

## A joint submission by CSOs in Pakistan

Under UN HRC resolutions 5/1, and 16/21, and Decision 17/119

For Pakistan's 3<sup>rd</sup> cycle review in the

Working Group on the Universal Periodic Review / 28<sup>th</sup> session

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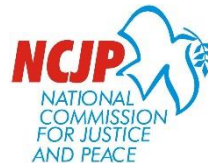
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*The Centre for Social Justice (CSJ) is a research and advocacy organization focusing protection and promotion of human rights; peace-building; democratic development and social justice for people in general and marginalized groups in particular. Besides engaging in UN based international advocacy, CSJ participates in policy dialogue with government departments, different government ministries at provincial and federal level Pakistan, national human rights institutions and civil society stakeholders since 2014.*

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## 1. Introduction

This CSOs submission (hereinafter, report) focuses particularly on right to freedom of religion or belief and rights of religious minorities, inter alia, the obligations of the state party defined in Article 18 of UDHR, Article 18 of ICCPR, and Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, in addition to obligations of Government of Pakistan (GoP) under Articles 20 and 25 of the constitution of Pakistan.

Under the above mentioned domestic and international law, Government of Pakistan is obliged to ensure; a) that all legal and administrative hurdles that restrict practice of freedom of religion or belief are removed; b) the causes, inter alia, the legal framework, public policies, social order and norms that restrict or infringe upon these rights, are addressed.

The report refers to solemn pledges and commitments made by GoP before the 2006<sup>1</sup> and 2009<sup>2</sup> elections for the UN HRC, recommendations of previous UPRs, and recommendations from Treaty body reviews as well as Special Procedures.

This report of the CSO stakeholders includes a catalog (annex) that records the recommendations of the previous UPR in relation to the focus of this submission and the progress made by the GoP since the last UPR in 2013.

Besides official data, the report relies on data gathered by independent sources: credible media reports, international and national organizations. The assertions made here, were verified and cross-checked for accuracy.

In order to prepare this submission, CSOs in Pakistan held four meetings in 2016 and 2017 to discuss the division of work as well as the content of this submission. The draft was prepared and circulated by Centre for Social Justice (CSJ), while later finalized and endorsed by following organizations; Association for Women's Awareness and Rural Development (AWARD), Association of Women for Awareness and Motivation (AWAM), Awami Workers Party, Blue Veins, Bolo Bhi, Bytes for All (B4A), Catholic (National) Commission for Justice and Peace (CCJP), Christian Study Centre (CSC), Democratic Commission for Human Development (DCHD), Pakistan Institute of Labour Education and Research (PILER), Punjab Union of Journalists (PUJ), Rights Now Pakistan, South Asia Partnership – Pakistan and Sustainable Development Policy Institute (SDPI).

## 2. Constitutional framework for Freedom of Religion or Belief

1. The legal framework defined by the constitution provides some protections for Freedom of Religion or belief; however, it leaves a wide gap of protection for religious minorities. Article 1 and Article 2 and 2-A, declare Pakistan an Islamic republic and Islam as the state religion. Human rights experts such as; Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir considers this to be problematic.

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<sup>1</sup> <http://www.un.org/ga/60/elect/hrc/pakistan.pdf>

<sup>2</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/62/808&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/62/808&Lang=E)

2. The Special Rapporteur stated, "The principle of freedom of religion or belief, as enshrined in international human rights law, is difficult to reconcile with a formal or legal distinction between different kinds of religious or faith-based communities insofar as such a distinction in their status must imply a difference in rights or treatment, which may, in some cases, constitutes discrimination that is incompatible with the exercise of human rights".<sup>3</sup>
3. Articles 7 to 28 elaborate different areas of rights of citizens, article 20 deals with religious freedom, which ensures profession, practice and propagation of religion. On the other hand, there are several embedded discriminations such as; preferential space for the majority religion, Article 31, which entrusts the government to promote an Islamic way of life and promote Islamic studies, and the Federal Shariat Court established under Article 203 E, where non-Muslims cannot represent as lawyers.
4. The constitution of Pakistan also bars election of any non-Muslim citizen for the office of President (Article 41(2)) and Prime Minister (Article 91 (3)) of the country which makes them a second class citizen for all practical purposes.
5. The freedom of speech and expression is guaranteed through Article 19 though subject to imposition of restrictions in the interest of "the glory of Islam". Such a restriction is discriminatory in a multi-religious context and may be even beyond the comprehension of religious minorities.
6. Article 36 that addresses protection of minorities, states "The State shall safeguard the *legitimate* rights and interests of minorities, including their due representation in the Federal and Provincial services." The condition of *legitimacy* for minorities' rights alone is discriminatory.
7. Given this framework GoP needs to set out a timeframe for bringing about equality of rights in the domestic framework of constitutional rights, which will enable GoP to comply with its international obligations to respect, protect and fulfill human rights.

