P L D 2014 Supreme Court 699

Present: Tassaduq Hussain Jillani, C.J. Sh. Azmat Saeed and Mushir Alam, JJ

**S.M.C. NO.1 OF 2014 AND C.M.A. NO.217-K/2014,
IN S.M.C. NO.1 OF 2014, H.R.C.No.29960-P/2012, C.M.A.
NO.110-K/2014 IN C.M.A. NO.737/2014, C.M.A.
NO.120-K/2014 IN C.M.A.NO.737/2014, C.M.A.
NO.1388/2014 IN C.M.A.NO.737/2014, C.M.A.
NO.139-K/2014 IN C.M.A.NO.737/2014, C.M.A.
NO.142-K/2014 IN C.M.A.NO.737/2014,
CRIMINAL M.A.NO.322/2014 IN CRIMINAL
ORIGINAL PETITION NO.17-L/2013 AND CONSTITUTION PETITION NO.98 OF 2011**

(Suo Motu actions regarding suicide bomb attack of 22-9-2013 on the Church in Peshawar and regarding threats being given to Kalash tribe and Ismailies in Chitral)

(a) Constitution of Pakistan---

----Arts. 20, 33, 36 & 184(3) & Preamble---Suo motu action by the Supreme Court under Art. 184(3) of the Constitution---Rights of minorities---Religious rights---Lack of awareness---Desecration of places of worship belonging to minorities---Forced conversion of non-Muslims to Islam---Supreme Court observed that under the Constitution minorities had a special status; that the very genesis of Pakistan was grounded in the protection of the religious rights of all, especially those of minorities; that the incidents of desecration of places of worship of minorities could be warded off if the authorities concerned had taken preventive measures at the appropriate time; that the inaction on the part of law enforcement agencies was on account of the lack of proper understanding of the relevant law; that there was a general lack of awareness about minority rights among the people and those entrusted with enforcement of law were also not fully sensitized to such issue; that desecration of places of worship of even a non-Muslim was an offence under the Pakistan Penal Code, 1860; that it would be counter intuitive if the right to freedom of religion enshrined in Art.20 of the Constitution was interpreted in a manner which had the effect of encroaching upon religious freedoms of minority religions in the country---Suo motu case was disposed of accordingly.

Freedom of Religion and Religious Minorities in Pakistan, A. Study of Judicial Practice, Tayyab Mahmud, Fordham Internatinal Law Journal, 19:1 (1995), p.51 and Surah Al-Ma'idah (5:32), Translation of Moulana Shabbir Ahmed ref.

(b) Constitution of Pakistan---

----Arts. 20 &184(3)---Suo motu action by the Supreme Court under Art.184(3) of the Constitution---Rights of minorities, protection of---Religious rights---Promotion of religious tolerance---Protection of places of worship belonging to minorities---Discouraging of hate speech---Reservation of quota for minorities in all services---Steps/measures outlined by the Supreme Court which were to be taken by the Federal and Provincial Governments for effective enforcement of Fundamental Rights guaranteed to minorities.

Following are the steps/measures outlined by the Supreme Court which were to be taken by the Federal and Provincial Governments for effective enforcement of Fundamental Rights guaranteed to minorities.

(i) that Federal Government should constitute a taskforce tasked with developing a strategy of religious tolerance.

(ii) that appropriate curricula should be developed at school and college levels to promote a culture of religious and social tolerance.

(iii) that Federal Government should take appropriate steps to ensure that hate speeches in social media were discouraged and the delinquents were brought to justice under the law.

(iv) that National Council for minorities' rights should be constituted. The function of the said Council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law. The Council should also be mandated to frame policy recommendations for safeguarding and protecting minorities' rights by the Provincial and Federal Government.

(v) that Special Police Force should be established with professional training to protect the places of worship of minorities.

(vi) that Federal Government and all Provincial Governments should ensure the enforcement of the relevant policy directives regarding reservation of quota for minorities in all services, and

(vii) that in all cases of violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities, the concerned law enforcing agencies should promptly take action including the registration of criminal cases against the delinquents.

(c) Constitution of Pakistan---

----Art. 20---Freedom to profess religion---Scope---Freedom of conscience---Scope---Individual and community based freedom---Freedom of religion must be construed liberally to include freedom of conscience, thought, expression, belief and faith---Freedom, individual autonomy and rationality characterized liberal democracies and the individual freedoms thus flowing from the freedom of religion must not be curtailed by attributing an interpretation of the right to religious belief and practice

exclusively as a community-based freedom---Freedom of conscience could not be separated from the freedom of religion---While the freedom of conscience was an individual right, the right to religion had both individual and community based connotations.

European Convention on Human Rights and Fundamental Freedoms (Article 9), the American Convention on Human Rights (Article 12), the African Charter on Human and Peoples' Rights (Article 8) ref.

(d) Constitution of Pakistan---

----Art. 20---Freedom to profess and practice religious views--- Right to religious conscience---Right to propagate one's religion to others---Scope---Sects within religious denominations, protection of---Principles regarding interpretation of Art. 20 of the Constitution.

Following are the principles in relation to interpretation of Art.20 of the Constitution:

(i) that Article 20 of the Constitution must be interpreted to guarantee the rights of the community as well as the right of the individual against those from his own or other religious communities - the ultimate goal being the eradication of religious intolerance in the society.

(ii) that the right to religious conscience conferred under Art. 20 of the Constitution did not make any distinction between majority and minority or Muslim and non-Muslim. It was in the nature of an Equal Religious Protection Clause conferred on every citizen, every religious denomination and every sect thereof. Such equal religious protection clause was in the same nature as the equal justice under the law and equal protection under the law clauses. There was no distinction among citizens, religious denominations and sects thereof, as far as the right to religious conscience, was concerned.

(iii) that the right to religious conscience was a fundamental right. It had not been subjected or subordinated to any other provision of the Constitution because it was only subject to law, public order and morality and not to any religious clauses of the Constitution. The very term law, public order and morality had been used in non-religious terms as the notion of law or public order or morality was not reducible to the Islamic meanings of said terms. Therefore, Art.20 of the Constitution had a certain pre-eminence in the Constitution being only subject to the general restrictions of law, public order and morality, which three terms could not be interpreted or used in such a restrictive way as to curtail the basic essence and meaning of the pre-eminent right to religious conscience.

(iv) that the right to profess and practice was conferred not only on religious communities but also on every citizen. Every citizen could exercise such right to profess, practice and propagate his religious views even against the prevailing or dominant views of its own religious denomination or sect. In other words, neither the majority religious denominations or sect nor the minority religious denomination or

sect could impose its religious will on the citizen. Therefore, not only did it protect religious denominations and sects against each other but protected every citizen against the imposition of religious views by its own fellow co-believers. Every citizen would necessarily include both males and females which point needed emphasis considering the exclusion or subordination of women in relation to numerous forms of religious practices.

