



LEGAL CHALLENGES FACED BY RELIGIOUS MINORITIES IN PAKISTAN'S JOB QUOTA SYSTEM- A CRITICAL ANALYSIS

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Abstract

This paper examines the legal and institutional hindrances that prevent the application of the job quota system on religious minorities in Pakistan from being effective. The discrimination faced by minorities is still present due to bureaucratic resistance, socio-religious prejudices, and a poor enforcement system, even with constitutional protections (Articles 20, 25, 27, 36) and a 5 percent employment quota. According to the study, de jure safeguards and de facto barring are gawkingly dissimilar, particularly in the context of the hiring process, promotions, and representation of policy. Some of the key problems include noncompliance of government agencies, lack of legal redress, and lack of penalties after violations. The paper proposes viable reforms to the system, including increased oversight, legislative, and affirmative sub-quota of senior positions to make the system compliant with constitutional and international human rights requirements in Pakistan. By bridging these gaps, the research contributes to the debate on the topic of minority rights and meritocracy in pluralistic societies.

Keywords: discrimination, job quota, legal challenges, Pakistan, religious minorities

Introduction

Even with the constitution, many religious minorities in Pakistan are systemically discriminated against in their workplace, in the classroom, and in political representation. The 1973 Constitution (Articles 20, 25, 36) and the international obligations in the ICCPR and ILO demand preferential treatment of the disadvantaged groups. The practice of minorities is marginalized, however, because of poor implementation (Mirjat, 2023). In 2009, a 5% job quota among minorities was enacted to solve this, but there are still problems, such as leaders not chosen



among the minority, there are uneven salaries, and discrimination when hiring (Ali, Kanwal et al., 2022). The quota system is fraught with legal ambiguities, incompetent bureaucracy, and resistance by the influential anti-affirmative action organizations. The delay in procedures, the unclear modes of hiring, and poor supervision perpetuate systemic exclusion even when it is assured by the constitution (Javed & Malik, 2024).

Opponents argue that quotas undermine meritocracy (Ahmed et al., 2024) or are not sufficiently put into practice, despite doing so empowering people (Arslan et al., 2022). Courts' decisions, such as Naseem Firdous v., support affirmative action. But they stress the need to have real equality as advocated by the Punjab Small Industries Corporation (1995). The minorities feel cultural stigmatization as well and are often considered untouchable, and they lack political representation (Ali, Arslan et al., 2022). This paper examines the gap between what appears in the law and how things are in reality on the ground in order to determine whether quotas will reinforce structural inequality or actually empower the minorities.

Research Justification

The institutional and socioeconomic crisis of Pakistan in religious minorities being omitted from the employment quota system is not only evidence of a legal loophole. Although the Constitution of Pakistan offers equality and quotas for underprivileged groups, the laws are still not completely applied in practice. The legal ambiguities, bureaucratic stagnation, and well-established prejudices in society are the factors that make the religious minorities unable to find a job in the state sector.

The purpose of this research is to critically examine these structural challenges and examine why constitutional guarantees have failed to realize meaningful inclusion. Whereas gender and regional disparities in hiring quotas have already been studied in the past, not many facts have been published regarding the specific legal challenges that religious minorities might experience. The research paper will provide a comprehensive understanding of discrimination persistence by the state-level structures through researching recruitment procedures, judicial interpretations, and the testimonies of affected individuals. The conclusions of the study can be utilized at the local and global levels. They will fund civil society activities that demand institutional change and legal responsibility, train policy makers, and contribute to academic knowledge. The research also aims to assess the compliance of Pakistan with international human rights and the national values of the country. Ultimately, the above study will seek to transform the theoretical institutional obligations into practical and just outcomes for the less fortunate religious groups in Pakistan.

Research Objectives

1. To discuss the historical context of religious minorities in Pakistan and the job quota system.
2. To highlight the theoretical context of religious minorities in Pakistan and the job quota system.
3. To analyze the leading laws regarding religious minorities in Pakistan and the job quota system.
4. To identify the key challenges regarding religious minorities in Pakistan and the job quota system.
5. To explore the opportunities for religious minorities in Pakistan and the job quota system.
6. To propose effective prevention and intervention strategies.

Research Methodology



This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are listed.

1. **Relevance:** Researches that directly addressed the questions posed by this study are included.
2. **Quality:** Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the research is from Scopus-indexed and Clarivate Analytics journals and reputed publishers.
3. **Recency:** Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.
4. **Language:** Only studies published in English are included.
5. **Data Completeness:** Previous studies must provide sufficient data on outcomes of interest for practical synthesis; this is also ensured in this research.

