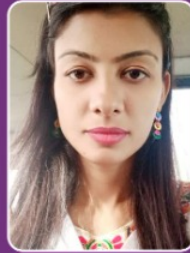




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Ms. Sonia Javed - a young feminist following her BS Sociology, and is the part of the Association of Women for Awareness and Motivation (AWAM) and Pakistan Girls Guides Association (PGGA). She is engaged in promoting and protecting the human rights of vulnerable segments of society, particularly women and trans-people. Her innovative approach is gender equality and intersectionality; she conducts interactive sessions, seminars, and conferences to highlight the issues of women in general and women belonging to religious minorities, and women with disabilities in specific.



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The Context of Religious Conversion of Minority Girls in Pakistan

POLICY BRIEF



Norad



Introduction:

The Special Rapporteur on Freedom of Religion or Belief (FoRB) urged the international community to consistently respect, protect, and promote the freedom of religion or belief specifically in the domain of religious conversions¹. It is an acknowledgement that the domain of a person's religious or belief related convictions are very personal and internal and international human law protects it unconditionally. The article 18 of Universal Declaration of Human Rights (UDHR) precisely define freedom of thought, conscience, and freedom to hold belief – It incorporates freedom of thought, personal conviction related to religion or belief. Yet it [in a further interpretation of article 18 of UDHR] recognized that it protects theistic, non-theistic and atheistic belief as well as freedom not to profess any religion or belief².

In the case study of Pakistan, the Constitution, 1973, (though) guarantees religious freedoms in its various articles, the poor political will to implement it in its true spirit has made the context perplexed. The issue of religious conversions and forced/underage marriages of minority girls [between the age 12 – 16] – specifically for the past three years 2019 - 2022, has been an area of serious concern that attracted the international opprobrium. The silence of the law-making arenas, overlooking the matter by the political decision-makers, inaction of the authorities and influence of religio-political elements on national human rights institutions further bolstering the perpetrators. Verily, the conviction related to religion or belief is very personal domain of every individual; however, the religious conversion of only minor girls merely for marrying off with the males who are usually triple in age as compared to the girls and already married cannot be justified in any manner.

Legal Framework:

Pakistan is party to various international agreements – Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is worth mentioning³. So far as the implementation and compliance is concerned, Article 25 of the Constitution of Pakistan, 1973, reads that every citizen is equal before the law and entitled to equal protection of the law. It further prohibits the discrimination based on sex alone. In similar vein, the other clause [Article 25 (3)] of the article allow the state for taking special measures to protect women and children. Likewise, there are some laws and women rights protection mechanisms like Pakistan Penal Codes, and Criminal Procedure Codes also defines government's duty to protect every citizen from the violence and discrimination.

¹ The Special Rapporteur on Freedom of Religion or Belief (FoRB) – Heiner Bielefeldt, stated in news release issued published on October 25, 2022.

² Human Rights Committee, General Comment 22, Article 18 (48th Session, 1993) adopted in 1994 by the Human Rights Treaty Bodies.

³ Pakistan acceded to CEDAW in 1996 with the commitment to end violence and all forms of discrimination against women, however with some reservations on some of the articles of the convention.

Regarding the forced and underage marriages, the legal framework prohibits such practices under the Punjab Child Marriage Restraint (amendment) Act, 2015. This law defines that any person who is marrying off with a girl of age less than 16 shall be liable for imprisonment up to 6 months and fine of PKR 50,000/-. This law does not spare even the Marriage (Nikkah) Solemnizer and Marriage (Nikkah) Registrar⁴. In the same vein, Pakistan Penal Code (PPC) – section 310-A, and 498-C, prohibits the discriminatory customary practices such as Wanni⁵ and Marriage to make compromise, and Marriage with the Holy Quran. If any person commits such crime, the law treats him with imprisonment for 3 to 7 years and fine of PKR 500,000/-.⁶ The same spirit reflected in the Section 498-B of PPC that reads that “a person forcibly marrying a girl against her will is liable to be punished with imprisonment for 3 to 7 years and a fine of Rs. 500,000/-“

However, in the matters related to religious conversion and marriages of girls belonging to religious minorities, there is no legal mechanism available to deal such issues. Responding to agitations of civil society groups, the parliamentary committee to protect minorities from forced conversions has decided to study a few cases that would help identify loopholes and strengthen measures to tackle the threat of forced proselytism that minorities in Pakistan are subjected to. Members of the parliamentary committee consider forced conversion a social issue, not a religious matter.