(v) that as far as every religious denomination was concerned, even sects within such religious denominations had been conferred the additional right to establish, maintain and manage its religious institutions. Therefore, even sects within religious denominations had been protected against their own co-religious denominations.

(vi) that the right of religious conscience conferred on every citizen was a right conferring three distinct rights i.e. Right to Profess, Right to Practice and Right to Propagate. Article 20 of the Constitution did not merely confer a private right to profess but conferred a right to practice both privately and publicly his or her religion. Moreover, it conferred the additional right not only to profess and practice his own religion but to have the right to propagate his or her religion to others. Such propagation of religion had not been limited to Muslims having the right to propagate their religion but such right was equally conferred on non-Muslims to propagate their religion to their own community and to other communities.

(e) Constitution of Pakistan---

----Art. 20---Freedom of religion, interpretation of---Underlying objective---Promotion of religious tolerance---Promoting religious tolerance should be the underlying objective in interpreting the right to freedom of religion.

(f) Constitution of Pakistan---

----Art. 20---Freedom of religion---Scope---Individual and communal right---Right to freedom of religion should be restored to as an individual and indefeasible right, while concurrently preserving and protecting such right at a communal level, where the latter did not infringe on the former.

(g) Constitution of Pakistan---

----Art.2A---Democracy---Democratic governance---Defining features---Defining feature of a democratic governance was complete dedication and adherence in everyday life to the seminal principles of equity, justice and inclusion of all irrespective of their colour, creed, caste, sex or faith---Sustainability of democracy depended on how best said challenges were met.

(h) Islamic jurisprudence---

----Non-Muslims---Forced conversion to Islam---Islam did not compel people of other faiths to convert---Islam gave them complete freedom to retain their own faith and not

to be forced to embrace Islam---Such freedom was documented in both the Holy Quran and the Prophetic teachings known as Sunnah.

Holy Quran (10:99) ref.

(i) Islamic jurisprudence---

----Non-Muslims---Places of worship, preservation of---Not only did Islam give religious freedom to non-Muslims, its tolerant laws also extends to the preservation of their places of worship.

Holy Quran (2:256); Aayed, Saleh Hussain, 'Huquq Ghayr al-Muslimeen fi Bilad il-Islam, p.23.24; Holy Quran (22.40); Tabari, Tarirk al-Tabari, vol.3, p.210 and Tabari, Tarirk al-Tabari, vol. 3, p.159 ref.

In Attendance:

Salman Aslam Butt, Attorney General, Kh. Saeed uz Zafar, Addl. Attorney General.

Sajid Ilyas Bhatti, D.A.G.

Sohail Mehmood, D.A.G.

Razzaq A.Mirza, Addl. Advocate General, Punjab.

Zahid Yousaf, Addl. A.G. KPK.

Ayaz Swati, Addl. A.G.Balochistan.

Muhamamd Farid Dogar, A.A.G. Balochistan.

Muhammad Kassim Mirjat, Addl. Advocate General, Sindh.

Ali Sher Jakhrani, AIG Legal, Sindh.

Rev. Shahid P.Mehraj, Dean of Lahore Cathedral.

Zulfiqar Ahmed Bhutta, Advocat Supreme Court (for J.Salik, ex-MNA).

Dr. Ramesh Kumar Vankwani, Chairman, Pakistan Hindu Council.

Saleem Micheal, Justice Helpline.

Nadeem A. Sheikh, Advocate, Justice Helpline.

Gabrial Francis Khan, Advocate Supreme Court.

Date of hearing: 19th June, 2014.

JUDGMENT

TASSADUQ HUSSAIN JILLANI, CJ.-

"All mankind is from Adam and Eve, an Arab has no superiority over a non -Arab nor a non -Arab has any superiority over an Arab; also a white has no superiority over black nor a black has any superiority over white except by piety (taqwa) and good action.[1]

These suo motu proceedings under Article 184(3) of the Constitution of Islamic Republic of Pakistan were initiated on a letter received from the Justice Helpline, an NGO, regarding an attack on a Church in Peshawar in which 81 persons died (subject matter of F.I.R. No.728 dated 22-9-2013 under sections 302/324/427, P.P.C., 3/4 of the Explosive Substances Act and section 7 of the Anti Terrorism Act at Police Station Khan Raziq Shaheed (Kabuli), Peshawar). Complaints were also received from adherents of Hindu faith and it was prayed that the Court should direct the authorities to take remedial measures so that their places of worship are protected. On 20-2-2014 there was a news item and article published in Daily Dawn wherein it was averred that the Kalash tribe and Ismailies in Chitral were being coerced to convert to a different sect within Islam or to face death. The Court considered all such incidents to be violative of the Fundamental Rights guaranteed to these citizens as also of the Principles of Policy enshrined in the Constitution. It considered it imperative to find out the causes which lead to such incidents with a view to lay down guidelines for effective enforcement of the Fundamental Rights guaranteed to the people. Notices were issued to the learned Attorney General for Pakistan and all the four Advocate Generals. The learned Attorney General for Pakistan pursuant to the direction of this Court placed on record the names of different minority community organizations and the persons who were heading those so that their points of view could be heard before passing any final order. Those are:

S. No.	Name and Designation	Address	Telephone Nos.
CHRISTIAN COMMUNITY/PROTESTANTS/ CHURCH OF PAKISTAN			
1.	Rev. Bishop Irfan Jamil Bishop of Lahore, Church of Pakistan	Bishop House Cathedral Close, the Mall, Lahore	0333-4756730
2.	Mr. Shahid Miraj, PS to Bishop of Lahore, Church of Pakistan	Bishop House Cathedral Close, the Mall, Lahore	0300-8433287
	CHRISTIAN COMMUNITY/ CATHOLICS		
3.	Arch Bishop Subastain Francis Shaw, Archbishop of Lahore	1-Lawrence Road Lahore	0307-2346072
4.	Mr. Tariq Inayat, PS to Archbishop of Lahore	1-Lawrence Road Lahore	0333-4285290

	HINDU COMMUNITY		
5.	Dr. Ramesh Kumar Vankwani, MNA	Patron Inchief Pakistan Hindu Council.	0333-2277370
	SIKH COMMUNITY		
6.	Pakistan Sikh Gurdwara Parbandhak Committee, being reconstituted	Mr. Junaid Ahmad, Secretary, Evacuee Trust Property Board, Lahore.	042-99211035 0300-4661285

