

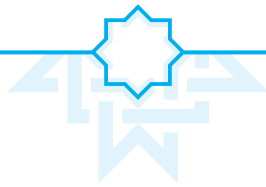
REPORT ON

Forced Marriages & Forced Conversions  
In the Christian Community of Pakistan



**MSP**  
MOVEMENT FOR SOLIDARITY & PEACE

# Forced Marriages & Forced Conversions in the Christian Community of Pakistan



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## Forced Marriages & Forced Conversions in the Christian Community of Pakistan

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An Independent Investigative Report

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Movement for Solidarity and Peace (MSP) in Pakistan is a non-partisan organization devoted to building advocacy, education and respect for human rights in Pakistan. Its mission is to ensure that all citizens in Pakistan can avail their rights to equality, security and freedom of religion under the Constitution of Pakistan and the Universal Declaration of Human Rights.



# EXECUTIVE SUMMARY

This report overviews and analyzes the issue of forced conversions and marriages. Specifically the report focuses on the experiences of the Christian community of Punjab. Forced marriages by themselves constitute an abuse of women's rights: they are performed "under duress without the full and informed consent of both parties"<sup>1</sup>. Forced conversions are violations of the fundamental rights enumerated in the Constitution of Pakistan, and in this case — since victims are converted from Christianity or Hinduism to Islam — target designated religious minorities. Victimized minority women therefore, are placed in "double jeopardy"<sup>2</sup>, since they face discrimination, marginalization, and exploitation on the grounds of (a) being members of religious minorities and (b) women<sup>3</sup>. This report categorizes the concurrent incidence of forced conversions and forced marriages as a distinct crime specific to minority Christian women in Punjab.

Cases for forced marriages and conversions can be distinguished by a specific pattern or process: Christian girls — usually between the ages of 12 and 25 — are abducted, converted to Islam, and married to the abductor or third party. The victim's family usually files a First Information Report (FIR) for abduction or rape with the local police station. The abductor, on behalf of the victim girl, files a counter FIR, accusing the Christian family of harassing the willfully converted and married girl, and for conspiring to convert the girl back to Christianity. Upon production in the courts or before the magistrate, the victim girl is asked to testify whether she converted and married of her own free will or if she was abducted. In most cases, the girl remains in custody of the abductor while judicial proceedings are carried out. Upon the girl's pronouncement that she willfully converted and consented to the marriage, the case is settled without relief for the family. Once in the custody of the abductor, the victim girl may be subjected to sexual violence, rape, forced prostitution, human trafficking and sale, or other domestic abuse. These patterns of violence and miscarriages of justice are explored later in the report through an examination of illustrative cases.

The prevalence and incidence of forced conversion and marriage are difficult to accurately estimate due to reporting deficiencies and the complex nature of the crime. Estimates therefore range from 100<sup>4</sup> to 700<sup>5</sup> victim Christian girls per year. For the Hindu community, the most conservative estimates put the number of victims at 300 per year<sup>6</sup>. Minority advocacy groups have attempted to extrapolate figures from conversion cases and media reports. These methods are also inadequate, since the intensity and scale of conversion are far greater than as reported by the media.<sup>7</sup>

This report first describes the history of and social context within which forced conversions and marriages take place, the particular grievances of the Christian community in Pakistan, and implications for

1 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011.

2 MSP Interview with Mr. Naeem Shaker.

3 Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

4 Qaiser, Junaid. "Mazhabi aqliyat ke huqooq aur azadiyon ki pamali" (Daily Mashriq, 19 April 2012).

5 Agenzia Fides. "Forced conversions to Islam: Summit of the National Commission of Minorities" (News.VA, 12 April 2012). Retrieved on 22 July 2012 from <http://www.news.va/en/news/asiapakistan-forced-conversions-to-islam-summit-of>.

6 Qaiser, Junaid. "Mazhabi aqliyat ke huqooq aur azadiyon ki pamali" (Daily Mashriq, 19 April 2012).

7 DAWN. "SC says no need for specific law on conversion issue" (DAWN, 18 May 2012).

human rights for Christians. It then surveys legal, political, and procedural guarantees for rights protection. The report outlines illustrative cases demonstrating the pattern of violence through which the law becomes complicit in providing immunity for perpetrators, and the complex nature of associated crimes that make it difficult to categorize this crime as specific to religious identity. Finally, the report concludes with detailed recommendations at various levels — national, provincial, and local (city or village) — for key stakeholders.

## CONTEXT AND BACKGROUND

According to the 1998 Census Report and data compiled by the Ministry of Minorities, there are between 2.05 million and 2.09 million Christians – comprising 42 percent of the total minority population – in Pakistan. Between 82.5<sup>8</sup> and 90<sup>9</sup> percent of Christians reportedly live in the province of Punjab<sup>10</sup>, and an estimated 95 percent are ethnically Punjabi. The Church of Pakistan today is a “union of Anglicans, Methodists, Lutherans, and Scotch Presbyterians”.<sup>11</sup>

	Punjab	Sindh	KPk	Balochistan	Total	%
Christians	1,699,843	294,885	36,668	26,462	2,057,858	42
Hindus/Scheduled Castes	116,410	2,280,842	5,090	39,146	2,441,488	50
Ahmedis/Qadianis	181,428	43,524	42,150	9,800	276,902	6
Others	48,779	23,828	14,726	6,471	93,804	2
Total	2,046,460	2,643,079	98,634	81,879	4,870,052	100

Figures: Ministry of Minorities

Gender	Muslims	Christians	Hindus	Qadiani/Ahmedis	Scheduled Castes	Other	Total
Male	66,313,355	1,089,060	1,101,597	145,612	174,675	49,387	68,873,686
Female	61,120,054	1,003,842	1,009,674	140,600	157,668	46,755	63,478,593
Total	127,433,409	2,092,902	2,111,271	286,212	332,343	96,142	132,352,279

8 Human Rights Commission of Pakistan (HRCP). Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs (April 2011). Lahore, Pakistan: HRCP, 2011.

9 Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

10 Gabriel Theodore. Christian Minorities in an Islamic State: The Pakistan Experience. Ashgate, 2008.

11 Walbridge, Linda S. The Christians of Pakistan: The Passion of Bishop John Joseph. New York, NY: Routledge, 2003.

Source <sup>12</sup>	Christian	Hindus	Qadianis	Others	Total
Ministry	2,092,902	2,443,614	286,212	96,142	4,918,870
1998 Census Report	2,057,858	2,441,488	276,902	93,804	4,870,052

Figures: 1998 Census Report

The Christian community of Pakistan may be characterized as a “struggling” or socio-economically marginalized group<sup>13</sup>. In urban areas, Christians face social stigmatization due to their disproportionately high representation in occupations such as sweepers, municipal workers, and domestic help<sup>14</sup> — subsistence-level jobs considered “polluting”. In many cases, the derogatory term, “chuhra”, is directed specifically at Christians to imply class distinction<sup>15</sup>. In rural areas, seventy (70) percent of Christians work on jagirs — for landowners — as landless laborers and, as a result, are highly vulnerable to social stigmatization and religious crimes<sup>16</sup>. Minorities account for a large part of labor in informal sectors, agriculture, brick kilns and domestic work<sup>17</sup>. According to the National Commission of Justice and Peace (NCJP), eighty (80) percent of the minority community is poor while forty (40) percent lives below the poverty line<sup>18</sup>. Further, most bonded laborers in Pakistan belong to religious minorities — Hindus in Sindh and Christians in Punjab— and are subjected to human trafficking and sale through debt transfers, physical abuse, and economic exploitation<sup>19</sup>.

The three (3) main grievances of the community relate to:

- (1) the Blasphemy laws as under Sections 295-B, and C of the Pakistan Penal Code (PPC);
- (2) constitutional guarantees of equal representation, underrepresentation in political institutions, and religion-specific Articles of the Constitution of Pakistan; and
- (3) the issue of forced conversion and forced marriages targeting Christian girls.

The underlying issue for the community remains access to education. The capture and nationalization of Christian educational institutions under Martial Law Orders 167 and 168 in 1972 removed the safeguard that had allowed minorities to compete in key sectors with Muslim students. Though a protracted legal challenge brought by the community to retrieve ownership of key institutions was partially successful, nationalization had lasting consequences. Colleges that once catered to Christians now only do so marginally, and quotas for Christians remain unfilled<sup>20</sup>. Inclusion of Islamic-centric syllabi has further marginalized Christian communities from access to education in public schools<sup>21</sup>. Though the Christian community has produced several prominent figures in Pakistan’s history, including Cecil Chaudhry (first recipient of Sitara-e-Jurat) and former Chief Justice of Pakistan, Alvin Cornelius, Christians rarely feature in the mainstream media or public life<sup>22</sup>.

The socioeconomic status and demographics of the Christian community in Punjab affect political



12 Human Rights Commission of Pakistan (HRCP). Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs (April 2011). Lahore, Pakistan: HRCP, 2011.

13 Gabriel Theodore. Christian Minorities in an Islamic State: The Pakistan Experience. Ashgate, 2008.

14 MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

15 Gabriel Theodore. Christian Minorities in an Islamic State: The Pakistan Experience. Ashgate, 2008.

16 MSP Interview with Mr. Joseph Francis MBE and Christian Study Center Rawalpindi Staff. 2 June 2012.

17 Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

18 Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

19 Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

20, 21, 22 MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

representation, access to justice mechanisms, susceptibility to crime and religious violence, and resource allocation. Several Christian legal aid and representative groups trace the persecution of Christians to the period from 1977 to 1988. Several political developments specifically affected Christians, including the introduction of separate electorates based on religious identity, a bar on non-Muslim citizens from contesting elections as general candidates in parliamentary elections, and the creation of a separate column for religious identification of national identity cards and passports<sup>23</sup>. Christian community leaders maintain that general seats and joint electorates serve the community better, allowing for integration into mainstream party politics rather than exclusion from protection and patronage<sup>24</sup>.

Political representation remains a contentious issue for the Christian community. Christian community leaders contend that the nature of patronage politics – based on contributions and funding to political parties — have prevented truly representative candidates from rising to positions of prominence<sup>25</sup>. In rural areas, qabza groups under patronage and direction by prominent political leaders have targeted Christian landowners. The Pakistan Christian National Party (PCNP) has termed the exclusion of non-Muslim citizens from the political process an “unprincipled and undemocratic dissociation” that violates international human rights principles of non-discrimination<sup>26</sup>. Access to Urdu-language media is also restricted and little or no mention is made to the legitimate demands of minority communities<sup>27</sup>.