Socio-Political Context:

According to the Association of Women for Awareness and Motivation, this may not be a religious matter, but religious forces have always opposed legislation against forced conversion despite the Council of Islamic Ideology dubbing the forcible faith conversion as an un-Islamic practice. The resistance by religious groups may be due to the reports claiming that several seminaries patronize proselytism by providing the abductors with legal, financial and logistics support. The AWAM Pakistan believes that the breakdown of the rule of law happens when certain classes of citizens cannot have the same expectation of redress as their neighbor or when the state asserts the right to override or ignore a citizen's claims against it. A lawful state is one in which the agents of the state are subject to the law.

The AWAM Pakistan has collected the data of 194 registered cases of forced conversions and forced marriages of girls and women belonging to religious minorities. As per the AWAM's observation, aggrieved minority community labels conversion and marriage of underage minority girls as un-willful, which is considered willful by religious groups. Legally, it is not necessary for a non-Muslim girl to change her religion before marrying a Muslim man. We have witnessed numerous cases of willful marriage through courts where mostly the families are not on speaking terms with the couple initially, but they end up accepting the marriage and restoring good relations. This makes us question the phenomenon of faith conversion that influences girls to leave their parents and siblings

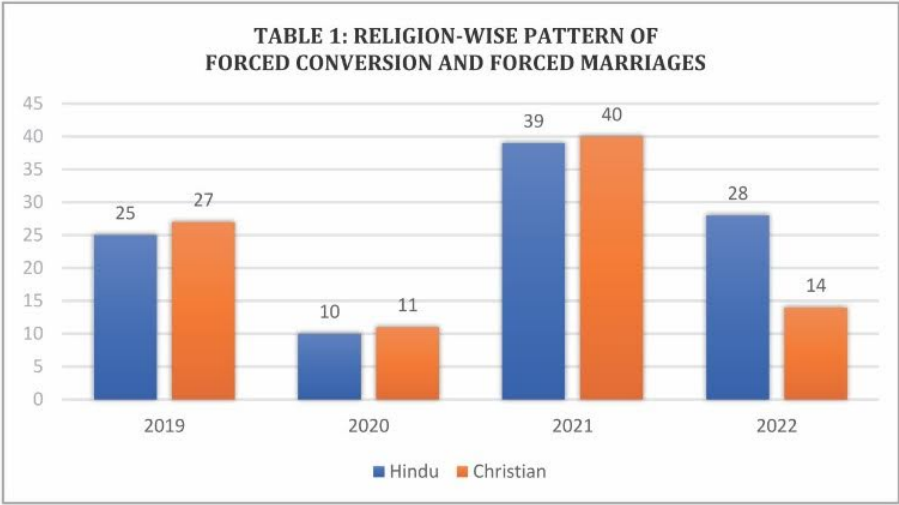
⁴ <https://punjabpolice.gov.pk/system/files/PunjabMarriageRestraint%28amd%292015.pdf>

⁵ It is custom in tribal areas but widely practiced in Punjab as well. In this custom young girls are forcibly married to the members of different clans in order to resolve the feuds.

