance of National Human Rights Institutions, website accessed on 10 April 2021.

⁴Jacob, Peter; Express Tribune, 25 May 2016. <https://tribune.com.pk/story/1110485/myth-minorities-commission>

⁵Abuse of blasphemy laws (Murder of Naimat Ahmer (1994), and death sentence passed against Gul Masih and Ayub Masih - 1992 and 1998 respectively), burning down of over a dozen Churches and nearly 700 houses in Khanewal and Shantinagar in 1997, imposition of separate electorate from 1979-2001.

⁶Year Book 2015-2016, Ministry of Religious Affairs and Interfaith Harmony, Government of Pakistan Islamabad.

⁷Year Book 2017-2018, Ministry of Religious Affairs and Interfaith Harmony, Government of Pakistan Islamabad.

genesis of the NCM, which raises the question about the collective memory of the institution or even the seriousness of the entire exercise.

During the Fiscal Year 2017-18, only one meeting of NCM was held on 5 April 2018.⁸ This was practice, and a researcher was forced to call it “Once a Year Commission”.⁹

The Year Book 2017-2018 speaking about the formation of NCM states “a high-powered National Commission for Minorities under Chairmanship of Minister for Religious Affairs & Interfaith Harmony has been established to protect and safeguard religious, social and cultural rights of the minorities in Pakistan. It gives necessary input/ advice to this Ministry in Policy matters and recommendations regarding NOCs for sale/purchase/ transfer/gift of communal properties of minority communities.”

i) Composition

Generally speaking, a legal foundation, financial and operational autonomy, composition, etc, characterizes a strong institution. The NCM 'notified' in 2014 and re-notified in 2015 hardly qualified any of these yet the MoRA & IH pleaded before the Court that it had complied with order iv) of the Jillani judgment.

The NCM notified on 16.07.2014 and re-notified on 4.05.2015 the last NCM comprised of both official and non-official members.

Official members/ Ex-Officio members/ Representatives:

1. Federal Minister for Religious Affairs & Interfaith Harmony, Islamabad.
2. Ministry of Interior (Not below the rank of BS-20 officer) Member
3. Ministry of Law, Justice and Human Rights (Not below

⁸Ibid.

⁹Yaqoob Bangash, The News, 5 May 2020. <https://www.thenews.com.pk/print/654100-the-once-in-a-year-commission>

¹⁰ Hearing in November 2014 before the Bench headed by Chief Justice Nasirul Mulk.

- the rank of BS-20 officer)
4. Capital Administration and Development Division (Not below the rank of BS-20 officer) Member
 5. Council of Islamic Ideology Member
 6. Secretary, Ministry of Religious Affairs and Interfaith Harmony Member

The Non-Official members were:

1. Qari Roohullah Madni, Khyber Pakhtunkhwa.
2. Shahzada Jamal Nazir, Former Caretaker Minister for National Harmony, Punjab.
3. Allama Talib Johri, Sindh.
4. Ali Muhammad Abu Turab, Baluchistan.
5. Mr. Bhawan Das, MNA/PML (N) (Hindu Community)
6. Mr. Ramesh Lal, MNA/PPP (Hindu Community)
7. Mrs. Asiya Nasir, MNA/JUI-F (Christian Community)
8. Rev. Irfan Jamil, Bishop of Lahore. (Christian Community)
9. SardarAjeet Singh, Khyber Pakhtunkhwa. (Sikh Community)
10. Prof. Mehardad Yousaf (Bahai Community)
11. Mr. Asphanyar M. Bhandara, MNA. (Parsi Community)

The composition of the NCM mentioned above was heavily represented by the government servants and political parties and headed by a Federal Minister, which could not have made an autonomous body, free from the government's pressure and influence. The fundamental rights include the freedoms from the government and safeguards against the accesses of administration; therefore the politicians and civil servants, as duty bearers are the ones to be held accountable through human rights bodies.

The most recent composition of NCM, notified in May 2020 is not much different from its predecessor bodies, hence the results are

predictable.

The idea of setting up an NCM through executive orders is not only flawed, but fails the very purpose of having one.

It is also extremely unfair to appoint the respected men and women in a role improper for their position and unsuitable for a rights' watchdog. Therefore, considering the composition alone, it is no surprise the performance of the current and previous NCM did not contribute to increasing respect and fulfillment of human rights in Pakistan.

Even till January 2021, when the current NCM and One-Man-Commission was preparing a joint draft bill, there was a discussion on whether the NCM should have any Muslim members. Centre for Social Justice is of the view that other than the structured representation of religious minorities, there should be room for people from the majority faith identity, having competence in human rights and governance. Therefore, it should not be their religion but their expertise that should be under consideration.

ii) Mandate: Terms of Reference of NCM

Using the TORs notified in 2015 for an assessment, the author has added a few questions along these as pointers. (*Please refer to annexes for TORs issued in May 2020 which qualitatively not different from the previous*).

- i. Develop a National Policy on Inter-faith Harmony, to explore the avenues for peace and security (*Where is the policy in 2021? If implemented; was there any evaluation of the outcomes?*).

To consider such laws, executive instructions, orders of procedural practices of the government or the government agencies, autonomous and semi-autonomous bodies; and agencies **that are reported to be discriminatory towards the minorities**.

(*Any reports presented to a competent body?*)

- ii. To **recommend to the Government** such steps as shall

ensure full and effective participation by the members of the minority communities in all aspects of national life.

(Any analysis carried out with regards to the status of participation?)

- iii. **To ensure their full and effective participation and association** with their religious and cultural festival and celebrations. (*TORs do not provide guidance as to how this should be done*).
- iv. To look into the grievances and representations made by the members of any minority community to the Government of Pakistan and, after examination of such grievances, to make suitable recommendations to the government. (*TORs are silent on powers of the NCM necessary to dispense this responsibility*).
- v. To ensure that the churches, shrines, temples, gurdwaras and other places of worships of the minority communities are preserved and kept in a functional condition. (*What resources would be available to NCM?*).
- vi. The Commission with consensus may set additional objectives for itself and if required, may consult legal and constitutional experts (*By whom? Under what authority?*).
- vii. To consider the cases of NOCs for the sale/purchase/transfer of communal properties of minorities as provided under the Protection of Communal Properties of Minorities Ordinance, 2001, dated 22nd January, 2002. (*Is this not confusing the role as a human rights institution?*)

The annual report 2015- 2016 of MoRA & IH also stated:

The NCM has prepared a draft of the Interfaith Harmony Policy and circulated it for comments/proposals from people of different communities. Efforts are also being made to draft a law for making the NCM an independent and legal body.

It may be a blessing in disguise that MoRA & IH did not prepare a bill to form an NCM because it is not an entity equipped to fully appreciate the nuance of a human rights body. However, the question remains as to why this draft - which was supposedly ready - was not reported during the proceedings of the Supreme Court in the following years. The MoRA & IH could have reported the compliance to directive iv) of the judgment.

In the 2017- 2018 Year Book the MoRA & IH looked confused about establishing the NCM;

“This Ministry has drafted the Bill to make National Commission for Minorities (NCM) an independent and legal body through an act of Parliament. Ministry of Law and Justice has been advised to define the jurisdiction of National Commission for Minorities under Article 144 of the Constitution of Pakistan. The case has been, therefore, taken up with provincial governments to accept the jurisdiction of NCM by passing the resolution, otherwise, its jurisdiction will be confined to Islamabad Capital Territory only.”¹¹

Raising the question of jurisdiction appears to be a mere excuse or a tactic aimed at delaying the formation of NCM, because by the year 2018 the National Commission for Human Rights (NCHR), and National Commission on Status of Women (NCSW), had both been formed while provincial human rights bodies were being set up and the conflict of jurisdiction never surfaced.

So the question is why was MoRA & IH apprehensive that these issues might surface? What did MoRA & IH do to overcome the difficulties in subsequent years?

c) Claims in International Reports on Compliance Regarding Human Rights

There is little or no evidence to suggest that NCM has ever been vibrant and functional enough in Pakistan. However, NCM is

¹¹Ibid, para 70.

frequently mentioned in international reporting at UN¹² and EU bodies.¹³

The claim of the government as a state party about the existence of vibrant NMC in the international reporting can be traced back to under UN Treaty body review 1996 to Committee on Elimination of Racial Discrimination.¹⁴ The State party report claimed;

“National Commission for Minorities: To promote the welfare and uplift of minorities and to protect and safeguard their religious, social and cultural rights, the Government has constituted a high-powered National Commission for Minorities under the chairmanship of the Minister for Minorities Affairs. The Commission is represented by all segments of minorities living in Pakistan.”¹⁵

In 2016, the government claimed again that the “Government has recently strengthened National Commission for Minorities (NCM) which works for the protection of minorities rights. The Commission comprises members representing all minority communities living in the country.”¹⁶

Under a review in Human Rights Committee reviewing compliance under International Covenant on Civil and Political Rights (ICCPR) the government reported:

“To assess and monitor the state of minorities in Pakistan, the government has constituted a National Commission for Minorities (NCM). The members of this Commission belong to the religious minority communities themselves. The Commission is mandated to watch over the protection of the rights of the minorities. **A sub-committee of the Commission comprising parliamentarians has reviewed and vetted the draft national policy on interfaith harmony.**

¹² Reports to Treaty Bodies mentioned below.

¹³ Final JOINT STAFF WORKING DOCUMENT ‘The EU Special Incentive Arrangement for Sustainable Development and Good Governance (‘GSP+’) covering the period 2014 – 2015, Brussels, 28.01.2016 SWD(2016) p. 190.

¹⁴ CERD/C/299/Add.6 page 5.

¹⁵ Ibid, para 25.

¹⁶ CERD/C/PAK/21-23, para 19.

The report further claimed, “Provinces were asked to constitute District Interfaith Harmony Committees and make them effective, these were already constituted. The amount of annual welfare fund for the minorities has been increased to strengthen the minority communities. The fund is spent on the economic uplift of the minorities, development schemes, financial assistance to needy individuals, and scholarship schemes for their children (from primary to professional level) on need as well as incentive basis, celebration of religious festivals and seminars for the promotion of interfaith harmony.

Setting up an Interfaith Community Centre is also being planned in the federal capital to facilitate minority communities and providing them with an effective platform for various activities. The facility would be extended to all the provinces at a later stage. The religious minorities also enjoy a 2-3% job quota¹⁶⁴ across the board in all public sector organisations, in addition to quota in the parliament and provincial legislative assemblies.”¹⁷

The government mentioned NCHR and NCM both, were differently constituted without realizing that the following assertions expose the discrimination exercised when it came to their formation:

“The National Commission for Human Rights (NCHR), which was established in 2015, has *suo moto* powers to take action against cases of human rights violations in the country. It also acts as a quasi-judicial body. The NCHR has been diligently working for the protection of rights of all citizens and has been keeping a close eye on any case of discrimination or abuse especially against minorities”.

The Government has notified the National Commission for Minorities (NCM) with extended terms of references on 16-07-2014.

The Government has further strengthened the National Commission for Minorities (NCM) The NCM along with revised

¹⁷CCPR/C/PAK/1

composition and TORs was approved and notified on 4th May 2015 with the inclusion of the Minister, Religious Affairs & Inter-faith Harmony, as ex-officio chairman of the NCM. The Commission comprises members representing all minority communities living in the country.”

International opinion is not always oblivious of the situation on the ground. The following recommendations made by the Saudi and UK governments during the Universal Periodic Review (UPR) in 2018 in Geneva are reflective that Pakistan was being reminded to live up to global expectations as well as their own claim in this regard:

“Strengthen the protection of minorities by having a fully inclusive electoral roll without discrimination or religious bias and by establishing an independent National Commission for minorities from all faith communities, which should appoint its own representatives (United Kingdom of Great Britain and Northern Ireland),¹⁸ advised the review. “Step up measures to strengthen the work of local human rights institutions, including the National Commission for Human Rights, the National Commission on the Status of Women and the National Commission for Minorities (Saudi Arabia);”¹⁹

d) Recent Developments

Hence, besides the other arguments in favour of setting up an independent, autonomous and statutory NCM, it is required under the judgment of the Supreme Court on 19 June 2014 which states in its para 37(iv);

“A National Council for Minorities' Rights be constituted. The function of the said council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law. The Council should also be mandated to frame policy recommendations for safeguarding and protecting minorities' rights by the Provincial and Federal Government.”

¹⁸ A/HRC/37/13 para 152.184.

¹⁹ A/HRC/37/13 para 152.55.

- The One-Man-Commission prepared a draft bill on NCM in April 2020 and circulated it to the “MoRA&IH” for comments and feedback, among other stakeholders from the federal and provincial governments as well as the civil society.
- Contrary to the court injunction and in disregard to the demands by CSOs the MoRA&IH had notified a non-statutory NCM in May 2020.
- The MoRA&IH did not take permission from the Supreme Court during the hearing of SMC 1 of 2014 of subsequent follow-up hearing for setting up an ad-hoc NCM.
- A joint meeting between the One-Man-Commission and NCM was held on November 23, 2020, to explore the possibility of a joint draft bill on NCM. The said meeting nominated a two-member committee consisting of Dr. Sarah Safdar from NCM and Mr. Saqib Jillani from the One-Man-Commission to arrive at a consensus draft bill.
- The two-member committee arrived at a consensus draft on December 23, 2020, after an extensive discussion.
- The consensus draft bill was presented before a meeting of civil society stakeholders²⁰ and NCM invited by the One-Man-Commission on January 4, 2021.

e) Recommendations

In the light of the above discussion it is concluded that an NCM that qualifies the standards of independence, autonomy and integrity will only help repair the inequality of rights and opportunity among the minority-majority population. Religious discrimination that the landmark judgment sought to remove, only possible through compliance of the judgment therefore it is recommended that:

²⁰CSJ gave extensive input in the original and amended draft bill.

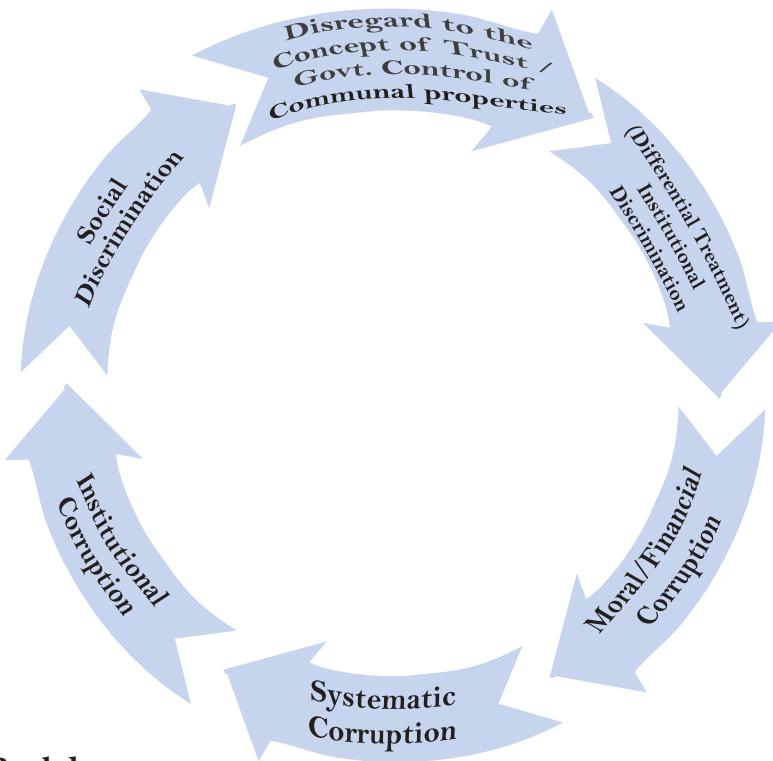
- a) An NCM strictly adhering to the UN Paris Principles²¹ be set up expeditiously;
- b) Whereas, a draft bill has been prepared, the government is strongly urged to make use of this draft and table the bill in the parliament. The opposition parties are also urged to cooperate in the legislation;
- c) The NCM should be an independent entity reporting to the parliament and not working under any ministry. If for practical and collaborative work and functioning the NCM needs to be linked to a ministry, it should be the Ministry of Human Rights;
- d) In this perspective, this Commission may be called the National Commission for Minorities' Rights.

²¹UN General Assembly Resolution 48/134 of 20 December 1993.

Qualitative Assessment-2

Protection of Communal Properties

CYCLE OF DISCRIMINATION PF CORRUPTION



1. Backdrop

Private and communal properties belonging to minorities including Ahmadis,¹ Buddhists,² Christians,³ Jews⁴ and Parsis⁵ have been occupied and grabbed which includes graveyards, places of burial.⁶ A separate evaluation of each community's

¹Schools and a college not denationalised despite payment made to Punjab government. Tahir & Jacob *Lessons from Nationalisation of Education 1972*, CSJ 2020.

