



CENTRE FOR PUBLIC POLICY  
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# DISCUSSION PAPER

## National Commission for Minorities Act 2023 'AN EXPECTATION FOR A BETTER TOMORROW'

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**National Commission for Minorities Act 2023**

**'AN EXPECTATION FOR A BETTER TOMORROW'**

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**Summary:** *This Discussion Paper reviews National Commission for Minorities Act (NCMA) 2023. It posits a national action plan consistent with Pakistan’s international obligations, national, constitutional, demographic, and socio-political frameworks, and requirements of the Act for protection and promotion of rights of religious minorities. This paper conducts a reappraisal of governance structure and sets out proposals for optimum protection of minority rights.*

**Keywords:** *Minorities, National Commission for Minorities Act 2023, National Action Plan, Proposal for Governance Structure*

**List of Acronyms.**

HRD	Human Rights Declaration
NACTA	National Counter Terrorism Authority
NCMA	National Commission for Minorities Act
PTI	Pakistan Tahreek e Insaf
PDM	Pakistan Democratic Movement
SPU	Special Police Unit
UNESCO	United Nations Educational, Scientific and Cultural Organization

## Background

Religious minorities in Pakistan continue to face serious challenges in their daily lives. These include insecurity, intolerance, discrimination, denial of human, economic, social and constitutional rights and impediments in growth as individuals and communities. Taking cognizance of the dismal situation, the Supreme Court in 2014<sup>1</sup> - vide a judgement titled [SC 699] (hereinafter the Judgment) directed the Federal government to constitute a Task Force for developing a strategy for religious tolerance develop appropriate curricula at school and college levels to promote a culture of religious and social tolerance, discourage hate speeches in social media and bring the delinquents to justice under the law. The Judgement also directed the government to constitute a National Council of Minorities Rights to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and the law and frame policy recommendations for safeguarding and protecting such rights.

The Federal government due to its preoccupation with war against terrorism did not take any action on the Judgment, other than including prevention of hate speech in National Action Plan 2014<sup>2</sup>. This too was removed in 2021<sup>3</sup>. After waiting for four years a group of civil society organizations<sup>4</sup> brought the inaction to the attention of the Supreme Court, which in turn constituted a three-member monitoring bench to review progress on implementation of the Judgement. The bench designated a single member commission led by Dr Shoaib Suddle to implement the Judgement. The Suddle commission proposed that the government should constitute a task force at federal level to develop a strategy for religious tolerance. It should develop appropriate curricula to promote religious and social tolerance and ensure that the Federal Government takes steps to discourage hate speech in social media and push a bill to constitute a National Council of Minorities<sup>5</sup>. It should establish Special Police Units to protect religious places of minorities, implement 5% minority employment quota at provincial and federal levels and monitor violations of the rights of the minorities etc. Even this direction for formulation of national commission for minority rights remained unfulfilled.

Under the scrutiny of the Supreme Court, in February 2020, the Ministry of Religious Affairs and Interfaith Harmony of the government of Pakistan Tahreek e Insaf (PTI), requested for two months to implement the Judgment. The Ministry under an administrative order constituted a minorities commission comprising six unofficial and twelve official members

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<sup>1</sup> PLD 2014 SC 699, resulted from a sou moto by three member bench headed by Tassaduq Hussian Jillani HCJ. The SC Judgement, accessed at <https://www.refworld.org/pdfid/559e57644.pdf>

<sup>2</sup> National Action Plan 2014, Item Number 5: Strict action against the literature, newspapers and magazines promoting hatred, extremism, sectarianism and intolerance. Accessed at <https://nacta.gov.pk/nap-2014/>.

<sup>3</sup> *ibid*, The plan was revised in 2021 categorizing action in kinetic and non kinetic domains. The agenda point for countering hate speech was removed from the plan

<sup>4</sup> Centre for Social Justice, the Human Rights Commission of Pakistan and the Cecil and Iris Chaudhry Foundation filed a public interest litigation in the Supreme Court to have the Judgment implemented.