Christian groups contend that discriminatory legislation and the exclusion of non-Muslims as equal citizens have encouraged hardline militant groups to target Christian communities. Some key incidents where Christians were specifically targeted, attacked and killed include Rahimyar Khan (1986), Shanti Nagar (2007), Bahawalpur (2001), Islamabad (2002), Murree (2002), Sangla Hill (2005), Kasur (2009), Korian (2009), Gojra (2009), Joseph Colony (2013), and Peshawar (2013). Prior to the Peshawar attack, NCJP reported that an estimated 70 churches suffered attacks, in which 58 were reported killed and 275 injured<sup>28</sup>. Very little progress on judicial investigation and redress was made on Gojra and Shanti Nagar incidents, and none is forthcoming<sup>29</sup>. At the societal level, community organizers point to state-sponsored, institutional, and structural violence as sources of discrimination against the Christian community<sup>30</sup>. Access to justice is limited both for Christians moving to retrieve land under control of land grabbers, and especially for victims of blasphemy laws. The shortfall in provision of legal aid is particularly evident in rural areas<sup>31</sup>. The recent assassinations of Governor of Punjab, Salman Taseer, and Federal Minister of Minorities Affairs, Shahbaz Bhatti, as well as other incidents following accusations of blasphemy, have further decreased prospects for legal aid since Muslim lawyers are reluctant to take up Christians’ cases when they relate to religious issues<sup>32</sup>. In some cases, blasphemy accused will not even get to the point of adjudication since mob justice is applied<sup>33</sup>.

23 Anthony, Nadeem, ed. *Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011*. Lahore, Pakistan: CLAAS-Pakistan, 2011.

24 MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

25 MSP Interview with Mr. Eric Massey. 2 June 2012.

26 CLAAS and PCNP. Press Conference (29 June 2012). Lahore, Pakistan: PCNP/CLAAS, 2012.

27 Feroze, Dr. Kanwal. “Aqliyatein aur media” (Daily Pakistan, 29 October 2006).

28 Anthony, Nadeem, ed. *Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011*. Lahore, Pakistan: CLAAS-Pakistan, 2011.

29 Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

30 MSP Interview with Mr. Joseph Francis MBE and Christian Study Center Rawalpindi Staff. 8 June 2012.

31, 32 MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

33 MSP Interview with Mr. Eric Massey. 2 June 2012.

# LEGAL AND POLITICAL FRAMEWORK

This section outlines the political, administrative, and legal safeguards as they relate to minority political representation; avenues for redress and public policies pertaining to forced marriages; and the relevant legal standards regarding marriage, maintenance, and divorce of Christian women.

## POLITICAL REPRESENTATION

Seats are reserved for specific religious communities in the National Assembly and provincial legislatures. These allocations are outlined below. The explanatory note on the relevant provision — Article 106 (3) — notes “where no independent seat is allocated to a minority in a province for being small in number, the seat allocated jointly to all other Muslims in the province shall be deemed to include that minority group”<sup>34</sup>.

Religious Community <sup>35</sup>	Seat Allocation (NA)
Christians	4
Hindus and persons belonging to the Scheduled Castes	4
Sikh, Buddhist and Parsi communities and other non-Muslims	1
Quadiani or Lahore group (Ahmedis)	1

Province	Christians	Hindus and Scheduled Castes	Sikh, Buddhist, Parsi and other non-Muslims	Quadiani/Ahmadi/Lahori Group
NWFP	1	1	1	1
Balochistan	1	-	1	1
Punjab	5	-	1	1
Sindh	2	5	1	1

## FEDERAL-AND PROVINCIAL-LEVEL INSTITUTIONAL ARRANGEMENTS

Ministry of National Harmony: At the national level, the government of Pakistan provided a Ministry of Religious Affairs and Minority Affairs in 1970, with the following stated functions: (1) safeguarding rights of minorities as provided for under the Constitution; (2) promotion of welfare of minorities; (3) protection of minorities from discrimination; (4) representation in international bodies and conferences, including the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and (5) oversee and implement international commitments and agreements



34, 35 Ali, Shaheen Sardar and Rehman, Javaid. *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspectives*. Richmond, Surrey: Curzon Press, 2001.



concerning minorities<sup>36</sup>. Following the assassination of Minister Shahbaz Bhatti, the government appointed another minister for the restructured Ministry of National Harmony. This Ministry, with a broader mandate, will have six (6) departments concerned with federal legislation on minorities' affairs<sup>37</sup>.

The Ministry of Minority Affairs, rather than proposing affirmative legislation and addressing outstanding issues of minority rights, has been concerned with — and criticized for — doling out charity funds<sup>38</sup>.

A specialist wing called the Minorities Affairs Division was established in 1999 following the coup, comprising a ministerial-level presidential advisor representing the minority groups. The position was created after the incorporation of the Ministry of Religious Affairs and Minority Affairs with the Ministry of Culture and Sports. The Division was created to ensure effective official concern for minority affairs, and to promote the welfare and interests of minority groups. In 2004, the Ministry for Religious Affairs and Minority Affairs was separated and re-created<sup>39</sup>. In 2011, a similar advisory role was created for an Advisor to the Prime Minister on minorities' affairs, with the status of a federal minister.

Federal Advisory Council for Minority Affairs: The Advisory Council comprises 65 non-government members, including elected members of the National Assembly, representatives from provincial assemblies, and prominent members from minority groups. The Council was tasked with providing specific recommendations to the government concerning minorities. Implementation of and final decision-making on these recommendations remained with the federal government and relevant Ministry<sup>40</sup>.

District Minority Committees: District Minority Committees were created at provincial levels with membership from minorities' representatives and government functionaries. The chief administrator of the relevant District was tasked with presiding and overseeing the functions of the Committees. Under the local bodies systems, seats were reserved for minorities in district councils, municipal corporations, town committees, and union councils to advise on schooling, dispensaries, local roads, irrigation, and other matters of municipal development<sup>41</sup>. These committees are not statutory bodies and do not have outlined mandates or terms of reference to guide their work. Committees, as with federal institutions, have failed to review urgent matters for minority women's rights, such as personal laws and rules<sup>42</sup>.

Special Minorities Funds: In 1974, the revolving Pakistan Minorities Fund was created in the amount of Rs. 2 million (increased to Rs. 5 million in 1982), designated to help members of minority groups in special or dire economic circumstances and for educational scholarships. In 1985, a non-lapsable

36 Ali, Shaheen Sardar and Rehman, Javaid. *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspectives*. Richmond, Surrey: Curzon Press, 2001.

37 APP. 'Ministry of National Harmony formed.' (The Express Tribune, 5 August 2011).

38 Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

39, 40, 41 Ali, Shaheen Sardar and Rehman, Javaid. *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspectives*. Richmond, Surrey: Curzon Press, 2001.

42 Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

Special Fund for Welfare and Uplift of Minorities was established with an initial sum of Rs. 20 million to be increased yearly<sup>43</sup>. Allocations were made to minority representatives in the National Assembly for discretionary spending on: (1) emergency financial assistance to individuals and families; (2) developments schemes including construction of roads, and municipal development; and (3) funding religious pilgrimages to Christian holy places and improvement or restoration of sites accorded religious importance.

**National Commission for Minorities:** Established in 1993, the National Commission for Minorities was established to promote the welfare of and safeguarding religious, social, and cultural rights of minorities. The Commission was to be presided over by the Ministry of Religious Affairs and Minority Affairs, and was tasked with: (1) considering laws and executive procedures to alleviate discrimination against minorities and propose specific recommendations for remedies; (2) ensure full participation of minorities in society and making recommendations to further involvement; and (3) ensuring proper maintenance of churches, shrines, temples, gurdwaras, and other places of worship<sup>44</sup>. In 2009, the National Assembly Standing Committee on Minorities criticized the Commission for failing to protect minorities' rights<sup>45</sup>.

**Institutions for Women's Rights:** The National Commission on the Status of Women (NCSW), created in 2000, was given a broad mandate to work for the emancipation of women through the promotion of social, economic, political, and legal rights of women. The NCSW was to draw its mandate from the Constitution, international standards, conventions, treaties, and agreements, including the Convention on the Elimination of Discrimination Against Women (CEDAW). The Federal Ministry of Women Development (MWD) was devolved in 2011 to the provinces with some functions transferred to the Ministry of Human Rights. Prior to its devolution, MWD was "one of the most underdeveloped ministries in the federal cabinet" and had remained without a Federal Minister since 2008<sup>46</sup>. MWD lacked capacity, clarity in mandate, and was underfunded. Women Crisis Centers, also poorly managed, have been devolved to the provinces under the 18th Amendment. The Amendment provides provinces with exclusive legislative powers in matters relevant to minority women's rights – marriage, divorce, maintenance, family laws, and welfare. Though devolution promises advances in women's rights recognition and work, this potential is contingent upon effective implementation by provincial governments and authorities<sup>47</sup>.

**Other Relevant Human Rights Institutions:** The Human Rights Division of the Ministry of Law and Justice was set up in 1993. To supplement the Division's mandate, directorates and deputy directorates at provincial levels were created. NCJP and other stakeholders have criticized human rights institutions of failing to address the specific issues of minority women and develop a discourse on minorities' rights

43, 44 Ali, Shaheen Sardar and Rehman, Javaid. *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspectives*. Richmond, Surrey: Curzon Press, 2001.

45 Human Rights Commission of Pakistan (HRCP). *Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs* (April 2011). Lahore, Pakistan: HRCP, 2011.

46, 47 Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

issues at the national level<sup>48</sup>. In 2008, the Division was upgraded and restructured as the Ministry of Human Rights.

## PERSONAL LAWS ON MARRIAGE

In Pakistan, personal laws and marriage differ for the various religious communities — Christian, Muslim, and others (Hindu<sup>49</sup>, Parsi, and Sikh) — and are supplemented by relevant statutory provisions such as the Child Marriage Restraint Act 1929, Dissolution of Muslim Marriages Act 1939, and Muslim Family Laws Ordinance 1961<sup>50</sup>. Under the adopted interpretation, a “valid marriage” is one in which parties consent to marry one another. Where there is a mistake or misunderstanding regarding the person with whom marriage is contracted – or in case one party has no knowledge of the other’s identity – the marriage is void. Similarly, if a person is induced to undertake marriage by threats or duress, or in an intoxicated state, consent is absent and the marriage is invalid<sup>51</sup>. Other circumstances sufficient to annul contracted marriages include undue influence amounting to fear or violence<sup>52</sup>. These are not recorded in the Pakistan Penal Code (PPC) but are included in special chapters. The Constitution of Pakistan explicitly states in Article 35 that “the State shall protect the marriage, the family, the mother, and the child.”

The Pakistan Christian Marriage Act (Act XV, the “Christian Marriage Act, 1872”) superseded the Christian Marriage Act (Act V, 1865) and must be read alongside the Foreign Marriage Act XIV, 1903. The latter applies only to non-citizen Christians and requires appropriate certification and notice before marriage can be contracted. Jurists have repeatedly noted that these marriage laws require redrafting following extensive consultation with relevant stakeholders and community representatives<sup>53</sup>. Pakistani courts have adopted the High Court of Madras definition of the term, “person(s) professing the Christian religion,” to include both adults following the Christian faith and their children who, for purposes of the law, are presumed to follow their father’s religion<sup>54</sup>. Of particular importance to the purposes of this report and the issue of forced marriages and forced conversions is that the Christian Marriage Act applies not only to instances where both parties contracting marriage are Christians by faith, but also where only one of the parties is Christian. This provision was included to safeguard Christian women from the practice of polygamy when marrying a man of Muslim, Hindu, or Buddhist faith<sup>55</sup>. Christian law, based on traditional interpretations of the faith, strictly enforces monogamy. This provision is readily ignored and laws concerning conversion and marriage are interpreted not as specified in law but in terms of Islam<sup>56</sup>.

