

THE COST OF HATE SPEECH

Policy Brief for Punjab



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Preamble

Pakistan is a religiously diverse country. Since its inception in 1947, it has been facing issues of intolerance and hate speech. Despite all legal provisions against hate speech, it has been allowed to flourish with impunity in practice. Hate speech in textbooks, print and electronic media including in sermons delivered through clerics have torn the social fabric of our society.

Pakistan ratified the International Convention on Civil and Political Rights (ICCPR) in 2009. Laws relating to hate speech exist in Section 505 (2) of the Pakistan Penal Code (PPC) that makes creating or promoting “feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities” punishable. These legal provisions cover firmly the offenses identified as hate speech in the article 19 and 20 of ICCPR. Thus, the existing legal framework of Pakistan provides ample space to government to take action against hate mongers.

After the terrorists’ attack in 2014, at the Army Public school in Peshawar, a National Action Plan (NAP) was formed to counter terrorism in the country. Among 20 points within this NAP, the fifth one focused on “Strict action against the literature, newspapers and magazines promoting hatred, extremism, sectarianism and intolerance”.

Unfortunately, despite all these legal provisions against hate speech, little has been done in practice. On December 27, 2014 an Ahmadi, Luqman Ahmad, was shot dead in district Gujranwala after a Muslim leader denounced Ahmadis on a popular television show. On December 30, 2014 the television apologized for its editorial negligence. The assassination of the former Governor of Punjab, Salman Taseer, reminds us of a campaign of hate speech that was carried out against him and the announcement of a bounty to incite his murder. Members of religious minorities are facing the issue of hate speech constantly.

Terrorism has deep roots in hate crimes. In the context of Pakistan, it is urgently needed to implement the existing laws regarding hate speech. I pay homage to all staff who have contributed to bring this research to publication and hope it will stir the still waters of negligence and facilitate policy makers to carve a vibrant policy to counter the hate speech swelling rapidly in our society.

Cecil Shane Chaudhry

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Introduction

Pakistan is faced with an unprecedented escalation in hate speech that is creating a climate of fear amongst minorities and an increase in violent religious extremism. Perpetrators of hate speech act with impunity, while those who defend minority rights also become targets of hate and intimidation. Hate has become a key contributing factor in the crimes committed against minorities, and yet, it is frequently met with a lack of accountability. Hate reinforces and exacerbates long-standing marginalization and exclusion, particularly for those who face intersectional discrimination, such as women from religious minorities, and those facing caste-based discrimination.



Besides this, the continuous demand from the religio-political parties to make Pakistan a theocratic state has created space for and given rise to an increasing number of incidents of discrimination, hate speech and violent acts against religious and sectarian minority communities. One extremely important issue that gives rise to such incidents is the blatant use of hate speech within both online and offline spaces (neighborhoods, syllabus, classrooms, public spaces, working spaces, market places, newspapers, public and private literature, as well as social media platforms) in Pakistan, towards citizens belonging to religious and sectarian minority communities, such as Christians, Hindus, Sikhs, Ahmadiyya and Shi'a as well as Atheists (as following no faith renders people equally susceptible to hate speech as those who follow different faiths or faith practices).

This policy brief provides a clear overview of hate speech towards religious and sectarian minorities and its detrimental effects, an analysis of the current legislation in place and a series of recommendations to fill the lacunas in state policy towards hate speech and support the implementation of existing policies designed to prevent it.



Research Methodology

This policy brief is informed by a study which focused on monitoring the severity and frequency of hate speech towards religious and sectarian minority groups including Christians, Hindus, Sikhs, Shia, Ahmadis and Atheists in the province of Punjab, Pakistan. To meet these objectives CCJP developed a comprehensive questionnaire, conducted Focus Group Discussions (FGDs) with each community, and documented case studies alongside compiling and producing a lexicon of hateful terms.

A special emphasis was made to conduct separate FGDs in urban and rural settlements. With each community, FGDs were also organized in the locality of the community to witness and understand their traditions and ways of life. In some instances, FGDs were split into two sessions, to be conducted with men and women separately in order to respect the community's cultural values and customs. Participants of the FGDs were also provided with private space for sharing if they did not wish to share their experiences in the group discussion, because of the severity and stigma attached to incidents they had experienced. In the FGDs, participants were first sensitized about hate speech and then encouraged to share any incidents they had personally experienced, and finally, their insights were recorded using the questionnaire.

