

## 5. Forced Conversion of Minorities in Pakistan and Legal challenges

AISHA RASOOL<sup>1</sup>, KAMRAN ABDULLAH<sup>2</sup>

### ABSTRACT

Pakistan, a state established in the name of Islam, is comprised of 96% of Muslim populace and the rest 4% is minority belonging to different faiths, ethos, castes, traditions and religious beliefs. The Constitution of Pakistan 1973 has granted the citizens of Pakistan the liberty and freedom to profess any religion they choose. Quaid-e-Azam Muhammad Ali Jinnah in his presidential address, advocated strongly for a more tolerant state where every citizen would be at liberty to follow his own faith and there shall be no distinction among citizens on the basis of religion. But regrettably, in recent past a huge number of cases have been witnessed in Pakistan, where the minorities of Pakistan are forcefully and coercively converted from their religion to accept Islam. The number of minorities being suffered from involuntary conversion is increasing with the rise in intolerance towards religious issues and in the absence of a strict prohibitory legal provisions. In this regard, the most affected zone in Pakistan is Sindh particularly Thar region including Umerkot, Tharparkar and Mirpur Khas districts, Sanghar, Ghotki, and Jacobabad. Keeping in view this concern, Protection of Minorities Act 2015, was passed by Sindh provincial assembly, criminalizing the forced conversion of minorities. Similarly, another bill was presented in Senate in 2020 which penalized the forceful conversion of minority conversion.<sup>3</sup> This article securitizes the potential challenges posed in the implementation of such laws prohibiting the forceful and involuntary conversion of minorities' religions to Islam. The very recent rejection of Anti forced conversion Bill on 24<sup>th</sup> August 2022 and the possible contributing

---

<sup>1</sup> An academican, researcher, PhD scholar from University of York UK, currently serving as Director at Federal Judicial Academy, Islamabad.

<sup>2</sup> Faculty member, Islamia College University, Peshawar.

<sup>3</sup> Protection of the Rights of Religious Minorities Act, 2020

factors are also incorporated in the paper. It also highlights certain constitutional and municipal law provisions including special Laws and also the international treaties ratified by Pakistan which guarantee the freedom to minorities to profess their respective religions. Furthermore, it also analyzes the sanctity of such Acts and Laws prohibiting them in terms of Fiqh and Shariah.

## I. INTRODUCTION

The forced conversion happens when a person is subjected to change his religious beliefs by the use of force or pressure, whether physical, emotional and/or psychological. The common practice in vogue for the purpose is to abduct the victim, submit them to force, duress and threats to choose between bearing the abuses or converting.<sup>4</sup> According to the statistics provided by former Vice-Chairperson of the Human Rights Commission of Pakistan (HRCP), Amarnath Motumal, every month more than 20 Hindu girls are abducted and converted forcefully in Pakistan, although exact figures are yet to be known.<sup>5</sup> This state of affairs becomes further grave when associated with big names of religious clerics and Islamic institutions allegedly involved in the act.<sup>6</sup> According to the Amarnath Motumal, *"in the absence of strict legislation to redress such acts the culprit believes that they have performed a religious obligation and will earn a place in Jannah for coercing minorities to convert into Muslims."*, Another voice raised in this regard is of PMLN politician Haresh Chopra who calls out the abduction and forced conversion of Hindu and Sikh girls as a business in Pakistan done by organized gangs.<sup>7</sup>

---

<sup>4</sup> Matthews, J.R., 1995. Major Greenwood versus Almroth Wright: contrasting visions of "scientific" medicine in Edwardian Britain. *Bulletin of the History of Medicine*, 69(1), pp.30-43.

<sup>5</sup> The News International (2010). "Hindu girls abducted every month

<sup>6</sup> *Javaid, Maham (18 August 2016)*. "State of fear". Herald (Pakistan). Retrieved 13 February 2021.

<sup>7</sup> "Abduction of Hindus, Sikhs have become a business in Pak: PML MP". Times of India. *28 August 2011*. Retrieved 13 February 2021.

