



Discrimination in the Legal Profession

Attitudes and Perceptions of Minorities and the Majority

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Introduction

Rationale for the study

In this study, I look primarily at the perceptions and attitudes of lawyers and judges towards their colleagues from minority communities in four districts of Pakistan. In addition, I address the related issue of the impact that discriminatory constitutional and legal frameworks have had on the society. The aim is not to assess the overall discriminatory mindset that prevails in the country, but merely to look at how it is reflected in the legal profession. This is a sector in which professionals are in a special position, since they are not only affected by general social attitudes, but also understand constitutional provisions and relevant legal instruments that can marginalise communities such as minorities. I take majority lawyers and judges to mean those who are Muslims, both Shia and Sunni, and minority to refer to all non-Muslim communities. It will be made clear when a specific community is being discussed. The general attitude of majority lawyers and judges towards their minority colleagues does not only reflect the problems faced by the latter, but also indicates the lower odds of minorities getting justice compared to the majority.

For civil society it is important to understand the internal dynamics of the justice system, considering that there has been a lot of criticism of *Jirgas* and other informal mechanisms. Not only are these structures patriarchal, they also do not allow any space to members of minorities and other marginalised groups. The whole campaign of civils society is to encourage people to move away from these informal mechanisms towards more formal structures of the state. These efforts will not be worthwhile until citizens have faith in the judicial system and believe that it will dispense justice irrespective of creed and socio-economic standing.

I will thus examine the justice system and its functioning, and will try and gauge the forms and extent of discrimination that exists within this system. The idea is to capture and highlight problems in the formal structures, keeping in mind these are the very institutions that are intended to protect the rights of vulnerable groups. If they themselves have widespread discrimination, how can they be expected to aid in the dispensation of justice to the most vulnerable groups in our society?

I will subsequently address the following questions: Do minority lawyers feel discriminated against by their fellow majority lawyers and judges? What is the level of participation and representation in bar elections and

structures, respectively? What is the perception and attitude of majority judges and lawyers, regarding judges from minority communities? In addressing these questions, I will attempt to gauge the working environment of judges and lawyers from minority communities, and explore the nature and level of discrimination they face while practicing their profession.

Methodology

In examining opinions of minority lawyers and judges, and the perceptions and attitudes of majority judges and lawyers towards their minority colleagues, I will attempt to capture both covert and overt discriminatory attitudes and practices prevalent in the system. This will, I contend, help us understand the working conditions of practitioners from minority communities.

This study was undertaken in Multan, Lahore, Rawalpindi, and Peshawar. One reason for this was the better representation of the AAWAZ programme in these areas. Moreover, these cities have very different dynamics, which help us understand the relationship between discriminatory attitudes and varying socio-cultural contexts. The units of analysis for the study are the perceptions and attitudes of minority lawyers and judges, and those of their Muslim colleagues. The tools for data collection used for research were Focus Group Discussions (FGDs), Key Informant Interviews (KII), and observations of the researcher.

A total of 12 FGDs were carried out with lawyers and bar members in these four districts. There were three FGDs per district: one with a group of lawyers from minority communities, the second with a group of Muslim lawyers, and the third with majority female lawyers. KIIs were carried out with lawyers and judges from both minority and Muslim communities. A total of 40 KIIs were carried out during the course of the study, 10 each in Lahore, Multan, Rawalpindi, and Peshawar. Half of the KIIs were with senior lawyers and the rest with retired and serving judges of both lower and higher courts.

Minorities in Pakistan: Overview

Pakistan was initially envisaged as a state that would not only protect the rights of Muslims against the Hindu majority in combined India, but also protect and treat at par the minorities who reside in it. Over time it has gradually moved towards becoming one of the most inhospitable countries for religious minorities. According to the ranking issued by Minority Rights Group International, since 2008 Pakistan has continuously featured in the top ten countries in the “people under threat” rankings.¹ The US Commission on International Religious Freedom has recommended that the State Department designate Pakistan as a Country of Particular Concern (CPC), which can lead to economic and other sanctions.²

It would not be wrong to say that the state has been instrumental in creating an enabling environment for discrimination towards minorities in Pakistan. Its origins can be traced from the time when religion was brought into formal matters of the state through the Objectives Resolution in 1949 (see Annex A). In response to the tabling of this Resolution, Sri Chandra Chattopadhyay in his speech to the Constituent Assembly stated: “What I hear in this Resolution is not the voice of the great creator of Pakistan, the Quaid-e-Azam (may his soul rest in peace), nor even that of the Prime Minister of Pakistan, the Honourable Mr. Liaquat Ali Khan but of the ulemas of the land... This Resolution, in its present form, epitomises that spirit of reaction. That spirit will not remain confined to the precincts of this House. It will send its waves to the countryside as well.”³

The role of religion in matters of the state was further enhanced under the Islamisation programme during General Zia-ul-Haq’s era, which promoted an orthodox view of Islam within Pakistan. This, together with Soviet invasion of Afghanistan, and Pakistan’s support for the *mujahidin* created an atmosphere in which religious parties and groups became increasingly influential in decisions of the state. Even after Zia’s death the situation did not improve much as intolerance and religious extremism had already taken root in the society and there was no conscious effort by the state to reverse the trend. The impact of these events was not limited to minorities as Muslims were also targeted by a group that sought to make its ideology dominant over all others.

¹ Minority Right Groups: <http://www.minorityrights.org>

² Isaac Six and Farahnaz Ispahani, “Persecution without Prosecution: The Fate of Minorities in Pakistan,” *Foreign Policy*, June 10, 2015. See: <http://foreignpolicy.com/2015/06/10/persecution-without-prosecution-the-fate-of-minorities-in-pakistan/>

³ <http://tribune.com.pk/story/613530/singling-out-the-minorities/>

Discrimination cannot only be attributed to the interplay of socio-economic factors in the country, as legal frameworks had and still have an important role in either deterring or encouraging certain unwanted practices. The state in Pakistan has made persecution of minorities by the majority an easy task by introducing discriminatory legal structures. As a result there have been a number of reported cases of discrimination and persecution of minorities, and the consequently we see many minorities migrating out of the country. According to unofficial figures, as many as 10,000 Pakistani Christians are now believed to be living illegally in Thailand after fleeing from Pakistan. The UN, however, puts this figure at 4,000 people.⁴ Similarly, members of the Ahmedi community and Hindus from Sindh have also migrated to Canada, Europe, and India.

A Few Recent Events

Recent events give a glimpse into the condition of minorities living in Pakistan. In November 2015 in Jehlum, a chipboard factory was torched by a mob on accusation that a copy of the Quran was burnt by the security in-charge who was an Ahmedi. The next day an Ahmedi worship place in Jehlum was torched by another mob in reaction to the accusation. In another incident, a shopkeeper at the popular shopping plaza Hafeez Centre in Lahore recently placed a sign outside his shop, prohibiting the entry of Ahmedis. Reacting to his subsequent arrest, traders observed a strike and demanded his immediate release. The protestors also demanded that Ahmedis be forced to wear identification badges. Perhaps the most significant and horrific recent incident occurred in 2009 when an attack by armed men on an Ahmedi worship place led to 90 people being killed and scores being injured.