### **3. Measures for compliance of human rights: Challenges and shortcomings**

8. CSOs appreciate that GoP has begun reporting to treaty bodies though more substantive and more objective reporting is recommended for improving compliance on the commitment to human rights. CSOs also note that the Special Rapporteur on Freedom of Religion or Belief made request for a country visit in 2006 and reminders in 2013 and 2015 which GoP has not entertained as yet. 15 such requests from different mandate holders were pending including one from Independent Expert on Minority Issues till March 2017, despite reminders.

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<sup>3</sup> Para 94, E/CN.4/2004/63/Add.2 Report on the visit to Romania.

9. CSOs welcome the following measures taken by the GoP: **a) Establishing** various human rights bodies including the National Commission for Human Rights in 2015; **b) Legislating:** The Sindh Hindus Marriage Act, 2016, The Hindu Marriage Act 2017; and other measures that aim to foster respect for human rights in general and policy repose such as: **c) Preparation** of Action Plan for Human Rights 2016 and provision of welfare packages for minorities by provincial governments. Nevertheless CSOs would like to point out following challenges and areas needing attention to make a speedy progress on the ways forward.

### 3.1. Blasphemy laws

10. Pakistan's blasphemy laws include; Sections 295-B, 295-C dealing with offenses of desecration of the Holy Quran and insult against Prophet Muhammad respectively, while Section 298-A deals with insult against companions, family members, caliphs and wives of the Prophet Muhammad (PBUH). Sections 298-B and 298-C directly place restrictions on Ahmadis for propagating their faith, etc. which discourages genuine expression of faith by all minorities. These laws were inserted in the Pakistan Penal Code during 1980 and 1986 by a military dictator.
11. CSOs acknowledge that the GoP recently passed Criminal Law (Amendment) Act 2017<sup>4</sup>, to penalize abuse of blasphemy laws, sectarian hate speech, forced marriage of non-Muslim women, etc. The Act amends sections; 182 (falsification), 298 (hate speech), 498 B (forced marriage) of the Pakistan Penal Code, etc. However, the amendment appears to be insufficiently equipped to address the issue because it neither changes the text of the problematic provision of the Pakistan Penal Code, nor did the legislation accompany proper debate in the parliament that could educate public opinion on the matter.
12. Even though the Supreme Court of Pakistan commented that "criticizing blasphemy laws, human-made laws – cannot be considered commission of blasphemy",<sup>5</sup> the Government failed to use this opportunity to educate masses on the issue.
13. For decades, the Government has failed to provide comprehensive data and analysis of the blasphemy laws in use, though recently (2016) Amnesty International reproduced data provided by province (Punjab) in its research report "*As Good as Dead-The Impact of Blasphemy laws in Pakistan*".<sup>6</sup> The data showed that 1296 cases involving 2299 accused were registered under blasphemy laws during 2011 - 2015 in Punjab province alone; 1530 accused were arrested and 255 accused were declared innocent; 267 were declared proclaimed offenders, and 247 were at large.

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<sup>4</sup> [http://www.na.gov.pk/uploads/documents/1487652645\\_471.pdf](http://www.na.gov.pk/uploads/documents/1487652645_471.pdf)

<sup>5</sup> Justice Khosa in CrI.A.210 and 211, 2015, Malik Muhammad Mumtaz Qadri Vs. State, <https://www.dawn.com/news/1211047>.