The Christian Marriage Act further outlines procedures for contracting marriage and includes specific provisions markedly different from the Personal Laws for other faiths in Pakistan. The Act

48 Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

49 The Pakistan Hindu Council has filed petitions for codification of distinct Hindu personal laws but divisions within the community, as well as lack of legislative movement, have stymied further action though the Council had obtained guarantees from legislators for passage of the bill. MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.

50 Anthony, Nadeem, ed. *Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011*. Lahore, Pakistan: CLAAS-Pakistan, 2011.

51 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976 [Citing Halsbury Law of England].

52 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976.

53 MSP Interview with Mr. Naeem Shaker (Advocate, LHC and SC). 12 July 2012.

54 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976.

specifies that marriage must be made in the presence and under authority of religious Ministers or licensed Marriage Registrars. The age of majority, as specified under the Act, is 18 for Pakistani Christians and 21 for other Christians. In contrast, applicable Mohammedan personal law, the age of puberty for females suffices for valid contracting of marriage. Under the Christian Marriage Act, where one of the parties being married is a minor, a notification of consent from father or guardian is required. The parent or guardian, when asked for such notice, has the right to protest within reasonable time against the marriage certificate<sup>57</sup>. Where mixed marriages between parties of two different faiths is contracted, Catholic teachings provide that the “Catholic partner is obliged not only to remain steadfast in faith but also, as far as possible, to adhere to requirements of baptism and rearing in the same faith so that (the child) may receive all those aids to eternal salvation that the Catholic Church provides for her sons and daughters”<sup>58</sup>.

In cases where a marriage is contracted under Muslim rites, however, the Personal Laws for Muslims override subsequently applied Personal Laws of non-Muslims<sup>59</sup>. A previous marriage solemnized under Christian rites, therefore, will cease in effect once a party converts and declares themselves as Muslim by religion, as provided in the holding of the Federal Shariat Court in *Sardar Masih v. Haider Masih* (PLD 1988 SC 78). Several questions are therefore left unaddressed given this decision, including the issues of child custody and formal dissolution of marriages. NCJP reports that these legal loopholes incentivize conversions since spouses may sidestep more restrictive annulment provisions and marital obligations outlined in the Christian Divorce Act<sup>60</sup>. Religious interpretations also have implications where non-Muslim women are abducted and forcibly married, and subsequently provide a convenient cover for abductors.

NCSW has noted that there has been “negligible development since colonial times” of the personal laws relating to the Christian community, including issues of dissolution of marriage, which remains under the purview of the Christian Divorce Act of 1869<sup>61</sup>. Both the District and High Courts have concurrent jurisdiction over the dissolution and nullity of marriage specified under the Act, except if the petitioner files for nullity on grounds of force or fraud to the extent that no consent to marriage existed. In such a case, the High Court has exclusive jurisdiction. Fraud justifying judicial intervention may exist where the husband misrepresented his religion in a case where the personal law of the wife otherwise forbade marriage<sup>62</sup>. Divorce under the Act and Christian faith is permitted only on very restricted grounds. There is no concept of unilateral divorce and the limited remedy is available both to husbands and wives — who must be citizens of Pakistan — only through judicial or court intervention. Acceptable grounds include instances where husband is guilty of rape, sodomy or adultery (coupled with desertion or cruelty)<sup>63</sup>. An amended bill considered in 2012 by the Ministry of Human Rights, but not as yet in effect, the spouse

55 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976.

56 MSP Interview with Mr. Naeem Shaker (Advocate, LHC and SC). 12 July 2012.

57, 58 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976.

59, 60 NCJP. *Human Rights Monitor 2004: A report on the Religious Minorities in Pakistan*. Lahore, Pakistan: Sanjh Publishers, 2004.

61 National Commission on the Status of Women. *The Impact of Family Laws on the Rights of Divorced Women in Pakistan*. Islamabad, Pakistan: Aligarh Publishers, 2005.

62 Hussain, Arshad. *The Manual of Christian Laws* (2003). Lahore, Pakistan: Kausar Brothers Law Books, 2005.

63 National Commission on the Status of Women. *The Impact of Family Laws on the Rights of Divorced Women in Pakistan*. Islamabad, Pakistan: Aligarh Publishers, 2005.

of Christian faith may petition for dissolution of marriage if, since the marriage was solemnized, the other party converted from Christianity to another religion, or undertook another form of marriage”<sup>64</sup>. Parties may file for declaration to annul or void marriage if, amongst other specified grounds, the “marriage was contracted at the time where a former marriage of the spouse remained in effect” or if “consent of either of the parties was obtained by force or fraud”<sup>65</sup>. In 2011, NCSW submitted for consideration amended drafts of four bills including the Christian Marriage (Amendment) Act 2011, the Christian Divorce (Amendment) Act 2011, and the Domestic Violence (Criminal Law Amendment) Bill 2011<sup>66</sup>.

#### APPLICABLE CRIMINAL LAWS

The link between abduction, kidnapping, and marriage is recognized and remedies are provided under both personal and criminal laws. Under Section 365-B of the PPC, no valid marriage can take place between the abductor and the person abducted as long as the latter remains in the power or control of her abductor. In such a case where a marriage has been compelled under duress by force, the High Courts have exclusive jurisdiction<sup>67</sup>. This Section was included through the Protection of Women (Criminal Laws Amendment) Act of 2006 (Act VI, 2006). The specific language provides that:

Kidnapping, abducting or inducing woman to compel for marriage, etc.: “whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life, and shall also be liable to fine, and whoever by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be or knowing that it is likely that she will be forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid”<sup>68</sup>.

Section 496-A similarly relates to abduction with criminal intent:

Enticing or taking away or detaining with criminal intent a woman: “Whoever takes or entices away any woman with intent that she may have illicit intercourse with any person or conceals or detains with that intent any woman shall be punished with imprisonment of either description for a term which may extend to several years, and shall also be liable to fine”<sup>69</sup>.

64 Imran, Myra. “Christian Divorce (Amendment) Bill being considered by HR ministry” (Rawalpindi News, 2 February 2012).

65 National Commission on the Status of Women. *The Impact of Family Laws on the Rights of Divorced Women in Pakistan*. Islamabad, Pakistan: Aligarh Publishers, 2005.

66 Khalid, Saadia. “NCSW submits four bills to HR Ministry” (Rawalpindi News, 7 January 2012).

67 Zafar, Emmanuel. *Law Relating to Christian Marriages in Pakistan [India & Bangladesh]*. Lahore, Pakistan: Eastern Law House, 1976.

68 Mughal, Dr. Munir Ahmad, ed. *Protection of Women along with the Protection of Women (Criminal Laws Amendment) Act [VI of 2006]*. Lahore, Pakistan: Muneeb Book House, 2006.

Sections 371-A, 375, and 376 — as added to the PPC by the Protection of Women Act of 2006 — provide for remedies for associated crime following forced marriage and forced conversion:

371-A. Selling person for purposes of prostitution, etc.: “Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful or immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment which may extend to twenty-five years and shall also be liable to fine”<sup>70</sup>.

375 and 376. Rape and punishment for rape: “(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five (25) years and shall also be liable to fine; (2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life”<sup>71</sup>.

## OVERVIEW OF FORCED MARRIAGE AND FORCED CONVERSION

The joint crime of forced marriage and forced conversion, which constitutes the scope of this report, together doubly marginalizes Christian women, who suffer violations of basic rights as both women and as minorities. This characterization of the joint crime showcases that the violence perpetrated is intended to control and regulate the minority woman’s life in ways beyond what is sanctioned by statutes, policies, and codified rights.

### FORCED MARRIAGES: DEFINITION AND CONTEXT

Forced marriage by itself is a violation of women’s rights and may be defined as “a marriage that is performed under duress and without the full and informed consent of both parties”<sup>72</sup>. As a standalone crime, it may be categorized under the rubric of domestic violence since it combines emotional, psychological, physical, and sexual abuse<sup>73</sup>. The victim woman or girl undergoes psychological or emotional abuse when forced into or sold for marriage without her consent; in some cases, the girl is a minor and legally cannot provide the consent required under law. The second type of violence – physical – is inflicted when the girl is abused, beaten or tortured

69, 70, 71 Mughal, Dr. Munir Ahmad, ed. Protection of Women along with the Protection of Women (Criminal Laws Amendment) Act [VI of 2006]. Lahore, Pakistan: Muneeb Book House, 2006.

72 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011.

73, 74 Hassan, Yasmeen. The Haven Becomes Hell: A Study of Domestic Violence in Pakistan (Special Bulletin August 1995). Lahore, Pakistan: Shirkat Gah, 1995.

by her new husband or in-laws. Sexual violence commonly accompanies forced marriages in the form of unconsented or unwanted sexual contact, including rape, from her new husband<sup>74</sup>. In some cases, forced marriage may also involve murder. Forms of forced marriage include watta satta (exchanged marriage) and wanni sawara (child marriages or mismatched spouses)<sup>75</sup>. The crime denies enjoyment of various rights, including the right to personal liberty and security, access to justice, freedom from gender-based discrimination, free movement and prevention of arbitrary detention, and freedom from slave-like practices.

In the context of Pakistani society and constraints on women's choices, care must be taken in strictly defining forced marriages. Though the law explicitly specifies that no valid marriage may be contracted without consent of the spouses, actual practice differs: the woman's consent is either not taken or is a mere formality given social constraints, particularly in cases where it would be unthinkable or unacceptable for her to refuse the matrimonial match<sup>76</sup>. Families commonly exert pressure in the form of love, duty, or obligation – these concepts of honor “blur the lines between cultural compulsion, social realities, and individual desires”<sup>77</sup>. Most marriages arranged by families of the spouses, however, do not reach the point where the families have to exert force to impose their will. A Shirkat Gah survey of women in shelters, however, revealed “nearly all unmarried women in shelters sought protection to avoid being forced into marriage with an undesirable spouse”<sup>78</sup>. 66 percent of respondents in an NCJP survey of minority women reported that they are not allowed to exercise free will in choice of spouses or marriage<sup>79</sup>. The Free and Fair Election Network (FAFEN), an NGO coalition, termed forced marriage as the most widespread crime against women in Pakistan based on a survey of official complaints recorded in 77 district police stations – 27 districts where this pattern was observed were in Punjab<sup>80</sup>. In 2011, 568 FIRs were lodged in 40 districts of Pakistan, as per FAFEN data<sup>81</sup>.

#### FORCED CONVERSIONS: DEFINITION AND CONTEXT

The Centre for Legal Aid and Assistance (CLAAS) has categorized eight (8) different types or forms of conversion: (1) willful; (2) fraudulent; (3) for shelter; (4) exploitative; (5) induced; (6) under threat or duress; (7) for greed; and (8) forceful<sup>82</sup>.

This categorization alludes to a social context in which conversion to the majority religion may guarantee social advancement and access to greater opportunities. Social and economic disparities and poverty remains a major reason for willful conversions from Christianity to Islam<sup>83</sup>. Non-Muslims are effectively persuaded to escape pervasive discrimination and ascend the social ladder from the status of a second-class citizen by converting to Islam<sup>84</sup>. For the minority girl, in particular, the prospect of advancement is alluring<sup>85</sup>.