This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

Even though job quotas and the constitution are enforced, there is systematic discrimination against religious minorities in the workplace in Pakistan. It is reported that thousands of federal jobs are not occupied, and minorities struggle to comply with the 5% quota (Butt, 2021). The Supreme Court has pointed out the failure by the state to undertake recruitment policies and has found more than 30,000 vacant quota seats (Gill & Aqeel, 2021). Institutional issues such as weak oversight, poor representation of minorities on hiring committees, and poor bureaucracy make enforcement more difficult. A lack of consistency in judicial treatment has pushed minority applicants out of seeking redress because of the prohibitive cost of legal services, protracted legal processes, and limited access to assistance (Patras, 2024). The fact that minorities are concentrated in the lower positions, particularly those that are associated with sanitation, is a severe concern as it continues to marginalize them (The Express Tribune, 2021).

Most of the minority employees are in low-wage positions, such as gatekeepers and cleaners, which is a sign of discriminatory recruitment and education. Government agencies often provide demeaning jobs instead of equal opportunities on all levels to avoid quotas. But there is no political clout of the minority lawmakers. Minorities are not more than 37.5% pleased with the government assistance programs. Although awareness of such issues has been brought up by various advocacy groups, such as the National Lobbying Delegation, there is not much that has changed significantly (Radio Pakistan, 2021). Pakistan lacks robust institutional accountability and legal enforcement when compared to nations such as South Africa and India. The quota system runs the risk of continuing to be symbolic rather than transformative in the absence of changes like judicial clarity, increased minority inclusion in recruitment bodies, and legal literacy programs (Mirjat, 2023).



Historical Context of Religious Minorities in Pakistan's Job Quota System

Having over 30,000 open jobs in government employment, the 2009 religious minority job quota in Pakistan was meant to compensate for the long-held discrimination, but it is largely symbolic. The ideological transformation of Islamists into religious conservatives in Pakistan institutionalized the state's policy bias, even though the vision of the state by Jinnah was secular (Ijaz et al., 2022). As a matter of fact, quota schemes are not usually enforced, which is a manifestation of the institutional apathy and irresponsibility (Human Rights Commission of Pakistan, 2015).

Administrative and judicial passive attitude compounds the problem. It is necessary to create the National Commission of Minorities, but the Supreme Court order has not taken place yet, in 2014 (Pakistan Institute of Peace Studies, 2023). In the meantime, the blasphemy laws have worsened economic marginalization and violence, particularly Section 295-C of the Pakistan Penal Code (Rasul, 2023). Legal protection is often compromised by social prejudice, fear of retaliation, and an ineffective enforcement mechanism. Even though the constitution guarantees equality, there are still in place structural forms of discrimination in law and practice, and political will remains wanting (Mandal, 2022).

Theoretical Context of Religious Minorities in Pakistan's Job Quota System

This paper examines the way the system of job quotas of religious minorities in Pakistan, as a system of structural injustice, is developed by relying on the critical legal theory and social justice theory. Legal neutrality is opposed by CLT, which believes that laws often reflect and support existing social and political philosophies of the strong. This theory assists in explaining how, rather than being formally provided, constitutional guarantees and job quotas are either selectively applied or not at all used in Pakistan due to institutional bias and notions of the majority that are hard to eliminate. These legal systems often reinforce the status quo of a society politically and socially, and marginalize non-Muslim populations within state systems of employment instead of serving as a tool of inclusion.

Besides CLT, social justice theory, in particular, John Rawls' notions of compensatory justice and fair equality of opportunity, specifically, highlight the importance of proactively trying to remove systemic and historical discrimination. Pakistan's minority employment quota policy was aimed at encouraging equality. Bureaucratic resistance, prejudice of people, and absence of powerful implementation mechanisms, however, frustrate these efforts and make the policy ineffective in practice. In their combination, these theoretical frameworks demonstrate the disconnect between the legal ideals and realities. They provide a critical view to understand why, regardless of their progressive motives, minority quotas do not often bring about any meaningful employment equity to the religious minorities in Pakistan.

Laws Regarding Religious Minorities in Pakistan's Job Quota System

The legal system in Pakistan has constitutional guarantees and affirmative action policies that seek to ensure the inclusion of minorities in governmental employment. Nevertheless, there are no proper enforcement mechanisms and legislative gaps that prevent good implementation.



