

Abduction, Conversion and Child Marriage

of Religious Minority Girls in Pakistan



Table Of Contents

| | |
|---|----|
| <i>Introduction</i> | 3 |
| I. Religious and Social Context | 4 |
| Second class citizens..... | 4 |
| Discrimination in regards to the right to adopt or leave a religion | 4 |
| Legal protection and the role of religious institutions..... | 4 |
| Role of the Police | 4 |
| Role of the Media..... | 6 |
| II. Legislation and Justice System | 7 |
| Pressure to give false statements in court | 7 |
| Pakistan’s International Human Rights Commitments | 7 |
| Parallel legal system..... | 8 |
| Discrimination of religious minority girls | 8 |
| Discretionary power of the judge | 9 |
| No protection for the forced marriage of girls above 18 years | 10 |
| III. Recommendations from the perspective of the girl child | 11 |
| <i>Contact</i> | 12 |

Introduction

On October 13, 13-year-old Pakistani Christian girl Arzoo Raja was kidnapped outside of her home in Karachi. Two days later, Arzoo's parents were told that their daughter had been the latest victim of forced conversion and forced marriage. Azhar Ali, a Muslim man of about 45 years old, who lives in the house opposite Arzoo, was responsible for the kidnapping. The police showed little willingness to help Arzoo's family, and therefore the family had little hope of getting their daughter back.

According to the National Commission of Justice and Peace (NCJP) and the Pakistan Hindu Council, each year approximately 1,000 Christian and Hindu girls in Pakistan are kidnapped, forcibly converted to Islam, and married off to their kidnappers or rapists.¹

This report will provide an overview of several common factors involved in such cases of forced conversion and abduction. The hope is that this report may serve as a tool to conduct advocacy and effectively address the situation and worrying trends of forced conversion and abductions of girls and women in Pakistan.

¹ 1,000 Christian, Hindu girls forced to convert every year in Pakistan; report, 1 October 2018, Pakistan Today, <https://www.pakistantoday.com.pk/2014/04/08/1000-christian-hindu-girls-forced-to-convert-to-islam-report/>

I. Religious and Social Context

Second class citizens

Forcing Christian and Hindu girls to marry their captors and to convert to Islam is a reprehensible practice which happens often in Pakistan. Below is a number of factors which explains how and why this practice is able to continue ceaselessly.

Religious minorities are considered to be second class citizens by a large part of the Pakistani Muslim community. Islam is the state religion and is practiced by more than 96 percent of the population. Non-Muslims are despised because they do not follow the teachings of Islam. This mindset of social hierarchy and division is often used as a justification for the abuse against vulnerable religious minorities. The subordinate position of Christians and Hindus in Pakistan's society makes it easy for Muslim men to kidnap girls of these communities with total impunity. It is very unlikely that the police, politicians, judges and other influential persons - who are predominantly Muslim - will campaign for and secure the return of these girls and follow through within the criminal justice system.

This permitting and accepting of discrimination against religious minorities at all levels in society, enforces perpetrators to commit crimes with total impunity. In the case of Arzoo: her father describes how audacious and brazen the perpetrator was: "Azhar and his family live right across from us. We see them every day, knowing they kidnapped our daughter and they probably know where Arzoo and Azhar are. Why is the police not doing anything?"²

Another factor is the culture of fear within society, which allows the discrimination to continue. Individuals who question the status quo and challenge Islamic classical understanding, risk their status and position in society and even have to fear for their own lives. Radical Muslims might perceive the campaigning for justice served to Christians and people from other religious minorities as an act of betrayal against the Muslim majority society and Muslim ideology.

Discrimination in regards to religious conversion

A notable factor in such a kidnapping case is the religious aspect. It is easy for a Christian or an individual from another religious minority to convert to Islam. Pakistan's society facilitates this in many ways, so much so that even for Arzoo - who is underage - the forced conversion was approved quickly and with insufficient consideration. The mosque was able to arrange her largely falsified paperwork, which was expedited in order to conduct a smooth and quick religious conversion. On the contrary, if a Muslim wishes to convert to another religion, the government will not acknowledge the conversion and the convert will be at risk of being murdered or charged with blasphemy, which carries the death penalty.

Joseph, founder of Voice for Justice, states: "Muslims have a strong desire to increase Pakistan's Muslim population. This desire is amongst others driven by the teaching that a person who converts a non-Muslim to Islam will earn a place in paradise." Joseph continues to explain that religious institutions, schools, and mosques usually do not examine whether a conversion is genuine and consensual, neither observe the age of the person at the time of the incident. In the cases of the forced marriages, the conversions and marriages are documented as legal without comprehensive investigation.