<sup>6</sup> <https://www.amnesty.org/en/documents/asa33/5136/2016/en/>

14. The International Commission of Jurists (2015) in its research study *“On Trial: The implementation of Pakistan’s Blasphemy Laws”* showed that 19 out of 25 acquittals under Section 295-C, were because the High Court (appellate jurisdiction) found the charges to be: “fabricated complaints, malice or personal vendettas”, nine were acquitted because of procedural flaws in prosecution and investigation, and two on grounds of insanity.<sup>7</sup>
15. The ICJ report noted that “proceedings under blasphemy charges suffer from undue delay—proceedings in trial courts can take, on average, three years, and appeals can take even longer, more than five years on average. Individuals detained, pending trial or convicted for blasphemy are often kept in prolonged solitary confinement, at times, over a number of years”.
16. Thousands of persons have been jailed, subjected to unfair trials and self exile. Hundreds of properties worth millions of rupees, particularly houses and places of worship belonging to Christians and Hindus, have been destroyed. Over 60 persons have been killed after allegations or suspicion of religious insult. Several so-called religious groups have carried out heinous crimes using blasphemy as pretext.
17. Another research study carried out by Legal Aid Society, Karachi showed that: “The majority of blasphemy cases were based on false accusations stemming from property issues or other personal or family vendettas rather than genuine instances of blasphemy and they inevitably lead to mob violence against the entire (minority) community”.<sup>8</sup>
18. As early as 1995, the UN Special Rapporteur on Religious Tolerance had warned GoP about such abuse, and recommended to “substantially amend blasphemy laws” in the country reports after his visit to Pakistan.<sup>9</sup> In 2011, the UN Human Rights Committee called upon states having blasphemy laws to review them in the General Comment 34, para 48, stating that “blasphemy laws, are incompatible with the Covenant (ICCPR), except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant”.<sup>10</sup>
19. The GoP rejected all the recommendations made during previous UPRs of Pakistan (2008 and 2012), about “establishing (principle and practices) of non-discrimination” and “to foster religious tolerance and peace” and “repeal or amendment to blasphemy laws”.
20. Two UN treaty monitoring committees; the CRC and CERD during treaty reviews in 2016 made specific recommendations as well. CRC urged GoP to:

“(a) Protect the freedom of religion of all children, including Shia Muslim, Hindu, Christian and Ahmadi children, and ensure that children are able to choose their religion, or not to profess any religion at all, including in schools;

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<sup>7</sup><https://www.icj.org/pakistan-trials-for-blasphemy-fundamentally-unfair-icj-new-report/>

<sup>8</sup> In ICJ, report p. 25. <https://www.icj.org/pakistan-trials-for-blasphemy-fundamentally-unfair-icj-new-report/>

<sup>9</sup> E/CN.4/1996/95/Add.1, para. 81.

<sup>10</sup> CCPR/C/GC/34

(b) *Review and repeal its blasphemy laws to avoid their misuse or misinterpretation and ensure that children under the age of 18 years are exempt from criminal responsibility for such crimes;*

(c) Remove all derogatory statements about religious minorities from school textbooks and promote the teaching of tolerance, non-discrimination and human rights.”<sup>11</sup>

21. CERD recommended GoP “to review or repeal its blasphemy laws that go against freedom of expression and religion, as established in the Constitution (of Pakistan), and take all measures necessary to prosecute and punish those who have made false accusations and to provide effective remedies to the victims of false accusations, and take all measures necessary to protect the judges who hear blasphemy cases and those accused of blasphemy.”<sup>12</sup>

22. A denial of fact and refusal to accept aforementioned recommendations has entailed grave costs in enormous suffering for the people at large and religious minorities in Pakistan specifically.<sup>13</sup>

### **3.2 Hate Speech and Religious Discrimination in Education System**

23. GoP’s report to Human Rights Committee in 2016 claimed that “Efforts are being made to address hate speech. For instance, ... the Punjab Sound Systems Regulation Ordinance 2015 passed under which authorities are taking action against the violators and misuse of loudspeakers... 1,799 arrests have been made in this regard. Pakistani law enforcement have also confiscated a huge quantity of hate material and sealed publication facilities.”<sup>14</sup>

24. On the other hand, research studies entitled “A Missed Opportunity” (2013)<sup>15</sup> carried out by the Jinnah institute, “Connecting the Dots” (2011)<sup>16</sup> by Sustainable Development Policy Institute, Islamabad; and “Teaching Intolerance in Pakistan-Religious Bias in Public School Textbooks” (2016)<sup>17</sup> by the Peace and Education Foundation Islamabad, United States Commission on International Religious Freedom; have documented fresh evidence of religious discriminations and hate speech maintained in the education system, that limit freedom of religion and belief.