---

## 2. REPORTED CASES OF FORCEFUL CONVERSION

Unfortunately, in recent past, numerous cases in Pakistan have been reported alleging violation of minority rights of freedom to profess their religion. According to a survey made by local NGO, in Pakistan approximately seven hundred (700) Christian girls are coercively converted to Islam every year.<sup>8</sup> A joint report by Global Human Rights Defence (GHRD) and Human Rights Focus Pakistan (HRFP), human rights NGOs based in the Hague and Faisalabad, respectively, signposts that Muslim men are encouraged to convert Non-Muslim women to Islam by marrying them by Mullahs through mosque sermons and public speeches.<sup>9</sup> A reported case in Punjab presents a horrendous picture of the scenario where a 12-year-old Christian girl was abducted, raped over the period of eight months, and forcefully converted.<sup>10</sup>

One of such heinous acts happened recently on March 20, 2019 which was the Holi day, when two sisters Reena Meghwar and Raveena Meghwar, were abducted from their home in Daharki, a city in Ghotki district of Sindh.<sup>11</sup> It led to arise tension between the state and Hindu Community and protest up heaved when SHO refrained from lodging the FIR. The day when the FIR was lodged, a video of the two sisters reciting the *Kalima* sprung up on social media. The video shows them professing conversion to Islam while the colours of Holi were still on their cheeks.<sup>12</sup> According to their recorded statement, they left home to marry two brothers Safdar Ali and Barkat Ali respectively, both of whom

---

<sup>8</sup> US 20 Mar. 2012, 7; GHRD and HRFP [2012], 10 note 12; Franciscans International 29 July 2011.

<sup>9</sup> (GHRD and HRFP [2012], 9), a statement that is corroborated by the Jinnah Institute (2011, 55).

<sup>10</sup> (AHRC 10 Oct. 2011; ANI 13 Oct. 2011).

<sup>11</sup> In Pakistan, 'The Problem Of Forced Conversions' by Mehmam Sarfraz, April 13, 2019 00:15 IST. Updated: April 13, 2019 21:47 IST

<sup>12</sup> *Ibid*

---

were already married and have children.<sup>13</sup> A compilation of some of the reported cases is following:<sup>14</sup>

- i. 25th February 2012, Hindu girl Rinkal Kumari abducted from Mirpur Mathelo city, converted and married forcefully to Naveed Shah at the Dargah of Bharchundi;
- ii. 3rd March, 2012, Aisha Kumari from Jacobabad, coerced to convert to Islam and marry with an eighteen-year-old Muslim;
- iii. 5th April, 2012, young couple Rekha and Kailash and was coercively converted in Pangrio city;
- iv. 8th August, 2012, fourteen years old Hindu girl Mansha abducted from Jacobabdad, and was coercively converted to Islam and to marry Murtaza Ujjan;
- v. 5th February, 2013, Meena Meghwar abducted from Kunri city, and was coercively converted to Islam and to marry Riaz Kappri;
- vi. 19th July, 2013, young girl Baari Bheel abducted from Kunri, and was coercively converted and married to Ali Murad Noohani;
- vii. 11th July, 2013, Bhagwanti abducted from Kunri, and was forcefully converted and married to Javed Sahto;
- viii. 15th July, Koonj Bheel from Nawabshah, abducted and converted to Islam at the Dargah of Jhandu Pir;
- ix. 17th July, Bibi from Tando Jam was abducted from Kotri, and was coercively converted and to marry Muhmmad Ali Machi;

---

<sup>13</sup> Ibid

<sup>14</sup> 'Forced Conversion Of Minority Girls And Women In Pakistan', Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the 3rd Universal Periodic Review of the Islamic Republic of Pakistan during the 28th Session

- x. 9th August, Raaj Bai abducted in Tando Jam city, and was coercively converted at the Dargah Ayoub Jan Sarandi and to marry Essa Kaloi;
- xi. 10th December, Bhagori Meghwar abducted from Chachro city, and was coercively converted and married to Zulfiqar Ali Rind;
- xii. 26th December, Shirimati Meeran abducted from Kunri and and was coercively converted;<sup>15</sup>
- xiii. 5th January, 2014, Hazar Bhagri abducted in Pano Akil, and was coercively converted at the Dargah of Bhurchundi;
- xiv. 29th January, 2015, Pooja from Karachi was abducted and converted in Jamia Banoriya, Karachi;
- xv. 8th January, 2015 in a very tragic move, two very young girls Jamna and Pooja, ages seven and eleven were kidnapped in Mirpur Khas. Both were converted by force in Bhaan Singh's Madrassa;
- xvi. 22nd February, 2015, Mariam Meghwar abducted, and was coercively converted to marry Asif Lund at the Dargah of Bhurchundi;
- xvii. 15th May, 2015 daughter of Harichand Thakur abducted and forced to marry Rameez Raja in Tando Muhammad Khan;
- xviii. 30th October: 2015 twelve-year-old girl Anjeli Meghwar abducted, and was coercively converted and to marry Riaz Siyal;
- xix. 7th November, fourteen-year-old Kiran abducted, converted and married forcefully to Qurban Samo in Nawabshah;
- xx. 13th November, 2015 Lali Meghwar abducted in Samaro, and was coercively converted at the Dargah Pir Ayoub Jan Srahndi;