²<https://asiasonline.org/pakistans-buddha-statues-under-attack>

³Pieces of land owned by Churches are under dispute or illegal possessions in different places, including Karachi, Lahore and Multan,

⁴The only Synagogue in Karachi was occupied and a commercial plaza was built on that in 1980s/

⁵Karachi.

⁶<https://www.dawn.com/news/1453427>

holdings, moreover the role of state and non-state actors would be necessary for comprehensive discussion. However, a few issues are flagged here in relation to the court proceedings and other development.

The private properties belonging to Hindus and Sikhs who left for India after the independence in 1947, were adjusted against the claims made by Muslims arriving from parts of India. Individual accounts claim that some of these properties were taken away by land grabbers, though a comprehensive study would be required to ascertain the magnitude of this issue.

Moreover, there were large chunks of urban and rural properties attached to places of religious importance such as Dharam Shalas, Gurdwaras and Hindu temples and other communal properties. These properties were taken into government control under The Evacuee Trust Properties (Management & Disposal) Act XIII of 1975.

Apparently, the action was consistent with the government approach of “nationalization” therefore the government action regarding so-called Evacuee properties was not discriminatory. It was accompanied by the taking over of the Muslim shrines under the government control. Muslim shrines are managed by the department of Auqaf, while the Hindu and Sikh communal properties are managed by the Evacuee Trust Property Board.

However, the state of affairs now does not reflect a healthy situation. The 6th report of the One-Man-Commission submitted to the Court on 25th January 2021 carried following conclusions of the Task Force on ETPB headed by Dr. Ishrat Hussain, Advisor to Prime Minister & Chairman Task Force on Institutional Reforms and Austerity:

“The outdated governance structure of the organization (ETPB) has failed to cope with the dynamic challenges of the 21st century. Consequently, the ownership of huge land holdings and levels. Bad governance, poor administration, weak financial

management, illegal appointments, mismanagement of assets and illegal encroachments by growing 'Qabza Mafias' are the biggest challenges being faced by ETPB." (Emphasis added)

Moreover, the pending litigation and convictions against the ETPB officials also suggest that the body is prone to financial and institutional corruption. This situation brings embarrassment for the country on one hand and loss of confidence of minorities in the country on the other.

However, at policy level, the government is promoting religious tourism, manifest in the opening of the Kartarpur Corridor in November 2019. The government officials have shown willingness for opening historical sites of religious importance of other minority religions as well.

2. ETPB's operational spread

ETPB informed that 18 or 17.1% out of 105 Gurdawaras and out of 365 Mandirs, only 13 (3.6 %) are being managed by them. The responsibility of 65 (17.8%) is with the Hindu community, while the remaining 287 (78.6%) are managed by none. Hence, ETPB, with its staff spread in all corners of Pakistan and huge paraphernalia, is managing in total, 31 worship places out of a total of 470 (or only 6.6% of the total).⁷

The ETPB took the position that there are non-functional Mandirs and Gurdawaras, and a lack of population of Hindus/Sikhs being one of the reasons. On the other hand, Mandirs of historical importance, where no Hindu population resides, like for instance, Hinglaj Mata Mandir in Baluchistan and Shri Param Hans Ji Mahaaraj Mandir/ Samaadhi at Teri, District Karak of Khyber Pakhtunkhwa are managed by the devotees of Hindu Community. A number of pilgrims visit these places of worship annually, independent of ETPB's support.⁸

The One-Man Commission also observed that "ETPB appears to

⁷8th report of One-Man Commission, para 35-37

⁸Ibid.

be principally interested in the occupation of valuable properties of migrated minorities, even after the passage of more than 73 years. That ETPB has taken over charitable, worship and other joint properties of minority communities in hundreds of towns. Located in towns like Sukkur, Shikarpur, Umerkot, etc. these properties have been unjustifiably taken over by ETPB, rather than using their income for providing relief to the Hindu/Sikh communities.”⁹

Justice (R) Mehta Kailash Nath Kohli a former Judge of Balochistan High Court hold that even if there is a single citizen of the respective faith, there is no justification to refuse control of that site to him/her.¹⁰

3. Samadhi / Mandir in Teri

The local Muslims of Teri illegally occupied the property linked to Mandir/Samaadhi after partition in 1947. However, when the Samaadhi was desecrated and demolished in August 1997, the ETPB failed to even lodge an FIR of the tragic incident.

It was only after orders of the Supreme Court in 2015, that ETPB got the possession of part of the land (1604 Sq. ft) from the illegal occupant with the active support of Hindu community.

Again, on 30th December 2020, a mob attacked, desecrated and burnt the Teri Mandir/Samadhi. ETPB was expected to lodge an FIR of the attack on the Samadhi, which happens to be one of the four most revered Hindu holy places in Pakistan. ETPB regarded the Mandir/Samaadhi as 'non-functional' despite 300 to 400 pilgrims reportedly visited the site every month, according to Pakistan Hindu Council.

The Supreme Court bench hearing the on-going matter under the minorities' judgment hearing the matter on 31st March 2021 observed the following:

“9. A report has been filed by the ETPB by way of CMA No, 1547

⁹ One-Man Commission, 7th report, para 34.

¹⁰ Interview 8 April 2021with author.

of 2021. With the report, information regarding leased out properties of ETPB has been provided. On our perusal of the report, it has been noted by us that there seem to be three or four types of categories in which the ETPB properties have been given to other persons. One seems to be on tenancy basis, the other by open auction and the third through tender. Further, there is also a mention of the giving of ETPB properties through development schemes under Clause 18-C of the Scheme of 1977. There is also a reference of Clause 7 of the Scheme of 1977 in the Report. On most of the properties, multistory buildings have been constructed and some of which have further been given to illegal occupants.

The Chairman, ETBP present in the Court states that all these properties are leased and tenanted and no ownership rights of ETPB have been transferred to the lessees and whoever is occupying these properties is in fact a tenant of ETPB and he can be removed from possession of the same and the property can be taken over by the ETPB whenever it requires the same. Incidentally, we do not agree with the Chairman ETPB because we do not have documents before us on the basis of which such can be assumed.

10. Let the ETPB take action of retrieving all the aforesaid properties from illegal occupants and also restore the status of ETPB properties to be the properties of the Trust and be maintained as such. No ownership rights in the properties of ETPB apparently could be created in favour of any person whosoever he may be and the transaction of ETPB in respect of these properties seems to be contrary to the law and the Chairman, ETPB has to revisit all such transactions in order to ensure that ETPB properties are restored to the Trust.

The Chairman, ETPB shall also take action against the employees who have indulged in illegal activities of mishandling and mismanaging and dolling out the properties of ETPB. Such exercise shall be conducted by the Chairman, ETPB expeditiously and also weeding out of bad elements from ETPB

and the properties belonging to it are secured. Let a report in this regard be filed by the Chairman, ETPB before the next date of hearing.

11. In the meanwhile, we direct the Auditor General of Pakistan to conduct a forensic audit of all ETPB properties which came in its domain on promulgation of ETPB Act, 1975 and their present status. Let such exercise be done by the Auditor General of Pakistan within a period of three months and a report in this respect be made available to the Court for our perusal.”¹¹

These orders came in the backdrop of reported stories of illegal transfers and occupation by the land grabbers, etc. Earlier the Supreme Court vide an Order on 05.01.2021 had directed the ETPB "to submit a detailed report of all Temples, Gurdawaras and other religious sites all over Pakistan which come under the purview of ETPB."

The One-Man-Commission reported to the Bench that it had “approached the ETPB on 12.01.2021 to provide the requisite information within a week's time to submit its comment before the Court.”

Receiving no response, the One-Man-Commission issued a reminder to the ETPB on 21.01.2021. ETPB in its response on 25.01.2021 ignored the Commission's format comprising six tables, thus evading the details sought therein.

The One-Man Commission visited the Katas Raj Mandir Chakwal, and Parlahd Mandir Multan on January 6, 2021, and January 7, 2021 respectively.

On 15 February 2021 the bench had observed;

“In our last order dated 08.02.2021, there is a reference of Rupees Thirty-Eight Million to be paid to Pakistan Hindu Council by the Evacuee Trust Property Board (“ETPB”). It is

¹¹ Order Sheet 31st March 2021.

stated that an amount of Rupees Two Million has already been paid by the Government of Khyber Pakhtunkhwa for the reconstruction of the Samadhi at Karak. So far the claim of Dr. Ramesh Kumar for payment of Rs.38 million by the ETPB is concerned, it is stated by the learned Additional Attorney General as well as learned ASC for the ETPB that no account has been submitted by the Hindu Council in response of said claim and that in case the Hindu Council submits the account of such amount of Rs.38 million, the ETPB shall consider the same and deal with it appropriately and in case any amount is due to be paid by the ETPB to Hindu Council, the same shall be paid. In this view of the matter, Dr. Ramesh Kumar may submit appropriate accounts to the Chairman, ETPB.

However, the Chairman, ETPB has been informed that none of the properties of the ETPB can be utilized by the Board for its own employees nor the same can be sold out/transferred to any person and in case leases of such properties have been made, the Chairman shall give full details of the same as well as the amounts which the Board is receiving from the lessees. He shall also in the report mention the rates which were initially fixed as lease amounts and the present rates of lease amounts which are being paid to the ETPB by the lessees. The duration of the leases shall also be indicated from the initial stages up till now and the persons to whom such leases have been granted. This report shall be made available by the Chairman, ETPB to this Court within a period of two weeks and he shall also be in attendance before us on the next date of hearing.”¹²

4. Protection of Communal Properties Ordinance 2001 & NCM

President General Pervez Musharraf promulgated The Protection of Communal Properties of Minorities Ordinance, 2001 in 2002 on the demand of the minority communities. The sale, purchase or transfers any property belonging to a minority community meant for communal use, was banned and made punishable with imprisonment of either description to seven

¹² Order Sheet 31-03-2021.

years and fine not be less than one hundred thousand rupees. And, any such sale or transfer transaction shall have no legal effect.

The Ordinance defines (communal) “Property” as places of worship, monasteries, seminaries, vicarages, dharamshalas, gaoshalas, burial places, community centers, social welfare, educational, health and recreational institutions, meant for communal use of minority communities and includes side buildings, vacant places, lands, residential places or offices annexed to the said properties.

The Ordinance barred purchase, sale or transfer of all minority communities' properties by any person without a No Objection Certificate (NOC) from the Federal Government which would be issued on the recommendation of the National Commission for Minorities (Section 2).

The Ordinance exempted properties for the Housing Schemes, meant for a minority community, approved by a Provincial or Federal Government, from purchase or transfer. However, the Punjab Revenue Department had been refusing to transfer properties under housing schemes for a long time causing enormous difficulties for the Christian in Lahore for instance.

Even though the removal of difficulties was provided by the law “in giving effect to any of the provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to be necessary for the purpose of removing the difficulty ...and power to make rules for carrying out the purposes of this Ordinance”.¹³

However, this wrong application of law is only a part of difficulties vis-à-vis management and disposal of communal properties.

Interestingly this Ordinance is not applicable to the aforementioned Evacuee Trust properties under the Evacuee

¹² The Protection of Communal Properties of Minorities Ordinance, 2001, Section 6 and 7.

Trust Properties (Management and Disposal) Act, 1975 (XIII of 1975).

In January 2020, the government moved a bill in the National Assembly that would authorize the “Concerned Minister” to recommend an NOC for sale, purchase or transfer of the communal properties.¹⁴

Even after an ad-hoc NCM was set up in May 2020, this bill has not been withdrawn. It can be imagined that concentrating powers to authorize sale in singular hand runs the risk of enhanced abuse of power and corruption.

Secondly, the purpose of NCM in this ordinance is separate and different from what the Court verdict SMC 1 2014 intends to build, that is a body for policy oversights, a human rights institution in other words.

5. Recommendations

- a) In order to preserve history, protect minorities and enable their social, cultural and religious vibrancy, the government should consider passing resolutions in the provincial and federal parliaments on protection of properties belong to minorities.
- b) That administration should dispose of complaints of illegal occupation/transfers on Merit off and expeditiously.
- c) The Sikh and Hindu community must be given adequate representation and leadership in the ETPB and opportunity to bring the matters related to effective management of Gurdwaras.

In addition, CSJ would like to reiterate the recommendations made by One-Man-Commission in their report to the SC Bench:

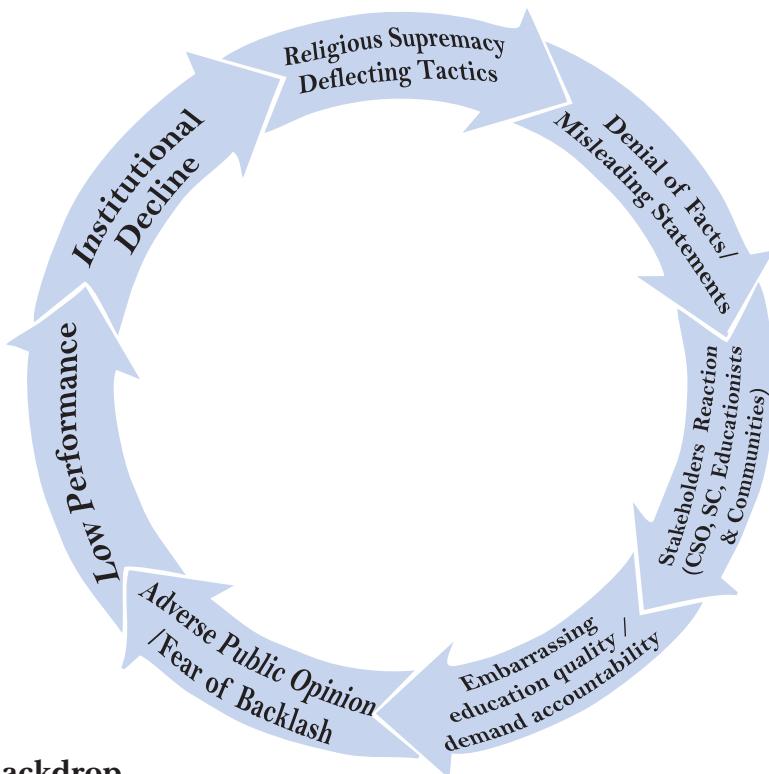
- d) ETPB Act is outdated and needs to be revisited for necessary amendments to make it a corporate body that can deliver its aims and objects efficiently, fairly and transparently, in close cooperation with (and control by) the evacuee communities.
- e) In the meantime, ETPB may be directed to get involved in the reconstruction of the desecrated Teri Mandir/Samaadhi and cooperate with the Provincial Government of KP for efficient implementation of the directions given by the Court from time to time.

For necessary collaborative effort in the renovation of Teri Mandir (Karak), Katas Raj Temples (Chakwal), Parlahd Mandir (Multan) and Hinglaj Mandir (Las Bela), Working Group of credible experts and members of Hindu community may be set up for independent oversight.

Qualitative Assessment-3

Curriculum for Peace

Curricula for Peace Barriers to Implementation of Article 22 COP.



1. Backdrop

Whereas Article 22(1) of the Constitution of Pakistan already guarantees that:

“No person attending any educational institution shall be required to receive religious instructions, or take part in any religious ceremony, or attend religious worship if such instruction, ceremony or worship relates to a religion other than his own.”

Moreover, the Supreme Court of Pakistan had issued the following directive to the government in part ii) of para 37:

“Appropriate curricula be developed at school and college levels to promote a culture of religious and social tolerance. In 1981 in one of its seminal declarations, the United Nations resolved that “the child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in the spirit of understanding, tolerance, friendship among people, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.” (UN Declaration on the Elimination on All Forms of Intolerance and Discrimination Based on Religion or Belief).”

Given this command of the Constitution as well as the verdict of the Court, the author moved an application in the individual capacity seeking relief against various biases, discrimination as well as violation of the constitution before the bench conducting follow up hearings on this judgment in September 2015. During the hearing on 28 October 2015 the bench directed the provincial governments to state their position regarding hate material.¹ However, since the bench was not constituted during 2016 and 2017, the application was not heard till 2018.

A fresh application was filed by Mr. Saqib Jillani advocate on behalf of the Human Rights Commission of Pakistan (HRCP), Centre for Social Justice (CSJ) and the Cecil and Iris Chaudhry Foundation (CICF) represented by Dr Mehdi Hassan, the author, and Ms Michelle Chaudhry, respectively. The Ministry of Federal Education and Professional Training was one of the respondents.