1. **Civil Servants (Appointment, Promotion & Transfer) Rules, 1973:**
 - **Rule 5(1):** This is obligatory to quotas, but does not impose penalties on violations.
2. **Constitution of Pakistan (1973):**
 - **Article 25:** Ensures equality and is not opposed to affirmative action.
 - **Article 27:** Forbids religious discrimination during civil service recruiting.
 - **Article 36:** Prescription to the state to defend the minority rights.
3. **Federal Job Quota Policy (2009):**
 - Brought on board through Establishment Division O.M. No. 6/6/2009-E.6, which requires a 5 percent job quota among minorities in federal services.
4. **International treaties:**
 - ICCPR (article 25) equal access to public service, the UN Declaration, and the ILO.
5. **Minorities Act (2020) National Commission.**
 - Established an oversight body, which lacked any binding power over recruitment bodies.
6. **Punjab Civil Servants (Amendment) Rules (2010)**
 - Reinstates provincial department 5% quota; provides backlog carry forward.
7. **Protection of Communal Properties of Minorities Ordinance (2002)**
 - Although it is not job-based, it indicates the role of the state to protect minority interests.

Challenges Regarding Religious Minorities in Pakistan's Job Quota System

The 5% constitutional employment quota in relation to religious minorities in Pakistan has not been well implemented because there are institutional and legal obstacles that inhibit the implementation of the policy. Key challenges include:

1. **Weak Legal Recourse:** the minority applicants in seeking jobs are expensive to litigate against, and there is no specific anti-discrimination legislation to take claims against breaches, so a lawsuit is hard and inefficient.
2. **Absence of enforcement Power in Oversight Bodies:** The National Commission for Minorities, 2020 0 has no enforcement action, and it can only make advisory recommendations but not be held to account. Systematic Noncompliance: There are over 30,000 quota seats that the departments have not enforced, and there are no penalties in case of violation.
3. **No Sanctions for Infractions:** Such laws as the Civil Servants Rules (1973) require quotas, but are not enforced, so the authorities do not have to implement the minority inclusion.
4. **Systematic Noncompliance:** There are over 30,000 quota seats that the departments have not enforced, and there are no penalties in case of violation.

These vices illuminate the holes in the Pakistani system of law, which deprives religious minority groups of equitable access to employment in the state sector. The reform needs to be meaningful, where violations are punished, and an oversight body with enough powers to achieve compliance with the quota.

Opportunities for Pakistan's Job Quota System for Religious Minorities

1. **Awareness and Sensitization Initiatives:** A polite and reasonable working environment can be facilitated by making state officials pass through diversity and inclusion courses.



2. Capacity Building and Educational Access: Government-sponsored scholarships, career training, and competitive exam preparation courses can be used to increase the representation of minorities in public service.

3. Employment Opportunity Diversification: Minority candidates should be provided with access to a great variety of jobs that are not limited to lower-level and sanitation jobs. Their incorporation into the leadership, administrative, and professional tracks should become the primary objective.

4. Development of Monitoring and Accountability Systems: An independent accountability unit should be developed in order to track compliance with the quota. It can be made transparent and accountable by regularly auditing them and disclosing data on recruitment.

5. Growth and Impactful Application of Quotas: The present 5% employment quota should be modified to be more representative of the minority demographic of religion. Enforcement at all levels of government should be given the first priority to avoid underutilization since federal, provincial, and local governments are all at the same level.

6. Legal and Policy Changes: The rights of minority candidates may be facilitated with the help of the introduction of inclusive HR practices and anti-discrimination legislation that is distinct in terms of hiring and employment.

7. Stakeholder Engagement: The presence of the representatives of the minority communities in the process of formulating and evaluating the policies will ensure that the changes become practical, inclusive, and sustainable.

Discussion

Despite the fact that the objective of the job quota provided to the religious minorities by Pakistan is to promote inclusiveness, there are some serious systemic and legal challenges to implementing the quota. Although the workplace is constitutionally protected against discrimination, minorities are still often discriminated against in the workplace; they are frequently requested to provide religious statements or are given low-paying jobs such as cleaning. Their level of professional training and educational barriers also limit their access to higher-level positions. There are thousands of booked seats that are not filled with any form of accountability, as there is no monitoring authority.

In addition, 92% of minorities have low grades, and less than 2% of senior positions, regardless of quotas, and this adds to occupational segregation. These complaints have not been well addressed in courts or other legal institutions, and many individuals are left with no choice because there is laxity in implementation. Since the minorities are not represented in the policymaking process, they remain locked out of the quota reforms. These concerns need to be dealt with through stronger legal backing, providing educational opportunities, holding institutions accountable, and reforms that are inclusive so as to ensure that the quota system not only includes equality but also results in the achievement of token equality.

