

Al-Aijaz Research Journal of Islamic Studies & Humanities

(Bi-Annual) Trilingual: Urdu, Arabic and English
ISSN: 2707-1200 (Print) 2707-1219 (Electronic)

Home Page: <http://www.arjish.com>

Approved by HEC in "Y" Category

Indexed with: IRI (AIU), Australian Islamic Library,
ARI, ISI, SIS, Euro pub.

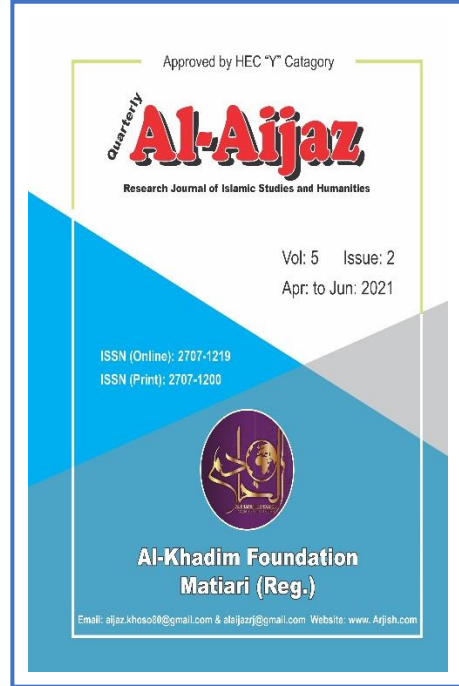
Published by the Al-Khadim Foundation which is a
registered organization under the Societies Registration
ACT.XXI of 1860 of Pakistan

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TOPIC:

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How to cite:

Brohi, D. A. F. ., & Bahram, D. Z.- ud-D. . (2021). English-8 Religious Minorities, their Status in Pakistan with Reference to the Teachings of Islam and Constitution of Pakistan . *Al-Aijaz Research Journal of Islamic Studies & Humanities*, 5(2), 90-98.

[https://doi.org/10.53575/English8.v5.02\(21\).90-98](https://doi.org/10.53575/English8.v5.02(21).90-98)

URL: <http://www.arjish.com/index.php/arjish/article/view/332>

Vol: 5, No. 2 | April to June 2021 | Page: 90-98

Published online: 2021-06-20

QR Code



Religious Minorities, their Status in Pakistan with Reference to the Teachings of Islam and Constitution of Pakistan

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Abstract

Pakistan is a diverse society with varied ethnicities and cultures, and is an enormously plural country characterized by religious, sectarian and ethno-linguistic diversities. It has an overwhelming Muslim population comprises more than ninety-six percent of its 220 million people. Islam is declared the state religion of Pakistan. There are religious minorities who identify themselves as non-Muslim Pakistanis. The constitution of Pakistan is a safeguard for the minorities which provides religious and social rights to the minorities. Generally the minorities of Pakistan are very faithful and patriotic to Pakistan. Since the creation of Pakistan, many non-Muslim citizens of Pakistan have been serving the nation and participating in the nation-building process.

Keywords: Pakistan, Minorities, Rights, Islam, Constitution, Prophet, Quran

Introduction

Pakistan came into being on 14th of August 1947 in the name of Islam. The Muslims of India, being a separate nation, wanted a piece of land where they could live according to their distinct culture, history, and way of life, religion, literature and social values. The total population of Pakistan is approx. 220 million. The estimated non-Muslim population is more or less 5 million, which constitutes approx. three percent of the total population. The Christians and Hindus comprise the maximum population of the religious minorities whereas the other religious minorities are less in number.¹

Minorities and their Rights

Before visiting the historical chronicles to know about the status and rights of religious minorities in Islam and Pakistan, it is imperative to define the word, minority. Linguistically, it means any community that is distinct from the majority of the people living in any area or region on the bases of ethnicity, religion, race or language. Primarily, religious beliefs and practices are the basis of the minorities in most of the Muslim societies. Although, there is no universally agreed-upon definition of the term 'minority' but Capotorti provides a better definition within the context of 'The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities as:

"a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the state - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language"²

According to another definition minority is:

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“a group of citizens of a state, consisting of a numerical minority and in a non-dominant position in that state, endowed with ethnic, religious, or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if not implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law”³

Furthermore, as Dr. Ghazi stated that a minority may be defined as a group of people that differs from the dominant group within the state in matters essential to the formation and constitution of the state.⁴ The definition of minority or majority may differ from place to place and from society to society on the basis of religion or language or race. The credibility of a state is determined by its attitude towards minorities. Minority rights are a universal norm. Every religious teaching has the obligation to state the principles by which it is distinguishes and recognizes on the basis of its belief and ethical behavior.