The situation of other minorities groups in the country is not very encouraging either. Christians face not only social discrimination, but are now increasingly being targeted by militant groups. In 2009, in Gojra, Toba Tek Singh, a mob killed eight people and burnt down sixty houses in a Christian colony, after rumours circulated that a few Christians had desecrated the Holy Quran.⁵ In 2013, a mob in Lahore attacked the Christian colony in Badami Bagh, ransacking and burning a number of houses following allegations of blasphemy against a Christian man. Recently, a Christian couple in Kasur was set on fire by a mob in a brick kiln on charges of blasphemy. Accusations and subsequently the blasphemy law are used against Christians in particular to systematically persecute them in Pakistan. Recent trends suggest that in quite a few cases the matter is not even taken to the courts anymore, and either an individual or a mob murders the accused as society ends up acting as judge, jury, and executioner. There

⁴ Isaac Six and Farahnaz Ispahani, "Persecution without Prosecution."

⁵ See, the following links for details: <http://www.dawn.com/news/963693/gojra-attack-survivor-recounts-horror> and http://news.bbc.co.uk/2/hi/south_asia/8179823.stm

are fourteen people currently on death row for blasphemy, including at least four Christians, while another nineteen people are serving life sentences.⁶

As a result of these developments, minorities in Pakistan live in a perpetual state of fear, and their participation in every field is restricted by a discriminatory legal framework and socio-economic marginalisation. There have been no serious efforts by the state to tackle this issue, either out of political expediencies or fear, especially after a series of assassinations of political and social workers who had openly opposed such persecutory laws. In order to stem the growing extremism in the country, sustained and serious efforts will have to be made by the state to build a counter-narrative and bring an end to the enabling environment it has provided to religious groups.

Constitutional Provisions and Laws Enacted

Pakistan has a turbulent constitutional history. After the passage and eventual nullification of two previous constitutions, the present constitution was passed in 1973 during the government of Zulfikar Ali Bhutto. It was agreed upon only after more than half of the country's population had decided to part ways. All political parties, both religious and secular, signed the constitution, which allowed for the formal role of religion in matters of the state. Islamic provisions were incorporated to satisfy and cater to the demands of the religious parties, which had emerged as important stakeholders in the country's political arena.

The constitution of Pakistan has provisions that are directly discriminatory or give preference to one religion over others, which in turn leads to discrimination. Going through some of the Articles in the constitution, one can understand how the state laid a foundation for discrimination against minorities. Over time this has seeped into politics, judicial and executive systems, and in the societal texture in general. For a brief overview of the major discriminatory constitutional provisions see Annex A.

The declaration of Ahmedis as non-Muslims was a watershed moment in Pakistan's history. This was the first occasion when the state entangled itself in a religious dispute, and took up the matter of defining who was a Muslim and who was a non-Muslim. With Ahmedis being termed non-Muslim, this definition was made part of the constitution. However, the problem with the state siding with one or another interpretation of religion has been aptly explained by Justice Munir in his report on the anti-Ahmedi riots in Lahore. He notes, "Keeping in view the

⁶ Isaac Six and Farahnaz Ispahani, "Persecution without Prosecution."

several different definitions given by the *Ulema*, need we make any comment expect that no two learned divines are agreed on this fundamental... And if we adopt the definition given by anyone of the *Ulema*, we remain Muslims according to the view of that *Alim*, but *Kafirs* according to the definition of everyone else.”⁷

However, with this constitutional foundation laid down by the state, subsequent governments began enacting laws and amending some already existing ones, such as 295-C. Some of these laws were directly targeted at a particular community, for example Ordinance XX, 1984, due to which certain actions and even usage of certain words by Ahmedis became criminal offences under the Pakistan Penal code (see Annex B). As a result of this, some 3,800 Ahmedis have been booked under these laws between 1984 and 2014, for offences that include posing as Muslims, keeping a certain length of beard, and even displaying the *Kalima*.⁸ Furthermore, the entire population of Rabwah, which is around 60,000 people, has been charged under 298-C twice – once in 1989 and then again in 2008. Similarly, the entire community of Ahmedis was charged under the same section for repairing their place of worship.⁹

Other laws that have been enacted were based on the rationale that religious feelings and sentiments of different groups in Pakistan should be protected. However, these laws such 295, 295-C, 298, and 298-A are now being misused by the majority to persecute minorities in Pakistan (see Annexure B). One of the most controversial laws, and arguably the most misused one, is what is popularly called the blasphemy law. Since the amendment in 1986, which increased the sentence to life imprisonment, almost 1,300 cases have been registered under this section. Of the total cases registered, 50% have been against non-Muslims, and the most affected are the Christians and Ahmedi communities.¹⁰ Interestingly, before this amendment, only fourteen cases had been reported between 1927 and 1986. We can also see a regional trend when it comes to blasphemy cases: roughly two-thirds are from Punjab, fifteen percent from Sindh, followed by four percent from KPK. Within Punjab, a majority of these cases were reported from regions in Central Punjab, i.e. Lahore, Nankana, Faisalabad, Sialkot, Kasur, Sheikhpura, Gujranwala, and Toba Tek Singh.¹¹

⁷ “Report of the Court of Inquiry constituted under the Punjab Act II of 1954 to enquire into the Punjab Disturbances of 1953.” Available at: http://www.satp.org/satporgtp/countries/pakistan/document/papers/Munir_Report_1954.pdf

⁸ Safiya Aftab and Arif Taj, “Migration of Minorities from Pakistan,” *AAWAZ* (Islamabad, 2015).

⁹ *Ibid.*

¹⁰ “Pakistan Blasphemy Laws: A Factsheet.” *EEPA*.

http://www.eepa.be/wcm/dmdocuments/EP_Hearing_Pakistan/Blasphemy_law_fact_sheet.pdf

¹¹ *Ibid.*

Laws have the capacity to regulate human behaviour and bring about lasting change in the structure of society. Hans Kelson asserts that laws “bring about a certain reciprocal behaviour of human beings: to make them refrain from certain acts which, for some reason are deemed detrimental to society, and to make them perform others for some reason, are considered useful to the society.”¹² Laws that are enacted do not always have the intended consequences, and enacted laws are not always rational and humane. If laws do not have strong fundamental rights principles backing them, they can become counterproductive and regressive for society. In Pakistan, the introduction of laws that specifically target different communities or try and give precedence to one over the rest, has moulded the society such that the majority has developed a sense of superiority over the others, and minorities have been further marginalised. After the fall of Nazi Germany, legal theorists were forced to revisit legal order theory. Drawing from the experience of Nazi Germany, they re-emphasised the principles that must be followed when making laws. And in this, the principle of generality was of utmost importance. This states that laws should neither support nor target specific individuals or groups, and that they should always be general in nature.¹³ Unfortunately, Pakistan has laws targeting specific groups and whole communities for their religious beliefs. And the admission of further interpretations of such discriminatory laws by the courts has set them as legal precedents, and made them part of the common law. This has opened them up to wider interpretation, which leads to further persecution of minorities.