2. Compliance Assessment through One-Man-Commission

In June 2018 the SC bench started the hearing, though the attention of the Court remained largely on assessment through the One-Man-Commission. Therefore, the civil society organizations approached and

¹Order Sheet 31-03-2021.

assisted the One-Man-Commission with research data and analysis. The One-Man-Commission also flagged the requirement of the Article 22 (1) of the constitution with all provincial authorities. After meetings on 10th and 11th November 2020 with PTCB in Lahore, the Commission reported in his fifth report to the bench:

“The Commission also pointed out that Article 22(1) of the Constitution excluded the minority students from studying religious instruction /“Deenyaat” meant for Muslim students. The Commission directed PCTB to identify such materials and appropriately move the same from non-Islamic subjects.”

3. Meeting with Federal Ministry of Education

The 7th report of One-Man-Commission reported the following to the Bench:

- “1. That after receiving complaints about the presence of substantial religious content in the subjects like English, Social Studies and General Science, which content the students of minority religious communities were not obliged to study under Article 22 of the Constitution of Pakistan, the One-Man-Commission took up the matter of under-preparation Single National Curriculum with Mr. Shafqat Mahmood, Federal Minister for Education and Professional Training.
2. That the One-Man Commission also held a meeting with Mrs. Farah Hamid Khan, Federal Secretary Education, on November 12, 2020. Joint Educational Advisor, Mr. Muhammad Rafiq Tahir, assisted her in the meeting. The Secretary assured the Commission that the Single National Curriculum would be consensus-based, and all stakeholders, including representatives of religious minorities, would be consulted before finalizing the curriculum.
3. That the One-Man-Commission held another meeting with the Federal Ministry of Education on February 4, 2021. Mr. Rafiq Tahir, Joint Educational Advisor, explained that under phase I of Single National Curriculum, the implementation of curriculum for class 1 to 5 was set to rollout by March 2021. He informed that

though every effort had been made to address the minority-related concerns, the Ministry would fully cooperate in addressing any remaining issues. He further informed that the phase I curriculum was available on the Ministry's website for any comments...

5. That the One-Man Commission is fully committed to letter and spirit implementation of the Honourable Supreme Court's directions in para 37 of the Minority Rights Judgement in SMC 1 of 2014.”

4. Court orders in February / March 2021

The Bench consistently asked the Ministry of Federal Education to bring convincing evidence and argument regarding compliance of the Article 22. On 8th February 2021 the court observed as follows;

“It seems that Single National Curriculum (SNC) has been prepared by the Ministry of Federal Education and Professional Training (Ministry of Federal Education) to be adopted by all the Provinces and the Islamabad Capital Territory (ICT). It has been submitted by Mr. Saqib Jillani, ASC for the One-Man Commission that such curriculum still does not fully comply with the Article 22 of the Constitution of Islamic Republic of Pakistan, 1973 and before it is sent to the Provinces and ICT for implementation, a report from the Ministry of Federal Education may be obtained so that whatever input on it is required to be made to bring it in accordance with Article 22 ibid is provided. The Secretary, Ministry of Federal Education shall submit a report, in this regard, and such shall be made available to the court on the next date of hearing.”²

On the next hearing a week later, the Court observed;

“A report has been submitted on behalf of Secretary, Ministry of Federal Education and Professional Training which is not signed by the Secretary himself rather it is signed by the Deputy Director (Literacy) of said Ministry.

²Order Sheet on 08-03-2021, para 5.

Such a report is not in compliance of our order dated 08.02.2021 and as such the same is returned with direction to the Secretary, Ministry of Federal Education and Professional Training to submit a report duly signed by him to the Court, and he shall also be in attendance on the next date of hearing. The report shall be made available by him within a period of two weeks.”³

On 31st March 2021, the court made following observations;

“A very unsatisfactory report has been filed by the Secretary, Ministry of Federal Education and Professional Training, Government of Pakistan, Islamabad. The 'Single National Curriculum' that was ordered to be made by this Court vide its judgment dated 19.06.2014, has still not been made and the Ministry of Federal Education seems to be dragging its feet. No conclusive measures have been adopted as yet and apparently, there seems to be a lack of will and commitment to complete the process of making the 'Single National Curriculum'. The element of lack of capacity is also very much apparent from the report and we note with extreme concern that the job which was required to be done within at the best a period of one year, has taken years on end for which we see no justification.

In this view of the matter, the Secretary, Ministry of Federal Education and Professional Training, is finally directed to come up with the requisite 'Single National Curriculum' and submit a report before the next date of hearing stating that the task has successfully been achieved.”⁴

5. The Civil Society Efforts

A number of people in their personal capacity and civil society organizations have been making efforts to suggest reforms in the education system, including the curriculum and textbooks in light of the constitution of Pakistan. These efforts were afoot during previous policy reviews (1998 and 2006-2009) as well. Considering that the government

³ Order Sheet on 15-03-2021, para 6.

⁴ Order Sheet on 31- 03-2021, para 5-6.

was willing to accommodate some of the recommendations, CSJ coordinated meetings of a group of experts in education the policy, which is called the Working Groups for Inclusive Education (WGIE).⁵

The WGIE remained in contact with the MoFEPT, and sent its feedback to the Ministry over the Single National Curriculum (SNC) in May 2020. Afterwards, the WGIE carried out an extensive analysis of the textbooks and curriculum policy in use in Khyber Pakhtunkhwa, Punjab, Sindh and schools run by the Federal Board of Education under the title "*Quality Education Vs Fanatic Literacy*"⁶ which was sent to the Ministry as well as the One-Man-Commission in November 2020.

6. Conclusions

It is appreciable that the Federal Ministry of Education has introduced a new subject of 'Religious Education', which allows minority students to study religion own religions as an alternative to Islamiat instead of the erstwhile subject of Ethics. The author as member of National Curriculm Council and WGIE helped the Ministry in developing courses on Christianity, Hinduism, Sikhism, Baha'ism and the Kalash faiths, with the help of the people from these communities. This is expected to generate a lot of goodwill among religious minorities.

However, this good work can be easily eroded by the unnecessary inclusion of Islamiat based lessons inserted in the books of compulsory subjects. The WGIE was disappointed to observe that the textbooks for grades I–V contained some material that must have been part of Islamiat. Therefore, the textbooks were in violation of Article 22(1) of the Constitution.

Recommendations

In the light of above facts and developments it is urged that:

- a) The MoFEPT and the all Textbook Boards are urged to address the concerns of the minority communities, vis-à-vis the Single National Curriculum with regards to Article 22(1) of the

⁵ www.csjpak.org

⁶ <http://csjpak.org/pdf/Quality%20Education%20Vs.%20Fanatic%20Literacy.pdf>

constitution.

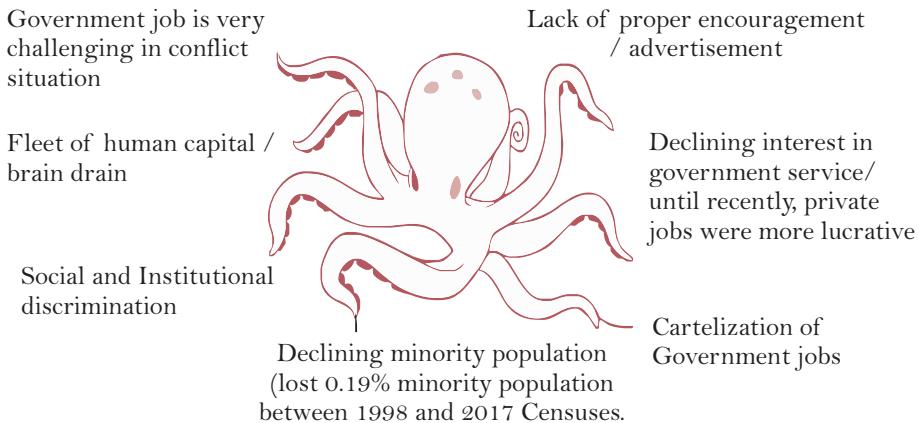
- b) In order to tackle the barriers to implementation, the MoFEPT and all the Text Book Boards should work in close cooperation with the One-Man Commission and in adherence to the order ii) of the original judgment as well as the supplementary orders for compliance by the Court.⁷

Qualitative Assessment-4

Job Quota for Religious Minorities

Clarifications: This chapter analyses the data about competitive examinations/posts only because a comprehensive analysis is yet to be made available by the competent bodies. It should not be taken as representative of the entire situation. Therefore, the following octopus chart is based on the author's observations and an endeavours to explain various factors.

Non-implementation of Job Quota The Octopus of Limitations & Factors



Constitutional Promise

The Constitution of Pakistan in Article 37 guarantees: “*The State shall:*

- (a) Promote, with special care, the educational and economic interests of backward classes or areas; and,
- (f) Enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan.”

1. Demography

The Council of Common Interest decided to release the results of the Population Census 2017,¹ a data released was yet to till the writing of this report. However as per unofficially resealed data earlier, the total population of Pakistan was 207,774,520 i.e. (207.77 m). The Muslims comprised 200.44 m (96.47%) and religious minorities 3.53% among minorities' Hindus were 3.59 m (1.73%), Christians 2.63 m (1.27%) while other minorities are 1.08 m (0.52%).²

If the above mentioned data is correct, the government should also try to find out why the overall ratio of minorities has decreased (0.19%) as compared to the last census in 1998, particularly the ratio of Christian populations deceased by 0.32% (from 1.59 %to 1.27%),.

Nevertheless, the measure of affirmative action should not be conditional to demographic representation. The objectives and amount of affirmative action should be adequate to address the marginality and the equality gaps. Hence, a scientific calculations and evaluation of policy measures on regular basis would be necessary.

2 Introduction of Job Quota

The quotas had been part of several policy measures ever since Pakistan came into existence under different considerations of backwardness or disadvantage.

However, a concrete action was begun by the Federal government in 2009. A notification was issued making a 5 % quota mandatory in all government jobs for minorities.³ In order to ensure enforcement, this notification provided that; a) the quota will be exclusive of minority candidates qualifying on the merit; b) the

¹<https://tribune.com.pk/story/2294393/cci-approves-2017-census-results-decides-to-hold-fresh-nosecount-by-year-end>

²<https://tribune.com.pk/story/1719994/l-headcount-finalised-sans-third-party-audit>

³Vide Notification No. OM No. 4/15/94-R-2 issued on May 26, 2009.

unfilled seats in any process, will be carried further and will be filled only by the minority candidates. This policy action was subsequently adopted by provincial governments as well have 3-4 years ahead of the judgment in consideration.⁴

Therefore, a couple of applications with regards to complaints about non-implementation of the job quota were pending before the Supreme Court in 2014. The Chief Justice Tassaduq Hussain Jillani joined these applications in the *Suo Moto* proceedings and passed following order;

“It is directed that the Federal Government and all Provincial Governments shall ensure the enforcement of the relevant policy directives regarding reservation of quota for minorities in all services.”⁵

3. Implementation of Job Quota in the Compliance Reports

Paragraphs 52-57 of the 8th report of the One-Man-Commission submitted to the SC Bench are summarized below for assessment of the implementation of job quota.

- a) The One-Man-Commission on 04.12.2020 followed by reminders requested the Provincial Governments and the Federal Government to implement the direction of the Supreme Court contained in para 37 (vi) of judgment in SMC No.1 of 2014.
- b) In response, the Federal Government (Establishment Division) submitted the requisite information. The Establishment Division informed that it has to fill up 3,655 vacant posts that existed as on 31.12.2020 against 5% minority quota.

⁴<https://nation.com.pk/26-Oct-2009/minorities-to-get-5pc-quota-in-govt-jobs>

⁵SMC SC 1 2014, Para 37, (vi).

- c) The Establishment Division was also required to prepare Organization-wise Implementation Plan with a clear timeframe for filling up the vacant posts for placing the status of implementation while the Establishment Division nominated Mr. Shahid Hussain Satti, Director (Statistics), Pakistan Public Administrative Research Centre (PPARC) as Focal Person, the Implementation Plan was awaited.
- d) The Government of Punjab submitted on 26.03.2021 that 18614 posts in various basic pay scales existed against 5% Minority quota in respect of its 40-administrative departments.
- e) The Government of KP on 19.02.2021 informed that 6585 vacant posts of various basic pay scales existed against 5% minority quota in its administrative and attached departments. However, the information submitted by the Government of KP contained a number of discrepancies. Therefore, they were required on 02.03.2021 to submit correct information on the prescribed proforma which was re-submitted on 25.03.2021.
- f) The Governments of Sindh, Balochistan, Gilgit-Baltistan and AJK have not yet submitted the requisite information relating to 5% minority quota even after lapse of more than four months despite issuance of repeated reminders. The Commission requested Hon'ble Supreme Court to nudge them for early implementation of quota.

5. Implementation by Public and Federal Service Commission Reports

The Punjab Public Service Commission (PPSC) processed 12882 vacancies in the year 2016 for more than 30 departments. 94.22 % candidates passed out however 744 vacancies remained unfilled

among which 43% were against the Minority quota.⁶

In 2017, PPSC processed 8259 vacancies for 29 departments. 90.25% of candidates passed out. 896 posts were allocated to different quotas however, only 366 candidates were recommended and the passing ratio was 40.8% under the quota. 48% quota for minorities remained unfilled.⁷

In 2018, PPSC processed 19430 vacancies for 37 departments, 4582 posts remained vacant. 76.4% candidates passed out. 2749 posts were allocated to different quotas (Women, Minorities, and Special Zone & Special Persons) however only 25% candidates passed out hence 75% of posts remained vacant. 88% of vacancies for Minority quota remained vacant.⁸

In 2019, PPSC processed 9,406 vacancies for more than 35 departments. 1452 job positions remained vacant. 84.5% candidates passed out. 1,553 job vacancies were advertised against different quotas while 751 or 49% posts remained vacant. Among the reserved quota, 446 seats were reserved for minorities and 174 total posts (39 %) remained vacant.⁹

In 2016, Federal Public Service Commission, processed 5362 vacancies (BS 16 and above), only 27% passed out. The passing out ratio for jobs advertised against minority quota was 54% while 45% seats remained vacant. In 2016, the passing ratio for CSS competitive examination was 54% while 45% vacancies advertised against respective quotas remained vacant including 34% of seats reserved for minorities.¹⁰

During 2017, The FPSC processed 5,976 vacancies for BS 16 and

⁶Page 6, PPSC Annual Report (2016), retrieved from:
[http://www.ppsc.gop.pk/\(S\(hwmfp13flx30rjoe2asm5zj\)\)/ppsc_publications/PPSC%20Annual%20Report%202016/index.html](http://www.ppsc.gop.pk/(S(hwmfp13flx30rjoe2asm5zj))/ppsc_publications/PPSC%20Annual%20Report%202016/index.html)

⁷Page no 2 &14, PPSC Annual Report (2017), retrieved from:
[http://www.ppsc.gop.pk/\(S\(logmoyeu0l0t2l03gvc5ubkf\)\)/ppsc_publications/PPSC%20Annual%20Report%202017/index.html](http://www.ppsc.gop.pk/(S(logmoyeu0l0t2l03gvc5ubkf))/ppsc_publications/PPSC%20Annual%20Report%202017/index.html)

⁸Page 40, PPSC Annual Report (2018), retrieved from:
[http://www.ppsc.gop.pk/\(S\(hwmfp13flx30rjoe2asm5zj\)\)/ppsc_publications/PPSC%20Annual%20Report%202018/index.html](http://www.ppsc.gop.pk/(S(hwmfp13flx30rjoe2asm5zj))/ppsc_publications/PPSC%20Annual%20Report%202018/index.html)

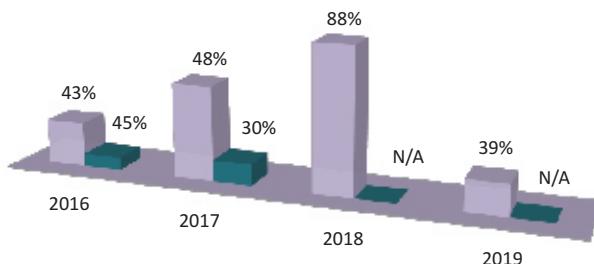
⁹Page 29, PPSC Annual Report (2019), retrieved from:
[http://www.ppsc.gop.pk/\(S\(hwmfp13flx30rjoe2asm5zj\)\)/ppsc_publications/PPSC%20Annual%20Report%202019/index.html](http://www.ppsc.gop.pk/(S(hwmfp13flx30rjoe2asm5zj))/ppsc_publications/PPSC%20Annual%20Report%202019/index.html)

¹⁰Page iii & 40, FPSC Annual Report 2016, retrieved from: <http://www.fpse.gov.pk/news/annual-report-2016>

above. 397 seats remained vacant and the passing out ratio was only 40.3%. 120 posts were advertised as minority quota and the passing ratio remained 69% while 37 posts remained vacant.¹¹

Yearwise Assessment of Seats going Vacant Against 5% Minority Quota

- Punjab Public Service Commission
- Federal Public Service Commission



Note: N/A implies that the Official data/Annual Reports was not released yet.