Islam and the Rights of Minorities

In Muslim states, many non-Muslims like the Christians, Hindus, Jews, Zoroastrians and many others live. In an Islamic society, fundamental questions arise with reference to the rights of the non-Muslim minorities. There is a set of questions raised by Thomas Michel in his 1985 issue of JIMMAH. To quote few, ‘Are there some basic rights which all minorities possess in Islamic societies? What are these inalienable rights, according to Islam? Do some individuals and religious groups have more rights than others?’⁵ Islam respects the rights of the minorities in all spheres of life. Islam wants to establish a peaceful society in which everybody is entitled to equal opportunities and rights irrespective of his religion. Islam stands for universal peace, unity and prosperity. Before the advent of Islam, the Arab culture and society was very brutal, and there were many suppressed groups. The message of the Prophet of Islam revolutionized the Arabs and changed their minds and hearts. The Prophet granted full rights and protection to all the citizens of the state of Madina. The religious minorities were also granted full protection and rights and the minorities' citizenship was enacted in the Charter of Madina. However, there is fear and anxiety among the non-Muslims in countries like Pakistan, Indonesia or Nigeria. In these states, whenever the state tries to formulate laws according to Sharia, the minorities think those laws against them. The non-Muslims fear that they would be subjugated and suppressed if the Sharia implemented. The fear and worry felt by the non-Muslims is not superficial and unsubstantiated. The Muslim states have failed to convince the minorities that their rights will be more protected and respected in a society formed on the basis of Islamic ideals and orders of Islamic Law. Muslim states allow everyone to live in their boundaries whether he is from the ‘People of Book’ (*Ahl al Kitab*) or not. Further Islam does not make any difference between a born Muslim and a convert. Similarly, it allows the dependents of apostates to live in the society without any fear and they can live in the Islamic society comfortably.⁶

Qur’an and the Minorities

Qur’an, the last Book of Allah, is the source of guidance for Muslims. It is the divine revelation which has come down to humanity through the most reliable source, the Prophet Muhammad (peace be upon him). Qur’an addresses the mankind irrespective of the

person's ethnicity, race, language or color. The Holy Qur'an is an ultimate message to all human beings irrespective of any distinction. In terms of rights and the matter of minorities, Qur'an guides the society how to deal with this issue. To date, the Muslim jurists and scholars address this matter. In the past in most regions of the Islamic state, the minorities or the non-Muslim citizens of an Islamic state were treated in a respectable manner which is acknowledged by historians and Western scholars as well. There are many examples in the Life of the Prophet (*Sirah*) which illustrates the dealing with non-Muslim citizens. Qur'an emphasizes the unity of mankind. Allah the Almighty says:

*'O mankind. We have created you male and female, and have made you nations and tribes that you may know one another.'*⁷

Moreover, the Qur'an puts emphasis that all revealed religions are part of the chain which is completed by the last Prophet in seventh century in Arabia. Allah says in the Qur'an:

*" Say (O Muslims): "We believe in Allah and that which has been sent down to us and that which has been sent down to Ibrahim (Abraham), Isma'il (Ishmael), Ishaq(Issac), Ya'qub(Jacob), and to tribes, and that which has been given to Musa (Moses) and 'Isa(Jesus), and that which has been given to the Prophets from their Lord, we make no distinction between any of them, and to Him we have submitted."*⁸

The following *Ayah* (meaning: Verse) has the same topic of unity of faiths descended upon the Prophets:

*"The Messenger (Muhammad) believes in what has been sent down to him from his Lord, and (so do) the believers. Each one believes in Allah, His Angels, His Books, and His Messengers. (They say) "We make no distinction between one and another of His Messengers"-and they say, "We hear, and we obey. (We seek) Your forgiveness, our Lord, and to You is the return (of all)."*⁹

Qur'an calls all the people towards Allah and terms this call a message for all:

*"Mankind was one community and Allah sent Prophets with glad tidings and warnings, and with them He sent down the scriptures in truth to judge between people in matters wherein they differed. And only those to whom (the Scripture) was given differed concerning it after clear proofs had come to them through hatred, one to another. Then Allah by His Leave guided those who believed to the truth of that wherein they differed. And Allah guides whom He wills to a straight path."*¹⁰

The position and stance is very clear, unambiguous and free from injustice with respect to non-Muslim minorities. Islam preaches and teaches peace and sympathy to be shown towards minorities. It is evident from Qur'an that Islam does not teach pressurizing the non-Muslim citizens of an Islamic state to accept Islam:

*"There is no compulsion in religion. Verily, the Right Path has become distinct from the wrong path. Whoever disbelieves in Taghut (anything worshiped other than Allah, the Real God) and believes in Allah, then he grasped the most trustworthy handhold that will never break. And Allah is All-Hearer, All-Knower."*¹¹

Qur'an not only respects the 'others' but it also speaks about fulfilling the obligations and safeguarding the treaties:

*'And fulfill (every) covenant. Verily, the covenant will be questioned about.'*¹²

Islam teaches protection the life and honor of every individual:

Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a

*soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely. And our messengers had certainly come to them with clear proofs. Then indeed many of them, [even] after that, throughout the land, were transgressors.*¹³

The above verses of the Qur'an clearly illustrates rights and status of the minorities in an Islamic state.

Sirah of the Prophet and non-Muslim Minorities

The *Sirah* (Life of the Prophet Muhammad) and the *Ahadith* (the Sayings of the Prophet) guide us how to treat the minorities in an Islamic state with justice and to respect every non-Muslim as a human being. The Prophet of Islam says:

*"He who wrongs a man to whom a covenant has been given or burdens him above his capacity, I shall advocate against him on the Day of Judgment"*¹⁴

In another tradition, the Prophet (PBUH) prohibits a Muslims from insulting and harming non-Muslims:

*"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 who has counteracted him."*¹⁵

This was not a caution, only, but a religious duty of all Muslim states to protect the minorities living within their boundaries. The treatment towards minorities and importance of humanity can be easily comprehended and understood from the Life of the Prophet and his treatment of the non-Muslims in Madina. The Prophet (PBUH) was extremely sensitive about fulfilling his commitment extended towards non-Muslims. Once, the Prophet (PBUH) saw the body of a Jew, who had been his enemy, was being carried by the Jews to graveyard. He immediately stood up in reverence to the body, paying homage and respect to a human being. Somebody reminded the Prophet (PBUH) that the body belonged to the Jew who was Prophet's worst enemy. But the Prophet (PBUH) responded, unequivocally, "Is it not a human soul?"¹⁶

The response of the Prophet clearly indicated that the person, although he was a Jew, deserved respect and had rights being a human. There are many occasions when the Prophet (peace be upon him) emphasized the protection of the minorities by giving those full rights and freedom so that they could observe their religious affairs. The non-Muslims were protected under the Islamic rule in Madina. When the Prophet of Islam migrated to Madina, there had been non-Muslims, the Jews and the Polytheists, living in the society. The Prophet after his migration to Madina, entered into a contract with the Jews of Madina and a document was chalked out in consultation with the local chiefs in which rights and privileges of all the tribal groups, the local inhabitants of Madina and the migrants from Makkah were laid down. In this document the rights and obligations of Muslims and non-Muslims were clearly written down and it is considered as the first written constitution in the history of mankind.¹⁷ The charter of Madina (*Mithaq al Madina*), provided equity to all the citizens of the State whether he or she was a Muslim, Jew or a polytheist. As Dr. Ghazi mentioned that this is perhaps because, to the Muslim mind, it is not the numbers of people but their humanity and human quality that are significant. Every person with whom one is dealing is a human being; his dignity should be protected and he should be respected as a