---

<sup>15</sup> Greenwood, *Ibid* p. 10-11

- xxi. 11th February, 2016, Sheela Meghwar abducted and was coercively converted by Ayoub Jaan Sarhandi;
- xxii. 2nd March, 2016 Walhi Kollhi abducted in Jam Nawaz Ali city and was coercively converted;
- xxiii. 4th April, 2016, Chandar Mati Baghri abducted in Ghotki (the girl had to escape from the abductor to submit her testimony before the court);
- xxiv. 18th December, 2016, fifteen-year-old Ramila Meghwar abducted and forced to marry eighty-year-old man,<sup>16</sup>
- xxv. 2nd January, 2017: two Hindu girls named Sapna and Raj Kumari abducted from Thul city, and was coercively converted and marry with Muslim men before being released from Amort Sharif;
- xxvi. 26 July 2021 Reena Meghwar was handed over by a court order to the parents, claimed to be subjected to forced conversion and marriage.<sup>17</sup>

### **3. MECHANISMS USED TO FORCEFULLY CONVERT MINORITIES**

The main stigma behind these forced conversions is the societal actors including extremist clerics. As per assertions, in some cases, where the victims refused to voluntarily convert to Islam, they were subjected to the allegations of Blasphemy and contempt of Islamic provisions. Sources have reported cases where members of religious minorities who refused to convert to Islam were charged with blasphemy or threatened to be treated so.<sup>18</sup> They faced societal backlash if they refuse the offer to accept Islam. There are several mechanisms to forcefully convert minority without his free consent. Two most common among them are Bonded Labor and Forced Marriage. Huge part of bonded laborers consists of Hindu minority, mostly belonging to scheduled castes. They are enslaved because of unpaid loans,

---

<sup>16</sup> Ibid P.13

<sup>18</sup> (Compass Direct News 12 Mar. 2012; *The Express Tribune* 9 Oct. 2012)

using their labor as a way of compensation and consideration for the debts they were beneficiaries of and spending their lives under the surveillance. The cases, where the enslavement has been inferred on the core basis of religious hatred, are also reported. They usually are subjected to physical, mental and/or sexual torture and sometime employing them in bonded labors e.g., farming, brick furnaces, tanning, and carpet industries etc. Unfortunately, there is no strict legislation against bonded labor and if there is some (the national law on Bonded Labor Abolition (1992) government has miserably failed to enforce and implement that. It is said that police officials are also reluctant from registering the victims' reports due to the offenders being politically affable and strong. Such discrimination is backed further by several other societal factors which prop up and justify social acceptance of such occurrences in Pakistan.<sup>19</sup>

Another notable reason for such conversion is Forced Marriages. The number of minor girls marrying Muslim men and ultimately convert has significantly increased over the past few years<sup>20</sup> Other contributing factors include but are not limited to, are maintain the status quo by the religious Institutions, discriminatory practices against non-Muslim communities, misogyny and extreme patriarchy affecting women adversely, lack of proper space in education for minorities and conservative local pressure groups. Moreover, once the incident happens, political allegiances or traditional sympathies customarily constrain prompt and effective action against such crimes.<sup>21</sup>

#### **4. LEGAL PROTECTION TO MINORITIES IN PAKISTAN**

Pakistan is a democratic country, and it ensures the implementation of fundamental rights for every citizen. Constitution of Pakistan 1973 guarantees the fundamental rights

---

<sup>19</sup> Malik, N. (2016). Bonded Labour in Pakistan. *Advances in Anthropology*, 6, p. 127-136.

<sup>20</sup> Aftab, S; Taj, A (2015). Migration of Minorities in Pakistan: A Case Study Analysis. AWAAZ Programme.