In addition to other factors, the application of these discriminatory provisions has built a bias against minorities, as a sense of religious dominance has gradually crept in the majority. Unless there is a serious effort to amend certain laws and constitutional provisions, we will continue to see these fractures grow in our society and the living conditions for minorities in Pakistan will continue to get worse. Unless the government makes a focused and conscious effort to take away the legal instruments that facilitate the persecution of minorities, we will continue to experience killings, assaults, kidnappings, forced conversions, and increased migration of minorities within and outside the country.

¹² Lon L. Fuller, *The Morality of Law* (New Haven: Yale University Press, 1969).

¹³ *ibid*

Findings

Understanding the Bar and the Bench

The bar in Pakistan is divided into multiple groups competing with each other for influence and power. This division is neither based on ideology nor principle, but is merely a fight for dominance. Being associated with a strong group not only enhances lawyers' earning potential but also gets them an opening into the political arena, and thus they are also normally associated with some political party. The alleviation of a lawyer to the bench in the High Court greatly rests on the association with these lawyer groups. There are very few cases in which a High Court judge was appointed without the support of a powerful lobby of lawyers. Association with one of these groups not only provides lawyers with a degree of protection against other competing institutions and stakeholders, but also determines the success of their practice.

There exists a strong *baradiri* system within the bar, especially in Central and North Punjab. This trend, to a lesser extent, is also mirrored within the judiciary. Elections within the bars follow the same trend that is seen in the general or local government elections. Gaining the support of two or three *baradiris* within the lawyer community significantly enhances the chances of winning elections. For instance, in Lahore there are two major *baradiris*, the *Araeen* and the *Jutts*, and in order to have a fair chance of winning bar elections, a candidate must align himself with either one of these groups. Apart from *baradiri*, there are many other factors that come into consideration when one runs for office. Caste, gender, social position, family background, religion, sect within their religion, and financial strength, all play an important part in one's chances of getting elected. There have been very few cases in which a candidate was chosen solely for his competence and ability to deliver for the bar. During interviews with lawyers in Punjab it was observed that a sizeable number of lawyers do not even vote for a lawyer who is from a lower caste. And when asked the reason, they respond: "*Inn ki harkatain theek naheen hoti*" (They don't conduct themselves properly).

Most practicing lawyers barely make ends meet, but there are others who have flourishing practices and are in a much stronger position to create influence and win favourable treatment with the bar and the bench. For instance, if a lawyer runs for bar president, even if he does not win, he would still become prominent enough to exert influence within the justice system. Contesting elections is by no means an inexpensive proposition. As per

the figure given by different lawyers, it costs around 4 to 8 million rupees to run for Bar President elections. And for the offices of district bar in bigger cities like Lahore and Rawalpindi, the figure goes up substantially.

Lawyers who are elected to the office can exert considerable pressure on lower courts by virtue of their position. The office holders are not only alleviated in terms of their stature and respect within the system, it also improves their financial standing. They begin to charge higher fees for the cases they get and clients are willing to pay more because of the higher probability of getting decisions in their favour. As some lawyers fittingly put it, “*Yahan chehroon ko insaaf milta hai*” (only prominent lawyers get justice here). This sentiment reflects the enormous influence of certain groups, and individuals within those groups, over the bar and the judiciary.

The socio-economic construct of the bar and the bench indicates that there exists a multi-layered discriminatory attitude, ranging from gender, social standing, economic position, and religion. When it comes to minorities, most of whom are neither well off, nor do they enjoy high social standing, and above all are not part of the majority religion, they are placed in a very weak and vulnerable position. One should be careful to not classify minorities as one homogenous group, as there are further divisions and the level of discrimination also varies within these divisions. For instance, a woman lawyer or judge from a minority community is in a far more vulnerable position compared to men. Similarly, different religious groups are also treated differently. As one case in point, the level of discrimination and hostility faced by Ahmedi lawyers and judges easily surpasses the discrimination faced by all other groups.

Discrimination Against Minorities

The study was conducted in AAWAZ programme areas. Districts were selected for better representation of prevalent discriminatory attitudes and practices within the majority, and in order to understand the perceptions and feelings of practitioners from minority communities regarding this discrimination. FGDs and KIIs were conducted in Multan, Lahore, Islamabad/Rawalpindi, and Peshawar. The findings from these areas cannot be generalised to represent the entire country, and neither was this the aim of the study. It is merely a glimpse into the working conditions of minority lawyers and judges within these main bars in Punjab and Khyber Pakhtunkhwa.

It was observed that in South Punjab the level of discrimination faced by practitioners was relatively lower compared to the areas like Lahore and Rawalpindi. Moreover, in terms of discriminatory attitudes, lawyers and judges in Peshawar are in a far better position compared to their colleagues in Punjab. I will leave it at the observation level and not delve into explaining the differences in attitudes between areas. To explain these

differences one has to address the socio-economic constructs of different regions as well as their histories, which is outside the mandate of this paper and warrants a completely new study. However, I will explain the varying degree of discrimination in these areas through some basic observations made during the research.

It was observed that there is significant correlation between socio-economic class of the minority community lawyers, and the perception the majority holds of their colleagues. The perception of discrimination faced by minorities themselves also differs with socio-economic standing. In Punjab, Christians and Hindus are traditionally associated with a certain blue-collar job, which lays the basis for discriminatory attitudes towards them. The construct of the society also has an impression on the perceptions and attitudes of people; in Punjab where the social construct is more vertical and the caste system is deeply embedded, we see a higher degree of discrimination against minorities. They are not only discriminated against because they fall in the low-income strata, but also because they are low on the hierarchy of social standing, which is an important factor particularly in Punjab.

However, the usual pattern of discrimination breaks down when minority lawyers and judges move beyond a certain socio-economic class. The lawyers and judges I met came from different socio-economic backgrounds. Those who were relatively higher on the socio-economic order had a much different experience from those below them. For instance when I met the family members of Chaudhary Chandu Lal,¹⁴ who were also lawyers, I observed that due to the social status they enjoyed they did not face the degree of discrimination their other colleagues experienced. Similarly, when I met a former judge of the High Court who is now a practicing lawyer, his perception and experiences did not match those of other lawyers from his community.