human irrespective of his affiliation with any group. As Dr. Muhammad Hamidullah stated that 'the Prophet had commissioned a non-Muslim, Amr ibn Umayyah ad-Dhamri as ambassador to go to Abyssinia. A document is referred to Caliph Umar ibn al-Khattab that he sent a letter to the governor of Syria saying: "Send to us a Rumi (Byzantine, Greek) who should be charged with financial administration. Orthodox writers as al-Mawardi and al-Farra say that non-Muslims may be lawfully appointed as ministers.'¹⁸ There are many instances from the Life of the Prophet Muhammad (peace be upon him) which reveal the protection, safety and respect for the prayers and places of worship of the non-Muslims. The Christians of Najran came to Madina in the 9th year of Hijra to meet the Prophet (peace be upon him). Najran is a city in southwestern part of present day Saudi Arabia near the border Yemen. There was a significant population of Christians in Najran at the time of the Prophet. The Prophet of Islam welcomed the delegation and allowed them to stay in one of the compartments of the Mosque of the Prophet (*al Masjid al Nabawi*). The Prophet also allowed them to perform their prayers in that part of the mosque.¹⁹ This is a significant example of religious harmony and respect. A contract was made by the Prophet with the Christians of Najran. Following were the main points of the pact:²⁰

- (i) Whatever their earlier habits or practices had been, they would never be changed
- (ii) Whatever their rights and privileges, these would never be subject to change
- (iii) Their religious matters would continue to be run as they were.

Rights of Minorities in Pakistan

Islam regards the rights of non-Muslim minorities in all spheres of life. Islam gives the minorities freedom to educate and teach their children according to their beliefs and religious teachings. They are free to move to any part of the state without any restriction. Islam protects the rights of the non-Muslims in choosing and adopting any profession of their choice. It may be added here that Islam provides equal opportunities to its non-Muslim citizens in the economic field. They are given the freedom to adopt any profession subject to the common law of the country. When the Muslims extended their rule to Spain and to other continents of the world, they employed many non-Muslims to run the affairs of the state.

Their services may also be rendered and utilized for the state affairs. They are allowed to cohere to their traditions, cultural customs and background. A minority is allowed to preserve its language and to cling with it. In the history of Islam there are many instances which depict a significant participation and representation of the non-Muslims in state affairs.

Even in today's Pakistan, many non-Muslims have reached the higher positions. They are in the courts, bureaucracy, banking sector, medicine, armed forces and other fields of life. For instance, a renowned jurist, Justice Alvin Robert Cornelius,²¹ was a Christian. He had been at the seat of the highest judicial office of Pakistan, the Chief Justice of the Supreme Court of Pakistan in 1960s. Further, he had been the Chairperson of the Pakistan Cricket Board. He was a very humble person and a respected figure in the judicial history of Pakistan. Justice Rana Bhagwandas is another example. He was a Hindu. He had been the acting Chief Justice of the Supreme Court of Pakistan and headed the Federal Public Service Commission of Pakistan (FPSC).²² Justice Dorab Patel a Parsi had been the senior judge of the Supreme

Court of Pakistan in 1970s.²³ These are few examples which show the non-Muslims inclusion in the top and most respected seats of State.

Further, there is a choice for the non-Muslim citizens of an Islamic state to decide upon their civil cases either according to the Islamic Sharia Law or their own personal laws. They are not bound to the Islamic law.²⁴ Their civil and legal cases are governed according to their own religious laws. The Islamic states in the history and even today always protect the personal law of non-Muslims. However, the law of the country is applied in other matters, i.e. Pakistan Penal Code. The Government also appoints non-Muslims as ministers, secretaries and in the bureaucracy.

Religious Rights of Non-Muslims

In an ideal Islamic state, there is no coercion applied on the non-Muslim. They are free to profess their religious beliefs. The concept of forced conversion is condemned harshly in Islam as Qur'an mentions, '*there is no compulsion in Din.*' The non-Muslims are allowed to live their life as per their faith. Although the Muslim may invite the non-Muslims towards the message of Almighty Allah in a decent and cultured way with good behavior and manner. However, Muslims are not allowed to force non-Muslims to embrace Islam. Further, non-Muslims are free to perform their religious ceremonies fearlessly. They are allowed to construct their places of worship like churches, temples and so on, and are allowed to have their prayers there.²⁵

Even in today's Pakistan, one can observe a sizeable number of religious places of worship of non-Muslims all over the country. The state is bound to take care of the places and to protect them from being desecrated and demolished.²⁶ The recent events of terrorizing the non-Muslims do not express the majority of Muslims but there seems some unidentified hands who sabotage the prevailing harmony and love among different faith groups in Pakistan. Muslims and their places of worships and institutions are also facing terrorism all over the country. Non-Muslims are allowed by law to perform their rituals in their places of worship.