<sup>21</sup> Movement for Solidarity and Peace (2014). *Forced Marriages & Forced Conversions In the Christian Community of Pakistan*, p. 23

including equal rights and freedom irrespective of any belief and faith without any discrimination against any minority. Article 20 (a) of the Constitution of Pakistan provides that *“every citizen shall have the right to profess, practice and propagate his religion”*<sup>22</sup> furthermore, it states that *“Every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions”*.<sup>23</sup> Article 25 (1), guarantees that all citizens are equal before law and are entitled to equal protection of law<sup>24</sup>. Article 28 provides that *“adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures”*. According to Article 26 of the constitution, there must be no discrimination shown against any citizen solely on the grounds of religion, gender, caste, race, residence etc. Similarly, The Objective Resolution, a preamble to the constitution of 1971 and an operative provision by virtue of article 2A, provides the citizens of state including all the minorities the right of freedom of religious liberty and autonomy without any obstruction.<sup>25</sup> Moreover, Article 36 of the Constitution safeguards the legitimate rights and interests of minorities by the state, including their proper representations in the provincial and federal services.<sup>26</sup> In terms of forced conversions or forcing someone’s religious beliefs on others, Article 22 clearly provides that no person shall be required or forced to receive religious instructions or take part in religious ceremony or attend religious worship other than his own<sup>27</sup>.

Several bills have been presented to the Parliament proposing the prohibition of forced conversion of minorities. In November 2016, Sindh Assembly unanimously passed a bill named The Criminal Law (Protection of Minorities) Act<sup>28</sup>, to penalize forced

---

<sup>22</sup> Article 20(a) of Constitution of Pakistan, 1973

<sup>23</sup> Article 20(B) of Constitution of Pakistan, 1973

<sup>24</sup> Article 25 (1) of the Constitution of Pakistan, 1973

<sup>25</sup> Interim report of the Special Rapporteur on freedom of religion or belief, 15, U.N.Doc.A/67/303 (Aug.13, 2012).

<sup>26</sup> Article 36 of the Constitution of Pakistan, 1973

<sup>27</sup> Article 22 of The Constitution of Pakistan, 1973

<sup>28</sup> Provincial Assembly of Sindh (2015). Criminal Law (Protection of Minorities) Act, PB 9-2015



---

religious conversions. It is considered as a landmark legislation for human rights and minority rights in the region.<sup>29</sup> Following is a brief skeleton of that Bill;

- Chapter IV (5) sufficiently defined a forced conversion as forcing a person to adopt another religion under duress, force, coercion or threat, which can be directed at them or a member of their family, loved one, community or property.
- Chapter II mandated the government of Sindh to give police and members of the judiciary periodic sensitization and awareness training on the issues related to child marriages. It also mandated the creation of a commission, committee or institution to oversee and ensure the implementation of the act and to provide this body with enough resources to enable them to do so.
- Chapter III (4) prohibited the conversion of anyone under 18, unless the parents or guardian also changed religion.
- Chapter IV (6) set a minimum of 5 years to a maximum of life imprisonment and a substantial fine to anyone convicted, and that anyone abetting the crime would suffer a minimum of 3 years in jail.
- Chapter V (7) made an attempt to cut through the back log of cases in Pakistan's courts and to ensure the necessary swift action in these cases by mandating that courts set a date to hear the case within a week after receiving the petition from the victim or their family members and loved ones.
- Chapter X mandated that the victim either be immediately produced in court, placed in the custody of their parents in the case of an alleged or proven minor, or placed in a shelter. However, as demonstrated above, whilst shelters

---

<sup>29</sup> The Hindu (2017). "Sindh Governor returns Minorities Bill against forced conversion"

for women do exist, they often fail to protect the women from further coercion and threats,

- Chapter X stipulated that no meetings can take place without the written consent of the victim. Furthermore, even if the woman was protected inside the shelter this does not end the utility of threats as the husband; his family and friends often threaten to harm the families of the women that they kidnap.<sup>70</sup> Protection must be provided to the families as well as the women involved in these cases.
- Chapter X mandated that the accused be placed in custody, whilst Chapter XII mandated the courts to provide adequate security to the victim, to prosecution witnesses investigating officers, prosecutors, victim's family, and the judges during the pendency of investigation and trial and, if necessary, post-trial.
- Chapter XI mandated that a victim of alleged forced conversion be given 21 days for an independent decision regarding conversion and that during this time they should be placed under temporary custody under the provisions of Chapter X.

There are also laws which indirectly oppose forced conversion of minority by restraining the child marriage, kidnapping, abducting, wrongful confinement, inducing women to compel for marriage and rape etc. All these acts have been redressed by the national penal law of Pakistan, the Pakistan Penal Code, 1860.