75 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011. The punishment for these crimes was enhanced in The Prevention of Anti-Women Practices (Criminal Law Amendment) Act of 2011.

76 Hassan, Yasmeen. The Haven Becomes Hell: A Study of Domestic Violence in Pakistan (Special Bulletin August 1995). Lahore, Pakistan: Shirkat Gah, 1995.

77 Siddiqi, Dina M. “Of consent and contradiction: forced marriages in Bangladesh” in Welchman, Lynn and Hossain, Sara, ed. ‘Honour’: Crimes, Paradigms, and Violence Against Women. Karachi, Pakistan: Oxford University Press, 2005.

78 Hassan, Yasmeen. The Haven Becomes Hell: A Study of Domestic Violence in Pakistan (Special Bulletin August 1995). Lahore, Pakistan: Shirkat Gah, 1995.

79 The data also revealed that 62 percent of parents in arranged marriages may or do not ask their children for their opinion or choices. Jivan, Jennifer Jag and Jacob, Peter. Life on the Margins: A study on the minority women in Pakistan. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

80 Per the FAFEN report, reports of forced conversions rose from 314 to 652 and have grown significantly in Lahore District specifically. Agenzia Fides. “Forced marriage: the most common crime against women” (Agenzia Fides, 14 June 2012). Retrieved on 22 July 2012 from <http://www.fides.org/aree/news/newsdet.php?idnews=31733&lan=eng>.

81 Gishkori, Zahid. “National Assembly: MNAs demand legislation to end forced conversions” (The Express Tribune, 16 March 2012).

82 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011.

83 Dawn. “Minorities concerned at ‘forced conversions’” (Dawn, 27 May 2006).



The line between willful and coerced conversions becomes further blurred when the reasons for conversion include need for security, escape from discrimination<sup>86</sup>, or fear of future violence. Given the lack of research data, however, it is difficult to pinpoint with accuracy how much of a role social pressure for upward mobility has on conversions<sup>87</sup>. What is evident, however, is that coercive evangelization and targeted conversions are taking place — in clear violation of human rights — since young Christian girls are overrepresented<sup>88</sup>.

The Islamic context on forced conversion has nonetheless generally been accepted as authoritative and uncontroversial. All Pakistan Ulema Council Chairman Tahir Ashrafi, speaking on television, was reported to have said that “the Holy Quran has very explicitly laid down the parameters (of conversion): harsh words, [...] conversion, and undue stress on details are not allowed<sup>89</sup>. Conversions, however, are justified and viewed as a desirable practice. This majority opinion, however, facilitates the work of those proselytizers engaged in such coercive evangelization<sup>90</sup>, since underlying coercive factors are not investigated. Conversions are accepted without question, and the converting party gains respect for what is considered a service to the community. Challenges to conversions, particularly from non-Muslims, are viewed with suspicion. Though no legal bar to conversion from Islam to another faith exists, social attitudes ensure that in practice only one-way conversion to Islam is allowed<sup>91</sup>.

When directly coerced or forced conversion occurs, the state and authorities are often complicit. NCJP notes that the apathetic and sluggish performance of the district administration and magistrate in particular manifests a complete failure to implement rule of law<sup>92</sup> and antagonism towards religious freedoms. This is substantiated by the observation that the same official authorities, instead of exercising vested powers to ensure justice, fail to investigate the circumstances under which the conversions took place<sup>93</sup>. Further, the prevalent social attitude, which favors conversions without considering underlying circumstances, pervades legal procedures. Officials routinely base decisions on biased religious or social attitudes in administering justice<sup>94</sup>.

Statistics on forced conversions are either proximate or unavailable. Part of the problem is the lack of reporting and monitoring. Local and national newspapers periodically publish news reports noting conversions, almost exclusively from Christianity or Hinduism to Islam. Where efforts have been made to compile the incidence and rate of conversion, estimates have by and large been based on such limited media reporting. NCJP monitoring of media reports noted 1,791 conversions in total between 2000 and 2012, 624 of which were those in which the converting person was of Christian faith. Further research inquiring into the incidence and demographics of conversion, however, is required for a closer analysis of conversions in Pakistan.

84 Rehman, I.A. “Unwelcome conversions” (DAWN, 22 March 2012).

85 MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.

86 Sahi, Aoun. “Matter of faith” (The News, 13 March 2011).

87, 88 MSP Interview with Mr. Najam U Din (Human Rights Commission of Pakistan). 17 July 2012.

89 Najam, Durdana. “Forced conversions against the spirit of Islam” (Daily Times, 23 June 2012).

90 Rehman, I.A. “Unwelcome conversions” (DAWN, 22 March 2012).

91 Sahi, Aoun. “Matter of faith” (The News, 13 March 2011).

92 NCJP. Human Rights Monitor 2000: A report on the Religious Minorities in Pakistan. Lahore, Pakistan: Sanjh Publishers, 2000.

93 NCJP. Human Rights Monitor 2000: A report on the Religious Minorities in Pakistan. Lahore, Pakistan: Sanjh Publishers, 2000.

94 MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.



# ILLUSTRATIVE CASES

The following illustrative cases showcase the specific targeting and susceptibility of Christian females in Punjab; outline the usual pattern through which abduction, forced conversion, and forced marriages take place; and demonstrates the barriers for Christian families to access justice. Notably, some cases will show the inadequacy of judicial remedies in forced marriages cases. Rather than initiate proper investigatory procedures, judicial proceedings have provided amnesty for abductors and criminals. Most cases included in this report have been adapted with permission from CLAAS archives.

## 1 MEHREEN RAFIQ

Mehreen Rafiq, alias Naureen, was 15 when she was abducted from her home in Lahore on 18 August 2003, while her mother, Venus, was away. The kidnappers included Miran Bibi, a woman working at the same house as Venus, and her son, Shahbaz. Venus filed a case FIR at the Women Police Station, Race Course, Lahore. Following arrest of the accused, it was revealed that she had been converted to Islam under coercion and undue pressure. Following conversion, she had been forcibly married to Shahbaz under Islamic rites. The police were unable to recover Mehreen since the abductors had handed her over to another relative.

Mehreen was produced before the Special Judicial Magistrate, Cantonment Courts, Lahore, on 1 September 2003, where she was asked to record her statement. During this time, Mehreen remained in the custody of her captors. Records reveal that the Magistrate officially, erroneously, and without documentary evidence recorded Mehreen's age as 18 and name as Naureen, based on information provided by her captors. Since she was adjudged an adult, she was allowed to leave with her captor. Official records issued by the Health Department showed her real name and that Mehreen was just 15 years old when the court allowed her to illegally remain in the custody of her captors.

Venus appealed to the Magistrate and SHO, requesting that Mehreen's earlier statement, based on incorrect information and recorded under duress, should be declared null and void. The petition asked for the return of Mehreen's custody as a minor to her real mother. The Magistrate disposed off the petition, accepting the earlier statement as lawful.

## 2 NADIA NAIRA

Nadia Naira, a resident of Khanka Doggran, Tehsil Safdar Abad, Sheikhpura District, was 15 years old when she was kidnapped on 11 February 2001. The abductor, Sheikh Maqsood, was an influential money-lender in the area. Within two days of the abduction, Nadia was forcibly converted to Islam and married under Islamic rites. Nadia narrated that she had been taken to an unknown place, severely physically abused, and converted on gunpoint.

Though the parents managed to register an FIR against Maqsood, the police refused to arrest the influential accused. The parents then filed a habeas corpus petition against the illegal detention of Nadia Bibi in the Lahore High Court (LHC), Lahore. Nadia was subsequently produced before the court but recorded her statement against her parents and in favor of her husband, Maqsood. While the case was pending, Nadia remained in Maqsood's custody. Following this statement, the LHC disposed off the case and sanctioned the marriage as lawful. Nadia's narration, taken after she managed to escape 10 years later, reveals her ordeal and suffering during the court proceedings:

"(Maqsood) warned me that if I recorded any statements against him, my parents would be killed. It was difficult for me to understand at the time (I was just 15 years old and a student of class 8)... the safety of my parents was my main concern. I was frightened and complied as he asked me to do for him. When I appeared before the High Court, I saw my parents and wanted to talk to them but was prohibited from interacting with them in court. Maqsood threatened me again in court and I was forced to record my statement in his favor. So I told the judge that I was never kidnapped, that I embraced Islam because of my aspirations, and that I contracted the marriage with Maqsood out of my own free will. I recorded that I wanted to live with my husband, and that I no longer had connection with my Christian parents. It was very painful to say this in court while my parents were present. But their safety was in my hands and I didn't know how to handle the matter."

Nadia revealed that during her illegal detention, she received death threats and was denied access to her family. Nadia was subjected to physical violence through harsh beatings, and verbal and sexual abuse. In the ten (10) years of confinement, Nadia gave birth to five (5) children. She was asked to convert her parents to Islam and upon her refusal to comply, was treated harshly and subjected to further violence. It was also later revealed that Maqsood was already married to another woman. Nadia was subsequently made to live with the first wife and Maqsood's ten (10) children from the first marriage.

After her escape in November 2011, Nadia and her family were harassed, threatened, and subjected to a prolonged campaign of abuse by Maqsood and other criminal assailants. Nadia filed suit for dissolution of marriage under Muslim personal law but later withdrew the case, saying she had reached a compromise, and rejoined her husband.

### 3 MARIA ALIAS KALSOOM

Maria, a resident of Lahore and of Christian faith, was converted and kept in “prison-like” conditions for two years following her abduction. In December 1997, her aunt – who had married a Muslim man – and her Muslim husband lured Maria away from her home under false pretexts and subsequently converted her. Maria was then sold for Rupees 80,000 (the equivalent of \$1,988 at the time) to Abdul Ghaffar, a Muslim. She was given a Muslim name, Kulsoom, upon her forced marriage to her ‘purchaser’, Ghaffar. Ghaffar imprisoned Maria, in conditions resembling solitary confinement, and subjected her to daily beatings and torture. Maria was forbidden from leaving the house or meeting anyone.

After spending more than two (2) years in what she described as a “torture cell,” Maria finally escaped with her one-year-old son and returned to her parents’ house in September 2000. At the time, Maria was pregnant with her second child from the marriage. Her parents and brothers, however, refused her shelter or support. Maria, left without a home and marginalized within her own community, sought shelter and legal aid. She gave birth to her second child, a girl named Mariam, in May 2001 while at a safe shelter.

Maria subsequently filed for dissolution of marriage, which was granted, and child custody. While the child custody case remained under trial, the court gave Ghaffar permission to meet the children at every court hearing. On 13 September 2004, Ghaffar abducted the children — Joshua and Mariam — from court premises during his visiting hours. Maria filed an additional application against Ghaffar for the abduction. At the date of last reporting, however, the application remained pending and the children still under Ghaffar’s custody.

### 4 ROSINA BIBI

Rosina Bibi, daughter of Sadiq Masih, and resident of Raja Jang, District Kasur, was the youngest of seven (7) children. On 12 September 2009, Rosina, fifteen (15) years old at the time, was alone at home while the rest of the family worked. At 2 pm, Grace Bibi, Rosina’s mother, received information that Rosina had been seen accompanying Muhammad Azmat, a resident of the same village. Grace unsuccessfully attempted to locate Rosina and her abductor. The village council was asked to deliberate on the matter and on 14 September, gave notice to the accused’s father demanding Rosina’s return within two (2) days.