<sup>5</sup> Mansoor Ali, The Dawn 29 April 2021. The Council of Islamic Ideology rejected Shoaib Suddle's Minority Commission Report terming it against the Constitution of Pakistan.

led by a member from the minority community<sup>6</sup>. The arrangement was not acceptable to the Supreme Court and the government of Pakistan Democratic Movement (PDM) in its brief fifteen months tenure and despite many other urgent pressures, studied the requirements of the Supreme Court and before completing its term enacted a bill titled ‘National Commission for Minorities Act 2023’<sup>7</sup> (hereinafter the Act). It is worth noting that the bill defines minorities in religious terms and does not include ethnic or other minorities.

The passing of the bill drew mixed reaction and some muted criticism. Few argued that the Commission should be titled National Commission for Minority Rights, while others suggested that government’s official representation in the Commission should be reduced. The Act, however, is a very important step forward, a major public policy instrument which should be welcomed by the minorities. It is for the first time that through the act of the Parliament a national level platform has been provided to protect and promote minority rights generating the feel for an expectation of a better tomorrow.

Anticipating the formation of the new elected government following the upcoming general election on 8 February 2024, this Discussion Paper provides a working document that can facilitate operationalizing the Commission at the earliest. For that purpose, this paper envisions three broad objectives; first, to analyze and evaluate the Act, Second, to provide a blueprint for a national action plan and thirdly, it renders few recommendations for enabling changes in effective governance of the Commission.

## **Brief Overview and Analyses of NCMA 2023**

The ‘Objects and Reasons’ of the Act states ‘Whereas it is expedient for constitution of a national commission for minorities to safeguard and promote social, economic, political and legal rights and interests of non-Muslims<sup>8</sup>, as provided by the Constitution of the Islamic Republic of Pakistan and in accordance with the duly ratified applicable international instruments relating thereto’.

The Act comprises six chapters. The first deals with preliminaries, like the title of the Act and definition of the terms used in the Act. The second lays out the composition of the Commission i.e. thirty members of which eighteen shall be non-official taken from different faiths<sup>9</sup> and twelve members shall be official; preferably at least one third of the members

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<sup>6</sup> Ministry of Religious Affairs and Interfaith Harmony News Letter 2012-22 informs that National Commission was constituted as per Federal Cabinet decision dated 02.07.1990 and reconstituted on 11 May 2020 with 6 official and 12 unofficial members and is headed by a non muslim member.

<sup>7</sup> National Commission for Minorities Act, accessed at [https://na.gov.pk/uploads/documents/64d33c944e65a\\_536.pdf](https://na.gov.pk/uploads/documents/64d33c944e65a_536.pdf)

<sup>8</sup> The term non-Muslim, shall have the same meaning as assigned to non - Muslims in paragraph (b) of clause (3) of Article 260 of the Constitution i.e. non - Muslim means a person who is not Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Qadiani group or the Lahori group (who call themselves Ahmadis or by any other name) or Baha’i, and a person belonging to any of the scheduled castes.

<sup>9</sup> Four Christian members, six Hindu, two Sikh, one Parsi, one Kalash, one Baha’is, one Buddhist and two Muslim members. The reason for inclusion of two Muslim members is not understood.

of the Commission may be women. It also enumerates the composition of the selection board and criteria for selection and nomination of the members, the Chairperson and Vice Chairperson of the Commission. It fixes their term for three years extendable by another term of three year. Composition of the twelve official members from different government departments assigned to support the Commission to perform various functions has also been listed. The Headquarters of the Commission will be in Islamabad with powers to set up sub offices or camp offices anywhere in Pakistan.

Chapter three enumerates twenty functions of the commission which the author has grouped into three major clusters and for action (1) protecting and promoting minority rights<sup>10</sup>, (2) creating awareness and advocating rights of minorities, (3) promoting tolerance, fostering interfaith harmony and ending discrimination. One function in the first cluster, mandates the Commission to develop a 'National Action Plan for Protecting and Promoting Minority Rights'.

Chapter four lists the powers of the Commission related to inquiries and states that the Commission shall, while inquiring into complaints under the Act have all the powers of a Civil Court trying a suit under the Code of Civil Procedures 1908. The Act provides for administrative and financial autonomy of the Commission and chapter five deals with funds, finances, accounts, and audit and directs that 'there shall be created a fund to be known as the National Commission for Minorities Fund' to be used by the Commission for performing its functions under the Act. The final chapter titled 'Miscellaneous' deals with reports, replies and matters related to the advisory role of the Commission.