Perception and Understanding of Majority Lawyers

The understandings of different religions in our society are shaped by factors such as economic standing, social setups, legal frameworks, and a skewed understanding of both Pakistani and Islamic history. These factors play an integral part in shaping people's perceptions and attitudes, which eventually reflect in their behaviour towards minorities. Being part of society, lawyers and judges have also been socialised in a manner in which they

¹⁴ Chaudhary Chandu Lal was a prominent Christian lawyer and member of the Punjab Assembly in united India. Mr. Jinnah approached him to convince him and other Christian members to cast their votes in favor of Pakistan. Mr. Chandu Lal assured Mr. Jinnah of unconditional support from the Christian community. When the resolution was moved to decide upon joining either India or Pakistan in the Punjab Legislative Assembly, Mr. Chandu Lal and his fellow members from the Christian community voted in favour of Pakistan, and these three votes made the difference in the tally of 88 to 91, against and in favour of Pakistan respectively. Thus, these three votes decided the fate of the province.

think of minorities as being inferior to the Muslim majority. One common assumption is that the attitude of lawyers might be different or better compared to the general populace since they are well versed in the concepts of individual and human rights. Interestingly, the lawyers interviewed for this study were also of the view that they were in a better situation to understand these issues, and constantly referred to themselves as the “cream of the society.” However, a sizable number of lawyers, either overtly or covertly, also discriminate against their non-Muslim colleagues.

During interviews, most lawyers denied that systematic discrimination exists in their profession. However, while they were not ready to admit the problem exists, the responses they gave reflected biases and discriminatory attitudes they held towards their minority colleagues. Some of these were perhaps unintentional and a result of biases that society has fed them over time, but there were many lawyers who knowingly discriminated against minorities. For instance, a lawyer interviewed in Multan, while boasting about his liberal credentials, constantly referred to Hindus as Indians. In another interview, again a senior lawyer in a group was adamant that non-Muslims are treated at par with Muslim colleagues and there is no discrimination in the bar, and that most lawyers are liberal and have risen above societal attitudes. And yet, towards the end of the discussion, he also admitted that he and other lawyers have a bias against Ahmedis and further went on to refer to Hindus as “*nausarbaz*” (swindlers). However, I also met lawyers, most of them in Multan, who were mindful of the fact that there is discrimination against their minority colleagues, and narrated many such incidents. They had a better understanding of the issues and were more sensitive towards the problem.

Peshawar as opposed to areas in Punjab

It was encouraging to see that the attitude of lawyers in Peshawar was different from their colleagues in Punjab. They were more open about the issues and discussed them openly and with ease. In Peshawar, the Muslim lawyers reported very few incidents in which non-Muslim lawyers were discriminated against. The exception to the above trend is the Ahmedi community, which faces similar conditions in Peshawar and Punjab. The perception and understanding of Muslim lawyers on discrimination closely matched the perception of the lawyers from religious minorities in Peshawar, which was not the case in Punjab. The lawyers in Peshawar were also more open and less emotional about discussing religious opinions. Furthermore, discussion on issues such as blasphemy was not considered taboo. In Peshawar, I was able to talk about this issue openly with the lawyers, and it was also discussed in a group while sitting inside Peshawar High Court bar room. However, in Punjab it would be comparatively difficult to discuss the blasphemy law openly while sitting in bar rooms.

It was interesting to note that Muslim women lawyers were more sensitive and aware of the issues faced by their minority colleagues, and especially those faced by women. Female lawyers not only narrated incidents of discrimination against their fellow lawyers, they were also more open about sensitive religious issues. They recounted a number of incidents of discrimination, and some of these were the same ones that their male counterparts had narrated. However, the assessment and understanding of those issues was quite different from their male colleagues. For instance, women lawyers mentioned a minority female lawyer who was coerced into voting for a specific candidate in Rawalpindi bar elections. The men were of the opinion that it would have happened to anyone irrespective of religion, but female lawyers did not agree with this. They said that if the female lawyer in question had been Muslim, the whole bar would have stood behind her.

They spoke openly about religiously sensitive cases, and issues such as forced conversions, rapes, and abductions. They were also more thoughtful of the feelings of their minority colleagues and in some cases made conscious efforts to make them feel welcome. When they were asked in the FGDs in all the locations whether they can discuss blasphemy cases in the female bar rooms, they responded in the affirmative, and also said that they did not think majority female lawyers would create any problems. A few of them referred to the reason for blasphemy cases as “men fighting with each other for power and nothing else.”

It was also interesting to note that when majority lawyers and judges were asked for a percentage of lawyers who they perceive as conservative and holding a bias against their minority colleagues, the number hovered around 20% to 30%. This was significantly different from the perception of minority lawyers, who saw this percentage in the bars at around 80%. In general, lawyers reported that religiously conservative lawyers have a sizable vote bank, which can significantly enhance chances of reaching the office. They also said that the reason why around 400 lawyers signed a petition to defend Mumtaz Qadri was that it would allow them to tap into the religiously conservative vote bank amongst lawyers. The overall attitude in bars can also be gauged by another widely reported incident in which a resolution was passed in the Rawalpindi bar that no lawyer was to work as prosecutor in Salman Taseer’s murder case. Although bar resolutions are not binding, they are largely followed or adhered to by a majority of lawyers.

With this research, it is ascertained that there is a significant number of lawyers and judges who have discriminatory attitudes and behaviours towards their minority colleagues, and the number goes further up when religiously sensitive cases are tried in the court. This comes from the social structure, educational curriculum, and a sense of religious superiority over others, which is deeply reflected in their practices. Moreover, during

interactions with Muslim lawyers, both through FGDs and KIIs, it was observed that a majority of Muslim lawyers did not see it as a prevalent problem and constantly denied that there was any form of discrimination in their profession. One can see a clear pattern of either denial or lack of understanding of the issues faced by minorities.

Perception and Understanding of Minority Lawyers and Judges

The perceptions of minority lawyers were quite different from those of Muslim lawyers. They reported quite a few incidents of discrimination against them, which they felt were deemed normal by the majority. Minority lawyers, especially in smaller cities, keep to themselves and try to stay out of politics and the spotlight. They felt that the mindset and general attitude of lawyers was not very inclusive. It was also observed that the sense and perception of discrimination varied widely between those lawyers who came from strong social and economic backgrounds compared to those who had neither lineage nor wealth to fall back on in times of trouble. The feeling of being discriminated against was particularly high among minority lawyers who were the first out of their families to pursue this profession. Interestingly, it was not uncommon to see that incidents that would normally be considered discriminatory were taken in stride as part of life, and there was an attitude of resigning to fate. A very senior lawyer and ex-judge, when asked what he felt about the constitutional provision barring a non-Muslim from becoming the President of Pakistan, did not see it as discrimination and argued that out of 180 million only one becomes the President, so “it doesn’t really matter to us.”