2. During the course of proceedings, some of the issues brought before the Court were broadly as follows:-

i) the allegation that Hindu girls were forcibly converted into Islam regarding which criminal cases were registered but there has been no progress;

ii) the compensation announced by the Federal Government and Provincial Government for the victims of Church blast in Peshawar had not been disbursed;

iii) the allegation that Kalash tribe and Ismailies were facing threats to leave their sect or face death;

(iv) the complaint regarding Hindu Gymkhana established in Karachi in 1926;

v) the complaint regarding Christian Mission School, Karachi, wherein the founder of this country Quaid-e-Azam Mohammad Ali Jinnah had his early education;

vi) the complaint regarding the desecration of historical Hindu Temple of Amrapur Asthaan;

vii) the complaint of Mr. Ramesh Kumar Vankwani alleging that in the preceding two months there have been six incidents of desecration of Hindu Temples / places of worship in the Province of Sindh alone;

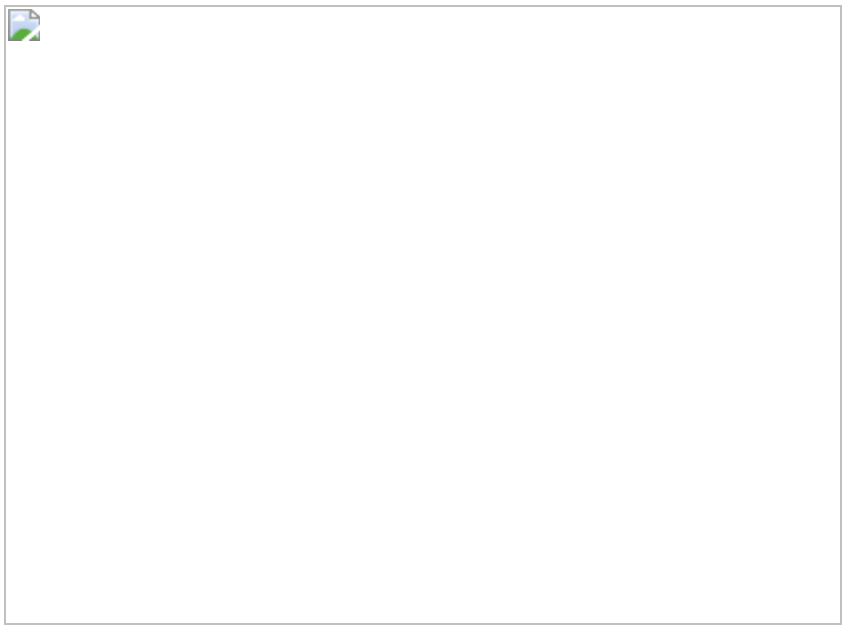
viii) the complaint regarding non-registration of Hindu marriages by the NADRA and Local Council Authorities;

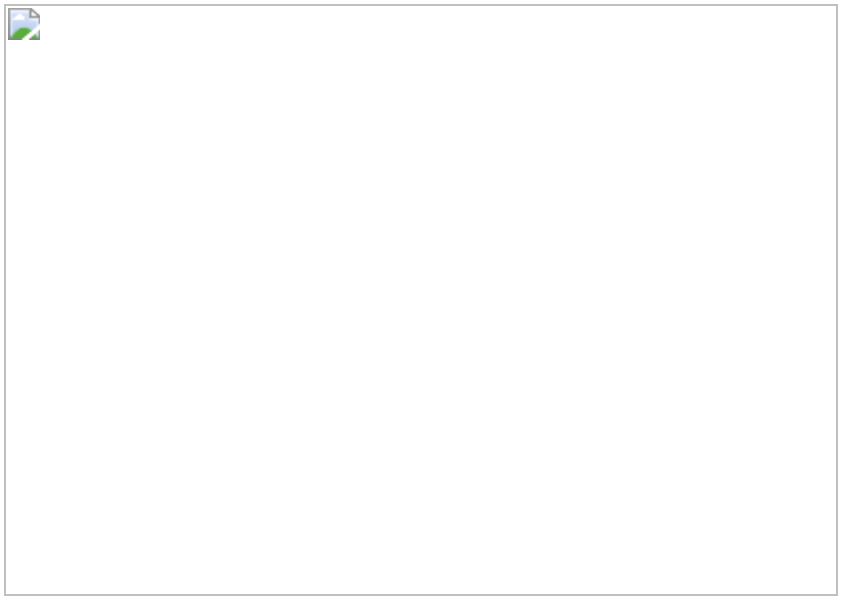
ix) the complaint regarding non-registration of marriages of Christians; and

x) the complaint regarding the issue of Smadhi of Param Hans G. Maharaj.

3. The Court heard at some length the representatives of the Christians and Hindu communities as also learned Attorney General and learned Advocate General of Sindh, Punjab and KPK. So far as the question of Hindu Gymkhana is concerned, the issue was subject matter of a Constitution Petition No. 6 of 2009 before the High Court of Sindh and currently it is subject matter of Civil Appeal No. 16-K of 2014. The said

issue, therefore, would be dealt with separately in that case. Regarding the desecration of Temples in District Larkana, the learned Additional Advocate General confirmed that cases had been registered against the miscreants under the relevant provisions of Pakistan Penal Code and the accused shall be brought to justice. Mr. Ali Sher Jakhrani, AIG (Legal) Sindh has filed C.M.A. No.2878 of 2004 wherein the detail of the cases registered in this regard has been given, which is as follows:





4. The issue of non-registration of Hindu marriages was resolved by NADRA and Mr. Ramesh Kumar Vankwani confirmed that NADRA had started issuing registration certificates with regard to the Hindu marriages. So far as the allegation of forcible conversion of Hindu girls is concerned, although criminal cases were registered in Punjab, Sindh and Balochistan yet generally it was found that most of the girls had

eloped with persons of their choice and married at their own free will. Nevertheless, the Court would not like to comment lest it may prejudice the case of either side as some of those cases are pending trial before the appropriate Courts. The learned Acting Advocate General, Punjab, submitted that in terms of the Christian Marriage Act, 1872, 150 Pastors and Bishops already stand registered in 20 Districts and any Christian marriage solemnized by a license holder under the afore-mentioned Act from the concerned Church / denomination is duly registered under the Punjab Local Government Act and the Rules framed thereunder. Regarding the question of non-payment of compensation announced by the Prime Minister, the learned Advocate General, KPK, has pointed out that the Provincial Government had already disbursed the requisite funds to the victims of bomb blasts. So far as the threats to Kalash minority by extremists was concerned, the Government of Khyber Pakhtunkhwa took effective steps and learned Advocate General KPK has placed on record the report of the Commissioner, Malakand, which is to the said effect:--