## **Minority Rights: A Proposal for National Action Plan**

Pakistani experience shows that a national consensus driven and judiciously thought out National Action Plan can spur policy change, and lead to institutional improvisations and innovations. For instance the National Action Plan for Countering Terrorism as national security policy instrument, led to the creation of National Counter Terrorism Authority (NACTA) to implement the plan and led to several substantive outcomes. Similarly, the National Action Plan for Human Rights 2020 with six thematic areas and four priority fields, is a meaningful step forward for fostering human security and protecting rights of vulnerable sections of the society such as children, women and minorities. The Ministry of Human Rights, based on its action plan has undertaken several important initiatives including a fact-finding report about the hostile workplace discriminatory treatment which the minorities face<sup>11</sup>.

Given the context of the Act, this Discussion Paper proposes a National Action Plan for

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<sup>11</sup> The Act defines minorities' rights or rights of minorities including human rights in general, encompasses, subject to the constitution of Islamic Republic of Pakistan, special safeguards and protections provided by the law, including any affirmative measures and policy interventions to minorities, exercisable individually and collectively.

<sup>12</sup> National Commission for Human Rights, "Unequal citizens, ending systemic discrimination against minorities," 2022, accessed at <https://www.nchr.gov.pk/wp-content/uploads/2022/05/Minority-Report.pdf>

Minority Right to optimize the effectiveness of the Commission. The plan considers the dynamics of discrimination, marginalization and persecution that the minorities face in their daily lives<sup>12</sup>. The international treaties and regulations, national constitutional and socio - political frameworks under which the Commission will operate. It lays out the guiding principles and pathways for action for each of three clusters for action, consistent with the functions of the Commission<sup>13</sup>.

## International Legal Framework

*It is pertinent to note that there are nine core international human rights instruments, Pakistan has ratified seven of the nine, including the Human Rights Declaration (HRD). According to the HRD, Pakistan has considered to respect all individuals in the State without distinction of any kind including religion (Article 2). It ensures right to freedom of thought, conscience and religion and child protection (Articles 18 and 24) and has undertaken that persons belonging to religious minorities shall not be denied the right, in community with the other members of their group to enjoy their own culture, to profess and practice their own religion, or to use their own language (Article 27). Pakistan is also a signatory to International Covenant on Civil and Political Rights, a founding member of the Human Rights Council and an active member of the Commission on Human Rights and the Human Rights Council.*

In 2020, while seeking re-election to the Council of Human Rights, Pakistan indicated that further strengthening of the National Commission on Minorities is under way through administrative and financial empowerment measures. The Government is also working on a national interfaith harmony policy and an expert working group on the preparation of an action plan against religious persecution has been constituted. Pakistan made an additional voluntary pledge to continue to work at national level towards the development of policies and programs for countering hate speech<sup>14</sup>. These treaties, conventions, articles, and commitments / pledges by the government provide an overarching framework and direction for the Commission.

One of the tasks of the Commission is to study the application of international minorities' rights, agreements and conventions, and provide the Government with reports, proposals, or recommendations necessary for effective application of such rights, agreements and conventions. This is a huge undertaking which the Commission cannot undertake without the dedicated support of specially formulated institution for minority studies and academia in general.

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<sup>12</sup> Hamza Haroon, Protection of Minority Rights in Pakistan's Constitution: Adequacy, Discrimination and Marginalization, August 2023. Article can be found at [courtingthelaw.com](http://courtingthelaw.com)

<sup>13</sup> The Commission may also like to consult the draft National Action Plan which as per Ministry for Religious Affairs and Interfaith Harmony is parked with Cabinet Division. Non availability of the plan to the public inhibits the author from including its review in this Discussion Paper.

<sup>14</sup> Note verbale dated 18 June 2020 from the Permanent Mission of Pakistan to the United Nations addressed to the Secretary-General



Pakistan has ratified 'Discrimination (Employment and Occupation) Convention 1958 (No III) but as per a fact finding report<sup>15</sup> by Ministry of Human Rights some governmental departments blatantly disregard Pakistan's international obligation by advertising in newspapers and media that cleaning jobs are only reserved for minorities and if the members of the minority communities apply for other jobs for which they qualify, they are asked to apply for cleaning jobs only. This bodes negatively on Pakistan's standing in the comity of the nations hence effective action against the errant is necessary which can be best undertaken if the Commission besides being accorded the powers of inquiry is also empowered with powers as a Court.