Very few cases were reported in which minority lawyers were referred to as ‘*chooras*’ or with any other derogatory term. One lawyer narrated an incident that while he was standing outside a lecture hall to attend a lecture of a senior minority lawyer, he overheard two lawyers outside the hall saying out loud, “*kithay chorian de gal sunan ja rahe ho?*” (why are you going to the lecture given by a Christian?), and they did not realise that there were many Christians standing around them. But such cases are few and it cannot be inferred that they are usual occurrences in the bar. When asked if they face any trouble in renting offices in *katcheris*, all the people interviewed reported that they had neither experienced nor heard of any such incident. However, this observation does not hold true when it comes to the Ahmedi community, which will be covered in a separate section. Minority lawyers did report being asked to convert numerous times by their fellow lawyers; this is occasionally slipped in casually during normal conversations, and they are advised to follow the right path and convert. This is not something uncommon to minorities in Pakistan, but to expect this from an educated group, which is well versed in law and concepts of human rights warrants a mention in the findings of this study.

When asked about interaction with minority community lawyers, both Muslims and minority groups, and the individuals we spoke to, were of the view that in terms of professional exchange, they saw relations between them as normal, but one would rarely see members from majority and minority being very close to each other. It was observed that there were certain boundaries that the minorities were not comfortable going beyond.

Furthermore, cases were reported where integration efforts by the bar ended up reflecting a sense of superiority and to a certain degree callous attitude towards the sentiments of the minority community. It was reported by lawyers in Rawalpindi that the district bar organised an event to celebrate Christmas, and the event started and ended with *naats*. This incident is a good reflection of the general understanding and sensitivity of majority lawyers towards their minority colleagues. In fact, the same event was narrated by Muslim lawyers as an example of how they have risen above these attitudes, which was quite different from the perception of minority lawyers.

Women minority lawyers are in an even more vulnerable position as they face issues in addition to the general problems faced by minority lawyers. Women reported that they have been asked out and even sent marriage proposals by male Muslims colleagues, who argue that they can marry them as they are *Ahl-e-Kitab* (People of the Book). Marriage proposals, expressions of interest, and even harassment incidents were reported by Muslim female lawyers as well. But the difference is that Muslim women have confronted lawyers who have harassed them, but minority women out of fear do not stand up to such people. A case was reported in the Multan bar where a female lawyer filed a complaint against a fellow lawyer for harassment; when women lawyers were asked if a minority female lawyer could also have taken the same step, most of them were of the view that for a non-Muslim female lawyer, this line of action may not be possible and would create further problems for her. According to the Christian female lawyers we interviewed, the most frustrating part in such situations is their inability to react and confront, which leads to a sense of helplessness. This observation holds true for minority women in general but it is important to mention it, as we would expect lawyers to be aware of their rights, and be more willing to stand up for them, even approaching the legal forums in place to protect them. However, that was not the case; minority women lawyers were not willing to risk a confrontation with the majority.

A female civil judge from a minority community reported that throughout the time she was practicing she was referred to as “Christian *kurri wakeel*” (Christian woman lawyer). “I was not referred to as a lawyer but as a Christian, then a woman, and then lawyer,” she recounted. She reported that she was even asked questions such as whether she will be cremated like Hindus when she dies. She also said that during the interview for appointment

as a judge, “I was asked whether I would decide as per my faith or the law of the land,” which she saw as very offensive. Similarly, other female prosecutors and retired judges also reported similar questions being asked from them during the selection process.

Women also had an acute sense of perception of discrimination as opposed to their male counterparts. There were issues that women felt were discriminatory as opposed to minority men who took them as normal routine. For instance, women objected to the fact that they were referred to as Christian lawyers and not only lawyers, but men did not really see it as a problem.

Religiously sensitive cases

In the conversations that were part of the research, it was reported that when religiously sensitive cases such as forced marriages and conversions come to the courts, the attitude of lawyers in general, and specifically of those arguing against them, becomes hostile. Minority lawyers are immediately taken out of the category of fellow lawyers who are practicing their profession, and placed in a non-Muslim lawyer category. Even the Muslim rulers who take up such cases are told: “Why are you taking this case, they [minority lawyers] have to, because they are the same, but why you?” Lawyers from minority communities argued that when they confront such issues in any way – through cases, in politics, in clientele, or any other issue – the line of religion is immediately drawn and they have to step back a little. One Christian lawyer in Lahore reported that one of his Muslim colleagues, while sitting in the bar room, used objectionable language against Jesus Christ. On confronting him, other lawyers intervened to diffuse the situation. When asked if he thought of getting an FIR registered under 295-C, he smiled and said, “I can’t go against the majority, and even if I did, it would have somehow ended up on my head.”

It was also interesting to note that when minority lawyers were asked if being a minority is a hindrance in getting elected in bar, almost all those interviewed and those we met in groups, were of the opinion that religion becomes a factor when they run for elections. One lawyer quoted his Muslim lawyer friend as saying, “If by some chance you do get elected, the maximum they will tolerate is you becoming an executive member and nothing more.” When the same question was put to Muslims lawyers, they argued that as such there is no restriction on anyone contesting elections but also that being non-Muslim limits the chances of getting elected.

The diminished chances are not only because of religion, but also due to caste and *baradiri* structures that are devotedly held onto within the lawyer community. Non-Muslims are generally considered to be from low social castes and not part of a strong *baradiri*. This coupled with their religion makes it almost impossible for them to get

elected to positions in the bar. This is again much more prevalent in Punjab than in KPK, where people were more open to the idea of non-Muslims being elected into the bar and gave an example of Zakir Paul who was elected Vice President of Abbottabad bar in 2013/2014.

Attitude of Judiciary

When both Muslims and minorities were asked about the attitudes of judges in general when dealing with minority lawyers, most were of the opinion that as such the attitude of judges in routine cases is normal and minority lawyers are treated at par with Muslim lawyers. An incident was reported when a judge was dismissive about a case of sanitary workers in Rawalpindi, and referred to the case as “*Choorian de case*” for which he later apologised to the counsel who happened to be a Christian. But such incidents are few and this cannot be termed as a trend or general attitude of the judges.

Minority lawyers and even Muslim lawyers, however, did object that when it comes to family cases of minorities, judges are generally not well versed in them. They reported numerous cases where judges have given decisions on inheritance and divorce cases based on Muslim laws. This in itself is not strictly discrimination but within the minority lawyer community it is perceived as discrimination and reflective of very insensitive attitude of the judiciary. This situation can be attributed to two factors. First, there are not many cases pertaining to minorities that reach the courts, and judges tend not to get many such cases in their careers. Second, there is no training of judges on minority family and private laws, which in some cases do not exist. Despite these problems, minorities see the attitude of judges as discriminatory and argue that they make them feel unimportant by passing judgments without any regard for it becoming a case law, which will be used later by other courts.

Numerous incidents were narrated, both by judges and lawyers, where the judges’ attitudes and decisions dramatically changed when sensitive cases such as blasphemy were being tried. The blasphemy cases will be discussed later in a separate section, but when it comes to other cases such as family laws, and forced conversions and marriages, the attitude of judges towards the clients and lawyers also hardens. One lawyer narrated an incident in which, when a matter pertaining to forced conversion was brought to the court, the judge on the first hearing congratulated the girl on converting, and even asked the counsel to give her the copy of Holy Quran to read. The lawyers complained that after these remarks there was practically nothing much left to argue in the case.