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<sup>11</sup> Para 31, CRC/C/PAK/CO/5

<sup>12</sup> Para 22, CERD/C/PAK/CO/21-23

<sup>13</sup> <https://tribune.com.pk/story/1282245/making-religious-intolerance-past/>

<sup>14</sup> Para 154, CCPR/C/PAK/1

<sup>15</sup> <http://eacpe.org/content/uploads/2014/05/A-Missed-Opportunity.pdf>

<sup>16</sup> [https://www.uscirf.gov/sites/default/files/resources/Pakistan-ConnectingTheDots-Email\(3\).pdf](https://www.uscirf.gov/sites/default/files/resources/Pakistan-ConnectingTheDots-Email(3).pdf)

<sup>17</sup> <https://hsdl.org/?view&did=794028>

25. The latest education policy<sup>18</sup> introduced in 2009 only reinforced the following discriminatory elements:

- a) Textbooks analysis carried out by abovementioned independent sources identified hate speech against Hindus, Christians and Jews particularly and religious intolerance and negative portrayal of religions other than Islam is still part of the textbooks.<sup>19</sup>
- b) Only the majority religion (Islam) is taught as compulsory subject in schools and colleges run and approved by GoP, though officially provisioned for Muslim students at school and college level, whereas the students from minority communities have been given the option of Ethics from 9th grade onwards. Nevertheless, the minority students cannot study their own religion. Taking the subject of Ethics impacts their grades negatively, because textbooks and teachers are not available and because students face discrimination in exams as they are identifiable as non-Muslims by opting for Ethics, therefore students belonging to minority groups are compelled to opt for Islamic Studies.

This mix of coercion and lack of an open choice for students restrict the freedom of religion severely for students belonging to minority religion particularly.

- c) Apart from the subject of Islamic Studies, religious topics about Islam are also part of syllabus in other subjects, e.g. social studies and languages which constitutes up to 40 percent of textbooks. The minority students are obliged to study and pass these required subjects.
- d) Muslim students who learn Quran by heart are eligible to award of 10 to 20 extra marks for admissions in colleges and job at the Public Service Commission. Such an incentive is not available to minority students for their religious learning.

26. The Working Group on the UPR (2012)<sup>20</sup>, made recommendations (122.149, 122.150, 122.151 and 122.152) to Pakistan, urging to; “review public school curricula in order to eliminate prejudice against religious and other minorities; promote religious freedom and include human rights education.” Unfortunately, the Working Group’s recommendations were not heeded to till March 2017.

27. Even the Supreme Court of Pakistan<sup>21</sup>, required the government “to develop the curricula at school and college level, promoting religious and social tolerance” yet the implementation is awaited till March 2017.

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<sup>18</sup> <http://202.83.164.29/mopttm/userfiles1/file/National%20Education%20Policy.pdf>

<sup>19</sup> <https://hsdl.org/?view&did=794028>

<sup>20</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/190/31/PDF/G1219031.pdf?OpenElement>

<sup>21</sup> SMC. 1, 2014 <http://www.supremecourt.gov.pk/web/page.asp?id=1857>

28. The CRC gave following observations and recommendations in Session 72 in 2016:

“The Committee remains extremely concerned about: (c) Widespread discrimination against children belonging to religious and ethnic minorities...children from Dalit communities...”

“The Committee urges the State party to take concrete measures to address and reduce the serious gender disparities and discrimination against girls...Furthermore, the Committee reiterates its previous recommendation that the State party take all appropriate measures, such as; comprehensive public education programmes, to combat and prevent discrimination and negative societal attitudes and mobilize political, religious and community leaders to support efforts to eradicate traditional practices and attitudes that discriminate against children belonging to religious or other minority groups, ...”<sup>22</sup>

29. CERD observed the following in 2016 Concluding Observations to GoP:

“The Committee recommends that the State party: (a) *Monitor school curricula and textbooks at all levels, including those of madrasas*, to ensure that they promote understanding, tolerance and friendship among different ethnic and religious groups;

Regarding violence and segregation of minorities CERD also observed “The Committee is concerned for *violence against minorities, particularly Ahmadis, Hazaras and Dalits*, and their de facto segregation in isolated areas without *fair access to employment, health care, education and other basic services*, which is exacerbated by growing violence against them (Articles 3 and 6)...”<sup>23</sup>

“The Committee recommends that the State party intensify its efforts to *end violence against Ahmadis, Hazaras, Dalits and other minority groups*, and take effective measures to *combat segregation of members of those communities*. It also recommends that the State party ensure that those who are in segregated areas enjoy their rights as stipulated in article 5 of the Convention, particularly the rights to employment, health care, education and other basic services.”<sup>24</sup>

30. GoP had assured that it would further “undertake new international obligations in the human rights domain and to work together with civil society organizations in the promotion and protection of human rights.”<sup>25</sup>

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<sup>22</sup> Para 18 and 19, CRC/C/PAK/CO/5

<sup>23</sup> CERD/C/PAK/CO/21-23

<sup>24</sup> Para 19 and 20 CERD/C/PAK/CO/21-23

<sup>25</sup> Ibid.