The questionnaire was designed to be filled by members of religious and sectarian minorities. Individuals who were not able to read and write were provided with assistance by the research team to record their responses. The purpose of this questionnaire was to record as many hateful terms as possible and to obtain descriptions and commentary about incidents of hate speech experienced by the participants.

We then re-interviewed some FGD participants so as to document a limited number of experiences and incidents in more detail in the form of case studies. These were developed from the experiences and first-hand accounts of religious discrimination shared by the participants in the FGDs. These primarily served as an illustration of the stigma caused by hate speech and its sustained effects, while also providing necessary information to develop the lexicon of hateful terms.

The Lexicon is a document containing a compilation of derogatory and demeaning terms based on religious discrimination, the historical background and social context of such terms, the stigma for the minorities attached to these terms, while also suggesting where possible terminology that is largely preferred by the different minority communities. The hateful terms in the Lexicon were all extracted and compiled from the information, views and experiences recounted during FGDs. Terms included in the Lexicon are used to monitor hate speech as well as to inform those new to Pakistan as to the terminologies that communities prefer and terms to avoid using and why.



What is Hate Speech?

There is no single commonly agreed definition or understanding of “hate speech”. The following are two of the notable and widely used definitions.

- The International Covenant on Civil and Political Rights prohibits *“any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”*.¹ A restrictive understanding of “hate speech” consists in equating hate speech to this category of speech that is prohibited under the ICCPR.
- In a more extensive definition, hate speech can be understood as any discriminatory speech or expression of hate towards a person or group based on their actual or perceived belonging to a certain gender, ethnic origin, religion or belief, race, disability, sexual orientation, etc.²

¹ Article 20, International Covenant on Civil and Political Rights.

² John T. Nockleby, “Hate speech,” in *Encyclopedia of the American Constitution*, ed. Leonard W. Levy and Kenneth L. Karst, vol. 3, 2nd edition (Detroit: Macmillan Reference US, 2000), 1277-1279, quoted in Margaret Brown- Sica and Jeffrey Beall, “Library 2.0 and the Problem of Hate Speech,” *Electronic Journal of Academic and Special Librarianship* 1, no. 2 (Summer 2008).

Under that understanding, hate speech is not restricted to speech that must be prohibited under international law (i.e. advocacy to hatred that constitutes incitement to discrimination and violence), nor even to speech that can be prohibited under international law (i.e. some of that expression can be protected under freedom of expression). Instead of adopting a definition of hate speech, the UN adopted with the Rabat Plan of Action in 2012 a six-part test that allows the identification of hate speech that must be prohibited under the ICCPR (i.e. advocacy of hatred that constitutes incitement to violence). The criteria are the following:

1. The content of the expression
2. The social and political context in which this expression occurs
3. The identity of the speaker and his or her influence over the audience
4. The intent of the speaker to advocate hatred with a knowledge of the likely consequences
5. The extent or magnitude of the expression, in particular whether it is public and addressed to a wide audience
6. The likelihood of harm resulting from the expression

These criteria help to establish a threshold that justifies the prohibition of certain expressions as “advocacy to hatred that constitutes incitement to violence, hostility and discrimination”. It does not mean that other type of hateful expression that do not meet all these criteria should not and cannot be combatted, but it restricts the possibility for states to unduly limit freedom of expression under the pretext of combating hate speech.

The lack of any universally accepted definition for the term “hate speech” contributes to difficulties in framing relevant legislation as well as in ensuring the full and proper implementation of legislation that is in place. As a result, there is considerable ambiguity in certain terminologies: hate speech, dangerous speech, advocacy of hatred, incitement and bullying. To address this concern, the following is an attempt to differentiate between the aforementioned terms. For the purpose of this research, the focus is on hate speech and dangerous speech expressed primarily on the basis of an individual’s (actual or perceived) religion or belief.

Religious Hate Speech

“A statement or expression of discriminatory hatred against any person or group on the basis of that person’s or group’s actual or perceived faith, belief or religious practice and which encourages, condones or calls for discrimination, hostility or violence against that person or group”.

There are various means of spreading hatred against certain groups; some of the most widely used are one-to-one conversations, group discussions, loudspeakers, wall chalking/graffiti, TV, radio, newspapers, books, pamphlets, posters, signs, placards, stamps (e.g., printed on bank notes), etc. This phenomenon has been observed to be practiced in educational institutions, workplaces and public spaces (including businesses, shops and hospitals).