The lawyers, both majority and minority, also reported that there are some religiously inclined judges in the judiciary. They reported one additional session judge from Rawalpindi who has now been posted to Lahore,

and another judge in one of the High Courts, who are known to give decisions based on principles derived from their interpretation of Islam rather than the written law. In cases regarding conversions and abductions, the religious feelings of the judge do override the law and there are numerous such cases. In a case reported by a minority lawyer, a 9-year old boy who had been abducted, was allowed to convert by the court and the judge accepted his plea despite the fact that he was not old enough to make that decision on his own free will. Such decisions may not be against the law per se but they do create a sense of being discriminated against in the minds of the minorities.

Minority Judges – Experiences and Perceptions

During interviews with minority judges, the general impression was that there is no problem in the attitudes of judges and lawyers when they are in court. However, they do shy away from sensitive cases, such as blasphemy and forced conversions, and are reluctant to take them. The fear of being labelled or being bracketed into a religious group because of their decisions is at the back of their minds, and they move rather carefully throughout their careers, avoiding controversial cases and decisions. This fear, they noted, in some cases does hinder their ability to dispense justice.

The judges also narrated that during their appointment they were asked questions on *Islamiyat*, were asked to recite specific *Ayaats*, and were even asked if they would decide cases as per their faith or the law of the land if they were appointed as judge. They felt these questions were inappropriate, discriminatory, and offensive, and should not be asked during the selection process.

They held a perception that they are not treated at par with other judges, and their chances of promotion are significantly diminished because of their religion. One of them, referring to a former Chief Justice of the Lahore High Court, said: “What do you expect him to do – favour judges from the minority community?” They also argued that even if they are, in terms of competence, at par with Muslim judges, the probability of a Muslim judge getting promoted is much higher. They complained that when it comes to disciplinary action, it is taken rather quickly against them compared Muslims, and mentioned a specific case of a Muslim judge who was previously associated with a strong lawyers group.

It was also reported that when sensitive cases come to the court, there is pressure on the judge not only from lawyers but also from fellow judges, and in order to fit in and be accepted, judges have to give decisions that they normally may not. One of the judges narrated a recently upheld death sentence of two people accused of

blasphemy by a judge in High Court, which he felt was not on merit and only upheld for the judge in question being more acceptable in the judicial system.

Blasphemy Cases

The attitude of lawyers and judges, who otherwise seem reasonable, changes dramatically when the blasphemy law comes into the equation. During such cases, there is a general sense of insecurity that exists within lawyers from minority communities. They reported that during the case of Mumtaz Qadri, not only were there people from outside the legal fraternity who came in to support him, but a large number of lawyers were also there chanting slogans in his favour and showering him with petals. One of the Christian lawyers commented that despite the accused and the victim both being Muslims, minority lawyers still had to face a very hostile situation and some of them did not attend the courts for a couple of days and waited for the matter to settle down.

The blasphemy law does not only affect minorities, since half of the cases of blasphemy in Pakistan have been registered against Muslims.¹⁵ Lawyers, whether non-Muslims or Muslims, fear for their lives while defending those accused of blasphemy, and the murders of Governor Salman Taseer, MNA Shahbaz Bhatti, and Rashid Rehman, Advocate in Multan, have all added to the insecurity of lawyers. Rashid Rehman was defending a lecturer at Bahauddin Zakria University on whom there were blasphemy allegations. His colleagues said that they had been receiving threats for quite some time and no longer took them seriously. However, Rehman was openly threatened in court by the opposing lawyer, and two days later he was shot in his office by unknown gunmen. The lawyer who had threatened him is still practicing, and immediately after Rehman's murder he was given an important legal advising position with a federal government organisation in Islamabad.

After the murder of Rashid Rehman, the head of Human Rights Commission of Pakistan (HRCP) in Multan said, "We were asked to back down and maintain a low profile for a while." The case was taken up by a lawyer from Lahore and he now travels to Multan to appear on behalf of the blasphemy accused. When a request was filed in Lahore High Court for moving the case to Lahore the judge argued, "They don't need a visa to come here," referring to the security threat they faced and the request was declined.

Similarly, the judge who gave the decision against Mumtaz Qadri had to flee the country and keep a low profile for a couple of years before coming back to Pakistan and resuming his duties in another city in Punjab. But

¹⁵ Pakistan's own judges blast Islamic blasphemy law: <http://www.wnd.com/2015/10/pakistans-own-judges-blast-islamic-blasphemy-law/>

he still fears for his life and keeps a very low profile. One lawyer who knew of him said, “Eventually someone will point him out, and then you know what usually happens.”

The above mentioned incidents are those of Muslims being accused of blasphemy and the threats that Muslim lawyers and judges then faced during proceedings in the court. One can imagine then the conditions of minorities who are part of these cases, whether they are the accused or lawyers and judges. Usually, very few Muslim lawyers are willing to take cases of blasphemy, but even when some of them do, they are under pressure from other lawyers to withdraw. A non-Muslim lawyer in Lahore narrated that when one of their Muslim lawyer colleagues did agree to represent the case of a blasphemy accused, he was approached by other Muslim lawyers and asked, “We can understand them [Christians] representing him in the case, but you are not one of them, why are you defending him?” This shows that when it comes to blasphemy a line is drawn between Muslims and non-Muslims, and in the minds of the majority they suddenly become collaborators, even if they are not even remotely related to the case.

Narrating another incident, a lawyer mentioned a blasphemy case in which his ex-chamber colleague was representing the accused who was non-Muslim. After the first few proceedings, the judge unofficially asked the counsel of the accused not to appear in court when the lawyers from the other side were present there. He was told to come in either before the other side’s lawyers arrived, or after they had left, in order to avoid any incident. This again puts the accused at a disadvantage because the judges are under pressure, and for them to give a decision in their favour is highly unlikely. Such a situation also does not allow the lawyer of the accused to counter the arguments and evidence from the other side, which eventually weakens the case.

Barring a few exceptions, it has been observed that most judges, especially of lower courts, are scared of making a judgment based on merit even if they feel the accused is falsely implicated. There are some religiously inclined judges who are reported to have behaved as a party in the case as opposed to occupying a position that is there to dispense justice. Some judges also informed me that even when they can knock out cases of blasphemy for lack of evidence or even technicalities such as a Superintendent Police (SP) level officer not investigating the offence, they still do not do it. They argued they did not want to put themselves and their families in danger, and interestingly also reported that it has been unofficially communicated to them by the High Courts that they should not dismiss such cases on technicalities, and should allow them to go through to higher forums. In the meantime, the accused languishes behind bars and it could be years before the higher forums decide his or her fate. Although

this holds true for both Muslim and non-Muslim accused, there is a strong feeling within minority lawyers that if a Muslim is accused there are more chances of him getting a fair hearing as opposed to a non-Muslim accused.