### 3.3 Conversions and Forced Conversions

31. Though there is no legal bar, the right to conversion in Pakistani context means conversion to Islam, socially such an environment prevails where conversion to another religion from Islam is not tolerated. Such a conversion is treated as apostasy, punishable by death according to common interpretation of Islamic Sharia.
32. Media frequently reported complaints of minority women (Christian, Hindu and Sikh), and minors who were converted to Islam after abduction and through a Muslim marriage. Their contact with families becomes impossible on account of their claimed conversion. Harassed by their abductors, these girls and women state before the judges that they have changed their religion out of free will. The police and the administrative machinery usually side with the culprits who happen to be from the majority community and socially and economically influential.
33. Data compiled by National Commission for Justice and Peace from 2000 to 2012, recorded that 1779 persons of the religious minorities (Christians 617, Ahmadis 385, Hindus 729, Sikhs 3, Kalash 2 and 43 people from unknown religions) converted to Islam.<sup>26</sup>
34. The Sindh Assembly unanimously passed Sindh Criminal Law (Protection of Minorities) in November 2016, which recommended imprisonment for perpetrators and facilitators of forced religious conversion, besides other measures, the bill also made conversion of minors illegal. However, Government of Sindh bowed to whims of religious parties and the bill lapsed in January 2017 for lack of assent by the Governor of the Province.<sup>27</sup>
35. CSOs observe with concern that national parliament has also manifested lack of will for timely action as another bill “Protection of Minorities Act 2016” to provide for the protection against forced conversion of the minority women, submitted by a Hindu member Mr. Sanjay Perwani has been pending for consideration since September 2016.<sup>28</sup>

### 3.4 Marriage laws for the religious minorities

36. The CSOs acknowledge that the federal law “The Hindu Marriage Act 2017” has recently been passed to regulate Hindu marriages. It is a welcome step except that parliament would have done even better, had the law been cognizant of sensitivities and complexities of Pakistan’s context such as; the element of “coercion” or conversely a “free will” as it made religious conversion a ground for dissolution of marriage in Section 12 (iii) of this Act.<sup>29</sup>

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<sup>26</sup> <http://archive.paxchristi.net/MISC/2014-0247-en-ap-HR.pdf>

<sup>27</sup> <https://www.dawn.com/news/1298369>

<sup>28</sup> [http://www.na.gov.pk/uploads/documents/1474977077\\_937.pdf](http://www.na.gov.pk/uploads/documents/1474977077_937.pdf)

<sup>29</sup> [http://www.na.gov.pk/uploads/documents/1489555920\\_681.pdf](http://www.na.gov.pk/uploads/documents/1489555920_681.pdf)

37. However, the Christian Divorce Act, 1869 and Christian Marriage Act, 1872 have not been reviewed for nearly 150 years. The laws are not only stringent, but also inconsistent with standards of gender parity in marriage and other social and legal developments that have taken place. For example, under Christian Marriage Act, marriages solemnized after sunset are illegal, whereas solemnizing marriage between person(s) below the age of 18 is admissible under these laws.<sup>30</sup>
38. The UN committee on CEDAW in concluding observations in March 2013 called on the GoP to adopt the Hindu Marriage Bill, the Christian Marriage (Amendment) Bill, and the Christian Divorce (Amendment) Bill.<sup>31</sup>
39. GoP's follow-up information provided to UN committee on CEDAW in November 2015 claimed that two drafts for Christian Marriage (Amendment) and Christian Divorce (Amendment) Bills, 2013 had been finalized.<sup>32</sup> In fact, the bills have not been presented in any legislative assembly as yet because the federal and provincial governments have not been able to build consensus on the issues related to reforms in these laws.

### **3.5 Population Census 2017**

40. The 6<sup>th</sup> nationwide Population Census 2017 was underway after a nine year delay, when this CSOs report was prepared. The CSO noted that the census will count Muslims, Christians, Ahmadis, Hindus and Scheduled castes as faith groups whereas Sikhs, Buddhists, Baha'is, Kalash, Jews and atheists will be counted as 'other religions', which means that their accurate data would not be available, which CSOs fear, will entail economic, political and social marginalization of the smaller communities further.
41. The government has ignored voices calling for inclusion of people at large in the process by way providing catering to such concerns and transparency to enhance the ownership of the citizens.<sup>33</sup>

### **3.6 Compliance of Judgment regarding protection of religious minorities**

42. The Supreme Court of Pakistan (SCP), gave a historical judgment on 19<sup>th</sup> June 2014 addressing eight applications jointly about the issues of; protection of places of worship, forced conversions and forced marriages, registration of minority community marriages, affirmative action for provision of job opportunities, and security of ethnic and sectarian minorities such as; the Kalash tribes and Ismailis. The court directed the Federal and Provincial governments to take following measures to protect and safeguard rights of minorities.

