

Islamic Republic of Pakistan

Policy Brief: 2010 - 2011



I. Backgroundⁱ

- Pakistan is a federal republic with a significant role for Islamic law in the Constitution and legal system. The military establishment is the primary power-broker in the country and provides support and funding to Islamic militant groups operating throughout the region.
- The U.S. has a number of critical strategic interests in Pakistan, including counter-terrorism and enhancing regional security, preventing nuclear proliferation, and promoting democracy.
- Religious minorities, including Hindus, Christians, and Ahmadiyahs, face widespread persecution and a complex set of discriminatory laws and constitutional injunctions.
- The modern Pakistani state was created by partitioning the Indian sub-continent in 1947, following the British withdrawal from India. At the time of Partition, the Hindu population in Pakistan was approximately 26%, but millions of Hindus and Sikhs fled violence and riots for the safety of India. Prior to Partition, Hindu culture and civilization had flourished in Pakistan for thousands of years.
- Muslims currently comprise 95% of the population (Sunnis 75% and Shias 20%), and minorities, including Hindus, Christians, and Sikhs, are approximately 5%. Hindus are the largest minority and are estimated at just under 2% (human rights groups, however, believe the government has intentionally lowered the figures to deprive minorities of services and political representation).
- Pakistan is home to a number of diverse ethnic groups, including Punjabis, Sindhis, Balochis, Pashuns, and Mohajirs (migrants from India at the time of partition), but Punjabis, the largest ethnic group, dominate the ranks of the military and government.

II. Religious Discrimination and the Legal System

Constitutional Provisions Promoting Islamⁱⁱ

- Article 2 declares Islam as the state religion, and Article 31 protects and promotes the Islamic way of life and moral standards.
- Articles 41 and 91 provide that a person must be Muslim to be qualified for the position of President and Prime Minister, respectively. All elected officials must swear an oath in the name of Allah and “strive to preserve the Islamic ideology” of Pakistan.
- Article 203A - 203J establishes the power and jurisdiction of the Federal Shariat (Islamic law) Courts; Articles 227 - 231 provide that all laws must be in conformity with Islamic injunctions, and creates an Islamic Council to advise Parliament and Provincial Assemblies on whether laws contradict Islamic Injunctions.

Pakistan Penal Code

- The Blasphemy Laws impose severe punishments for insults to the Prophet Muhammad or desecration of the Koran. Section 295-C provides the harshest penalty, mandating the death penalty for derogatory remarks about the Prophet Muhammad.
- The Hudood Ordinance, based on Islamic law, covers 10 offenses, including adultery, fornication, and rape. The Women’s Protection Act of 2006 was intended to reform the Hudood Ordinance to provide greater protection to women, but relevant provisions were recently struck down by the Shariat (Islamic law) Court.ⁱⁱⁱ

The Judicial System and Islamic Law^{iv}

- The Constitution of Pakistan provides for a dual court system: one with secular civil and criminal courts and the other comprising the Federal Shariat (Islamic law) courts.
- Article 203D lays out the powers, jurisdiction, and functions of the Federal Shariat courts and allows them to examine and decide whether laws are “repugnant to the injunctions of Islam.” Under Article 203G, the Supreme Court and High Courts have no jurisdiction over matters being adjudicated by the Shariat Courts (with limited exceptions).

III. Status of Human Rights

Religious Freedom

- There are a number of Islamic laws and Constitutional provisions that discriminate against minorities. For instance, the blasphemy laws disproportionately affect minorities, including Hindus, Christians, and Ahmadiyyas, and are often used to attack and harass non-Muslims or Muslims from minority sects.^v
- Non-Muslim places of worship, including Hindu temples, are subject to attacks, encroachments, and unequal treatment from the government. Thousands of temples have been destroyed or converted into mosques since 1947, and according to some estimates, only 360 - 428 temples/shrines remain (26 are functioning) in Pakistan.^{vi}
- Hindus are unable to independently control their religious institutions and places of worship. The Evacuee Trust Property Board (ETPB), responsible for managing a large number of Hindu properties, including temples and land left behind by refugees during Partition, lacks adequate Hindu representation. The ETPB controls 135,000 acres of land belonging to Hindus and has frequently sold or leased temple properties without consulting Hindu organizations.^{vii}
- There is no legal mechanism to officially register Hindu marriages, unlike Muslim, Christian, and Sikh marriages. Without legal recognition of their marriages, Hindu women are unable to obtain national identity cards, have no property rights, and face discrimination in obtaining a variety of other services. About 80% of Hindu women lack national identity cards and are unable to vote.^{viii}