## **Constitutional and National Regulatory Framework**

The Constitution establishes Islam as the state religion but also guarantees freedom of religion. The Preamble states 'adequate provisions shall be made for the minorities to freely profess and practice their religions and develop their cultures'. The Constitution commits that 'the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam shall be fully observed' and then guarantees fundamental rights, including equality of status, of opportunity before law, social, economic, and political justice, freedom of thought, expression, belief, faith, worship and association, subject to law and public morality'. It lays down that adequate provisions shall be made to safeguard the legitimate interests of minorities, backward and depressed classes, and aspires for the creation of an egalitarian society, in which all people are equal and deserve equal rights and opportunities.

The Constitution has several articles that guarantee Fundamental Rights; Article 20 'Freedom to profess religion and manage religious institutions'. Article 22 'Safeguards of educational institutions in respect of religion..'. Articles 25 renders all citizens equal before the law and Articles 26 and 27 prohibits discrimination. Article 36 provides for protection of minorities and Article 37 (a) directs to promote with special care, the educational and economic interests of backwards classes or areas. The Constitution more than adequately provides for minority rights, sadly in practice the situation is different. The public at large is not fully informed about these rights and a small segment of extremist actors of the society blatantly refute them and frequently subject the minorities to violence.

The Constitution also contains some articles which restrict minorities from aspiring to high offices. Article 42 (2) disqualifies non-Muslims for election to the office of the President. Likewise in most governmental departments, minorities are treated like second class citizens and are not promoted to high offices. Another source of major concern for minorities are the Blasphemy Laws. Justice Dorab Patel observed that "It is considered that these (blasphemy)

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<sup>15</sup> Ibid, Ministry of Human Rights, "Unequal Citizens, Ending Systemic Discrimination Against Minorities NCHR Fact Finding Report May 2022". <https://www.nchr.gov.pk/wp-content/uploads/2022/05/Minority-Report.pdf>

articles inadvertently create conditions for spread of religious fanaticism. His observation is supported by numerous incidents in which minorities based on these articles, have been and are likely to be targeted in future as well. Amnesty International observed a common feature of accusations of blasphemy in Pakistan is the way they are uncritically accepted by prosecuting authorities, who themselves may face intimidation, threats and accusations should they fail to accept them. Similarly, ill-treatment is frequently reported, and may be exacerbated by the emotional manner in which charges of blasphemy are brought and publicized and those accused vilified by their accusers<sup>16</sup>. Following the incident of violence against the Christian minorities in Jaranwala reports surfaced that district administration of a certain district had allowed the implementation of Blasphemy laws to a religious organization in its jurisdiction.

Foregoing in view, the Act requires the Commission to assess and monitor implementation of the constitutional guarantees and safeguards the protection of rights of minorities. It proposes the examination and review of existing or proposed policies or programs, plans of action, legislation, rules' regulations, administrative instruments or affirmative measures and recommend amendments', give advice or propose suggestions for the prevention of discrimination and protection of the rights of minorities. The Constitution of Pakistan establishes the constitutional regulatory framework, while the functions of the Commission equip it with the legal mandate to solicit affirmative action for providing relief to the minorities.

## Demographic Profile and Socio-Political Framework

The 2023 census records 96.3% population is Muslim while 3.7% are minorities i.e. 2.14% Hindus, 1.6% Christians, while Sikhs, Buddhists, Baha'is and Zoroastrians are around 1% and Ahmadi's are .02%. It also notes that overtime (contrary to the general trend in the country) the population of minorities has shrunk. But within the minorities the population of Hindus has grown. Reportedly Umerkot in the province of Sindh is now a Hindu majority district.

Where it concerns the representation of the minorities in the national parliament, they have been allocated one seat in Senate, 10 seats in National Assembly and 23 seats in provincial assemblies. These are distributed proportionally amongst the political parties based on the outcomes of the elections. However, the members of the minority communities who get elected (like women parliamentarians) are nominated by their respective political party. They are not elected directly by the minorities and have no stakes in representing them. Their claim for representation is largely dependent on the largesse of their respective party chief. The Commission will have to address this anomaly. The country in the past has unsuccessfully experimented with the system of separate electorates, while the current arrangements are

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<sup>16</sup> Amnesty International July 1994, AI Index: ASA 33/08/94. Retired Supreme Court Judge Dorab Patel, Chairman of the non-governmental Human Rights Commission of Pakistan, declared that the blasphemy law should be amended as it contributes to religious "fanaticism".

equally unproductive. Possibly, the remedy lies in allowing double vote to the minorities<sup>17</sup>.