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<sup>30</sup> <https://tribune.com.pk/story/1242277/amendments-christian-marriage-laws/>

<sup>31</sup> Para 38, CEDAW/C/PAK/CO/4

<sup>32</sup> Para 27 (b), CEDAW/C/PAK/CO/4/Add.1

<sup>33</sup> [http://csjpak.org/wp-content/uploads/2017/01/A\\_POSITION\\_PAPER\\_BY\\_CSOS\\_10-12-16\\_eng.pdf](http://csjpak.org/wp-content/uploads/2017/01/A_POSITION_PAPER_BY_CSOS_10-12-16_eng.pdf)

- i. Constitute a taskforce for developing a strategy of religious tolerance.
- ii. Curricula to be developed at school and college levels to promote a culture of religious and social tolerance.
- iii. Take steps to ensure that hate speech in social media is discouraged and delinquents are brought to justice.
- iv. 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.
- v. Establish a special Police Force with professional training to protect the places of worship of minorities.
- vi. Ensure enforcement of relevant policy directives regarding reservation of quota for minorities in all services.
- vii. 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.
- viii. 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.<sup>34</sup>

43. The GoP for CERD in 2016<sup>35</sup> pinned hope in the judgment calling it a landmark. The report underlined that "religion cannot be defined in rigid terms, holding that freedom of religion must also include freedom of conscience, thought, expression, belief and faith."

Nevertheless, the Federal government and the provincial government and respective departments failed to implement the orders in the judgment as discussed below.

44. A CSOs report "When Compliance Fails Justice" reveals that implementation of SC judgment was significantly lagging behind, and was often left without due consideration. CSOs research report was based on the compliance reports submitted by the provincial and federal governments and subsequent orders by a Supreme Court Bench had to pass 48 supplementary orders in the follow up hearings for implementation of the judgment. Only 33 percent compliance was shown on paper mainly regarding job quota and security of places of worship, whereas 77 percent of the original orders concerning policy measures and structural inclusion of minorities remained unimplemented 30 months after and at the time of CSOs submission.<sup>36</sup>

The CSOs report showed that the Federal government particularly had not complied with the two specific orders concerning establishing a task force to formulate a strategy of religious tolerance, social pluralism and harmony; and establishing a national council for minorities. Nor had the government given a justification for not doing so. The governments

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<sup>34</sup> [http://www.supremecourt.gov.pk/jsearch/Judgment/S.M.C.\\_1\\_2014.pdf](http://www.supremecourt.gov.pk/jsearch/Judgment/S.M.C._1_2014.pdf)

<sup>35</sup> Para 62, CERD/C/PAK/21-23

<sup>36</sup> [http://csipak.org/wp-content/uploads/2016/12/Study\\_When\\_Compliance\\_Fails\\_Justice.pdf](http://csipak.org/wp-content/uploads/2016/12/Study_When_Compliance_Fails_Justice.pdf)

had neither set up a body for implementation of the judgment at cabinet level, nor assigned the responsibility to a committee to comply.

### **3.7. National Council or Commission for Minorities (NCM)**

45. In pledges made before the elections for UN HRC in 2012, GoP claimed that a NCM had been established that is empowered to “hear the grievances, representation”.<sup>37</sup> Pakistan’s report to ICCPR review submitted in 2016 further claimed in para 221 that “To assess and monitor the state of minorities in Pakistan, the government has constituted a NCM. The members of this Commission belong to the religious minority communities themselves. The Commission is mandated to watch over protection of the rights of the minorities. A sub-committee of the Commission comprising parliamentarians has reviewed and vetted the draft national policy on interfaith harmony.”<sup>38</sup>
46. Pakistan’s compliance reports submitted to the UN committee on CERD in 2009 and 2015, and UN committee on CRC in 2016 reiterated the claims that a NCM is functional and vibrant body. This claim about establishment of an autonomous body is contrary to the facts.
47. The GoP failed to introduce any legislation in this regard despite that two private member’s bills from the opposition parties were initiated by minority parliamentarians namely; Lal Chand Malhi,<sup>39</sup> (2015) and Sanjay Perwani<sup>40</sup> (2016). These bills were pending in the national assembly for consideration, which the government could capitalize on to make progress on legislation and establishment of NCM.
48. Finally, GoP pledged in Action Plan for Human Rights in February 2016 to establish a federal task force to encourage tolerance and interfaith harmony, and to enact an independent National Commission for Minorities’ rights with a statutory status to monitor violation of minorities’ rights through allocation of adequate financial resources as well as placement of technically trained and sensitized human resource.<sup>41</sup> Both the measures planned had not been implemented till March 2017.