At the same time there are many responsibilities of non-Muslims living in a Muslim majority. Fazl ur Rahman opined that 'a minority can go to only a certain point in its demands and capacity for their freedom of activity. It is unreasonable to interfere with the affairs of internal matters of the majority.'²⁷

Religious Minorities and the Constitution of Pakistan

Pakistan has had three constitutions since its independence other than the interim legislations of 1947 and the Objectives Resolutions of 1949. The constitution of 1973 was a consensus-based and the unanimously agreed upon by almost all the political parties and elected representatives of the country. The constitution of 1973 provides rights to the religious minorities and law enacted the freedom to practice their religions. It is a safeguard which gives protection to the minorities. Article 20 assures the right of each citizen and also ensures the freedom to profess religion and to manage religious institutions. Further, Article 22(1) believes in the freedom within the religious institutions. Here is a brief description of the articles and clauses which are mentioned in the constitution. These are presented in a paper by S.K. Tressler as under:

“Persons belonging to minorities may exercise their rights, including those set forth in the present declaration, individually as well as in conformity with other members of their group, without any discrimination. Article 3 (1). Further it states the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, “No one shall be subject to coercion, which would impair his freedom to have religion or belief of his choice. No one shall be subject to discrimination by any state, institution, group of persons or person on the grounds of religion or other beliefs. Article 1 (2) and 2 (1)”²⁸

The articles 33 and 36 of the constitution of Pakistan very clearly explain the declaration on the elimination of all forms of intolerance and discrimination based on religion or belief:

a) Parochial and other similar prejudices to be discouraged

The state shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.²⁹

b) Protection of Minorities

The state shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.³⁰

Other than the constitutional rights and freedom, joint electorate is revised and the minorities now can vote their representatives along with the Muslims, as well. There was separate electoral system before the President Musharraf’s government. In 2002, President Musharraf abolished the separate electorate and after that in political terms, the separatism is no more there. Overall the social and religious life of the religious minorities is well balanced. Pakistan is a multicultural, multi-ethnic and a plural society in terms of race, religion and language. Although the majority is Muslims, the society is tolerant and generous in giving equal rights and status to the religious minorities. The majority of the people want a stable and peaceful Pakistan. They are aware of their obligations and a sense of nationhood.

Conclusion

The total population of Pakistan is approx. 180 million. The estimated non-Muslim population is more or less five million which makes three to four percent of the total population. The Christians and Hindus comprise the maximum numbers of minority communities whereas the other religious minorities are less in number. Other than the Christians and Hindus, the religious minorities comprise Sikhs, Jains, Qadianis or Ahmedis, Bahá’ís, Parsis, Scheduled Caste, Buddhists and Kalasha. Most of the religious communities are caste-based, class-based and there are many denominations within the religious communities. To quote an example, there are both Catholic and Protestant denominations of Christianity in Pakistan. Most of the Christians live in the urban areas of the province, Punjab. Hindus are also divided into different castes and ethnicities. Majority of the Hindu population lives in the rural Sindh. Jains, Buddhists, Parsis and Bahá’ís are very nominal in number. Most of the Parsis are concentrated in Karachi. They are mostly engaged in business and trade. The Bahá’ís are a low profile community. Sikhs are also in small number and are living peacefully in some cities of Punjab and Khyber Pakhtunkhwa (KPK).

Generally the minorities of Pakistan are very faithful and patriotic to Pakistan. Since the creation of Pakistan, many non-Muslim citizens of Pakistan have been serving the nation and participating in the nation-building process. They have played their role in all fields, at

the national level. Justice A.R. Cornelius, Justice Durab Patel, Justice Bhagwandas, Jamshed Marker are some of the examples of the non-Muslim minority who rendered their services for the nation building. The minorities in Pakistan have all their fundamental rights in the teachings of Islam as well in the constitution. These constitutional rights guarantees their fundamental rights. To fulfill these, practical steps were taken by the state and the society for the protection of these rights. The minorities of Pakistan are in a better situation and position and are able to live their lives according to their religion and their religious teachings. As mentioned in the above lines, the fundamental rights which were given to the religious minorities proved very helpful for the progress of the country and there are witnesses that many members of minorities and their communities are playing very dynamic role in the national progress. This is visible as many of the non-Muslim politicians, philosophers, lawyers, judges, bureaucrats, doctors, engineers, teachers all are serving the nation and also enjoying the freedom of religion.

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