

# **INSTITUTE ON RELIGION AND PUBLIC POLICY**

## **Religious Freedom in Pakistan**

### **Executive Summary**

(1.) In Pakistan, violations of religious freedom are rampant. Islamic extremist groups have used their political influence to heavily institutionalize an intolerant form of Islam into the political and judicial framework of modern Pakistan including: penal codes proscribing the death penalty for blasphemy, religiously defined boundaries on the free practice of religion and speech, and a judicial system bound by Islamic law. This has resulted in an environment where grievous human rights abuses and sectarian violence amongst religious communities are frequent and purported by both government officials and civilians without consequences.

### **Institute on Religion and Public Policy**

(2.) Nominated for the 2007 Nobel Prize in Peace, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally with government policymakers, religious leaders, business executives, academics, international and regional organizations, non-governmental organizations and others in order to develop, protect, and promote fundamental rights - especially the right of religious freedom - and contribute to the intellectual and moral foundation of the fundamental right of religious freedom. The Institute encourages and assists in the effective and cooperative advancement of religious freedom and democracy throughout the world.

### **Introduction to the Legal Situation**

(3.) The legal system of Pakistan is bound by Islam. Individuals can use the law to harass and persecute any religious minority group. While originally creating a framework for the freedom of thought and religion, the legislative and judicial branches have criminalized the practice of non-Muslim religions.

(4.) The constitution declares Islam as the state religion and was amended to bind the legal system to Islamic law declaring “no law shall be repugnant to the teaching, and requirement of Islam as set out in the Holy Quran and Sunnah, and all existing laws shall be brought into conformity therewith.”

(5.) The Shari’a act of 1991 declared all laws to be in accordance with Islam and strongly encourages judges and lawyers to interpret laws in accordance with the Islamic faith. The Presidential Order of 1980 created the Federal Shariat court which holds the jurisdiction to declare any law repugnant to the Holy Quran or Sunnah. The judicial system being forced to adhere to religious law creates a situation where discrimination becomes legal

and equality untenable. Below is a list of penal codes, also known as the blasphemy laws, which highlight the opportunity for abuse under the Pakistani judicial system.

- 295 – Injuring or defiling places of worship with intent to insult – Two years.
- 295 A – Deliberate acts that outrage feelings – Ten years
- 295 B – Defiling the Holy Quran – Life In Prison
- 295 C – Derogatory remarks to the Holy Prophet – Death or Life in Prison
- 296 – Disturbing Religious Assembly – One Year
- 297 – Trespassing or Indignity on Burial Places – One Year
- 298 – Uttering words that Injure Religious Feelings – One Year
- 298A - Derogatory Remarks about Holy Personages – Three Years
- 298B – Misuse of Holy Epithets or Titles – Three Years
- 298C – Ahmadi claiming to be Muslim – Three Years

(6.) These laws while not always enforced give the spirit of intolerance a means to an end. For example, Islamic leaders object to the Ahmadiyya sect referring to themselves as Muslims. Ahmadis view themselves as Muslim and act accordingly using Muslim greetings and naming their children Muhammad. These practices violate penal codes 298A, 298B, 298C, and with a wide interpretation of the words “deliberate, derogatory, and outrage” 295A and 295C. Islamic interests groups may legally discriminate anyone they decide is a non-Muslim.<sup>1</sup> In fact, the Second Amendment of the Pakistani Constitution in 1974 declares Ahmadis to be non-Muslims.

(7.) These Penal codes or blasphemy law highlight the skew of the judicial system. In the event these cases go to trial a Muslim man’s testimony is worth the testimony of two non-Muslims. The ease which the state allows an Islamic man to abuse a religious minority is tantamount to condoning the act.

(8.) The Apostasy Bill of 2006, at the time of this document, has been tabled to the National Assembly which would allow up to the death penalty for apostasy. The burden of proof for apostasy is either a confession or 4(b):

“At least two adult male witnesses about whom the court is satisfied in regard of evidence of purification that they are just ones and they give evidence of this thing that the accused has made a commission of apostasy.”

(9.) In this context of the law “just” means Muslim and “purification” refers to the methodology of discovering whether or not the witnesses are just. This law refers only to individuals who leave Islam.