## Guiding Principles and Pathways for Action

**Guiding Principles:** Based on the international and national constitutional and socio-political frameworks, emergent self-explanatory guiding principles for the Commission and formulation of the national action plan are (1) rights-based approach, (2) equality and transparency in functioning, (3) collective constitutional obligation and social responsibility for protecting minority rights (4) proactive wholesome participation by minority communities.

**Implementation Mechanism:** The Act provides for the constitution of Executive and Sub Committees for optimum functioning of the Commission. It is proposed that the unofficial members of the Commission be distributed in two-to-three-member sub committees each, tasked to oversee and coordinate work in the three clusters of action i.e. (1) Protection and Promotion of Minority Rights, (2) Awareness and Advocacy of Rights of Minorities and (3) Interfaith harmony to promote tolerance, prevent discrimination and violence against minorities. The pathways for action for each of these these clusters are outlined below:

### Protect and Promote Minority Rights

- **Help Line / Complaint Office**
  - Designate a subcommittee to operationalize, maintain and monitor a user friendly helpline and a complaint office equipped with appropriate IT infrastructure to register complaints (call, text, mail), categorize the complaints and process them for internal review, legal advice and full cycle follow up action till administration of justice.
  - The subcommittee should ensure public transparency and visibility of the help line and complaint office, manned by qualified individuals and supported by a responsive feedback mechanism. The helpline and complaint office should be easily accessible to public, including the progress on the complaint visible to complainant.
- **Legal Support**
  - Designate a subcommittee to create internal capacity to undertake inquires, provide legal support to complainants for complaints registered under the Act. Where appropriately assist them in pursuing their complaints with relevant authorities.
  - On receipt of an application by a victim or on his behalf or on reference by Government or by Supreme Court of Pakistan, a High Court or by itself inquire (with full powers of as civil court) into, or refer to a concerned agency for investigation or inquiry into allegations:

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<sup>17</sup> Azam Meraj, The Identity (Shanakht Nama) 2017. He has painstakingly documented the contributions of Christians for defense and development of the country and written extensively on the rationale for a double vote.

- any violation of rights of minorities or abetment or aiding thereof by any organization, public or private or any body, department, authority or instrumentality of any Federal, Provincial or local government,
- any neglect or willful breach of any Provision of law in the prevention of or fair and independent inquiry or investigation of such violations by any person or authority.
- Subject to any relevant law, rules, regulations, and policy, participate in proceedings involving violation of rights of minorities, before a civil society forum or police or a court by becoming a party to such proceedings.
- Subject to any relevant law, rules, regulations, and policy, ensure that a member of the Commission or any person authorized by it in this behalf visits police station, jail or any other place of detention under the control of Government or its agencies, where convicts, under trial prisoners or detainees being minorities or lodged or detained to ascertain legality of such detention and recommend appropriate remedial measures to the concerned authorities.
- Monitor media and register incidents of hate speech and judiciously process them for action by relevant authorities.
- Participate in government efforts in the context of SDG 16 for 'promoting peace, justice and strong institutions' with a view to improve access of minorities to justice.
- **Job Quota**
- Designate a subcommittee to develop mechanisms to maintain up to date record of 5% job quota availed by minorities and display the statistics on the Commission webpage<sup>18</sup>.
- In collaboration with federal and provincial governments, legislate non transferability of the 5% job quota in governments departments including armed forces and allied departments as special reservation for minorities and foster its applicability in private sector.
- Collaborate with stakeholder ministries to increase employment opportunities for minorities including but not restricted to SDG 8 i.e. 'Decent Work and Economic Growth'.
- Implement 'Awareness Advocacy Strategy':

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<sup>18</sup> Reportedly a 2022 census of the vacant posts reserved for minorities at the federal level and in all the four provinces indicated.... more than 33,000 posts allocated to minorities right from grade 1 to grade 17 had been lying vacant. Some 61 percent of Punjab's gazetted seats reserved for minorities remain unfilled, A special CSS examination was conducted on 12 October, 2023 for minorities and women based on the recommendations of the Suddle Commission.

