

## Chapter 6 Pakistan

# Striving for Realisation or Hitting Dead-Ends?

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### Introduction

Pakistan ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2008 and committed itself to implementing the covenant in letter and spirit by incorporating these rights in its constitution and legal system; as well as to respecting, protecting and fulfilling all its international obligations. Unfortunately, even after eight years, Pakistan is yet to make any significant progress in effectively implementing these rights. Without these two essential steps, no country can progress towards the realisation of economic, social and cultural (ESC) rights and make living conditions better for its millions.

In Article 2.1 of the ICESCR, it is clearly mentioned that state parties have obligations to incorporate these rights into the domestic legal system through appropriate legislation. There are two legal models of incorporating these rights into the domestic jurisprudence – one is the doctrine of incorporation (monist) and the other is the doctrine of transformation (dualist). Pakistan follows a dualistic model system, so it is obligatory for Islamabad to recognise ESC (economic, social and cultural) rights within the constitution and they should be made part of the first chapter, which deals with fundamental rights, in order to make them more effective. However, with the passage of the 18th Amendment, a new window of opportunity has been

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opened, as now provincial assemblies can also legislate directly to include ESC rights in their respective jurisprudence.

In recent years, Pakistan has registered modest economic growth, low inflation and price stability (Government of Pakistan 2016). Despite this, an estimated 29.5% of the population lives below the poverty line (ibid: 284–5). The situation is more alarming when other socio-economic indicators are looked at. 38.8% of people in Pakistan are ‘multi-dimensionally’ poor (Government of Pakistan and UNDP 2016: 15), meaning that 38.8% of people are deprived in at least one-third of the indicators under education (years of schooling, school attendance, and educational quality), health (access to health facilities, immunisation, ante-natal care, and assisted delivery), and living standards (water, sanitation, walls, overcrowding, electricity, cooking fuel, assets, and land/livestock ownership in rural areas).<sup>1</sup>

Multidimensional poverty also varies significantly across regions. For example, it stands at 74% in the Federally Administered Tribal Areas (FATA) and 71.2% in Balochistan, compared to 31.4% in Punjab (Government of Pakistan and UNDP 2016: iv, 15–16).

According to the National Nutrition Survey, around 58% of households are food insecure in Pakistan (Government of Pakistan 2011: 22). It is estimated that 44% of children in the country are stunted or too short for their age (UNICEF 2015: 7).<sup>2</sup> In Pakistan, the percentage of stunting happens to be higher among children whose mothers were not able to complete their schooling than among those whose mothers have completed at least 10 years of education (ibid: 14).<sup>3</sup> Stunting varies across regions, with the highest prevalence found in FATA (58%), followed by Balochistan (52%) (ibid: 15).

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1. The concept of multidimensional poverty and multidimensional poverty index (MPI) is based on the Alkire Foster method developed by Sabina Alkire and James Foster of Oxford Poverty and Human Development Initiative. See Oxford Poverty and Human Development Initiative, available at: <http://www.ophi.org.uk/research/multidimensional-poverty/alkire-foster-method/>
  2. Stunting is an outcome of malnutrition and repeated infections, and slows down cognitive development in children under two years of age. For an overview, see World Health Organisation (2014). *Global Nutrition Targets 2025: Stunting Policy Brief*. Available at: [http://www.who.int/nutrition/topics/globaltargets\\_stunting\\_policybrief.pdf](http://www.who.int/nutrition/topics/globaltargets_stunting_policybrief.pdf)
  3. See also Arif, G.M. et al (2012). ‘Child Malnutrition in Pakistan: Trends and Determinants’, Working Paper, July 2012. Islamabad: Pakistan Institute of Development Economics. p. 9.

Provincial and federal assemblies have recently adopted new laws against domestic violence, so-called ‘honour’ crimes, and child labour.<sup>4</sup> However, there remain significant gaps in the legal recognition and protection of several covenant rights. Women, children, religious minorities, refugees, and lesbian, gay, bisexual, transgender and intersex (LGBTQI) persons continue to face barriers in the realisation of their rights.

This report focuses on religious minorities within Pakistan, as a specific disadvantaged class or category of people (as so defined by the state), and the challenges unique to them.

## **Disclaimer Regarding Data Presented**

On 15 March 2015, after a long delay, Pakistan began conducting its fifth population census. The last population census had been held in 1998. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has emphasised the importance of ‘reliable’ and ‘disaggregated’ data to the implementation of the International Covenant on Economic, Social and Cultural Rights, especially in relation to poverty eradication (CESCR 2001: paragraph 13). This census was finally completed in 2017 with a provisional report of the results released.<sup>5</sup> However, as of yet, there has been no publication of a complete collation of the breakdown of the results to reflect updated numbers of religious minorities.<sup>6</sup> Therefore, despite the census having taken place just last year, the numbers being presented in this report are, unfortunately, still grossly out of date. In the absence of current census data, economic and social planning risks turning into guesswork. In Pakistan, the census plays an important role in delimiting electoral constituencies, distributing resources to the provinces under the National Finance Commission award, and allocating provincial quotas for recruitments in the federal bureaucracy<sup>7</sup> (hence, the cynicism in questioning the reason for holding the breakdown of results back).

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4. See, for example, The Sindh Child Marriages Restraint Act, 2014; the Domestic Violence (Prevention and Protection) Act, 2013 (Sindh Act No. XX of 2013); the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015; the Balochistan Protection Against Harassment of Women at Work Place Act, 2016; and the Criminal Law (Amendment) (Offences in the Name or on the Pretext of Honour) Act, 2016

5. <http://www.pbscensus.gov.pk/>

Therefore, whilst this report makes every effort to present the status quo with as much accuracy as possible, there will be discrepancies that will fully come to light very soon, once the updated census numbers are released.

Furthermore, whilst every care has been taken to present a comprehensive and detailed account of the persecution and discrimination faced by the many different religious minority communities of Pakistan, certain academic and research liberties have been taken vis à vis the incidents reported and the communities highlighted. This in no way takes away from the experiences of communities not discussed herein nor from the tragedy of each incidence of violence or persecution.

## Overview of Religious Communities

The situation for many religious communities in Pakistan has become increasingly harsh in recent years. Communities such as Hindus, Christians and Ahmadis have long faced challenges to 'belonging' in Pakistani society and fully participating in the political life of country, and, despite some signs of progress, according to reports on the ground the situation for minorities continues to deteriorate. According to the annual ranking of Peoples under Threat, produced by Minority Rights Group International (MRG) since 2008, Pakistan has consistently been one of the top 10 countries where the 'large-scale violence' is greatest. The environment in which minorities find themselves is characterised by hate speech, frequent invocation of blasphemy laws and increasingly violent attacks on places of worship. This oppressive environment has made it increasingly difficult for many religious communities to live securely and free from danger in places where they have often spent the majority of their lives. As a result, they are regularly pushed to relocate to safer environs in the country or abroad.

In illuminating the precarious situation faced by many religious communities in Pakistan, it is crucial to avoid stereotypical portrayals of a country which is too easily characterised in over-simplistic terms as 'Islamic' or 'Islamist'. Pakistan is a pluralistic society with myriad religious and ethno-linguistic identities. This diversity has been shaped by ongoing demographic changes throughout its existence. Broadly, however, the pro-

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6. 'Minorities demand inclusion in census report', 16 January 2018. <https://www.pakistan-today.com.pk/2018/01/16/minorities-demand-inclusion-in-census-report/>

7. Pursuant to Article 51 (3) and Article 160 (2) of the Constitution of the Islamic Republic of Pakistan.

portion of religious minorities in relation to the overall population has drastically declined. The upheaval wrought by partition in 1947 saw an outflow of Hindus and an inflow of Muslims from India. In subsequent decades, but particularly from the 1980s onward, migration has changed the composition of Pakistani society, and many members of minority communities have fled Pakistan to escape persecution and pursue better economic prospects abroad. In Baluchistan, for instance, a spate of recent abductions and murders targeting minority members has contributed to migration among these groups.

A sense of exclusionary nationalism has also developed in Pakistan, and this has had dire effects on the status and rights of many religious groups in the country. Islam is, of course, not monolithic, and growing emphasis on a particular understanding of 'Muslimness' has severe repercussions not only for non-Muslims but also for intra-Muslim ideological divides and the resulting efforts to identify 'enemies from within' (Malik 2002: 7). In addition to the divide between Sunni and Shi'a Muslims, there are further notable subdivisions within Sunni Islam, primarily between Barelvi and Deobandi strands, which are perceived by hardliners to be at odds with one another. Consequently, in many aspects Shi'a Muslims share a common experience of discrimination, persecution, and violence with other marginalised religious communities in the country. In addition, although there are other smaller religious groups in Pakistan, including Sikhs, Parsis, Zikris, Bahais, Buddhists and Kalasha, the largest and most prominent minority religious groups are Hindus, Christians and Ahmadis. This report will focus particularly on these groups. The following is a brief overview of the situation faced by each of these groups.

## **Ahmadis**

The Ahmadi community in Pakistan comprises approximately 0.22% of the population, according to the country's last national census, conducted in 1998. However, Ahmadi population statistics are especially contested. While the community is officially numbered at

less than half a million, other sources estimate it at 600,000 and even into the millions (UNHCR 2012: 20). They are relatively well-educated as a group and many make their home in Rabwah, Punjab district. While Ahmadis consider themselves to be Muslims rather than a non-Muslim minority group, they are regarded by many representatives of dominant Islamic groups as heretics and are legally prohibited from declaring themselves

Muslims. They are unable to exercise their right to vote because, in order to do so, they must declare themselves non-Muslims, which they are unwilling to do. The marginalisation and persecution of Ahmadis has reached extreme levels in recent years, and Ahmadis are now the target of a 'sustained and vicious hate campaign' (HRCP 2014).

Ahmadis live in constant fear of harassment or assault either to themselves or their homes, workplaces and places of worship. For example, in December 2012 suspected militants desecrated 120 Ahmadi gravestones in Lahore,<sup>8</sup> while in March 2013 an Ahmadi family in Kasur was brutally attacked in their home by local clerics after they allegedly refused to convert to Sunni Islam.<sup>9</sup> Later in 2013 a vigilante group forcibly expelled an Ahmadi family from their business premises in an attempt to thwart the production of the Ahmadi-run magazine, *The Weekly Lahore*.<sup>10</sup> In July the same year, at the onset of Ramadan, a group of Sunnis assaulted Ahmadis in Fatehpur, Gujrat, after which they attempted to assert ownership rights over the Ahmadi place of worship.<sup>11</sup>

This hostility has been accompanied by a marked increase in targeted killings of Ahmadis. In a particularly severe incident on 28 May 2010, 94 people were massacred when gunmen attacked two Ahmadi mosques in Lahore (Human Rights Watch 2010). Successive governments have failed to prosecute injustices or provide meaningful protection to Ahmadis. While Ahmadis are frequently sentenced for various dubious charges of blasphemy, the state has repeatedly failed to bring to justice those responsible for numerous attacks against members of the community, including a mob attack on 27 July 2014 on a small Ahmadi settlement that resulted in the deaths of two children and their grandmother (Amnesty International 2014).

