

# WHEN COMPLIANCE FAILS JUSTICE

ISSUES IN IMPLEMENTATION OF COURT VERDICTS  
A CASE STUDY OF SUPREME COURT OF PAKISTAN'S JUDGMENT REGARDING PROTECTION OF RELIGIOUS MINORITIES



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# When Compliance Fails Justice

## *Issues in Implementation of Court Verdicts*

A case assessment of Supreme Court of Pakistan’s judgment regarding protection of religious minorities

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**Abbreviations / Acronym**

<b>CMA</b>	<b>Civil Miscellaneous Application</b>
<b>FATA</b>	<b>Federally Administered Tribal Areas</b>
<b>KP</b>	<b>Khyber Pakhtunkhawa</b>
<b>MHR</b>	<b>Ministry for Human Rights</b>
<b>Mol</b>	<b>Ministry of Interior</b>
<b>MRA &amp; NH</b>	<b>Ministry for Religious Affairs and National Harmony</b>
<b>ML&amp;J</b>	<b>Ministry for Law and Justice</b>
<b>MPD &amp; R</b>	<b>Ministry for Planning, Development and Reforms</b>
<b>N.A.</b>	<b>Not Applicable</b>
<b>NADRA</b>	<b>National Data Registration Authority</b>
<b>NCM</b>	<b>National Commission for Minorities</b>
<b>PEMRA</b>	<b>Pakistan Electronic Media Regulatory Authority</b>
<b>SC</b>	<b>Supreme Court of Pakistan</b>

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## **Forward**

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. Like wises 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 CJ Nasir-Ul- Mulk did chastise the various branches of administration for dragging their feet, but of late this matter has failed to receive from the court the attention it deserves. 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**  
General Secretary  
Human Rights Commission of Pakistan

## 1. Prelude

Judicial pronouncements are considered to be 'landmark' or 'historical' when they carry a significant potential of contributing to public good, protecting rights, reforming systems, or when they provide relief against grievances or injustices in an exemplary manner, thereby setting precedent.

In our context though, the compliance of court pronouncements was not always impressive. The non-implementation of court verdicts had in the backdrop; policy issues; institutional hiccups; implementers' lethargy; or instances when the aggrieved party has no more energy or resources to move lofty procedures for implementation. At times conflicting interests interfere with progress on implementation or realization of rights of the people. Examples of violation of judicial orders are found mainly in cases related to freedom of movement, bonded labour, habeas corpus, moreover, practices such as violation of standards of detentions by law enforcement agencies, etc.

The judgment of the Supreme Court of Pakistan<sup>1</sup> in consideration received high praise when it was passed in June 2014. Leading jurists, politicians, human rights activists and, particularly religious minorities in the country, welcomed the verdict with a significant degree of optimism.

The Federal and Provincial governments, reminded of their existing responsibilities towards the rights of religious minorities and assigned new ones in light of the judgment did not challenge the orders. Nor did they seek time or further interpretation of the orders which meant that the governments understood fairly well what the eight specific orders required them to achieve.

The bench headed by Chief Justice, Tassaduq Hussain Jilani on retiring from court on the day, must have felt satisfied that they had clogged all probable loopholes in compliance by making follow-up hearings mandatory. The apex court had incorporated follow-ups whereby the members of minority communities could appear before the court and seek compliance of the orders or report non-compliance of the orders, without involving excessive expanses of time.

The analysis of compliance in the following pages of this study suggests that the progress over 27 months after the judgment has been unsatisfactory. In fact, a lot needs to be accomplished in order to give effect to the said judgment.

Using this case study, the Centre for Social Justice has tried to understand the challenges in the political system, public policy and attitudes that block way to progress regarding rights of the citizens of Pakistan, especially the marginalized sections.

This undertaking at hand was also a reiteration of the civil society's stand that court verdicts concerning realization of human rights need wider support and vigilance by the stakeholders and the people at large, to ensure these verdicts do not land in the darkness of oblivion. The public support for enforcement is vital to facilitate the government machinery as much as to hold

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<sup>1</sup> SMC No. 1/2014, etc. Supreme Court of Pakistan.

them be accountable for implementation.

The Centre for Social Justice is grateful to its benefactors, SIDA and Minority Rights Group International for their technical support (Mr. Pervaiz Tufail and Ms. Shikha Dilawri) and financial support, the petitioners for giving their comments and sharing information especially, Mr. Samuel Piya (Lahore), Mr. Mushtaq Gill (Sargodha), Mr. Atam Parkash (Karachi), Mr. Saleem Michael (Karachi), Mr. Saleem Francis (Quetta), Mr. Yousaf Benjamin (Peshawar) and last but not the least my colleague and Ms. Farzana Christopher who assisted me in this work.

The board and staff of the Centre for Social Justice hope that this effort will contribute to a better realization and enjoyment of rights in our country besides assisting judicial officers, legal fraternity and concerned organs of the government and non-government organizations.

**Peter Jacob**  
October 20, 2016



## **2. Executive Summary**

Two years after the landmark Supreme Court Judgment directing the government to take various measures to protect the rights of minorities at the federal and provincial levels –an assessment about compliance with this verdict in this comprehensive study reveals that the implementation of judgment is significantly lagging behind, and is often left without due consideration.

The assessment of compliance shows that the Federal government was the most defiant and had no compliance to report on the specific two orders by the Supreme Court of Pakistan during all 10 hearings till September 2016, (27 months after the verdict). Punjab is next in this sequence followed by Khyber Pakhtunkhawa, Sindh and Balochistan. Interestingly Balochistan, the least resourceful and a troubled province was the most accommodating to right of minorities, whereas Punjab the most populated and resourceful was least compliant. The accumulative reported compliance by the Federal and Provincial governments did not go beyond 32 percent.

This level of compliance, and the factors used to come to this figure put in stark view some of the obstacles which continue to stand in the way of implementation of human rights standards in Pakistan, including lack of will amongst decision makers and implementers.

Out of seven initial orders dealing with safety and security of places of worship, measures for discouraging religious hate speech the two orders that received better compliance and reporting were; security of places of worship and reservation of job quota, though serious gaps in implementation were found in these areas too. At one point the Supreme Court bench conducting proceeding on compliance was obliged to call attendance of the top bureaucracy of provinces and Attorney General of Pakistan which showed that the court felt the need of addressing the gaps in compliance by reaching certain unanimity of understanding regarding the compliance of the judgment.

Even then the compliance reports reflect a passive response of the decision makers regarding the implementation. Only one meeting was held in both directions given by Chief Ministers in provinces (Punjab and Balochistan); one meeting each at Chief Secretary and IG police level in Khyber Pakhtunkhawa, Balochistan and Sindh was held, whereas, none of the five governments set up any implementation bodies. None of the five cabinets or inter- ministry level deliberations were carried out. No substantive discussion was reported at House or Standing Committees levels in provincial and federal parliaments.

This ground breaking study cross-checks its findings with the experiences and views of the petitioners/ applicants following up the proceedings at the Supreme Court bench constituted for this purpose. The assertions are properly referenced, shown in charts and tables for clarity and brevity.

In conclusion, this study shows that the progress on compliance of the judgment does not make the actors proud of their performance nor does it satisfy the beneficiaries. The purpose of this study is to inform the stakeholders of the situation and public opinion so that a concerted effort can be made to establish rule of law and respect for the independence of judiciary through effective implementation of the judgment in discussion.



The Centre for Social justice has come up with some practical recommendations addressed to federal and provincial governments and subsidiary bodies, the civil society and the minority organizations and one recommendation is addressed to the honourable Supreme Court of Pakistan.

### **3. Research Methodology**

This research began, about one year ago, with a researcher's article assignment for The News on Sunday. Different readers and stakeholders encouraged to produce an expanded version of that research article. Since the researcher did not have an example of research that suited the matter as unique as the subject matter, one that involved digging deeper into legal – administrative- legislative and public policy processes, the research methodology was therefore adapted to a blend of academic investigative tools with those of an action social-inquiry.

This research has mainly relied on the papers presented by provincial governments and a federal government department during the proceedings of the Supreme Court, as well as the applications (CMAs) brought forth by the members of minority communities, official websites and publications. The CSJ has also looked at the relevant policy papers and minutes of meetings. We have also made use of the extensive experience of CSJ, its members working on human rights issues, and engagement with the Punjab Advisory Council for Minorities

Being a petitioner the researcher<sup>3</sup> also attended a couple of hearings that greatly contributed to strengthening an understanding of the spectrum of issues that emerge with regards to compliance with the Supreme Court judgment, as well as scope for improving implementation. The researcher interviewed the petitioners, some who were part of the original *suo moto* proceedings such as Rev. Shahid Meraj and Mr. Saleem Michael, as well as the petitioners of the follow –up hearings. This research also benefited from the media reports to reconfirm and verify different information.

Limitations included reluctance to a proactive disclosure of information as required despite right to information regime in place under Article 19-A. The researcher tried to overcome these limitations by narrowing the focus of the study accordingly, as well as following other means of verification, as keeping track of developments throughout the research process. A further limitation was regarding the scope of the study as well as the language, which has been consciously used to cater to general readership, while also ensuring the nuance of law is maintained.

### **4. Salient Features of the Judgment / Order**

The apex court joined eight matters together into to proceedings initiated by the court itself following the suicide bomb attack on September 22, 2013 on the Church in Peshawar. Hence the judgment covered matters regarding: threats leveled against Kalash tribe and Ismailies in Chitral; allegations of Hindu girls' forcible conversion to Islam; compensation announced by the Federal Government and Provincial Government for the victims of blast in Peshawar; the complaints regarding illegal possession of; a) Hindu Gymkhana Karachi, b) Christian Mission School, Karachi, (alma mater M.A. Jinnah); desecration of historical Hindu Temple of Amrapur Asthaan; six more incidents of desecration of Hindu Temples /places of worship in Sindh

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<sup>2</sup> Jacob, Peter Judging By Rights, August 30, 2015. [http://tns.thenews.com.pk/judging-rights/#.V\\_xm9VV9600](http://tns.thenews.com.pk/judging-rights/#.V_xm9VV9600)

<sup>3</sup> Researcher's application concerns Court's orders No. 2 about introducing appropriate curricula to promote a culture of religious and social tolerance.

Province; non-registration of Hindu marriages by the NADRA and Local Council Authorities; non-registration of marriages of Christians; and the issue of Smadhi of Hans G. Maharaj.

In an elaborate judgment the apex court touched upon several important aspects, including the philosophies of justice and rights in a democratic and globalized world. The judgment recorded the response from provincial and federal governments brought forth during the hearings, emphasized the equal rights of non-Muslim citizens, particularly the right to religion, conscience and propagation of faith as constitutionally guaranteed rights.

