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**Commonwealth Initiative for Freedom of Religion and Belief**

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# Commonwealth Initiative for Freedom of Religion and Belief (CIFoRB) Submission to office of High Commission for Human Rights on Forced Conversions and Forced Marriages

The aim of CIFoRB’s submission is to draw attention to the intersectionality between forced conversions and forced and early marriages. Whilst this is a problem across the Commonwealth we will utilise the example of Pakistan, with a focus on Sindh, to draw attention to the way that religious minorities are particularly susceptible to problems of forced marriage and forced conversion. Religion and other traditional cultural practices are widely recognised as serving as forces that can perpetuate and justify early and forced marriages.[[1]](#footnote-1) What is less widely recognised or analysed is the prevalence of forced conversions as a driver for forced marriages. Being a member of a religious minority often marks you as an outsider, a target and leaves you with fewer avenues of redress and lower socio-economic power to protect yourself. Certain religious groups and actors can also provide religious encouragement for the conversion of girls from a religious minority.

## Data:

Due to deficiencies in data collection and the complexity of the crime precise numbers are difficult to ascertain. The Aurat Foundation[[2]](#footnote-2) and the Movement for Solidary and Peace (MSP)[[3]](#footnote-3) estimate that 1000 women and girls a year are abducted, forcibly converted and then married off to their abductors. Volunteer group Responsible for Equality and Liberty also estimate that 20 to 25 Hindu girls are forcibly converted every month.[[4]](#footnote-4)

Demographic census data is a contested topic in Pakistan. The latest survey was completed in late 2017 but the results have been disputed by different provincial governments and ethnic minorities who argue that the government deliberately deflate their numbers. According to the 1998 Census 95-96% of the country identify as Muslims, about 1.6% identifies as Christians, 1.6% as Hindus and there are smaller numbers of Baha’is, Sikhs, Buddhists and others.[[5]](#footnote-5) Unofficial, non-governmental sources suggest religious minorities to be around 10% of the total population of Pakistan.[[6]](#footnote-6) For the purposes of this report we will estimate the total number religious minorities of Pakistan at 5% taking into account a moderate increase from the official numbers.

Using this estimation and 2017 population data from the World Bank and UNICEF we estimated:

|  |  |  |
| --- | --- | --- |
| **Age Group** | **Number of Women** | **Number of Religious Minority Women** |
| 15-19 | 9,660,568 | 483,028 |
| 20-24 | 9,560,974 | 478,049 |
| 25-29 | 8,863,820 | 443,191 |

UNICEF have estimated that 21% of current 20-24 year olds in Pakistan were married before they were 18.

From this we found in 2017 that there were 1,404,268 women from religious minorities in Pakistan between the ages of 15 and 29. The number of 1000 forced conversions and attendant forced marriages a year means that 0.07% of young minority women are forcibly converted and married each year in Pakistan.

## A Typical Case:

MSP, Aurat Foundation, the Human Rights Commission of Pakistan (HRCP) and South-Asia Partnership Pakistan have established that there is a typical pattern to these cases. Young girls and women, typically 12 to 15 are abducted, converted to Islam and then married to the abductor or a third party. The victim’s family then files a First Information Report (FIR) for abduction or rape at the local police station. The abductor, on behalf on the victim, files a counter-FIR accusing the victim’s family of harassing the willingly married and converted girl and of conspiring to convert the girl back to her original religion. The girl is then asked to testify in court whether she married and converted of her own free will or was abducted. In most cases the girls remain in the custody of the abductor whilst judicial proceedings proceed so she is often subject to further threats, intimidation and brainwashing and therefore testifies in favour of the abductor due to coercion and threats.[[7]](#footnote-7) [[8]](#footnote-8)

## Causes and Exacerbating Problems:

**Socio-Economic Position:**

In many countries religious minorities are in a lower socio-economic position. This gives them fewer resources and a marginalised voice and therefore more vulnerable to predation.