The individual who converts another person to Islam is often showered with praise, and anyone who contests the validity of such conversion is silenced. Many religious institutes offer monetary rewards for successfully converting another person to Islam.

² Interview with Voice for Justice, Jubilee Campaign and the father of Arzoo, Raja Lal, on 21 October 2020.

Christian National Member of Parliament for the Pakistan People's Party (PPP), Naveed Amir, tells Jubilee Campaign there is a belief among many Muslims that it is their duty to convert Christian and Hindu girls to Islam as a means of furthering jihad. Since Islam is the state religion of Pakistan with a Muslim-majority population, these views permeate all levels of society including civil authorities and law enforcement. For that reason, Arzoo's father is experiencing a lot of resistance from the police, from society, and from the legal and justice systems in his struggle to get his daughter back.

Legal protection and the role of religious institutions

In Pakistan, there is no legislation criminalising forced religious conversion. Neither is there any official recourse to dissolve the forced conversion and allow victims to return to their original faith. A conversion can be reversed by a court; however, in the case of an underage girl, she and her supporters will face the pressure and threats from the Muslim radical community. Another issue is that documents are produced which claim that the Christian or Hindu girl has willingly converted to Islam.

In certain areas and situations, a girl that recants Islam and returns to Hinduism or Christianity could be seen as an apostate. Urging the police and court to annul the conversion could be very dangerous for the girl, her family, and even for people who actively facilitated her departure from Islam.

Naveed explains that no proper laws have been passed or implemented to prevent this unjust practice. He explains: "This is partly because there is too little political will to help minorities. Problems experienced by minorities are not a priority on the political agenda. In addition, there is a lot of reluctance to guarantee the rights of minorities if this means a curtailment for Islam. According to Islam and Sharia, girls are allowed to marry as soon as they have their period. It is no problem when a 13-year-old girl marries an older man. If the girl also converted from Christianity to Islam because of this, this is a kind of bonus. Muslims do not want to see this practice curtailed. This thinking is not just supported by poor uneducated people but is supported by a large number of Muslims in every level of society."

Some Muslim groups have opposed a suggested minimum age for conversion or marriage, claiming that this is not sanctioned by Islam. They have also opposed laws outlawing forced conversions. The Sindh legislature in 2016 passed a law outlawing forcible conversions and conversions before the age of 18; however, under pressure from Islamic extremist groups, the governor declined to sign it.³

Role of the Police

The police generally hold negative bias towards Christians due to the Islamic thought which permeates society, as mentioned above. In the case of Arzoo, her parents received no support from the police until international pressure mounted.

Arzoo's father explained, "I have been knocking at doors everywhere but the police are not showing any interest in arresting the accused and investigating the case objectively."⁴ Arzoo's father said of Arzoo's kidnapper, "Because Azhar has relatives working for the police, we receive a lot of resistance to get Arzoo back. The birth certificate, school registration and National Database and Registration

³ State of Human Rights in 2018, Human Rights Commission of Pakistan, p. 118, <http://hrcp-web.org/publication/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English.pdf>

⁴ Interview with Voice for Justice, Jubilee Campaign and the father of Arzoo, Raja Lal, on 21 October 2020.

Authority (NADRA) records clearly show that Arzoo is 13 years old. She was in seventh grade. At the police station we were handed documents stating that Arzoo is 18 years old, had converted to Islam and was married to Azhar Ali.”⁵

Joseph from Voice for Justice states that the police often turn a blind eye to reports of abduction and forced conversions. This results in fomenting a culture of impunity for perpetrators.

The police often refuse to file a First Information Report (FIR), and sometimes they falsify information, obstructing the families from getting their daughters back. When documentation is shown which prove that the girl is under 18 years, the police often disregard such evidence.

In order to seek legal redress, Arzoo’s father had to go to the police station accompanied by a person of influence with political connection in order to ensure that a FIR would be legitimately filed. Many families who did not receive as much media attention as in Arzoo’s case, failed to get a FIR registered and hence lost their daughters to their kidnappers. These compiled injustices and discrimination add to the stress and trauma religious minorities already face.

Role of the Media

An additional aspect that makes the resolution of forced conversion and abduction cases of religious minority girls more unlikely is the role of the media. Often, the stories of religious minority girls who are converted and married are not reported in the media and, when reported, are covered in favor of the perpetrators rather than from the perspective of the religious minority girl and her family.