- Forced marriage; Section 498B of the PPC; Whoever coerces or in any manner whatsoever compels a woman to enter into marriage shall be punished with imprisonment of description for a term, which may not be less than three years and shall also be liable to fine of 500,000 Rupees.
- Sections 375 and 376 of the PPC for the purpose of defining rape, include, sexual intercourse with a woman,

without her consent or with her consent, when the consent has been obtained by putting her in fear of death or of hurt. It also applies where the act is done with or without her consent when she is under sixteen years of age.

- Wrongful confinement and restraint; XVI-A of the PPC
- Abducting or inducing a woman to compel for marriage; Section 365B of the PPC
- Kidnapping or abducting from lawful guardianship; Section 361 of the PPC;
- Kidnapping or abducting a person under the age of fourteen; Section 364A of the PPC,

Speaking of international laws, Pakistan is signatory of various international treaties including, The International Civil and Political Rights Covenant (ICCPR), and the Universal Declaration of Human Rights (UDHR). Article 18 of the Universal Declaration of Human Rights guarantees the right to freedom of religion. It includes the right to change one's religion, but without compulsion. Article 18(4) of the International Covenant on Civil and Political Rights instructs that the choice of religion for a child is restricted by the parents' rights to determine religion up to an age when the child attains maturity. Pakistan is also party to the UN Convention on the Rights of the Child where a child's consent is considered uninformed consent under Article 14(2).<sup>50</sup>

On a positive note, courts in Pakistan are trying to deliver its best in the situation. In a recent case of Pummy Muskan, Lahore High Court held that no one can forcefully change the faith of another person as constitution of Pakistan safeguards the right of freedom to profess religion. It is declared that the matter of faith is one's personal belief and, in that situation, even court cannot declare her conversion invalid or void. That is why court handed over the custody of Muskan to her mother. Court said that petitioner being the lawful guardian of Muskan is entitled to her

---

<sup>50</sup> Ibid

custody.<sup>31</sup> This approach on the part of judiciary is predated in many such like cases and reflects a ray of hope in the dark.

## 5. CHALLENGES IN IMPLEMENTATION OF LAWS

In this part we would like to highlight the possible perceived impediments and challenges in implementation of anti-conversion laws or the law regulating matters of conversion by means of force, coercion or allurements. The most recent example reflecting the situation is Anti forced conversion Bill which is rejected by the Parliament after Ministry of Religious Affairs opposed it, as of today.<sup>32</sup> The Religious Affairs Minister Mr. Noor ul Haq Qadri opposed it on the grounds that it was inconsistent with the environment of Pakistani society. It was just not the favorable environment for enacting new laws restricting forced conversion.<sup>33</sup> He warned that such Laws will cause more problems for minorities and will deteriorate peace in the country.

Similarly, implementation of the proposed bills discussed above may prove to have need of adjudicating and detecting the state of mind of the converts by assessing their motives and will. Hence it may be difficult to determine whether the converts were “lured” or legitimate. Hence the biggest challenge for government especially the Judiciary of Pakistan is the assessment of legitimacy of conversion that whether it’s the voluntary one with free consent or not. Some other challenges that Judiciary and other related stakeholders may face are following;

### 5.1. A MATTER OF IMPONDERABLE IDENTITY

The legal intricacy of individual and group identity is a subject that encompasses the efforts of Marc Galanter and many other

---

<sup>31</sup>Bertie G. Ramcharan. "The Concept and Present Status of the International Protection of Human Rights", Brill, 1989 Publication dar.aucegypt.edu Internet Source Alessandro Mantelero, Maria Samantha Esposito. "An evidence-based methodology for human rights impact assessment (HRIA) in the development of AI data-intensive systems", Computer Law & Security Review, 2021

<sup>32</sup> The bill is rejected today on 24th August 2022, the news accessed from Dawn Newspaper at <<https://www.dawn.com/news/1651813>>

<sup>33</sup> Dawn, Nadir Guramani, Published October 13, 2021.

scholars he has enthused<sup>34</sup>. Religious conversion seems to meticulously puzzle the courts trying to evaluate unambiguous identities, as demonstrated in Galanter's essay on the Brother Daniel case. The essay depicts case of a Polish Jew who converted to be a Carmelite monk and applied to be admitted to Israel under the Law of Return. Galanter lays out the problems involved in all such cases from pinning the "state inquiries into the imponderables of personal identity" and the inelegance of a state trying to recognize and evaluate "personal qualities by administrative and judicial procedures ill-suited to the task."<sup>35</sup>

Hence categorizing the caste and religion for in order to take affirmative action in Pakistan, is a complicated process. Delineating who is subject to which religious "*personal laws*" is something difficult to do. Judges and administrators grapple with the opacities of personal and group identities, including the authenticity of converts.<sup>36</sup>