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8. Yusuf, H., 'Ahmadis, a special target of discrimination in Pakistan', *The New York Times*, 6 December 2012. <https://latitude.blogs.nytimes.com/2012/12/06/ahmadis-a-special-target-of-discrimination-in-pakistan/>
  9. Tanveer, R., 'Clerics attack Ahmadi house, torture family in Punjab', *Express Tribune*, 26 March 2013. <https://tribune.com.pk/story/526633/clerics-attack-ahmadi-house-torture-family-in-punjab/>
  10. Tanveer, R., 'Ahmadi-owned magazine's office under siege', *Express Tribune*, 14 June 2013. <https://tribune.com.pk/story/562923/ahmadi-owned-magazines-office-under-siege/>
  11. Tanveer, R., 'Dispossession: Ahmadis banished from place of worship', *Express Tribune*, 31 July 2013. <https://tribune.com.pk/story/584181/dispossession-ahmedis-banished-from-place-of-worship-lahore-city/>

## Christians

Unlike many Hindus and Sikhs who emigrated to India at the time of partition, Christians for the most part remained in newly-founded Pakistan (Bharadwaj et al. 2008). According to the 1998 Census, Christians make up approximately 1.59% of Pakistan's total population (Government of Pakistan 1998). In fact, the exact number is unknown and estimates range from less than 2 million to as many as 3 million (Immigration and Research Board of Canada 2013). There are Christian communities in Khyber Pakhtunkhwa province, including around 70,000 in Peshawar, but the bulk of Pakistani Christians live in Karachi, Lahore, Faisalabad, and numerous small communities in Punjab (BBC 2013).

While Christians in Pakistan are overwhelmingly poor – working in menial jobs as cleaners, labourers and farmhands – there are notable exceptions. More than any other non-Muslim religious group, Christians have made significant contributions to social sector development in Pakistan, evident in the building of educational institutions, hospitals and health facilities throughout the country (Rais 2007: 122). Yet, like other religious minorities, Christians have faced discrimination and victimisation throughout Pakistan's history. This is evident, for instance, in the nationalisation of Christian properties and institutions under Zulfikar Ali Bhutto (1971–7). Still largely unaddressed, this has resulted in a loss of control over the very educational and health institutions the Christian community has built (Karim 2014).

Since 2001 violence and discrimination against Christians has increased. Seen as connected to the 'West' due to their faith, Christians have at times been scapegoated for the US-led invasion of Afghanistan, as well as the immense human suffering seen as a consequence of interventions in other countries with large Muslim populations (Malik 2002: 22). Violence has not abated in recent years, with an unprecedented suicide attack on a Christian church in September 2013. In what was also the largest attack against the Christian community in the country's history, suicide bombers massacred more than 100 people at the All Saints Church in Peshawar as the service was ending.<sup>12</sup> Prior to this, over 100 Christian homes were destroyed by two large mob attacks against Christian communities in Punjab in March and April 2013 (ibid). Other cases of violence perpetrated against Christians include land-grabbing in rural areas; abductions, forced conver-

sion and marriage of women; and the vandalising and torching of homes and churches. In addition, many Pakistani Christians have been convicted of blasphemy under the country's repressive laws.

## Hindus

Hindus in Pakistan account for approximately 1.85% of the country's population according to the 1998 Census (Government of Pakistan 1998) – amounting to less than 2.5 million people. However, as with other minority groups, these figures are regarded by community organisations to be unreliable and out of date. The Pakistan Hindu Council, for instance, has estimated that the total Hindu population now exceeds 7 million.<sup>13</sup> Of this group, approximately 94% inhabit the province of Sindh, with more than half of Sindhi Hindus concentrated in the south-east district of Tharparkar, bordering India. The remainder of Pakistan's Hindu population reside in small pockets of Punjab, as well as Baluchistan and Khyber Pakhtunkhwa provinces (ibid).

Since 1947, levels of animosity towards Hindus have correlated closely with the vicissitudes of Indo-Pakistani relations (Malik 2002). Issues and tensions on the international level have fed into the characterisation and targeting of Pakistani Hindus as foreign agents. Widespread violence perpetrated against Hindus flared, for instance, in the form of large-scale killings, desecration of temples, and the kidnapping and rape of women during the Indo-Pakistani wars of 1947–8, 1965 and 1971. The destruction of the Babri Mosque in India in December 1992 also led to reprisals against Hindus in Pakistan (ibid).

In recent years Hindus have remained not just a target of suspicion, but also severely discriminated against and persecuted in numerous ways. Hindu marriages, for instance, are not recognised or registered under Pakistani law, thus allowing for police to make accusations of adultery and demand extortion payments.<sup>14</sup> There have been many recent reported cases of Hindu women being kidnapped and forced to convert to Islam before being coerced into marriages with Muslim men (USCIRF 2014). Desecration of places of worship and burial sites has persisted as well: in October and

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12. While official estimates and news coverage put the death toll at around 85 people, minority communities claim that the actual numbers were much higher.

Pakistan Hindu Council, <http://www.pakistanhinducouncil.org/hindupopulation.asp>.

13. The News International, 'Pakistani law doesn't recognise Hindu, Sikh marriages', 20 February 2013



December 2013 angry mobs in Badin district, Sindh, dug up Hindu graves and disinterred the bodies (ibid). Due to mounting threats of violence and poor economic conditions, in April 2013 approximately 500 Hindus reportedly left Pakistan in the hopes of finding safety and security in India (ibid). There had also been an alarming rise in attacks on Hindu temples in 2014. According to the non-governmental organisation (NGO) Life for All, there were five attacks in March alone – the most violent month in terms of attacks on Hindus in two decades (ibid).

## ***Shi'as***

Although technically not a religious minority *per se* due to their official legal status as Muslims, the Shi'a have effectively been relegated to the status of a very large and prominent minority due to the extremely high levels of violence and persecution they have increasingly faced over the past decade.

Shi'a account for approximately 10–15% of the Muslim population of Pakistan (CIA).<sup>15</sup> They include a number of different ethnic groups and can be found throughout the country. Among them, the most vulnerable is the sizeable Hazara population in Quetta, due to their ethnicity. Pakistani Shi'a are represented in all walks of life, but in many cases have succeeded in playing prominent roles in Pakistan's cultural sphere and attaining influential, high-profile positions. Though as Muslims they are free from certain restrictions affecting other religious groups, Shi'a are still regarded as apostates by some extremist Sunni groups and individuals. As a result, many face regular hostility from extremists and public calls for members to be killed (Mihlar 2014: 1).

However, there was relatively little strife between Sunni and Shi'a groups until, under General Zia ul Haq, a radical, exclusionary brand of Wahhabism was welcomed into Pakistan.<sup>17</sup> In response to the perceived intent of post-revolutionary Iran to export Shi'a Islam to Pakistan and beyond, Zia tightened ties with Saudi Arabia and soon presided over the widespread dissemination of extremist Sunni ideology through sermons, in madrassas,

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14. The News International, 'Pakistani law doesn't recognise Hindu, Sikh marriages', 20 February 2013.

15. See Central Intelligence Agency (CIA), *The World Factbook*, available online at: <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>

16. See 'The Wahhabisation of Pakistan', 27 June 2008 <https://www.theguardian.com/commentisfree/2008/jun/27/middleeast.pakistan>; and 'The sectarian state', 1 December 2013. [http://tns.thenews.com.pk/the-sectarian-state/#.W\\_ZA65NLgWo](http://tns.thenews.com.pk/the-sectarian-state/#.W_ZA65NLgWo)

and via other channels. In 2011 militants sent an open letter to the Shi'a community in Quetta, which numbers around 600,000 people, stating that 'all Shias are worthy of killing' and their intention to 'make Pakistan their graveyard' (Mir 2011).

These statements have been accompanied by a systematic campaign of violence directed towards the community in Pakistan, including Shi'a professionals, officials and pilgrims travelling to and from holy sites and festivals. Between 1999 and 2003, around 600 Shi'a were killed as a result of extremist violence and, in this span of time, approximately 500 Shi'a doctors fled the country as a result of the assassination of more than 50 of their colleagues in Karachi alone. The targeting of Shi'a professionals by militant groups continues to the present day, and in recent years these attacks have been especially bloody. Bombings carried out by militants and terrorist organisations have targeted social gatherings and crowded Shi'a areas with near impunity. There have been no meaningful crackdowns or investigations into the perpetrators of this violence, and police have generally been unable to stop attacks when they occur (USCIRF 2014: 76).

Recent incidents include an attack in August 2012 when 25 Shi'a from Gilgit-Baltistan were forced off a bus travelling from Rawalpindi and summarily executed on the basis of the ID cards they were carrying.<sup>17</sup> In January 2013 a suicide attack followed by a car bomb in the same location killed a total of 91 people in Quetta. The following month, another bomb in Quetta's Hazara Town left another 110 dead. In March of the same year, two explosions outside a Shi'a mosque in Karachi killed at least 50 people. Another 30 people were killed in a further suicide attack in June outside a mosque in Hazara Town. Similar incidents have occurred consistently since, including a very high-profile suicide attack in January of 2014 on a busload of Shi'a pilgrims, which left at least 22 dead.

## **Legal and Institutional Discrimination Against Minority Religious Communities**

Since the early days of its existence Pakistan has seen the implementation

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17. 'Shias killed in Gilgit sectarian attack', 16 August 2012. <https://www.bbc.com/news/world-asia-19280339>

of various policies, constitutional amendments and pieces of legislation that promote the discrimination of religious minorities in the country. This discriminatory legislation, which ascribes an inferior status to religious minorities at an institutional level, severely impacts the daily lives of members of religious minorities and limits their role in the Pakistani polity. This is despite the fact that Pakistan has either signed or ratified various international agreements guaranteeing freedom of religion and protection from persecution.

However, a significant gap remains between formal ratification and implementation. The failure to incorporate these conventions into domestic legislation has resulted in their frequent violation, as well as a variety of legal gaps with regard to the protection of religious freedom in Pakistan. For example, the Second Amendment to the Constitution of Pakistan, which designates Ahmadis as a 'non-Muslim minority', as well as Ordinance XX, undermine a legal

framework that would allow all Pakistanis to enjoy freedom of religious belief by violating key aspects of the aforementioned conventions, such as Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which emphasises a person's 'freedom to have or to adopt a religion or belief of his choice' and to 'manifest his religion or belief in worship, observance, practice, and teaching' in public or private. Legal and institutional gaps such as these contribute to the marginalisation of certain religious minorities, particularly Ahmadis, and are exacerbated by prejudice within the judiciary towards these groups (Amnesty International 2012).