In sum, a large number of seats remained vacant as there were not enough candidates but mainly due to those attempting exams on minority quota did not qualify. Nevertheless, the minority candidates fared better in passing out ratio gradually.

6. Conclusions

The constitutional provisions in Chapter -1 (Fundamental Rights) and Chapter-2 (Principles of Policy) of the Constitution of the Pakistan, 1973, all citizens are entitled to equal protection of law including, equal educational and professional opportunities. It is the duty of the federal and provincial governments to promote and facilitate the progressive realization of equality, as far as reasonably practicable, by recognizing that discrimination can cause social and economic inequities, and that access to

¹¹Page iii & 55, FPSC, Annual Report 2017, retrieved from: <http://www.fpsc.gov.pk/news/annual-report-2017-0>

opportunities is not equitably distributed throughout society. The issues regarding marginality of women, minorities and persons with disabilities require affirmative measures to address their exclusion from the national mainstream.

The article 37 of constitution lays out clearly that affirmative action is geared towards removing the unfair advantage that the privileged sections of the society have due to unequal distribution of resources.

There is common learning in many models of affirmative action, including the on-going experiment in Pakistan; that, this is not a single dose therapy but a continuing therapeutic process, till the achievement of the goal. Implementing one measure for equality leads to discovery of another inequality. Hence, as the societies progress on affirmative action they actually address the systemic social and economic inequality. Furthermore, they can also develop their potential to address issues in governance using the enhanced inclusivity.

In the light of the above mentioned facts and conclusion, it is deduced that:

- a) Despite a manifest desire of the federal and provincial governments to achieve economic and social equality through job quota or enhanced scope of opportunities for minorities, there are following shortcoming in the existing arrangement;
 - i) That there is not any central body for keeping record, monitoring the implementation and evaluating the performance with regards to job quota.
 - ii) That job quota for nearly all reserved categories has remained unutilized to a high ratio (50-80%) which defeats the purpose of having this policy (equality in opportunity) moreover it is detrimental to the institutional performance of respective government entities.

- b) Most of the government entities are not adequately equipped with data to report the compliance to job quota, etc.

7 Recommendation

It is recommended that in order to enable utilization of job quota:

- a) All the government departments and institution-heads must monitor the advertisement and appointments on vacancies for minority candidates; moreover ensure that working environment is free of any discrimination on basis of belief, gender, identity and origin.
- b) A regulatory body (Rozgar Authority) must be established through legislation to ensure proper implementation of all job quotas and report annually on its performance towards this objective.
- c) The regulatory authority should be equipped with adequate powers, resources and procedures for a referral and redressal function against any grievances, particularly to deal with any religious discrimination.
- d) Five percent educational quota be introduced for admission at all levels particularly in colleges, universities, professional and technical education for the students belonging to religious minorities.
- e) The government should work more closely in partnership with local minority communities and Civil Society Organisations to introduce schemes aimed at economic empowerment.

Qualitative Assessment-5

The One-Man-Commission (Dr Shoaib Suddle)

One-Man-Commission was formed by the Supreme Court of Pakistan in response to a felt need, and in a gradual process, raised questions. When a bench got constituted headed by Chief Justice Saqib Nisar and the hearing started after a lapse of 26 months, in spring, 2018 - one witnessed a realization amongst the members of the bench that evaluating compliance on the judgment at hand was a complex matter. Besides that, the judgment had a broad scope, and there were many hurdles in the way of implementation. The earlier benches conducting hearings in 2014-2015, had to either consistently inquire into, and issue supplementary orders on each matter for tangible results, or indulge in micro-management of issues. In routine proceedings, the conflicting claims and systemic flaws can waste a lot of precious time. (Some of the challenges and bottlenecks are discussed in the conclusions of this study).

During a hearing in July 2018 Chief Justice Saqib Nisar proposed that supervision of the implementation process was necessary due to the aforementioned complexity. The Chief Justice Nisar also proposed that he would approach Former Chief Justice Tassaduq Hussain Jillani with a request to accept the responsibility of heading the implementation Commission. The proposal did not succeed because Justice Jillani had reservations about involving himself in the implementation of a judgment that he authored, especially after when he had retired from his job.

On the next hearing **on 24 October 2018**, Chief Justice Saqib Nisar appointed Dr. Shoaib Suddle as Chairman of the commission as per the terms of reference given in paragraph 37 of the judgment. During the hearing **on 1 January 2019**, the Court was informed that Dr Shoaib Suddle would like to gain some clarity about the terms of reference. The court agreed to

provide that. The court was also informed about the need of budget and working space for the One-Man-Commission.

On 8 January 2019 the Court issued the order for appointment of Dr. Shoaib Suddle as Commissioner for a three months period, extendable from time to time by the court. A committee composed of Mr. Saqib Jillani, Additional Attorney General and Mr. Ramesh Kumar, MNA to assist the One-Man-Commission.

Dr. Suddle travelled throughout the country to hold meetings on various areas of compliance with provincial administration, line departments, provincial and Federal Ministries of Education and Religious Affairs and Interfaith Harmony. The Centre for Social Justice had the opportunity to work closely and assist the work of the One-Man-Commission therefore we underline following points as strengths and challenges with this arrangement:

Strengths

1. One-Man-Commission, with a role of assessment and implementation, has been an excellent induction from the point of view of applicants regarding accessibility and follow-up on the issues.
2. Owing to his long experience, sound repute and integrity, Dr. Suddle and his team have successfully bridged the communication gap between the administration and applicants, and increased reporting on part of government stakeholders, as well as raised the protection of the compliance.
3. One-Man-Commission has assisted the Supreme Court bench in providing independent assessment and pointing the way forward for the administrative machinery - for instance, what measures should be taken if financial resources do not allow the setting up of a separate police force for places of worship.

Challenges

1. Since the One-Man-Commission is about the accountability of delivery on human rights of the religious minorities - moreover the judgment itself is about operationalizing the institutional potential - therefore it is facing serious lack of cooperation from some of institutions.
2. In its 3rd report to the bench, the Commission stated;

“Though more than a year has elapsed since its establishment, the Commission is yet not operational. The Commission's work is seriously handicapped due to routine bureaucratic hurdles and at times uncooperative attitudes. It took Ministry of Religious Affairs and Interfaith Harmony (MoRAIH) six months before it got the initial budget approved by the Finance Division. **The Commission received the approval barely a couple of days before the end of financial year 2018-2019. So with a view to avoid audit paras, the sanctioned budget was surrendered unutilized.** It took another three months to get the same budget released in the financial year 2019-2020. Of late, the MORAIH has started utilizing the Commission's sanctioned budget on purchasing furniture, as well as on repairs of the Commission's vehicle, notwithstanding the fact that under orders of the Hon'ble Supreme Court, the provision of office space, furniture, equipment, logistics, etc. was the sole responsibility of MoRAIH. The upshot is that **after over thirteen months** of its establishment and repeated requests to MoRAIH, the **Commission is still without office and essential staff.”¹**

3. Another challenge is with regard to the powers of the One-Man-Commission. In its report to the Bench the

¹3rd Report of the One-Man-Commission.

Commission has aptly suggested a way forward:

"The Commission needs necessary empowerment to enable it to work more efficiently and effectively. For getting minority properties under illegal occupation vacated, it is necessary that all executive authorities throughout Pakistan act in aid of the Commission when called upon to do so. The Commission also requests authorization to bring to the notice of judicial authorities if in the opinion of the Commission a stay granted in relation to a minority property merits vacation. Similarly, the Commission may have the same powers of summoning and enforcing attendance of any person, etc. and the same power to punish for contempt as available under the Federal Tax Ombudsman Ordinance, 2001 or the Pakistan's Commissions of Inquiry Act, 2017. The appeal against a rare such case shall invariably lie with the Hon'ble Supreme Court."²

In conclusion, in order to treat discriminations in enforcing equality of rights and religious freedom, the compliance of this judgment also means improving functions of the state machinery. The performance of the One-Man-Commission is encouraging and its need is manifest.

It may be worthwhile to mention the Mandal Commission formed in 1979 in India with a mandate to "identify the socially or educationally backward classes" of India and Sachar Committee³ which helped quantify the marginalization of Muslim minority 2005. So the role of independent, quasi-judicial bodies is crucial.

The role of One-Man-Commission as a body assigned to help assessment and implementation of a landmark judgment is way different than other Inquiry or Permanent Commissions set up in

²Ibid, Para 33.

³<http://www.minorityaffairs.gov.in/reports/sachar-committee-report>



Pakistan and outside. While the role of the Commission is still evolving the author finds this to be a world unique experiment from the point of view of affirmative action for the marginalized as well as improving the governance.

Qualitative Assessment-6

The Case Study of Punjab

In order to assess the quality of compliance, Punjab was selected by the researcher to gather insights about the challenges and prospects of improvement. It was encouraging to see that the province of Punjab presented frequent reports to the Supreme Court as respondent.

However, the submissions made over the three years, there were certain repetitions and consistencies that merit a mention and some corrections hopefully. For instance;

- a) In all three reports, the Province stated five pieces of legislations as the measures for controlling hate speech, yet without giving any assessment about the impact of these enactments. Even the page number of the topic remained same in the reports for 2018 and 2020 (page 2, CMA No. 4821/2018 and page 2, CMA no. 6681/2020).
- b) The Punjab province progressively mentioned different statistics about available and filled seats with regards to minority job quota in three different reports. One is aware that the Ministry of Human Rights and Minorities Affairs has been struggling to gather data from the departments in Punjab with some success at hand. It would be hugely educative for all the stakeholders if the report also explains the difficulties involved in data gathering so that any discrepancies are not taken as mistakes or an explanation and the true picture about the implementation of the policy measure gets reflected.

At the end, a review of these reports shows that measures taken for implementation of 5% job Quota remained symbolic and the result pretty moderate.

- c) The reports about compliance by the Punjab Textbook and Curriculum Board (PTCB) have been repetitive which raises a question that whether there was any change on the ground. Particularly, PTCB claimed to be following Single National Curriculum while the report appears to be unaware of a fundamental change in the curriculum policy made in the SNC about teaching the subject of Religious Studies instead Ethics. Their last report in 2020 also kept on harping on the old tune and presenting the subject of Ethic as a huge favour to minorities in the curriculum.
- d) The data presented about security of places of worship was different in three reports without an explanation. In fact, a compliance report will be more convincing for the reviewing SC bench if it was presented with accompanying results about enhanced security e.g. decreased number of incidents/ attacks on minority places of worship, decreased abuse of law and religion.

Summary of three compliance reports submitted by Punjab Province in past three years.

Area of Compliance	2018 report CMA No. 4821/2018 by Punjab	2019 report CMA 10238/2019 by Punjab	2020 report CMA 6681/2020 by Punjab
5 % Job Quota	Recruitment against quota from July, 2013 to May 2016: Total 138434 , Minority Quota 8337 . Actual recruitments made minorities 5151 (page 2).	Total sanctioned strength 35,551 , whereas total number of minorities working or recruited 11,210 . (page 4)	Total sanctioned strength under 5% quota in Punjab 35,750 , the total number of minorities of working or recruited 10,499 . (page 6)
Remove hate speech in Curriculum	PCTB, measures took by amending curricula. 1. Supplement ary reading Materials/	PTCB has developed curricula of different subjects with the help of educational experts and stakeholders. (Page 1)	PCTB, made changes in the curriculum for promoting tolerance/ religious harmony.

	<p>booklets for promoting and sharing, tolerance, interfaith harmony</p> <p>2. A separate subject “Ethics” an alternative of Islamic studies for minorities and non-Muslims.</p> <p>3. “Respect and interfaith Dialogue harmony” theme added in English and Urdu (Page 1)</p>	<p>The aim is to produce and foster the religious harmony, respect for other religious believes, tolerance, ethical values.</p> <p>(Annexure-A p. 7)</p>	<p>Supplementary materials on tolerance, interfaith harmony, etc. Ethics as alternative for Non-Muslims. Minorities’ involved in content making. For complaints pertaining to Curricula & books a control room was launched. Review committee per subject has members of Minority (page 1-2).</p>
Security of the worship places	<p>1. No resources to raise a special police force due to limited resources. (Page 11, CMA no. 4821/2018)</p> <p>2. Punjab has reserved 6249 personnel for security of worship places minorities.</p>	<p>With limited resources available the Punjab police has reserved 9549 personnel solely for security of worship places of Minorities. (page 4)</p>	<p>1. Limited resources to raise a special police force.</p> <p>2. Total 2279 worship places of Minorities, 11,172 police personnel deployed for security of (page 5)</p>

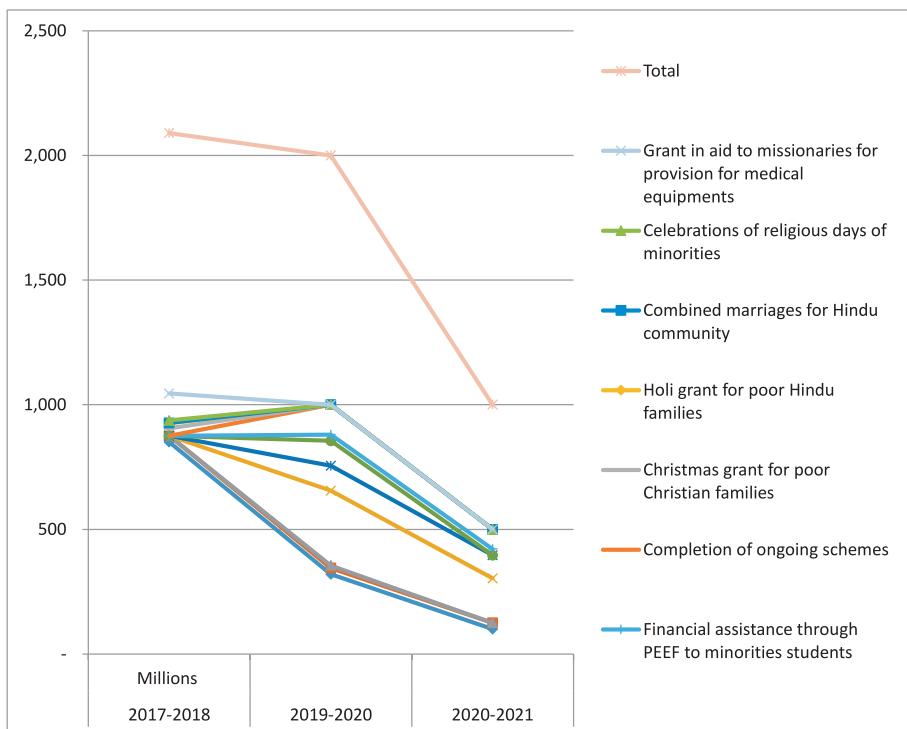
Curtail Hate speech-punish delinquents	NAP introduced enactments to overcome hate speeches etc 1) The Punjab Sound Systems (Regulations) Act, 2015 2) The Punjab	NAP introduced enactments to overcome hate speeches etc 1) The Punjab Sound Systems (Regulations) Act, 2015 2) The Punjab	NAP introduced enactments to overcome the hate speeches 1) The Punjab Sound Systems (Regulations) Act, 2015 2) The Punjab
	Information of Temporary Residents Act, 2015 3) The Punjab Security of Vulnerable Establishments Act, 2015 4) The Punjab Maintenance of Public Order (Amendment) Act, 2015 5) The Punjab Arms (Amendment) Act, 2015 (page 2, CMA No. 4821/2018)	Information of Temporary Residents Act, 2015 3) The Punjab Security of Vulnerable Establishments Act, 2015 4) The Punjab Maintenance of Public Order (Amendment) Act, 2015 5) The Punjab Arms (Amendment) Act, 2015	Information of Temporary Residents Act, 2015 3) The Punjab Security of Vulnerable Establishments Act, 2015 4) The Punjab Maintenance of Public Order (Amendment) Act, 2015 5) The Punjab Arms (Amendment) Act, 2015 6) Cases Registered under Punjab prohibition of expressing matters on walls (Amendment), 2015 (page 2).

Punjab's budget for minorities (2017- 2021)

Three CMAs presented to the Court also mention the budget reserved for minorities 2.7 % or roughly population of 3 million minority citizens in the Province. The reports covering these years reveal that government of Punjab curtailed more than 50% budget for minorities since 2018. Bringing the budget from 1045 million in 2018 to 500 million in 2020.

The choice for shifting the focus of expenditure is also not explained in the compliance report. For instance, why is the focus shifted from providing resources for education to maintaining places of worship, etc.? The readers of Justice Yet Afar can follow the table and the graphic chart to learn about budget patterns. Nevertheless, the real test of the commitment of Punjab government would be, and other provinces as well, to ensure accountability and transparency in the government spending on religious minorities.