The reported abduction cases and forced conversions of religious minority girls - when covered by local or provincial media in the *urdu* language - remove the forced conversion aspect and often the age of the girl altogether. They, for example, mention that a girl has willingly converted to Islam and chose to marry her new husband. Nothing is mentioned regarding the cries for help from the girl’s parents, and sometimes the age of the girl and her new husband are left out. The news reports, therefore, fail to question the legality of such forced conversions.

There are two reasons for the media’s failure to report fairly: one, the evident bias of media and reporters towards Islam, and; two, journalists and media are scared to investigate and/or publish reports of forced conversion and marriage as they risk being heavily pressured and threatened by influential local religious leaders.

Joseph from Voice for Justice shares that the biased reporting of the media on abduction of religious minority girls and the framing of articles from the perspective of the perpetrators adds to the difficulties for religious minorities in obtaining justice for the crimes perpetrated against them.

⁵ Interview with Voice for Justice, Jubilee Campaign and the father of Arzoo, Raja Lal, on 21 October 2020.

II. Legislation and Justice System

Pressure to give false statements in court

Joseph from Voice for Justice states that the kidnappers of these girls often threaten the victims and their families. When kidnapped girls are produced in front of a court, they are still in the custody of their abductors, and often times the kidnappers are in the courtroom when the victims deliver their statements. Under duress, these girls tend to cave to the pressure and give false statements in court claiming that they willingly converted religions and married their captors.

There is often no investigation into the circumstances under which the conversions take place and the ages of the girls are ignored during trial proceedings. The girls involved are largely left in the custody of their kidnappers throughout the trial process, and therefore they are subject to further threats to force them into denying their abduction and rape, and force them into claiming that their conversion and marriage were voluntary.⁶

Pakistan's International Human Rights Commitments

Pakistan is a signatory to the International Covenant on Civil and Political Rights since April 2008, and is therefore party to its provisions upon formal ratification in June 2010. Article 18 of the ICCPR states that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”, and prohibits forceful religious conversion.

In spite of growing concern over a rise in abduction, forced marriages and conversions to Islam of girls from minority communities - particularly Christians and Hindus - successive national and provincial governments have failed to pass and implement laws which effectively protect girls from these crimes.

Interestingly, Pakistan in its most recent report to the Committee on the Status of Women, fails to mention the forced marriages and forced conversions of girls and women from religious minority communities. Forced marriages are addressed in the report only as a general traditional practice, *ghag*, banned via the KP Elimination Act 2013. This act's application, however, is limited to the Province of the Khyber Pakhtunkhwa. Additionally, the report neglects to address the abductions that take place in Pakistan as well.⁷

A bill against forced conversion introduced in 2016 in the Sindh Provincial Assembly remains pending after radical Islamists have threatened with violent protests.

⁶ Pakistan: Abduction, Forced Conversion of Non-Muslim Girls, 7 August 2019,

<https://www.copticsolidarity.org/2019/08/07/pakistan-abduction-forced-conversion-of-non-muslim-girls/>

⁷ Committee on the Elimination of the Discrimination of Women, *Fifth Periodic Report submitted by Pakistan under article 18 of the Convention*, 9 October 2018, CEDAW/C/PAK/5.

Parallel legal system

When a Pakistani Christian girl is abducted and the primary goal is to force her into marriage with a Muslim man, often her kidnapper or abductor will convert the girl to Islam as a preliminary step.

When the kidnappers convert the girl to Islam, they usually gain the support and praise of the larger Muslim community for reasons explained in the section II of this report. For the same reasons, kidnappers will not be prosecuted.

It is an additional hurdle that when a girl from a religious minority is converted to Islam, the Islamic laws will apply to her. Islamic law allows marriage of underage girls after the girl had already experienced her first menstrual cycle.

A secular law in the province of Sindh, however, contradicts this aforementioned Islamic law. The Sindh Child Marriage Restraint Act 2013 dictates that a girl cannot marry if she is below the age of 18 years.⁸ Similarly, the Punjab Marriage Restraint Act of 2015 states that marriage to a child is punishable by imprisonment, and that a girl is considered a child if she is under the age of 16 years.

In this case, the judges use their discretionary power to decide whether religious or secular laws preside. According to the Constitution of the Islamic Republic of Pakistan, every secular law should comply with Islamic code, even though the Islamic laws are not always strictly followed in Pakistan.