The conditions for minority lawyers become hostile when such cases are being heard. A Christian lawyer also reported that when cases of blasphemy come to the court, Muslims lawyers suddenly start treating Christians and other non-Muslims lawyers as a homogeneous group. As one lawyer said, “We are all seen as accomplices.” The lawyers while narrating cases of blasphemy also mentioned a *Khatam-e-Nabuwat* lawyers’ forum, saying that they gather as a group in the courtroom when the blasphemy case is being heard. They provide transport, lunch, and even prepare witnesses on how and what to say. The lawyers also reported that lawyers of those accused, as well as judges, are under tremendous pressure and even a small slip of tongue or a line of argument which is a little controversial, is feared by defence lawyers. This hinders their ability to defend the accused and considerably weakens the case.

It was narrated by a Christian lawyer in Bahawalpur in one such case that he was threatened by fellow lawyers in court and things got really charged. When he complained to the judge that he was being threatened openly in the court right in front of him, the judge instead of taking action, got up from his seat and quietly withdrew to his chamber and did not say or do anything out of fear.

The situation in the higher judiciary is relatively better. However, during FGDs with minority lawyers in Lahore, they also reported an incident of the Lahore High Court in which the face of the judge turned red with anger during a case against a non-Muslim blasphemy accused, especially when facts and events of the case were presented. They further said he had a dark expression on his face, was cupping his fist with the other hand, had tightened his fist in anger, and continuously huffed while the arguments were presented. The lawyer who was presenting the accused said, “He was behaving like an office bearer of a religious party rather than a judge and ended up deciding against the accused.”

In a case being heard by a former Chief Justice of Lahore High Court, the lawyer moved the court for 426, which is a CrPc provision. It mandates that if an appeal from a minority person is pending and there is no chance of it being decided in the near future then the convict who is appealing his sentence can apply for temporary release from prison on bail. The High Court as a rule also grants temporary bail if the appeal has been pending for more than two years and nothing has been made of it. When it was pointed out to the judge that he himself in a previous case had granted bail to the accused because his appeal was pending for two years, he replied, “I had made a mistake back then,” and blamed the Attorney General for misguiding him in the previous case. The irony was that even in this case it was the same AG, who was assisting the court. So the honourable judge decided against granting the bail to the accused, negating his own previous judgment, and not deciding as per the law of the land but as per his own interpretation of the law, derived from his religious beliefs.

Christian lawyers in Lahore also reported that apart from the judges, the staff at court also behaves in a threatening way when it comes to cases of blasphemy. One lawyer mentioned that during a case being presented at the Lahore High Court, the reader and other staff seemed visibly upset and the reader was constantly shaking his head while noting the proceedings.

This law, rather than protecting religious feelings of citizens, which is supposed to be its basis, is increasingly being used by the powerful to suppress the weak. At numerous occasions during interaction with lawyers and judges, they mentioned the misuse of this law and how it constantly keeps them in a state of fear. They are afraid to speak up and are wary of the fact that they cannot cross an invisible line when discussing any issue, be it a civil or criminal. The minority lawyers said that they feel that their lives and the directions they take depend largely on the goodwill they create with the majority. With this law the majority is able to discriminate against minorities with full backing of constitutional, legal, and institutional frameworks. The state has provided an enabling environment to extremists to persecute minorities. With social attitudes backed by legal frameworks, minorities live in constant fear that a mere accusation will push them in a hole from which there is no way out.

Ahmedis

The extent of discrimination faced by the Ahmedis in Pakistan, and indeed the attacks on them due to their beliefs, is greater than every other community. The first problem faced while carrying out this research was to find Ahmedi lawyers and judges in different cities. Except for a few, the majority do not declare that they are Ahmedis.

The community not only faces discrimination and hatred from the society, which is increasingly under the influence of conservative social actors, but also the state, which through constitutional amendments and ordinances now legally discriminates against them. It has thus been left with no social or legal defence at all.

As noted above, it was observed that attitudes and behaviours of people when it comes to other minorities change significantly with socio-economic class. Well-to-do lawyers and judges from minority communities had a much better experience compared to those from lower socio-economic classes. However, in the case of the Ahmedi community, there is no respite no matter which class the individual belongs to. The discriminatory attitude toward them remains consistent in different regions and is not determined by their standing in the society. Moreover, for Ahmedis, it is not just the social discrimination they face, but also a serious threat of physical violence.

In the FGDs and interviews, Muslim lawyers openly admitted that they have a bias against Ahmedi lawyers, and they were unapologetic about it. When the Ahmedi lawyers were asked what the majority thinks of them, they said most had negative opinions and there is a social boycott of sorts when it comes to Ahmedis in bars. There have been incidents reported by lawyers that in bar rooms and *katcheries*, lawyers have openly preached against Ahmedis and have called for other lawyers not to interact with them on both social and professional levels. They also said that if someone is accused or suspected of being an Ahmedi, he has to declare openly on oath that he is not from the Ahmedi community, so that he is treated normally. Muslim lawyers in Multan narrated that when an Ahmedi worship place was attacked in Lahore in 2010 and some close relatives of one of their Ahmedi colleagues were killed in the attack, barring a few lawyers, no one went over to their place for condolence, which is a normal social practice in the society. They also narrated that there were lawyers in the bar who were actually pleased that the attack had taken place and some even reported that there had been a small celebration in the Multan Bar.

The lawyers narrated another incident involving a senior Muslim lawyer who was wanted to run for bar elections. He had been sporting a French beard (or a goatee), and was accused of being an Ahmedi, and subsequently asked to prove and take an oath that he is not. This was set as a precondition for lawyers to vote for him in the elections. He eventually decided not to run for elections as he saw the whole situation as very disappointing. In fact, lawyers and judges who are even suspected of being Ahmedis are discriminated against both socially and professionally. When I asked Muslim lawyers if they knew of an Ahmedi lawyer in the bar, they mentioned quite a few names they suspected were Ahmedis, but were not sure. The lawyers kept minimal interaction with even those they suspected were Ahmedis and avoided them.

During the research I was able to meet a few Ahmedi lawyers who had not declared their religion out of fear. When asked what was it like living such a life, they narrated different personal incidents that give us a glimpse into the state in which they practice their profession. I was told, “We have been part of conversations where our colleagues were calling Ahmedis *wajib-ul-qatal* (liable to be killed),” and, “I had no option but to agree with them.” Similarly, they have to sometimes go and pray with their majority colleagues especially on Fridays in order to avoid any suspicion. They also narrated that a lot of lawyers and other members of their community do not go to Friday prayers to their designated places of worship, out of fear that a colleague would see them.

Ahmedi lawyers do take up cases pertaining to matters of their community but they still do not declare that they are Ahmedis. When they are asked about their support for the case and reason for taking it, they cover it up by telling them they are only concerned with money and nothing else.

One can gauge the level of discrimination against Ahmedis by the Lahore bar resolution a few years ago, which banned the popular Shezan drink from the canteen, because the company is owned by Ahmedis. This shows the mindset prevalent in the bar as well as the deep rooted bias and to a certain extent, even hatred towards this community.