"i. The Commissioner Malakand in this connection visited District Chitral on 21st and 22nd February, 2014. On 21st he went to Bumburet Valley of Kalash community by road, where he held a meeting with the Kalash minority. The issue was personally discussed by the Commissioner in presence of the stakeholders at district level. It was confirmed that the threat mentioned earlier by the TTP is not new and in this regard the video referred to in the various international newspapers and reflected in electronic media has not been circulated to the general public in Chitral. The Kalash minority, the district administration and the DPO Chitral expressed the opinion that the news story is old and it has been re-picked by some sections of media for vested interests.

ii. The Commissioner assured the Kalash minority that government will provide security to them and it was further communicated to them that a unit of Pak Army AK-42 regiment is already deployed in the area. Another platoon of police in addition to the already present one has reached the Bumburet valley. Police Station Bumburet has a strength of 55 pesonnel in addition to special force of 15 personnel and 15 personnel of border police are also vigilantly performing duties in the area. The district police officer informed that Kalash valley has its border with Nooristan province of Afghanistan but the area is presently in accessible and snow bound totally and right from Arandu to Lutkoh there are 16 check posts located. At these 16 check posts Pak Army and other LEAs are regularly patrolling the Pak -Afghan border and any incursion from Nooristan into Pak territory is almost impossible. However, as mentioned, LEAs at these 16 check posts are vigilant to counter any such attempt by the TTP.

iii. The representatives of Kalash minority expressed complete satisfaction over the response of the administration and they were satisfied with the security arrangements in the valley. They appreciated the visit of the Commissioner, the aim of which was to assess the ground situation and have a direct interaction with the Kalash minority and share their grievances. The Commissioner also attended funeral of an elder of the Kalash community, who died on that very day. The Kalash minority appreciated the Commissioner for participating in the funeral ceremony of their elder. On this occasion the Commissioner allowed the community to perform their rituals according to their traditions and assured them that there will be no hindrance in the way.

iv. On 22nd a meeting was held in the Governor's cottage Chitral with the Ismaili community in presence of the district administration. A direct feedback was obtained from the community. The Ismaili community of Chitral pointed out the broadcasting of provocative speeches from a local FM channel. It was revealed that the FM channel is a religious one and has been allowed by the PEMRA under the law, however the owner has been summoned by the district administration. He has been warned and strictly directed not to broadcast live discussions and only recorded programs will be allowed for broadcasting subject to the screening by the district administration. A timely action has been taken in order to prevent any communal problem in Chitral and to promote complete harmony amongst the different sections of Muslim communities and minorities. The Commissioner directed the district administration to monitor the broadcasting of the FM channel and in case it violates the agreement with the district administration, PEMRA will be requested for cancellation of its license accordingly.

v. The Ismaili community was assured that the administration is fully aware of the situation and the Commissioner informed them, that it is right of every citizen to be given protection by the state as enshrined in the Constitution of Islamic Republic of Pakistan and the government will leave no stone unturned for the safety and security of the Ismaili community, who have contributed for the development of not only Chitral but for the entire country. The Commissioner appreciated the role played by the Ismaili community in progress and development of the country, particularly Chitral and Northern areas. There is no one to deny the services of Sir Sultan Muhammad Agha Khan-III, for founding Muslim League in 1906 and subsequent struggle for freedom movement. The district administration was directed to keep on board the representatives of the Ismaili community for durable peace in the area.

vi. Moreover the administration and the Pak Army have taken all possible steps and security has been further beefed up in the area. It is worthy mentioning that on 22nd February General Officer Commanding, 17 Div of Pak Army, General Javed Bukhari also visited Kalash valley and reviewed the security arrangements. This also has boosted the morale of the people of Chitral, particularly the Kalash minority and Ismaili Community.

2. The Ismaili community and Kalash minority of Chitral acknowledged the prompt response of the administration and they expressed complete satisfaction over the security measures taken in the aftermath of the appearing of the news story in the media. In this respect, both the communities appreciated the efforts of the provincial government for direct interaction with the stakeholders on the issue. It was confirmed that there is no indigenous sectarian issue in Chitral and all the Communities including the Ismailies and Kalash tribes live in complete harmony, and the story reflected in the international media has been reported with ulterior motives."

5. Learned Attorney General for Pakistan placed on record (C.M.A. No.3426/2014) a notification issued by the Government of Pakistan, Cabinet Secretariat, Establishment Division dated 26-5-2009, which is to the following effect:--

"The undersigned is directed to state that it has been decided by the Federal Government to reserve, with immediate effect, 05% quota for employment of Minorities (Non-Muslims), as defined in Article 260(3)(b) of the Constitution of the Islamic Republic of Pakistan, 1973, to all posts across the board in the Federal Government Services / jobs to be filled by direct recruitment including CSS, in addition to their participation in the open merit.

2. This reservation will have the same parameters as were prescribed for reservation quota for women vide Establishment Division's O.M. No. 4/15/2006-F.2 dated 22-5-2007 and will count as part of overall provincial allocation as contained in the Establishment Division's O.M. No. 4/10/2006 R-2 dated 12-2-2007 and will be calculated against the quota of the province of origin of the Minority (Non-Muslim) candidate concerned.

3. The above reservation will not apply to:--

i) the percentage of vacancies reserved for recruitment on the basis of merit;

ii) recruitment made by promotion or transfer in accordance with the relevant rules.

iii) short terms vacancies likely to last for less than six months; and

iv) isolated posts in which vacancies occur only occasionally;

4. The vacancies reserved for Minorities (Non-Muslims) for which qualified candidates are not available shall be carried forward and filled by Minority (Non-Muslim) candidates.

5. These orders shall also apply to initial appointments in all attached departments/autonomous/semi autonomous bodies/ corporations/Public corporations and Companies etc. administratively controlled by the Federal Government.

6. Ministries/Divisions are requested to kindly bring the above instructions to the notice of all concerned for information and compliance while making future recruitment.

7. For removal of any difficulty the interpretation of the Establishment Division shall be final."

6. Learned Law Officer adds that the afore-referred notification also finds mention in the Federal Public Service Commission Rules for Competitive Examination, 2014. Learned Additional Advocate General, Punjab, has also placed on record a notification dated 27-3-2010, which is to the following effect:

"No. SCR-III(S&GAD)1-35893. In exercise of the powers conferred under Section 23 of the Punjab Civil Servants Act, 1974 (VII of 1974) and in supersession of Notification No.SOR-III(S&GAD)1-35/ 1993, dated 23-10-2009, the Governor of the Punjab is pleased to direct that notwithstanding anything contained in the method of

recruitment prescribed in all the services / recruitment rules, 5% quota shall be reserved for Minorities (Non-Muslims) as defined in the Article 260(3)(b) of the Constitution of Islamic Republic of Pakistan, 1973, against the total number of posts advertized in future, including the posts to be filled on the basis of competitive examination to be conducted by the Punjab Public Service Commission. However, all the conditions prescribed under the respective service rules shall continue to apply.