Despite the lenient application of Islamic laws, the director of NCJP⁹ explains that, more often than not, the religious laws prevail over the secular laws in court. In the case of Arzoo Raja, it is not certain which laws will preside over the judgement, but it is important to advocate and ensure that the Marriage Restraint Act will be implemented.¹⁰

Discrimination of religious minority girls

The kidnappers of these abducted Christian and Hindu girls often try to prove in a court of law that their victims were 18 years old in order to bypass any laws that prohibit marriage to girls under the legal age of 18.

Due to the overwhelming bias of Muslim societies and their justice systems to rule in favor of Muslim defendants or plaintiffs, the judges often overlook documentation such as B-forms¹¹ and Nadra registration provided by the family that proves that the girl in question is under 18 years old. Instead, they apply the documents issued by mosques, Muslim clerics and other biased sources stating that the girl is above 18 years old and therefore is eligible for legal marriage. The judges also often disregard any of the documents the family of the girl submits but accepts the coerced statement of the girl in court that she is 18 years old and that she willingly converted and married.

⁸ The Sindh Child Marriage Restraint Act 2013, article 2A and Article 5.

⁹ National Commission for Justice and Peace.

¹⁰ Interview with director of National Commission for Justice and Peace (NCJP) on 2 November 2020.

¹¹ Child Registration Certificate (CRC) is a registration document used to register minors under the age of 18 years. The CRC is also known as B-form.

Lower courts in particular have acquiesced to pressure and have approved marriages and forced conversions of underage girls based on forged documents or the mere statement of the girl saying she is 18 years of age. This is because smaller courts do not have the protection that the high and Supreme courts enjoy which would aid them in countering heavy pressure from various Islamic groups to support the kidnappers and appease their Muslim community. Right-wing groups often engage in protesting and threatening judges and lawyers in order to force them to decide in favour of the abductor. Often, lower court judges rule in favour of the abductor and pass the case on to the high courts and supreme court for further review.

However, even in the higher courts and Supreme Court, it is noticeably common that the judges side with the kidnappers, falsely determining that the girls are at least 18 years of age, and rule the marriages and conversions as lawful practices.

In the case of 13-year-old Arzoo, the High Court of Sindh, Karachi ruled on October 27, 2020 in favor of the false and coerced marriage. The judges did not look at any of the official documents such as the B-form and Nadra registration but heard the statement of Arzoo while her abductor was also in the court room. She was pressured into testifying that she was 18 years old and had willingly converted and married.

Witnesses of Arzoo's High Court of Sindh hearing report that the judge did not inspect the relevant documents to verify her real age. The court order included the statement of Arzoo saying that she initially belonged to the Christian religion, but after passage of time she understood and realized that Islam was the "universal religion" and had asked her parents to embrace Islam only to their refusal. Subsequently, she allegedly accepted Islam before the religious person of Madrassah Jamia Islamia in Karachi. Her new Islamic name became Arzoo Fatima and, according to the judge's ruling, she entered into marriage with Azhar Ali according to her own free will.

The judge further asked that a notice be issued to the Advocate General Sindh requesting that no arrest be made in respect of a FIR registered against Azhar and his family members, and asked the police to provide protection to the newly wedded wife. Arzoo was returned home with her kidnapper after the hearing in the High Court of Sindh.

Discretionary power of the judge

Due to the discretionary power of judges and the ambiguity regarding whether Islamic laws or secular laws preside in such cases, a judge can decide to approve a marriage even if it is proven that a girl is under the age of 18 or 16 years old. There are many examples of this, illustrated below:

CASE STUDY P L D 2013 Lahore 243:

Decided on the 14th of September 2012

A minor Muslim girl (Jameela Bibi) was married. Parents of a girl wanted recovery of their daughter stating that she was a minor, that the marriage was void and that she was being raped. The girl stated in court that she had attained puberty and willingly contracted a marriage with the accused. Medical reports showed that she was 14 years old. The Child Marriage Restraint Act XIX of 1929 was considered which states that girls cannot marry below the age of 16.

The judge considered that the girl made a statement in court saying that she married out of free will. Subsequently Muhammadan Law (by D.F Mulla) sections 250 and 251 were quoted by the judge which state that a girl can marry when she has attained puberty and consents to the marriage.

A medical record is quoted which states that Jameela Bibi has had her bleeding, developed breasts and has pubic hair which indicate that she has attained puberty.