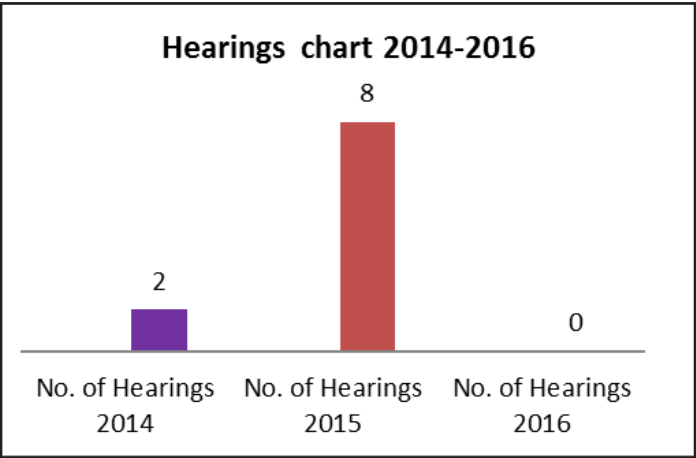
In the reasoning part, the judgment also carried a strong reference to articles 18 of ICCPR and corresponding article 20 of the constitution of Pakistan emphasizing the religious freedom. The court gave eight specific orders shown in Table 1 concerning protection of rights of minorities.

**Table.1**

No.	Orders Passed by the Court	Government Tier
1.	Constitute a taskforce for developing a strategy of religious tolerance.	Federal
2.	Curricula to 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

5. Hearings: Graph 1

Either 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 non-compliance. The bench headed by Chief Justice Nasir-UI -Mulk, presided over seven hearings Chief Justice Jawwad S. Khawaja two and Justice Ejaz Afzal one. At the time of writing this report, the last hearing was on October 28, 2015. A hearing fixed on December 1, 2015 could not take place as the bench was not constituted following the retirement of Chief Justice Jawwad S. Khawaja<sup>4</sup>.



In proceedings, the applicants 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 hearing, the court was obliged to call the top bureaucrats (all Chief Secretaries and Inspectors General of Police, Advocates General and Attorney General) to join the next hearing (January 13, 2015). The effort apparently did not impact the quality of compliance reports substantially though which has been a cause of concern for all stakeholders<sup>5</sup>.

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<sup>6</sup>. The Court was found ordering meetings between different officials and community leaders, passing orders for controlling hate speech, requiring preparation of complete list of places of worship, etc<sup>7</sup>. which suggests that the attitude of the government official was hardly proactive. It was rather neglectful towards supplementary orders given by the Supreme Court.

The governments had to be reminded through repeated orders for compliance of principal orders regarding 5 % quota for jobs, which was basically that the previous governments had embarked on implementing before the judgment and which the Supreme Court merely sought the government to make a uniform policy in its judgment in 2014.

Besides standing orders for all governments, NADRA and Federal government, the governments of Sindh, Punjab and Khyber Pakhtunkhwa were reminded through compliance orders during the 10 follow-up hearings.

Alongside the issue of forced conversions reported and orders passed to government of Sindh and federal government particularly, the Supreme Court bench had to be instructive and insistent on passing the Hindu Marriage law. From January to November 2015 specific orders had to be passed by the court for tabling a bill to the Cabinet for approval and the parliament.

<sup>5</sup> Annex 1.

<sup>6</sup> Ibid

<sup>7</sup> Ibid.

The court was also obliged to give a time for compliance, realizing that flexibility could entail further non-compliance. The passage of bill was lingering till 2016.

NADRA was given orders thrice, concerning the issue of registration of marriages among citizens belonging to minority communities. The security of places of worships and security plan appeared in nine orders for compliance. During the three hearings from January to April 2015 Supreme Court bench kept reminding government to hold meetings with minority communities and include missed out places of worships and submit respective security plans.

Though no hearing was conducted since October 2015, the hearings can be resumed anytime upon formation of a bench. However, the important question would be: are the governments and other stakeholders prepared for hearings?

## **6. Compliance of the Supreme Court Orders**

This study grades the performance of the respective governments on the basis of compliance reported (claim)<sup>8</sup> to the Supreme Court against the orders of the court. Secondly the claim was assessed on the evidence of the noncompliance in the applications/ complaints brought to the court. So if the claim is challenged by evidence on the contrary it was considered a case of noncompliance particularly if not shown that the challenge may have been an exception<sup>9</sup>.

Five is the highest score in each area of compliance, totaling 25 for provincial governments. The two areas of compliance that entirely belong to the federal government are assumed to be 12.5 each; hence the total for federal government is also 25. The total score for federal and provincial governments is 125 (compliance in entire country, graph 2).

No compliance and no claim gets zero, small or vague action gets 1-2, an action without claim also gets 1-2.5, actions with considerable delay receives 2- 2.5, active compliance without full result get 2-3 while nearly and full compliance gets 4-5 scores.

Based on the abovementioned scoring method, as the graph 2 shows, the total score for the whole of Pakistan was 32 percent. The federal government achieved zero compliance as it failed to comply with and report on the orders given to it. The governments of Punjab (32%) and Khyber Pakhtunkhawa (38 %) also did poorly. The government of Sindh achieved 42 % compliance, 27 months after the passage of the orders. Only Balochistan made tangible strides which crossed just 50 percent compliance, probably due to factors and conditions that necessitated such actions in Balochistan.

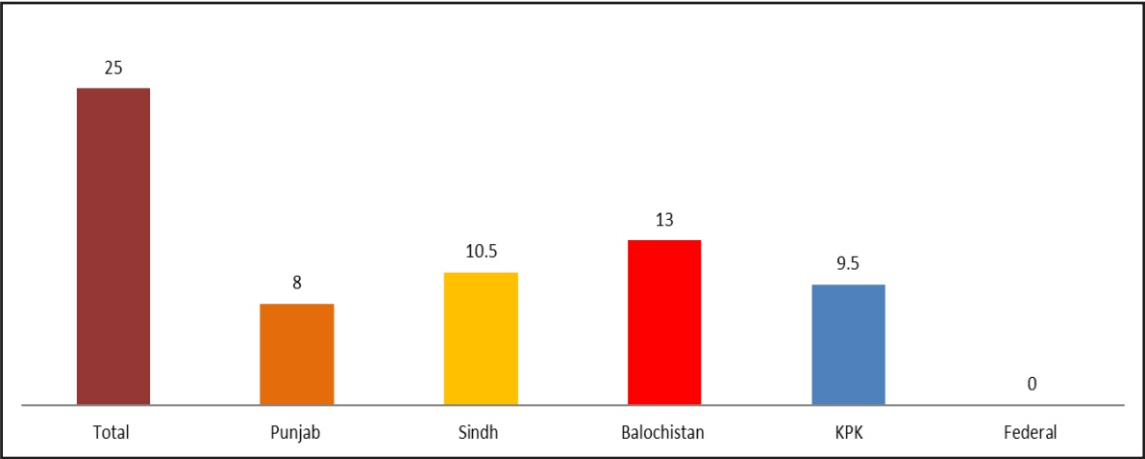
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<sup>8</sup> The language and mode of communication as well as issuance of a time bound instructions were a measure of the quality of compliance.

<sup>9</sup> For more qualitative assessment of compliance see tables 2, - 5, 6 and annexes; the compliance on part of federal government is nil therefore no table.

**Graph 2. An overview and ranking of compliance on the judgment**

Note: For Table 2 also used earlier the categories for assessment of the compliance though the language is adaptive here to explain the situation better: 1. No compliance, 2. Small or vague action, 3. Action without claim, 4. Actions with considerable delay, 5. Active compliance without full result. 6. Full compliance<sup>10</sup>.



**7. Table 2 .Reported compliance ( Assessment inthe light of the compliance recorded and court’s observations) <sup>11</sup>**

SC Orders <sup>2</sup>	Fed. Govt.	Punjab	Sindh	Balochistan	Khyber Pakhtunkhaw a
1.Constitute a taskforce for developing a strategy of religious tolerance	Non-compliance	N.A.	N.A.	N.A.	N.A.
2.Develop curricula for schools & colleges to promote a culture of religious and social tolerance	No compliance.	Small or vague action	Small or vague action	Small or vague action	Small or vague action
3.Take steps to ensure that hate speech in social media is d iscouraged / delinquents are brought to justice	No report, compliance uncertain	No report, compliance uncertain	No report, compliance uncertain	No report, compliance uncertain	No report, compliance uncertain
4.Constitute a National Council for minorities’ inter alia, to monitor practical realization of the rights / safeguards / policy for protecting minorities’ rights	No compliance	N.A.	N.A.	N.A.	N.A.

<sup>10</sup>Annex 2.1, 2.2, 2.3, 2.4

<sup>11</sup>Ibid and Annex 1.

<sup>12</sup>Orders as in Table 1 - refer to annexes for more details.

5. Establish a special task force/training for the places of worship	No compliance recorded though steps must have been taken for security <sup>3</sup>	Security plan: 13000- personnel will be trained 5410 deputed for 3285 places of worship, etc. *	Security plan- reported but not submitted*	Security plan: Special police unit created - 154 places of worship given protection by 267 policemen, etc.*	No Security plan was submitted* <sup>14</sup>
6. Implement 5 % Job quota	Job quota included in advertisements –outcomes not recorded	Claimed to achieve compliance 2 % jobs filled (CMA 163/ 2014)	Compliance reported without outcomes	Already compliant enhanced quota from 3 % to 5 %	Fixed lower level of compliance (3 % instead to 5 % outcomes not recorded)
7. Action including registration of cases against violation of rights guaranteed or desecration of places of worship of minorities	No compliance recorded	No compliance recorded	No compliance recorded	No compliance recorded	No compliance recorded

Irrespective of the quality of implementation or results, a higher degree of compliance is reported against the sixth (the Job Quota,) and fifth order (security of places of worship) by all provincial governments. It is also noticeable that the provincial governments managed security of places worship but did not establish a task force for this purpose as order five required them to do.

Three security plans were made and submitted to the court as security became a growing concern, the fourth in Khyber Pakhtunkhwa was also reported to be ready. Some analysis of the quality of security plans will follow later in this study.

<sup>13</sup>Since the Supreme Court's order about security was addressed to provinces, federal government 's compliance is not included in scoring, though it would have been encouraging for the provinces if the federal government had reported what had been done for protection of places of worship in the federal territories.

<sup>14\*</sup>The provincial governments focused security plan rather than the order about setting up task force for security. The governments of Punjab and Sindh cited that they were looking at feasibility of setting up such task force. The researcher is of the view that court applied a margin of appreciation of alternative and interim step by accepting the security plans and even directing to improve them, without revoking or amending its original orders about task force for security. Therefore, the compliance so far has to be assessed either on the basis of effectiveness of the plan or court's satisfaction which is yet to be known conclusively. Yet we know from the comments by the court and subsequent orders that the security plans needed much improvement

**Table.3 Supplementary orders passed by the Supreme Court for compliance (sequence of hearings/entity):<sup>15</sup>**

<b>Date</b>	<b>Federal/ Provincial</b>	<b>Order Passed for Compliance</b>
12/16/2014	Federal	Regarding National Commission for Minorities; appointment of a permanent Chairman of person occupying a high office of the government. The Commission to submit report, on regular basis, about the steps taken by them towards implementation of judgment
1/13/2015	Federal	<ol style="list-style-type: none"> <li>1. Report concerning compensations paid to victims by the federal government.</li> <li>2. Ensure that Hindu Marriage bill is placed before the Cabinet within two weeks and report submitted to the chamber.</li> <li>3. Meeting be held with Chief Minister Inspector General Police, Chief Secretary of Punjab to finalize security plan in three weeks and submit in next hearing</li> <li>4. Arrange meeting with Hindu and Christian Community leaders regarding security.</li> </ol>
2/11/2015	Federal	Submitted Hindu Marriage Bill– report within one week.
3/12/2015	Federal	Reply to the questions in applications – job quota, security of places of worship and registration of marriages with NADRA.
11/25/2014	Joint: Federal & Provincial	<ol style="list-style-type: none"> <li>1. Present a comprehensive report of steps taken for the implementation.</li> <li>2. Provincial stakeholders should submit applications about instances of violations apart from non-compliance.</li> </ol>
12/16/2014	Joint: Federal & Provincial	<ol style="list-style-type: none"> <li>1. Attorney General is present in the next hearing.</li> <li>2. Respond to points raised by Dr. Ramesh, forced conversions and kidnapping of Hindu girls. NADRA should comply with marriage registration issues, job quota.</li> </ol>
8/25/2015	Joint: Federal & Provincial	All governments asked to submit compliance reports.
10/28/2015	Joint: Federal & Provincial	Submit reply to complaint regarding hate material in text books.
12/16/2014	Govt. of Sindh	Report implementation of job q uota i.e. appointment of 5% Non - Muslims (Minorities) beyond advertisement and notifications.