2. The reservations of vacancies referred to above will not apply to:--

(i) appointment made by promotion or transfer in accordance with the relevant rules;

(ii) short term vacancies likely to last for less than six months;

(iii) isolated posts in which vacancies occur only occasionally; and

(iv) vacancies reserved for Minorities for which qualified candidates are not available. These vacancies shall be treated as unreserved and filled on merit."

7. Learned Additional Advocate General, KPK, also admits that in the KPK Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, Rule 10 specifically provides reservation of 5% quota for minorities in all provincial services. Learned Additional Advocate General Balochistan has made a similar statement with regard to the reservation of special quota for minorities in provincial service.

8. We find that the incidents of desecration of places of worship of minorities could be warded off if the authorities concerned had taken preventive measures at the appropriate time. The Court also found that the inaction on the part of law enforcement agencies was on account of the lack of proper understanding of the relevant law. For instance, the Court was surprised when the learned Additional Advocate General, Sindh, on Court query submitted that the desecration of places of worship of minorities was not blasphemous and not an offence under the Pakistan Penal Code. When he was confronted with section 295, P.P.C. he had nothing to say but to concede that desecration of places of worship of even a non-Muslim is an offence under the P.P.C.

9. There is a general lack of awareness about minority rights among the people and those entrusted with enforcement of law are also not fully sensitized to this issue either. It needs to be reiterated that under the Constitution minorities have a special status. This Constitutional status has a historical background. It would be counter intuitive if the right to freedom of religion enshrined in Article 20 is interpreted in the manner which has the effect of encroaching upon religious freedoms of minority religions in Pakistan. According to Tayyab Mahmud, Professor at Seattle University School of Law and Director of the Centre for Global Justice, "The express guarantees for freedom of belief and practice of religion, rule of law, due process, equal protection, and a progressive legislative agenda, proffered by the leadership of the Pakistan Movement, constitute an implied social covenant with religious minorities in Pakistan[2]. The protection of the freedom of religious belief and practice of all communities was indeed the predominant right asserted in several propositions and resolutions passed by

the All India Muslim League (AIML). Despite the fact that members of the AIML were being strongly influenced by secular liberal thought, the idealogy underlying the Pakistan Movement was the creation of a separate nation state for the protection of the interests of the Muslim minority in India. However, these freedoms were not limited to the protection of the Muslim minority but all religious minorities. One of the famous Fourteen Points enumerated by Mohammad Ali Jinnah on proposed constitutional changes was that "full religious liberty, i.e. liberty of belief, worship and observance, propaganda, association and education shall be guaranteed to all communities.[3]" Furthermore, "adequate, effective and mandatory safeguards should be specifically provided in the Constitution for minorities in these units and in the regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them" as stated in the Resolution adopted by the 27th Annual Session of the AIML at Lahore on 22-24 March 1940, which we now celebrate as Pakistan Day. Thus the very genesis of our country is grounded in the protection of the religious rights of all, especially those of minorities.

10. It was because of the historical context given in the preceding para that in all the constitutional dispensations eversince the creation of this country besides Islamic provisions, the religious freedom and minorities' rights were always provided for. The clauses and terms in the Constitution of Islamic Republic of Pakistan, 1973, relatable to religion are as under:-

(a) Religion [Preamble, Articles 2, 20, 21, 22, 26, 27].

(b) Islam [Preamble, Articles 1, 2, 19, 31, 40, 62(d)(e), 203C(3A), 203D, 203E, 203H, 227, 228, 229, 230, 231]

(c) Muslim [Preamble, Articles 31, 40, 41, 91, 203B(c), 203C(2), 203E(4), 203F(3)(a), 230, 260(3)(a), 227]

(d) Quran and Sunnah (Preamble, Articles 227, 228, 230)

(e) Sects (Articles 20, 28, 33, 227)

(f) Belief, Faith and Worship [Preamble]

(g) Non-Muslim [Articles 37, 51, 59, 62, 106, 224, 227, 260(3)(b)]

(h) Minorities [Preamble, Article 36]

11. An examination of the abovementioned various religion oriented provisions of the Constitution tells us that various rights and privileges are conferred on various persons and entities. These can be categorized as follows:--

(a) A special place has been conferred to Islam as a religion.

(b) Muslims have been conferred certain non-religious privileges in comparison to Non-Muslims [For example; The President and the Prime Minister can only be a Muslim under Articles 41 and 91].

(c) Various provisions seek a positive enforcement of the Islamic way of life [For example, the establishment of the Council of Islamic Ideology and the Federal Shariat Court].

(d) Within the positive enforcement of the Islamic way of life as described in para (c) above, the existence and importance of sects is recognized [For example, Articles 227 and 228].

(e) Various rights and protections are conferred on Non-Muslims/ Minorities.

(f) Regardless of the rights and privileges described in Paras (a) to (e) above, the right to religious conscience is a right equally granted to all citizens, religious denominations and sects.

12. A reference to the provisions which specifically provide for religious freedom and minorities' rights would be pertinent. Those are:--

"20. Subject to law, public order and morality,--

(a) every citizen shall have the right to profess, practise and propagate his religion; and

(b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

21. No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

22. (1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

(2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(3) Subject to law,

(a) no religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and

(b) no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religious, caste or place of birth.

(4) Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens.

28. Subject to Article 251 any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose.

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

13. Religion has played an important role in human history, and faith has influenced the minds and actions of individuals, societies and nations down the ages. By freedom of religion and belief is meant the right of a person to follow a doctrine or belief system which, in the view of those who profess it, provides spiritual satisfaction. However, it is impossible to define the term 'religion' in rigid terms. The freedom of religion must then be construed liberally to include freedom of conscience, thought, expression, belief and faith. Freedom, individual autonomy and rationality characterize liberal democracies and the individual freedoms thus flowing from the freedom of religion must not be curtailed by attributing an interpretation of the right to religious belief and practice exclusively as a community-based freedom. The freedom of religion and conscience has been protected in several treaties and declaration[4]. Article 18 of the United Nations Covenant on Civil and Political Rights, 1966 provides as follows:--

"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief or belief in worship, observance, practice and teaching."