When the accused refused to return Rosina in violation of the village council’s decision, Sadiq Masih registered an FIR at Raja Jang Police Station for the kidnapping of his daughter. Meanwhile, Azmat had prepared the relevant official documents either forged or under duress to avoid detention. These included marriage and conversion certificates, and a statement recorded by Rosina before the Civil Court accepting as valid and willful both her conversion from Christianity and her marriage to Azmat. To avoid complying with the village council’s order, Azmat, in concert with his father, obtained an order from the

Civil Court based on the forged documents to send Rosina to the Dar ul-Aman for protection.

Sadiq Masih and Grace Bibi filed a habeas corpus petition for minor Rosina's recovery from illegal and improper detention. In the court, however, with the abductors present, Rosina reaffirmed her statement in favor of Azmat. The matter was subsequently disposed off against the parents and in favor of the abductor, Azmat.

## 5 BUSHRA

Bushra, daughter of Yaqoob Masih, was from a poor family and one of ten children. After her father, the sole earner, passed away, the family fell deeper into poverty. Bushra found work at a local factory to support and feed her young brothers and sisters. At her workplace, a Muslim boy, Muhammad Mutes, proposed to her. When Bushra refused saying she would only marry into the Christian faith and with her family's consent, Mutes abducted her as she left the factory. Bushra was then taken to an unknown location where she was raped, forcibly married, and converted to Islam.

Bushra remained in confinement after the forced marriage for a year. In September 2008, she managed to escape and returned to her family. When her husband came to know of her escape and return, he issued numerous threats, specifically targeted at Bushra's young siblings. Bushra, through legal aid, filed for dissolution of marriage and sought safe custody to avoid her husband. Though the dissolution suit has since been decided in her favor, Bushra lives under threat from her former husband and abductor, who has openly and repeatedly threatened to kill her, accusing her of deliberately leaving Islam.

## 6 KASHIYA

Kashiya, eighteen (18) at the time of abduction, was one of six children living with her widowed mother in District Muzaffargarh. On 6 June 2009, Kashiya's mother, Alice Bibi, left Muzaffargarh to visit Karachi. Upon her return, she found that Kashiya had been kidnapped mysteriously from the family house while the rest of the children had been away. Alice was informed that Muhammad Bashir Baloch, a Muslim boy from the same area, had abducted Kashiya. When Alice went to Bashir's house to recover Kashiya, she was told that her daughter had converted to Islam, married Bashir, and did not want to return to her mother. To avoid arrest, Bashir had sought the help of the local politician and was housed at the representative's house.

Alice found all avenues to justice and recovery blocked. The police not only refused to register the application for recovery against the influential parties, but provided information to the politician about Alice's intended action against them. The politician and his brother-in-law harassed Alice, threatening to kill her son if she proceeded with the proposed recovery action. Alice filed a habeas petition with the Lahore High Court Multan Bench, which issued notices to the SHO for recovery of Kashiya and her

production before the court. Kashiya appeared before the court on 14 July, where – in the presence of her abductor – she categorically stated that she had solemnized marriage with Bashir as an adult exercising her free will. The court subsequently disposed off the petition against Alice Bibi and in favor of Bashir.

## 7 TANIA RUBECCA

Tania, a 22-year-old Christian girl, was a resident of Village Daulatabad, Tehsil Mananwala, District Sheikhpura. On 20 May 2012, Tania was kidnapped from Nankana City, Punjab as she returned home from District Hospital Sheikhpura, where she worked as a registered midwife. Tania's aggrieved brothers traced the kidnappers through witness accounts but were denied information or access to Tania. The police, however, repeatedly refused the family's request to register an FIR until prominent lawyers intervened on the family's behalf.

An FIR under Section 365-B was eventually registered on 24 May 2012 at the Nankana City Police Station. The police team tasked with recovering Tania, however, was unsuccessful in its raid. The police and Tania's family next approached a prominent person, who had formerly served as mayor of the local Union Council, to intervene on their behalf and persuade the accused to reveal Tania's location. It was then revealed that Tania had been twice sold and trafficked following her kidnapping. The price paid amounted to Rs. 85,000 (approximately equivalent to \$940) in each transaction.

To avoid arrest and dissuade the police from registering a human trafficking charge, the accused had forced Tania into marriage and converted her to one of the abductors. Tania was recovered only after extensive negotiations between the former mayor (on the family's behalf) and the traffickers, who demanded Rs. 90,000 for her return by 1 July 2012 after which date Tania would not be returned. Under such coercion and bargaining, Tania's family was forced to re-purchase the girl for a third time to ensure her return. The aggrieved family, having had to undergo humiliation and despair, immediately leased out their home to provide the payment for Tania's purchase. On 31 May 2012, the payment was made and Tania returned home.

After her return, Tania showed signs of severe emotional damage and was unable to narrate or relive her ordeal. Only after weeks of intensive psychological counseling could she bring herself to reveal the violence she had suffered. Her kidnappers had taken her to Multan, blindfolded her and beat her before selling her for Rs. 95,000 in Dera Ghazi Khan. The purchasing party repeatedly raped her, forcibly married her to a Muslim, and denied her access to her family. In her recollection, she attempted to explain her reaction to repeated beatings and sexual violence: "I totally lost my senses. I cannot explain what kind of experience it was. When my brother and uncle came to meet me, they did not allow us to meet."

Tania did reveal, however, that the abduction, forced marriage and conversion, sexual abuse in her

case was not an isolated or standalone incident. The traffickers operated systematically and deliberately under immunity. Tanya revealed she had been one of a number of girls abducted. The captors intended to force the abducted girls into sexual labor, and transport them to remote areas of the country. According to a local Urdu newspaper, Daily Express, the clients that these traffickers served included prominent militant groups.

It was also later revealed that the traffickers had acted under patronage of local politicians, who controlled the area according to their own rules and regulations. The police lacked authority and was complicit in allowing a parallel system of justice to operate in the politically influenced area. On 13 June 2012, Tania appeared before the allaqa magistrate (judicial magistrate), which order a medical examination for her and recorded her statement. At the last date of reporting, Tania was still undergoing extensive psychological treatment and rehabilitation to overcome her traumatic experience.

## 8 SAIMA AND MAMTA

Saima, a Christian woman, was abducted along with her 2-year-old daughter, Mamta, from their parents' house in rural Punjab. Saima's husband, John Masih was a peasant laborer and the sole breadwinner of the poor family. On 29 April 2006, several prominent villagers kidnapped Saima and Mamta under duress from their home in the village. The neighbors reportedly attempted to stop the abductors, but were overpowered by the abductors, who were armed with deadly weapons.

John Masih, without access to legal aid or police help, begged the abductor, Dr. Mustafa, who was lambardar in the village, for the return of his wife and baby daughter. Mustafa denied the charges. John later found that Saima and Mamta had been sent to a local madressah, headed by an influential cleric, Maulvi M. Yousuf. When approached by John, Yousuf flatly refused to turn over custody of the kidnapped mother and daughter. John was told that his wife and daughter had converted to Islam, and were being kept under protective custody by the madressah. Notably, this was not the first incident of its kind in the village. John's aunt had also reportedly been abducted and forcibly married to a Muslim under Islamic rites.

## 9 FARZANA BARKAT

Farzana, a 20-year-old woman, lived in the vicinity of District Kasur. By her own account, Farzana was strongly dedicated to her Christian faith and had not contemplated conversion to any other religion. To help her poor family with household expenses, Farzana worked at a local factory. Another worker in her department, Abid Hussain, became interested in Farzana but never expressed this openly. Abid conspired with his sister, Nazia – who also worked in the same factory – to abduct Farzana. In June 2006, Abid and Nazia offered to give Farzana a lift in their car. Unaware of the siblings' intentions, Farzana accepted. On the way, she was overpowered, made unconscious, and abducted. When she

regained consciousness, Abid declared to her his intention of converting and marrying her.

On 17 June 2006, Abid forcibly married Farzana with the help of a local cleric. When Farzana's father came to know of the abduction, forced conversion, and marriage of his daughter, he registered an FIR against Abid Hussain, Nazia, and their accomplices. On 11 July 2006, Farzana appeared before the court. Though her abductors had strictly instructed her to give a statement affirming that the marriage and conversion had taken place without any duress, Farzana boldly told the court of her abduction and circumstances surrounding her conversion and marriage. The court arrested but allowed pre-arrest bail to Abid Hussain and Nazia. Farzana returned to her parents but at the last date of reporting, the case remained under trial without any resolution of the criminal charges against Farzana's abductors.

## 10 UZMA

Uzma, daughter of Sharif Masih and Christian by faith, lived with her family in Basra Village, District Sialkot. The majority of inhabitants and landowners of the small village were Muslims, and Uzma's was only one of six families in Basra. Almost every Christian worker in the village served the more affluent Muslim families to support their poor households. Uzma caught the eye of a 28-year-old Muslim boy, Kashif Raza, who used to visit her house to help Sharif Masih with his work. When Uzma denied Kashif's proposal to marry, Kashif conspired to abduct her.

On 10 December 2003, Kashif along with his brother and several friends came to Uzma's house while her parents were not present, with the intention of abducting her. When Uzma refused to open the door for Kashif, the men threatened to kill her younger brother and attempted to break the door. She opened the door reluctantly and begged Kashif not to kidnap her. The men, however, abducted her, and took her to a rented house in Gujranwala, where she was to stay for the next two months. The day after her abduction, Kashif forcibly converted her to Islam and on 12 December 2004, married her without her consent. When she was taken to her in-laws after her imprisonment in Gujranwala, she found herself treated badly as a result of her Christian faith. Kashif continued to threaten and abuse her, attempting to coerce her into accepting a subservient role in the household.

On 8 June 2004, she was reportedly turned out of the house by her mother-in-law after a quarrel, while Kashif was not at home. Uzma escaped to her sister's house near Gujranwala. At the time, Uzma was six-months pregnant. Under threat of life from Kashif, the family brought her to a safe house in Lahore, where she was still living at the last date of reporting.

These ten (10) cases were selected to highlight and illustrate several common factors that underlie the crime of forced marriage and conversion. These are part of a larger set of compiled stories from the archives of several legal aid groups, of which CLAAS is the most prominent. It is essential to reiterate here that attempts to compile exhaustive lists of victims and instances of forced marriage and conversion are hindered by reporting deficits, limited access or knowledge of legal aid mechanisms amongst victim families, lack of institutional mechanisms to follow up with victims following resolution

of cases or after the work of legal aid groups has ended, and lastly due to the underlying social realities that discourage reporting or access to justice avenues.