<sup>15</sup> Also in Annex 1 for different purpose.



1/13/2014	Govt. of Sindh/ IG Police	Hold meeting with Pakistan Hindu Council to discuss the question regarding protection of minorities.
2/11/2015	Govt. of Sindh / IG Police	IG Police Sindh to present a report on Dr. Ramesh's complaint – report the decision about follow up.
3/12/2015	Govt. of Sindh	1. Christian community be included (in the process) for curriculum reforms. 2. Submit security plan for places of worship.
4/16/2015	Govt. of Sindh	Pass a resolution to facilitate federal legislation for Hindu Marriage bill – report in a month.
9/7/2015	Govt. of Sindh	Submit compliance reports on the previous orders concerning reconstruction of Mandir. Balochistan asked to present a more comprehensible report.
10/28/2015	Govt. of Sindh	Take action and submit report on complaint regarding forced conversion.
12/16/2014	Govt. of KP	1. Conduct a meeting with Chief Secretary KP, IG Police, AG
1/13/2015	Govt. of KP	1. Present comprehensive report on implementation of 5% Job Quota for Minorities. 2. Respond to Dr. Ramesh Kumar's application to resolve issue regarding Temple in Karak. 3. Present documents of compensation paid to victims.
2/11/2015	Govt. of KP	1. Reminder for endowment fund and compensation amount to the victims, one more week given to submit report to SC and deputy Advocate General KP.
3/11/2015	Govt. of KP	2. Take necessary action for reconstruction of temple of Hindu Community in Karak.
3/12/2015	Govt. of KP	1. Places of worship missed out in the list be added for security plan and submitted in the next hearing by IG Police. 2. Include Christian community for curriculum reforms.
4/16/2015	Govt. of KP	1. Start reconstruction of temple in Karak within two weeks. 2. Establish endowment funds and report be submitted in two weeks. 3. Security plan of worship places must be submitted before the next hearing. 4. Pass a resolution to facilitate federal legislation for Hindu Marriage bill – report in a month

1/13/2015	Govt. of Balochistan	1. Arrange meeting with Hindu and Christian Community leaders regarding security.
3/12/2015	Govt. of Balochistan	2 Submit security plan for places of worship
4/16/2015	Govt. of Balochistan	1. Submit a security plan for places of worship. 1. Submit reply regarding registration of Christian marriage. (NADRA) 2. Pass a resolution to facilitate federal legislation for Hindu Marriage bill – report in a month.
9/7/2015	Govt. of Balochistan	1. Balochistan asked to present a more comprehensible report.
1/13/2015	Govt. of Punjab	1. Punjab reports 2% induction of minorities on job quota – AG asked to submit reply to complaint registered by Mushtaq Gill regarding 5 % quota. 2. Submit report on finalization of setting up task force for security of places of worship. 3. Meeting is held with Chief Minister Inspector General police, Chief Secretary of Punjab to finalize security plan in three weeks and submit in next hearing.
2/11/2015	Govt. of Punjab	1. Submit report regarding task force, 5% Job quota, amendments in the curriculum. Report of the meeting with Chief Minister and follow up actions. 2. Submit response to complaint by Mushtaq Gill about non-compliance on job quota.
3/12/2015	Govt. of Punjab	Security plan be prepared for all places of worship / submitted to the court.
4/16/2015	Govt. of Punjab	1. Submit reply regarding registration of Christian marriage 2. Pass a resolution to facilitate federal legislation for Hindu Marriage bill – report in a month.
4/16/2015	NADRA	1. Provide copy of reply to applicant. 2. Submit reply regarding registration of Christian marriage -3. Another direction with Balochistan 9/7/15.

Khyber Pakhtunkhwa received the highest number of specific supplementary orders (reminders) 14, followed by Punjab and Sindh eight each, Federal government seven and Balochistan was given six such orders. Six more orders were given to federal and provincial governments jointly, in their respective jurisdiction as the matter belongs to all.

## 8. Applications / Complaint Submitted by the Members of Minority Community

Though there may be need to work on the quality of some of the submissions, an encouraging number of applications (CMAs) were brought to the Supreme Court asking for compliance.

Dr. Ramesh Kumar Vankwani, a Hindu Member of the National Assembly actively perused the issues concerning abduction of female members of Hindu community and the restoration of Hindu temples besides the issue of security measures on places of worship.



Dr. Ramesh Kumar Vankwani

Although a full compliance was reported, implementation of the job quota is highly contested by the community leaders and stakeholders. Mr. Mushtaq Gill, from Sargodha who is pursuing a follow-up petition in the Supreme Court under the said judgment regarding implementation of the quota system said: “The job quota has been unimplemented to a large extent particularly in Federal Capital, Punjab, and Sindh and Khyber Pakhtunkhwa provinces.” If taken as an indicator, from July to September 2016, Mr. Gill had sent applications and reminders to 87 different departments (Federal and Punjab) after their vacancy advertisements had no mention of reservation of quota, in disregard of Supreme Court orders. He further said, “There is a lot of manipulation of process for recruitment on government jobs, hence the job quota for minorities needs an effective implementing and a monitoring body in federal areas as well in the provinces.”

Petitioner	Province	Issue Highlighted
Mr. Mushtaq Gill	Punjab	1. Security of the non-Muslim communities and their religious places, 2. Issue pertaining to subject of Ethics and Education, 3. Implementation of Job Quota for Minorities, 4. Reactivation of Inter-faith Harmony committees.
Mr. Atam Parkash	Sindh	1. Restoration of Parkash Mandar, Tandu Mohammad Khan.
Dr. Ramesh Kumar	Sindh	1. Marriage registration with NADRA, 2. Hindu Marriage bill pending with Law and Justice Secretary, <sup>1</sup> 3. Procedure of election of reserve seats for minorities still pending with the standing committee of law and justice of National Assembly, 4. Matter of handing over the kidnapped Hindu girls to their parents still pending, 5. Security of Temples, Restoration of temples burnt down, 6. No changes in curriculum.
Mr. Samuel Piyara	Punjab	1. Census report of 1998 for minorities (Christians) 2. The formation of the task force, 3. Return of minority properties, 4. Security for places of worship, 5. Forced conversions, 6. 5% job quota not being implemented, 7. Registration of Christian marriage with NADRA, 8. Pending compensation to the victims of Church attacks in Peshawar, 9. Inquiry for the Christian youth Zubair Masih torture and death in police custody. 10. Misuse of loud speaker, 11. The religious channels running without NOC promoting hate speech 12. The formation of the task force to for the minority rights is not implemented.
Mr. Peter Jacob	Punjab	Hate material in text books.

The highest areas of non-compliance was where the responsibility rested totally with the Federal government namely, a) setting up a task force for religious and social tolerance, and, b) setting up an independent and empowered Council for minorities (*referred to as National Commission for Minorities by the government*).

The National Internal Security Policy (2014 -2018)<sup>17</sup>, the National (Counterterrorism) Action Plan (2014)<sup>18</sup> and the Action Plan for Human Rights unveiled in February 2016 all measures that had correlation with orders of the Supreme Court. Nevertheless, the latest plan had set December 2016 as the dead line for constituting National Commission for Minorities, yet no legislation was initiated until early October 2016 by the treasury, although a private member initiated bill was introduced by a minority member of the opposition on September 27, 2016.

Another area of high non-compliance was reforms in the curriculum and textbooks wherein neither the Federal nor Provincial governments reported any substantial steps. The language of reporting compliance was vague, most of the instructions given to subordinates or departments missed the timeline for implementation, moreover clarity of direction as well as of the respondent authority that was expected to clarify was missed. The compliance report was submitted before the Supreme Court Bench sometimes without a mention of the date of communication; for instance, the directives for curriculum reforms by governments of Punjab<sup>19</sup> and Balochistan<sup>20</sup>.

**Mohammad Nadeem A Sheikh**, a lawyer following the cases on behalf of Hindu community stated;” The judgment of the Supreme Court in June 2014 elated the morale of all Pakistanis as a nation. This judgment was quoted and hailed among the legal fraternity internationally because it provided an entry point for leveraging the protection of minorities and their rights. Nevertheless, the compliance is stalled due to lack of will on part of the administration and political leaders. In my opinion, we have merely achieved about 20 percent compliance in 27 months which is shameful.” For a better compliance he suggested that apex court should issue directions to high courts and even the district courts to entertain cases of non-compliance of the judgment in order to reduce cost of the applicants and burden on the Supreme Court itself.

He also suggested the non-compliance after reminders the court must treated as contempt of the court. Mr. Sheikh is concerned that FATA and Gilgat Baltistan, which are separate administrative territories under the Federal Government, must be included in the



Members of Justice Helpline organization that helped initiate Suo Moto proceedings Mohammad Nadeem A Sheikh, Atam Parkash and Saleem Michael.

<sup>17</sup>Policy initiatives, such as Social Reconstruction, Youth Engagement Strategy (YES) and Rapid Response Force , <http://nacta.gov.pk/policies/NISP.pdf>

<sup>18</sup>Point 8 of the National Action Plan: “Measures will be taken to stop religious extremism and to protect minorities”.

<sup>19</sup>CMA 1184/2015, in Supreme Court, Section Officer Minorities , Human Rights and Minorities Affairs on behalf of Chief Secretary Punjab.

<sup>20</sup>CMA 6617/ 2014 in Supreme Court, Advocate General Balochistan.

compliance criteria. He suggested that awareness sessions should be organized for the lawyers in the country to acquaint them with jurisprudence in this judgment.

**Atam Parkash**, a businessman and leading member of the Hindu community has followed the cases concerning illegal occupation of Mandirs in different courts of Sindh<sup>21</sup>. In the ongoing follow up hearings at the apex court he brought for compliance the case of Prem Parkash Mandir of Tando Adam in Sindh province which was restored recently. Atam is not happy with the overall compliance. He demanded that “the minority leadership in the elected houses should play an active role in having the orders complied with.”