Table and Graph: Trends in the budget for minorities in Punjab



Punjab Budget for Minorities (In figures)

	2017-2018	2019-2020	2020-2021
Minority development Fund	850	320	100
Scholarships for minority students	25	25	25
Awareness of human rights and interfaith harmony	-	10	-
Development of model localities of minorities	-	300	178
Improvement/ renovations of religious places of minorities to promote tourism	-	100	93
Socio economic support for minorities through special grant	-	100	-
Financial assistance through PEEF to minorities students	-	25	25
Completion of ongoing schemes	-	120	79
Christmas grant for poor Christian families	30	-	-
Holi grant for poor Hindu families	20	-	-
Combined marriages for Hindu community	2	-	-
Celebrations of religious days of minorities	10	-	-
Grant in aid to missionaries for provision for medical equipments	108	-	-
Total	1,045	1,000	500

Protection of Minorities' Rights: The Way Forward

CSJ strongly believes that apart from the immediate results, the implementation of this judgment can be instrumental in enhancing democratic inclusion of all citizens, crafting sustainable policies and equalization of rights. An effective mainstreaming of minorities is contingent upon the quality of affirmative action adopted, which this judgment seeks to fulfil through the realization of rights of religious minorities, establishing respect for religious diversity and equality of citizens.

Considering the above analysis, CSJ recommends the following measures for giving effect to the directives of this landmark judgment:

General Recommendation

1. This study identifies a lethargy and inaptitude on part of the implementing bodies and policy vacuums. Hence, for better administration, governance CSJ strongly recommends using motivation and capacity enhancing sessions for the officials of the federal and provincial governments.
2. The Federal and Provincial governments should consider holding inter-ministerial and cross-sectional consultation meetings for effective and improved implementation of the judgment involving genuine minority stakeholders and the One-Man-Commission.
3. The provincial governments should vitalize the role of provincial departments and ministries for the protections of rights of minorities. The welfare and charity-related work should be assigned to concerned departments while these ministries should focus on human rights and justice issues.

4. The NGOs policy 2015 has affected the country's economy, development and soft power very badly. While the governments alone cannot handle fulfilment of rights without the support of NGOs and civil society at large. Therefore, the government should actively involve the minority communities and the NGOs in the implementation of the judgment. Therefore, the government must review its policy and facilitate all lawful activity of the NGOs.
5. The minority stakeholders and NGOs should vigorously involve themselves in monitoring of progress use and the complaints mechanism for implementation on the judgment and follow up on the court proceedings.
6. It is strongly recommended that the concerned Ministries of Federal government, such as MoRA & IH, MoFEPT, and the Ministry of Human Rights, departments like NADRA, Islamabad Capital Territory and Gilgit-Baltistan should report their status of compliance to the SC Bench. Moreover, all respondents should prepare reports objectively; make claims with credible evidence of the results of the measures for compliance.

Specific Recommendation

7. National Commission for Minorities Rights (NCM):

- a) An NCM strictly adhering to the UN Paris Principles be set up expeditiously;
- b) Whereas, a draft bill has been prepared, the government is strongly urged to make use of this draft and table the bill in the parliament. The opposition parties are also urged to cooperate in the legislation;
- c) The NCM should be an independent entity reporting to the parliament and not fall under any ministry. If for

practical and collaborative work and functioning the NCM needs to be linked to a ministry, it should be the Ministry of Human Rights.

- d) In this perspective, this Commission may be called the National Commission for Minorities' Rights (NCMR).

8. Protection of properties belonging to religious minority

- a) In order to preserve history, protect minorities and enable their social, cultural and religious vibrancy, the government should consider passing resolutions in the provincial and federal parliaments regarding protection of properties belong to minorities.
- b) The administration should dispose off complaints of illegal occupation/transfers on merit and expeditiously.
- c) The Sikh and Hindu community must be given adequate representation and leadership in the ETPB and opportunity to bring the matters related to effective management of Gurdawaras.

In addition, CSJ would like to reiterate the recommendations made by One-Man-Commission in their report to the SC Bench:

- d) ETPB Act is outdated and needs to be revisited for necessary amendments to make it a corporate body that can deliver its aims and objects efficiently, fairly and transparently, in close cooperation with (and control by) the respective communities.
- e) In the meantime, ETPB may be directed to get involved in the reconstruction of the desecrated Teri Mandir/Samaadhi and cooperate with the Provincial Government of KP for efficient implementation of the directions given by the Court from time to time.

- f) For necessary collaborative effort in the renovation of Teri Mandir (Karak), Katas Raj Temples (Chakwal), Parlahd Mandir (Multan) and Hinglaj Mandir (Las Bela), a Working Group of credible experts and members of Hindu community may be set up for independent oversight.

9. Curriculum for Peace

- a) The MoFEPT and the Textbook Boards are urged to address the concerns of the minority communities, vis-à-vis the Single National Curriculum with regards to Article 22(1) of the constitution.
- b) In order to tackle the barriers to implementation, the MoFEPT and all the Text Book Boards should work in close cooperation with the One-Man-Commission and in adherence to the order ii) of the original judgment as well as the supplementary orders for compliance by the Court.
10. The places of worship and minority settlements have been at risk due to two factors; a) the terrorism linked to so-called religious ideologies, b) mob attacks after incitement to violence. Therefore, establishing the two task forces ordered by the Supreme Court in the judgment are recommended to be set up without further delay keeping following aspects in view:
- a. The task force for religious and social tolerance ought to be an empowered, time-bound, independent, well-resourced and permanent federal body that should reflect the social, cultural and religious diversity in Pakistan as well as diverse experiences in different fields, particularly in peace-building.
- b. The Special Police Units being set up for security of places of worship should be given training including the conceptual training about conflict prevention and conflict

resolution. The recruits should involve as many members as possible from the concerned communities beyond 5 % quota. This task force with additional trainings should be adaptable to perform other community services such as giving first aid, vaccination and adult literacy programmes.

11. Implementation of Job Quota

- a) All the government departments and institution-heads must monitor the advertisement and appointments on vacancies for minority candidates; moreover ensure that working environment is free of any discrimination on the basis of belief, gender, identity and origin.
- b) A regulatory body (Rozgar Authority) must be established through legislation to ensure proper implementation of all job quotas and report annually on its performance towards this objective.
- c) The regulatory authority should be equipped with adequate powers, resources and procedures for a referral and redressal function against any grievances, particularly to deal with any religious discrimination.
- d) Five percent educational quota must be introduced for admission at all levels particularly in colleges, universities, professional and technical education for the students belonging to religious minorities.
- e) The government should work more closely in partnership with local minority communities and Civil Society Organisations to introduce schemes aimed at economic empowerment.

Annexes.

Table 1. Supplementary orders passed for compliance during 2014-2015 (By addressee of the orders)

Date	Federal/ Provincial	Order Passed for Compliance
16/12/2014	Federal	Appoint a permanent Chairman of National Commission for Minorities. The Commission should submit a report about the steps taken by them towards the implementation of judgment on regular basis.
13/1/2015	Federal	Report compensations paid to victims of Peshawar attack by the Federal government. Ensure the Hindu Marriage Bill is placed before the cabinet within two weeks, and its report submitted to the chamber. Hold meetings with Chief Minister, IGP, Chief Secretary of Punjab, to finalize security plan in three weeks, submit in next hearing. Arrange meeting with Hindu and Christian community leaders regarding security.
11/2/2015	Federal	Submitted Hindu Marriage Bill in Parliament report within one week.
12/3/2015	Federal	Respond to questions in applications – on job quota, security of worship places and registration of marriages with NADRA.
11/25/2014	Joint	Present a comprehensive report of steps taken for the implementation of the judgment. Provincial stakeholders should submit applications about instances of violations apart from non-compliance.
16/12/2014	Joint	Attorney General is present in the next hearing. Respond to points raised by Dr. Ramesh, forced conversions and kidnapping of Hindu girls. NADRA should comply with marriage registration issues, job quota.
25/8/2015	Joint	All governments asked to submit compliance reports.
28/10/2015	Joint:	Submit reply to complaint regarding 'hate material' in text books.
16/12/2014	Govt. of Sindh	Report implementation of 'job quota' i.e. appointment of 5% non-Muslims (religious minorities) beyond advertisement and notifications.
13/1/2015	Govt. of Sindh	Hold meeting with Pakistan Hindu Council to discuss the question regarding protection of minorities.
11/2/2015	Govt. of Sindh	IG Sindh Police to present a report on Dr. Ramesh's complaint – report the decision about follow up.
12/3/2015	Govt. of Sindh	Christian community be included (in the process) for curriculum reforms. Submit security plan for places of worship.
16/4/2015	Govt. of Sindh	Pass a resolution to facilitate federal legislation for Hindu Marriage bill- report in a month.
7/9/2015	Govt. of Sindh	Submit compliance reports on the previous orders concerning reconstruction of Mandir; Balochistan asked to present a more comprehensible report.
28/10/2015	Govt. of Sindh	Take action and submit report on complaint regarding forced conversion.
16/12/2014	Govt. of KP	Conduct a meeting with Chief Secretary IG Police, AG of KP
13/1/2015	Govt. of KP	Present comprehensive report on implementation of 5% job quota for minorities. Resolve issue regarding temple in Karak. Present documents of compensation paid to victims.
11/2/2015	Govt. of KP	Reminder for endowment fund and compensation amount to the victims, one more week given to submit report to SC and DAG, KP.

11/3/2015	Govt. of KP	Take necessary action for reconstruction of temple of Hindu community in Karak.
3/12/2015	Govt. of KP	Worship places that were missing from the list, be added for security plan and submitted in the next hearing by IG Police. Include Christian community for curriculum reforms.
16/4/2015	Govt. of KP	Start reconstruction of temple in Karak within two weeks. Establish endowment funds and report be submitted in two weeks. Security plan of worship places must be submitted before the next hearing. Pass a resolution to facilitate federal legislation for Hindu Marriage bill- report in a month.
7/9/2015	Govt. of KP	Occupation of the Krishan Dwara Mandir and Samadhi (Karak) be redressed- comply with the judgment and report in 45 days. Submit compliance reports on the previous orders concerning reconstruction of the Mandir.
13/1/2015	Govt. of Balochistan	Arrange meeting with Hindu and Christian community leaders regarding security.
12/3/2015	Govt. of Balochistan	Submit security plan for places of worship
16/4/2015	Govt. of Balochistan	Submit a security plan for places of worship. Submit reply regarding registration of Christian marriage. (NADRA) Pass a resolution to facilitate federal legislation for Hindu Marriage bill- report in a month.
7/9/2015	Govt. of Balochistan	Balochistan asked to present a more comprehensive report.
13/1/2015	Govt. of Punjab	AG to submit reply to complaint registered regarding 5 % quota. (Punjab reports 2% induction of minorities on job quota) Submit report on finalization of setting up taskforce for security of worship places. Meeting to be held with Chief Minister IGP, Chief Secretary of Punjab finalize security plan in three weeks and submit in next hearing.
11/2/2015	Govt. of Punjab	Submit reports regarding task force, 5% job quota, amendments in the curriculum, meeting with the CM/follow up actions. Submit response to complaints about non-compliance on job quota.
12/3/2015	Govt. of Punjab	Security plan be prepared for all places of worship / submitted to the court.
16/4/2015	Govt. of Punjab	Submit reply regarding registration of Christian marriage Pass a resolution to facilitate federal legislation for Hindu Marriage bill- report in a month.
16/4/2015	NADRA	Provide copy of reply to applicant. Submit reply regarding registration of Christian marriage Direction to Balochistan of 9/7/15 repeated.

Table 2. Supplementary orders passed for compliance between March 2018 and March 2021 (by hearings sequence)

Date	Federal/ Provincial	Order Passed for Compliance
11-03-2018	Joint: Federal/ Provincial	Pay the promised compensation package to the victims of the Methodist church terrorist attack in Quetta. DC Quetta charged to disburse the compensation to the legal heirs of the victims of this terrorist attack. Compensation be given to the entitled person within three days Use of the word “masih” instead of “essai” be implemented in all official records and documents.
11-06-2018	Joint: Federal/ Provincial	Submit compliance of paragraph no. 37 of the instant judgment Compliance be reported within the period of 15 days by the federal government, all four Chief Secretaries and Chief Commissioners Islamabad.

09-10-2018	Joint: Federal & Provincial	Curriculum and Textbook Boards of the provinces boards to make necessary changes to promote culture of religious and social tolerance.
24-10-2018	Joint: Federal & Provincial	Dr Shoaib Suddle appointed for the purpose of implementation of the judgement SMC 1 of 2014. Report by the appointed committee to be submitted within a period of six weeks.
03-01-2019	Joint: Federal & Provincial	Make efforts to implement the directions of the judgment with monthly progress reports. Stakeholders, who have assisted the court, look the matter for the effective implementation. Full cooperation by the Government authorities KP government distributes compensation to the affectees of the Peshawar church blast. Relist after a month.
08-01-2019	Joint: Federal & Provincial	For progressive and expeditious implementation Dr. Shoaib Suddle appointed as a chairperson for the 3 months, extendable from time to time by the court. Provincial and federal governments, related departments including the ICT to support the Commission to implement the judgement. The Commission will hold the power to issue the directions and will be answerable to this court and refer the matters for appropriate orders. Ensure fundamental rights guaranteed in the constitution of Pakistan, against threats to Kalash tribe / Ismaili community.
19-02-2020	Joint: Federal & Provincial	1. Set up the Commission's office at the ETPB building make it functional within three weeks. 2. The PM has appointed Ms. Shunila Ruth as Parliamentary Secretary for MoRA IH for minorities' matters. A progress report will be presented to the court within two months. 3. Fifteen days granted to present the report to the court from Sindh; the Chief Secretary will be called for explanation, otherwise. 4. The Deputy AG required a clarification referring to para 7 of the order. It is directed that the Deputy AG is the liaison person and shall ensure reimbursement of expenses. 5. To avoid the inconvenience of reimbursement from the Commission to the chairman and the members, it is directed that the amount in question should be kept separate and would require signatures of the chairman and the one member of the Commission.
23-10-2020	Joint: Federal & Provincial	1. The governments of Sindh, Punjab, KP and Islamabad Capital Territory have filed reports. CMA No. 6695 of 2020 is filed on behalf of MoFEPT. 2. In the presence of the Secretary, MoRA IH and MoFEPT. Mr. Suddles stated on May, 2020 he had prepared a draft bill for NCM and sent it to the ministry. No action but government has constituted an Ad-Hoc NCM violating the verdict given inconsideration. 3. Additional AG, MoRA IH to present the drafted law in the court. The Secretary, MoRA IH and MoFEPT stated that they will cooperate with Mr. Suddle and ensured the steps required for providing all Constitutional rights to the minorities. 4. Until next hearing, Mr. Suddle prepare a further report and file before the court.
05.01.2021	Joint: Federal & Provincial	1. Reports filed by the One-Man-Commission and by Government of KP regarding desecration/burning of Samaadhi and Mandir of Shri Param Hans Ji Maharaj at Teri, District, Karak, KP. 2. The CM expressed regret on the tragedy. Steps are ensured by the Govt. of KPK. Strict action will be taken against the Mob. 3. AG of KP submitted the report on action taken for restoring and reconstructing the demolished Mandir (Karak). 4. KP IG Sanaullah Abbasi stated that 109 people involved in the vandalism were arrested while 92 police officials including SP and DSP charged for protecting the Mandir have been suspended. 100 personnel of the Elite force of KP deputed for the protection of the Mandir. 5. The Chief Secretary KP assured that a committee will be constituted to assess the damage to the Mandir within 10 ten days. He also reported a proactive stance in the matter with the Aman Committee. The Police Chief said, out of the six Ulema at the protest only Maulvi Mohammad Sharif incited the crowd.