A more detailed account of the infringement of Pakistan's religious minorities' civil and political rights is available in the South Asia State of Minorities Report 2016, and therefore an in-depth analysis of the discrimination, persecution, and violence faced by them is outside the parameters of this report. This report aims to be more expansive, and hence, moving beyond a state-centric analysis to look at socio-economic and culture factors, will point out how prejudice and discrimination against certain religious communities, including some Muslims, has become ingrained within Pakistani society. Pakistan's Shi'a, for example, while exempt from much of the formal legal discrimination affecting Ahmadis, Christians or Hindus, are nevertheless subjected to comparable levels of prejudice and violence. Beyond discriminatory laws and constitutional injunctions, religious minorities in Pakistan encounter discrimination in a variety of public spaces on a daily basis, including school, work, local neighbourhoods and the

media. Graffiti and banners on city walls, voices from the loudspeakers of mosques, popular television programmes, and even children's textbooks carry messages that incite hatred towards minorities. Stereotypes of religious minorities also deeply impact minorities' interactions with the Muslim majority: for example, because of negative associations Christians are often restricted from drinking water from the same source as Muslims.<sup>18</sup>

The socio-economic challenges that come with this discrimination also affect the daily lives of religious minorities in Pakistan who are often relegated to living in decrepit conditions in slums such as 'French Colony' in Islamabad. In this sense, the exclusionary nationalism that has been promoted in Pakistan over the years is deeply connected to the lives of Hindus, Christians, Ahmadis and other religious groups, who are 'othered' through a variety of everyday practices. Increasingly, this discrimination has been accompanied by widespread violence that impacts on the lives of marginalised religious groups in profound ways. The situation is particularly deplorable for those who confront discrimination on multiple levels such as the Hazara Shi'a community, whose freedom of mobility and security have been heavily restricted due to the threat of sectarian violence. Mounting sectarian violence against Shi'a, as well as discrimination against religious groups who until recently had managed to escape systematic targeting, such as Ismaili Muslims, points to the growth of an even more exclusionary form of nationalism based on a very specific understanding of 'Muslimness'. As a result, these groups are socially excluded, and the space ceded for them to practise their religions or achieve scholastic and economic success remains extremely limited.

## **The Challenges of Intersectional Discrimination**

Discrimination against religious minorities in Pakistan manifests in myriad forms, ranging from restrictions on political participation and limited economic opportunities to outright violence. These different forms of discrimination do not operate in isolation, but rather work together and reinforce one another. It follows that religious discrimination does not function separately from other systems of oppression that take hold in Pakistan, but alongside them. For this reason, members of different religious groups, as

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17. See 'Justifying the killing of Christians', 25 September 2013. <https://tribune.com.pk/story/609239/justifying-the-killing-of-christians/> and Beall 2006: 81–7.

well as members of the same religious group, may experience discrimination in different ways depending on other factors such as gender, class or ethnicity. Groups such as Scheduled Caste Hindu women suffer from multiple and intersectional forms of discrimination that affect their lives in profound ways. In comparison, the discrimination encountered by religious minorities belonging to the elite and urban middle class is somewhat mild, and the inclusion of these minorities in positions of power within politics, the economy, or the military has often been used to deflect criticism from the blatant religious discrimination that pervades the country. Yet it is important to note that members of this relatively privileged group are few and even they do not have immunity from discriminatory structures, which prevent them from enjoying full citizenship rights (Shaun 2012: 197).

With regard to the different systems of oppression that operate in Pakistan, gender-based discrimination is particularly severe, as highlighted by the Global Gender Gap Index for 2013. Measuring 'relative gaps' between men and women in areas including education, health, economics, and politics, this ranking placed Pakistan second to last out of the 136 countries assessed (World Economic Forum 2013). It is therefore unsurprising that minority women – who encounter multiple and intersectional discrimination – find themselves in a particularly dire situation.

## **Incorporation of Covenant (ICESCR) Rights in Domestic Law**

The Constitution of Pakistan does not include all economic, social and cultural rights under the chapter on 'Fundamental Rights', meaning not all are enforceable in court. Article 11 of the constitution prohibits 'slavery' and 'forced labour.' The same article forbids the employment of 'a child before the age of fourteen years' in 'any factory or mine or any other hazardous employment.' The constitution guarantees 'freedom of assembly' (Article 16), 'freedom of association' (Article 17), and 'freedom of business, trade and profession' (Article 18). The 18th constitutional amendment, adopted by the parliament in 2010, added to the catalogue of rights 'the right to have access to information in all matters of public importance' (Article 19A) and the right to education 'for all children up to 16 years of age' (Article 25A).

Chapter 2 of the constitution outlines the 'Principles of Policy' (Articles 29–40), which call upon the state to 'make provision for the just and humane conditions of work; to provide necessities of life such as food, clothing,

housing, education and medical relief; and ‘to reduce disparity in income and earnings.’ While the ‘Principles of Policy’ have persuasive value and have been used to develop the substantive content of fundamental rights, they are not directly enforceable in the courts.<sup>19</sup> The Supreme Court, under the former Chief Justice Iftikhar Chaudhary (2005–13), made extensive use of its ‘original jurisdiction’ under Article 184(3) of the constitution to initiate suo moto proceedings on a range of human rights issues, particularly health and environment (Qazi 2015: 321). For example, in a series of cases, the Supreme Court ordered the government to prevent the contamination of drinking water and the dumping of solid waste in various parts of the country.<sup>20</sup> The court, however, did not develop reasoned jurisprudence on economic, social and cultural rights.<sup>21</sup> As a result, the judgements have limited value as precedents today. Furthermore, references to international human rights law have been extremely rare in Pakistan’s domestic case-law.

Constitutional rights, as yet, do not extend to the Federally Administered Tribal Areas (FATA). Earlier this year, the National Assembly passed a bill that approved the merger of FATA with Khyber Pakhtunkhwa, thereby extending all constitutional rights to the region, but this has not taken effect yet and implementation will take place over a five-year transition period.<sup>22</sup> The government has yet to clarify whether it intends to introduce the constitutional amendment extending ‘Fundamental Rights’ to the people of FATA during the five-year transition period or at the end of it (Government of Pakistan 2016a: 42).

The National Commission for Human Rights was established in May 2015 with the appointment of its chairperson and members. The commis-

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19. CESCR (2016) paragraph 1; In some cases, dating back mostly to the 1980s and 1990s, Pakistan’s courts read the “Principles of Policy” into the guarantees of “Fundamental Rights”. See, for example, *Shehla Zia v WAPDA*, PLD 1994 SC 693; *Pakistan Chest Foundation v Government of Pakistan*, 1997 CLC 1379; *Benazir Bhutto v Federation of Pakistan*, PLD 1988 SC 416; and *Benazir Bhutto v President of Pakistan*, PLD 1998 SC 388.
  20. See, for example, *Suo Motu Case No. 14/2007* (Polluted water in Dera Ghazi Khan); *Suo Motu Case No. 10/2010* (Contamination of Machar Lake); *Suo Motu Case No. 13/2010* (Supply of contaminated water to Rawalpindi from Rawal Dam); and *Suo Motu Case No. 18/2009* (Dumping of solid waste by Safina Sugar Mills on Sargodha-Chiniot road).
  21. The Court also turned controversial by involving itself too closely in public policy and removing an elected prime minister (Yusuf Raza Gilani) from office for “contempt of court” on 19 June 2012.
  22. ‘National Assembly green-lights Fata-KP merger by passing ‘historic’ bill’, 24 May 2018. <https://www.dawn.com/news/1409710> and Beall 2006: 81–7.

sion has the power to take *suo moto* action on cases of violation of human rights. The commission does not have the power to investigate violations of human rights by the military and intelligence agencies directly.<sup>23</sup>

## **The Status of Socio-Economic Rights in Pakistan**

### **The Right to Work and Trade Union Rights – Articles 6–8 of the ICESCR**

The concept of the right to work entails that people have a human right to work and to engage in productive employment and that they should not be prohibited from doing so. The right to work is enshrined in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, where the right to work emphasises economic, social and cultural development.

The Constitution of Pakistan provides a range of provisions with regards to workers' rights in Part II: 'Fundamental Rights and Principles of Policy':

- Article 11 prohibits all forms of slavery, forced labour and child labour;
- Article 17 provides for a fundamental right to exercise the freedom of association and the right to form unions;
- Article 18 describes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business;
- Article 25 lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone; and
- Article 37(e) makes provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

Pakistan has ratified 36 ILO conventions (of which 33 are in force), including conventions on the freedom of association and protection of the right to organise; the right to organise and collective bargaining; abolition of forced labour; equal remuneration; minimum age; the worst forms of

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23. According to Section 14 of the National Commission for Human Rights Act, 2012, the commission can only seek a report from the federal government or make recommendations to it in relation to 'complaints of human rights violations by members of the armed forces.'

child labour; and against discrimination (employment and occupation).

The main laws that deal with industrial relations; employment and service conditions; occupational health and safety; wages/remunerations; and social safety nets/social security are:

- Industrial Relations Act 2012
- Factories Act 1934
- The Shops and Establishment Ordinance 1969
- The Workmen's Compensation Act 1923
- Bonded Labour System (Abolition) Act 1992
- The Minimum Wages Ordinance 1961
- The Payment of Wages Act 1936
- The Industrial & Commercial Employment (standing orders) Ordinance 1968
- Protection against Harassment of Women at Workplace Act 2010.

The promotion and implementation of the right to work and decent work should be a significant priority for the government, who should be creating employment opportunities that are productive; that provide fair wages; and that ensure occupational safety and health and a mechanism of social protection, in an effort to achieve equitable, inclusive and sustainable development and reduce poverty.

The overall unemployment rate in Pakistan has decreased slightly in recent years. According to official figures, it currently stands at 5.9% (Government of Pakistan 2016: 11). However, the unemployment rate is significantly higher in cities (8%) compared to rural areas (5%) (ibid: 209<sup>24</sup>). Industrial development in urban Pakistan has not kept pace with the rising population as migrants from the rural areas are also moving to cities. Research suggests that the internal migration is at least partly linked to environmental stress, including climate-related crop failures and water scarcity (Leadership for Environment and Development (LEAD) Pakistan 2014: 17–28). Despite experiencing high levels of internal migration, Pakistan does not have a

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24. See also CESCR (2016). *List of issues in relation to the initial report of Pakistan*. Available at: <https://www.refworld.org/docid/5881e6904.html>



‘migration policy’. A policy framework, consistent with human rights, is required in the context of rural to urban migration, not only to fulfil the right to work but also to ensure that other covenant rights, such as the right to an adequate standard of living, are respected.

In the absence of appropriate planning, those migrating to cities sometimes have to live in informal settlements in hazardous locations without proper access to drinking water and healthcare facilities (ibid: 36). In recent times, Pashtuns from FATA and Khyber Pakhtunkhwa province, who make up a large proportion of internal migrants, have alleged experiencing discrimination from private employers, making it harder for them to access work.<sup>25</sup> These allegations surfaced after the authorities blamed Afghans – and people belonging to Pakistan’s predominantly Pashtun northwest region – for certain terrorist attacks against civilians that took place in early 2017.<sup>26</sup> In February 2017 the police in various cities of Punjab province reportedly put individuals from FATA under surveillance.<sup>27</sup> On 21 February 2017 a traders’ association in Lahore circulated a notice asking Pashtun traders to report to the police for security clearance.<sup>28</sup>

Latest figures indicate that the formal sector employs just 27.4% of the total labour force (Government of Pakistan 2016: 208). Outside agriculture, most Pakistanis work in the informal sector of the economy, which is largely unregulated, and they have no access to social security, health benefits, or occupational safety. The Factories Act, 1934, which governs the working conditions of industrial labour, only applies to companies employing 10 or more workers.<sup>29</sup> Labour inspection remains weak and is absent in the informal sector (Pakistan Institute of Labour Education & Research (PILER) 2015: 22–38). According to a 2015 ILO assessment, there were only 547 labour inspectors in the country, out of whom only three were women (ibid:

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25. ‘HRCP condemns “racial profiling of Pashtuns by Punjab govt officials”’, 27 February 2017. <https://www.dawn.com/news/1317344>; Pakistan’s Pashtun Profiling’, 1 March 2017. <https://thediplomat.com/2017/03/pakistans-pashtun-profiling/>

26. ‘Why Pakistan associates terrorism with Pashtuns and Afghans’, 20 March 2017. <http://www.dw.com/en/why-pakistan-associates-terrorism-with-pashtuns-and-afghans/a-38024338>

27. ‘People of FATA origin put under surveillance in Pindi division’, 22 February 2017. <https://www.dawn.com/news/1316244>. See also, ‘Labourers in Islamabad feel stigma of being Pashtuns’, 28 February 2017. <https://www.dawn.com/news/1317514>.