- Encourage minority communities to improve school attendance, ensure education institutions belonging to minority communities maintain at least 10% seats including scholarships for poor sections of minorities, create an endowment fund and initiate scholarship scheme for meritorious students of minority communities.
- Organize seminars, workshops, and discussions on other public fora to inform minorities on how to avail the 5% job quota reservation. Solicit funds and resources for empowering minority run technical training institutions for skill transfer programs. Organize training sessions to prepare applicants for competitive exams at national and provincial levels like the program run by Forman Christian College for minority communities.
- Organize annual prize distribution to recognize minority run institutions which contribute effectively towards education and job creation of minority communities.
- Through public forums sensitize private sector for reserving 5% Job Quota for minorities. Encourage training sessions to prepare applicants for national level examinations like central and provincial services.
- Ensure that personal protection equipment is provided to workers wherever they are engaged with hazardous work and their lives are ensured. Expedite payment of such dues and devise a mechanism for prompt payment in future.

## Minority Rights and Protection

- **Protection and Upkeep of Worship Places of Minorities**
- Designate subcommittee to maintain up to date and accurate database of worship places of minorities. It should be linked with national archives and printed catalogues should be widely distributed. Coordinate with stakeholder departments and concerned minority community for their upkeep, rehabilitation, and preservation and arrange special grants. Facilitate communities to recover their usurped lands and strengthen laws for their protection, sale and recovery.
- In concert with federal and provincial governments ensure effective functioning of a special police unit (SPU) at provincial and federal levels designated for protection of worship places of minorities. Institute measures for effective coordination between the minority communities and SPU for ensuring safety of the worshippers and the place of worship.
- Formulate annual program to promote implementation of interfaith harmony policy including but not limited to arranging visits of majority community to the worship places of minorities, especially during festive occasions to familiarize with the worship

place, its norms of sanctity etc. Encourage participation in intra religious functions and celebrations.

- Promote religious tourism at national and international levels in collaboration with stakeholder departments. Prepare a plan to designate the historic worship places etc. on the list of national and international heritage in coordination with UNESCO.

## Fostering Interfaith Harmony

- Designate a subcommittee to work in collaboration with Ministries of Religious Affairs and Interfaith Harmony and Human Rights to formulate 'National Interfaith Harmony Policy'. Suggested salient of the policy are proposed:
- The Policy should be titled 'Sub Ka Pakistan' and be structured on three pillars (1) Tolerance for all, (2) Equality for all, (3) Discrimination towards none. It should constitute measures to promote the culture of tolerance, equality and non-discrimination for religious minorities as equal citizens of Pakistan.
- *Tolerance is best manifested by respect, acceptance, and appreciation of diversity. It is fostered by knowledge, openness, communication and freedom of thought, conscience, and belief. As an attitude and virtue, it enables peaceful life and underscores the responsibility to uphold human rights, pluralism, democracy, and rule of law. It means one is free to adhere to ones own convictions and accepts that others adhere to theirs<sup>19</sup>. It is a social obligation of majority population which should be optimized through a call for action by national leaders.*
- *Islam teaches no Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man, or the black man any superiority over the white man. You are all the children of Adam (AS), and Adam (AS) was created from clay". Measures to promote 'Equality and Non-Discrimination' should emanate from Islamic teachings and spearheaded by 'Ulema e Din' through focused media campaigns.*
- The principles of equality and non-discrimination are essential components of International Law. Article 25 of the Constitution provides for equality before law and entitlement of equal protection of law. The Constitution provides for fundamental human rights and freedoms which should be ensured by including it in the national syllabus / curricula and training courses of law enforcement agencies especially the police.
- To further Interfaith Harmony, first week of February should be designated and

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<sup>19</sup> The Holy Quran, Surah al Baqarah verse 256 and Surah ur Rum Verse 22. Also UNESCO Declaration on Principles of Tolerance 1995.

celebrated as 'Inter Faith Harmony Week' in the country. During this week a program of activities should be implemented at local bodies, provincial and national level within Pakistan and abroad. It will also augur well for projection of positive image of the country. The Commission should coordinate these activities with United Nations and International Community which also observes Tolerance Week during the same period.