The decision mentioned that the Hanafi jurisprudence was unanimous on the matter that a girl can be 9 years of age when a declaration on the reaching of puberty for a girl can be accepted.

The court decision subsequently mentions that Nikah/Marriage contracted by an Islamic woman not having attained the age of majority as defined in law, but having attained puberty as defined in Offence of Zina (Enforcement of Hudood) Ordinance, 1979 is valid and not void.

CASE STUDY P L D 2005 Lahore 316:

Decided on the 10th of February 2005

Another case was P L D 2005 Lahore 316 where Mst. Hajra Khatoon, a girl of 13 years old, and Muhammad Naseer contracted marriage on 20-11-2004. The parents of the girl stated that their daughter was abducted and forcefully married. Her parents wanted their daughter back.

The judge considered both the Child Restraint Act 1929 and various Islamic laws, Quranic verses and other Islamic sources. The judge reasoned that according to the federal sharia court wali 'consent of guardian' is not required and a sui juris Muslim female can enter into a valid Nikah/ marriage of her own free will. The girl gave a statement in court saying that she wanted to marry of her own free will. The Judge further reasoned that the 13-year old girl had attained puberty according to the definition of Offence of Zina (Enforcement of Hudood) Ordinance 1979 thus making the marriage valid and not void.

The marriage was decided to be legal.

No protection for the forced marriages of girls above 18 years

In the case that a girl is above the age of 18 years and gets abducted, forcibly married, and converted, there are no child marriage restraint acts to protect her as she is no longer considered a child under Pakistan's legislation. She would have to be brave enough to state in court that she did not willingly decide to marry and convert religions. Perhaps more importantly, she would have to level her own testimony as a gender minority and a religious minority in a court system that has the overwhelming tendency to favor the majority. Moreover, she would need to testify against her own abductor.

According to NCJP, when these Christian and religious minority girls and women are abducted, due to Islamic bias the system does not provide them or their families with any support, and the girls are often forced to stay in the captivity of their kidnappers. Often, they are used by their new fraudulent husbands until their husbands tire of them, at which point the girls and women often

enter prostitution or are trafficked for other work.¹² If they somehow are lucky enough to return to their families, it is difficult to find a husband willing to marry them.

In the exceedingly rare situation that the girls from religious minorities are returned to their families, the families and the girls are heavily pressured to drop the charges against their kidnappers. There is no criminal penalty for forced conversion outlined in the Pakistan Penal Code. However, there is a penalty of imprisonment for a minimum of 7 years and maximum of life for abducting girls below the age of 14 years.¹³ The criminal penalty for rape is a minimum of 10 years imprisonment and a maximum of 25 years, accompanied by a fine.¹⁴ Lastly, punishment for forced marriage is not less than 3 years and not more than 7 years, as well as a 500,000 rupees (USD ≈ \$6,725) fine. Despite these penal provisions, the abductors of religious minority girls are rarely ever punished, thus allowing the crimes to be continuously perpetuated with impunity.

III. Recommendations from the perspective of the girl child

- Following the recovery of a girl from an abduction, forced conversion to Islam, and/or child marriage, the girl should be taken to a safe house to ensure she is able to provide a true, uncoerced testimony of events without fear of retaliation from her abductor.
- A specially trained and appointed taskforce should conduct proper and objective investigations regarding the circumstances surrounding the girl's conversion and marriage.
- Allow for the presence of a minority representative or ombudsman to review the case.
- Train judges to interpret laws in accordance with international human rights norms and legislation.
- It should be ensured that secular laws which set the minimum legal age for marriage to 16 or 18 years preside over Islamic laws that allow for marriage as soon as puberty is reached.
- Create an appeal or reporting mechanism to flag judges, police officers, religious institutes, Muslim clerics, and official actors who discriminate against, violate rights of, or fail to protect religious minorities in cases of abduction, forced conversion, and child marriage.

¹² Interview with director of the National Commission of Justice and Peace (NCJP) on 2 November 2020.

¹³ Article 364-A Kidnapping or abducting a person under the age of fourteen. Pakistan Penal Code 1860.

¹⁴ Article 376. Punishment for Rape. Pakistan Penal Code 1860.



Contact:

Jubilee Campaign

9689-C Main Street

Fairfax, Va 22031

Tel.: 703-503-0791

E-mail: annbuwalda@jubileecampaign.org

Website: www.jubileecampaign.org

Voice for Justice

www.voiceforjustice.eu