28. ‘Pakistan’s Pashtun Profiling’, 1 March 2017. <https://thediplomat.com/2017/03/pakistans-pashtun-profiling/>

29. The Factories Act, 1934, clause 2(j).

65). In recent years, Pakistan has experienced many workplace accidents in the garment and ship-breaking industries. Around three hundred workers were killed when a fire broke out at a textile factory in Karachi's Baldia Town in September 2012.<sup>30</sup> In November 2015 a four-storey factory building collapsed in Lahore's Sunder Industrial Estate, killing 39 workers. Over 30 workers were killed in multiple accidents at Gadani ship-breaking yards on the Balochistan coast in November 2016 and January 2017.<sup>31</sup>

As noted by the Committee, bonded labour continues to exist in Pakistan, particularly in agriculture and the brick kilns industry (CESCR 2016: paragraph 13). The practice is rooted in unequal land ownership patterns, and disproportionately affects certain caste and ethnic groups. In Sindh province, a majority of agricultural and brick kiln workers who are in debt-bondage are Hindus from so-called 'lower' castes. Christians and Afghan migrants make up a sizeable proportion of those who work in brick kilns in Punjab and Khyber Pakhtunkhwa (Qureshi and Khan 2016: xv). Bonded labour was formally banned in Pakistan in 1992 through the Bonded Labour Abolition Act, 1992, which made forcing anyone to work in bondage a crime punishable with imprisonment for a term extending up to five years.<sup>32</sup> The Human Rights Commission of Pakistan and other NGOs have since successfully used the law to secure freedom for a number of bonded labourers (Society for the Protection of the Rights of the Child (SPARC) 2015: 47–9). However, employers are rarely punished as required under the 1992 law due to a myriad of reasons, including but not limited to many judges in the lower courts often being unaware of the provisions of the Bonded Labour Abolition Act (Qazalbash 2016: 1–22). However, many of the reasons are more insidious and corrupt than a mere lack of knowledge, with countless reports of the police being complicit in protecting employers in exchange for bribes (*ibid*: 19; Solidarity Centre 2014: 13). Since the employers tend to be economically and politically powerful, they easily evade justice. The situation is further exacerbated as limited access to institutional credit and an absence of alternative livelihoods continues to push workers into a cycle of debt bondage and poverty, despite the law seemingly being on their side. There have been many reports of, in the rare case the judicial system works in their favour, bonded labourers who have been set

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30. 'More than 300 killed in Pakistani Factory Fires', 12 September 2012. <http://www.nytimes.com/2012/09/13/world/asia/hundreds-die-in-factory-fires-in-pakistan.html>

31. 'The Wasteland: The Ugly Side of Gaddani's Ship-breaking Industry', 12 January 2017. <http://herald.dawn.com/news/1153615>.

32. The Bonded Labour Abolition Act, 1992, Sections 11 and 12.

free by the courts returning to their former 'employers' when they fail to find other work (Menski 2000: 106–132).

Procurement law in Pakistan does not oblige commercial and public sector entities to ensure that their suppliers adhere to human rights standards, including the prohibition of forced labour.<sup>33</sup> According to an assessment conducted in Sindh and Punjab provinces, local government departments procure bricks without screening whether suppliers use bonded labour (Solidarity Centre 2014: 13–14).

Following the passage of the 18th Constitutional Amendment, provinces have enacted new industrial relations laws. The new laws, patterned on the previous legislation at the federal level, have excluded workers in the informal economy (including domestic and home-based workers) from the right to form and join trade unions.<sup>34</sup>

With 949 registered unions in the entire country, only around 3% of Pakistan's workforce is currently unionised (PILER 2015: 37). Businesses have increasingly resorted to hiring contract workers, which allows them to dilute the power of trade unions and escape paying pensions and employment benefits.

The situation is even more dire in the context of religious minorities. Religious minorities in Pakistan are largely confined to low-wage, menial employment, with little opportunity to improve their socio-economic position. There are, of course, members of religious minorities who do hold influential positions, but a glass ceiling remains, and the socio-economic ladder is much more difficult to climb. This is in large part a consequence of the limited educational opportunities available to minorities, particularly women, and other forms of institutionalised discrimination. For instance, although 5% of jobs are legally required to be filled by religious minorities, as per a law passed in 2009, these measures are not always followed. For example, in a recent case, Sargodha University ignored this quota, leading

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33. See Public Procurement Regulatory Authority Ordinance, 2002; Pakistan Public Procurement Rules, 2004; The Balochistan Public Procurement Regulatory Authority Act No. VIII of 2009; The Punjab Procurement Regulatory Authority Act, 2009; Sindh Public Procurement Act, 2009; and Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012.

34. The Sindh Industrial Relations Act, 2013; the Punjab Industrial Act, 2012; the Balochistan Industrial Relations Act XIII, 2010; and the Khyber Pakhtunkhwa Industrial Relations Act, 2010.

35. '5% minority quota in university recruitment a must', 23 May 2013.

a Christian political representative to appeal against the school.<sup>35</sup> Bonded labour remains common in the country, as highlighted by the Global Slavery Index 2013, which ranked Pakistan as the third worst place in the world for forced labour and debt bondage. Scheduled Caste Hindus are especially vulnerable to these practices (Walk Free Foundation 2013). Similarly, significant numbers of Christians residing in Sindh and Punjab work as bonded labourers in areas such as carpet-weaving and the brick kiln industry. This situation is often closely intertwined with inequalities between religious minorities and the Muslim majority.

Bonded labour is widely condemned as a form of modern-day slavery, as those who are consigned to this form of work are effectively kept in captivity, with little freedom of movement, and often encounter physical abuse. As a consequence of the interest rates that landowners apply to these loans, coupled with extremely low wages for their work, bonded labourers experience extreme difficulty escaping their debt, which is often passed on between generations.<sup>36</sup> Although the majority of bonded labour is found in rural Sindh, similar conditions plague those who work in the brickmaking sector in Punjab. Despite the aforementioned legislation against bonded labour in Pakistan, developed in the early 1990s, which has helped bring about the release of some individuals from these conditions, it remains a significant problem in the country. According to recent estimates by the Asian Development Bank, approximately 1.8 million people are in bonded labour across the country, although some estimates are higher (US Department of State 2012).

Beyond this, Hindus and Christians in cities often take on menial work, such as low-level sanitary jobs, that Muslims are generally unwilling to do. A large number of Christians, for example, are occupied as street sweepers, and this work feeds into negative stereotypes. This social stigmatisation reinforces their economic marginalisation, undermining their ability to access even basic livelihoods as a result.

The workplace also serves as yet another site in which gender discrimination is widespread, particularly towards minority women. According to the Asian Human Rights Commission (AHRC), a large proportion of Hindu and Christian women in cities are employed as scavengers or sanitary work-

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36. 'The Australian tycoon who wants Pakistan to free its slaves in return for coal', 27 January 2014, <http://time.com/1788/the-australian-tycoon-who-wants-pakistan-to-free-its-slaves-in-return-for-coal/>

ers, on very low wages and without basic labour protections. In some rural areas, the situation is compounded by feudal power structures. In Sindh, for instance, many Hindu women work in slave-like conditions as bonded labourers to local ‘owners’ (AHRC 2010). The combination of economic marginalisation, gender discrimination and religious exclusion means that young minority women are particularly vulnerable to extreme abuse from their employers.

## **The Right to Social Security and Adequate Standard of Living – Articles 9–11 of the ICESCR**

The right to ‘social security and social insurance’ acquires added urgency in Pakistan given that 39% of its population lives in multidimensional poverty (Government of Pakistan and UNDP: 9–11, 15). As the Committee has explained: ‘Social security, through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion’ (CESCR 2008: paragraph 3). Historically, social security programmes in Pakistan have suffered from poor coverage and design errors. For example, the pension scheme under the Employees Old Age Benefits Institution (EOBI) does not cover agricultural and informal sector workers, thus bypassing the majority of Pakistan’s workforce. According to one estimate, only 3.1% of individuals in the working age population (15–64 years) are active contributors to the scheme (CESCR 2016: paragraph 15; ILO 2014: 275). The other contributory benefits scheme, known as the Workers’ Welfare Fund (WWF), similarly has low coverage.

The Benazir Income Support Programme (BISP), Pakistan’s flagship social safety programme, was launched in 2008. Through the BISP, the government pays unconditional cash transfers (currently set at 1,500 rupees or US \$15 a month) to eligible families based on a “poverty scorecard”.<sup>37</sup> The BISP also offers health insurance to its beneficiaries (*Waseela-e-Sehat*), provides vocational training opportunities (*Waseela-e-Rozgar*), and access to interest-free financial support (*Waseela-e-Haq*). The BISP has had a ‘discernible effect in reducing poverty’ based on the poverty line.<sup>38</sup> However, the programme has not improved education and health outcomes in a significant manner (Mumtaz and Whiteford 2017: 16–38, 21). Though the cash

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37. The poverty scorecard is based on a range of indicators, such as the household size, education status, agricultural landholding, housing and toilet facilities, and livestock ownership.

38. ‘Overview – Benazir Income Support Program’, available at: <http://bisp.gov.pk/overview/>

transfers are helping the poorest households survive, the monthly amount (US \$15) is not enough to help break the cycle of multidimensional poverty. For that to happen, there is a need to improve the coverage of other social protection programmes, and education and health services. To its credit, the programme focuses on women. However, it does not ‘give special attention’ to some of the other groups ‘who traditionally face difficulties’ in exercising the right to social security, as outlined by the committee. These include: ‘persons working in the informal economy, sick or injured workers, people with disabilities, older persons, children and adult dependents, domestic workers, homeworkers, minority groups, refugees, asylum-seekers, internally displaced persons, returnees, non-nationals, prisoners and detainees’ (CESCR 2008: paragraph 31). For the purposes of our analysis, it is religious minorities that are once again excluded from an essential social security programme.

In relation to article 11 of the covenant (‘an adequate standard of living’), ‘the right to food’ and ‘the right to water’ remain key areas of concern given Pakistan’s agrarian economy and its vulnerability to climate change. These rights are also linked to the right to health (article 12) and have serious implications for the wellbeing of women and children (article 10).

The Constitution of the Islamic Republic of Pakistan has directive principles that contribute to the realisation of the right to adequate food. Article 38(d) of the Constitution of Pakistan ensures provision of basic necessities of life, including food, for the citizens of Pakistan. It says: ‘The State shall provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment’ (Food and Agriculture Organisation: 1998). The 18th constitutional amendment in 2010 has involved the devolution of 17 subjects to the provinces, including the food and agriculture sector. Now the provinces are being given more powers in order to bring services away from the central government and closer to the people.