		<p>6. The bench directed details all shrines (Functional and non-functional), records of disputes on EPTB lands. A report on the performances of the EPTB be submitted to the courts in two weeks.</p> <p>7. Mr. Ramesh Kumar recommended that four sites include Prahlad Temple in Multan, Hanglaj Mandir in Balochistan, Katas Raj Temple in Chakwal and Shri Param Hans Ji Mahraj in Karak should be provided with fool-proof security.</p>
08.02.2021	Joint: Federal & Provincial	<p>1. The Chairman, ETPB shall appear in court on the next hearing.</p> <p>2. Dr. Ramesh Kumar states that ETPB did not discharge (38 million Pakistani rupees) dues to the Pakistan Hindu Council. The Chairman, ETPB should be asked to bring the cheque on the next date of hearing.</p> <p>3. Dr. Ramesh Kumar stated that Pakistan Hindu Council decided to hold festival of Holi at the Parahlad Mandir at Multan on March 28th, 2021. He states that the Government of Punjab was prepared to restore the Mandir and ETPB also fund the work whereas the Commissioner of Multan has raised an issue of security.</p> <p>The Chief Secretary Punjab ensured the release of the funds, arrangements shall be made along with all security features and the restoration work of Mandir by the festival time. The Chief Secretary Punjab shall personally take interest and ensure the compliance of the court order.</p> <p>4. Secretary, MoFEPT to submit a report and make available to the court on next hearing in regards to curriculum that fully comply with the Article 22 of the Constitution of the Islamic Republic of Pakistan</p>
15.02.2021	Joint: Federal & Provincial	<p>The Chief Secretary Punjab directed to ensure compliance of order, dated 08-02-2021 in letter and spirit in two weeks (restoration of Parahlad Mandir in Multan and celebration of Holi festival on 28th March 2021).</p> <p>Dr. Ramesh Kumar may submit appropriate accounts to ETPB for previous construction of Karak temple.</p> <p>Return Kartas Raj Temple complex in District Chakwal to ETPB within two weeks.</p> <p>Ministry of Education directed to submit a duly signed report in two weeks regarding compliance of order dated on 08-02-2021.</p> <p>None of the properties under ETPB shall be used by the board or employees; sold out or transferred to any person. The Chairman ETPB to provide amounts received from lessees, duration of lease, etc. Chairman ETPB shall present the report in person in two weeks.</p>
31.03.2021	KP & Punjab Province, MoFEPT, ETPB, Auditor General	<p>1. Government of KP will ensure construction of the Samadhi is complete soon as possible . Chief Secretary, KP shall ensure</p> <p>2. Submit report for return control/management of Katas Raj Temples to ETPB before the next date of hearing.</p> <p>3. Report by MoFEPT is unsatisfactory. Submit a report before the next date of hearing stating that the task has successfully been achieved.</p> <p>4. Prahlpuri Temple, Multan be restored in 12 months. Amount of Rs.103.949 million is required for restoration of the Temple.</p> <p>5. ETPB take action of retrieving all properties from illegal occupants and restore to the Trust. Take action against the employees indulged in illegal activities.A report be filed by the Chairman, ETPB before the next date of hearing.</p> <p>6. The Auditor General of Pakistan to conduct a forensic audit of all ETPB properties which came in its domain and their present status within a period of three months and as report in this respect be made available to the court for our perusal.</p>

Table 3. Ranking: The compliance in the light of the compliance submitted, challenged and court's observations.

SC Orders	Fed. Govt.	Punjab	Sindh	Balochistan	Khyber Pakhtunkhawa
1. Taskforce on strategy for social and religious tolerance	No-compliance	NA	NA.	NA.	NA
2. Develop curricula to promote a culture of religious and social tolerance (largely provincial jurisdiction after the 18 th constitutional amendment though Federal government started introducing a Single National Curriculum in 2020-2021).	Symbolic action / compliance claimed, but challenged by CSOs rejected by SC.	Symbolic action / compliance claimed but challenged by CSOs	Symbolic action / compliance claimed but challenged by CSOs	Symbolic action / compliance claimed but challenged by CSOs	Symbolic action / compliance claimed but challenged by CSOs
3. Ensure the discouragement of hate-speech in social media; delinquents be brought to justice	Ineffective action challenged in occurrences.	Ineffective action challenged in occurrences.	Ineffective action challenged in occurrences.	Ineffective action challenged in occurrences.	Ineffective action challenged in occurrences.
4. Constitute a National Council for minorities'	No compliance, a toothless / non-statutory body set up in 2020.	N.A.	N.A. Constituted a provincial Commission.- but not functional	N.A.	N.A.
5. Establish a special task Force/training the places of worship	Late compliance report / IGP ICT submitted a proposal for establishment of Special Police Units SPU.	Refused to take action citing shortage of resources as reason. ¹ Submitted a security plan: 11,172 deputed for 2,794 places of worship, etc. ²	No compliance but submitted a proposals for establishment of Special Police Units (SPUs)	No compliance but submitted a proposals for establishment of SPUs	No compliance/ Security plan reported/ provision of security gadgets to worship places in 2018,/submitted a proposals for establishment of SPUs
6. Implement 5 % Job quota	No compliance Submitted,	Insufficient Compliance/ lack of proper statistics.	Insufficient Compliance and proper statistics.	Insufficient Compliance and proper statistics.	Compliance of 3 % of quota without results report
7. Registration of cases against violation of rights	ICT Police reported; no cases recorded.	Small and vague actions reported	Insufficient action reported	Insufficient action reported	Small and vague actions reported

¹ Id.² Direction no 5, reported on C.M,A No. 6681/ 2020

Table 4. Punjab in Compliance 8/25

Note: While these tables recorded the actions taken by respective governments that were reported to the court, only the actions corresponding to the specific orders given by the court in original orders of June 19, 2014 have been scored.

Documents reviewed for the assessment of Punjab included the following reports submitted to SC; CMA No.1184/2015 & C.M.A No. 5872/2014 &163/2014, CMAs 6389 (28/06/2018, 10/07/2018) 6681 (22/10/2020) 27/01/2021 (Adv. Gen. Punjab) CMA 5603 27/06/2018, 10238, (20/11/2019), 22/01/2021 (by CCPO, Lahore) CMA 4590 (30/05/2018)

Compliance Area	Reported in Supreme Court	Situation on the ground	Score
5% Job Quota	5% quota is being observed while advertisement of vacancies, if not filled it is carried forward for next advertisement. (Report on 6681-22/10/2020). Against total approved quota 35,750, 10,499 seats were filled by the minorities.	Quota for Minorities is being observed although recruitment charts do not confirm that. Secondly the government continued to publish discriminatory advertisements in the media ³ . (According to an unofficial report, out of 2,6521 minority seat during the years, minority quota was introduced, only 7,324 appointments had been made while the appointments 19,197 (72.38%) were laid over or pending).	1
Removal of hate speech in Curriculum	PTCB introduced subject of Ethics for minority students, positive changes in the curriculum relating to minorities. Supplementary materials/booklets on tolerance, interfaith-harmony, fight against terrorism, included. Established TORs and scheme of textbooks development. Minority experts involved as authors/ reviewers. Complaint mechanism developed and certification for authenticity of content from Textbook Reviewers obtained.	Though some structural and positive inclusion of content, hate speech material and Islamic content still part the textbooks for compulsory subjects. ⁴ The SNC 2021 for grade 45 makes the subject of Ethics redundant, hence the PTCB report is misleading to this extent. The textbooks published by PTCB for year 2021-2022 were in disregard of Article 22 and lot of material based on the majority religion was inserted in compulsory subjects, which the minority students have be forced to learn or face discrimination on account of religion.	2

³ Under C.M.A No. 6681/2020, grand total 5% sanctioned strength was 35,750 whereas total number of minorities working or recruited is 10, 499 in all departments. From Govt. of Punjab Fixed number can be observed from 2018- 2020. Outdated (no year and no grades) and repetition of total numbers

⁴“ Discrimination and biases in the Textbooks: A content analysis of the public sector textbooks in Punjab by Dr. A.H. Nayyar” page 41
<http://www.csjpak.org/pdf/Quality%20Education%20Vs.%20Fanatic%20Literacy.pdf>

Special Police for security of the worship places of the Minorities	The Punjab Police reserved 11,172 personal for security of Worship places of Minorities. Punjab Police has limited sources therefore not in a position to raise a special unit. (CMA 6681 / 2020)	Sikh Shrine attacked on 3rd January 2020 : stone pelting at Nankana Sahib Gurdwara In July 2019, Internal Salvation Church, at Bhiki village, Sheikhupura district attacked by a mob during a prayer and beat up members of the congregation. ⁵ (Expenditure on Dolphin forces from 2016 contradicts the claim of shortage of funds) ⁶ .	2
Order No 3. Curtail Hate speech – punish delinquents,	Following enactments introduced under NAP 2014 to curb hate speech: The Punjab Sound Systems (Regulations) Act, 2015 The Punjab Information of Temporary Residents Act, 2015 The Punjab Security of Vulnerable Establishments Act, 2015 The Punjab Maintenance of Public Order (Amendment) Act, 2015 The Punjab Arms (Amendment) Act, 2015. Action plan developed, notified and a provincial Task Force set up for implementation of Punjab Human Rights policy 2018: Human Rights Training modules declared mandatory for induction and promotion training academies. District Committees on human rights notified for implementation at that level. Minority Advisory Council of all minorities is under process. Interfaith- peace committees at division and district level established.	Legislationin back years is portrayed as implementation. Home department's data regarding actions against those involved in the hate speech was from 2015. In addition, compliance statement did not report the outcomes of action.	2

⁵<http://www.asianews.it/news-en/Muslims-attack-Protestantchurch-in-Sheikhupura-50058.html>

⁶<https://www.dawn.com/news/1262530>

Representatives from all Minorities to advise Government	For promotion of Tolerance and Interfaith harmony: Framing/ Improving the laws, Rules and Policies affecting minority communities. Issues of Importance that is brought to notice of the Ministry.	vague action as no such issue is brought in actions	N.R.
Minority Empowerment Package	2% Educational Quota for Non-Muslims in Public universities, Sentence Remission for Non-Muslims inmates, Inclusion of Ethics as alternative to Islamic studies in curricula, Training and Skill Development of Minority Youth through Punjab Skill Development Fund, Development of Model Localities of Minorities, Improvement/renovation of religious places of minorities to promote Religious Tourism (2 Cathedrals in Lahore /Karishna Mandir, R.Y. Khan), Rs. 298 million and over Rs.92 million, in 2020-2021 approved. Minority Development Fund. ⁷ Special grant for socio-economic support for minorities Rs.100 million, scholarships for students. Completion of scheme titled Awareness of human rights and interfaith harmony, at a cost of Rs. 10 million	Compliance claimed but few results reported: In fact the Budget for minorities in Punjab was deceased from 1045 Million Rupees in 2018 to 500 Million Rupees in 2020.	N.R.
Order 1. Task Force	To Constitute a Task Force for the development of Religious tolerance relates to Federal Government	No Compliance. Interfaith harmony and district Minority committees formed.	1
Order 7.	Compliance claimed though no evidence was offered.	Many human rights violations were consistently reported which the Punjab government failed to address, For instance; forced conversions of minority girls, abuse of blasphemy laws.	0

⁷Page 451 <https://finance.punjab.gov.pk/system/files/ADP202021.pdf>

Table 5. Khyber Pakhtunkhawa in compliance 5/25

In the light of CMA Nos. 7327 (09/08/2018), 9541 (01/11/2019), 5689 (26/06/2018), 8523 (03/10/2018), 0019 (04/01/2021) 6378 (14/07/2018), 5688 (25/06/2018), 923 -P (05/10/2020) and report on 27/11/2020.

Compliance Area	Reported in Supreme Court ⁸	Situation on the ground	Scores
Compensation for bomb blast victims in Peshawar in 2013.	No Compliance reported in All Saints Church incident. However, the Sikh 2020, deaths 20 paid total 10.7 million, one Lac to each seven injured in accident on July 2020 (Nankana).	According to the locals the compensation to victims of All Saints Church incident in 2013 announced by the Federal government had not been paid. The action (or inaction) of the KP government is not in accordance with previous directions given by the Supreme Court on 13/01/2015, 02/11/2015 and 03/01/2019. Instead KP Assembly passed a law to create endowment fund of Rs. 200 million for non-Muslims, reported on December 12 th , 2020. ⁹	0
Order No. 2: Changes in Curricula	Necessary rectifications have been made by the department (CMA 923 -P, and 27/10/2020). Books will be developed under Single National Curriculum. Textbook content improved/ removed for grade I-XII that complies with culture and values and it is: Inclusive and free from religious, sectarian, ethnic, regional, cultural, occupational and socio-economic biases. Free from gender bias and promotes positive images of girls and women. Promotes harmony and peaceful co-existence through respect for diversity and tolerance. Reflects democratic values, ethics and values of all segments of society	Marginal removal of hate speech (Ref. Quality Education Vs. Fanatic Literacy, 2020, Ed. P.J.). (Tahira Abdullah). Symbolic implementation, Elementary and secondary (classes 5, 8 and 10) textbooks acts of omission or commission; materials reflecting bias, derogatory speech; visibility-invisibility, inclusion or exclusion against religious minorities Subjects that includes are: Urdu, English, Pakistan Studies, Social Studies, Geography and History. ¹⁰	1
Order 3, Curtail hate speech , etc.,	Compliance not reported	No appropriate steps recorded to ensure hate speeches on social media and delinquents are brought to justice.	0
Institutional improvement / inclusion	District Interfaith Harmony Committees established.		NR

⁸ The assessment interprets from the CMA no. 4821/2018, reported to the SC Bench.

⁹ <https://www.dawn.com/news/1595324>

¹⁰ "Exclusion in the Textbooks: A content analysis of the public sector textbooks in Khyber Pakhtunkhwa by Tahira Abdullah," page 71. <http://www.csjpak.org/pdf/Quality%20Education%20Vs.%20Fanatic%20Literacy.pdf>

Security of the religious places of the Minorities	Security personal deployed at places of worship in KP, especially for Kalash, Ismaili community. Auqaf Department allocated budget for installation of security gadgets (Walk-through gates, CCTV cameras, etc.).	Symbolic Implementation: Installation of security gadgets in minority worship places, security plan. Did not establish special police force, No compliance but submitted a proposal for the establishment of SPUs Karak Hindu Temple demolished on 30.12.2020 ¹¹	2
Order No. 6: % job Quota	KPK reserved 3% job quota for minority community in government jobs. Notification issued. Assessment of implementation is underway. 2113 posts advertised 141 remain vacant. (The quota was enhanced from 0.5% to 1 % in 2013 and from 1 % to 3% in 2014).	Active Compliance is observed, the advertisement with the BS grade and, monitoring of the result can also be seen. The Government of KP (19.02.2021) informed the Suddle Commission, that 6,585 vacant posts of various scales existed against minority quota in administrative and attached departments. However, the information submitted contained a number of discrepancies. Therefore, were required to submit correct information on the prescribed proforma (8 th CMA by the Suddle Commission to Supreme Court) on 02.03.2021.	1
Order No. 7: Prosecute human violations	FIRs registered under charges of murder (Five), Rape one, etc. total nine in Peshawar. No other cases registered. Demolition/ burning of Samadhi/ Mandir in Karak on 30th December 2020. FIR lodged 70 persons arrested. Reconstruction of Samadhi initiated.	Apart from action after a few cases attracted attention of the media locally and internationally, human rights violations are not actively pursued.	1
Developmental initiatives	Purchased land for Christian cemeteries; 5 canals in Peshawar, 4 canals in Kohat, 2 canals in Swabi. 4 canals in Bannu, 2 canals in Nowshera, and Shamshan Ghats for Hindu and Sikhs, 2 canals D I Khan, 4 canals in Nowshera, 3 canals in Peshawar, 4 canals in Mardan. Construction of Sikh community-based school in Peshawar, 23 million Rupees. Renovation of 27 places of worship with 62 million Rupees, five already complete. Improving 13 residential colonies; 60 million in on-going schemes. Skill development 3 million allocated to department, to be provided through KP TEVTA. 50 and 20 million for feasibility studies for minority housing colonies in newly merged districts. Small grants for establishment of inert-prices and start ups. (50 million and 100 million).		NR

¹¹ <https://www.samaa.tv/news/pakistan/2020/12/historic-hindu-temple-burnt-down-in-kps-karak/>

Table 6. Balochistan in Compliance 6/25

Area of Compliance/ Order	Compliance reported in Supreme Court	Situation on the ground	Score
5% Job Quota	<p>Raised quota from 3% to 5% for fresh recruitments with advice to Director General Public Relations Baluchistan, Quetta to be advertisement entertained on clear distribution of posts as per defined format/ quota.</p> <p>NGOs/ NPOs are also obliged to ensure at least 3 to 5% quotas for religious minorities in Baluchistan. A number of non-Muslims are posted on the higher positions in the public offices and are also raised to the highest level of Public offices like Justice of the High Court of Baluchistan. (CMA No.7254/2015 & 158/2015 & 6617/204 IN S.M.C No. 01 of 2014)</p>	Step confirmed by minority members yet the government of Balochistan failed to present data to support the assertion of compliance.	2
Removal of hate speech from the curriculum	<p>The Education Department asked to separate teachers/classes of Ethics in all schools and recruit teachers for Ethics, timely provision of Ethics Text books and substitution or exemption of subject Arabic from syllabus for the Non-Muslim students. The curricula change is under process with Education Department. Curriculum has been prepared for class 1 to 5.</p> <p>Police department between Jan – November 2015 took action against the publisher and individuals spreading hate material in the province.*</p> <p>Ref. CMA No. 58/2015 & 6617/2014 & 8883/2015 & 6262/2014</p>	<p>Steps taken were positive yet insufficient. The reported compliance did not address removing hate speech from the textbooks – confirmed by the studies carried out by NCJR¹² USCIRF¹³</p> <p>(Police seized hate material from the market, etc) in 2015. No action was reported afterwards.</p>	1
Security of the Worship places of the Minorities	<p>Special security arrangements made for minorities and their religious places on days like Sunday prayers, religious events like Holi, Easter, and Christmas etc. Festivals and functions and on arrival of the respective religious leaders of the minorities. Law and order situation. The police department deployed police personnel at 154 places of the minorities in 23 districts of six regions</p> <p>Four volunteer from minority</p>	The security measures not sufficient, as three attacks on Shia Hazara pilgrims hundreds of lives, and dozens injured. ¹⁴ Claims that tasks force established is incorrect. The administration failed to pay compensation on time.	1