The archives and lists of reported cases, however, provide evidence of common themes and insight into key aspects of the chain of events that necessarily includes abduction, conversion, and marriage. That this logical pattern is not always followed – and particularly if marriage precedes conversion, shows a clearly unlawful action and breakdown of proper legal procedures, since a lawful interfaith marriage must necessarily under Pakistani law involve conversion prior to marriage. This distinction, if found in cases under trial, clearly signals that a forced marriage has occurred. Further, in many of the illustrative cases, the documents produced in court or to police to prove marriage and conversion under free will are clearly forged or unfit for legal purposes (samples are enclosed at the end of the report). In many nikahnamas, the date of attestation precedes the date of marriage. In several conversion certificates issued by madressahs and prominent mosques, similarly, the age of the converted party does not match with the age recorded on the nikahnama (marriage certificate).

Further, and most notably, as in the case of Tania Rubecca, forced marriage and forced conversion are often found to be smokescreens for much more pervasive and serious crimes. These include human trafficking, sexual exploitation, forced prostitution, child abuse, and obstruction of justice. Even where these crimes are not present, the abduction and forced marriage of Christian women is accompanied by sexual abuse and domestic violence bordering on torture. Jointly, these crimes have a severely damaging effect on victims and victims' families and leave long scars on the psychological, social, and economic well-being of minority individuals and communities.

Finally, in most cases, victim individuals and families have found regular avenues for justice, redress, and recovery blocked at multiple levels: the police refuses to lodge an FIR, courts accept without questions statements attesting to conversion and marriage, and recovery requires recourse to pleading with perpetrators and prominent individuals.



# ROLE OF KEY STAKEHOLDERS

## 1 THE POLICE: POLITICAL ALLEGIANCES AND CONSTRAINED ACTION

Human Rights Commission of Pakistan (HRCP) reports on minority rights in Pakistan have conclusively established that forced conversions are allowed to take place when the local police and administration create impunity for perpetrators or remain indifferent to the plight of minority residents<sup>95</sup>.

The first hurdle for the victim individual and family is at the FIR registration stage. The proper procedure under the Criminal Procedure Code, is that the victim family or individual requests the attending police officer to register an FIR and record a statement alleging the crime and details. This record is then compiled as a charge sheet and produced before the court as part of the record<sup>96</sup>. Victim families contend, however, that the statements recorded and compiled in the form of a charge sheet are usually not based on facts, particularly when influential members of the village or community are involved<sup>97</sup>. In a number of instances, the attending police station or official has refused to follow the established criminal procedure by denying the victim family the opportunity to record an FIR. Such action is an active and deliberate subversion of the criminal justice system and frustrates the primary avenue for redress.

Frustration for the individual family at this basic and initial stage of justice administration often creates a feeling of helplessness amongst the victim family<sup>98</sup>. Article 164 of the Criminal Procedure Code outlines an alternative provision — that the judicial magistrate record the statement in his capacity as a judicial officer<sup>99</sup>. This avenue, however, is usually not followed where the police have already recorded a statement that does not sufficiently address the harm suffered. The question of where liability should attach is further complicated when police action rises beyond mere indifference to active complicity in the form of facilitation of hate crimes or creation of immunity for criminals. Minority groups' dissatisfaction is also amplified when a non-Muslim girl is abducted and the police response is lethargic and disinterested in recovery until the marriage under Islamic rites is consummated<sup>100</sup>.

Traditional or political sympathies also play a significant role in explaining refusal of police officials to act in the recovery of abducted women. In several instances, as shown in the illustrative cases, the police lacks capacity<sup>101</sup> and authority where more traditional norms of justice operate beyond the official justice machinery. In most cases as a result, as HRCP officials conclusively state, efforts to recover forcibly converted and married girls fail<sup>102</sup>. In some cases, families of victims are reportedly too scared to register cases against prominent or powerful perpetrators for fear of violent retribution.

95 Ahmed, Ishtiaq. "View: Forced conversions and targeted killings" (Daily Times, 20 May 2012).

Retrieved on 22 July 2012 from [http://www.dailytimes.com.pk/default.asp?page=2012%5C05%5C20%5Cstory\\_20-5-2012\\_pg3\\_3](http://www.dailytimes.com.pk/default.asp?page=2012%5C05%5C20%5Cstory_20-5-2012_pg3_3).

96 Ghauri, Irfan. "Forced conversions: Six-month marriage bar on new converts recommended" (The Express Tribune, 30 May 2012).

Retrieved on 22 July 2012 from <http://tribune.com.pk/story/386022/forced-conversions-six-month-marriage-bar-on-new-converts-recommended/>.

97 Asian Human Rights Commission. "Pakistan: The forced marriages of religious minority women must be annulled and the victims returned to their families and communities" (Asian Human Rights Commission, 25 October 2011).

Retrieved on 22 July 2012 from <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-159-2011>.

98 MSP Interview with Mr. Najam U Din (Human Rights Commission of Pakistan). 17 July 2012.

99 Ghauri, Irfan. "Forced conversions: Six-month marriage bar on new converts recommended" (The Express Tribune, 30 May 2012).

Retrieved on 22 July 2012 from <http://tribune.com.pk/story/386022/forced-conversions-six-month-marriage-bar-on-new-converts-recommended/>.

100 Rehman, I.A. "Unwelcome conversions" (DAWN, 22 March 2012).

Those instances in which victims' statements have been recorded or accepted without further inquiry into the attendant circumstances, such as whether the victim is acting under duress by her abductors, points to biased attitude amongst the lower judiciary<sup>103</sup> against the forcibly converted individual under pressure of the majority community<sup>104</sup>. Judicial bias and predilection towards granting a presumption of innocence to the converting party<sup>105</sup> is not restricted to lower courts but is also manifested in Supreme Court decisions<sup>106</sup> – in the highly-publicized case of Rinkle Kumari, a Hindu girl alleged to have been abducted, and forcibly converted and married, the Supreme Court based its decision on the girl's statement while she was in custody of her alleged abductor.

Significantly, the judiciary applies available procedures selectively. In rare cases, courts have demanded security bonds from abducting families claiming to be lawful custodians of the girl allegedly abducted. Other proper procedures that raise the prospect of adequate provision of justice include sending the girl to a safe house prior to her statement before the court, and orders of special additional investigation by the attending police official into the circumstances surrounding the victim's conversion and marriage. The usual practice, however, has been characterized by a lack of diligence on the court's part, which favors the alleged criminal rather than the victim seeking relief.

Legal aid groups contend that, as a result of direct and indirect pressures, courts interpret and apply laws and legal procedures selectively and unequally<sup>107</sup>, reducing minority communities to a secondary and subservient position under the law. In some cases, advocacy groups maintain that courts are actively influenced in their decision-making process by radical extremist elements. At best, the misapplication of personal laws particularly for Muslims to Christian parties marks a departure from the standard dispensation of criminal justice<sup>108</sup>, and points to the lack of capacity of courts to deal with crimes against minorities. Basic habeas corpus procedures are routinely violated and threats to families go uninvestigated<sup>109</sup>.

Misapplication of laws, interpretation of laws based on judicial officers' personal religious beliefs, and inadequate diligence regarding whether statements made under threat of life are admissible evidence add to minority communities' mistrust of justice mechanisms. For Christian legal workers, the failure of justice provision in this case resembles the cases of Shanti Nagar and Gojra, where the

101, 102 Qizilbash, Talib. "The blasphemy law is damaging Islam – I. A. Rehman, Director, HRCP" (Newsline, July 2010).

103 MSP Interview with Mr. Naeem Shaker (Advocate of the LHC and Supreme Court). 12 July 2012.

104 Dawn. "Minorities concerned at 'forced conversions'" (Dawn, 27 May 2006).

105, 106 MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.

107 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011.

108, 109 MSP Interview with Mr. Naeem Shaker (Advocate of the LHC and Supreme Court). 12 July 2012.

judiciary made little progress, moved slowly<sup>110</sup>, and failed to provide restitution for harms suffered.

### 3 CLERICS, MADRESSAHS, AND RELIGIOUS INSTITUTIONS: CONVENIENT PROCEDURES

As evident from numerous case records and investigations, the practice for conversion is well-established and provides abductors seeking immunity from the initial crime of abduction and subsequent domestic violence and sexual abuse charges an established procedure to follow. Officially, those seeking to convert – both lawfully and unlawfully – will usually register the conversion at the local mosque or seminary. The cleric, upon conversion of the adult from the minority religion to Islam, will issue a certificate that states the former and new Islamic name of the convert, as well as the location and date of conversion. The problem lies in the lack of diligence the recording cleric or institution employs – most will not inquire into the nature of the conversion and will routinely accept information provided by the abductor<sup>111</sup>. A conversion certificate is thus issued and, after attestation, takes the effect of an official document that is accepted by both the police and the courts to excuse violations and grant bail<sup>112</sup>.

Many prominent institutions, including Lahore's Badshahi Masjid<sup>113</sup> and Ja'mia Naeemia either issue certificates of conversion or keep records of conversions. A sample certificate of conversion is attached to the report. These records are used for advertisement, publicity, and prestige-gaining purposes, creating an economic stake for religious leaders and institutions to continue the practice<sup>114</sup>. Some organizations, such as Minhaj-ul-Quran, routinely and as a matter of official organization policy, encourage the practice of converting members of the minority communities by offering monetary rewards for parties successfully doing so<sup>115</sup>.

In several instances, the information provided by abductors to obtain a conversion certification has shown to be false, since it does not tally with birth certificates, identity cards, or even the nikahnama produced before the court in support of the husband's claim that the woman married and converted of her own free will. The only requirement for converting parties is the presence of a witness from their locality and the production of an affidavit declaring that the two parties are embracing Islam without greed or force<sup>116</sup>. For the purpose of stopping further forced conversions and marriages, these requirements prove inadequate and are easily obtained by use of force or coercion. The law

110 MSP Interview with Mr. Eric Massey. 2 June 2012.

111 Sahi, Aoun. "Matter of faith" (The News, 13 March 2011).

112 In the illustrative case of Saima Ishaq (15), reported by the NCJP, the abductors evaded arrest by producing fake marriage and conversion certificates. NCJP. Human Rights Monitor 2005: A report on the Religious Minorities in Pakistan. Lahore, Pakistan: Sanjh Publishers, 2005.

113 Sahi, Aoun. "Matter of faith" (The News, 13 March 2011).

114 MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.

115 MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace). 13 July 2012.

116 Sahi, Aoun. "Matter of faith" (The News, 13 March 2011).

even when it takes its usual and logical course thus endorses the conversion, giving credibility to these documents and leaving the girl in custody of her abductor<sup>117</sup>.

#### 4 MEDIA: SILENCE AND MISREPRESENTATION

Though conversions of Christians are routinely reported in local newspapers across Punjab, most of these stories contain little detail about the circumstances surrounding the conversion. The relevant story usually carries the same boilerplate detail: “(Person of Christian faith) embraced Islam at the hands of (prominent cleric), having been convinced of the true faith.” MSP’s archival research from HRCP media archives revealed that 106 reports of conversions were published in the most prominent daily newspapers<sup>118</sup> across Punjab between 2005 and June 2012. In contrast, the same newspapers only published eleven (11) reported incidents of forced conversion and marriage.