The federal Ministry of National Food Security and Research was set up on October 26, 2011 because after the adoption of the 18th Amendment, some functions listed in the federal legislative list related to the Ministry were retained at the federal level, and keeping in view the importance of food security and better execution of related functions. According to a notification issued by the Cabinet Division, the new ministry includes economic coordination and planning in respect of food; import and export of food

grains and food stuff, including import and export of food grains; coordination with aid/assistance agencies with respect to the food sector, and PARC and other federal agriculture research organisations; the import and standardisation of plant protection-pesticides; and aerial spray and plant quarantine.<sup>39</sup>

To address the unprecedented hunger and malnourishment in the country, the newly established Ministry of National Food Security and Research (MNFSR) launched a 'National Zero Hunger Action Plan' in March 2012. The program is a five-year plan that aims to reach a total of 61 million food insecure people across the country, with a total cost of 16 billion USD. The World Food Programme (WFP) and MNFSR have also signed an agreement, under which some 500,000 metric tons of wheat, donated by the government of Pakistan, will be converted by WFP into nutritious food commodities that will be used to combat hunger among the most vulnerable sections of society – particularly malnourished children, pregnant women and primary school children.

The programme also features what it calls a 'School Feed programme' and is establishing 'Zero Hunger Shops' in 45 extremely food insecure districts in Pakistan, in order to try and tackle food insecurity through schools and local markets. Some of the other salient interventions of the Zero Hunger Plan include:

- Support to food-insecure households,
- Cash and food support in disaster-hit areas,
- Expansion of farm outputs and market access,
- Targeted social safety nets,
- Rationalisation of market prices of food commodities,
- Improved nutritious quality of food intake (fortified food),
- Diversification of food,
- Food processing industry even at community level,
- Food and nutrition awareness and education programmes,
- Food security surveillance,

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39. See [www.mnfsr.gov.pk](http://www.mnfsr.gov.pk)

- Research for food policy and production, quality improvement, storage and distribution; and
- Enhanced coordination among various federal and provincial ministries, and public-private-civil society partnerships (Sustainable Development Policy Institute 2012).

The State also adopted the ‘Pakistan Vision 2025’ policy framework in 2014. Food security and nutrition are among its important seven pillars.

The government has initiated programmes focused on short term results, including food stamps and safety net schemes (eg BISP, Watan cards, funds under Zakat & Ushar (both Islamic taxes) etc). Pakistan is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR), Article 25(1) of which ensures the right to food for everyone.

The right to water and sanitation is not specifically mentioned in Article 11 of the ICESCR under ‘adequate standard of living’, but it is considered an integral part of the right. Article 11, paragraph 1 of the covenant specifies a number of rights emanating from, and indispensable for, the realisation of the right to an adequate standard of living, ‘including adequate food, clothing and housing’. The use of the word ‘including’ indicates that this group of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival. Moreover, the committee has previously recognised that water is a human right contained in General Comment No. 6 (CESCR 1995).

The right to water is also inextricably related to the right to the highest attainable standard of health (Article 12, paragraph 1) and the rights to adequate housing and adequate food (Article 11, paragraph 1). The right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity (CESCR 2003).

The right to water also obliges states to prevent the contamination of water with harmful elements such as industrial waste, as well as freedom from the arbitrary disconnection of water.

The provision of water is recognised under Article 38 of the constitution



## **Profile of a vulnerable minority: The Hazara Shias of Pakistan**

### **Who are the Hazaras and what kind of persecution do they face?**

The Hazaras constitute a distinct ethno-religious group – historically persecuted on both ethnic and religious grounds – that live predominantly in Afghanistan, Pakistan and Iran. The Hazara population is estimated to be between 8 to 10 million, although no official statistics have been gathered so far. For more than a century, the Hazaras have repeatedly experienced human rights violations. In Pakistan, the Hazara population (estimated to be between 0.5 and 0.6 million –although this is an outdated number as Pakistan held its first census in 2017 after almost two decades, the results of which have not yet been disclosed in their entirety) is largely concentrated in Quetta city, the provincial capital of the South-western restive and insurgency-riddled province of Baluchistan.<sup>1</sup> The population in Quetta have been living in two separate and distinct areas called Alamdar Road and Hazara Town. The perpetual attacks on the members of the community have compelled the community to live their lives in an ‘open jail’ (Hazara Town stretching to only 4 square kilometres). In the last few years, hundreds of government civil servants, students and entrepreneurs from the Hazara community have abandoned their jobs, studies and businesses for security reasons.<sup>2</sup> Their facial features, which have been termed the ‘fault in their faces’ by a senior officer from Baluchistan, easily distinguish them from the rest of local population and they are thus easily targeted (ibid).

Over the course of the past 15 years, more than 1,500 Hazaras have been killed and over 3,500 wounded in a series of 190 attacks across Pakistan (ibid).<sup>3</sup> In fact, the most recent numbers collated in a report released by the National Commission for Human Rights (NCHR) in February 2018 stated that 509 members of Hazara community were killed and 627 injured in various incidents of terrorism in Quetta during the last five years.<sup>4</sup> The NCHR report, titled ‘Understanding the Agonies of Ethnic Hazaras’, lists the attacks on the Hazara community from January 2012 to December 2017, based on the data shared by the Balochistan home department (NCHR

1. Who Are the Hazara? 5 October 2015. <http://tribune.com.pk/story/267225/who-are-the-hazara/>
2. For more details see the Hope report (a non profitable organisation based in USA): <http://www.hazara.net/HOPE/>
3. See also: ‘The Forgotten Victims of Terror’, 4 September 2014. [http://www.huffingtonpost.co.uk/john-denham/nato-summit-afghanistan\\_b\\_5765136.html](http://www.huffingtonpost.co.uk/john-denham/nato-summit-afghanistan_b_5765136.html)
4. ‘509 Hazaras killed in terror-related incidents during last five years in Quetta: NCHR report’, 20 March 2018. <https://www.dawn.com/news/1396273>

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of Pakistan under Principles of Policy; the same article that deals with other necessities of life. Article 38 recognises that the state shall provide the basic necessities of life to all citizens and water is included in that.<sup>40</sup> The National Drinking Water Policy (NDWP), 2009 formally recognises that safe drinking water is a fundamental human right and that the provision of drinking water is a constitutional responsibility of provincial governments.

The provincial governments are slow to respond to this basic right. There also remains a lot to be done for the regulation of the performance of the municipal bodies in this regard, which results in the violation of the right to water in Pakistan. Governance of water on the local scale has remained under municipal councils or corporations, and district administrations are meant to deal with it. But this two-tiered division of governance has been woefully ineffective due to political infighting, which has left the provincial local governmental system either stagnant or, in many cases, simply non-existent.

A recent study by the Pakistan Council of Research in Water Resources (PCRWR) states that only 72% of the water supply schemes were reported to be functional, of which 84% supplied water not suitable for human consumption.<sup>41</sup> Water facilities in Pakistan suffer from contamination mostly due to leakage of water supply pipes, and pollutants entering from the sewerage pipes due to improper distribution. There have been several studies undertaken to ascertain the effect of this contamination:

- A UNICEF report highlighted that contaminated water contributes to 40% deaths in Pakistan;<sup>42</sup>
- A study by the World Bank found that less than 8% of urban wastewater is treated (World Bank 2005); and
- A study by the Ayub Agricultural Research Institute suggests that over 65% of agricultural land in Punjab is now uncultivable due to the use of contaminated water to cultivate the land.

The UNDP's development advocate shared that 27.2 million Pakistanis still do not have access to safe water. In the face of this crisis the government has failed to respond adequately. Furthermore, due to the fragmented in-

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40. With the Eighteenth Amendment, the issue of water was devolved from a federal concern to a provincial issue.

42. '84pc of population lacks access to safe drinking water'. <https://www.dawn.com/news/1319157>

*... Profile of a vulnerable minority continued ...*

2018). Shockingly, all the aforementioned deaths took place in Quetta city alone. The regional head of the Hazara Democratic Party (HDP) places the figure much higher.

These attacks have included assassinations, suicide bombings, rocket shelling, and targeting Hazara public gathering places such as hotels and sports clubs to maximise their fatalities. There have been instances where Hazara passengers have been identified on public transport and taken off for mass executions.

The individuals and groups responsible for the systematic killing of the Hazaras are known to the Pakistani state institutions. Indeed, Lashkari Jangavi, Ahle Sunnat Wa Jamait and Jaish ul Islam have been accepting responsibility for these attacks on Hazaras. Nonetheless, not a single culprit has been charged and brought to justice so far. In many cases, the individuals and groups responsible for massacres have enjoyed government and community protection (Human Rights Watch 2014). Their terrorist activities against the Hazaras still continue uninterrupted, especially in Quetta city, the provincial capital of Balochistan, Pakistan.

The numerous attacks on Quetta's Shia Hazara have had a profound impact on the social, cultural, and economic life of the community. Since 2012, Quetta's Hazara have been compelled to limit their activities to the Hazara-dominated neighbourhoods of Marriabad and Hazara Town. As a result, they face increasing economic hardship, little safe access to education, and severe limits on their freedom of movement.

### **Challenges and Migration**

The NCHR report reveals that Quetta has become 'a prison for them, everyone tries to escape if they get an opportunity' (NCHR 2018). The unceasing violence has created a perpetual sense of despondence and fear within the community, forcing large numbers of young Hazara to migrate internally and out of Pakistan. Many have sought asylum in Australia, Indonesia, the U.K., the U.S.A., and different parts of Europe. This creates a unique situation for organisations seeking to work to alleviate the problems faced by the community. Faced with what can only be called an exodus of sorts, many NGOs have struggled to get cooperation from the Hazaras left behind as the youth are desperate to leave and to eventually have the rest of their families follow them. When the primary aim of a community becomes to leave, working on rehabilitation and progression on the ground becomes increasingly hard. Furthermore, the ever-volatile security situation in Balochistan makes mobilisation extremely difficult, with little to no support being offered by

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stitutional structure for water management and the lack of a national water policy, Pakistan is moving from being a water stressed to a water scarce country.

In 2016 the water sector under the Public Sector Development Programme of the federal budget was allocated PKR 33 billion, compared to the previous year's allocation of PKR 31 billion. These funds are released in phases over the project completion stages, with back-to-back budgetary allocations. Much of this funding is invested in the construction of large and small dams, lining of water courses, and flood dispersal structures. Due to a sharp increase in population and climate-driven environmental changes, along with growing industrial demand, there has been a great focus on water conservation projects, where the provincial governments' demand for funds exceeds the budgetary supply. The budget allocation for the water sector has significantly reduced over the years from PKR 70 billion to PKR 31 billion, whereas the demand has risen to PKR 150 billion.<sup>43</sup> In 2015 the Sindh Irrigation Department demanded PKR 12 billion against its allocation of PKR 8.6 billion for the year.<sup>44</sup>

It is estimated that one million acre-feet (MAF) of water generates \$600 million worth of economic benefits and that Pakistan, due to a shortage of storage capacity, has wasted about \$18 billion annually for the last 40 years by not using over 30 MAF, which eventually flows into the sea, notwithstanding environmental flows to the sea.