¹² <https://www.thenews.com.pk/print/109146-To-remove-hate-material-from-curriculum-us-vs-them-philosophy-needs-to-go>

¹³ "Teaching Intolerance in Pakistan", Peace and Education Foundation, Islamabad, 2016.

http://www.uscirf.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf

¹⁴ <http://www.bbc.com/news/world-asia-27757856> and The state of Human Rights 2015, annual report of HRCP 2015, p. 59.

	communities will be trained / deployed with the police to assist them during the prayer and worship at churches and temples in Quetta. Ref. CMA No.7254/2015		
Legislation for Marriage laws registration with NADRA	The provincial assembly passed a constitutional resolution to empower the national parliament for enactment regarding Hindu marriage in pursuance of Article 144 of the Constitution. CMA No.5664/2015	Though pragmatic, the manner of compliance shifted the responsibility to the federal government, the net result is legislative control and responsibility shifted to the federal government.	NR
Order No. 3. Curtail hate speech and punish delinquents	Compliance reported	First province to launch action, though the on-going sectarian attacks suggest that the breeding grounds in and outside the province existed.	2
Order No. 7. Prosecution on human rights violations	No action was reported.	The compliance appears to be missing.	0

Table 7. Sindh in compliance 9/25

Area of Compliance/ Order 5% Job Quota	Compliance reported in Supreme Court 5% job quota followed. Information department (GOS) directed all the departments through a letter to reserve and ensure the job quota for the minorities, women and disabled. CMA No.6262/2014 & 5872/2014.	Situation on the ground shows visible representation of Minorities in Govt. Jobs No data provided showing the results of the letters issued by the Sindh Government.	CSJ's Assessment 2
Removal of hate speech in Curriculum	Action was taken by the police / two culprits had been arrested in case of attack on Mandir in Larkana. Text books from class 1-5 to be revised, to include the material for interfaith harmony in context of minorities. The Quranic text will be included in Islamiat and not in Urdu, Sindhi and any other subject. CMA No.6262/2014 & 5872/2014	Arrest was made after a considerable delay and all culprits were not apprehended. Sindh government failed to give protection to Dr. Bernadine, the educationist working on government's curriculum committee after threats, May 2015. ¹⁵ ¹⁶	2
Security of the places of Worship of the Minorities	Security plan discussed with the minority representatives.	Cases of several temples and YMCA pending where land has been	2

¹⁵ <http://www.dawn.com/news/1181357>

¹⁶ <https://www.thenews.com.pk/print/40784-let-education-live>

¹⁷ Mr. Deewan Satesh Kumar (17) was killed and Mr. Avinash was badly injured on July 26, 2016..<http://www.dawn.com/news/1273509>

	<p>Police department directed to establish a Special Police Task Force to protect the places of worship of minorities, especially in the sensitive districts of Sindh. Instructions issued to the law enforcement agencies that the government will not tolerate slacking in registering criminal cases against the desecration of the places of worship of minorities.</p> <p>CMA No.6262/2014 & 5872/2014 IN S.M.C No. 01 of 2014</p>	<p>appropriated by grabbers. No progress was reported on Special Task Force– Ghotki incident of killing after a blasphemy charge points to a lack of a sensitization among police¹⁷</p>	
Marriage registration with NADRA	<p>Hindu Marriage bill draft has been tabled in the provincial assembly and is yet to be approved. Directions have been given to NADRA.</p> <p>CMA No. 5872/2014 IN S.M.C No. 01 of 2014</p>	NADRA did not report compliance.	NR
Order No. 3. Curtail hate speech and punish delinquents	No compliance reported by Sindh government – two miscreants arrested in case of attack on the temple.	Some action on ground	2
Order No. 7, Prosecute human right violations	The compliance reported – which is unsatisfactory considering the evidence and scale of violations	The repeated cases of forced conversions, blasphemy against minority and majority alike, Notan Das, a teacher in Ghotki falsely accused in 2019 after he tried to protect a minority girl. ¹⁸ Case against Dr Sajid Somro, vilification of Dr Malah.	1

¹⁸ <https://nayadaur.tv/20f19/09/who-is-mian-mithu/>

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Constitution Petition No. of

Applicants/Interveners

1. Human Rights Commission of Pakistan, through Dr Mehdi Hassan
2. Centre for Social Justice, through Mr. Peter Jacob
3. Cecil and Iris Foundation through Ms. Michelle Chaudhry

Versus

Federation of Pakistan through

1. Provincial Ministries for Education Textbook Boards and Authority.
2. Ministry of Interior
3. Ministry of Human Rights
4. Ministry of Religious Affairs and National Harmony
5. Ministry for Law and Justice and Ministry for Planning, Development and Reforms
6. Pakistan Electronic Media Regulatory Authority (PEMRA)
7. Federal Ministry for Information
8. Home Department of respective provinces
9. Ministry of Law & Justice
10. Ministry for Religious Affairs and National Harmony

Respondents

**APPLICATION SEEKING IMPLEMENTATION OF JUDGEMENT
 PASSED IN SUO MOTO NO. 1 OF 2014 DATED 19TH JUNE 2014
 UNDER ORDER ----**

**RULE ----, AND ORDER ----, RULE ----- OF THE SUPREME
 COURT RULES,**

**1980 READ WITH ARTICLE 187 OF THE CONSTITUTION OF
 THE ISLAMIC REPUBLIC OF PAKISTAN, 1973**

Respectfully Sheweth;

1. That applicants are concerned human rights organizations of Pakistan who seek enforcement and implementation of the directions and orders given by this August Court in its landmark

judgement on the rights of minorities titled Suo Moto No. 1 of 2014, reported as PLD 2014 SC 699.

2. That the Honorable Court in the said judgment held, declared and directed:
 - i. The federal government should constitute a taskforce tasked with developing a strategy of religious tolerance;
 - ii. Appropriate curricula be developed at school and college levels to promote a culture of religious and social tolerance. In 1981 in one of its seminal declarations, the United Nations resolved that “the child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in the spirit of understanding, tolerance, friendship among people, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.” (UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief)
 - iii. The Federal Government should take appropriate steps to ensure that hate speeches in social media are discouraged and the delinquents are brought to justice under the law;
 - iv. a National Council for minorities' rights be constituted. The function of the said Council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law. The Council should also be mandated to frame policy recommendations for safeguarding and protecting minorities' rights by the Provincial and Federal Government;
 - v. a Special Police Force be established with professional training to protect the places of worship of minorities.

In view of the statement made by the Attorney General for Pakistan and learned Additional Advocate Generals of Punjab, KPK and Balochistan regarding reservation of quota for minorities in the federal and provincial services, it is directed that the Federal Government and all Provincial Governments shall ensure the enforcement of the relevant policy directives

regarding reservation of quota for minorities in all services.

- vi. ---In all cases of violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities, the concerned Law Enforcing Agencies should promptly take action including the registration of criminal cases against the delinquents.
 - vii. --The office shall open a separate file to be placed before a three Members Bench to ensure that this judgment is given effect to in letter and spirit and the said Bench may also entertain complaints/petitions relatable to violation of Fundamental Rights of minorities.
3. That unfortunately, almost 4 years from the date of this historic judgement, the federal government and provincial governments have yet to fully implement the judgment and the directions given therein in letter and spirit.
 4. That several leaders and research scholars of the country have written extensively on the lack of enforcement of some of the fundamental rights guaranteed in the constitution and in particular the Judgement of the Supreme Court . A study/research commissioned by Centre for Social Justice on the status of compliance of various directions/orders given in the judgment the following areas of concern/lack of compliance have bee highlighted:
- A. Task force for strategy of religious tolerance (Direction No. 1)

Implementing Authority to whom Direction 1 is given

Direction 1 was addressed to the Federal Government/ Cabinet/ Parliament (Ministry of Interior, Ministry of Human Rights, Ministry of Religious Affairs and National Harmony, Ministry for Law and Justice and Ministry for Planning, Development and Reforms)

Current Status of Implementation of Direction No.1

Direction No. 1 called for the establishment of a federal taskforce with the aim of developing a strategy of religious tolerance by the federal government. Unfortunately, the federal government has not constituted any taskforce and is currently in violation of Direction No. 1 of the Judgement.

No report has been submitted due to lack of coordination between relevant ministries. A policy of national harmony was reportedly being developed by the Ministry of Religious Affairs, however, there is no further update on this. Similarly, the Ministry of Planning Development and Reforms opened a peace unit, but again there is no news on what progress it has achieved so far. The Federal Ministry for Interior, along with respective Home departments are supposed to implement district level peace committees in coordination with National Internal Security Policy.¹ Unfortunately, the peace committees have not so far been effectively utilized by the government for the purposes they were setup for and there is a need to reinvigorate them so that they live up to their usefulness and intended objective.² With a number of ministries working, there is a lack of strategy for religious tolerance. Reinvigorate

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 1

- a. All the Secretaries or the Ministers in Charge themselves be summoned and asked what action so far have been taken by the Federal Government to constitute a Task Force for making an effective strategy for promotion of religious tolerance.
- b. The Federal Government may be directed to constitute an empowered inter- ministerial and cross-sectional implementation committee for effective implementation of the judgment in question. This committee should work with benchmarks and clear responsibilities to persuade the concerned ministries and departments to take effective measures for a meaningful and result

¹<http://nacta.gov.pk/NISP.pdf>

²See "Building Peace from the Bottom, Local Actors Perspective: A rapid appraisal of the District Peace Committees in Punjab and Sindh" by Centre for Social Justice, [http://csjpak.org/DPCs_Study_Report_\(CSJ\)_final.pdf](http://csjpak.org/DPCs_Study_Report_(CSJ)_final.pdf)

oriented implementation (compliance) and reporting to the Supreme Court Bench hearing the follow up applications.

- B. Curricula to promote religious and social tolerance (Direction No. 2)

Implementing Authority to whom Direction No.2 is given

Direction No. 2 was addressed to the Federal Government & All Provincial Government

(Provincial Ministries for Education Textbook Boards and Authority.)

The Federal and the Provincial Government were directed to develop the educational curriculum in schools and colleges in order to promote a culture of religious and social tolerance.

Current Status of Implementation of Direction No. 2

There is a general lack of will on part of the Provincial Governments and their relevant Textbook Boards to implement Direction No. 2. There is still hate speech in the textbooks that has been complained about³ and it has only changed form and medium but neither the focus nor the substance.⁴

Federal Government and Kyber Pakhtunkhawa

The least level of response has been from the Federal Government and Kyber Pakhtunkhawa who have not shown any progress regarding the compliance of Direction No. 2.

Punjab: The Chief Minister of Punjab reportedly requested Punjab Textbook Board to revise the curriculum to bring out necessary changes relating to minorities in compliance of CMA No. 1184/2015 & CMA No. 5872/2014 in SMC No. 01 of 2014. However, the hate material was not removed. The Government of Punjab set up an Education Commission in 2010 and dissolved it without any progress two years later. Similarly, a Curriculum Reform Authority set up in 2012 was merged into

the Textbook Board in 2014. While this was ad-hocism in the institutional framework at the expense of taxpayers, the progress on curriculu reforms was unsatisfactory till date⁵.

Sindh: The revision of the textbook by the Education and Literacy Department are underway. The textbooks from class 1-5 were to be revised by the department to include material for interfaith harmony considering the minorities. The Quranic text was to be included in Islamiyat and not in Urdu, Sindhi and any other subject according to CMA No. 6262/2014 &5872/2014 in S.M.C No. 01 of 2014. However, the revision does not specify anything about exclusion of hate speech or the stipulated time frame for completion of these revisions. The Sindh government failed to give protection to Dr. Bernaditta Dean, the educationalist working on governments curriculum committee after threats in May 2015.⁶

Baluchistan: The Religious Affairs and Inter-Faith Harmony Department of Baluchistan through CMA No. 158/2015 & 6617/2014 & 8883/2015 & 6262/2014 in S.M.C No. 01 of 2014 was asked to separate teachers/cases of Ethics in all schools and recruit teachers for Ethics, timely provision of Ethics textbooks and substitution or exemption of subject Arabic from syllabus for the Non- Muslim students. The curricula change is still under process with the Education Department, however, the curriculum from grade 1-5 has been prepared. The Police Department from January-November 2015 also took actions against the publishers and individuals spreading hate material in the province. Steps taken by the government of Baluchistan were positive yet insufficient. The NCJP⁷ and USCIRF⁸ confirmed by their studies that the reported compliance did not address removing hate speech from the textbooks.

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 2

The Federal and Provincial Ministers for Education as well as

⁵Teaching Intolerance in Pakistan; Religious Biases in Public School Textbooks, Peace ad Education Foundation Islamabad, 2016

http://wwwuscirf.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf

⁶Nayyar, A H, A Missed Oppnunity; Continuing Flaws in the New Curriculum and Textbooks After Reforms, Jinnah Institute, 2013.

⁷When Complaince Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, ISBN 978-969- 7681-03-7

the respective Education Departments Heads may be called;

- a) to seek answers in relation to the implementation of Direction No. 2. Directions may kindly be issued to all that the objectionable material in text books against the religious minorities should first be identified and then be removed forthwith.
 - b) and directed to ensure that religious freedom and non-discrimination on the basis of religion, guaranteed particularly under Articles 20 and 22 (1) (2) and (3) of the constitution of Pakistan are fully complied with, in letter and spirit, in planning and enforcing in the entire education system.
- C. It is pertinent to mention here that this matter is also subject of an CMA 5171 of 2015 which is already pending before this Honorable Court. Steps discouraging hate speech in media & delinquents bought to justice (Direction No. 3) Implementing Authority to whom Direction No.3 is given Direction No. 3 was addressed to the Federal Government & All Provincial Government (PERMRA, Federal Ministry for Information, Home Department of respective provinces.)

Current Status of Implementation of Direction 3

The direction for discouraging hate speech and offenders being brought to justice was given to the federal government and the provincial governments, in particular PEMRA, Federal Ministry for Information, Home department of respective provinces. There has been limited action taken by the government in response to the judgement. Although Section 10A of the Prevention of Electronic Crimes Act 2016 has made hate speech a cognizable offence, we have hardly seen any action taken by FIA and law enforcement authorities against hate speech against religious minorities being made on social networks/ social media outlets.

⁶When Complaince Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, ISBN 978-969-7681-03-7

⁷<https://www.thenews.com.pk/print/10914146-To-remove-hate-material-from-curriculu-us-vs-them-philosophy- needs-to-go>

⁸“Teaching Intolerance in Pakistan”, Peace and Educational Foundation Islamabad, 2016
http://www.scif.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf

implementation of Direction No. 3

Direct Ministry of Interior and the Provincial Home departments to take effective action against the hate speech on social media and otherwise.

D. Constitute a National Council for minorities (Direction No. 4)

Implementing Authority to whom Direction No. 4 is given

Direction No. 4 was addressed to the Federal Government/Cabinet/Parliament (Ministry of Law & Justice, Ministry for Religious Affairs and National Harmony.)

Current Status of Implementation of Direction No. 4

In 2015 and 2016 members⁹ of the opposition parties had moved three private bills in the National assembly for establishing a Pakistani Minority Rights Commission, which could serve as ground work, however the government failed to present its own bill or to build a consensus around the private member's bill..

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 4

The Federal Government may be directed to update the progress on the formation of the National Council for Minorities and its stance on the private members' bills proposed by a members of the parliament.

E. Special Police Force training to protect places of worship of minorities (Direction No. 5)

Implementing Authority to whom Direction No.5 is given

Direction No. 5 was addressed to Federal Government and Provincial Government (Home Department)

The issue of security of places of worships and security plans appeared in nine orders for compliance during the 10 follow up hearings. During the three hearing from January to April 2015, the Supreme Court bench kept reminding government to hold

meetings with the minority communities and include missed out places of worships and submit respective security plans and respective lists.

The Bench also reminded the government representative regularly to supply sufficient information on compliance such as security plans for places of worship since the governments failed to raise a special force.