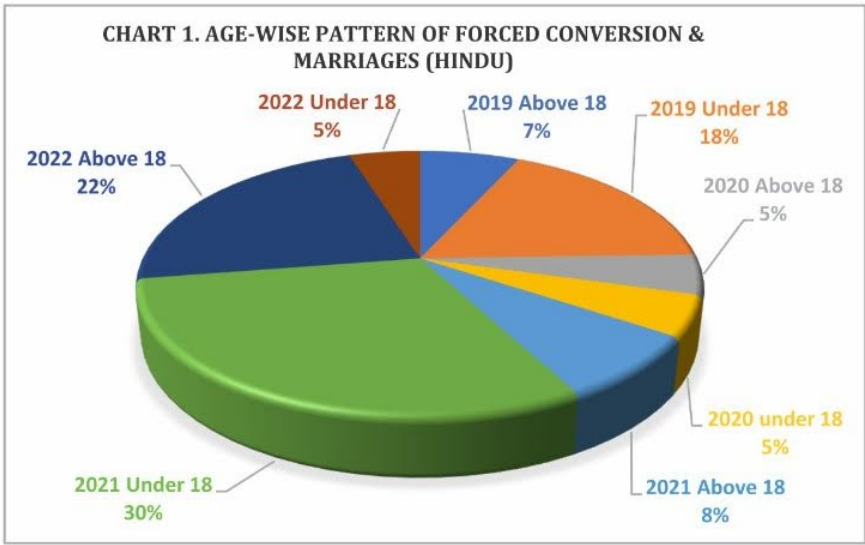
⁶ <https://punjabpolice.gov.pk/system/files/310A498BC.pdf>

for good despite there being no compulsion on the marriage of a couple from different religions.

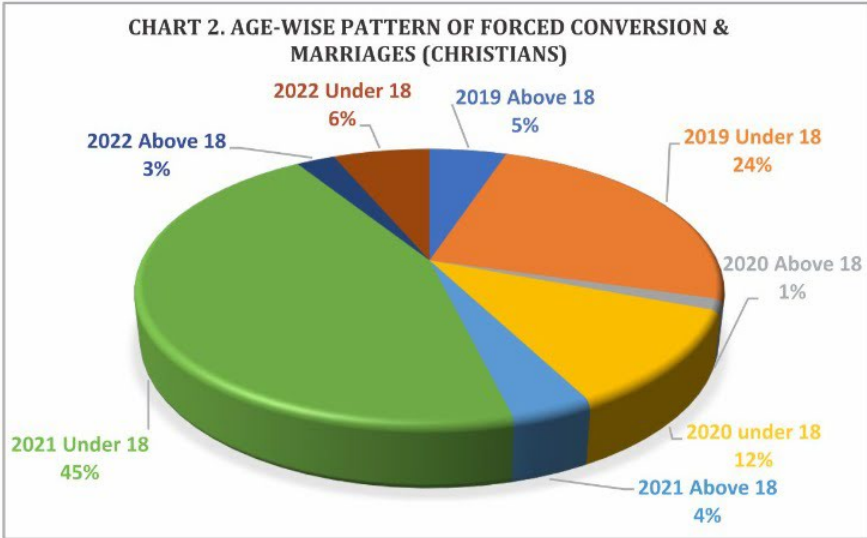
We have observed a clear pattern in the majority of cases of alleged forced conversion. As many as data of 194 reported cases of forced conversions and forced marriages was collected. The Table 1 demonstrate that 102 girls from Hindu community and 92 Christians became the victim in the duration of three and half years – from January 2019 to June 2022.



The data demonstrates that the girls and young women from Hindu community are more vulnerable to receive such threats as of enticement, religious conversion, and forced marriage as compared to other religious groups in Pakistan. It is because of their population, locality, and economic background. It further exposes that majority of the cases are of under 18 years of age.



Likewise, the data related to Christian community, total 92 cases were identified from which 14 reported cases were those whose whereabouts were not clear such as age, address, and perpetrators were not mentioned on legal documents. The Pie-Chart related to Christians also exposes the high ratio of girls below 18 of age.



The available data helped the AWAM Pakistan for identifying the major issues, local patterns, response mechanism, and social behaviour in the incidents of abduction, religious conversions, and forced marriages in underage.