14. The fundamental right to freedom of religion and belief was articulated at the international level by the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. These human rights norms then serve as moral checks and efforts are continually being made to incorporate these rights into domestic laws. The Supreme Court of Pakistan has invoked International Human Rights norms in numerous cases[5]. It is evident from a bare reading of these provisions that the freedom of conscience cannot be separated from the freedom of religion. While the freedom of conscience is an individual right, the right to religion has both individual and community based connotations. Sub-article (a) of Article 20 of the Constitution also recognizes the individual and communal nature of the right to freedom of religion as it addresses "every citizen" and "every religious denomination and every sect thereof" and one aspect cannot trump the other. Moreover, the individual aspect to the freedom of religion applies both against inter-religion and intra-religion conflict.

15. Of all the Articles relating to the minorities' rights, Article 20 is of prime significance. A close reading of this provision would indicate that the freedom to

practice religion and manage religious institutions under this provision is multifaceted because:

(a) The right to religious conscience conferred under this Article does not make any distinction between majority and minority or Muslim and Non-Muslim. It is in the nature of an Equal Religious Protection Clause conferred on every citizen, every religious denomination and every sect thereof. This equal religious protection clause is in the same nature as the equal justice under the law and equal protection under the law clauses conferred under Articles 4 and 25. In other words, every absolute equality and there is no distinction among citizens, religious denominations and sects thereof, as far as the right to religious conscience, is concerned.

(b) The right to religious conscience is a fundamental right. It has not been subjected or subordinated to any other provision of the Constitution because it is only subject to law, public order and morality and not to any religious clauses of the Constitution. The very term law, public order and morality has been used in non-religious terms as the notion of law or public order or morality is not reducible to the Islamic meanings of these terms. Therefore, Article 20 has a certain preeminence in the Constitution being only subject to the general restrictions of law, public order and morality, which three terms cannot be interpreted or used in such a restrictive way as to curtail the basic essence and meaning of the pre-eminent right to religious conscience.

(c) The right to profess and practice is conferred not only on religious communities but also on every citizen. What this means is that every citizen can exercise this right to profess, practice and propagate his religious views even against the prevailing or dominant views of its own religious denomination or sect. In other words, neither the majority religious denominations or sect nor the minority religious denomination or sect can impose its religious will on the citizen. Therefore, not only does it protect religious denominations and sects against each other but protects every citizen against the imposition of religious views by its own fellow co-believers. It needs to be mentioned here that every citizen would necessarily include both males and females (Article 263), which point needs emphasis considering the exclusion or subordination of women in relation to numerous forms of religious practices.

(d) As far as every religious denomination is concerned, even sects within these religious denominations have been conferred the additional right to establish, maintain and manage its religious institutions. Therefore, even sects within these religious denominations have been protected against their own co-religious denominations.

(e) The right of religious conscience conferred on every citizen is a right conferring three distinct rights i.e. Right to Profess, Right to Practice and Right to Propagate. What this means is that Article 20 does not merely confer a private right to profess but confers a right to practice both privately and publicly his or her religion. Moreover, it confers the additional right not only to profess and practice his own religion but to have the right to propagate his or her religion to others. It is important to note that this propagation of religion has not been limited to Muslims having the right to propagate their religion but this right is equally conferred on Non-Muslims to propagate their religion to their own community and to other communities. This should not be seen as

a right to encourage conversions but more importantly, should be seen as a right against forced conversions or imposing beliefs on others because if all citizens have the right to propagate then no citizen has the right of forced conversion or imposing beliefs on others.

16. Article 20 must then be interpreted to guarantee the rights of the community as well as the right of the individual against those from his own or other religious communities - the ultimate goal being the eradication of religious intolerance in the society. English political philosopher John Stuart Mill in his treatise 'On Liberty' (1859) stated that "the great writers to whom the world owes what religious liberty it possesses, have mostly asserted freedom of conscience as an indefeasible right, and denied absolutely that a human being is accountable to others for his religious belief. Yet so natural to mankind is intolerance in whatever they really care about, that religious freedom has hardly anywhere been practically realized, except where religious indifference, which dislikes to have its peace disturbed by theologically quarrels, has added its weight to the scale."

17. Although in the West, the separation of the Church and the State and ultimately the Renaissance ushered in an era of objective reasoning, liberal democracy, freedom and secularism, it was soon realized that religion could not entirely be relegated to the private/individual realm. The political aspect of religion has been rife with conflicts, extremism and a claim of monopoly of truth which historically has not been without its toll in human suffering. A step towards resolution is promoting religious tolerance, which should be the underlying objective in interpreting the right to freedom of religion. In the subcontinent, the individual right of freedom to religion has occasionally been trumped by the right of the community, as in the above-cited Indian case of Sardar Syedna. It is imperative that the right to freedom of religion be restored as an individual and indefeasible right, while concurrently preserving and protecting this right at a communal level, where the latter does not infringe on the former. For, according to French writer, historian and philosopher Voltaire in his 'Treatise on Tolerance' (1763), "religion is instituted to make us happy in this life and the next. But what is required to make us happy in the life to come" To be just."

18. However, the question which calls for consideration is: do the minorities in practice enjoy the rights guaranteed to them in terms of the afore-referred provisions of the Constitution?

19. This question can best be appreciated if the socio-political conditions in the country are kept in view. Pakistan is a transitional democracy and like all other countries (similarly placed) is confronted with competing political and social challenges. Most of the political institutions of consequence are in the process of evolution. However, the defining feature of a democratic governance is complete dedication and adherence in every day life to the seminal principles of equity, justice and inclusion of all irrespective of their colour, creed, caste, sex or faith. The sustainability of democracy depends on how best these challenges are met. Democracy is not an unmixed blessing; on the one hand it confers respect for minorities' rights and on the other it provides a platform where intolerance and hatreds get leeway leading to societal friction and violence. Such intolerance and hatreds have found their way in the social media as well

and no effort has been made to check it. The English Daily Dawn alluded to this trend in social media in its editorial comment (dated 9th of June, 2014) and said that:--

"A Small-scale survey conducted by the online freedom of expression group Bytes for All of hate speech in social media used and frequented by Pakistanis has produced some disturbing, though not unexpected, results. Over 91 pc of nearly 600 respondents surveyed claimed to have come across hate speech online and a partial analysis of 30 popular Facebook and Twitter pages and accounts has shown how user comments are usually peppered with some form of hate speech. The names of the targeted groups will also cause little surprise: Shias, Ahmadis, Indians/Hindus, atheists/unbelievers, state institutions, women, gender minorities, Jews and local ethnicities. To be sure, views expressed online do not automatically reflect the views of wider society especially in a country where roughly 10pc of the population is believed to be online. Yet, with the 3G/4G telecommunications revolution now just a matter of weeks or perhaps months, the number of Pakistanis online will certainly climb dramatically and soon. Hate speech online will be disseminated even further as a result. Also while the anonymity of sitting behind a screen tends to coarsen public comments and discourse in the online world internationally, there is a case to be made that the younger, tech-savvy Pakistanis online are taking their cultural, and hate, cues, from a society where such talk is increasingly acceptable currency.