Current Status of Implementation of Direction No.5

Both the Federal and Provincial Governments have failed to set up a permanent special police force for the implementation of Direction No. 5.

Punjab: In reference to CMA No. 1184/2015 & CMA No. 5872/2014 in S.M.C No. 01 of 2014, the Punjab Police Department deployed 5410 police individuals at 3285 worship places of the minorities in 36 districts of Punjab. A proposal of induction of 13000 personnel has already been made for the Special Force. The Human Rights & Minority Affairs Department directed the IG Police to prepare a list of all religious minorities and share the security plan against the Police Department deployed police force at the worship places in Punjab¹⁰. Suicide attacks on two churches in Yuhannabad took place on 15 March 2014, shortly after the government of Punjab submitted their security plan before the honourable bench of the Supreme Court. The incident claimed 15 innocent lives. It is pertinent to ask if an evaluation of the security plan for churches was carried out after this security lapse. Was the liability for the failure fixed and address?

Baluchistan: In reference to CMA No. 7254/20015 in SMC No. 01 of 2014, Home and Tribal Department circulated the directions to the Central Police of Baluchistan to design and share the security plan. The Chief Secretary Baluchistan held

¹⁰Belum Hussain,MNA, http://na.gov.pk/uploads/documents/1449492702_297.pdf
Lal Chand Malhi, MNA, http://www.na.gov.pk/uploads/documents/1450170084_274.pdf Sanjay Perwani, MNA, http://www.na.gov.pk/uploads/documents/1474976704_768.pdf

meetings with the minority leadership and in practice on regular basis. Special arrangements were made for minorities and their religious places on days like Sunday prayers and religious events like Holi, Easter, and Christmas etc. Law and Order was directed to be maintained in event of the festivals and functions and on arrival of the respective religious leaders of the minorities. The police department deployed police personnel at 54 places of the minorities in 23 districts of six regions. It was also reported that four volunteers from minority communities who would be trained and deployed with the police to assist them during the prayer and worship at churches and temples in Quetta.¹¹

The Security measures however, could not be considered sufficient as three attacks on Shia Hazara pilgrims during 2014-2015 claimed 63 lives and dozens injured. During December 2017 and April 2018 three attacks have been carried out against the Christian community which claimed 10 innocent lives for which the IS or Daesh has claimed the responsibility. Therefore the pretention that a special force has been established appears to be incorrect or it is not adequate enough to secure, lives, liberty and well being of the minority communities in Balochistan.

Sindh: With reference to with the CMA No. 6262/2014T & 5872/2014 in SMC No. 01 of 2014, a Security Plan was discussed with the minority representatives. The Police department directed to establish a Special Police Task Force to protect the places of worship of minorities, especially in the sensitive districts of Sindh. Instructions were issued to the law enforcing agencies that the government will not tolerate slackness in registering criminal cases against the desecration of the places of worship of minorities. Cases of several temples and YMCA, Karachi were pending where the land has been appropriated by grabbers¹². No progress was reported on Special Police Force.

Khyber Pakhtunkhwa: With reference to CMA No. 5872/14 & CMA No. 6262/2014 in SMC No. 01 of 2014, the government collected record of places of worship of the minorities. The establishment of Police Task Force was under active consideration and the financial impact of the creation of Police Task Force is being examined¹³. However, no progress has

surfaced so far.

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 5

The Honorable Court is requested to direct the Federal Government and the Provincial Governments to constitute a special police force either from the existing ranks of police in the provinces or through formation of a special force on the same pattern as Special Protection Unit for the Chinese nationals.

F. Implement 5% Job Quota (Direction No. 6)

Implementing Authority to whom Direction No. 6 is given

Direction No. 6 was addressed to Federal government all Provincial Governments (Chief Secretaries.)

Current Status of Implementation of Direction No.6

Public advertisement by the government departments announced now and then that vacancies for cleaning and sanitation were reserved for non-Muslims. These advertisements make it evident that the respective governments particularly, the Federal Government, Punjab, Khyber Pakhtunkhwa had made a little effort to remove the social and religious biases within the state institutions.

The reservation of job quota is not implemented as most posts are filled by members of religious minorities on menial jobs.¹⁴ Some times on merit appointments on posts in the lower grades are assumed as success of the job reservation policy. The repeated applications for compliance in the follow up hearings confirm these apprehensions.

Punjab: The Human Right & Minority Affairs Department had meeting with the Chief Minister of Punjab regarding 5% quota for the minorities. It was decided that if no candidate is found

¹⁰ When Compliance Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page No. 34 ISBN 978-969-7681-03-7

¹¹ When Compliance Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page No.36, ISBN 978-969-7681-03-7

eligible the posts would be reserved for the next recruitment process. Directions from CM were also conveyed to Higher Education Department for allocating 5% minority quota. The IG Police reported 5% quota is being provided in recruitments of district police. On the contrary, the Provincial Government of Punjab provided list according to which 2 % employees have been inducted in the government service.

In principle, there has been no regulatory body/ comparable statistics therefore claims by the government cannot be verified. The department of minorities affairs verbally claimed to have achieved 60% implementation of job quota though it could not make the statistic available on request.

Baluchistan: The Religious Affairs & Inter Faith Harmony Department shared that the directions from the

department of the Services and General Administration about revised Quota, rose from 3 to 5 % for fresh recruitments with advice to Director General Public Relations. A number of non-Muslims are posted on the higher positions in the public offices and are also raised to the highest positions in the public offices like Justice of the High Court of Baluchistan¹⁵.

Sindh: The Chief Secretary convened a meeting & discussed the quota for minorities, women and disabled. Information and Archives Department Sindh was strictly advised to scrutinize all advertisement for jobs mentioning reserved job Quotas for minorities, women and disabled. The information department (GOS) directed all the departments through a letter to reserve and ensure the 5% job quota for the minorities, women and disabled.

However, no data provided showing the results of the letter issued by the government. The compliance reported as without outcomes.

Khyber Pakhtunkhwa: Public Service Commission was directed

¹² When Compliance Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page No.37, ISBN 978-969-7681-03-7

¹³ When Compliance Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page 38 ISBN 978-969-7681-03-7

to revise the job quota for minorities up to 3% though not up to 5% as directed by the court¹⁶.

It is submitted that measures such as job quota and security of places of worship can only be properly implemented if the objectives and results of such measures guide the process (Action Reflection Action). Achieving results in these areas is contingent upon proper evaluation and additional measures such as, constitution of a regulatory authority for realization of quota (Federal and Provincial governments).

The job reservation policy cannot achieve its targets with introducing similar affirmative action for admissions for the minority candidates in the educational institutions.

Therefore 5 % quota is recommended for educational institutions especially in professional education institutes (Federal and Provincial governments).

A due consideration should be given to long history and level of marginalization rather than ratio of population. Khyber Pakhtunkhwa government should consider raising the job quota to 5 % for proactive inclusion of religious minorities in the social-economic mainstreaming of the minorities.

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 6

It is prayed that the Federal Government and Provincial Governments are called to;

- a) update the Court on the implementation of Direction No. 6
- b) report enabling measures for enforcement of policy/direction on the job quota, such as setting up a regulatory body to oversee that the job quota is implemented without hinderance and complaints about non-implementation are entertained
- c) ensure that an affirmative policy for admissions in the educational institutions for the students belonging to minority communities is implemented so that they can qualify for the jobs requiring higher qualifications in the government services.

G. Action Including registration of cases against violation of rights guaranteed or desecration of places of worship of minorities (Direction No. 7)

¹⁴ Annual statistical bulletin of federal government employees 2013-14, Establishment Division. ([http://www.establishment.gov.pk/estab/userfiles1/file/Establishment/publication>Title%20Pages%20of%20Annual%20Buletin%20\(2013-14\).pdf](http://www.establishment.gov.pk/estab/userfiles1/file/Establishment/publication>Title%20Pages%20of%20Annual%20Buletin%20(2013-14).pdf)).

Implementing Authority to whom Direction No.7 is given

Direction No. 7 was addressed to the Federal Government & All Provincial Government.

Current Status of Implementation of Direction No.7

The Supreme Court's direction to register cases against violators of any rights guaranteed or the discretion of places of worship is the responsibility of provincial governments and the Federal Government. No compliance or reporting has been done by either the Federal Government or Provincial Government.

Supplementary orders were issued to Federal and Provincial government by the Supreme Court on 25-11-2014, to present a comprehensive report of the steps taken towards implementation and provincial stakeholders to submit applications about the instances of violations apart from non-compliance.

No compliance has been recorded in any of the province till date.

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 7

It is prayed that the Federal Government and Provincial Governments are called to update the Court on the implementation of Direction No. 7

- G. Three Member Bench ensuring the judgement is given effect/ entertain complaints to violation of fundamental rights of minorities (Direction No. 8)

Direction No. 8 was addressed to the Supreme Court.

Current Status of Implementation of Direction 7

Two or three members Supreme Court Bench heard the complaints roughly every 30-40 days from November 2014 to October 2015. There were 10 hearings following September 2014 on mostly applications brought forth in different areas of

¹⁵ When Compliance Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page No. 35, ISBN 978-969-7681-03-7

non-compliance. The bench headed by Chief Justice Nasir - ul-Mulk, presided over seven hearings Chief Justice Jawwad S. Khawaja two and Justice Ejaz Afzal one. The last hearing was on October 28, 2015. A hearing fixed on December, 2015 could not take place as the bench was not constituted following the retirement of Chief Justice Justice Jawwad S. Khawaja. In the proceedings, the applicant seeking compliance or reporting violations were allowed to present the applications in person. On acceptance of the applications the response was sought from relevant province or government's department, which usually entailed passage of fresh directions, instructions or order for compliance. 52 such supplementary orders/directions were passed in these follow up hearings.

On December 16, 2014, the Court was obliged to call the top bureaucrats to join the next hearing. the effort apparently did not impact the quality of compliance reports substantially though which has been a cause of concern of all stakeholders.

The benches conducting the subsequent hearings regarding compliance had to be instructive in several matters from proper security of places of worship to perennial matters concerning governance. The Court was obliged to order meetings between different officials and community leaders, passing orders for controlling hate speech, requiring preparation of complete list of places of worship, etc. which suggests that the attitude of the government official was hardly serious. It was rather neglectful towards supplementary orders given by the Supreme Court.

Specific Request/Prayer before this Honorable Court for implementation of Direction No. 8

It is prayed that the Registrar of this Honorable Court be given directions for a permanent three member bench headed by the Honorable Court which should have monthly hearings to be headed by the Chief Justice of Pakistan.

That the above state of affairs is a violation of the fundamental rights guarantee to the minorities in living our country, but is also causing a great deal of negative publicity abroad and is also an issue of concern for international bodies such as the UN and the Human Rights Council. The recent Third Universal Periodic Review made by the UN's Human Right Council has yet again

¹⁶ When Complaince Fails Justice –Issues in implementation of Court Verdicts, a Case study of Supreme Court of Pakistan's Judgement Regarding Protection of Religious Minorities by Peter Jacob, October 2016, Page No. 21, ISBN 978-969-7681-03-7

highlighted the lack of mechanism for effective protection of the rights of minorities in Pakistan and has specifically recommended the Government of Pakistan to improve the mechanisms for protection of minorities in Pakistan.¹⁷

PRAYER

It is humbly prayed that the Directions given by the Honorable Court in *Suo Moto* No. 1 of 2014 be implemented in letter and spirit.

Such other relief deemed fit and proper may also be granted.

¹⁷ Report of the Working Group on the Universal Periodic Review* Pakistan: A/HRC/37/13, Recommendations given by Saudi Arabia (152.55), Ethiopia (152.77), Cote D'Ivoire (152.83), Argentina (152.84), Haiti (152.85), Australia (152.93), Maxico (152.125), Namebia (152.147), Netherlands (152.148), Poland (152.149), Czechia (152.153), Austria (152.154), Italy (152.158), NewZealand (152.160), Georgia (152.165), Norway (152.166), Denmark (152.167), France (152.168), India (152.169), Egypt (152.182), Zambabwe (152.183), United Kingdom (152.184) and Thailand (152.248).

TO BE PUBLISHED IN THE NEXT ISSUE OF THE GAZETTE OF PAKISTAN PART-III

**GOVERNMENT OF PAKISTAN
MINISTRY OF RELIGIOUS AFFAIRS & INTERFAITH HARMONY
8th Floor, Green Trust Tower, Blue area, Islamabad**



Islamabad, the 11th May, 2020

NOTIFICATION

No. F. 5(2)/2011-M. In pursuance of Federal Cabinet's decision vide Case No.310/16/2020 dated 05.05.2020, the Federal Government is pleased to re-constitute National Commission for Minorities and its terms of references with immediate effect, as under.

Mr. Chela Ram Kewlani (Hindu)		Chairman
Sr.	Official members	Members
i	Representative from Ministry of Interior (not below the rank of BS-20 officer)	Member
ii	Representative from Ministry of Law and Justice (not below the rank of BS-20 officer)	Member
iii	Representative from Ministry of Human Rights (not below the rank of BS-20 officer)	Member
iv	Representative from Federal Education and Professional Training Division (not below the rank of BS-20 officer)	Member
v	Chairman, Council of Islamic Ideology	Member
vi	Secretary, Ministry of Religious Affairs and Interfaith Harmony	Member/ Secretary

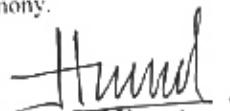
S	Non-Official members
1	Moulana Syed Muhammad Abdul Khabir Azad (Muslim)
2	Multi Gulzar Ahmed Naeemi (Muslim)
3	Mr. Jaipal Chhabria (Hindu)
4	Mr. Vishno Raja Qavi (Hindu)
5	Mr. Chela Ram Kewlani (Hindu)
6	Dr. Sarah Safdar (Christian)
7	Archbishop Sebastian Francis Shaw (Christian)
8	Mr. Albert David MBE (Christian)
9	Dr. Mimpal Singh (Sikh)
10	Mr. Suroop Singh (Sikh)
11	Ms. Roshan Khurshed Bharucha (Parsi)
12	Mr. Dawood Shah. (Kalash)

2. Terms of reference of the National Commission for Minorities are, as under:-

- To formulate proposal for development of a National Policy on Inter-faith Harmony with regard to peace and interfaith harmony in the country.

- b. To formulate proposals for amending laws/policies which are reported to be discriminatory towards the Minorities.
- c. To recommend to the Government such steps as shall ensure fuller and effective participation by the members of Minority communities in all aspects of national life.
- d. To ensure effective participation and association of Minority communities with their religious and cultural festival and celebrations.
- e. To look into the grievances and representations made by the members of any Minority community to the Government of Pakistan and, after examination such grievances, to make suitable recommendations to the Government of Pakistan;
- f. To ensure that places of worship of the Minority communities are preserved and well-kept in a functional condition.
- g. The Commission with consensus may set additional objectives for itself and if required may consult legal and constitutional experts.
- h. To consider the cases of NOCs for the sale/purchase/transfer of communal properties of minorities as provided under the Protection of Communal Properties of Minorities Ordinance, 2001, notified vide No. F.2 (1)/2002-Pub dated 22nd January, 2002.

3. The tenure of the commission will be for a period of three years. The non-official members will hold office till the pleasure of the Federal Government. The quorum of the Commission will be 50% of official members and 50% of non-official members. Ministry of Religious Affairs and Interfaith Harmony will be the Secretariat of this Commission. Expenditure on account of TA/DA etc. in connection with the meetings of the Commission in respect of official members will be borne by the respective Ministries/Divisions, whereas the expenditure in respect of non-official members will be borne by the Ministry of Religious Affairs and Interfaith Harmony.



(Hammad Nazar)

Section Officer (Minorities)

**The Manager,
Printing Corporation of Pakistan Press,
Islamabad.**

Copy to:-

1. PS to Minister for Religious Affairs and Interfaith Harmony, Islamabad.
2. PS to Secretary, Ministry of Religious Affairs and Interfaith Harmony, Islamabad.
3. All concerned.



(Hammad Nazar)

Section Officer (Minorities)

Mr. Peter Jacob has won the hearts of all those human rights activists who have been struggling for years to secure to the minorities what is due to them. And he has done this with his customary thoroughness. He has in fact made a solid contribution to the Supreme Court's efforts to secure justice for the long suffering minorities.

I A Rehman

'Justice Yet Afar' is the third and most updated publication on this topic covering developments till March 2021. The first report on this topic 'When Compliance Fails the Justice' was published 27 months after the judgment, while the second 'A long Wait for Justice' was released on the fifth anniversary of the judgment.

Besides recording the benchmarks of progress, this study underlines the institutional aspects of the failure in the implementation of the judgment. It also discusses the major challenges in public policy, attitudes and other elements blocking the progress towards realisation of rights of citizens, particularly the rights of the marginalized segments of the population.



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