In August 2016, Special Assistant to the Sindh chief minister for Minority Affairs Department Dr. Khatu Mal Jeewan had to remind the government departments through a letter to the Chief Secretary and the Inspector General of Police regarding implementation of 5 % job quota for minorities during the recruitment of Sindh police, which was under process across the province. In the letter, Jeewan pointed out that the Sindh Assembly had passed a resolution unanimously regarding implementation of job quota for the candidates of non-Muslim communities in all departments of government of Sindh<sup>22</sup>.

## 9. Gaps in Implementation

### Procedural implementation

The administration as well as political leadership in federal and provincial governments did not play an active role with regards to the compliance of the judgment. No implementation plan for compliance was discussed formally and holistically in any meeting. The compliance placed on record showed:

- Only one meeting each at Chief Minister's level in Punjab and Balochistan was reported to be held, after the Supreme Court called the top bureaucrats to attendance. Yet the court was obliged to require a copy of the minutes of the meeting in Punjab<sup>23</sup>.
- Chief Secretary and IG police in Khyber Pakhtunkhwa<sup>24</sup>, Balochistan<sup>25</sup> and Sindh<sup>26</sup> held one meeting each with members of minority communities but this also was not a planning meeting.
- None of the five governments (respondents) set up any implementation bodies.
- None of the five cabinets or inter- ministry level deliberations were carried out to discuss the orders.
- No substantive discussion was reported at House or Standing Committees level nor was the importance, or ramifications or compliance of judgment discussed or referred to in Provincial and National parliaments.
- Government departments were either unaware of the affirmative action or reluctant to enforce 5% job quota

<sup>22</sup><http://www.pakistantoday.com.pk/2016/08/28/city/karachi/cms-advisor-demands-5pc-job-quota-for-non-muslims/>

<sup>23</sup>CMA 1184/ 2015, submitted by Section Officer Minorities Human Right and Minorities Affair Department, on behalf of Chief Secretary Punjab March 11/12, 2015.

<sup>24</sup> CMA 618/ 2015, 622/2015, in SC order sheet February 11, 2015.

<sup>25</sup>CMA 158/2015, in SC order sheet January 13, 2015.

<sup>26</sup>CMA 624/2015, in SC order sheet February 11, 2015.



The picture above also does not reflect a conduct of active pursuit of reforms in a country passing through multiple and thorny transitions or respect for the orders of the court. The administration dealt with the matter at hand with lethargy and neglect. Given that the measures ordered in the Supreme Court's orders ultimately presented the way out from the crises concerning extremism, the state machinery was ostensibly defiant.

**Mr. Saleem Michael**, an advocate from Karachi and a leading member of Christian Community submitted several petitions which were clubbed together in the Suo Moto proceedings of the judgment at hand. He is still pursuing the cases concerning illegal occupation of properties belonging to churches and temples and he has followed keenly the compliance of the court order in Sindh province.



Mr. Saleem Micheal

He expressed his disappointment with performance of the Sindh government particularly. Mr. Michael said, “As far as implementation of the job quota, I can tell from experience that there is no improvement. Transparency is a big challenge in job appointments. The government might claim achievements but they have to bring credible evidence to show that job quota is being implemented.”

Mr. Michael is a counsel in several cases on behalf of Justice Helpline a non-government organization, regarding occupation of land belonging to minority communities. He stated: “The land belonging to Hindu Gymkhana, a few Hindu temples<sup>27</sup>, a facility of Young Men's Christian Association Sadar, a shelter school in Clifton, a technical school in Kashmir Colony in Karachi have been misappropriated which we are trying to have vacated from the land-grabbers through litigation and administrative measures.” Regarding cases of land grabbing he said. “It seems to be an endless struggle, yet we shall continue to fight legal battles.”

He further said, “The Sindh government grossly neglecting the Christian community as far as political representation and appointments in government bodies. In a recent example, there is only 1 Christian representative out of 16 in Minority Welfare Council announced in October 2016.” Speaking of the quality of appointments he said, “If Members of National and Provincial assemblies were occupying the provincial level councils, it is evident that the government is not keen on expanding the participation of people and independence of these committees.<sup>28</sup>”

The following table reflects institutional response or lack thereof by the respective entities. The last column is the CSJ's assessment of causes behind gaps based on qualitative indicators.

<sup>27</sup> CMAs 16/K/ 201  
<sup>28</sup> Jang Karachi, September 28, 2016.

**Table 4. Compliance, response and gaps.**

<b>SC Orders</b>	<b>Direction to</b>	<b>Responsibility / logical respondent</b>	<b>Response</b>	<b>Gaps / causes</b>
1. Taskforce for a strategy of religious tolerance	<b>Fed. Govt. Cabinet / Parliament</b>	Mol, MHR & NH, MLJ,*MPDR	No report submitted	Lack of coordination between relevant Ministries, AG on the issue –aptitude. *
2. Curricula to promote a culture of religious and social tolerance (Removal of hate speech)	<b>Fed. &amp; All Prov. Govt.</b>	Provincial Ministries for Education, Textbook Boards and Authority.	All except Khyber Pakhtunkhawa pledged to make changes though also non-compliant to date.	No institutional hurdle hence lack of will. <sup>29</sup>
3. Steps to ensure hate speech in social media is discouraged / delinquents are brought to justice	<b>Federal and Prov. Govt.</b>	PERMRA, Fed. Ministry for Information, Home department of respective provinces.	Two bills passed / legislative measures taken	Not reporting compliance despite progress shows lack of regard, sensitivity to issue or comprehension.
4. Constitute a National Council for minorities' rights	<b>Fed. Govt. / Fed. cabinet, National Parliament</b>	Ministry for Law & Justice, Ministry for Religious Affairs and Nat. Harmony	Neither compliance nor a report submitted	Lack of clarity and understanding of role of Ministry. Inaptitude. <sup>30</sup>
5. Establish a special Police Force / training to protect the places of worship of minorities	<b>All Prov. Govt.</b>	Home department, Cabinets of respective provinces	Punjab reported compliance though at one point reported that the Church leader do not want extra security.	Provincial governments reported measures for security – though did not proceed or clarify if full compliance was not seen as feasible.
6. Job quota	<b>All Prov. Govt.</b>	Chief Secretaries,	Verbal commitments without serious implementation.	Governments failed to clarify that a full compliance may need an implementing, monitoring body.

<sup>29</sup>Refer to point 6 and tables, 3, 4 and 5 on compliance and analysis for explanation.

<sup>30</sup>SC Order on December 16, 2014, observation of the Supreme Court regarding appointment of Chairman of the NCM.



*Note: The area of compliance regarding order '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' is not assessed here due to lack of compliance reported to the court. Some assessment is made in other parts on the basis of information available from other means.*

## 10. Quality of Compliance

### Administrative approach

The language in much of the communication between the implementing offices reported in the Supreme Court has not been conclusive, nor did it reflected confidence regarding compliance. The language of *shared information, and request*, is not language of *duty and rights* which is usually authoritative and clear.

- According to **Punjab government's** compliance report the Chief Minister *requested* Punjab Textbook Board and Curriculum Authority to revise the curriculum. The non-assertive message, without a deadline, shows a weak resolve, it can also be assumed that the little change (lessons on peace and harmony for grade 2-10 in Urdu subject) that has been introduced in the syllabus while the hate speech against the religious minorities is still part of the textbooks.
- In another example the **Religious Affairs and Inter Faith Harmony Department of Balochistan** *shared* the deliberations with Education department. Moreover the measure taken hardly corresponds with the objective of inculcating religious harmony in the order No. 2. The response from the **government of Balochistan** stated “department was asked to arrange separate teachers to teach Ethics and ensure the availability of Ethics books for the minority students and an exemption of the subject of Arabic for minorities and to bring changes in curriculum.”
- The response from all provinces on the orders regarding curriculum reforms, was lethargic about removing the hate material and discrimination in education policies, their reliance is mainly on the incremental induction of some positive material. **Representatives of Sindh** reported some compliance, while Khyber Pakhtunkhawa remained mute on this issue.
- Among few good examples, the government of **Sindh** took legislative approach and passed a law regarding Hindu Marriage registration, which has far-reaching consequences; through for other matters related to marriage the **Sindh** government deferred the legislation to national parliament without making any recommendations on the subject.
- At one point **NADRA** expressed its inability and constraints about registering the marriages of non-Muslims citing the absence of enabling legislation at provincial level (CMA 130/2015, Order January 13, 2015). Till this report the **Lahore Cantonment Board** was clearly refusing to register marriages of Christians and Ahmad is due to lack of regulations or new instructions<sup>31</sup> because NADRA needs birth certification from the Union Council, etc.

<sup>31</sup><http://tribune.com.pk/story/1150717/basic-right-ahmadi-christian-marriages-not-registered/>

- Inter-agency coordination which is basically a management issue seems to be problematic area; for instance, NADRA, a federal department working under Ministry of Interior received no instructions from the Ministry, hence the compliance was dissimilar in all offices of NADRA regarding registration of marriages among Christians, Hindus, Baha'i, Sikh and Parsi communities. Even the halfway compliance was because of the Supreme Court verdict. Nevertheless, the situation gives raise to some pertinent questions.
- NADRA is supposed to record and maintain data base of citizens. If it did not imagine that the marriage registration will be a requirement for non-Muslim citizens too like the majority Muslims, it is a serious policy flaw and requiring an investigation for such a serious lapse.
- What can we call such policy lapses if not a diversity blind planning and lack of foresight in framing the local government laws?

The **Federal government** was not only negligent about the compliance of this judgment but also dragged its feet and was found unprepared when the members of opposition sought reply on issues. For example, during the session September 27 to October 2016 session of the national assembly, a question was raised about the extent of abuse of blasphemy laws the **Ministry of Interior** did not provide a substantive response, and did not appear to be aware of or willing to share this information.

Two bills about setting up a National Commission for Minorities and ending forced conversions<sup>32</sup> were introduced in the national assembly by an opposition party, Mr. Sanjay Pervani<sup>33</sup>, as private member's bill. It is not certain if the treasury will support these bills hence the future of a national commission for minorities is unpredictable as yet.

The judgment at hand did not have a specific order about this matter, nevertheless the court had tried to address the issue of forced conversions in the reasoning part of it<sup>34</sup>. Therefore when CMAs were brought the court took cognizance of the matter.

**Mr. Samuel Makson Piyara**, the chairman of Bright Future Society has reported a number of incidents of non-compliance of the judgment particularly regarding the security of places of worship, registration of marriages and payment of compensation to the victims of terrorist attack. Besides Punjab, his home province, he has followed up on the security plans for places of worship in Khyber Pakhtunkhwa and Balochistan as well. He has been part of several meetings with police and administration and the Church leaders. Mr. Piyara said, "I am agitated about the fact the Punjab government presented a view on behalf of the Church leadership in the apex court claiming that Church leaders somehow were not keen about security measures."