Firstly, minor girls from the Hindu or Christian community are abducted, and taken to a different province, mostly from Sindh to Punjab where the minimum legal age of marriage for girls is 16 years⁷. This makes it difficult for parents of the girls to pursue the case, and find the whereabouts of their girls. Secondly, certificates of marriage and conversion showing the age of girls above 18 years, are presented in the court. Thirdly, prayers are filed in the court for the couple’s protection from the girls’ family to tackle the FIR of abduction against perpetrators. Fourthly, girls make statements before the court that they want to stay with their husbands. Fifthly, the girls are barred from meeting non-Muslim family members.

Although cases of conversion continue unabated in Pakistan, and there is no progress in any legislative assembly to outlaw forced conversions despite a private member’s bill pending in parliament, contrarily, the AWAM has observed a positive trend in cases. In some cases, courts in Punjab and Sindh ordered that girls who had become victims of coerced faith conversions and unsolicited marriages be returned to their parents. This was only made possible recently owing to courageous statements made by victims Charlotte Javed (Faisalabad), Saima Javed (Sahiwal), Narish Nisha (Karachi), Pummy Muskan (Sargodha) and Mehak Kumari (Jacobabad) before the courts of law.

⁷ Only in Sindh province the legal age of marriage is 18 for both sexes.

The judiciary is responsible to apply the laws to protect human rights. However, judges are found inconsistent in passing orders in the cases of forced conversion and child marriage, as some of them sanction marriages of underage converts on the pretext of puberty under the Islamic law. Despite child marriage and sexual intercourse with a minor being a crime in Pakistan, our legal system pardons the abductors for assaulting underage minority girls on the basis of certificates for conversion and marriage produced in the court, which many times turn out to be fabricated. This leaves an impression that the perpetrators who commit heinous crimes resorting to religion, enjoy impunity in Pakistan.

The AWAM calls on, the judges should pass judgments implementing the legal provisions that make the offences child marriage and forced marriage punishable by law. The courts must ensure that the victims of forced conversion or child marriage get their statements recorded without any duress and threat so that perpetrators and their abettors are brought to justice.

It is pertinent to note that two remarkable judgements were passed recently where the court had decided the fate of underage children converting to Islam. Lahore High Court in the Pummy Muskan case passed a judgment, declaring that minor children lack the legal capacity to change the religion on their own. Sindh High Court in the Mehak Kumari case issued a verdict, declaring that underage converts could continue to stay with their non-Muslim parents. Both these decisions by high courts set a judicial precedent that lower courts must follow, and these rulings might help frame legislation and contribute to mitigate the suffering of minorities to some extent.

Apart from lack of legal safeguards, the practice of forced conversion has had adverse effects on the lives of minorities that leave minority communities with the feeling of insecurity, and lack of access to justice, which brings them to prevent minority girls from pursuing education owing to fear of sexual abuse. The majority of the girls converted willfully or forcibly are never returned to their families, and their parents have to pay a huge price by living their lives, believing that their girls would be alive, though out of sight.

It is worth noting that we have observed a few cases where victims of forced conversion and forced marriage have returned to their families, and all girls have something in common to say that 'abductor' so-called 'husband' ruined their lives, but they are still at large. The sufferings of such victims are never over, as the aftermath of injustice and stigma will haunt their families forever.

Conclusion:

Both the federal and provincial governments share responsibility for negligence over criminalizing forced conversions. Although the parliamentary committee representing National Assembly and Senate, is mandated to hold public hearings, carry out inquiries including all those concerned, and hold meetings with civil administration and political actors so as to create an integrated system of detection, reporting, vigilance and response concerning forced conversions, yet it has failed to make any meaningful progress.

If the members of parliamentary committee intent to seriously address the phenomenon of forced conversion, then it is time for them to go beyond lip service to minority rights, and facilitate in enacting and enforcing the law. They must take a firm stand to strengthen

measures which include, inter alia, prosecuting perpetrators and abettors, and setting 18 years as minimum legal age for marriage and conversion, to end the menace of forced conversion. In addition to it, it is inevitable to make the National Identity Card (NICs)⁸ mandatory for the Marriage Registration.

⁸ The NIC is issued by the NADRA a competent authority to issue such documentation after the bio-metric verification. This would avoid the probabilities of document tempering.