## **A Proposal for Resetting the Governance of Minority Rights and Responsibilities**

### **Ministry for Minority Affairs:**

The Act does not specify but implies that the Commission will operate under Ministry for Religious Affairs and Interfaith Harmony. It may be recalled that the Ministry had formulated a Commission in 2020 which was not acceptable to the Supreme Court. For meaningfully protecting and promoting minority rights and projecting a positive image of Pakistan; creating and sustaining a Ministry for Minority Rights at the federal and provincial levels would be a desirable goal.

It may be recalled Ministry for Minority Affairs was created in 2004 and remained functional till 2011. Between 2008 to 2011 under the leadership of Shabaz Bhatti shaheed the minorities achieved many things including designation of Minority Day on 11th August and reservation of 5% Job Quota<sup>20</sup>. Unfortunately, the ministry was closed after passage of 18th Amendment which has since multiplied challenges for minorities. Therefore, revival, restoration and strengthening of the Ministry for Minority Affairs led by a minority member is an urgent requirement.

**Standing Committee in the National Parliament:** As per practice, it is assumed that standing committee for religious affairs and interfaith harmony will oversee the work of the Commission in the national parliament. Given the overlap between the functions and subject matter of the Commission and Ministry of Human Rights, it is proposed that standing committee for human rights redesignated as 'Standing Committee for Human and Minority Rights' would be more suited for overseeing the functions of Ministry of Minority Affairs, Ministry of Human Rights, and the Commission. Streamlining the arrangement on work-based approach will render better outcomes in a cost effective manner.

**Role of Provincial Governments:** The Act is applicable all over Pakistan and requires that the provincial governments should facilitate the Commission, However, it is silent about the critical role of provincial governments in protecting and promoting minority rights. Punjab, Sindh and Balochistan have created separate Minority Affairs Departments. However, in

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<sup>20</sup> Prior to 2004 the subject of minority affairs was allocated to ministry of minorities, culture, tourism, and youth affairs. Ministry for Minority Affairs was created in 2004 and remained functional till 2011. After martyrdom of Shahbaz Bhatti it was closed under the pretext of decentralization and replaced with Ministry of National Harmony. In 2013 the subject of Minority Affairs was allocated to Ministry of Religious Affairs and Interfaith Harmony.

Khyber Pakhtunkhwa the minority affairs is still clubbed with Auqaf, and Hajj Department. The provincial governments can better dispense their responsibilities towards the minorities and human rights by formulating their own policies which are implemented through a dedicated department tasked to work in harmony with the Commission.

**Powers of a Court:** The Act has empowered the Commission to refer to any agency or conduct inquiries for complaints registered with it under the Act for processing it to relevant courts. Given the challenges minorities face for getting justice on such complaints, the Commission should be accorded the powers to act as a court for such complaints. The Commission, therefore, should be accorded powers to act as a court for complaints registered with it regarding protection of social and economic rights such as realization of 5% job quota etc. The layering of the judicial system will facilitate better protection of minority rights.

**Dr Shoaib Suddle; One Man Commission:** The commission has done substantive work for protecting minority rights. It could collaborate and converge with the National Commission for Minorities.

**National Institute for Minority Studies:** Minorities are devoid of a national institute for minority studies. An institution which resourced by federal government, is located in Islamabad and is dedicated to research training and advocacy on well-being of minority communities, protection and promotion of their rights, promoting researchers and authors from minority communities through its diverse publications etc. It should facilitate the Commission in performing its functions for creating awareness and advocating rights of minorities / interfaith harmony. It should function under the Ministry of Minority Affairs and the Commission.

## Conclusion

National Commission for Minorities Act 2023 fulfils the longstanding direction of the Supreme Court of Pakistan for protecting and promoting rights of religious minorities. It is broad and endows the Commission with a national status, adequate membership, staffing and budgetary endowments to enable it to function effectively. The Act has raised hopes and expectation amongst the minorities for a better tomorrow. This Discussion Paper has analyzed the Act and proposed a robust national action plan for protecting and promoting minority rights. The proposal for resetting the governance structure and establishing a national institute for minority studies will certainly augment capacity of the Commission to deliver positive outcomes. It is now the collective responsibility of minority communities to urge the political parties to lay out their plans for the promotion and protection of minority rights, expeditiously constitute the Commission.

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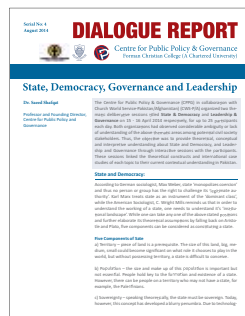
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