Mr. Samuel Makson

<sup>32</sup> FAFEN Parliament Monitor Report 36<sup>th</sup> session <http://fafen.org/wp-content/uploads/2016/10/36th-Session.pdf> and <http://www.na.=2>

<sup>33</sup> A member of national assembly belonging to MQM

<sup>34</sup> Para 15 (e) SMC No. 1/2014 etc

**Table 5. Level of engagement, method and quality of response**

No.	Issue	Response
1.	5% Job Quota	<ul style="list-style-type: none"> <li>• <b>Punjab:</b> The <b>Human Rights &amp; Minority Affairs Department</b> had meeting with <b>Chief Minister of Punjab</b> about protection of the minority rights against the Supreme Court. <b>(Feb. 4, 2015)</b>. Major decisions (I). Revision of the job quota (II). Security of places of worship. Directions to the departments were circulated through the Services and General Administration department.</li> <li>• <b>Balochistan: Religious Affairs and Inter Faith Harmony Department</b> shared that the <b>directions from the department</b> of the <b>Services and General Administration</b> about revised Quota, rose from 3 to 5%.</li> <li>• <b>Sindh: Chief Secretary</b> convened a meeting &amp; discussed the quota for minorities, women and disables. <b>Information and Archives Department Sindh</b> was strictly advised to scrutinize all advertisements for jobs mentioning reserved job Quotas for minorities, women and disabled.</li> <li>• <b>Khyber Pakhtunkhawa: Public Service Commission</b> was directed to revise the job quota for minorities up to 3% though not up to 5% as directed by the court.</li> </ul>
2.	Improvement in Curriculum	<ul style="list-style-type: none"> <li>• <b>Punjab: CM reportedly requested Punjab Textbook Board</b> to revise the curriculum. Textbooks are added with short lessons on peace and harmony for grade 2 -10 in Urdu subject. (Requested not directed).</li> <li>• <b>Balochistan: Religious Affairs and Inter Faith Harmony Department</b> shared that after a detailed deliberation; Education department was asked to arrange separate teachers to teach Ethics and ensure the availability of the Ethics books for the minority students. Exemption of Arabic subject for minorities and to bring changes in curriculum.</li> <li>• <b>Sindh: Education and Literacy Department</b> revision of textbooks underway (unspecific about hate speech and time frame)</li> </ul>
3.	Marriage Registration	<ul style="list-style-type: none"> <li>• <b>Punjab: Human Rights &amp; Minority Affairs Department Punjab and Local Government &amp; Community Development Department</b> (<i>issued license to the pastors and other religious leaders. Marriages</i>).</li> <li>• <b>Sindh government (PA)</b> tabled /passed Hindu Marriage Act 2016.</li> <li>• <b>NADRA</b> introduced <b>system</b> for keeping record for all the citizen of Pakistan including additional information of minorities. For any further changes directions from government were required.</li> </ul>
4.	Establishment of Task Force	<ul style="list-style-type: none"> <li>• <b>Punjab Secretary HR &amp; MA Department</b> (deliberated induction of 13000 personel for Police Task Force, not materialized to date).</li> </ul>

5.	Security of Religious Places	<ul style="list-style-type: none"> <li>• <b>Punjab: Human Rights &amp; Minority Affairs Department</b> IG Police was directed to prepare a list of all <b>religious places of the minorities</b> and share the security plan against which the Police Department deployed police force at the worship places in Punjab.</li> <li>• <b>Sindh: Police department / home department Sindh</b> directed to prepare the security plan for securing places of worship and creation of Police Task Force.</li> <li>• <b>Balochistan: Home and Tribal Department</b> circulated the directions to the <b>Central Police of Balochistan</b> to design and share the security plan. Meetings were conducted with the minority leadership and are in practice on regular bases.</li> <li>• <b>Chief Secretary Balochistan</b> held meetings with members of minority communities.</li> </ul>
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### 11. Other Measures Taken by the Government

On response to question of National Human Rights Council the court was not satisfied whereas, the Federal government had not reported their compliance to the Supreme Court therefore it is not possible to verify how much progress has been made. The Federal Government's compliance reports would have also brought the progress on compliance in the Federally Administered Tribal Areas (FATA), Gilgat-Baltistan as well as the Islamabad Capital Territory, which we do not have information about. Nevertheless, it is possible to include the measures taken by the governments which we consider were meant to enhance the respect for human rights in general and those focused at minorities, beyond the compliance of the orders at hand.

The Provincial and Federal Governments in Pakistan set up a number of human rights institutions before and after the said judgment which, in principle, should contribute to the protections of rights of the people at large including religious minorities. Pakistan has the following human rights institutions, working at various levels: National Commission for Human Rights (2015), Punjab (2013) and Pakhtunkhawa provincial Commission on Status of Women (2009), National Commission on Status of Women (2001), Human Rights Commission of Sindh (2013), Child Protection and Welfare Bureau (Punjab) and Provincial Commissions on Status of Women and, Information Commissions (RTI) in Punjab and Pakhtunkhawa. Balochistan was clearly lagging behind while Sindh lagging in some leading in other area for instituting protection of human rights.

Additionally, the Human Rights Action Plan unveiled in February 2016 promised some specific measures, some of them related to compliance of the judgment at hand. However, on target set by the government itself, the action appears to be lagging behind in the most areas. Let us have a look on the section of Human Rights Action Plan to see where we stand regarding the time line vis-à-vis the expected outcomes cited in the plan.

**Table 6. Measures / Timeframe announced for minorities in Human Rights (National) Action Plan<sup>35</sup>**

<i><b>Thematic Area II, Outcome 2: Protection of rights of minorities</b></i>		<i><b>Deadline</b></i>
i.	Effective operation of an independent National Commission for Minorities (NCM) to monitor violation of minorities' rights through allocation of adequate financial resources as well as placement of technically trained and sensitized human resource.	Dec. 2016
ii.	Formulation of National Policy Guidelines and National Plan of Action for promotion and protection of rights of minorities.	Dec. 2016
iii.	Strengthen and enhance the effectiveness of Interfaith Harmony Committees at the district level with active engagement of the district administration and police and a strong periodic reporting regime for the concerned ministries/divisions/departments.	July, 2016 Onwards
iv.	Effective enforcement of Sections 99-A and 295-A off PPC that are related to criminalize the incitement to religious hatred that leads to imminent violence, including hate speech.	Ongoing
v.	Special security arrangements (Special Police) for protection of places of worship of minorities through adequate deployment of well equipped, trained and sensitized security personnel.	Immediate
vi.	Launching of a <b>comprehensive program/ package for Socio-economic</b> uplift of the members of the minority communities including: <ul style="list-style-type: none"><li>• Increase in funds and number of scholarships</li><li>• Provision of financial assistance to vulnerable groups from minority community, i.e. elderly, widows, orphans, disabled and forced labourers</li><li>• 5% quota for minorities in National Income Support Program and other social safety nets</li></ul>	Immediate
vii.	Ensure enforcement of 5 percent quota for jobs allocated for minorities in letter and spirit.	Ongoing
viii.	Encourage participation and dialogue of political leadership and members of Parliament at national and provincial levels, in festivals of minorities as a gesture of solidarity and giving the importance to the rights of minorities.	Ongoing
ix.	A federal Task Force be established to encourage tolerance and Interfaith harmony.	Immediate

<sup>35</sup> The implementation lagged behind the timeline in the areas marked red and the participation of the civil society organs was not invited to participate in preparation.



It is a good that Human Rights Action Plan (point (i) in the above table) included formation of NCM. However, the question is; why was the federal government insistent before the court that an NCM existed in December 2014. The Court had to question “what type of Commission this was which does not have a permanent Chairman<sup>36</sup>.” The second question is; why didn't the government report compliance when the action plan was made. The inference would be either the relevant ministries did not cater for the judgment and compliance too much or there is some kind of disconnect between ministries.

If the failure of federal government to report compliance to the Supreme Court is taken as an indicator there is a reason to question the commitment as well as capacity of the government to implement the human rights action plan. Secondly, the Federal government's failure to meet the timeframe set forth for the implementation of the measures (Points, i, ii, iii, iv, v, vi, vii, viii and ix of outcomes 2 thematic area 11.)<sup>37</sup> whether it is combating hate speech on the basis of religion or setting up a task force for tolerance and harmony or establishment of the National Commission for Minorities, is particularly noteworthy.

Therefore, the broader question remains; why such good plans suffer inaction and delay. What do we need to do to enable the implementers and decision makers to either comply with court orders as well as fantastic plans put together on paper?

## **12. Conclusion: The Issues Based Assessment of Compliance**

### **a) Victims of bomb blasts in Peshawar**

It would not be wrong to assume that the bomb attacks on All Saints' Church; Peshawar on September 22, 2013 were the key drivers behind this judgment. If implementation of remedial measures announced regarding the rehabilitation of the victims was taken as indicator, the progress thus far is not encouraging.

Rt. Reverend Bishop Humphrey Sarfraz Peters, the Bishop of Peshawar, Church of Pakistan said “We are thankful to the provincial governments of Khyber Pakhtunkhwa and Sindh. Mr. Khurshid Shah, the opposition leader PPP himself came and distributed cheques, however the compensations promised by the Federal Government has not been received by the victims of the All Saints Church attacks. Moreover, some of the victims; individuals and families have not received any compensation at all, though it is a smaller number. For which, we have sent a request through the Deputy Commissioner of Peshawar. A fund of Rs.10 million was promised by the Prime Minister, this promise is yet to be fulfilled.

The Bishop said, “The Special Task Force for the security of the places of worship for minorities has not been established either. For us, it is next to impossible to arrange security guards to protect our places of worship due to high financial costs. It is state's responsibility to give us protection. Government in Khyber Pakhtunkhwa fixed 3% job quota instead of that 5% in the ordered, which also remains to be implemented. Therefore, we request that government should take immediate steps to fulfill its promises and implement the verdict of the Supreme Court.”



**Rt. Reverend Bishop  
Humphrey Sarfraz Peters**

<sup>36</sup> Order Sheet December 16, 2016.

<sup>37</sup> Human Rights Action Plan. <http://www.mohr.gov.pk/>

Mr. Yousaf Benjamin, the Executive Director of Dignity First, stated “The Government of Khyber Pakhtunkhwa extended assistance of Rupees 500,000 to 92 out of 102 who had lost a member received assistance and promised that remaining 10 were government servants, therefore the respective departments will take care of those funds along with service packages.



Mr. Yousuf Benjamin

Families of two have managed to get those compensations after court's interventions. Among those who did not receive the compensation / rehabilitation were three more who were injured and died later due to injuries. Government of Sindh followed a list of 98 victims which was given by government of Khyber Pakhtunkhwa. Out of 98 only 50 - 55 families received the solidarity package of Rupees 500,000.”

**b) Security & Trained Task Force for Protection of Places of Worship**

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 hearings from January to April 2015, the Supreme Court bench kept reminding government to hold meetings with minority communities include missed out places of worships and submit respective security plans and respective lists.

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

The issue of illegal occupation of Krishan Dwara Mandir and Samadhi (Karak) was raised several times during the follow up hearings when repeated\* orders by the Bench were not complied with. The Court ordered a meeting between the applicant (Dr. Ramesh) and the IG Police. The meetings were held but remained inconclusive. The minutes of this meeting<sup>38</sup> reveal that the District Coordinating Officer who travelled all the way from Karak to Peshawar informed the applicant that according to his knowledge the temple never existed. The court was finally obliged to pass orders for Khyber Pakhtunkhwa government to construct the temple and report on October 28, 2015.