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<sup>37</sup> Para 11, of the pledges. [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/67/486](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/486)

<sup>38</sup> CCPR/C/PAK/1.

<sup>39</sup> [http://www.na.gov.pk/uploads/documents/1450170084\\_274.pdf](http://www.na.gov.pk/uploads/documents/1450170084_274.pdf)

<sup>40</sup> [http://www.na.gov.pk/uploads/documents/1474976704\\_768.pdf](http://www.na.gov.pk/uploads/documents/1474976704_768.pdf)

<sup>41</sup> Institutional intervention; Thematic area 5, page No. 13, time line for implementation December 2016, <http://202.83.164.138/new/userfiles/file/Action%20Plan%20Booklayout.pdf>

### **3.8. Job quota and discriminations**

49. CSOs appreciate that the Federal and Provincial governments reserved five percent quota for minorities and women since 2009 and 2010 respectively, for government services, though the governments relied on executive orders (notifications) which failed to produce desired results. Therefore different litigants from the minority communities approached the Supreme Court of Pakistan to which the Court responded in June 2014. Hence, the order six of the aforesaid judgment required the governments to “Ensure enforcement of relevant policy directives regarding the reservation of quota for minorities in all services”.
50. During follow up hearings at Supreme Court (September 2014-October 2015), more complaints were brought which reveal that the job quota was in dire need of effective implementation. The federal and provincial governments failed to present any data or record in the court regarding implementation of job quota despite several orders issued by the Court.
51. In the meantime, several advertisement issued by government departments appeared in the newspaper describing that jobs for sanitation workers/ sweepers<sup>42</sup> were particularly reserved for minorities, showing that government had paid little attention to remove discrimination in jobs besides introducing measures to enhance job opportunities for religious minorities in government service.
52. The lack of implementation in job quota is also manifest in government’s lack of response on questions particularly asked by CERD about out comparative and segregated data showing representation of religious minorities in civil services, judiciary and foreign services of Pakistan.
53. The job quota policy measure has a weak legal basis, because it rests on administrative orders (notifications) rather than legislation, which results in practical difficulties. A lack of regulatory, referral, monitoring and remedy procedures/ mechanisms hampers positive results in this regard.

### **3.9. Action Plan for human rights**

56. The CSOs acknowledge that the Prime Minister of Pakistan approved an action plan to further improve the human rights situation in Pakistan on 13<sup>th</sup> February 2016, which was prepared by Ministry of Human rights. The Action Plan included measures such as; establishing a federal task force to encourage tolerance and interfaith harmony with immediate effect, and establishing Interfaith Harmony Committees at the district level, and

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<sup>42</sup> Daily The News, 17 September 2015 (Punjab Institute of Cardiology, Lahore), Jang – Rawalpindi 16 October 2016 (Quaid-e-Azam University Islamabad), Daily Express- Multan 12 January 2016 (Nishtar Hospital Multan), <https://tribune.com.pk/story/405518/five-per-cent-quota-minorities-share-of-jobs-equals-sanitary-work-only/>

strengthen and enhance their effectiveness with active engagement of the district administration and police and a strong periodic reporting regime for the concerned ministries/divisions/departments.

Ironically, none of the above-mentioned targets in the action plan for human rights have been materialized as of yet.

#### **4. CSO's Recommendations for 2017 Review:**

##### **1. Anti-discrimination laws and policy**

In order to comply with international obligations and constitutional provisions, it is high time that an enabling law is legislated to define, prosecute and punish acts of discrimination in all forms and manifestations, particularly on the basis of religion and belief.

The GoP should also take educational measures to promote and celebrate religion and cultural diversity of Pakistan.

##### **2. Blasphemy laws**

Non-implementation of the recommendations of judicial inquiry commission on Shanti Nagar incident (1997) and Gojra incident (2009) has brought the abuse of blasphemy laws to a scale that the phenomenon of abuse threatens the Freedom of Religion or Belief of all citizens irrespective of their position and background. It also carries serious repercussions for the ongoing efforts against pervasive religious intolerance and extremism.