Several media personnel and representatives at the Lahore Press Club either refused to answer questions about the incidence of forced conversions and marriages, denied that such a crime existed, or cautiously answered that though such crimes do occur, reporters avoid bringing the incidences to light for fear of personal safety, especially if prominent individuals from the relevant village or district are involved<sup>119</sup>. The media’s self-confessed insecurity only partly explains the lack of reporting on the crime – several persons interviewed contended that the “right-wing orientation of the national media (continues to) exclude Christian voices”,<sup>120</sup> generally and blocks reporting on the issue of forced conversions and marriages specifically. Whether the lack of reporting is a result of deliberate exclusion of minority voices is irrelevant for this inquiry – the fact that abductions and forced conversions are not reported adds to the culture of impunity that benefits abductors.

#### 5 MINISTRIES, LEGISLATURES, & POLITICAL PARTIES: FAILED REFORMS INDIFFERENCE

Though the Senate Committee on Minorities and Provincial Assemblies have periodically recalled attention to the issue of forced conversions<sup>121</sup>, these hearings or debates have failed to produce affirmative legislation to remedy the incidence of the rights violation. In some cases, representatives have actively blocked legislation and debate on the issue – on 21 June 2006, when Pakistan Muslim

117 DAWN. “Forced conversions” (DAWN, 13 March 2012).

118 The list of newspapers monitored by HRCP, and reviewed by MSP for the purposes of this report, includes but is not limited to: Saahil, Daily Khabrain, Daily Express, Nawa-i-Waqt, The News, The Nation, The Express Tribune, Daily Sahafat, Daily Pakistan, Jang, Daily Aaj Kal, Dawn, Frontier Post, Daily Din, and Roznama Pakistan.

119 Various MSP Interviews conducted at the Lahore Press Club. July 2012.

120 MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

121 Daily Aaj Kal. “Hindu larkion ka aghwa, Senate Committee ki tashweesh” (Daily Aaj Kal, 19 October 2010).

League-Nawaz's Joseph Hakim Din echoed the issue of forced conversion in the Punjab Assembly, Muttahida Majlis-e-Amal's Arshad Baggu cast doubt on the veracity of the forced conversion claim, labeling the conversions voluntary and a result of elopements and "wayward social practices"<sup>122</sup>. One Christian Member of Parliament noted that nothing had changed in the National Assembly's attitude and inclination to enact required reform since 1998 when the Bishop of Lahore invited Nawaz Sharif, then Prime Minister, to his congregation and brought the issue of abductions, conversions, and rape being perpetrated on Christian girls to his attention<sup>123</sup>.

In the absence of forthcoming reform legislation, minority groups have unsuccessfully sought relief from the Supreme Court<sup>124</sup>, demanding the court to direct the legislatures to enact specific legislation criminalizing forced marriage and forced conversions. The judiciary directly rejected the petitions from the Hindu Council, ruling that the Constitution of Pakistan already contains a guarantee of religious freedom in Article 20, which is dispositive and applicable to forced conversions and marriages<sup>125</sup>. Chief Justice Iftikhar Chaudhry, ruling on the matter, said that the law would take its own course when confronted with a complaint on the issue<sup>126</sup>.

The Hindu Council proposal outlines several provisions, including specific amendments to the Pakistan Penal Code targeted at the prevention of forced conversions and marriages; enumerated and specific punishments or sentencing for perpetrators found to have forcibly converted others<sup>127</sup>; the creation of a special commission to grant jurisdiction to courts for the recording of statements of girls alleged to have been abducted and forcibly converted<sup>128</sup>; the provision of a safe house wherein individuals would be allowed to make decisions about their religion without undue influence<sup>129</sup>; and levying of fines for accomplices and capital punishment for perpetrators<sup>130</sup>. Conversion under the proposal is defined with the following specific language:

"[C]onversion to another religion of any person who is a minor or under the age of 18 shall be treated as a forcible conversion and shall be punishable unless the parents of the minor have consented to such conversion.

Section 365-C: "[W]hoever kidnaps any person with intent that such person may be compelled, or knowing it to be likely that such person will be compelled to convert against

122 The News. "Elopement of Christian girls with Muslims echoes in PA" (The News, 22 June 2006).

123 Daily Times. "Honour killings and abductions of Christian girls" (Daily Times, 26 September 2006).

124 The News. "SC disposes of plea against forced conversion" (The News Rawalpindi, 18 May 2012).

125, 126, 127 Khan, Azam. "Constitution against forced conversions: CJ" (The Express Tribune, 18 May 2012).

Retrieved on 22 July 2012 from <http://tribune.com.pk/story/380625/constitution-against-forced-conversions-cj/>.

128 Daily Times. "NA committee seeks legislation on forced conversions" (Daily Times, 17 July 2012).

Retrieved on 22 July 2012 from [http://www.dailytimes.com.pk/default.asp?page=2012%5C07%5C17%5Cstory\\_17-7-2012\\_pg7\\_1](http://www.dailytimes.com.pk/default.asp?page=2012%5C07%5C17%5Cstory_17-7-2012_pg7_1).

129, 130 DAWN. "Standing committee's consensus over forced conversion draft" (DAWN, 16 July 2012).

his or her will, or in order that such person may be forced or seduced or induced to marriage after forcible conversion, or knowing it to be likely that such person may be forced or induced for forced conversion to any other religion, shall be punished with imprisonment of life and shall also be liable to fine. And whosoever by means of criminal intimidation as defined in the code of abuse of authority, or any other means of compulsion, induces any person to go from any place with an intent that such person may be, or knowing that it is likely that such person may be forced or induced to forcible conversion to another religion, shall also be punishable”<sup>131</sup>.

The Hindu Council petition has been hampered by internal differences amongst the Hindu community. Further, the Law Division opposed similar legislation against forced conversions in 2010, stating that provisions to redress such crimes already existed in the Pakistan Penal Code and Criminal Procedure Code<sup>132</sup>. The reality, however, is that no law specifying and defining forced conversion as a standalone crime exists in the Penal Code<sup>133</sup>. Several advocacy groups and prominent members of minority communities have reiterated the need for specific legislation on forced conversions, including The National Commission on Minorities<sup>134</sup> and Dr. Paul Bhatti, special advisor to the Prime Minister for Minorities<sup>135</sup>. In August 2012, reacting to an exodus of Pakistani Hindus across the border to India, a parliamentary panel recommended that legislation on forced conversions be drafted<sup>136</sup>. No major political party has, however, taken an official stance on the issue or initiated action on the proposed law.

Retrieved on 22 July 2012 from <http://dawn.com/2012/07/16/standing-committees-consensus-over-forced-conversion-draft/>.

131 Daily Times. "NA committee seeks legislation on forced conversions" (Daily Times, 17 July 2012).

Retrieved on 22 July 2012 from [http://www.dailytimes.com.pk/default.asp?page=2012%5C07%5C17%5Cstory\\_17-7-2012\\_pg7\\_1](http://www.dailytimes.com.pk/default.asp?page=2012%5C07%5C17%5Cstory_17-7-2012_pg7_1).

132 Butt, Qaiser. "Gill wants tougher legislation against forced conversion" (The Express Tribune, 24 March 2012).

133 Anthony, Nadeem, ed. Centre for Legal Aid Assistance and Settlement (CLAAS): Annual Report 2011. Lahore, Pakistan: CLAAS-Pakistan, 2011.

134 Daily Khabrain. "Qaumi Commission ka aqiyati afraad ke aghwa ki barhti hui waardaton par izhare tashwish" (Daily Khabrain, 22 February 2012).

135 Agenzia Fides. "Forced Conversions result of Poverty and Ignorance" (News.VA, 16 May 2012).

Retrieved on 22 July 2012 from <http://www.news.va/en/news/asiapakistan-forced-conversions-result-of-poverty>.

136 Gishkori, Zahid. "Protecting Minorities: NA Panel suggests law on forced conversions" (The Express Tribune, 28 September 2012).

Retrieved on 13 February 2013 from <http://tribune.com.pk/story/443767/protecting-minorities-na-panel-suggests-law-on-forced-conversions/>.

137 The purpose of such an official statement is two-fold: first, it serves as an official recognition for the harms suffered by victim individuals and families; second, the Government's clarification of stance provides precedent for lower official authorities. MSP Interview with Mr. Peter Jacob (National Commission for Justice and Peace), 13 July 2012.

# RECOMMENDATIONS

## TO THE GOVERNMENT OF PAKISTAN

In accordance with the Constitution of Pakistan, protect the religious freedoms of the Pakistani Christian community and women's rights of minority women by:

- Providing affirmative action to uphold and safeguard the rights of minorities in the issue of forced conversion and marriages, and implement Article 20 of the Constitution<sup>137</sup>.
- Urging the legislatures to redraft conflicting personal laws and provisions relating to personal matters, such as wills, alimonies, and maintenance, of minority communities<sup>138</sup>.
- Urging the legislature to act on the recommendations of HRCP, the Minister of National Harmony, and numerous human rights and minority protection groups, by instituting legislation criminalizing forced conversion and providing adequate procedures that address gaps routinely exploited by criminals<sup>139</sup>.
- Revising the mandate of and providing funds to Ministries, the Commission for Minorities, and official bodies charged with overseeing minority rights and affairs to provide these institutions greater authority and capacity to hold police and government officials accountable for violations of minority rights<sup>140, 141</sup>.
- Ensuring adequate law enforcement and provision of security for the protection of minority representatives, legal aid and social workers, victim women and families.

138 MSP Interview with Mr. Najam U Din (Human Rights Commission of Pakistan). 17 July 2012.

139 One proposal is for prohibiting marriage after conversion for up to six (6) months to discourage criminals from using forced conversions and forced marriages as a smokescreen for other crimes, such as human trafficking and sexual abuse. Agenzia Fides. "Forced conversions 'against human dignity': Christians support the new law" (Agenzia Fides, 19 June 2012).

Retrieved on 22 July 2012 from <http://www.fides.org/aree/news/newsdet.php?idnews=31757&lan=eng>.

140 Several persons interviewed by MSP noted that federal and local bodies lacked sufficient authority or capacity to provide oversight on human rights violations pertaining to minority communities. HRCP has termed the official Commission for minorities "utterly ineffective," noting the confusion that surrounds its mandate and authority. Human Rights Commission of Pakistan (HRCP). Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs (April 2011). Lahore, Pakistan: HRCP, 2011.

141 The HRCP Working Group has suggested the formation of an authority that could "vouch for the voluntary nature of conversion" and provide specific remedies on case-by-case basis for forcibly converted minority women. Human Rights Commission of Pakistan (HRCP). Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs (April 2011). Lahore, Pakistan: HRCP, 2011.

142 A Jinnah Institute report on the state of minority rights noted that the police has been seen to connive actively in hate crimes, and recommended that refusal of policing authorities to intervene must be punished. Faruqi, Mariam. A Question of Faith: A Report on the Status of Religious Minorities in Pakistan. Islamabad, Pakistan: Jinnah Institute, 2011.

143 A Shirkat Gah study revealed that police tended to view women's problems in the home as private or trivial, which approach should be addressed in cases concerning domestic violence issues and where the women is alleged to have been sexually abused after forced conversion and marriage. Hassan, Yasmeen. The Haven Becomes Hell: A Study of Domestic Violence in Pakistan (Special Bulletin August 1995). Lahore, Pakistan: Shirkat Gah, 1995.