In Pakistan, Christians and Hindus are overwhelming at the bottom of the socio-economic ladder with institutionalised barriers to their material advancement. A significant proportion of Hindus in Sindh are members of the so-called Untouchable Castes. These individuals make up part of Sindh’s landless bonded labour[[9]](#footnote-9) that forms the backbone of the economy in both agriculture and brick kilns. However, the landlords see the profits whilst the labourers live in abject poverty, tied to the land where they are forced to work with very little recourse to justice or protection from predation by their landlords. Whilst bonded labour was officially outlawed in 1992 the practice continues to thrive due to a lack of properly empowered institutions to deal with the problem and local officials remain reluctant and/or powerless to act against powerful local families.[[10]](#footnote-10) It is estimated that there are around 40,000 to 50,000 bonded labourers in the agricultural sector in Sindh,[[11]](#footnote-11) and that there at least 2 million bonded labourers across Pakistan.[[12]](#footnote-12)

The situation of Bonded Labour places people in a virtually powerless position vis-à-vis their landlords. For example, 14 year old Jeevti from Sindh, the daughter of Hindu bonded labourers, was abducted in the middle of the night from the family’s home by the landlord. She was converted to Islam and forcibly married to the landlord as his second wife because he claimed that the family owed him $1000. The girl’s mother went to the police and the courts and they did nothing to act against the influential and powerful man despite the fact that Jeevti stated that she had no idea what was in the police documents which included an affidavit that she had converted and married of her own free will.[[13]](#footnote-13)

Due to societal discrimination the majority of Hindus and Christians, even if they aren’t in bonded labour, are forced into low-status jobs that many Muslims refuse to take, such as sweeping streets or sewage cleaning.[[14]](#footnote-14)

**Lack of Access to Justice:**

The HRCP has found that whilst all citizens in Pakistan face obstacles in access to justice minority religious groups face ‘even greater difficulties in the pursuit of justice.’[[15]](#footnote-15)

**Police:**

HRCP has shown that police often turn a blind eye to reports of abduction and forced conversions thereby creating impunity for perpetrators. The police forces, which are overwhelming Muslim, can often sympathise with the goal of converting religious minorities. In limited instances of police intervention, local leaders exert considerable pressure to prevent any action. [[16]](#footnote-16) Sindh province’s top police official Sarjeel Kharral told Al Jazeera that the lower tier of the police force is insensitive to the discrimination faced by Hindus. "It's true that they don't prioritise the community without pressure from the media or civil society."[[17]](#footnote-17) The police will often either refuse to record an FIR or falsify the information recorded on the FIR, thus denying the families involved the chance to take their case and complaints any further.[[18]](#footnote-18) The lack of an FIR or the misrepresentation of information means that the family are unable to seek further justice in law courts, as an FIR is the vital first stage in the Criminal Procedure Code. Police are also often lethargic in attempting to recover a girl who has been abducted, thus allowing the conversion and marriage to take place.

**Judiciary and Court Proceedings:**

Both the lower and higher courts of Pakistan have displayed bias and a lack of following proper procedures in cases that involve accusations of forced marriage and forced conversions.

As the US Department of State Human Rights Report for 2016 states[[19]](#footnote-19) the judiciary is often subjected to external influences, such as fear of reprisal and violence from extremist elements. [[20]](#footnote-20) In the case of a young Hindu girl named Anjali whose family reported had been kidnapped and forcibly converted 1500 people gathered outside the court and the physical threat of those present pressurised the judge to give in to the demands of the Muslim man.[[21]](#footnote-21)

In other cases the judicial officers’ personal religious beliefs, ties to the local community and deeply entrenched patriarchal societal and cultural norms influence them into accepting on face value the claims made by the man that the woman/girl involved converted and married of their own free will. Often there is no investigation into the circumstances under which the conversion took place but the simple existence of a conversion certificate is taken as sufficient proof. Judges will also often ignore the factor of the girl’s age in these cases, or the inadmissible nature of evidence given under threat.[[22]](#footnote-22)

The High Courts of Pakistan have shown a similar lack of respect for due process. In 2012 the high profile case of Rinkle Kumari went before Pakistan’s Supreme Court. The family of Rinkle Kumari had launched a petition before the Karachi High Court alleging that she had been abducted and forcibly converted and that a powerful politician supported her abduction. The husband and his friends insisted that she had voluntarily converted and married. Despite the fact that Rinkle had cried in the civil court at Ghotki and said that she wanted to go home with her parents she was sent to the Sakkar police station and the court allowed her ‘husband’, Mian Mithoo, to take her home.[[23]](#footnote-23) Even though Rinkle was supposedly sent to a shelter home after her appearance in the High Court of Sindh, where she again begged to be sent home, the staff at the shelter home were intimidated into allowing Mithoo’s son to meet Rinkle.