The right to water can be extended to irrigation water. Over 95% of all ground and surface water is used for irrigation in Pakistan. While the irrigation system suffers from inequitable distribution among and within the provinces, it is estimated that up to 40% of water used for irrigation is wasted while irrigating the fields.<sup>45</sup> Groundwater quality is deteriorating rapidly as well. This issue should be given top priority.

Since 1995 the country has suffered recurrent droughts and floods. As a result, Pakistan ranks among the ten countries that are most affected by extreme weather events on the Global Climate Risk Index (German Watch

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43. Only 25pc of allocated budget released for water & power sector' <https://nation.com.pk/16-Feb-2017/only-25pc-of-allocated-budget-released-for-water-power-sector>

44. 'More funds likely for water conservation', 8 June 2015. <https://www.dawn.com/news/1186764>

45. 'Enormous waste of water', 13 June 2016. <https://www.dawn.com/news/1264520>

*... Profile of a vulnerable minority continued ...*

security forces (who many argue have the harder task of maintaining law and order in the province – a claim others refute by citing security and intelligence forces' heavy-handedness with Baloch nationalists and dissidents, which is presented as the main catalyst to the unrest in the province).

### **Road Ahead**

Under international law, the Pakistani government is ultimately responsible for the lives and well-being of its population. Internationally recognised human rights set out in core human rights instruments guarantee all people equal and inalienable rights by virtue of their inherent human dignity. Under these instruments, the state, as the primary duty holder, has an obligation to uphold these rights. This includes not only preventing and punishing human rights violations by government officials and agents, but also protecting communities from criminal acts committed by non-state actors such as Lashkar-e-Jhangvi. Pakistan is party to the International Covenant on Civil and Political Rights (ICCPR), one of the core international human rights treaties. The Human Rights Committee, the international expert body that monitors compliance with the ICCPR, has observed that a state's failure to 'take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities' itself constitutes a violation of the ICCPR (UN Human Rights Committee 2004: paragraph 8). Similarly, the UN special rapporteur on extrajudicial, summary, or arbitrary executions has observed that 'once a pattern [of killing] becomes clear in which the response of the Government is clearly inadequate, its responsibility under international human rights law becomes applicable. Through its inaction the Government confers a degree of impunity upon the killers' (Alston 2004: paragraph 72).

Therefore, it is absolutely imperative that the Pakistani government take action against the leadership of sectarian terrorist outfits that have been committing these acts of violence against not just the Hazara but all religious minorities within the country. The government – and one hopes that the new government following the forthcoming election in July 2018 will have stronger political will than the current and previous subsequent governments – must establish an independent federal commission to investigate, recommend criminal prosecutions, and publicly report on sectarian killings in Balochistan. Furthermore, the government must immediately remove from service any administrative or security personnel implicated in sectarian attacks or who failed to investigate and arrest alleged perpetrators of such attacks.

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2017). In the 2015–16 fiscal year, agriculture, which provides employment to 42% of the country's workforce, recorded a negative growth of minus 0.19%. Extreme weather accounted for a drop in the production of cotton, rice, and other crops, underscoring the potentially negative impact of climate change on the right to work and food (Government of Pakistan 2016: 1–2). There is also a nexus between food insecurity and the country's inequitable water economy. Large land-owners monopolise the dwindling water resources; small farmers find it difficult to access water for subsistence food crops (Oxfam GB 2010).<sup>46</sup>

There is now serious concern across both domestic and international sectors that ground water sources are depleting fast in Pakistan as a result of years of excessive pumping.<sup>47</sup> Women and girls, especially in the arid regions of Sindh, Balochistan and Southern Punjab, have to travel long distances every day to draw water for household use. The burden of fetching water affects women's health, and often prevents girls from attending school (Oxfam GB 2012: 29).

Pakistan needs to direct investments toward renewable energy and climate-sensitive development. The government has yet to move in that direction. For example, under its flagship infrastructure development project – the China Pakistan Economic Corridor (CPEC) – the government plans to build new power plants over the next six years, which will run on imported and locally mined coal.<sup>48</sup>

The fact that there is close to no disaggregated data with regard to religious minority communities is extremely telling and is worth noting. While we can wait for the numbers from the census to be released, there is no questioning that many minorities who are living in abject poverty and who tend to be on the margins of society due to their non-Muslim status are being impacted by the lack of social security and poor living standards (particularly water, food, and housing) at more extreme levels than members of the majority. There can be nothing achieved, nor measures implemented without full knowledge of exactly how many people from various commu-

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46. Oxfam GB, 2010. Migration, Water Stress, and Climate Change in the Indus Delta. Unpublished.

47. For an overview, see The World Bank, Pakistan's Water Economy: Running Dry (Karachi, OUP 2006)

48. For details, see Government of Pakistan, 'CPEC- Energy Power Projects', available at <http://cpec.gov.pk/energy>.

*... Profile of a vulnerable minority continued ...*

No progress for the socio-economic development of the Hazaras can possibly take place whilst there is an active threat to their lives. Till the security situation in Quetta improves, the Hazaras will continue to be relegated to the fringes of society, both socially and economically, and to be forced to look towards what they perceive to be salvation and freedom in the form of asylum outside the country, thereby having to abandon their homes and their lives in Pakistan.

nities are being negatively affected, as they sit at that unique and troubling intersection of abject poverty and minority status.

### **The Right to Health – Article 12 of the ICESCR**

The Constitution of Pakistan does not explicitly recognise the Right to Health; however, following the 18th Amendment to the Constitution (for devolution of power from federal to provincial ministries), a series of amendments have been introduced: health is now regarded as a provincial subject, enabling each province to administer health departments according to their needs. This is considered a progressive step, for better outreach and administration of healthcare.

The right to health is widely considered under the realm of the fundamental rights – specifically the right to life – guaranteed to the citizens of Pakistan under the Pakistan Constitution: ‘No person shall be deprived of life or liberty, save in accordance with law (Article 9)’. The right to health is implicit in the right to life. It is the economic, social and cultural right to a universal minimum standard of health, to which all individuals are entitled.

Public health spending, an important indicator of the state party’s commitment to implementation of the right to health, currently stands at 0.45% of the GDP. This level of spending is low compared to many other middle and low income countries. People in Pakistan rely on private healthcare, which many find difficult to afford (Hafeez 2014). At the national level, lack of access to health facilities is the largest contributor to multidimensional poverty after deprivations in education (Government of Pakistan and UNDP 2016: 18). Women and girls in Pakistan have poor access to necessary reproductive health services. The Maternal Mortality Ratio (MMR) has reduced from 297 per 100,000 live births in 2007 to its current level of 170 per 100,000 live births (Mahhabul Haq Centre 2016: 16; National Institute of

Population Studies 2008: 177). As the government has acknowledged, however, the MMR in Pakistan 'is still very high as compared to the other countries in the region' (Government of Pakistan 2016: 193). Approximately 40% of pregnant women do not receive skilled prenatal care or full protection against tetanus (Government of Pakistan 2015a: 258–61). The coverage of prenatal care varies noticeably across regions and sub-regions (ibid: 258–61). Delays in seeking medical care for complications during pregnancy are common due to lack of transport and family support, and the non-availability of essential services at health facilities.<sup>49</sup> Women often do not have access to skilled birth attendants, which leads to unsafe deliveries and health risks for women, including preventable injuries and health conditions, like obstetric fistula (UN General Assembly 2008). Women who develop obstetric fistula sometimes face isolation and stigmatisation because they are abandoned by their husbands and rejected by communities. An estimated 5000 cases of fistula occur in Pakistan every year.<sup>50</sup>

The domestic legal framework on abortion continues to be restrictive. According to Section 338 of the Pakistan Penal Code, as amended in 1997 to 'bring it in conformity' with Islamic teachings, 'Whoever causes a woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman or providing necessary treatment to her, is said to cause 'Isqat-i-Haml' (abortion)'.<sup>51</sup> The punishment is set at 'three years if the abortion is performed by the woman's consent, otherwise a maximum of ten years'.<sup>52</sup> Though the law does not specify a gestational limit, Islamic scholars tend to believe that foetal organs are developed by the fourth month of gestation (Shapiro 2014: 483–494). Thus, abortion would be legal as 'necessary treatment' if carried out in 'good faith' up to the end of the fourth month of pregnancy. That marks some improvement on the previous law, which allowed for abortion only to save the life of the pregnant woman. However, abortion remains criminalised in several circumstances, including in cases of an unwanted pregnancy as a result of rape, sexual assault or incest; in case of

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49. For recent empirical evidence, see Qureshi R. N. et al (2016). 'Healthcare seeking behaviours in pregnancy in rural Sindh, Pakistan: A qualitative study', *Reproductive Health*, 2016, Volume 13 (Supplement 1).

50. 'Up to 5000 fistula cases surface in Pakistan every year', 23 May 2015.

51. Section 338 and sub-sections 338A, 338B and 338C of the penal code were initially amended in 1991 through a presidential ordinance. The parliament adopted the necessary statutory amendments in 1997. See Criminal Law (Amendment Act) 1997, available at: [http://www.na.gov.pk/uploads/documents/1324604341\\_299.pdf](http://www.na.gov.pk/uploads/documents/1324604341_299.pdf)

52. 338A, Pakistan Penal Code, 1860.



## **Good practice case study: The Grief Directory**

### **What is The Grief Directory?**

The inception and the formulation for the idea of The Grief Directory (TGD), was a deeply personal endeavour for the women at the helm of this initiative – Dr Fatima Ali Haider, one half of the duo behind TGD, has herself been a victim of the terrorism and sectarian violence that has plagued Pakistan for the better part of the last two decades. Following the target killing of her husband and eleven-year old son in February 2013, Dr Haider found herself reeling from the tragedy and overwhelmed with grief. There was no appropriate support available for the families of victims of terror attacks and/or survivors of terror attacks, either from the state or private providers of mental health care. In the event that there were mechanisms of support available, there was no information on how to access them. In fact, access to information proved to be the biggest challenge. This led to what the founders of TGD call the ‘bridge of compassion’, which in many ways was a practical embodiment of that very idea – a dispassionate and professional provision of compassion, support, and a pooling of resources. Under the oversight and management of Dr Fatima Ali Haider and Dr Narmeen Altaf Hamid, both medical professionals, TGD came to life.