## TO THE GOVERNMENT OF PUNJAB

In accordance with the Constitution of Pakistan, protect the religious freedoms of the Christian community resident in Punjab, and safeguard the rights of minority women by:

- Engaging in police reform to improve response times to instances where abduction is alleged to have occurred; fair reporting standards and FIR registration as provided under Article 161 of the Pakistan Penal Code; identification of falsified marriage and conversion certificates; and guarantee protection to victim women and families under threat by abducting parties<sup>142, 143</sup>.
- Creating a Commission for Minorities at the provincial level, composed primarily of minority representatives, rights workers, and retired judges, with clarified procedures, adequate provision of security, and with the relevant legal authority to propose reforms on minority rights<sup>144</sup>.
- Undertaking administrative reforms to ensure that proper official procedures regarding the attestation and registration of marriage and conversion certificates, focusing on registering *nikah khwaans* and religious institutions issuing conversion certificates<sup>145</sup>.
- Reforming the Union Council system to ensure adequate representation of women and minorities; provide alternative dispute resolution forums for peaceful resolution of local matters<sup>146</sup> pertaining to personal affairs of minorities; institutionalize rapid response committees sensitized to address issues such as forced conversion and gender rights<sup>147</sup>.
- Providing helplines for easy and safe reporting, and psychological and medical help to victim women through links with local hospitals and medical institutions<sup>148</sup>;
- Allocating funds for rehabilitation efforts, including compensation for victim families, provision of protective services for at-risk individuals, counseling services for newly converted women, maintenance of victims under protection, and for vocational support for reintegration of victim women into society.

144 HRCRP has recommended that the Commission must have the following attributes: (a) it must be a statutory body, endorsed by the legislature; (b) the law setting up the commission must also define the body's functions and composition; (c) the commission must have the mandate to address discrimination against minorities in laws, policies, and practices; (d) all members of the Commission should be named in a transparent manner after meaningful consultation with representatives of the minority and vulnerable communities. Representatives from human rights organizations/civil society should also be named for the Commission; (e) the Commission must have an independent status, with its own budget, secretariat and working procedure; (f) the Commission must have the power to receive and entertain complaints and take all measures necessary to redress those complaints; (g) it should also have the authority to refer matters to the court; (h) the Commission should submit an annual report to the legislature; and (i) to make the Commission effective, its existence, functions and relevance to the problems of the people must be publicized and access of members of minority communities to it facilitated and ensured. Human Rights Commission of Pakistan (HRCRP). *Life at Risk: Report of HRCRP Working Group on Communities Vulnerable because of their Beliefs* (April 2011). Lahore, Pakistan: HRCRP, 2011.

145 Similar initiatives to streamline and enforce proper registration have been successfully initiated in the case of inheritances by the Revenue Department, which now mandates reporting by *patwaris* and employs specific oversight procedures. MSP Interview with Ms. Mumtaz Mughal (Program Director, Aurat Foundation). 21 July 2012.

146 In May 2011, the elopement of a Muslim girl with a Christian girl led to communal violence between Christian and influential Muslim families, who retaliated by kidnapping and abusing several Christian women. Kharal, Asad. "Love affair pits Muslims against Christians in Sheikhpura" (*The Express Tribune*, 30 May 2011).

147 Union Council Committees provide local-level mechanisms and timely remedies prior to the perpetration of the crime, and must have the authority to hold accountable policing, check local registration and attestation of documents to be produced as evidence in courts, and mitigate the impunity afforded to criminals by prominent members of the community. MSP Interview with Ms. Mumtaz Mughal (Program Director, Aurat Foundation). 21 July 2012.

148 The Women Development Department has already proposed similar initiatives, which may be linked for expedited provision of critical services for minority women. MSP Interview with Ms. Mumtaz Mughal (Program Director, Aurat Foundation). 21 July 2012.



- Ensuring and providing legal services and dispute resolution forums with special emphasis on vulnerable communities, such as Christian women, in rural areas<sup>149</sup>.
- Appointing special prosecutors in every district to try cases of violence against women and minorities, and providing training to these prosecutors to sensitize them to women and minority rights standards<sup>150</sup>.
- Commission an official study to ascertain the prevalence of the crime, identify particular at-risk communities, and for the recovery of victims' stories for purposes of rehabilitation and recognition of harms suffered.

149 1A former Justice of the Lahore High Court noted that such reform would benefit from liaison with Churches and rural area representatives, and that the Christian community in Punjab continues to be hampered by underrepresentation of Christian lawyers in the professional legal community. MSP Interview with Justice (Retd.) Asghar Haider (Lahore High Court). 31 May 2012.

150 Human Rights Watch has proposed that special training for prosecutors should additionally instruct these practitioners in dealing with sensitive gender rights issues and crimes such as rape and sexual violence. Human Rights Watch. *Crime or Custom?* New York, NY: Human Rights Watch, 1999.

151 NCJP has noted that the application of the free consent principle, routine practice at the highest levels of the judiciary, presupposes or assumes that men and women "enjoy equal scope of free will in a weaponised male-dominated, and violent environment." Deccan Herald. "Minorities in Pakistan disturbed over forced conversions" (Deccan Herald, 21 April 2012).

- Standardizing application of legal remedies and for interpretation of laws in accordance with religious freedom guarantees in the Constitution of Pakistan. Further, precluding the application of free consent principles without examination of the attendant circumstances, such as control of the abductor over the woman<sup>151</sup>.
- Providing a legal definition of “forced conversions” and the accompanying crime of “forced marriage” in the Pakistan Penal Code<sup>152</sup>.
- Ensuring the correct application of relevant personal laws at all levels of the judiciary<sup>153</sup>.
- Outlining specific procedures to be applied to cases in which forced marriage and conversion can reasonably be inferred to have taken place, such as ordering additional investigation by prosecutors to procure further evidence and mitigate coercive efforts by abductors to obstruct justice.
- Enumeration of protection mechanisms, including requiring surety bonds<sup>154</sup> for the protection of victims or the transferring of property to girl’s name.
- Ensuring the protection of minors by mandating that the custody an abducted and allegedly converted minor immediately be returned to the family or legal guardian<sup>155</sup>.
- Undertaking reform efforts to raise sensitization of magistrates<sup>156</sup>, judicial officers, and judges to issues of minority and women’s rights, with care taken to make any workshops conducted sensitive to cultural practices.

Retrieved on 22 July 2012 from <http://www.deccanherald.com/content/243711/minorities-pakistan-disturbed-over-forced.html>.

152 Precedent for such anti-forced conversions may be found both in Indian and Sri Lankan jurisdictions. In India, Rajasthan, Himachal Pradesh, Arunachal Pradesh, Jharkand, Uttarakhand, Madhya Pradesh, Orissa, Chattisgarh, Tamil Nadu, and Gujarat have either instituted or are currently discussing such laws for the protection of religious minorities and Scheduled Castes. Jenkins, Laura Dudley. “Legal Limits on Religious Conversion in India” in *71 Law and Contemporary Problems* (Spring 2008). Raleigh, NC: Duke University Press, 2008.

Retrieved on 13 February 2013 from <http://scholarship.law.duke.edu/lcp/vol71/iss2/9>.

153 Several lawyers interviewed by MSP reported that misapplication and incorrect implementation of personal laws to minorities was routine.

154 In the case brought by Mr. Misri Ludhiani for the recovery of his forcibly converted and married daughter, Chief Justice of Pakistan Iftikhar M. Chaudhr exercised the Court’s ‘parental jurisdiction,’ ordering the husband’s family to furnish a surety bond amounting to Rs. 1.5 million as guarantee for the girl’s welfare. In the same case the Court instructed the family to ensure that the girl occasionally visited her family. NCJP noted that the SC recognized the following two principles in issuing this landmark ruling: (1) that minority women require protection from restrictions on movement and wellbeing, and from violence; and (2) that conversion does not mean that the girl relinquish her relationship with her parents or family. Jivan, Jennifer Jag and Jacob, Peter. *Life on the Margins: A study on the minority women in Pakistan*. Lahore, Pakistan: National Commission for Justice and Peace, 2012.

155 HRCP noted in particular one incident in which the magistrate recorded the statement of a 12-year-old girl that she had converted to Islam of her free will, despite an objection by the family’s lawyer that the girl was a minor and that such official record was invalid. Human Rights Commission of Pakistan (HRCP). *Life at Risk: Report of HRCP Working Group on Communities Vulnerable because of their Beliefs* (April 2011). Lahore, Pakistan: HRCP, 2011.

156 In Tamil Nadu, India, all conversions must be reported to a magistrate judge in the province, who acts as a check on illegal conversions by examining evidence and attendant circumstances surrounding the conversion. Husain, Waris. “Forced faith or force of faith?” (DAWN, 21 April 2012).

Retrieved on 22 July 2012 from <http://dawn.com/2012/04/21/forced-faith-or-force-of-faith/>.

# ACKNOWLEDGMENTS

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We would like to acknowledge the continued bravery and strength of those brave women who have told and retold stories of their ordeal despite threats to their lives and the harms that they suffered at the hands of criminals who sought to use religion and official mechanism for criminal purposes. We hope their stories will pave the way for progress on minority and women's rights with respect both to this crime and more generally for the development of a more tolerant society.

# ADDENDUM

Sample of Conversion Certificate used in a forced conversion case

**امداد العلوم الإسلامية**  
**جامعہ امداد العلوم الإسلامية**  
**جامع الدرویش**  
**شاہراہ قائد اعظم پشاور صدر**  
**Amadd-ul-Uloom-i-Islamiin**  
**Darwesh**  
**Shahra-e-Quaid-e-Azam Peshawar Cantt.**

الرقم \_\_\_\_\_ ۱۱/۶/۱۱  
 باسمہ تعالیٰ  
 التاريخ \_\_\_\_\_

آج بلورضہ 6 جولائی 2011 بروز بدھ نادریہ دختریشیرپور  
 (سابقہ مذہب عیسائیت) نے یہاں جامعہ آگر ابن رضا درغبت سے  
 عیسائیت سے توبہ تائب ہو کر دین اسلام کو قبول کر لیا۔  
 آج سے ان کو وہ تمام حقوق حاصل ہوں گے جو مسلمانوں کو حاصل  
 ہوتے ہیں۔ ان کا اسلامی نام بھی "نادرہ" ہی ہوگا۔  
 اللہ پاک ان کو دین اسلام پر استقامت نصیب فرمائے۔  
 فقط

نادریہ کافوق شناختی کارڈ نمبر  
 17301-4953542-6  
 ڈاکخانہ سکندر پورہ بیرون لاہوری  
 گیٹ مکان نمبر 2 محلہ نیو سہم آباد  
 پشاور  
 تاریخ پیدائش 25 ستمبر 1982ء

دستخط نادریہ: \_\_\_\_\_  
 نادریہ: \_\_\_\_\_  
 گواہ شہدک راج گل فاضل ولد تاج محمد  
 17301-1294113-1  
 راج گل فاضل

ذرا دل: قنار جامعہ امداد  
 6 جولائی 2011ء  
 گواہ شہدک: روح الامین ولد شہیر گل  
 روح الامین

من - ۵۲۸ پشاور صدر  
 رقم الحساب ۸۱۶۰۵ یونائیٹڈ بینک پشاور صدر  
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