Therefore, the government is invited to consider repeal sections 295-B, 295-C, 298-A, 298-B and 298-C, or substantially amend these laws to introduce impregnable safeguards against false and malicious complaints / accusations, compensation for victims and the clarification of vague terminology, and put in place effective procedural and institutional safeguards at the investigative, prosecutorial and judicial levels to prevent the misuse of the blasphemy laws, and ensure that those accused of blasphemy receive a fair trial.

##### **3. Hate material in textbooks:**

- a) The GoP should ensure that no content in textbooks be taught to students that extols one religion at the expense of another religion, therefore material that endorses discrimination against minorities should be removed, and curricula and textbook for schools and colleges should include; allowing students from religious minorities to study their own religion in lieu of Islamic studies or Ethics, removing any discrimination in learning and grading, admissions and treatment of students belonging to religious minorities.
- b) The National education policy 2009 should be reviewed to remove discriminations on the basis of religion; it should be made neutral, inclusive, and in harmony with the international human rights standards of education.

- c) The curriculum for schools and colleges should be reviewed to remove, teaching materials and practices that are discriminatory and inflammatory especially against the minority faiths / religions.
- d) Material related to respect for human rights, equality among citizens, religious and cultural diversity / tolerance should be included in the syllabus, at all levels.

#### **4. Forced Conversion:**

The government must introduce legislation to ensure judicial and legal safeguards for victims of forced conversion, forced marriage and related crimes, and take concrete legal actions to bring perpetrators to justice without impunity to put an end to this heinous practice, and incorporate definition of 'forced conversion' and 'forced marriage' in the Pakistan Penal Code.

#### **5. Marriage laws**

The government must try to build a greater consensus around laws governing Christian marriages, and introduce urgent reforms in Christian Marriage Act, 1872 and Christian Divorce Act, 1869 to bring them up to compliance with human rights standards, to protect and safeguard the family life of Christians in Pakistan.

The communities such as; Behai, Parsi and Kalash should also be given protection of law in matrimonial affairs. A common civil code for marriage is also advised.

#### **6. Job quota**

The discriminatory practices in employment have not ended yet, therefore the government departments and institutions must follow the rules of service for issuing any job advertisement to avoid mentioning vacancy for sanitary workers reserved for minority candidates.

Institution of a regulatory body through enactment is utterly necessary and recommended to ensure defining the purpose, procedures; grievance redress and referral mechanism for proper implementation of employment quota reserved for religious minorities beyond discrimination.

#### **7. Compliance of Judgment**

The GoP should consider setting up an empowered inter-ministerial and cross sectional implementation committee for effective implementation of the judgment. This committee should work with benchmarks and clear responsibilities to persuade the concerned ministries and departments to take effective and mandatory measures for a meaningful and result oriented implementation (compliance) and reporting to the Supreme Court bench hearing the follow up applications.

The task force with mandate to formulate strategy for religious and social tolerance ought to be an empowered, independent, well-resourced and permanent federal body that should include social, cultural and religious diversity as well as experience in different fields particularly in

peace-building and conflict resolution.

#### **8. National Commission or Council for Minorities**

The federal government is urged to constitute a permanent, autonomous and financially independent statutory **National Commission or Council for Minorities** (NCM) conforming to UN Paris principles with a mandate to monitor the implementation of rights of minorities as well as to oversee policy and contribute advice on policy matters. The step is urgent though attention should be paid on the quality of appointments, etc. too.

#### **9. Human Rights Defenders**

GoP is urged to take quick action on the smear campaign against NGOs and human rights defenders, particularly those defending minorities rights and freedom of religion or belief, in the courts, public discourse (media) and other areas of rights.

#### **10. International engagement and oversight**

CSOs encourage the GoP to issue a standing invitation to all Special Procedures and particularly invite UN Special Rapporteur on Freedom of Religion or Belief and Minority Issues for a country visit.

#### **11. Census:**

CSOs urge that decennial national population census be made mandatory under the law. The conduct of census should be so that it brings down castes discrimination, moreover the census should provide accurate, reliable and segregated data for all religious minorities along with development indicators to facilitate social and economic development of marginalized minority communities.

#### **12. Protecting the freedom of expression of religious minorities:**

CSOs urge that the freedom of expression of religious minorities is protected, including their speech online and mainstream media, as well as the right to religious expression according to their own religious beliefs.

#### **13. Fact-finding visits**

CSOs urge GoP to issue a standing invitation to all mandate holders and organize their visit to Pakistan without delay.