TGD formally started functioning in January 2015 with the aim of matching the needs of affected families with those professionals, organisations, and individuals who were willing and able to provide support. This support ranged from financial (preferably in kind), to medical, psychological, legal, and administrative. It involved working with banks, insurance companies, the police, and government organisations. Providing help also took the form of emotional support which could include sharing a meal, attending a special occasion or lending a listening ear; simple things which were no less important. Help was given without distinguishing between faiths or sects. TGD aimed to use compassion and empathy to promote unity where violence was dividing. Early on in this endeavour though, it became apparent that the scale of the problem was far bigger than had been anticipated. Accessible and systematic support systems could not be provided through working on an individual basis alone. Simultaneous efforts had to be made to build institutional mechanisms of support as well. This tied in to an acknowledgment on the part of TGD that most victims and survivors of terror attacks also happen to belong to already marginalised and persecuted minority communities, who due to their religious and/or ethnic identities, also find themselves in compromised circumstances with regard to their socio-economic rights. By finding themselves in situations including but not limited

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foetal impairment; or after the fourth month of pregnancy, unless there is a risk to the woman's life. Additionally, healthcare professionals lack awareness of the law. Some women for whom the pregnancy amounts to a serious health risk are turned away by health facilities (Sathar et al 2013).<sup>53</sup> This, together with poverty, leads women to opt for unsafe abortions conducted by unskilled practitioners (Gilani and Azeem 2005: 412–15). At least 5.6% of maternal deaths in Pakistan occur due to abortion-related complications.<sup>54</sup>

Furthermore, transgender individuals – many of whom work as commercial sex workers – continue to face discrimination in accessing health services in Pakistan. In May 2016, Alisha, who worked with an activist group called Transgender Alliance, was allegedly shot by a disgruntled customer. Alisha died from her wounds at a Peshawar hospital after the doctors ignored her and refused to admit her either to the male or the female ward.<sup>55</sup>

Religious minorities face similar difficulties in accessing proper health care. Whilst it is difficult to present data as to exactly how members of minority communities are able to realise their right to health in Pakistan, there is ample anecdotal evidence of the discrimination they face. There are frequent reports of Pakistani Christians working as sanitary workers (jobs reserved for low caste Christians and Hindus as they are considered too dirty for or 'beneath' Muslims) who are denied emergency medical care or basic health care in hospitals due to being 'filthy'.<sup>56</sup> There are also frequent reports of Christians and Hindus being violently attacked in hospitals for touching 'clean' medical supplies implicitly understood to be only for Muslims.<sup>57</sup> Furthermore, following the tragic twin terrorist attacks on Ahmadi mosques in Lahore in 2010, when the victims were rushed for emergency medical care to Jinnah Hospital (a public hospital), doctors and medical staff were hesitant to treat them out of fear for their own lives (not unfounded, as the same night terrorists did attack Jinnah Hospital and the wing where victims and

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53. See also, 'Resorting to unsafe abortion for family planning', 25 September 2016. <https://www.dawn.com/news/1285965>

54. '5.6% of maternal deaths in Pakistan attributed to abortion-related complications', 12 March 2015. <https://www.dawn.com/news/1168938>

55. 'Transgender Alisha succumbs to wounds at Peshawar hospital', 25 May 2016. <https://www.dawn.com/news/1260559>.

56. 'The last hours of a Christian sanitary worker in Pakistan', 11 June 2017. <https://www.scss.tcd.ie/~spillab/BBC/Original/The%20last%20hours%20of%20a%20Christian%20sanitary%20worker%20in%20Pakistan%20-%20BBC%20News.html>

57. 'The last hours of a Christian sanitary worker in Pakistan', 11 June 2017. <https://www.scss.tcd.ie/~spillab/BBC/Original/The%20last%20hours%20of%20a%20Christian%20sanitary%20worker%20in%20Pakistan%20-%20BBC%20News.html>

*... Good practice case study continued ...*

to where the primary breadwinner of the family had been killed in a terror attack, they found their living standards worsened and their difficulties exacerbated. Thus, over time the goal of TGD evolved to include more awareness raising about the needs of such families, doing advocacy for them, and ultimately working towards a centralised system at the national level where families could receive efficient, comprehensive, and compassionate support.

Work so far

In the past two years TGD has carried out a number of projects, which include establishing a support network of health practitioners in Peshawar, running a summer internship that has been converted into a year round program, collaborating with Shaheed Foundation on establishing a network of health professionals in Punjab, Khyber Pakhtunkhwa, and Balochistan, and setting up a health fund in Quetta.

In January 2017, in collaboration with the Centre for Public Policy and Governance (CPPG), FC College, Lahore, TGD held its first annual five-day conference, titled 'An Initiative For The Sufferers of Political Violence In Pakistan'. The trainer and lead facilitator for the event was Professor Marie Breen Smyth, a professor at the department of Conflict Resolution, McCormick School of Global Governance, Massachusetts University, USA. The conference took a three-pronged approach to discuss and explore the support mechanisms required by families of victims and survivors of political violence. The first three days focused on the training of mental health professionals, followed by a one-day seminar for researchers and academics interested in working in this field. A policy dialogue took place on the last day with the representatives of various government organisations and state actors discussing ways to implement institutional mechanisms of support.

In November 2017 TGD conducted a workshop at the University of Lahore as part of the first South Asian Regional Child Rights Conference. The key speaker was Dr. Karen Olness, Professor of Paediatrics, Global Health and Diseases at Case Western Reserve University in Colorado, Ohio, USA. Participants were a diverse group comprising educationists, human rights workers, parents, affected children and healthcare professionals. The objective of the workshop was to identify the issues that children who have suffered loss, particularly loss related to political violence, face and to see how the various stakeholders can better support them.

In April 2018 a workshop was held at the Centre for Public Policy and Governance to look at the feasibility of starting a Trauma/Healing Centre, which is one step closer to the main objective of TGD. This workshop was facilitated by a group of Korean doctors who gave presentations as well as the commitment to collaborate in this initiative in the future. A working group has

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survivors of the mosque attacks were being treated).<sup>58</sup>

The example of the attack on Jinnah Hospital presents a unique situation in which the discrimination being faced by Ahmadis in need of dire medical attention is not perpetuated by their economic status (or their caste, as in the case of Christians and Hindus), and is thereby a result purely of their religious identity. This is interesting and presents a particularly challenging situation in which even financial and class-based privilege does not protect religious minorities from facing violence and discrimination in being able to access adequate and pressing medical care.

### **The Right to Education – Articles 13–14**

It is worth noting that access to schooling has increased in Pakistan. However, at 53%, the Net Enrolment Ratio (NER) for girls is still lower than for boys (60%) (Government of Pakistan 2016: 171). Of all the provinces, the NER for girls is lowest in Balochistan at 35%. The gender gap in enrolment has narrowed to some extent in Sindh and Punjab (*ibid*: 170–71). There are noticeable regional variations in access to schooling for girls across regions (CESCR 1999). Except for Punjab and the capital Islamabad, all provinces continue to have far fewer middle and secondary schools for girls than for boys. FATA and Balochistan are particularly disadvantaged in the availability of quality educational facilities. Less than 10% of primary schools in Balochistan and 30% in FATA have drinking water for pupils (CESCR 2016: paragraph 29). Half of the middle schools in Balochistan and FATA do not have toilets (Government of Pakistan 2015: 158–60). FATA and Balochistan feature at the bottom of district education rankings based on access, attainment, literacy and gender parity (Alif Ailaan and SDPI 2016). The regions that have the lowest enrolment for girls (Balochistan, FATA and Khyber Pakhtunkhwa) also have significantly lower percentages of female teachers (Government of Pakistan 2015: 107–8, 110). Textbooks contain stereotypes of women and some religious minorities (Hazirullah and Christina Skelton 2013: 183–194).

In recent years, non-state groups have attacked school buildings and targeted students and teachers in many parts of the country, including in Balochistan, Punjab, FATA and Khyber Pakhtunkhwa (Human Rights Watch 2017). The brutal attack by Taliban gunmen on the Army Public School in Peshawar in 2014 created an atmosphere of insecurity among chil-

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<sup>58</sup> 'Jinnah Hospital attack mastermind arrested', 22 July 2010. <https://tribune.com.pk/story/29560/mastermind-of-jinnah-hospital-attack-uncovered/>

*... Good practice case study continued ...*

been formed which is following up on the discussions in the workshop and endeavouring to give them practical shape.

TGD is currently working with Rescue 1122 emergency services in Lahore, where a team of psychologists is providing psychological assessment and counselling services to a hundred first responders in one of their main stations. This is a pilot project and from the extremely positive response it is garnering, it is likely that the service will be replicated in other stations and cities as well.

Another project that is in its initial stages is an e-Health initiative for the Hazara community in Quetta, Balochistan. This will provide much needed health services to this persecuted community and promote inter-sect and inter-provincial harmony.

What makes this inspirational?

TGD has been providing what are clearly essential and much-needed services to victims of political and terror-related violence, but their most ground-breaking venture is the aforementioned e-Health initiative for Quetta's Hazaras.

The Hazaras are an ethnic group native to the region of Hazarajat in central Afghanistan. They make up the third largest ethnic group in Afghanistan. They also make up a significant minority group in Pakistan, largely living in the city of Quetta.

The Hazaras find themselves particularly vulnerable to attack because of their distinctive facial features and Shia religious affiliation. More than 500 have been killed in attacks since 2008, but their precarious position is particularly reflected in the increasing percentage of Hazaras among all Shia victims of sectarian attack.

The half-million members of the Hazara community in Quetta live in fear, compelled to restrict their movements, leading to economic hardship and curtailed access to health, education and employment. This oppressive situation has prompted large numbers of Hazaras to flee Pakistan for refuge in other countries.

This forced isolation and ghettoization has had a severe negative impact on the emotional and physical health, as well as employment and financial status, of the vulnerable people of this community. The women are per force doubly marginalised. Because of the risky security situation, it is difficult for outsiders to offer support, but with technological progress, there can be innovative ways to reach out and help, which is exactly where the TGD steps in.

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dren, parents and teachers, which still persists. More recently, on 20 June 2016, the Taliban targeted Bacha Khan University in Charsadda (Khyber Pakhtunkhwa province), killing at least 21 people, most of them students.<sup>59</sup>

Another major area of concern is a lack of integration into mainstream schooling for children living with disabilities in Pakistan (CESCR 1999: paragraph 6). Official education statistics in Pakistan do not incorporate data on children with disabilities.<sup>60</sup> Enrolment, drop-out, and transition rates are not compiled separately for such children (ibid). It is not known how many children with mental and physical disabilities are currently out of school. Lack of disaggregated data and research impedes the development of effective policies to promote inclusive and quality education. Except a few donor-supported projects, school buildings in Pakistan do not have ramps, support bars or other disability-friendly facilities (UNICEF 2003).

Since the insertion of the right to education in the constitution, all four provinces have introduced laws 'guaranteeing' the right to 'free and compulsory education'. This is a positive step forward. However, the provincial laws have certain shortcomings. For example, under the laws enacted in the capital Islamabad, Balochistan and Sindh, parents face fines for failing to send their children to school.<sup>61</sup> However, the laws do not stipulate minimum basic facilities within schools, such as drinking water and toilets, and do not ensure schools are accessible for children with disabilities (Pakistan Coalition for Education 2015: 37–50).

This problematic situation appears to be even more complicated when looking at the specific issues that religious minorities confront with regard to education in the country. In terms of barriers to education, the situation varies for different religious minorities, depending on factors such as class, gender and geographic location, as well as the religious group that they belong to. Given that economic position and gender are two of the key factors determining the access an individual has to education in the country, poor women from minority communities tend to face some of the greatest challenges. For example, recent surveys have pointed out that, in the same community, illiteracy rates for Scheduled Caste Hindu women and men were

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59. 'APS mastermind claims responsibility for Charsada varsity attack, 21 killed', 21 January 2016. <https://www.dawn.com/news/1234200>

60. See for example, GoP (2015). *Pakistan Education Statistics 2013-14*.

61. The Balochistan Compulsory Education Act, 2014 (Section 8); Right to Free and Compulsory Education Act, 2012 (Section 8); The Sindh Right of Children to Free and Compulsory Education Act, 2013 (Section 8).