## 5.2. MATTER OF COERCION/FORCE

Concerns regarding forced conversions and steps taken to prevent it, are not a new phenomenon for this region. The issue of forced conversion and akin legal framework dates back to a resolution adopted by the All India Muslim League in December 1927, in Calcutta. Historian Ghulam Ali Allana's book *Pakistan Movement: Historic Documents* pens down the measures as reproduced here: "Every individual or group is at liberty to convert or re-convert another by argument or persuasion, but that no individual or group shall attempt to do so or prevent its being done by force, fraud or other unfair means, such as the offering of material inducement.

The distinction between willingness as compared to use of force to change one's religious identity grows more foggy (and easier

---

<sup>34</sup> Marc Galanter, "Why the "Haves" Come out Ahead: Speculations on the Limits of Legal Change", *Law & Society Review*, Vol. 9, No. 1, Litigation and Dispute Processing: Part One (Autumn, 1974),

<sup>35</sup> Marc Galanter, 'A Dissent on Brother Daniel', 36 *COMMENT*. 10, 13 (1963)

<sup>36</sup> Mitra Sharafi, 'Litigating the Zoroastrian Conversion Debates', 1906-25, Paper Presented at the Annual Meeting of The Law and Society Association (July 6, 2006).

to ignore) if the convert is noticed as the object rather than as the subject of conversion. Talal Asad canvases the verb, “to convert,” in both senses i.e. a transitive and an intransitive verb.<sup>37</sup> In the intransitive sense—“I converted”—the idea of forcible conversion could be seen in many religious traditions as an enigma. On the other hand laws limiting forced conversion, the court decisions upholding them, and the commission reports justifying them, use the transitive sense—“He converted them.” This usage nurtures two related ideologies (i) perpetuating assumptions about “them,” the so-called “weaker sections” of society (especially lower castes, tribes, and women), and (ii) raising apprehensions about outside interference threatening national beliefs and national order<sup>38</sup>. This represents a complex yet protective aspect of the all the state related stake holders to the act; a confused albeit connected equation to the purpose of discouraging force conversions.

### 5.3. POLITICAL IDEOLOGY & PUBLIC ACCEPTANCE

Pakistan and Iran are the only two countries in the world which were founded on the name of Islam and are Islamic Republics. It was one of the reasons that the Religious Affairs Minister Mr. Noor ul Haq Qadri opposed the aforementioned Bill on the grounds that it was inconsistent with the environment of Pakistani society. It was just not the favorable environment for enacting new laws restricting forced conversion.<sup>39</sup> In Pakistan, with 96% Muslim population, it may socially get harder to enact and implement such laws affecting the religious sentiments of citizens, as in Islam “*Tableegh*” (*Inviting others to Islam*) is considered as Sunnah and is admired much. Like, in some states such conversion by way of “*Tableegh*” is considered as enforced Rehabilitation. Therefore, in first place making such laws which the public perceives as threat to their religious beliefs, is not an

---

<sup>37</sup> Arjun Appadurai, ‘Fear Of Small Numbers: An Essay On The Geography Of Anger’, 83 (2006).

<sup>38</sup> Christopher Craig Brittain , ‘The Secular As A Tragic Category: On Talal Asad, ‘Religion and Presentation: Method & Theory in the Study of Religion’, Vol. 17, No. 2 (2005), pp. 149-165 (17 pages) Published By: Brill

<sup>39</sup> Dawn, Nadir Guramani, Published October 13, 2021.

easy job. Moreover, in a democratic state, for a law to be successfully implemented, it must be publicly accepted to be considered as legitimate and representative of public will. In Pakistan, the courts dealing with cases relating to forced conversions are saddled with immense public pressure while hearing. In numerous cases when the victim of forced conversion is presented before the court to determine whether he has converted on his own free consent or not, the courtroom is crowded with people supporting and chanting slogans in favor of the conversion. Even so, at times the conversion is properly celebrated by the Muslims outside the courtrooms. In the case of Rinkle Kumari,<sup>40</sup> the victim was transferred from District Ghotki to Sindh High Court principal seat at Karachi. This not only bears down the girls/victims giving statement but also puts ruthless pressure on the judges and lawyers engaged with such cases.