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While not every hateful word can or does lead to violence, there is surely more than just a correlation between the amount of hate speech against and the violence suffered by groups such as the Ahmadis and other religious minorities. With access to the online world about to explode, now is the time for some serious thinking."

It is because of absence of effective State action that despite elaborate textual guarantees for minorities' rights, empirical realities reflect a mixed bag, rather a dismal state of affairs.

20. The Human Rights Commission of Pakistan Report, 2013 on sectarian violence makes a sad reading. "In the first few weeks of 2013, sectarian violence claimed the lives of over 200 Hazara Shias in Balochistan. More than 200 sectarian attacks killed 687 people. Seven Ahmadis lost their lives in targeted attacks. In the deadliest attack ever against Pakistan's Christian citizens, over 100 people were killed in a Peshawar church. A Muslim mob torched a predominantly Christian neighbourhood in Lahore after a Christian man was accused of blasphemy. 100 houses were burnt as residents fled. Individuals charged with offences relating to religion included 17 Ahmadis, 13

Christians and nine Muslims. In Badin, dead bodies of two Hindus were dug up by mobs that claimed that the graveyards belonged to Muslims and only Muslims could be buried there."

21. On a query made from the Chief Secretary Balochistan, the letter intimated the Registrar of this Court that about 415 Hazaras who belong to Shia sect were killed on sectarian grounds in a period of 11 years.

22. The afore-referred report and other incidents of faith or ethnic based violence indicate that mere textual pledges in the Constitution, though important are not enough to ensure that those rights would be honored in practice. It is, therefore, important that the concerned governments/institutions take proactive lead to ensure that those rights are respected and enjoyed in practice.

23. No society or nation is bereft of its share in discrimination, ethnic or religious bias and the resultant violence. In 1526 the Bishop of London was tried on the charges of terrorism and the allegation was that he wanted to blow the Parliament House because the Protestants had won majority in the Parliament. In his final play Henry VIII, Shakespeare has his Archbishop predict, "the future Elizabeth will rule by a mixture of peace, plenty, love and a just measure of terror." For hundred of years the Northern and Southern Irelanders fought with each other and wrecked violence in the name of faith.

24. When we think of such incidents of violence in the name of faith, we are always reminded of a quote from the Holy Quran[6] wherein such acts have not only been condemned but have been classified as crimes against humanity. It ordains:-



Translation:

"On that account, We decreed to the Children of Israel the Eternal Moral Ordinance for all humanity (2:178) that whoever kills a human being, unless it is in the course of justice for murder or bloody crimes on the earth, it shall be as if he killed all mankind. And whoever saves one life it would be as if he saved the life of all mankind. Our Messengers came to people with clear Truth, yet many of them continued to transgress in the earth."

25. Islam does not compel people of other faiths to convert. It has given them complete freedom to retain their own faith and not to be forced to embrace Islam. This freedom

is documented in both the Holy Quran and the Prophetic teachings known as Sunnah. ALLAH addresses the Prophet Muhammad (PBUH) in the Quran:

"If it had been your Lord's will, they would all have believed all of who are on earth! Will you then compel humankind, against their will, to believe[7]?"

..

"Let there be no compulsion in religion; truth stands clear from error: whoever rejects false gods and believes in God has grasped the most trustworthy hand-hold that never breaks. And God hears and knows all things.[8]"

26. Not only does Islam give the freedom of religions freedom to non-Muslims, its tolerant law extends to the preservation of their places of worship[9]. ALLAH says in the Quran:

"(They are) those who have been evicted from their homes without right ---- only because they say, 'Our Lord is God.' And was it not that God checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of God is much mentioned (praised). And God will surely support those who support Him (meaning His cause). Indeed, God is Powerful and Exalted in Might.[10]"

27. The Muslim Caliphs used to order their military leaders who went on military campaigns to take steps to guarantee this matter. The first example is the command of Abu Bakr to Usman ibn Zayd:

"I command you to do then things: kill no woman, no child, nor an elderly person; do not cut down fruit trees, or vandalize homes, or burn it, do not be treacherous; do not be cowardly; and you will pass by people who have devoted themselves to monastery life; leave them alone to their devotions.[11]"

28. The second example is the treaty of Umar ibn al-Khattab with the people of Iliya of Jerusalem:

"This is the security given by the slave of God, Umar, the Commander of the Faithful, to the people of Iliya: they are guaranteed the security if their persons, possessions, churches, crucifixes, and everyone within, whether sick or in good health, as well as everyone in their community. Their churches will not be occupied or demolished, nor will anything be taken from them: neither furnishings nor crucifixes or money. They will not be forced away from their religion, or harmed because of it. They will not be occupied by the Jewish settlers in Illiya.[12]"

29. One of the foundational aims of all the major religions in the world has been to eradicate this bias and to preach humanism. However, in practice on account of

misinterpretation of some of the religious tenets, religion instead of liberating human beings from these curses of bias have enslaved them which has resulted in violence and human misery. Governments and parliaments in almost all modern democracies have endeavored to undo the injustices done to the minorities in the past.

30. In 1954 the U.S. Supreme Court in the case reported as Brown v. Board of Education of Topeka (347 US 483 (1954) abolished segregation in schools and ensured implementation of its judgment by directing the dispatch of federal troops to the concerned State. In the said judgment, the U.S. Supreme Court came a long way from its earlier judgment in Dred Scott v. Sandford (60 U.S. 393 (1857) where a colored was refused a status of a citizen. In not too distant past, the country elected a coloured as its President i.e. Mr. Barack Hussein Obama.

31. In Canada only last month, the Parliament of British Colombia had to pass a resolution of apology for discrimination and injustices meted out to Chinese immigrants. The daily 'Globe and Mail' editorially commented on this development and said:--

"It continues to be shocking that, as recently as 1947, there was explicit institutional racism against Chinese immigrants to Canada.

Last Thursday, the Legislative Assembly of British Columbia finally passed a motion to apologize to Chinese Canadians.

Canada as a whole was deeply implicated. Though B.C. was the province chiefly concerned, the two most important laws that discriminated against Chinese immigrants were passed by the Parliament of Canada.