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The e-Health project is modelled around remote service provision, whereby women in the community are to be provided health information, advice and consultations via internet, with referrals to local facilities for medicines and inpatient care. The system will work with local community workers, an online resource facility and a local referral centre. The project envisages beneficiaries at multiple levels:

The primary beneficiaries will be the women of the Hazara community. They will get information, consultations and support at their door-step or within their community.

The secondary beneficiaries will be the community workers who will be selected from within the community, trained and paid a stipend (albeit a nominal one at this stage). They will learn skills and be able to contribute to their communities.

Whilst beginning with health, the access that this system provides to the women could also potentially trickle to other aspects of the community, whereby the youth and men will also be enabled to access e-resources in other areas, thus empowering the community as a whole.

This project, or rather any of the work the TGD does, is not without challenges. Apart from the obvious financial constraints that all grassroots level social mobility providers face, the TGD also faces an added security risk due to the sensitive nature of their work. Working so closely with heavily persecuted groups like the Hazaras puts the TGD, its volunteers and its affiliates at direct risk of violence from sectarian terrorist organisations. Furthermore, due to the fact that much of the TGD's work involves working with state-operated services, eg emergency first responders, they also have to contend with governmental bureaucracy and the inevitable pushbacks that non-governmental organisations in such situations face. However, it is exactly this tenacity and resilience that the TGD embodies, deeply rooted in their own violent origins, that allows them to continue working for the rehabilitation of the most marginalised and persecuted.

Whilst responsibility of this rehabilitation lies with the state, the TGD utilising its expertise and networks in the state's absence is an excellent example of how grassroots organisation and mobilisation can successfully work towards the efficient and effective provision of essential socio-economic services.

87% and 63.5% respectively, while the literacy rate for in the country overall was approximately 58% for women and 35% for men (Shah 2007: 74).

Growing violence in the country has also reportedly affected the ability of some Muslims to access education, especially those such as Hazara Shi'a in Baluchistan.<sup>62</sup> For example, an attack in Quetta by a female suicide bomber on a bus carrying students of Sardar Bahadur Khan Women's University in June 2013, followed by another suicide bomb in the hospital where the injured were being treated, left 14 students dead and also killed four nurses.

Even those religious communities that do have the opportunity to receive an education face challenges. This is in large part a result of historical processes which have significantly impacted how education is approached in Pakistan, including the nationalisation of schools under Zulfikar Ali Bhutto, followed by efforts to 'Islamise' the curricula under Zia. Given that Article 22 of the constitution stipulates that those attending educational institutions will not be obligated 'to receive religious instruction, or take part in any religious ceremony ... if [it] relates to a religion other than his own', non-Muslim students are not officially required to study Islam. However, because non-Muslim students are not commonly given an alternative and receive extra credits for taking Islamiyat or Islamic Studies, they are often induced or forced outright to take these classes by their teachers.<sup>63</sup>

Beyond challenging the constitution, this pressure also leads to the vulnerability of religious minority students. Indeed, there have been cases where non-Muslim students have been severely punished for seemingly minor errors in the current education system. For example, in September 2011, after a Christian student misspelt a word in a response to a question about a religiously-inspired poem in an Urdu exam, she was expelled from school and her mother was forced to transfer jobs.<sup>64</sup> Although education was devolved to the provincial level in 2010, similar issues persist. Recent studies have pointed out that textbooks – particularly those used in classes such as social studies, civics, Urdu and English – contain a 'distorted presentation of national history, insensitivity to the existing religious diversity

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62. 'Only those who are above the age of 21 should be allowed to change religion', 30 December 2012. <https://tribune.com.pk/story/486423/only-those-who-are-above-the-age-of-21-should-be-allowed-to-change-religion/>

63. 'Textbook biases show when Muslim students ask non-Muslim high achievers to convert', 19 March 2013. <https://tribune.com.pk/story/522886/textbook-biases-show-when-muslim-students-ask-non-muslim-high-achievers-to-convert/>; 'Teaching hatred – a glimpse into Pakistan's education system', 20 August 2014. <https://www.hafsite.org/media/pr/teaching-hatred-glimpse-pakistan-education-system-2012-2013>

64. 'Girl accused of blasphemy for spelling error', 25 September 2011. <https://tribune.com.pk/story/259907/girl-accused-of-blasphemy-for-a-spelling-error/>



in Pakistan, views encouraging prejudice, bigotry and discrimination towards fellow citizens, women, religious minorities and other nations, and a glorification of war as well as an incitement to militancy and violence' (Thombani 2010: 33).<sup>65</sup> As a result, these textbooks and the curricula more broadly have been both 'nationalised' and 'Islamised' in a way that portrays Pakistan as 'a Muslim country for Muslims alone', thereby erasing the role religious minorities have had in Pakistani society and promoting discriminatory attitudes towards them (ibid: 34).

Although the government officially recognised this as a problem in 2006 and efforts to adopt new education policies have been made in recent years, a 2013 report by the National Commission for Justice and Peace (NCJP), focused on Punjab and Sindh, points to the fact that discriminatory content in school syllabuses has not only remained in place, but in some cases even increased (NCJP 2013). Similarly, there continue to be calls to further ostracise religious minorities in school curricula. For example, in September 2013 an influential cleric expressed that additional information about Ahmadis should be included in curricula in an effort to further institutionalise their discrimination.<sup>66</sup>

Although the content of textbooks has rightfully been a key area of focus in recent years, it is also important to look at the role of teachers in educational institutions. Teachers in public schools have been slightly more ambivalent with regard to religious minorities and tolerance in the classroom. While some teachers do promote more inclusive ideas and respect for religious minorities, a significant proportion of educators themselves harbour acrimonious views regarding religious minorities (Hussain et al. 2011). Teachers from religious minority groups are also not immune to the discrimination encountered by students. Although a detailed discussion of madrassas (religious schools) is outside the ambit of this report, it is important to note that very similar issues persist with regard to the curricula and teaching in these institutions, although the context is different because religious minorities do not attend them. Despite the purported acceleration of efforts to regulate madrassas over the last decade or so, these measures have not been successfully realised. Recently, the government has launched a 'National Plan of Action to Accelerate Education-Related MDGs [Millennium Development Goals]' for 2013–16, but the impact of this plan to promote a more inclusive and tolerant education system remains to be seen. There is also an important role for educators and the wider community to foster greater cooperation between students of different faiths.

## Conclusion

2017–18 has been an important period for Pakistan, not only in terms of being held accountable for its international human rights commitments but also for the increased scrutiny it has been facing in the lead up to the 2018 Elections, held earlier this year. In November 2017 Pakistan had its third Universal Periodic Review before the United Nations Human Rights Council, where it presented its national report and answered questions raised by the international community. The outcome of the UPR found Pakistan to have insufficiently addressed the concerns of the working group. Furthermore, earlier in the year, Pakistan also presented its initial report to the Committee on Economic, Social and Cultural Rights, upon which the committee noted certain positive aspects in the report – limited to the ratification of multiple international human rights treaties and the passing of certain domestic legislation in lieu of this. However, there were far more issues of concern than there was cause to praise the country. Pakistan appears to be failing in its commitments to uphold the socio-economic rights of its citizens across the board. The country is facing a severe water shortage and people are facing abject poverty on unprecedented levels. In such a situation, making a case for the specific provision of these rights for its religious minorities appears to many within the country as singling out communities when all citizens are suffering. However, as has been seen through the course of this report, the socio-economic conditions of religious minorities in Pakistan are significantly worse than those of the majority, and the effects of intersectional disadvantage go on to further compound and exacerbate the living conditions of very specific sub-sets within those communities as well – for example, women belonging to minority religious communities. The fact that these communities also face the threat of violence on a daily basis makes it increasingly hard for them to be able to demand the realisation of their international and constitutional human rights.

Pakistan needs to do better to protect its most vulnerable. If it cannot provide adequate security to protect them, their places of worship, and their right to practise their faiths with freedom, from the violence perpetrated against them by non-state actors, it needs at the very least to provide mechanisms of support for them to actualise their rights to an adequate standard of living.

## Recommendations

1. Pakistan needs to take all necessary measures to ensure that ICESCR rights are fully incorporated into its domestic legal order with a constitutional rank equal to that of civil and political rights, and to ensure that all these rights are applied by the domestic courts at all levels;
2. Pakistan must ensure that constitutional protections are extended to FATA at the earliest, and that people in the tribal region have equal access to judicial remedies for violations of their rights;
3. Pakistan should ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
4. Pakistan must produce the results of the latest census with disaggregated data for religious minorities at the federal, provincial, and territorial levels, so that measures can be taken to ensure appropriate fulfilment of the socio-economic rights of the members of such communities;
5. Pakistan must consider revising articles 25–27 of the constitution, with a view to ensuring that the constitution prohibits discrimination on all grounds; adopt comprehensive anti-discrimination legislation prohibiting all direct, indirect, and multiple forms of discrimination, on any ground; and provide for effective remedies for victims of discrimination, including through judicial and administrative proceedings;
6. Pakistan must carry out a study on the situation of the ‘scheduled castes’ or Dalits (within both Christian and Hindu communities), with the participation of the members of that community and of relevant experts, which should include information on the situation of Dalits in the country, including relevant statistical data;
7. Pakistan must take effective measures, such as awareness-raising campaigns, to eradicate stigma and prejudice against members of the ‘scheduled castes’ or Dalits, and to combat discrimination against them, particularly in the employment and education sectors;
8. Pakistan must take effective measures to facilitate increased employment quotas in the public sector for religious minorities, taking into consideration their share of the total population, and must fully implement the quotas;
9. Pakistan must make every effort to increase public expenditure in the health sector and strengthen it with a view to providing free, quality basic health services to all, including disadvantaged and marginalised individuals from religious minority communities;

10. Pakistan must intensify its efforts to ensure that all children enjoy, without discrimination, the right to education, which will empower children, particularly those who are disadvantaged and marginalised, to lift themselves out of poverty and obtain the means to participate fully in their communities and national life;
11. Pakistan must reform legislation that disadvantages minorities immediately, such as sections 298-B and 298-C of the Pakistan Penal Code, which restrict religious groups from freely practising their faith. Clauses 295-B and 295-C on blasphemy should be reformed in the short term to prevent their continued abuse, with improved evidence thresholds, the immediate removal of the death penalty, the introduction of prison sentences for those guilty of false accusations, compensation for victims, and the clarification of imprecise terminology;
12. Pakistan must address hate speech by implementing current legislation and introducing new measures. It needs to develop a clear definition of what constitutes hate speech in the media and enforce legislation that designates hate speech a crime, namely section 153-A of the PPC. It needs to work with the Pakistan Electronic Media Regulative Authority in order to monitor hate speech online;
13. Pakistan must end religious discrimination in schools and madrassas. There needs to be a review and removal of textbooks and curricula that endorse discrimination against minorities. Authorities should engage in teacher training in order to increase faculty knowledge of the issues that religious minorities face, and develop educational materials and syllabuses to encourage learning about Pakistan's diverse society;
14. Pakistan must bring an end to bonded labour, enforce the legal prohibition on bonded labour, and help those who are subject to this form of outlawed exploitation find alternative employment, with particular reference to the challenges that marginalised minorities face in escaping the practice; and
15. Pakistan must take steps to ensure that existing social security systems cover all persons, including members of religious minority communities who are working in the informal economy.

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