(10.) There have been a few attempts to create separate parallel legal systems based on Islamic law with specific jurisdictions; however this has been recently declared unconstitutional.<sup>2</sup> It is important to note here the reasonably secular nature of the high

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<sup>1</sup> Ordinance XX tabled on April 26, 1984, refers explicitly to the Ahmadi sect and criminalizes any preaching of Ahmadi beliefs.

<sup>2</sup> There is a new movement by the leader of the North-West Frontier Province in Pakistan to replace the supreme court with Qazi (Sharia based) courts as the last appellate court level. The North-West Frontier Province is mostly tribal and it is uncertain whether this will be declared unconstitutional before the

appellate courts and Supreme Court. Historically, the supreme judicial system has taken a more secular view of issues. Many use this to defend Pakistan and diminish the human rights charges leveled against the government. While these Supreme Court decisions are admirable we believe it is important to keep in mind the irreparable damage local police and local courts have when they tolerate and propagate human rights abuses. Furthermore, the Supreme Court lacks the institutional ability to actively move against existing legislation making the judiciary incapable as a tool addressing the problems of religious freedom in Pakistan.<sup>3</sup> The influence of Islamic law in the Pakistani legal system runs deep and it will be extremely difficult for Pakistan to ensure religious freedom without a major ideological shift.

### **Instances of Official Discrimination**

(11.) The Ministry of Religion in Pakistan's masthead reads "Islam is the only religion acceptable to God". Therefore, funding for religious groups is disproportionately distributed in favor of Muslim activities versus non-Muslim activities.

(12.) The Ahmadiyya religion, deemed non Muslim by the government, has been heavily persecuted because of their specific religious beliefs. The 50,000 inhabitants of Rabwahs cannot practice their religion for fear of violence. Gunmen and police officers will shoot Ahmadis for being infidels and Ahmadiyya mosques have been burned or stripped of "offensive materials". The Ahmadis have taken the largest official brunt of discrimination from the Pakistani government.<sup>4</sup>

(13.) The Joint Electoral System allowing non-Muslims to vote outside of their registered religion was introduced in 2002, however in order to vote in national elections one must still declare his or her religion. This requirement affords an opportunity for voter discrimination along religious lines. There have been many complaints including Salimuddin of the Jamaat-e-Ahmadiyya saying "here still happens to be a section of society that is discriminated against on the basis of religion ... Ahmadis votes are registered only if they dissociate themselves from the Prophet (Pbuh), something which is not possible for any Ahmadi to do in light of our religious belief and practical life." Separate voting lists along religious lines create an easily available opportunity for religious discrimination and seriously degrade any claim of a free and fair election process.

(14.) The Ministry of Information and Technology and Pakistan Telecommunication Authority has blocked numerous websites on religious grounds under the Pakistan Telecommunication Re-Organization Amendment Act, 2006 (Act No.II of 2006).

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Supreme Court (as it has been before) or if it will pass simply because of the isolated nature of NorthWest Pakistan.

<sup>3</sup> Many Pakistani's are kept in prison without bail for years before their cases are heard in a Supreme Court.

<sup>4</sup> Ordinance XX – Criminalized "posing as a Muslim". Ahmadis, who consider themselves Muslim, have been sentenced to death and life in prison by this law, appealed and reaffirmed in the Supreme Court, because the Government declared them non-Muslim.

Dr. Mohammed Imran Uppal, on March 2, 2006 filed a petition urging censorship; the Supreme Court agreed ordering the PTA to block specific IP addresses.

(15.) The educational system reviews textbooks being used in public schools. The textbook boards are controlled by the Department of Education. A National Review Committee in the Ministry of Education reviews the books for ideological content. The Department then issues the books for educational purposes.

(16.) Islamic architectural designs have been imposed on Sikh shrines, most notably, using the traditionally Islamic color green to adorn traditionally blue and white Sikh sites.