Institutional Discrimination

- Government sponsored school textbooks promote hatred towards minorities and the West through negative and inflammatory depictions, while glorifying jihad and violence. For instance, primary school textbooks describe Hindus as enemies of Muslims. School teachers also incite hatred toward non-Muslims, and minorities are often forced to take Islamic studies classes in contravention of Article 22 of the Constitution.^{ix}
- Minorities lack adequate political representation, and significant numbers of minority voter names have been left off election voter lists in Sindh province. Furthermore, non-Muslims are severely underrepresented in civil service jobs, where Hindus make up only .21% of all federal civil service jobs.^x
- Despite prohibitions against forced labor in the Constitution, approximately 1.7 million people, mostly poor rural Hindus, are enslaved by the bonded labor system. In one incident, a Hindu laborer, Roop Chand Bheel, was burnt alive by his Muslim landlord for allegedly stealing cotton.^{xi}
- Non-Muslims are economically marginalized, with 87% of scheduled caste Hindu women and 63.5% of scheduled caste Hindu men illiterate.^{xii}
- Minorities are discriminated against in the distribution of resources, and many Hindu villages lack basic facilities, including regular water supply, electricity, medical treatment, and schools.

Moreover, following the devastating floods of 2010, district officials observed Hindus and Sikhs being turned away from government run food distribution centers.^{xiii}

Violence and Extremism

- Extremist religious groups and radical clerics preach hatred towards minorities and engage in violent attacks on non-Muslims and members of minority Muslim sects. For example, in 2010, 60 Hindus were attacked and driven out of a neighborhood in Karachi when a Hindu boy drank from a water tap outside a mosque, and in 2009, seven Christians were burned alive by Muslim mobs in the town of Gojra.^{xiv}
- In recent years, more than 350,000 Hindus have fled persecution in Pakistan and sought refuge in India. In addition, thousands of Hindus have fled violence and threats from Taliban militants in Khyber Pakhtunkwa province and the Federally Administered Tribal Areas to other parts of Pakistan or India.^{xv}
- Islamic seminaries often incite their students to kidnap and convert young Hindu girls. According to several human rights reports, 20 – 25 Hindu girls are kidnapped and forcibly converted to Islam every month in Sindh province alone, some as young as three or four years old. Often, after being abducted, these girls are raped, sold off, or forced into prostitution. For example, in January 2010, a 17 year old Hindu girl was kidnapped and raped by four Muslim men, while the police arrested the victim's father and obstructed attempts by the victim's family to file a case and obtain a medical report.^{xvi}
- Hindus are frequently abducted for ransom, and at least one Hindu is kidnapped for ransom every month.^{xvii}

IV. U.S. Foreign Policy Objectives in Pakistan

Terrorism and Regional Security

- There are a number of Islamic extremist groups operating freely throughout Pakistan, promoting the creation of a theocratic state, violent jihad, and hatred towards non-Muslims. Pakistani militant groups, along with the Taliban and Al Qaeda, receive support and protection from the ISI/military establishment and threaten American troops in Afghanistan. Moreover, a number of international terrorist attacks have been traced back to Pakistan, where terrorists have received training and refuge.^{xviii}
- Since 9/11, the U.S. has provided nearly \$20 billion in monetary assistance to Pakistan, including more than \$12 billion in military aid. Much of the aid is misused and redirected towards attempting to destabilize India.^{xix}

Nuclear Non-Proliferation

- Pakistan's expanding nuclear arsenal is under the control of an increasingly radicalized military, with the threat of nuclear materials and technology falling into the hands of Islamists or transferred to nations hostile to American interests.
- Pakistan maintains a first use doctrine against India, indicating it will be the first to use nuclear weapons against India in the event of a conventional war, significantly threatening peace and stability in the region.^{xx}

Religious Freedom and Democracy

- Strengthening secular and democratic institutions in Pakistan is critical to preventing Pakistan from becoming a failed state and ensuring stability in South Asia.
- Promoting religious freedom and minority rights in Pakistan is consistent with America's commitment to human rights and prevents the growth of Islamic extremism in the region.