In sum, the provincial governments either presented their security plans or took some measures therefore we see an enhanced security which should be read together with declining fire power of extremist groups, though on the other hand the cost of security measures was levied on the concerned communities. The government of Punjab ordered churches and schools in January 2015; to raise walls, affix barbed wire and hire security guards which added economic burden on the minority communities. For instance, a church in Fatimapur District Khanpur in South Punjab was closed for a couple of months because it did not have boundary wall. Another church in Muzaffargarh city was imposed Rupees 50,000 fine because they did not have funds to raise the boundary walls. Such uncanny application of security policy creates resentment and alienation which takes a long time to resolve<sup>39</sup>.

Another measure for assessing the claims can be seen in the effects of actions claimed by the governments. For instance, the

\*Annex 1

<sup>38</sup>The meeting was held on the instructions of the Bench in IG Police's office Peshawar on January 19, 2015.

<sup>39</sup> Interview with Mr. Samuel Piyara. CMA



twin suicide bomb attacks in Youhanabad, Lahore, took place three days after the Punjab government had assured the court about their sound security plans, yet no one has been held responsible for failure of the security plan which entailed over 20 deaths more than 80 injured and violent reactions by the victim community.

### **c) Implementation of Job quota**

Public advertisements by the government departments announced now and then that vacancies for cleaning and sanitation were reserved for non-Muslims<sup>40</sup>. 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 yet most posts are filled by members of religious minorities on menial jobs (peons, cleaners, etc.). 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.

Devoid of a regulatory body and proper legislation the government policy at federal and provincial levels this was perhaps a future foretold for this policy. The government(s) will have to introduce more enabling measures in order to succeed in this policy.

### **d) Curriculum reforms and hate speech in social media**

The Supreme Court judgment apparently was following up its order No. 1 “(introduce) strategy for religious tolerance” in the orders No. 2 and No. 3 (develop curricula at school and college levels to promote a culture of religious and social tolerance) and (take steps to *ensure* that hate speech in social media is discouraged and delinquents are brought to justice), hence made these important practical measures part of the judgment.

The judicial wisdom was guiding the decision makers to take logical steps in their fight against extremism which the latter should have realized the importance of. While Khyber Pakhtunkhwa and Federal government displayed indifference by not making any assurances for compliance, the governments of Sindh Balochistan and Punjab qualified merely 1 out of 5 scores in implementing curriculum reform. Moreover, none of the governments offered proof about the reforming curriculum, beyond issuing the instructions given to departments.

Not only is the Islam only religion taught in the education system of Pakistan it is a compulsory subject. While the new education policy of 2009 added teaching of Nazrah (Quranic text), as compulsory subject from class 3 to 8. The religious lessons make up 20-40 percent of subjects such as languages, (including literature), social studies and even general knowledge. Non-Muslims are obliged to study these subjects which is a blatant violation of the Constitution of Pakistan<sup>41</sup>.

In fact other research<sup>42</sup> on the textbooks suggested that hate speech that has been complained about remains as such and not

<sup>40</sup> Annex 3, 4 and 5.

<sup>41</sup>Article 22(1) of the Constitution of Pakistan states: “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.”

<sup>42</sup>Teaching Intolerance in Pakistan; Religious Biases in Public School Textbooks, Peace and Education Foundation Islamabad, 2016  
[http://www.uscirf.gov/sites/default/files/USCIRF\\_Pakistan\\_FINALonline.pdf](http://www.uscirf.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf)

a sentence of hateful material has been taken out<sup>43</sup>. Nevertheless some lessons on peace and harmony and some showing religious diversity of Pakistan have been added which do not serve the purpose of the order nor a logical and expected outcome.

As far as hate speech against religious minorities', it has changed form and medium but neither the focus nor the substance. The crackdown regarding misuse of loudspeakers in Punjab for instance and printed hate literature in Balochistan failed to show results as the hate mongering adapted to other means such as banners on rickshaws and from open hate enveloped concepts such as apostasy<sup>44</sup>.

#### **e) Task Force for Strategy on Religious Tolerance**

An institutional overlap and the burying of initiatives without completion, is a common practice. We have several ministries assigned to do similar functions and yet none enjoys complete competence. The policy for national harmony was reportedly under construction for some time under Ministry of Religious Affairs. The Ministry for Planning, Development and Reforms opened a Peace Unit some two years ago, the Federal Ministry for Interior, along with respective Home departments, is supposed to facilitate District level Peace Committees alongside implementing National Internal Security Policy<sup>45</sup>. The Federal Ministry for Human Rights has some stakes too. Nonetheless if we were to evaluate all these functions a strategy and infrastructure for peace building are missing elements. Given this, it is no surprise that anything resembling “strategy for religious tolerance” was not shown to the court in past 27 months.

#### **f) National Commission for Minorities**

The orders of the supreme court meant clearly that such institution not only should have a role in overseeing policy and giving policy advice in the matters that concern religious minorities but also see that protections afforded in the constitution are fulfilled. However for past 20 years at least, the successive governments had been claiming at international forums that Pakistan had an independent Commission for Minorities<sup>46</sup>. The Supreme Court orders in 2014 not only exposed the myth but provided government the opportunity to make its claim a reality. However, the opportunity was wasted. As a matter of fact, such a commission would have created the institutional balance an independent state institution which could become minorities voice in public policy.

In September 2016, a member of the opposition party moved a private bill in National assembly for establishing a Pakistani Minority Rights Commission, which serves the purpose of breaking the silence, though chances are bleak that the bill will become a law soon unless the government chooses to introduce a new one or opts to support the existing bill as a treasury bill.

### **13. Protection of the Minorities and Their Rights: The Ways Forward**

Equality of rights or non-discrimination in social and political order is a principle highly valued in Pakistan's constitution and jurisprudence, thus fighting discrimination, in all forms and manifestations, is part of Pakistan's vision as polity and society.

<sup>43</sup> Nayyar, A H, A Missed Opportunity; Continuing Flaws in the New Curriculum and Textbooks After Reforms, Jinnah Institute, 2013

<sup>44</sup> Jacob, Peter, Combating Hate Speech beyond Administrative Measures, 2015. [http://csjpak.org/wp-content/uploads/2016/06/Hate\\_Speech.pdf](http://csjpak.org/wp-content/uploads/2016/06/Hate_Speech.pdf)

\*The first order of the judgment under discussion

<sup>45</sup> <http://nacta.gov.pk/policies/NISP.pdf>

<sup>46</sup> <http://tribune.com.pk/story/1110485/myth-minorities-commission/>

The huge potential of the judgment, apart from the immediate results in the implementation, can contribute immensely to enhancing democracy and promoting more inclusive policies. The conceptual and practical basis of effectively mainstreaming minorities is grounded in affirmative action, a principle of social justice which this judgment upholds.

Fulfillment of the rights of religious minorities is contingent upon an open acceptance of religious diversity and equal status as citizens. Considering the above analysis, the Centre for Social Justice recommends the following measures for give effect to this landmark judgment:

1. The Federal and Provincial governments should consider setting up 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 oriented implementation (compliance) and reporting to the Supreme Court Bench hearing the follow up applications.
2. The case study reveals that there is great deal of lethargy, inaptitude among the implementing bodies; policy vacuums, imbalance of resources and allocations. Hence a revitalization of institutional functions of ministries, department and institutions is necessary for better administration, governance and implementation of rights or justice. CSJ strongly recommends using motivation enhancing sessions for staff and officers of the federal and provincial governments and revitalizing the accountability mechanisms at both tiers (*both Federal and Provincial governments*).
3. 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*).
4. 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*).
5. A due consideration should be given to long history and level of marginalization rather than ratio of population. Khyber Pakhtunkhawa government should consider raising the job quota to 5 % for proactive inclusion of religious minorities in the social-economic mainstreaming of the minorities.
6. It is highly recommended that the government should either support the private member bills introduced in the national assembly Protection of Minorities bill 2016 and Pakistan Minorities Rights Commission 2016 or a consensus bill for passage without further delay (Federal government).

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<sup>47</sup> CSJ defines Social Justice for itself as; “A justice approach that deals with creating and enhancing; equality of rights amongst citizens; opportunities and realization of entitlements given in the domestic and international laws, so that individuals and communities can exercise freedoms meaningfully and to their fullest potential. CSJ regards discrimination, on whatever grounds, the inequality in all forms and manifestation and the denial of rights or infringement of freedoms; as principal causes of deprivation and suffering in the society. Therefore, CSJ advocates for proactive policies for eliminating; institutional and social discriminations, denial of postulated fundamental human rights to end deprivation and underdevelopment.”

The provincial governments should revitalize the role of its provincial departments and ministries for minorities and human rights. Welfare and charity should be assigned to concerned departments while these ministries should focus on the agenda for human rights and justice.

7. At present the government has marginalized NGOs, both through disproportionate or invasive levels of scrutiny, and has allowed smear campaigns to go unaddressed. Their resources, personnel and material are under constraint, the government must try to control this process of self isolation locally and internationally because the governments alone cannot handle fulfillment of rights single-handedly and without the support of NGOs and civil society at large. It is important that the government involves the minority communities and the NGOs in planning as well as implementation the agenda of the judgment (mainly *Federal government*).
8. The Civil Society Organizations should carry out better monitoring of progress on the judgment i.e. the measures taken by the government, departments etc., and follow ups on the court proceedings.
9. The Civil Society Organizations themselves should make effective use of the unique complaints mechanism and engage in advocacy of rights of minorities more effectively.
10. The stakeholders among minority communities need to develop closer collaboration among each other and overcome the weaknesses regarding monitoring, implementation and representation in the court.
11. The jurisprudence developed in the judgment should be applied beyond administrative remedy, specifically to understand the importance of affirmative action in social and political transformation of Pakistan. A discourse based consciousness for inclusive, pluralistic policies should be seen as important objective of the compliance of the judgment. Hence political parties, lawyers and journalist organizations must engage in serious conversation about the essence of the judgment for enhancing the scope and quality of democratic process.
12. Progress of the peoples is unimaginable without good governance and institutional reforms in Pakistan, therefore the gaps and challenges identified in this analysis should be used for enhancing institutional performance, compliance to the court orders and accountability of the administration before the law.
13. It is highly recommended and expected that the Federal government should report compliance including FATA and Gilgat Baltistan.
14. Removing hate speech particularly against the religious minorities for their protection and equal rights as well as for countering violent extremism and radicalization of youth. The Federal government and Provincial governments should revise the curricula and textbook for schools and colleges in their jurisdiction to introduce changes that should include; a) allowing students from religious minorities to study their own religion in lieu of Islamiat or ethics, removing any discrimination in learning and grading, admissions and treatment of students belonging to religious minorities.

15. The security of places of worship and minority settlements have been at risk due to two phenomenon; a) 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.
  - a. The task force for religious and social tolerance ought to be an empowered, independent, well- resourced and permanent federal body that should include the social, cultural and religious diversity as well as experience in different fields particularly in peace-building and conflict resolution.
  - b. The task force for security (like police) should be set up with training involving the conceptual training about conflict prevention, conflict resolution besides the physical training for managing security. This task force should be set up by the provincial governments and 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 other community service such as giving first aid, vaccination and adult literacy.
16. Considering the workload and limitations of the litigants in travel and expenditures, etc. the honourable Supreme Court may also consider delegating some of the functions regarding entertaining petitions concerning compliance of this judgment to honorable High Courts.