When she appeared before the Supreme Court in April 2012 the Court did not take into account that her birth certificate clearly showed that she was below 16 years old and that the marriage of a child is illegal.[[24]](#footnote-24) Neither Counsel was allowed to cross-examine the nature of the conversion or the marriage.[[25]](#footnote-25) The statement made by Rinkle that she wanted to go with her husband was simply accepted on faith, despite her previous statements that she wanted to go home.

The rare cases where the judiciary apply the correct procedures highlight the poor practice followed by the majority. Good practice includes demanding security bonds from abducting families claiming to be the lawful custodians of the girl allegedly abducted. Other proper procedures include sending the girl to a safe house prior to her statement in court, and ordering further special investigation by the police into the circumstances surrounding the victim’s conversion and marriage.

These problems are exacerbated by lengthy backlogs of cases, especially in the lower courts, driven by antiquated procedural rules, unfilled judgeships, poor case management and weak legal education.[[26]](#footnote-26)

**Extreme Religious Interpretations:**

Islam and Christianity are the two dominant proselytizing religions, and within both it is considered religious obligation and a worthy deed to spread the faith.[[27]](#footnote-27) For some religious groups this proselytization drive has been taken further than spreading the word of your religion to the utilisation of economic, political and physical power to induce conversion. In Pakistan, this is also tied to ideas that Pakistan is a purely ‘Islamic’ country and therefore religious minorities never truly belong to the country and are a potential fifth-column against the state. This combination can help to paint religious minorities as legitimate targets of forced conversion.

In Pakistan, most religious institutions, local mosques and seminaries, fail to investigate the nature of the conversion or question the age of the bride; if they demand proof of age at all they are satisfied by a simple affidavit from a member of the locality. These institutions mostly simply accept the word of the abductor[[28]](#footnote-28) and so a conversion certificate is produced by the religious institution, which is then used by the police and courts to excuse violations and to grant bail.

Some organisations, like Minhaj-ul-quran, routinely and as a matter of official policy, encourage the practice of converting members of minority communities by offering rewards for successful conversions. They say that it is the equivalent of *Haj-e-Akbari*, or the greatest religious duty to Muslims.[[29]](#footnote-29) The documentary *Thrust into Heaven* names Mian Mithoo of Ghotki and Pir Sarhandi of Umerkot as two of the most powerful clerics who facilitate these conversions.[[30]](#footnote-30) Similary, Pir Waliullah Sarhandi of the Sarhandi shrine in the Umerkot district claims to have converted thousands of Hindu girls and has claimed that “When a girl is brought before a qazi for conversion to Islam, the qazi must comply immediately. If he delays the conversion even to say his prayers, he himself becomes kafir.” The spread of madrassas therefore exacerbates the problem of forced conversions in Sindh; the number of madrassas in Tharparkar and Umerkot has increased from around 20 before 2000 to over 200 by 2015 with support from foreign funds, largely from the Gulf monarchies.[[31]](#footnote-31)

## Attempted Solutions:

A major legislative attempt was made in Sindh to tackle the problem of forced conversions and attendant forced marriages.

There are a number of pieces of Pakistani legislation that are intended to tackle the issue of forced marriages. However the existing laws have proved ineffective.

**Pakistan Penal Code (1860) (Act XLV of 1860), Chapter XX-A Of Offences Against Women** prohibits forced marriage.[[32]](#footnote-32)

The **Criminal Law (Amendment Act) 2016[[33]](#footnote-33)** provides an additional legal definition of woman; that ‘Provided that in case of a female child as defined in the Child Marriage Restraint Act (1929)[[34]](#footnote-34) (XIX of 1929), or a non-Muslim woman’. The addition of the phrase ‘or a non-Muslim woman’ is ambiguous and problematic. The Child Marriages Restraint Act (1929) applies to all children regardless of religion; so to include the phrase ‘or a Muslim woman’ leads to ambiguity in the case of forced marriages of a non-Muslim female child.

Further complications arise when *Sharia* (Islamic Law) principles are applied. *Sharia*,as interpreted by the *Hanafi* School, grants authority to the *Wali* or the guardian to legitimise child marriages.[[35]](#footnote-35) The parallel use of *Sharia* therefore undermines the Child Marriage Restraint Act.