Eight years ago, after he became Prime Minister, Stephen Harper moved promptly to offer an apology.

According to the B.C. apology - a bipartisan motion presented by Premier Christy Clark - past B.C. governments enacted more than 100 laws, regulations and policies directed against the Chinese from 1871 to 1947. Jenny Kwan, an NDP MLA, gave the most substantial historical speech, pointing to 89 bills and 49 resolutions actually passed and seven reports delivered against Chinese Canadians and other non-whites. Almost every session of the House between 1872 and 1928 took such measures, and there were many other such motions, proposals and MLAs' questions.

Early on, the fear of wage levels being undercut by immigrants was at least briefly set aside at the urging of Sir John A. Macdonald, who argued that the CPR would never get built without the labour of Chinese railroad workers.

The head tax - an oppressive economic disincentive to Chinese immigration enacted in 1885 - was not in the end effective. But anti-Chinese xenophobia seems only to have begun to wane when the Canadian government started to conscript Chinese Canadians in the Second World War. The very restrictive and discriminatory Chinese Immigration Act was finally repealed in 1947, in the same year that Canada passed its first

Citizenship Act, and in the period in which the Atlantic Charter, the Charter of the United Nations and the Universal Declaration of Human Rights all emphasized our universal humanity.

Thus, war and peace both worked against institutional racism.

Of course, racism itself and some of its legacies are not dead. But progress, after all, is possible. And progress there has been." (Globe Editorial "B.C.'s overdue apology to Chinese Canadians' dated 18th of May, 2014)

32. It requires a strong moral courage for an individual or a nation to apologize for having wronged a community. It is time for us as a nation and as individuals to have a moment of reflection, a moment of soul searching and perhaps a moment of reckoning to ask ourselves; have we lived by the pledges made in the Constitution and by the vision of Quaid-e-Azam Mohammad Ali Jinnah, the founder of this country who in his very first address to the Constituent Assembly on 11-8-1948 said:

"You are free; you are free to go to your temples. You are free to go to your mosques or to any other place of worship in this State of Pakistan. You may belong to any religion or caste or creed-that has nothing to do with the business of the State."

33. The vision reflected in afore-quoted excerpt from the speech is the inspiration behind "Justice for All" (a poem created by one of us i.e. Mr. Justice Tassaduq Hussain Jillani) which has been declared the Judicial Anthem by the Full Court and has been adopted by the Pakistan Bar Council as its theme song for its functions. The poem reads as follows:--

The toil, the sweat, the tears and the blood,

Make up the labor for the land begot.

The freedom is won, but the chains are clung,

There are miles to cover,

The voyage is tough and the weather is rough,

The odyssey begins; The Founder declares his vision

Of Democracy, Faith, Tolerance and Compassion.

Discriminate the State shall not

Thou may belong to any religion, creed or caste.

Oh! The vision is distorted, the march is thwarted,

Castles in the sand, babes in the woods,

Recipes of fall abound in the books.

The nation is cut, the land is bled

When the message is lost, a die is cast,

The wages are loud, Beware of the clouds.

Long live the message, the Lamp and the rays

That glow The Temple, which holds the scales,

Pinning the dreams, the hopes and the oath
Of Justice for All

34. The Supreme Court, being the apex court in a liberal democracy, is mandated to protect and defend the Constitution which embodies the fundamental rights of its citizens. Thus, while deciding cases entailing inter-faith or intra-faith conflicts, the Courts should keep in view the fact that there are some in every faith who seek to interpret religion in myopic terms. In evangelistic exuberance, they tend to forget that the message of all faiths is common and for the benefit of the entire humanity.

35. As Voltaire aptly stated in his 'Treatise on Tolerance' (1763): "O different worshippers of a peaceful God! If you have a cruel heart, if, while you adore he whose whole law consists of these few words, 'Love God and your neighbor,' you have burdened that pure and holy law with false and unintelligible disputes, if you havelighted the flames of discord sometimes for a new word, and sometimes for a single letter of the alphabet; if you have attached eternal punishment to the omission of a few words, or of certain ceremonies which other people cannot comprehend, I must say to you with tears of compassion for mankind: 'Transport yourselves with me to the day on which all men will be judged and on which God will do unto each according to his works.'

36. The spirit of pluralism reflected in the Holy Quran constantly points out that Muhammad (PBUH) had not come to cancel the older religions, to contradict their Prophets or to start a new faith. To the contrary, His message is the same as that of Abraham, Moses, David, Solomon or Jesus. The cherished goal of creating a more pluralistic society where fundamental rights are respected would continue to elude us unless we realize that we are living in a world of globalized interdependence, a world of interconnectivity, of cyber space, of shrunken distances, of cross border migration, and a world of rapidly changing cultural identities. We are all members of one race of humans with common challenges, and we cannot confront these challenges without forging a common alliance. This paradigm shift in the world around us can be achieved at the international and domestic levels only by discouraging sectarian, racial and ethnic biases which are violative of shared values and fundamental rights, and by the promotion of and strict compliance with these values and rights.

37. For what has been discussed above, we hold, declare and direct:--

(i) the Federal Government should constitute a taskforce tasked with developing a strategy of religious tolerance;

(ii) appropriate curricula be developed at school and college levels to promote a culture of religious and social tolerance. In 1981 in one of its seminal declarations, the United Nations resolved that "the child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in the spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men." (UN Declaration on the Elimination on All Forms of Intolerance and of Discrimination Based on Religion or Belief)

(iii) the Federal Government should take appropriate steps to ensure that hate speeches in social media are discouraged and the delinquents are brought to justice under the law;

(iv) a National Council for minorities' rights be constituted. The function of the said Council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law. The Council should also be mandated to frame policy recommendations for safeguarding and protecting minorities' rights by the Provincial and Federal Government;

(v) A Special Police Force be established with professional training to protect the places of worship of minorities.

(vi) In view of the statement made by learned Attorney General for Pakistan and learned Additional Advocate Generals of Punjab, KPK and Balochistan regarding reservation of quota for minorities in the federal and provincial services, it is directed that the Federal Government and all Provincial Governments shall ensure the enforcement of the relevant policy directives regarding reservation of quota for minorities in all services.

(vii) in all cases of violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities, the concerned Law Enforcing Agencies should promptly take action including the registration of criminal cases against the delinquents.

(viii) The office shall open a separate file to be placed before a three Members Bench to ensure that this judgment is given effect to in letter and spirit and the said Bench may also entertain complaints/petitions relatable to violation of Fundamental Rights of minorities in the country.

38. These proceedings stand disposed of having fructified in terms noted above.

MWA/S-14/S Order accordingly.

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