

Protection of Minority Rights in Pakistan: Constitutional Safeguards and Ground Realities

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ABSTRACT

The article focuses on the minority rights protection in Pakistan in the framework of the constitutional design and lived experience. It contends that there is a significant catalogue of protective provisions in the text of the constitution of Pakistan, which includes religious freedom, equality before the law, non-discrimination in the public space and in the provision of public services, cultural rights, and mechanisms of representation, but that these provisions do so with a constitutional identity that is both rights-affirming and asymmetrical. The constitution frame work on paper acknowledges the freedom of religion and institutional autonomy of the religious communities, guarantees the state the protection of the legitimate rights, and interests of the minorities and reserves the seats in the representative institutions to non-Muslims. However, in practice, several gaps in implementation exist: structural discrimination is not sufficiently tackled by an all-inclusive anti-discrimination law; the party system too often mediates political representation; and administrative and criminal-law practices, particularly when a religious offense charge is presented, have the effect of subjecting minorities and other vulnerable groups to increased risk. The modern international surveillance highlights this difference. The UN treaty bodies have also raised concerns over the practice of discrimination, hate speech, mob violence, and reprisals relating to allegations of blasphemy and they have called upon Pakistan to enhance accountability, safeguard places of worship, and amend or abolish law provisions that are discriminatory or which permit abuse. On the country domestic level, the National Commission of Human Rights of the country has documented grave due process issues in the investigation and detention of individuals charged under the provisions of blasphemy, and how inadequate procedures can compound vulnerability and insufficient equality of citizenship. The conclusion of the analysis is that constitutional protections will continue to be partial performative until they are combined with institutional autonomy, plausible law enforcement, evidence-

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based criminal justice, and pluralism-consistent political incentives. It provides a reform agenda constitutionally sound, implementation oriented, and proportional to international Pakistan commitments, with more emphasis on ensuring that minority protection is not an act of grace but rather a fundamental measure of constitutionalism, rule of law and democratic legitimacy.

Keywords: Minority Rights; Pakistan Constitution 1973; Freedom Of Religion; Equality And Non-Discrimination; Political Representation; Hate Speech; Blasphemy Accusations; Due Process; National Commission For Human Rights; Un Treaty Bodies; CERD; ICCPR.

Introduction

Measuring the rights of minorities in Pakistan cannot be based only on the memory of constitutional guarantees or even registering incidences of discrimination and violence, but the interstitial space within the law where provision of constitutional rights are being fulfilled or not fulfilled into the daily existence of securities and dignity or not and civic representation or non-representation. Constitutional project of Pakistan expresses an intention to safeguard minorities, which is apparent both in the narrative of the establishment of the state and in the working rights section. The Constitution asserts the freedom of profession, practice, and propagation of religion and protects the ability of religious denominations to organize and run its institutions, but at the same time makes the exercising of such freedom contingent upon law, the community, and decency. It forbids discrimination in entry to public places based on religion and caste, as well as prohibits discrimination in the introduction of public services on the premise of religion. Along with the enforceable basic rights, it is stated by the Constitution that the state has a directive duty to protect the minority legitimate rights and interests, which involves the right to the due representation in federal and provincial services.¹ And the Objectives Resolution, which is part of the substantive constitutional system, expressly states that sufficient care must be taken to protect legitimate interest of minorities, enshrining in the moral architecture of the state the protection of minorities. However, the same order of the constitution includes clauses that can foster an imbalanced civic imaginaries including the mandate that the Head of State be a Muslim and the fact that the Prime Minister must be chosen among the Muslim constituents of the National Assembly, meaning that there is a constitutional superiority of eligibility to high executive offices. Further, the Constitutional definition of non-Muslim specifically admits Ahmadis, which affects how the law is categorized and shapes the discourse of political participation. Among these formal schemes and the experienced lives of the minorities such as Christians, Hindus, Sikhs, Ahmadis, Parsis, Bahá'is, etc, lie significant questions: to what degree are constitutional rights applied, to what mechanisms exist to prevent and remedy, why do the practices of discrimination, hate speech, and violence persist as they do despite a formal commitment to equality? The questions have been intensified by modern

¹ Ghori, Z., Hussain, I., & Ali, S. (2025). Minority Rights: Examining The Constitutional Safeguards And Their Practical Implications And The Way Pakistan's Constitution Has Historically Evolved To Protect The Minority Rights. *Islamic Research Journal* , 3(01), 37-57.