#### **5.4. RIPE OF ABUSE**

Another challenge in this regard lays in the fact that the laws in Pakistan which criminalize forced conversion are by and large vague and arduous in scope and applicability. The legal questions and different factors involved make it tricky for the interpreters and adjudicators to apply it in its true spirit. Nevertheless, these laws are suitable for arbitrary interpretation and application. The problem, however, compounded by these laws is making governments or judiciary the umpire of truth and religious veracity. It could possibly be true to some extent, but on the flip side, it may trigger the abusive use of these laws. There are instance on the record where the appliance of these laws has eventuated in individuals being jailed for simply questioning religious beliefs or being falsely accused. Allegations of apostasy have also sparked extrajudicial killings, assaults, and mob violence.

---

<sup>40</sup> Policy Brief by the National Commission on the Rights of Child – Forced Conversion, Published February 22, 2022.

## 6. ANALYSIS IN THE VIEW OF FIQH

Forced conversion of religious conviction is restrained in Islamic Law, following the Quranic verse that there is “*no compulsion in religion*”<sup>41</sup> Minorities, in Islam, are given the status of “*Dhimmi*”, أهل الذمة, a historical term meaning “protected persons”. This term applies to those non-Muslims who live in an Islamic state and are entitled to the legal protection.<sup>42</sup> Islam mandates the state under Sharia to safeguard not only its citizen’s life and property, but also protects his right to freedom of religion, in the consideration for his allegiance to the state and payment of the jizya tax, in contrast to the zakat, or obligatory alms, paid by the Muslim citizens. The assertive feature of this law is to exempt Dhimmis (Non-Muslim Minority) from certain duties assigned specifically to Muslims if they paid the poll tax (jizya) but otherwise, they are entitled to equal protection of the state under the laws of property, contract, and obligation. Islam has recognized every individual’s fundamental right to life and honor regardless of beliefs, creed and religion. According to Holy Quran “He who takes away an individual’s life without legitimate authority is considered the one who has killed the humanity in general”. The fundamental rights of non-Muslims are provided by Islam as being an equal with Muslims. No Muslim can harm the lives, property or religious places of non-Muslims. According to the Holy Prophet (PBUH), “He who tortures a dhimmi is like the one who has counteracted him (the prophet). I shall counteract against him (he who tortures a dhimmi) on the Day of Judgment.”<sup>43</sup>

Islam emphasizes the states to show great tolerance towards minorities and including them in the administrative tiers of state to play their role in the state’s development. They have the right to follow their religion and fulfill the obligations of their religion, build their educational institutions and places of their worship so that they can give the education of their faith and creed to their

<sup>41</sup> (Quran 2:256).

<sup>42</sup> Definition of Dhimmi” accessed from <www.merriam-webster.com>

<sup>43</sup> Al-Ayni, Vol: IX. n.d. "Sahih-al-Bukhari (Volume-9) - Flipbook by Books Related to Aqeedah | FlipHTML5." Accessed 15th August 2022 at < <https://fliphtml5.com/eooj/srbj>>



children.<sup>44</sup> Moreover they are governed by their own laws (Personal Laws), for instance, during the Muslim rule, the Jewish community of Medina was permitted to have its own Halakhic courts.<sup>45</sup> They are also permitted to perform certain practices which were otherwise forbidden for Muslims such as Drinking alcohol.<sup>46</sup> Christians, Jews, and Sabians are unanimously acknowledged as Dhimmi by all four schools of Islamic Jurisprudence. Hindus and Polytheists, however, are granted status of Dhimmi by only two schools of Islamic jurisprudence, the Hanafi and Maliki.<sup>47</sup> It is worth mentioning here that the majority Muslim believers in Pakistan belong to Hanafi School of Jurisprudence hence Hindus, according to commentators, fall within the categories of Dhimmi (protected Minority) in Pakistan.

A misconception and confusion about the forced conversion is often linked to the wars of the Ridda (against apostasy) commenced by Hazrat Abu Bakr (RA), the first caliph of the *Rashidun* Caliphate. This was initiated against those Arab tribes who had accepted Islam and used to pay Zakat (tax) but later on refused to pay Zakat and Jizya Tax<sup>48</sup> Such agitation by those tribes was considered as the breach of Political Contract instituted by the Holy Prophet (SAW). It brought a misconception about forced performance of obligations and was by some historians, listed as the first instance of forced conversion. But the reality as different as chalk and cheese stands poles apart as commentated by Allama Badr al-Din al-Aini (1360–1453) in *Sahih-ul-Bukhari* which is as following;

---

<sup>44</sup> Parveen ShokatAli, 'Human Rights in Islam'. New Delhi: Adam Publishers, 2007.