## Annexes

### Annex -1. A summary of supplementary orders / directions passed by the Bench for compliance.

Federal/ Provincial	Order
Federal	<ol style="list-style-type: none"> <li>1. Appointment of Chairperson for National Commission on Minorities</li> <li>2. Report on Compensation paid to victims to Peshawar Church attack</li> <li>3. Hindu marriage bill placement before cabinet</li> <li>4. Meeting with Hindu and Christian leader regarding security</li> <li>5. Hindu marriage bill submission</li> <li>6. Reply the questions for job quotas, security of places for wor ship, NADRA marriage registration</li> <li>7. Comprehensive report on steps taken for implementation</li> <li>8. Attorney General presence in next meeting</li> <li>9. Response against Dr. Ramesh points regarding force conversion and kidnapping of Hindu girls</li> <li>10. Submission of Compliance report</li> <li>11. Reply the complaint about hate material</li> </ol>
Joint: Federal and Provincial	<ol style="list-style-type: none"> <li>1. Comprehensive report on steps taken for implementation</li> <li>2. Application for non-compliance</li> <li>3. Chief Secretaries and Advocate General presence in next meeting</li> <li>4. Response against Dr. Ramesh points regarding force conversion and kidnapping of Hindu girls</li> <li>5. Submission of Compliance report</li> <li>6. Reply against complaint of hate material</li> </ol>
Govt. of Sindh	<ol style="list-style-type: none"> <li>1. Report implementation of Job Quota</li> <li>2. Meeting with Pakistan Hindu Council regarding protection of minorities</li> <li>3. IG Police Sindh to present a report on Dr. Ramesh's complaint regarding kidnaping and force conversion</li> <li>4. Christian community involvement in curriculum reforms</li> <li>5. Worship place security</li> <li>6. Pass a resolution to facilitate federal legislation for Hindu Marriage bill</li> </ol>



Govt. of KP	<ol style="list-style-type: none"> <li>1. Conduct a meeting with Chief Secretary KP, IG Police, AG</li> <li>2. Report on implementation of 5% Job Quota for Minorities</li> <li>3. Respond to Dr. Ramesh Kumar's application to resolve issue regarding Temple in Karak</li> <li>4. Present documents of compensation paid to victims of Peshawar Church attack</li> <li>5. Reminder for endowment fund and compensation amount to the victims, one more week given to submit report to SC and deputy Advocate General KP</li> <li>6. Take action for reconstruction of Hindu temple Karak</li> <li>7. Include the missed out place of worship in security plan</li> <li>8. Christian community involvement in curriculum reforms</li> <li>9. Provincial government directed to start reconstruction of temple in Karak within two weeks</li> <li>10. Establish endowment fund and report in two weeks</li> <li>11. Security plan must be submitted before next hearing</li> <li>12. Pass a resolution to facilitate federal legislation for Hindu Marriage bill</li> <li>13. Occupation of Krishan Dawara Mandir and Samadhi (Karak) be readdressed</li> <li>14. Submit compliance report on reconstruction of Mandir</li> </ol>
Govt. of Punjab	<ol style="list-style-type: none"> <li>1. Submit report on finalization of setting up task force for security of places of worship</li> <li>2. Meeting is held with Chief Minister Inspector General police, Chief Secretary of Punjab to finalize security plan</li> <li>3. Submit report regarding task force, 5% Job quota, amendments in the curriculum</li> <li>4. Respond against Mushtaq Gill's complaint on 5% job quota</li> <li>5. Security plan be prepared for all places of worship / submitted to the court</li> <li>6. Submit reply regarding registration of Christian marriage</li> <li>7. Pass a resolution to facilitate federal legislation for Hindu Marriage bill</li> </ol>
Govt. of Balochistan	<ol style="list-style-type: none"> <li>1. Arrange meeting with Hindu and Christian Community leaders regarding security</li> <li>2. Submit security plan for places of worship</li> <li>3. Submit reply regarding registration of Christian marriage</li> <li>4. Pass a resolution to facilitate federal legislation for Hindu Marriage bill</li> <li>5. Present a more comprehensible report on reconstruction of Mandir</li> </ol>
NADRA	<ol style="list-style-type: none"> <li>1. NADRA should comply with marriage registration issues</li> <li>2. Serve notice to NADRA for the next date of hearing regarding the issue of registration of Christian marriage</li> <li>3. Reply to applicant regarding registration of Christian marriage</li> </ol>



## Annex-2

**Note:** While these tables recorded encouraging actions taken by respective governments that were reported to the court, for the sake of uniformity only those actions have been scored which came in response to specific orders given by the court in original orders of June 19, 2014. Those excluded from scoring are marked **NR** (not ranked). The claims of compliance without statistics about compliance was verified through the trends on the ground which includes the reports of violations

### 2.1 Punjab in compliance: 8 /25

Area of Compliance/ Order	Compliance reported in Supreme Court	Situation on the ground	Score
5% Job Quota	<p>5% quota for the minorities advertised for all posts. If no candidate is found eligible the posts would be reserved for the next recruitment process.</p> <p>Directions from CM conveyed to Higher Education Department for allocating 5% minority quota.</p> <p>IG police reported 5% quota is being provided in recruitments of district police.</p> <p>On the contrary: Provincial Government of Punjab provided list according to which 2% employees have been inducted in the government service</p> <p>CMA No.1184/2015 &amp; C.M.A No. 5872/2014 &amp; 163/2014</p>	<p>In principle: There is no regulatory body / comparable statistics therefore claims by the government cannot be verified. Gaps identified by applicants in the Supreme Court.</p> <p>The department of minorities affairs verbally claimed to have achieved 60 % implementation of job quota though could not make the statistic available on request.</p> <p>In the SC however the government reported 2% Implementation (No.CMA 163, order January 13, 2015)</p>	2.5
Removal of hate speech in Curriculum	<p>Punjab text book board by CM directed to bring about necessary changes in the curriculum relating to minorities.</p> <p>CMA.No.1184/2015 &amp; C.M.A No. 5872/2014 IN S.M.C No. 01 of 2014</p>	<p>Hate material not removed NCJP – USCIRF research. (Punjab, set up an education commission (2010), Curriculum Reforms Authority (2012) without a progress on reforms till date.</p>	1

Security of the worship places of the Minorities	<p>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 Task Force.</p> <p>CMA No.1184/2015 &amp; C.M.A No. 5872/2014 IN S.M.C No. 01 of 2014</p>	Yuhannabad bomb attacks took place – Punjab government also reported that church leaders do not need “other (security) force” (CMA. 1843 7 September 2015)	2
Marriage registration with NADRA	<p>The list of all license holders (pastors) circulated by the LG&amp;CD Department of respective districts to facilitate registration of marriages at Union Councils and with NADRA. Lists are being revised whenever new license is issued. 155 Pastors and Bishops already stand registered in 20 Districts and the marriages are duly registered under the Punjab Local Government Act and the rules framed thereunder. Although NADRA reported that they changed their data entry template to register marriages contracted among non-Muslims, NADRA also responded in Supreme Court that without the amendment by the provincial government in the law and rules regarding the registration of Marriages and other related matters of the minorities NADRA would not be able to bring any changes on its own.</p> <p>CMA No.2565 IN 1151 /2015 IN S.M.C No. 01 of 2014</p>	NADRA expressed limitations about registering the marriages, etc. in the absence of provincial legislation (Supreme Court on 13 January 2015) however on the direction of the Court produced record on 15 April 2015 that marriages among Christians, Hindus, Sikhs and Bahais were being registered (CMA 1844) refuted the claim by the Punjab government	NR
Curtail Hate speech – punish delinquents	Compliance not reported	Steps taken from January 2015 onwards, Misuse of loudspeakers, etc.	2.5

## 1.2. Balochistan in compliance 13/25

Area of Compliance/ Order	Compliance reported in Supreme Court	Situation on the ground	Score
5% Job Quota	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. 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 Balochistan. (CMA No.7254/2015 & 158/2015 & 6617/204 IN S.M.C No. 01 of 2014)	Step confirmed by minority members and media report and petitioners.	5
Removal of hate speech in Curriculum	<p>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 from Jan - November 2015 took action against the publisher and individuals spreading hate material in the province* Ref. CMA No.158/2015 &amp; 6617/2014 &amp; 8883/2015 &amp; 6262/2014 IN S.M.C No. 01 of 2014</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 NCJP <sup>1</sup> USCIRF. <sup>2</sup>	1

<sup>48</sup> <https://www.thenews.com.pk/print/109146-To-remove-hate-material-from-curriculum-us-vs-them-philosophy-needs-to-go>

<sup>49</sup> “Teaching Intolerance in Pakistan”, Peace and Education Foundation, Islamabad, 2016.

[http://www.uscifr.gov/sites/default/files/USCIRF\\_Pakistan\\_FINALonline.pdf](http://www.uscifr.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf)

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 &amp; Order situation. The police department deployed police personnel at 154 places of the minorities in 23 districts of six regions.</p> <p>Four volunteers from minority communities will be trained / deployed with the police to assist them during the prayer and worship at churches and temples in Quetta.</p> <p>Ref. CMA No.7254/2015 IN S.M.C No. 01 of 2014</p>	The security measures cannot be considered sufficient, as three attacks on Shia Hazara pilgrims during 2014-2015 claimed 63 lives, and dozens injured. <sup>1</sup> Claims that tasks force established is incorrect	3
Legislation for Marriage laws registration with NADRA	<p>Provincial Assembly passed a constitutional resolution to empower the national parliament for enactment regarding Hindu marriage in pursuance of the article 144 of the Constitution.</p> <p>CMA No.5664/2015 IN S.M.C No. 01 of 2014</p>	Though pragmatic, the manner of compliance shifted the responsibility to Federal government, the net result is legislative control and responsibility shifted to Federal Government.	NR
Curtail hate speech and punish delinquents	Compliance reported	First province to launch action	4

### 1.3. Sindh in compliance: 10.5 /25

Area of Compliance/ Order	Compliance reported in Supreme Court	Situation on the ground	CSJ's Assessment
5% Job Quota	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 disables. CMA No.6262/2014 & 5872/2014 IN S.M.C No. 01 of 2014.	No data provided showing the results of the letters issued by the Govt.	4
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 considering the minorities. The Quranic text will be included in Islamiyat and not in Urdu, Sindhi and any other subject. CMA No.6262/2014 & 5872/2014 IN S.M.C No. 01 of 2014	Arrest was 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. <sup>1 2</sup>	1
Security of the places of Worship of the Minorities	Security Plan discussed with the minority representatives. 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 enforcing agencies that the government will not tolerate slackness in registering criminal cases against the desecration of the places of worship of minorities.  CMA No.6262/2014 & 5872/2014 IN S.M.C No. 01 of 2014	Cases of several temples and YMCA pending where land has been 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 police <sup>3</sup>	2.5

<sup>50</sup> <http://www.bbc.com/news/world-asia-27757856> and The state of Human Rights 2015, annual report of HRCP 2015, p. 59.

