

An Information Failure

~ Ms. Farwa Pirbhoy

The Constitution of the Islamic Republic of Pakistan 1973 states that every individual has a fundamental right and the “freedom to profess religion and to manage religious institutions.” However, **systematic discrimination and imbalance of powers between Muslims and Religiously Marginalised Communities (RMC) remains ubiquitous and embedded in contemporary Pakistani systems and society.**

We must question two things within Pakistan’s socio-political context and the disenfranchisement of RMC:

- ✓ Is the lack of implementation of existing laws due to the paucity of institutional systems and structural inefficiencies; thus, being a problem for all Pakistanis (specifically those who may be vulnerable and powerless)? or
- ✓ Does the problem lie within the attitudes and behaviors of the justice sector actors who are required to provide access to justice for all individuals, including the RMCs?

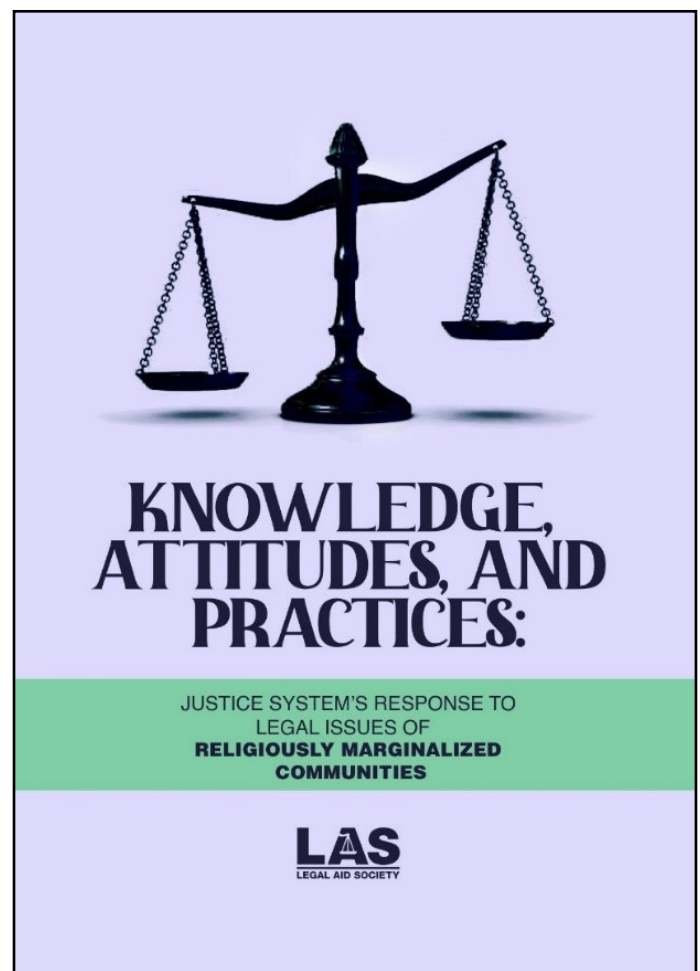
The predominant presumption claims that this discrimination and bias start from the attitudes and behaviors of individuals with decision-making powers and influence in the administrative and justice system in Pakistan. Thus, the Legal Aid Society conducted a Knowledge, Attitude, and Practices (KAP) survey to assess the extent of this situation.

The KAP Report answered the question: **“What are the Knowledge, Attitudes, and Practices of Muslim administrative and justice sector actors with regards to the laws and processes**

pertaining to religiously marginalized communities in Sindh, Pakistan.”

The research elucidated that there existed a lack of knowledge of specific laws and processes relating to RMCs and an inclination and a preference for Islamic laws, principles, and beliefs to govern the personal lives and choices of RMCs.

The KAP survey highlighted that individuals from the offices of the Ombudsperson had the highest level of awareness of



laws and procedures. At the same time, the administrative actors displayed a prominent knowledge gap compared to their counterparts. Most respondents exhibited varying levels of apathy and were unconcerned about the intricacies of law and procedures. Likewise, their attitude indicated disinterest in gaining further knowledge on these matters. The score percentages were as follows: Ombudspersons (67.9%), Civil (64.3%), Criminal (55%), and Administrative actors (47.7%).

Within the police, mid-ranking officials demonstrated the highest knowledge levels, while senior-level officers were the most confident with their responses and were comfortable discussing sensitive laws such as blasphemy. As the ranks decreased, the officers were uncomfortable and hesitant in their candor. Thus, this may lead to one raising an eyebrow considering junior-level officers are on the ground, in contact with communities, and hence require a level of sensitivity.



Likewise, the Deputy and Assistant Commissioners demonstrated significant differences in terms of their responses and attitudes. The Deputy Commissioners

highlighted concern for RMCs and showed consideration of their problems; however, most of the Assistant Commissioners were likely to reference Islam rather than RMC-specific laws.

The aforementioned knowledge gaps were highlighted in questions relating to underage marriage, whereby individuals tended to justify the legality of marriage between minors. The Sindh Child Marriage Restraint Act 2013 states that the marriage of any person below the age of 18 is prohibited. However, the KAP highlights that the justice sector actors presented multiple arguments based on contesting the ages of the individuals.

The general arguments given revolved around;

- ✓ The differences in the legal age for marriage; the federal age limit is 16 while the age limit in Sindh is 18;
- ✓ Using the age of puberty as a justification for the action of the minor girl.
- ✓ Overlooking the age due to a difference in religion, claiming that age is not a matter of concern in Hindu Law, even though the Sindh Child Marriage Restraint Act 2013 has no religious differentiation and the Sindh Hindus Marriage (Amendment) Act 2018 sets the age limit at 18

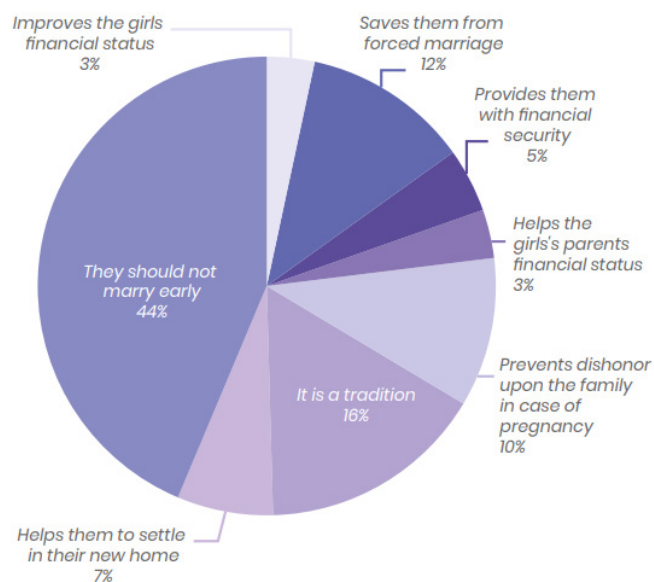


Figure 5 Reasons for early marriage for Hindu girls

The report also noted that when asked whether they thought that Hindu girls, in particular, should be married early, only 44%

said they should not marry early. Within this, while 100% of public prosecutors said they should not be married early, they supported underage marriage during discussions with the data collectors. Likewise, 70% of judges in the criminal justice sector said that Hindu girls should be married early. These findings raise red flags in light of rampant cases of forced marriages.

The KAP survey provides crucial data regarding the discriminatory undertones in Sindh's justice and administrative sector actors. While there is no overt, overarching discrimination, the lack of fulfilled legal needs of RMCs showcases that further research into the undertones of prejudice is required to form a comprehensive understanding of RMCs' access to justice.



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Citations:

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