Conclusion

Although job quotas aim to protect the religious minorities, the Pakistan job quotas system remains inefficient due to issues of structure and law. Constitutional guarantees are being flouted on a regular basis due to a lack of clarity in implementation, institutional biases, and enforcement.



Discrimination is still in place, denying minorities their basic rights, in hiring, promotions, and representation of policies. There should be vigorous judicial supervision, legislative reforms, and participatory policymaking in which these disparities are dealt with. The constitutional commitment of equality by Pakistan will be fulfilled, and the minority rights will be reinforced by making the quota allocations transparent and eliminating the discriminatory practices. Such a job quota system risks perpetuation of exclusion instead of ensuring fair representation of religious minorities where none exists.

Recommendations

- 1. Repeal Discriminatory Affidavits:** Prohibit forced religious statements to obtain employment so as not to violate constitutional rights.
- 2. Anti-Discrimination Training:** Require hiring committees to undergo sensitization to exclude religious discrimination.
- 3. Clear Legal Framework:** Revise laws to specify the minority quotas to make their implementation and enforcement transparent.
- 4. Data Transparency:** Release yearly reports on minority hiring so that it is clearer how they were accountable in meeting their quota hiring.
- 5. Judicial Activism:** Get the higher courts to initiate suo motu proceedings against prejudiced hiring patterns.
- 6. Policy Inclusion:** Include representatives of the minorities in the changes to the job quota policy in order to overcome systemic prejudices.
- 7. Public Awareness Campaigns:** Educate the minorities on their rights as per the quota system through legal assistance programs.
- 8. Review of legislation:** Parliamentary audits to determine the effectiveness of the quotas and make the relevant amendments.
- 9. Reserved Senior Positions:** Establish a sub-quota of minorities in top government positions to allow minorities to grow in their careers.
- 10. Strict Enforcement Mechanisms:** Have oversight bodies to check on quota allocations and to punish violations.

Research Limitations

This research has certain limitations regarding the law aspects of job quotas in Pakistan, in which religious minorities are disadvantaged. To begin with, the current of minority employment in the public sector in an official manner are not available and hinders the comprehensive quantitative analysis. Second, reliance on secondary sources may involve biases or a lack of views, including news articles and NGO research. Third, the socio-cultural factors, such as discrimination in society, are not well explored in the study, and it primarily focuses on law and policy frameworks. Moreover, the study does not fully investigate regional variations in the implementation of quotas in different provinces.

As well, the primary data was collected based on the accessibility factor, whereas the interviews with government officials or minority job seekers could have provided better valuable information. Lastly, since the legal and political setting in Pakistan is dynamic, post-research policy may affect the results of the research. Despite these disadvantages, the work is a critical study of systemic issues, which prepares for more comprehensive studies in the future.



Research Implications

Studies of the legal issues encountered in the hiring of religious minorities in the Pakistani job quota system have various implications:

- 1. Advocacy & Awareness:** This research can be used by the civil society and minority groups to enhance their advocacy campaigns on equal employment opportunities and the law.
- 2. Future Research:** The research reveals data gaps and regional differences, so more qualitative and quantitative research is needed on how the minority is represented in employment.
- 3. Institutional Accountability:** Government institutions should be made responsible in terms of discriminatory hiring procedures by conducting audits and reporting on the quota adherence to the citizens.
- 4. Judicial Intervention:** The results suggest a response in the form of judicial intervention to safeguard minority employment cases by guaranteeing protection of constitutional provisions (Articles 20, 27, 36).
- 5. Policy Reforms:** The paper points out systemic weaknesses in the job quota system in Pakistan and calls on policymakers to implement transparent and enforceable job quota reforms to safeguard minority rights.
- 6. Social Equity:** These issues can be dealt with to foster social cohesion, or, in other words, to decrease the economic marginalization of religious minorities.

Future Research Directions

In order to research legal issues of religious minorities in the Pakistani job quota system, the researcher can consider in the future three areas of challenge to the system that can be viewed as a way of improving the system:

- 1. Digital Discrimination Audits:** Check job ads/applications coded with religious biases in hiring language with the help of AI tools.
- 2. International Best Practices:** Research the model of study quota used in India, Bangladesh, or South Africa in order to suggest reforms adapted to the context.
- 3. Intersectional Discrimination Analysis:** Find out how gender, caste, and socioeconomic status drive job Quota issues in religious minorities.
- 4. Legal-Psychology Interface:** How fear of backlash makes minorities not assert quota rights even when it is legal.
- 5. Longitudinal Impact Assessment:** Measure the effectiveness of the quota system and the systemic barriers by measuring changes in minority employment over 5-10 years.

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