### **Sectarian Instances of Violence and Discrimination**

(17.) Pakistan has been plagued by numerous instances of societal violence and discrimination between one religious group and another. Violence and discrimination regularly plague the country's Shiite, Christian, Ahmadi, Hindu, and Sikh populations by Islamic extremists and rival religious and ethnic groups. Regular instances of armed conflict between rival religious groups, most notably Shiite and Sunni communities, are reported. Houses of worship are common targets of Islamic militants and religious fanatics.

(18.) Hundreds of Shiite and Sunni tribesman were killed in religious and ethnically based violent incidents during 2007. Many of these incidents occurred between Shiite tribes and Sunni tribes in the Kurrum Agency. Fighting broke out between militant Shiites and Sunnis in December, November, and April of 2007. Each of these incidents left dozens and some cases, hundreds dead.

(19.) Christians are frequent targets of violence and societal discrimination. During the month of October, Catholic schools and their staff were targets of violence and intimidation in the Swat Valley, forcing many of these schools to shut down or attendance at these schools to drop considerably. In October, in the village of Gowindh near the India-Pakistan border, a Muslim mob stormed the New Apostolic Church, shouted anti-Christian slogans, damaged church property, and then spread feces on the wall after a dispute about the Church's use of a loudspeaker during their morning services. Subsequently, the Muslim community in Gowindh announced a social boycott of the Christian community. In mid-May, about 500 Christians in the town of Charsadda in the North-West Frontier Province, where Shariah was instituted as law of the land, were sent threatening letters demanding their conversion to Islam and the closure of their churches or become the target of "bomb explosions." On April 13, in Sindh province in the town of Kotri, a Christian man was tortured by a mob for writing allegedly blasphemous statements about the prophet Muhammad. When police arrived the Christian was arrested and tortured in order to extract a confession about the allegations of blasphemy.

(20.) Shiite Muslims have been victimized in numerous religiously motivated violent incidents. A serious of attacks planned against Shia religious festivals marking Ashura

using suicide bombers and hand grenades on January 19<sup>th</sup> and 20<sup>th</sup> were thwarted by authorities ahead of time. On January 17, 2008, a Sunni extremist opened fire at the Imambargah Qasim Baig mosque then blew himself up killing nine and wounding at least twenty. In late January 2007, a rocket and mortar attacked killed 2 people and wounded over a dozen more during the Ashura religious festival. Also in January of 2007, a bomb was detonated outside a Shiite Mosque in Peshawar killing 15 and wounding 30 more.

(21.) In addition to violence and discrimination aimed against Shiites and Christians, Pakistan's Hindu, Buddhist, and Ahmadi communities are periodically harassed by Islamic extremists. Ahmadis report they are often ostracized or physically harassed as "non-Muslims" by Sunni extremist groups. Clerics demanded the destruction of Ahmadi mosques, are told to remove Muhammad from their names or face punishment, and passed an edict which seeks to "punish Muslims for maintaining contact with Ahmadis," according to a report from the Daily Times. An Ahmadi man was killed by a rogue assistant sub-inspector after accusing him of being an infidel in Qadardbad on February 27, 2007. In February of 2007, a Hindu man was abducted and his dismembered body was eventually discovered outside of a Madrassa near Hyderabad. In the fall of last year, in the Swat Valley a giant rock Buddha was damaged following an attack with dynamite by Islamic militants loyal to Mullah Fazlullah.

### **Positive Examples for the Future**

(22.) Recently, the government enacted the Women's Protection Act repealing many of the Hudood Ordinances. The Hudood Ordinances tried rape cases through Islamic laws that were incompatible with international standards for equality and justice. Even though many argue it did not go far enough, which is true, it is still a giant step forward for Pakistan. The Women's Protection Act interpreted the state as protecting its own citizens against the "abuse and misuse" of law. The Women's Protection Act, however shallow, is a victory and an example for the next leader of Pakistan.

### **Conclusion**

(23.) It is difficult to believe with a constitution favoring Islam, a judicial system adhering to Islamic law, and a penal code allowing harassment and persecution based on religious feelings, anyone would realistically claim religious freedom in Pakistan. Islamic fundamentalists have used their political power stemming from popular support to entrench themselves within the originally secular framework of Pakistan. The judicial system must take larger steps to reform its own laws and set a precedent for the future leaders to protect religious freedom.