

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the right to education and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL PAK 9/2019

14 January 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur on the right to education and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/6, 26/17 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the persisting challenges faced by non-Muslim students in the area of education, as well as the existence of textbooks with content that stigmatizes ethno-religious minorities in Pakistan.**

According to information received:

According to the 2009 National Education Policy, Muslim students are required to study Islamiyat (Islamic Studies) as an "integrated subject for Grade 1 and 2", and as a "separate compulsory subject from Grade 3 extending up to graduation" in all general and professional institutions.

Non-Muslim students are offered the opportunity to opt for the subject of "Ethics (Moral Education)", in lieu of Islamiyat, from class 3 to class 12. However, in spite of the option for the study of Ethics, the majority of students belonging to minorities in Pakistan choose to study Islamiyat instead.

An independent research study on Boards of Intermediate and Secondary Education (BISE) of Punjab in 2018 revealed that 80% of registered minority students were studying Islamiyat in Grades 9 and 10 (Matriculation), whereas for Grades 11 and 12 (Intermediate), the proportion was higher with 90% of the registered minority students studying Islamiyat.

Among the reasons which explain the choice of the minority students in studying Islamiyat are either that many schools do not offer the subject of Ethics in their curricula as an alternative to Islamiyat option; or that textbooks in Ethics are not available, and even when available, minority religions are introduced based on Islamic interpretation, through which, the teaching of Islam is intentionally or unintentionally promoted. There is also a lack of qualified teachers on the subject of Ethics. Moreover, there is a fear among minority students that by opting for this subject they may be more easily identified as non-Muslims and thus discriminated against in school exams.

However, Article 22 of the Constitution of Pakistan stipulates that “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.”

Furthermore, there are exercises¹ in textbooks at Early Childhood Education, Grade 1 and Grade 2 levels that oblige minority students to learn about Islamic teaching and rituals, and memorize Islamic verses. Despite Islamic education being a separate subject, the religious lessons make up 20% to 40% of subjects such as languages, social studies and general knowledge, and non-Muslim students are obliged to study these subjects.

It is also reported that those pursuing Islamic studies, and in particular those who are Hafiz-e-Quran,² are provided with more opportunities for admission in professional colleges and for employment through the Public Service Commissions at federal and provincial levels.

There have been a number of cases filed against the preferential treatment of all those considered as Hafiz-e-Quran, with regard to access to education and employment, but most of these cases remain pending for years and the complainants would cease to pursue them.

Concerns are also raised over the content of school textbooks, which reportedly often portray other ethno-religious communities as violent and nefarious, or treat them with contempt, whereas at the same time, the positive historical contributions of those communities to the process of Pakistan’s state-building process is reportedly omitted.

Although efforts have been made to amend a number school textbooks so as to include some positive references to other religions’ holy books, celebrations and festivals, there are still many references in history, and in Islamiyat textbooks in particular, which portray other ethno-religious communities as “looters” and “thieves”, and as forces that “erode” the Islamic “essence and values”. Other textbooks make direct link between Islam and “good citizenship” and highlight that in Islam, contrary to other religions, “honesty in business” is an integral part of the faith. The persistence of such reference to textbooks and educational material is reportedly not in line with the provisions of the 2009 National Education Policy, and in particular Policy Action No. 9, which calls for the elimination from educational material of “anything repugnant to Islamic injunctions and controversial material against... religious/ethnic minorities.”

¹ Exercises include recitation of Bismillah, Alhamdulillah; recitation of Ta’waaz, Kalma Tayaba and Tasmiyah; and memorization of the prayer of Fasting.

² A person who learns the Holy Quran by Heart.

On 19 June 2014, the Supreme Court of Pakistan passed the order *SMC No.1/2014 and others*, directing the Government of Pakistan to, among other things, develop appropriate curricula at school and college levels to promote the culture of religious and social tolerance. However, this order reportedly remains unimplemented.