<sup>45</sup> Cohen, Mark R. 'Under Crescent and Cross: The Jews in the Middle Ages'. Princeton University Press. P. 74. ISBN 978-0-691-01082-3. (2005) Retrieved 10<sup>th</sup> April 2022

<sup>46</sup> 'Al-Misri, Reliance of the Traveler' (edited and translated by Nuh Ha Mim Keller), p. 608. Amana Publications, 1994.

<sup>47</sup> Gerhard Bowering, ed. (2009). *Islamic Political Thought: An Introduction*. Princeton University Press. Pp. 127–128. ISBN 9781400866427.

<sup>48</sup> Richard W. Bullent (2013). "Conversion". In Gerhard Bowering, Patricia Crone (ed.). *The Princeton Encyclopedia of Islamic Political Thought*. Princeton University Press.

*“Hazrat Abu Bakr al-Siddiq fought those who refused to pay Zakat because they had taken up the sword and started a war against the Muslim community ... Hazrat Abu Hanifa took the ground that he who refuses to pay Zakat must neither be killed nor even fought. However, he must be forced to pay it without the use of the sword, and must only be killed if he rose up to attack. This is exactly what Hazrat Abu Bakr did with those who refused to pay Zakat during his caliphate. He did not fight them until they rose up to attack him”<sup>49</sup>*

Hence Islam, through the concept of Dhimmi, grants several privileges to the minorities, one of which is freedom of religion and prohibition on forced conversion of minorities. It's an undeniable fact that during commencing period of Islam, the practices of forced conversion have been witnessed but the matter has now been settled by the way of *Ijtehad* by different Muslim Jurists and commentators. Quran says;

*“There shall be **no** compulsion in [acceptance of] the religion.”<sup>50</sup>*

This Quranic verse was quoted by the companion of Holy Prophet (SAW), Hazrat Umar (may Allah be pleased with him) the second Caliph after the death of the Holy Prophet (SAW), in a reported incident when he offered an old Christian woman to accept Islam, but she refused saying she was old and close to death [meaning thereby that she did not want to revert to Islam]. Hazrat Umar (RA) accepted her plea and did not in any way compel her irrespective of his position as ruler of Islamic state.

A vast majority of historians bank on the opinion that most conversions to Islam were voluntary and the phenomenon of forced conversion is against the grain. The most prominent

<sup>49</sup> ‘The Development of Apostasy And Punishment Law in Islam’ Faculty of Divinity of Glasgow University: Allama Badr al-Din al-Aini (1360-1453). 2002. pp. Lamarti page 131-132.

<sup>50</sup> Al-Quran [2:256]

---

examples in this regard can be taken of Spain and India where Muslims ruled for hundreds of years. Communities from other countries immigrated to Muslim Spain to escape tyranny. Yet, today, the populace of both these countries is majority non-Muslim. If conversion by force was sanctioned by the faith or a policy, this would not have been the case. Hence, it's abundantly clear that Islamic law not only prohibits forced conversion but strictly discourages it.

## CONCLUSION

To conclude it may be said that the law recognizes the minority's right to freedom of thought, conscience and religion, as codified in the Constitution of Pakistan. But Pakistan being a religiously homogeneous and belligerent society is facing numerous cases of forced conversion of the already rare minority (4%). The state has been in dire straits in passing the bills to prohibit such acts of coercive conversion of minorities due to extremist pressure groups, clerics, Islamic institutions and religious technocrats in Parliament. It's indeed a great upset in the legislative system of Pakistan which has to be solved in order to meet the standards of globally recognized human rights legislations. The state is responsible to safeguard and execute the rights of all its citizens including the members of different religious faiths including those troubled with the issues of forced conversion so that, cases of such victims undergoing forced conversions and related forced marriages are to be prevented, prosecuted and to provide them a redress.

In era where the human rights concerns have acquired global attention, it is suggested that Pakistan must guarantee the ratification and implementation of the Sindh Criminal Law (Protection of Minorities) Act against forced conversions, approved by Sindh Assembly in 2016. It is further suggested that Government should eliminate certain ambiguities and inconsistencies between child marriage laws and different sections of Pakistan Penal Code, 1860 such as 498-B making it as cognizable pertaining to forced and child marriages and also the relationship between personal laws as regards to the conversion of girls under 18 years of age belonging to other faiths for

marriage purpose. The civil society may help the victims by raising their voice on media and the legal fraternity may contribute by providing the legal assistance to the victim to promote harmony.