One Ahmedi lawyer recounted that he was once sitting with a friend who is a judge and they were talking about a case he was arguing in another court. The case was about building minarets on an Ahmedi worship place. His friend, the judge, advised that he should argue that building minarets is not something limited to Islamic architecture as its construction pre-dates Islam. The lawyer after listening to the proposed arguments asked his friend, “What if I had given you these arguments, would you have decided it in my favour?” He smiled and said, “No, I want to live”

Some judges, perhaps out of fear, do discriminate against the judiciary but there are quite a few who have internalised this discrimination against Ahmedis. It was reported by some lawyers in confidence that two senior Ahmedi lawyers were offered positions as High Court judges if they converted (to Islam), and when they refused, they were not even considered for the position. According to them, this suggestion was made by a senior sitting judge of the Lahore High Court, who had close ties with the higher judiciary.

Recommendations

This study shows instances and attitudes that are a reflection of broader issues within Pakistani society, and to tackle the issues of discriminatory mindsets, the state needs to adopt long-term policies and show sustained commitment to counter existing narratives and biases. Changes need to be made in school curricula, as well as implementation of hate speech laws, and the state needs to end lending support to militant and Islamist groups. Moreover, it should amend provisions in the constitution that either directly or indirectly pave the way for discrimination against minorities. While all this is relevant and indeed necessary, in this paper I intend to keep recommendations more specific and focused towards issues faced by practicing minority lawyers and judges who feel they are being discriminated against by the majority.

Government

- The government has to ensure that constitutional provisions and laws that specifically affect any community or group are amended.
- Laws that are constantly being misused to persecute minorities should be amended so that they can no longer be abused.
- The state needs to make a conscious effort to stay out of mediating or getting involved in religious arguments and interpreting of religion.
- Adequate security to judges should be provided so they can make tough decisions without fear of security for themselves and their families.
- The Supreme Court judgment on a suo moto action regarding a suicide bomb attack on September 22, 2012 on a church in Peshawar, and threats given to the Kalash tribe and Ismailis in Chitral should be implemented.¹⁶

¹⁶ PLD 2014 SC 699

Supreme Court judgment on a suo moto action regarding the suicide bomb attack on 22-09-2012 on the church in Peshawar and threats given to Kalash tribe and Ismailis in Chitral

Important Points:

- That Federal Government should constitute a taskforce tasked with developing a strategy of religious tolerance.
- That appropriate curricula should be developed at school and college levels to promote a culture of religious and social tolerance.
- That Federal Government should take appropriate steps to ensure that hate speeches in social media are discouraged and the delinquents are brought to justice under the law.
- The National Council for minority's rights should be constituted.
- That special police force should be established with professional training to protect the places of worship of minorities.

Judiciary

- The judges appointed in lower courts go through very basic training and by no means are trained in a comprehensive manner to adjudicate proceedings in the court. Thus adequate and comprehensive training mechanisms need to be formulated.
- The judges also need to be trained on matters pertaining to minority laws such as family and inheritance.
- A system of accountability has to be introduced within the judicial system through which judges can be held accountable for making decisions that are not strictly within the confines of the law.
- A mechanism should be developed to assess the performance of judges, and reward by further alleviation those who are competent.
- Quota of minorities should be strictly implemented when appointing prosecutors and judges.
- The process of selection of judges should be made transparent and it should be ensured that written exams and the interviews are designed to cater to the needs of minorities.

Bar

- Bar rooms can play an important role in improving the atmosphere at the courts, and should be more sensitive about the cases of discrimination against minorities. Bars need to be more sensitive and accommodating towards lawyers from minority communities.
- There should also be linkages between the formal mechanism the bar sets up and the judiciary, to confront the discriminatory attitudes of the bench.
- The bar and the lawyers in general must ensure that minority members are encouraged to run for office in district bars.

Annex A: Discriminatory Constitutional Provisions

Article 2: Islam shall be the State religion of Pakistan

Article 2A: The Objectives Resolution

Objectives Resolution

Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust;

This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan;

Wherein the State shall exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed;

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah;

Wherein adequate provision shall be made for the minorities to [freely] profess and practice their religions and develop their cultures;

Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;

Wherein shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality;

Wherein adequate provisions shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;

Wherein the independence of the Judiciary shall be fully secured;

Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honored place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity.

Article 31: Islamic Way of Life

(1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The state shall endeavour, as respects the Muslims of Pakistan: to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran, to promote unity and the observance of the Islamic moral standards; and to secure the proper organisation of zakat, [ushr,] auqaf and mosques

Article 41: The President

(2) A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the National Assembly.

Part IX - Islamic Provisions

It states that all the laws shall be brought in conformity with Quran and Sunnah. It also provides for the formation of Islamic Council which will give recommendations to Parliament on making laws in conformity with the teachings of Quran and Sunnah.

Article 260

(3) In the Constitution and all enactments and other legal instruments, unless there is anything repugnant in the subject or context

(a) "Muslim" means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and

(b) "non-Muslim" means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Qadiani Group or the Lahori Group who call themselves 'Ahmedis' or by any other name or a Bahai, and a person belonging to any of the Scheduled Castes

Annex B: Ordinance XX, 1984

The Ordinance XX, 1984 was introduced which brought about changes in the Pakistan Penal Code (PPC). According to this amendment, using of specific titles such as 'Khalifa-tul-Mumineen', 'Khalifa-tul-Muslimeen', 'Sahaabi' or 'Razi Allah Anho' by Ahmedis was made a criminal offence. Furthermore, Ahmedis calling themselves Muslims, referring to their worship place as a mosque and even preaching their faith, were also made criminal offences with imprisonment up to 3 years.

298-B

Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places:

(1) Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmedis' or by any other name) who by words, either spoken or written, or by visible representation:

- (a) refers to or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as "Ameer-ul-Mumineen", "Khalifatul- Mumineen", "Khalifa-tul-Muslimeen", "Sahaabi" or "Razi Allah Anho";
- (b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as "Ummul-Mumineen";
- (c) refers to, or addresses, any person, other than a member of the family "Ahle-bait" of the Holy Prophet Muhammad (peace be upon him), as "Ahle-bait"; or
- (d) refers to, or names, or calls, his place of worship a "Masjid";

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves "Ahmedis" or by any other name) who by words, either spoken or written, or by visible representation refers to the mode or form of call to prayers followed by his faith as "Azan", or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

298-C: Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith:

Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmedis' or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

295-B: Defiling, etc. of the Holy Qur'an:

Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

295-C: Use of derogatory remarks, etc., in respect of the Holy Prophet:

Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.

298: Uttering words, etc., with deliberate intent to wound religious feelings:

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

298-A: Use of derogatory remarks, etc., in respect of holy personages:

Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of any wife (Ummul Mumineen), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulafa-e-Rashideen) or companions (Sahaaba) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.



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