#### 1.4. Khyber Pakhtunkhawa in compliance: 9.5 /25

Area of Compliance/ Order	Compliance	Situation on the ground	CSJ's Assessment
1. Funds for the compensation of the Peshawar Church bomb blast victims	Government contributed to the endowment funds for the victims of Peshawar suicide attack and distributed the amount - promised funds from Federal Government have not arrived.  CMA No. 5872/14 & CMA No. 6262/2014 IN S.M.C No. 01 of 2014	There were a few victims who did not receive the compensation. Shuhda fund constituted, however the KP government awaits funds Federal government	NR
2. Marriage registration with NADRA	NADRA has submitted the reply for compliance.  CMA 6262/2014 IN115/2015 IN134/2015 IN S.M.C of 2014	No proactive measure by the government	NR
3. Security of the religious places of the Minorities	Government collected record of places of worship of the minorities. More shall be brought on record to provide security to all such places. Establishment of Police Task Force was under active consideration and the financial impact of the creation of Police Task Force is being examined. (comment / analysis, the governments should have come clear before the Supreme Court on whether raising a Task Force was feasible and if not what alternative plans would the government take to meet the security concern/ needs) CMA No. 5872/14 & CMA No. 6262/2014 IN S.M.C No. 01 of 2014	In the challenging situation the measures taken qualified due diligence.	4
4. Reconstruction of Mandir	Government submitted the report for the reconstruction of the Hindu Temple at Karak against the CMA. No 1109/2015. In a meeting with local Ulma (Clerics) it was decided that the issue will be settled in a local community meeting. CMA No. 5872/14 & CMA No. 6262/2014 IN S.M.C No. 01 of 2014	Late compliance after a hectic efforts by the Hindu / human rights activists	3
5. Curtail hate speech /punish delinquents	Curtail hate speech /punish delinquents	Some action on the ground -	2.5

<sup>51</sup> <http://www.dawn.com/news/1181357> ,


<sup>52</sup> <https://www.thenews.com.pk/print/40784-let-education-live>

<sup>53</sup> Mr. Deewan Satish Kumar (17) was killed and Mr. Avinash was badly injured on July 26, 2016.


<http://www.dawn.com/news/1273509>



Annex -3. Government's Punjab Institute for Cardiology published corrigenda after advertising jobs for sanitary workers only for Non- Muslims. However, there is no proof yet that the discriminatory practices in employment have ended.



**PUNJAB INSTITUTE OF CARDIOLOGY  
LAHORE**



**ANNOUNCEMENT OF VACANCIES**

The Punjab Institute of Cardiology has authorized NTS for the recruitment process against vacant posts **on contract basis** for one year (extendable on satisfactory performance). The NTS invites applications from suitable candidates for the following categories:

S#	Name of Posts	Qualification / Experience	No. of Post	Age of Recruitment	
				Min	Max
1-	Lift Operator (BS-03)	Middle with one year experience in relevant field.	04	18	25
2-	Ward Boy (BS-01)	Middle school certificate from a Government recognized school.	30	18	25
3-	Sanitary Worker (Male) (BS-01)	Primary school certificate from a recognized school. <b>*Only Non-Muslim</b> Persons who belong to Minorities will be accommodated*	35	18	25
4-	Sanitary Worker (Female) (BS-01)	Primary school certificate from a recognized school. <b>*Only Non-Muslim</b> Persons who belong to Minorities will be accommodated*	35	18	25
5-	Security Guard (BS-01)	Primary School Certificate from a recognized School	20	18	25
6-	Aya (BS-01)	Middle School Certificate from a recognized School	20	18	25

**Annex-4. Advertisement by Nishtar Hospital showing vacancies for sweepers reserved for minorities.**  
(Daily Express – Multan Jan. 12, 2016)

اشتہار برائے خالی آسامیاں، نشتر ہسپتال، ملتان					
نشتر ہسپتال، ملتان میں خالی آسامیاں پر کرنے کے لئے کنٹرول ٹیکٹ کی بنیاد پر موزوں امیدواروں سے درخواستیں منظور ہیں۔					
نمبر شمار	آسامی	تعداد آسامی	بنیادی سہ سکیل	تعلیمی قابلیت	مرحہ کی حد
1	دارالکثیر (مرحہ)	27	01	(غل اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے	25-15 سال
2	دارالکثیر (مرحہ)	27	01	(غل اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے	25-15 سال
3	سویہ (مرحہ)	08	01	(ہم بکری اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے۔ (صرف غیر مسلم اور اقلیت کیلئے)	25-15 سال
4	سویہ (مرحہ)	02	01	(ہم بکری اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے۔ (صرف غیر مسلم اور اقلیت کیلئے)	25-15 سال
5	سینئر ڈاکٹر (مرحہ)	02	01	(ہم بکری اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے۔ (صرف غیر مسلم اور اقلیت کیلئے)	25-15 سال
6	سینئر ڈاکٹر (خاتون)	02	01	(ہم بکری اسکول بریلیٹ) گورنمنٹ کے مندرجہ شدہ ادارے سے۔ (صرف غیر مسلم اور اقلیت کیلئے)	25-15 سال

**نوٹ:** اوپر دی گئی آسامیوں کی تعداد میں کمی بیشی ہو سکتی ہے۔

مغربی کی شرائط اور ملازمین کی خصوصیات: 1۔ گزادہ برطانوی سکول آسامی ہوگی۔ دیگر شرائط بعد از حیثیاتی حکومت پنجاب کی ضرورت پر موجودہ وضع کردہ مغربی پابندی و قانون کے مطابق حیثیاتی کے ادارہ میں درج ہوگی۔ 2۔ کازمت کا دورانیہ کنٹرول ٹیکٹ کی بنیاد پر ایک سال کیلئے ہوگا۔ 3۔ درخواست (فارم) بعد دو ہجہ پانچواڑ سالہ تصاویر و تصدیق شدہ اہلکار کے ساتھ میڈیکل سہ سکیلز نشتر ہسپتال، ملتان کے دفتر میں ضرور درج تک جمع کروانی ہوگی۔ 4۔ بر آسامی کیلئے ٹیبلڈ و درخواست بعد مطلوبہ کازمت دینے ہوئے ہوگا۔ 5۔ کازمت کی پیمائش یا پہلی ہونے کی صورت میں امیدوار بالائے طور ہجہ ادارہ قانونی کارروائی کا چلچلی۔ 6۔ ملتان ضلع کے کنٹرول امیدواروں کو ترجیح دی جائیگی۔ 7۔ مصطفیٰ کی صورت میں پنجاب کے رہائشی ڈومیسائل رکھنے والے کو ترجیح دی جائیگی۔ 8۔ میرٹ لسٹ گورنمنٹ کے مقرر کردہ قوانین کے مطابق بنائی جائے گی۔ 9۔ درخواست دینے کی آخری تاریخ اور درخواست کی تاریخ میڈیکل کے مطابق ہوگی۔ درخواست کیلئے ٹیبلڈ کا پلر جاری کیے جانے کے پانچویں دن اور درخواست کے آنے کے بعد کازمت کی فرم چیک کیلئے دیا جائے گا۔ 9۔ نوٹ: اگر وہ امیدوار اپنی نام و اصل اہلکار اور دیگر کازمت فراہم کرنا چاہیں گے تو اصل اہلکار ہونے کی صورت میں امیدوار کو کوئی قطع نظر سے قبول نہ ہوگا۔ 10۔ خواتین کا کوڈ 15% ہوگا۔ 11۔ اقلیتی امیدواروں کا کوڈ 5% ہوگا۔ 12۔ 3% کوڈ مسلمان اہلکار کیلئے مختص کیا جائے گا جو کہ کازمت میڈیکل اور کازمت جاری کردہ موزوں بریلیٹ بھی چل کر ضروری ہوگا۔ 13۔ 20% کوڈ سبیل 46+ حاضر رہاں جو کہ صحت کے لحاظ میں جو کہ مندرجہ بالا تعلیمی قابلیت کی شرائط پوری کرتے ہوئے کیلئے مختص ہوگا۔ 14۔ میڈیکل کے بعد منتخب امیدواروں کی دستاویزات verify کروائی جائیں گی۔ دستاویزات کیلئے ملتان ضلع کی صورت میں فوری سے درخواست کر دینا ہوگا۔ ادارہ اس کے علاوہ قانونی کارروائی میں مل لائی جائے گی۔ 15۔ گورنمنٹ کے قوانین کے مطابق عمر کی بالائی حد میں 5 سال کی رعایت ہوگی اور خاتون کی عمر کی رعایت 8 سال ہوگی۔ 16۔ سرکاری رہنم سرکاری و حکومتی اداروں کے لحاظ میں اپنے اپنے مندرجہ فہرستوں کی وساطت سے درخواستیں بعد NOC ارسال کریں۔ ملاصورت فراہم کرنے پر امیدوار بالائے طور ہوگا۔ 17۔ اگر وہ کنٹرول ٹیکٹ کیلئے ملتان ضلع اور امیدوار کو قانونی کارروائی کا اختیار حاصل نہ ہوگا۔ امیدواران برطانوی درج بالا اہلیت اپنی درخواستیں دفتر ملازمین مورہ 30-01-2016 ہفتہ 3 بجے سے پیر تک جمع کر سکتے ہیں۔

**Annex-5 Advertisement by National Institute of Science and Technical Education showing vacancies for sweepers reserved for minorities. (*Daily Jhang – Rawalpindi Oct. 16, 2016*)**

[illegible]





## JUSTICE FOR ALL

THE TOIL, THE SWEAT, THE TEARS AND THE BLOOD,  
MAKE UP THE LABOR FOR THE LAND BEGOT.  
THE FREEDOM IS WON, BUT THE CHAINS ARE CLUNG,  
THERE ARE MILES TO COVER,  
THE VOYAGE IS TOUGH AND THE WEATHER IS ROUGH,  
THE ODYSSEY BEGINS; THE FOUNDER DECLARES HIS VISION  
OF DEMOCRACY, FAITH, TOLERANCE AND COMPASSION.  
DISCRIMINATE THE STATE SHALL NOT  
THOU MAY BELONG TO ANY RELIGION, CREED OR CASTE.  
OH! THE VISION IS DISTORTED, THE MARCH IS THWARTED,  
CASTLES IN THE SAND, BABES IN THE WOODS,  
RECIPES OF FALL ABOUND IN THE BOOKS.  
THE NATION IS CUT, THE LAND IS BLED  
WHEN THE MESSAGE IS LOST, A DIE IS CAST,  
THE WAGES ARE LOUD, BEWARE OF THE CLOUDS.  
LONG LIVE THE MESSAGE, THE LAMP AND THE RAYS  
THAT GLOW THE TEMPLE, WHICH HOLDS THE SCALES,  
PINNING THE DREAMS, THE HOPES AND THE OATH  
OF JUSTICE FOR ALL.

TASSADUQ HUSSAIN JILLANI, JUSTICE (R)

THE POEM WAS DECALED JUDICIAL ANTHEM BY THE FULL COURT AND HAS BEEN ADOPTED BY THE  
PAKISTAN BAR COUNCIL AS ITS THEME SONG FOR ITS FUNCTIONS.



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