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global criticism to expose the endemic loopholes in anti-discrimination protection, the prevalence of mobs and hate crimes against minorities, and the possibility of legal and administrative frameworks to support abuse or impunity.²

This paper treats the matter as a constitutional and governance challenge but not as a strictly cultural one: it not only examines the textual contents of law, but also the existential capacity and political goodwill of the state in taking action against any threats to the rights of minorities, and attempts to determine what kind of legal changes can best convert statutory protections into ground-level protection.

Literature review

The academic and institutional discourse about minority rights in Pakistan has been concentrated around a limited number of overlapping discussions that help to shed light on one aspect or another of the constitutional-reality divide but, in most cases, never resolve it independently. One of them is a first strand, which is doctrinal and constitutional: it traces the basic rights architecture of Pakistan, judicial interpretivism, and the ambiguity between liberal rights termination and Islamic constitutional personality. In this literature, one strand is the minority protection, which studies the form in which the minorities are represented in legislatures (and in the civil service), and whether the representation mechanisms produce accountability or shallower forms of inclusion. A second strand is the representation-focused one: it determines how the minorities are represented in the legislatures (and in the civil service), and whether the mechanisms of representation create accountability or just symbolic inclusion. The Constitution likewise creates non-Muslim seats in the National Assembly (four seats, one per province) and organizes their election on the basis of proportional representation on a party list, making the constituency of the non-Muslim seats the entire country instead of a majority minority electorate.³

A third is socio-legal and empirical that is largely influenced by human rights reporting and case documentation, is discrimination in education, employment stratification, threats of place of worship, forced conversion and marriage allegations on minority girls and chilling effect of religious offense allegations. In this case, the study is often traced back to criminal law and policing: not only does discriminatory violence take place, but also is the institutions of the state effective in investigating timely, prosecuting credibly and protecting victims and witnesses. International treaty body observations and national reporting to institutional bodies have gradually influenced this empirical strand. The UN Human Rights Committee, as one, has been most concerned at rising discrimination, hate speech, mob violence, harassment and intimidation of religious minorities and the rise in incarcerations, false accusations and alleged entrapment linked to online enforcement.⁴

The Committee on the Elimination of Racial Discrimination has also expressed its

² Rehman, J. (2001). Minority rights and the constitutional dilemmas of Pakistan. *Netherlands Quarterly of Human Rights*, 19(4), 417-443.

³ Hashmi, M. A. I., Bakhsh, F., & Tariq, K. U. R. (2024). FUNDAMENTAL RIGHTS IN PAKISTAN: A CONSTITUTIONAL PROMISE OR A DISTANT DREAM?. *Contemporary Journal of Social Science Review*, 2(04), 2418-2430.

⁴ Khalid, I., & Anwar, M. (2018). Minorities under Constitution (s) of Pakistan. *Journal of the Research Society of Pakistan*, 55(2).

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concern on incitement to violence and hate crimes against ethno-religious minorities, the low conviction rates in hate speech cases, and violent retaliation of persons accused of blasphemy—mostly members of minority groups— and has also called on legal reform and better protection. The fourth strand deals with institutions: it investigates the functions of the judiciary, human rights commissions, and bodies that target the minority. The National Commission on Human Rights has been acknowledged internationally and, at the same time, they have identified the institutional weakness, resource, independence and coordination issues and have also indicated that there is a lack of transparency in the mandate and process of a National Commission of Minorities and also recommended legislative actions towards ensuring independence and participation. Concurrently, domestic records, like the investigation of blasphemy-related detentions by the National Commission of Human Rights, provide granular information on procedure, conditions of detention, weakness of evidence, and obstacles to accessing legal assistance, which provides an invaluable piece of information between constitutional theory and administrative practice.⁵

Collectively, this body of literature indicates that the problem of minority rights in Pakistan cannot be reduced to any single legal flaw or any social bigotry; it is simply a problem of system interaction where constitutional guarantees, political representation patterns, criminal justice competency and societal mobilization pressure all come together such that the constitutional text itself becomes the source of many phenomena that the constitutional text was meant to guard against.

Methodology

The qualitative methodology of the article is a doctrinal and socio-legal approach aimed to ensure the constitutional analysis remains connected to the evidence of implementation. First, it performs a close-reading of the relevant constitutional provisions, including enforceable fundamental rights (religious freedom, equality, non-discrimination, cultural rights), directive principles (minority protection and representation in services), and clauses of constitutional identity that can design unequal eligibility or categorization. Second, it scrutinizes the constitutional design of representation, by reserved seats and electoral mechanics involved in such reserved seats, as the representation is a constitutional right that may or may not succeed depending on accountability pathways. . By doing this, the study is able to compare what constitutional protection vows is with what is witnessed by monitoring authorities and a national statutory commission in actual practice, especially when it comes to discrimination, hate speech, mob violence and justice administered in delicate cases. The methodology is limited by the limitations inherent in desk-based socio-legal studies: reported incidents might be underestimated, certain data might be disputed, and institutional reporting will be based on the requirement and availability of the reporting organization. As a way of overcoming such constraints, the analysis focuses on trends and institutional provisions of legal thresholds, procedural protections, lines of representation, and enforcement motivations, instead of focusing on a single data point as determinative. This is not aimed at coming up with an

⁵ Shahzad, K., Rizwan, S., & Razzaq, A. (2025). A Critical Analysis of Fundamental Rights in the Constitution of Pakistan 1973. *Journal for Current Sign*, 3(4), 316-328.