Joseph Francis, National Director of the Center for Legal Aid Assistance and Settlement (CLAAS), a legal aid organisation focusing on the rights of Pakistan’s minorities, argues that a conversion certificate is used to over-ride marriage laws. “When there is doubt about whether an individual has been forcibly converted and married, a conversion certificate becomes the trump card.”[[36]](#footnote-36) Furthermore, marriage contracts between Muslims over-ride those between non-Muslims because of the separate laws for the two groups. Therefore, a Hindu or Christian can still be married again if they convert despite being married.

The **Hindu Marriages Act of 2017**[[37]](#footnote-37) was passed by the National Assembly of Pakistan and formalises registration of Hindu marriages. However, there has been serious concern[[38]](#footnote-38) over Section 12(iii), which allows for divorce when one party ‘has ceased to be Hindu by conversion to another religion’. This means that there is an easy legal route through the process of a forced conversion to annul marriages, and in some ways incentivises the process of forced conversion in order to legitimise abduction and forced marriages. Section 12(iii) therefore violates all established norms of international human rights law and constitutional law.

**The Sindh Criminal Law (Protection of Minorities) Bill[[39]](#footnote-39)** was unanimously passed by the Sindh Assembly in November 2016. This law was well designed and tackled many of the issues related to forced marriages and forced conversions. It attempted to create specific instruments of implementation and mandates as well as laying legal guidelines for behaviour in these cases which would protect the integrity of the court process and enable victims to access justice. It also placed an age limit of 18 upon conversions and mandated a 21 day waiting period in the case of accused forced conversions.

Despite the fact that the Bill was passed unanimously by the Provisional Assembly the Bill failed to make it into law as the then Governor Mr. Saeed-uz-Zaman Siddiqui returned it in January 2017. Mr. Siddiqui died shortly afterwards. The Bill was effectively blocked by the mobilisation of Islamist groups and parties. A group of Ulema, including the Council of Islamic Ideology (CII) met with Dr. Abdul Qayyum Soomro, the chief minister’s special assistant on religious affairs, on December 5th 2016, and termed the bill against the basic principles of Islam.[[40]](#footnote-40) Religious parties in Karachi launched a campaign against the bill in order to pressurise the Sindh government into repealing it. The Jamaat-I-Islami argued that there could be no age limit on people converting to Islam and that there should not be a 21 day waiting period for conversions. Religious parties threatened to lay siege to the Sindh Assembly if the legislature did not repeal the bill.

## Recommendations:

* **The Sindh Criminal Law (Protection of Minorities) to become Law across the country.**
* **Reform the Police System:** It is vital that faster response times are ensured in cases where abduction is reported; fair reporting standards and First Information Report registration is enforced and that the police provide protection to victim women and their families who are under threat by the abducting parties. Police funding should be significantly increased and become more independent, effective oversight procedures should be established.

Some police reform in Pakistan has demonstrated success; the National Highways and Motorway Police are widely respected in Pakistan. They are better paid, trained and their morale is higher. This reform was achieved through curbing internal corruption and working closely with the wider public. The reform programme was vitally assisted by international specialists to create a sophisticated training programme.

* **Engage Religious Leaders**: As the UN Faith for Rights initiative makes clear religious leaders have great responsibility and power. It is clear that the role of religious leaders and groups is of immense importance in Pakistan. It is also clear that many religious leaders are opposed to the idea of forced conversions. Representatives from different faiths and MNAs at a conference on social cohesion and the integration of non-Muslim citizens in Pakistan titled ‘United for Promoting Peace and Interfaith Harmony’ unanimously declared that forceful conversion is not permitted in Islam.[[41]](#footnote-41) It is vital that religious institutions propagate the importance of the lack of compulsion in conversions rather than stressing conversion as a sacred goal.
* **Utilise social media:** there are more than 44 million social media accounts in Pakistan. Projects already exist that aim to use social media to help to create interfaith harmony and to tackle human rights abuses. For example, FACES (Formation, Awareness and Community Empowerment Society) Pakistan launched Engaging Pakistani Interfaith Communities[[42]](#footnote-42) in February 2017 in partnership with the Kingdom of the Netherlands.[[43]](#footnote-43)
* **Reform the Judicial System:** Legal training and a system requiring greater accountability should be set up to ensure best practice in all cases. The Federal and State governments should ensure that proper legal protection, redress and procedures are available to vulnerable communities, particularly in rural areas.

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