V. Policy Recommendations

- The provision of any future military aid should be conditional on Pakistan ending all support for Islamic extremist groups and verifiable steps by the government to dismantle the terrorist infrastructure in the region. Furthermore, the Pakistani military must provide strict accounting for every dollar it receives, and it must not divert any funds to terrorist groups who seek to destabilize India.
- Civilian assistance to Pakistan should be contingent on meaningful constitutional and legal reform to provide equality and religious freedom for minorities. In addition, the Pakistani government must institute changes to the education system, and textbooks that promote discrimination and glorify violent jihad should be discarded. Alternatively, humanitarian and economic assistance should be provided for the benefit of the country's marginalized minorities.
- The Pakistani government must create an independent body to investigate and effectively address all forms of violence and discrimination against minorities. The current National Commission on Minorities has failed to protect the rights of minorities and is considered ineffective by human rights groups.^{xxi}
- Religious minorities must be allowed to independently manage their own religious institutions and places of worship free from government interference, and representatives from the Hindu and Sikh communities should be given full control over the Evacuee Trust Property Board.

ⁱ Central Intelligence Agency, The World Fact Book, <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>; Life at Risk: Report of HRCF Working Group on Communities Vulnerable because of their Beliefs, Human Rights Commission of Pakistan, <http://www.hrcf-web.org/pdf/Life%20at%20risk.pdf>; Brock, Linda, "Hindus in Pakistan – A People Without a Voice," April 4, 2010, The Chakra, <http://www.chakranews.com/hindus-in-pakistan-a-people-without-a-voice/672>

ⁱⁱ The Constitution of the Islamic Republic of Pakistan, <http://www.pakistani.org/pakistan/constitution/>

ⁱⁱⁱ Khan, Iftikhar A., "Shariat Court knocks out 3 sections of women's protection act," December 23, 2010, Dawn, <http://www.dawn.com/2010/12/23/shariat-court-knocks-out-3-sections-of-women%E2%80%99s-protection-act.html>; The Constitution of the Islamic Republic of Pakistan, <http://www.pakistani.org/pakistan/constitution/>

^{iv} The Constitution of the Islamic Republic of Pakistan, <http://www.pakistani.org/pakistan/constitution/>

^v Life at Risk: Report of HRCF Working Group on Communities Vulnerable because of their Beliefs, Human Rights Commission of Pakistan, <http://www.hrcf-web.org/pdf/Life%20at%20risk.pdf>

^{vi} Ali, Tahir, "Pak's Hindu temples turned into picnic spots, hotels," February 24, 2011, Rediff India Abroad, <http://www.rediff.com/news/slide---show/slide---show---1---paks---hindu---temples---turned---into---picnic---spots---hotels/20110224.htm>; Qaswar, Abbas, "Soft Target in Pakistan," May 30, 2011, India Today, <http://indiatoday.intoday.in/site/story/hindus-in-pakistan-victims-of-abduction-forced-conversions-and-oppression/1/138751.html>; Thomas, Antony, "Hindu and Sikh Temples Targeted in Pakistan," April 9, 2010, The Chakra, <http://www.chakranews.com/hindu-and-sikh-temples-targeted-in-pakistan/710>

^{vii} Life at Risk: Report of HRCF Working Group on Communities Vulnerable because of their Beliefs, Human Rights Commission of Pakistan, <http://www.hrcf-web.org/pdf/Life%20at%20risk.pdf>; Ali, Tahir, "Pak's Hindu temples turned into picnic spots, hotels," February 24, 2011, Rediff India Abroad, <http://www.rediff.com/news/slide---show/slide---show---1---paks---hindu---temples---turned---into---picnic---spots---hotels/20110224.htm>

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^{ix} Life at Risk: Report of HRCF Working Group on Communities Vulnerable because of their Beliefs, Human Rights Commission of Pakistan, <http://www.hrcf-web.org/pdf/Life%20at%20risk.pdf>

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- ^x *Ibid.* "Pakistan: The Land of Religious Apartheid and Jackboot Justice," A Report to the UN Committee Against Racial Discrimination, August 2007, Asian Centre for Human Rights, <http://www.achrweb.org/reports/cerd/Pakistan---CERD2007.pdf>
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