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incident catalogue, but finding out what constitutional and institutional levers would most effectively translate formal rights into reliable protection.

Research Findings

The first is that the Constitution of Pakistan bears a thick concentration of minority-purposive protections which when construed purposively and applied uniformly, can be used to establish a formidable minority rights regime. The means to the end is the freedom of religion, not as mere inside conviction, but as profession, practice, propagation, and institutional management, and is structurally appropriate to protection of the community life, as well as individual conscience. On top of justiciable rights, the directive principle of minority protection asserts the commitment of the state to protection of the genuine rights and interests of minority, and expressly refers to due representation in federal and provincial services, which has provided constitutional support to affirmative inclusion in state employment.⁶

The second observation, though, is that the constitutional guarantees co-exist with constitutional asymmetries and institutional circumstances which may undermine the effectiveness of minorities in experiencing equal citizenship and which may make implementation complicated in high-pressure cases. The definition clause at the level of symbolic citizenship establishes that the President must be Muslim and frames the election of the Prime Minister as a contest among Muslim members of the National Assembly according to which a constitutional line is drawn between the highest executive offices that can be difficult to reconcile with a fully and comprehensively egalitarian civic identity. That definition clause has been used to demonstrate how the electoral process itself can become discriminatory: the UN Human Rights Committee has been concerned about the fact that Ahmadis must declare themselves non-Muslim in order to qualify as voters. The international oversight has also raised the issue of how reserved seat regimes marginalize non-recognized communities as not Muslim, citing systematic and structural barriers to the public, such as the denial of Ahmadis to seats assigned to non-Muslims in representative bodies.⁷

At the enforcement level, UN organizations have also frequently highlighted a trend whereby formal constitutional rights are being increasingly turned into weak safeguards, with cases of discrimination and hate speech increasing, and low rates of conviction in hate speech cases and mob-related violence that can lead to killings, injuries, and property destruction. Most importantly, the pathway of the blasphemy accusation has proven to be a repetitive cause of social violence, and the breakdown of the state capacity. The Committee on the Elimination of Racial Discrimination has reported alarming cases of violent attacks and reprisals against individuals charged to blasphemy, mostly minority members, and concern about the length of detention, solitary confinement, delayed trials and the open-ended and broadly focused nature of various provisions on blasphemy, and it has suggested repeal or reform accompanied by stringent evidentiary requirements and protective police practices. The UN Human

⁶ Hussain, N., & Singh, R. S. ROLE OF CONSTITUTION IN THE PROTECTION OF RIGHTS OF MINORITIES IN SOUTH ASIA.

⁷ Mirjat, R. B. (2023). Minority rights with reference to judicial precedents in Pakistan. *European journal of economics, law and politics*, 10(2), 1-10.

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Rights Committee has also been highly concerned about the rising numbers of individuals who are jailed on the blasphemy charges, the use of violence and vigilante groups, and the entrapment of online blasphemers with the help of the cybercrime laws, and urged Pakistan to avoid attacks, to hold individuals accountable and repeal or amend blasphemy laws as it is a strict requirement of the treaty.⁸

These fears are consistent with domestic institutional evidence: the investigation of the National Commission for Human Rights, instigated by the complaints related to entrapment, revealed a significant increase in the number of people who were imprisoned on the basis of blasphemy, the violation of procedural requirements, and the threats to the rights of the due process and the safety of the prison, which is how the constitutional guarantee of equal protection can fail when criminal justice is exposed to the pressure of the social community and politicization of the narrative. The general image is thus twofold: the Constitution does offer a normative space of protection of minorities, yet the constitutional asymmetries, the incompleteness of the anti-discriminatory infrastructure, and lax application in the most sensitive cases does give rise to the ground realities that reflect the constitutional construction only in parts.⁹