While we do not wish to prejudge the accuracy of the information provided to us, we express our concern over the reported obstacles that non-Muslim minority students face at schools in Pakistan. Although according to the law, the subject of Ethics (Moral Education) is offered as an alternative to Islamic Studies to all non-Muslim students and should therefore be seen as a positive step, the option does not appear to be viable in the absence of specifically dedicated textbooks, the scarcity of trained Ethics (Moral Education) teachers, and the fear of discriminatory treatment in school exams and in future professional and vocational careers, leaving the majority of non-Muslim students with the only option to pursue Islamic studies.

Furthermore, we express our concern over the content of some of the school textbooks, which reportedly maintain stigmatizing references against ethno-religious minorities in Pakistan, despite that the 2014 the Supreme Court's order called the Government of Pakistan to undertake measures to ensure that school curricular and school materials promote religious and social tolerance.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please indicate the measures undertaken to ensure that the subject of Ethics (Moral Education) is offered as a valid and viable alternative to the subject of Islamiyat in all educational institutions where non-Muslim students pursue their studies, as per the provisions of the currently implemented National Educational Policy. In particular, please indicate the measures undertaken to ensure the availability of school material and textbooks for the subject of Ethics (Moral Education) and of adequately-trained teaching staff.
3. Please provide information on the steps undertaken to ensure that no student faces discrimination in education based on their religion, and that opting for the subject of Ethics, instead of Islamiyat does not constitute a

criterion that would affect the assessment of the student's school performance and progress or their future career opportunities

4. Please provide detailed information on the measures undertaken to eliminate stigmatizing references against minorities in school textbooks and other educational material as per the 2014 the Supreme Court order SMC No.1/2014.
5. Please indicate any legislative and policy initiative that ensures the full respect and promotion of the principle of non-discrimination based on religion, in particular by persons belonging to religious minorities in Pakistan.
6. Please also indicate what measures have been adopted or envisaged, if any, to extend to Muslim students the possibility to also opt for the subject of "Ethics (Moral Education)", in lieu of Islamic studies.

We would appreciate receiving a response within 60 days. After this time period elapses, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on minority issues

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Special Rapporteur on the right to education

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Special Rapporteur on freedom of religion or belief

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to recall your Excellency's Government's obligations under international human rights law that your Excellency's Government has undertaken.

We would like to draw the attention of your Excellency's Government to article 26 (2) of the Universal Declaration of Human Rights (UDHR) and article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Pakistan on 17 April 2008, which stipulate that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and that it shall promote understanding, tolerance and friendship among all nations.

We would also like to recall your Excellency's Government's obligations under international human rights law that your Excellency's Government has undertaken. In particular, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan on 23 June 2010. Article 27 of the Covenant states that: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". Articles 2 and 26 of ICCPR also prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including race, language, religion, national or social origin, property, birth or other status, and article 18 guarantees the right to freedom of thought, conscience and religion, which includes freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching.

We would like to underline that both article 13 (3) of the ICESCR and article 18 (4) of the ICCPR require "States Parties to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions." In its General Comment 13 (1999) on the right to education, the Committee on Economic, Social and Cultural Rights stated that "article 13 (3) permits public school instruction in subjects such as the general history of religions and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression" (§ 28). It further noted "that public education that includes instruction in a particular religion or belief is inconsistent with article 13 (3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians." (Ibid.) The Human Rights Committee adopted a similar approach in its General Comment 22 on article 18, para. 6.

We would equally like to refer to article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom

to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". This right is protected also through article 19 of the UDHR and article 13 of the International Convention on the Rights of the Child (CRC), ratified by Pakistan on 12 November 1990.

In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions on freedom of expression, including by persons belonging to minorities or vulnerable groups.

CRC establishes under article 29 (c) that the education of the child shall be directed to: "The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own." Article 30 of the Convention requires that "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language."

Furthermore, we draw the attention of your Excellency's Government to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly in 1992. Article 1 of this Declaration refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end. Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that "States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law".