Discussions

The findings imply that the issue of minority rights in Pakistan is not whether the Pakistan constitution has constitutional provisions that protect such rights, but rather whether the state has provided an implementation ecosystem that is able to protect and defend minorities during the most difficult times. Constitutionally, rights are not empty unless they can be depended upon to be actionable: police must record and investigate complaints without favor, prosecutors must take up cases without fear, courts must decide without outside pressure and victims and witnesses should be able to do so without fear of retaliation.¹⁰

A powerful doctrine of equal citizenship is conceivable in Pakistan, which is supported by the constitutional rights chapter where it is read together with the Objective Resolution and the principle of directive in the protection of minority, particularly when coupled with the non-discrimination clauses in the places of worship and in the delivery of religious services to citizens. But the recurrent mob violence, hate speech and reprisals, all observed by international observers, suggests that there is a structural deficit in enforcement: law is present, but it is not always in control over social power. The language of constitutional limitation, i.e. the religious freedom under the condition of law, the public order and morality, is not unique in comparative constitutional law, however, in a context in which the term of public order is being manipulated by the use of majoritarian mobilization, the limitation

⁸ Asad, M., Sultana, I., Idrees, H. M., Hussain, M., Athar, S., & Mahmood, M. N. (2023). Islamic Perspective on Human Rights and Minorities Legal Rights: Contemporary Analysis of Pakistan. *Al-Qanṭara*, 9(4), 82-90.

⁹ Umar, M., Sarwar, R., & Malik, S. A. (2025). The Role of the Supreme Court of Pakistan in Protecting Fundamental Rights: A Study of its Jurisprudence. *Journal of Political Stability Archive*, 3(3), 567-588.

¹⁰ Rahman, S. K. M. Rights of Minorities in the 21st Century: A Comparative Study of India and Pakistan.

clauses can become a flexible tool that can be effectively used to justify restriction instead of protection.¹¹

The same process occurs in the sphere of political representation. The guarantee of minority representation through reserved seats does not necessarily lead to poor representation but it implies that the constitutional inclusiveness will have to be complemented with policies and practices that enhance the responsiveness, constituency and policy ownership to the communities that represent minorities. Concisely, constitutional protection are the means that carve out the legal space within which the minority rights exist; they do not necessarily provide the institutional bravery to implement their minority rights when the implementation poses political and personal danger.¹²

The cross-national evidence on violence and detention associated with blasphemy is particularly eye-opening since it shows the possibility of the creation of minority vulnerability as a result of a chain reaction, but not as a result of one discriminatory act. An imputation of blasphemy can have a social effect; the effect can be to put pressure on the police to arrest instead of defend; the arrest can be met by lapses in evidence; the accused may suffer threats in custody; lawyers may be pressured; and the trial may be a long one, creating not only danger, but stigma. The frustrations raised by the UN Human Rights Committee regarding the fake accusations, vigilante justice, and entrapment in the cybercrime laws, together with the proposal to abolish or revise the laws of blasphemy, and prevention of attacks, points out that the responsibility of the state is not neutral, but proactive and protective, and accountable.¹³

The Committee on the Elimination of Racial Discrimination goes still further and finds low arrest and conviction rates of some mob-attack cases, which are a cause of concern because of the erosion of fair trial and detention, and recommends both legal reform and the safeguarding of its operations through the creation of standard operating procedures, and what the Committee terms high evidentiary standards. These issues are filled in by domestic institutional reporting, which explains those failures of procedure and patterns that can turn criminal law into an instrument of vulnerability instead of justice.¹⁴ This overlap of international and national results suggests that ground realities are not only social attitudes; they are the results of governance in terms of institutional incentives, capacity and accountability. Unless all associated with the development of constitutional protections are accompanied by plausible institutions, that is, independent commissions, professional policing, insulated prosecution services, and politically insulated adjudication, then minority

¹¹ Sammi, A., Rehman, T. U., & Syed, S. A. (2024). Legal context of minority rights in Pakistan. *Al-Mahdi Research Journal (MRJ)*, 5(4), 815-836.

¹² Shah, M. R. N. H., Parveen, T., Syed, T., & Kanwal, A. (2018). Religious Minorities Rights: Myth and Realities. *Academic Journal of Social Sciences (AJSS)*, 2(3), 220-234.

¹³ Tariq, M. (2025). Human Rights Challenges in Pakistan: Global Norms and Local Realities. *International Journal of Sustainable Applied Sciences*, 3(7), 479-502.

¹⁴ Mehndi, A. (2025). Theoretical Perspectives on the Constitutional Development of Minority Rights in Pakistan (2008–2024): A Multidimensional Analysis through Liberal Pluralism, Critical Race Theory, Postcolonial Theory, and Legal Pluralism. *Journal of Economics, Management & Business Administration*, 4(1), 48-86.

rights are not enshrined in law, but become subject to circumstances.

Recommendations

An agenda of reform that substantially bridges the divide between constitutional protection and realities in the ground needs to focus on enforceability, institutional independence and risk-sensitive protection during crisis. One, Pakistan must either implement or reinforce an extensive legal system against discrimination that safeguards against all types of discrimination and offers simple civil redress, and makes the criminal law concerning hate speech and hate crimes consistent with international norms and actually effective. Both the continuity of incitement and hate crimes and the low conviction rate of hate crimes have been pointed out in international review, suggesting the problem is not just legality text, but also investigative capability, pursuance by the prosecutor, and judicial capacity. The state then is encouraged to institutionalize police, prosecutorial and judicial training on bias signs, hate crime investigation, digital evidence, and victim protection, as well as institute systems whereby victims can report an occurrence without intimidation of retaliation as recommended by international standards.

Second, Pakistan must also incorporate operational rather than rhetorical protection of places of worship and cemeteries by having effective policing measures, prompt response systems, and rebuilding and indemnity policies in the event of physical assaults and destruction and to offer redress.

Third, reform should target the reaction of blasphemy-accusation chain reaction through due process and protection approach: whether Pakistan opts to repeal or amend, any legal mechanism should remove overboard definitions and vague definitions, malpractice avoidance, high evidentiary-burden, protection against violence of the accused, and ownership of false charges and redoubts. Domestic recommendations consist of specific measures that can be taken without changes in the constitution: the adoption of forensic standards of digital evidence, a ban on conducting apprehensions by non-police agents, control of the enforcement of cybercrime, the right to access legal advice, and limited prosecution, which will reduce the time of detention and delayed trials. Another important element is defense of the justice ecosystem as such; lawyers, judges, and investigators should be shielded against intimidation with witness, professional, and protection systems, since the right to a fair trial cannot be enforced when the legal professionals are threatened of revenge.

Reforms in institutional design and political participation are also vital since they establish the continuity of protection of minority as opposed to the intermittent response to it. International scrutiny has called on lawful clarification and autonomy of minority-targeted commissions, such as open nomination and appointment plans and involvement of various parties, and coordination flaws between minority agencies and human rights bodies it has signaled. Pakistan must thus make sure that institutional mechanisms of minority-rights such as the solidified minority commission framework or a better alignment with the National Commission of Human Rights are given the power to investigate, act independently, and have a mandate that encompasses early warning, tracking of hate crimes and prosecutions and reparation follow ups.

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Insofar as reserved seats continue to be a key constitutional protection, Pakistan must review ways to improve accountability to minority groups under the current constitutional framework: they can include formalized consultations of the constituency by minorities, open party rules on nominating minority representatives, greater parliamentary committee access to minority rights, and inclusion mechanisms at local government levels that will enable minority communities to have a voice in service delivery at their residence. Representation cannot be considered met by the mere presence of numbers but rather by the ability of the representatives of minorities to advocate, influence policy, and cause the institutional reaction safely at the moment of crisis.

Lastly, a non-negotiable pillar of rights realization that is long-term is education and narrative reform. This also involves making sure that religious freedom and non-discrimination are socialized to the students of the minority by the means of the curricula, teaching training programs and civic education that would make people see the minority as equal citizens rather than as tolerated outsiders that will be later reflected in the employment hierarchy or even violence. To conclude, new constitutional promises are not the main requirement of Pakistan; execution infrastructure that ensures the currently existing promises works is the need of Pakistan, particularly during those times when the social pressure reminds the state of its adherence to rule of law.

Conclusion

The constitutional asymmetries in the eligibility to high executive posts, categorization of the definition, and the realities of policing and criminal justice can undermine the minority group in the feeling of equal citizenship and may turn the constitutional rights into the hollow promises: discrimination, hate speech, mob violence, and the revenge against the offenders remain constant, and the low conviction rates and the enormous due process stigma demonstrate that the rule-of-law ecosystem, investigation, prosecution, adjudication, and protection, needs structural reinforcement. Plugging this gap between constitutional protections and realities thus requires both law-based and operationally targeted reforms: both extensive anti-discrimination protection with effective remedies, effective enforcement of anti-hate violence, broad evidentiary and due process assurances in sensitive criminal proceedings, independent and coordinated human rights agencies, and representation models that produce real accountability, not mere presence. The normative blue print of a plural and equal polity already exists in the constitution text of Pakistan; the only challenge lies in developing and maintaining institutions capable of defending the blue print when it is at stress, so that the rights of minorities are not just respected in principle, but in practice as well, predictably and in no fewer than cases.

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