Since the scope of this research deals with the occurrence in offline spaces, online media and platforms are not included. For information concerning online hate speech, see a companion study called Annual Report on Hate Speech (online) 2019-2020 produced by **Bytes for All**.





if ***hate speech*** goes unchecked, it can escalate into violence at **an alarming speed and scale.**



Implications of Hate Speech

Hate-speech towards religious and sectarian minorities in Pakistan has become so widespread that it is accepted as normal.

The following analysis on hate speech and its effects is based on personal sharing of participants from a series of Focus Group Discussions (FGDs).

One of the immediate effects of hate speech is that people experience a loss of self-esteem. A Hindu man from Rahim Yar Khan shared his experience that his daughter was a bright student but she used to face hate speech for being a Hindu on a daily basis, which ultimately resulted in the young girl losing her interest in studies. Members of the religious minority groups have observed or experienced the same phenomenon at their workplaces.

Another immediate effect of Hate speech are violent attacks. Members of the majority community who are exposed to hate speech often take extreme steps such as attacking and burning houses of minorities³, vandalizing their worship places⁴, target killing⁵, and abduction of minor girls⁶.



³ Dawn, 'Dozens of houses torched as mob attacks Lahore Christian locality', 9 March 2013, <https://www.dawn.com/news/791408>

⁴ Dawn, "Ghotki attacks on Hindu community conspiracy to foment communal unrest," probe finds', 29 September 2019, <https://www.dawn.com/news/1507673>

⁵ The Guardian, 'Pakistani Shias live in terror as sectarian violence increases', 21 October 2020, <https://www.theguardian.com/world/2020/oct/21/pakistani-shias-live-in-terror-as-sectarian-violence-increases>; Human Rights Watch, 'Pakistan: Surge in targeted killings of Ahmadis', 26 November,

⁶ Dawn, 'The case of missing Arzoo', 27 December 2020, <https://www.dawn.com/news/1598113>

Hate speech against religious minorities has been prevalent for decades now, and as a result it has left lasting impacts on the psyche of society. It has created an evident division of superiority and inferiority based on religion or belief. Examples of this are seen in all aspects of life, some of which are mentioned below:

- **Corporate sector:** People belonging to the minority community are offered menial jobs such as sanitary worker/sweeper⁷. They are allocated more work than their counterparts⁸ and they are not considered for promotions.⁹
- **Government Employment:** Government departments publish adverts for the posts of sanitary workers and sweepers, while clearly mentioning the only requirement that a candidate must be a non-Muslim.
- **Education Sector:** The school and college textbooks being published in Punjab play a pivotal role in teaching children from an early age to hate minorities.¹⁰

All these steps have resulted in consistent fear among the minority community members regarding their security and survival. As a consequence, there exists a lack of confidence and trust between the majority and minority communities. This leads to social marginalization of the religious minority groups, which further adds to the extent of social exclusion, especially where the minority community members are from the poorer strata of society (that includes most minority populations).

It is imperative to understand that hate speech results in more hate speech and thus it resonates and spreads widely and has strong influences. The fact that hate speech is seen as entirely normal in Pakistani society means that majority individuals do not hesitate to use it. Terms that are hateful may be used without any intention to offend because they are common and their negative connotations for minority communities are not well understood, or even if understood, the damage that they do is totally ignored. Hate speech in Pakistan is therefore a mixture of conscious, deliberately used speech (e.g. instrumentalizing a difference of religion to maintain privilege, vested interests, or to win a dispute or disagreement) and unconscious, unintentionally harmful hate speech used because terms are part of everyday speech and awareness about their discriminatory impact is low or not regarded as important. The widespread and commonly occurring nature of hate speech in Pakistan means that discriminatory attitudes are strongly embedded, more deeply held and are more difficult to discuss, let alone shift.

⁷ Repeated experience shared by the young and middle-aged professionals; participants of FGDs with Hindu and Sikh community belonging to urban areas

⁸ *ibid*

⁹ *ibid*

¹⁰ NCJP (2019), Education and Religious Freedom: A Fact Sheet, https://drive.google.com/file/d/1ILeT2kXc5T1VTQMv53L8qzADrq_JWaJt/view

Legal Provisions

Local Laws

Law	Provisions / Penalties
Pakistan Penal Code, Section 153-A	Promoting or inciting, or attempting to promote or incite, on grounds of religion, race, place of both, residence.
Pakistan Penal Code, Section 295	Injuring or defiling place of worship, with intent to insult the religion of any class: Maximum punishment; two years imprisonment or fine or both. 295 A , Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs: Maximum punishment; ten years of imprisonment or fine or both.
Section 296	296 , Disturbing religious assembly: Maximum punishment; one year, or with fine, or both.
Section 297	297 , Trespassing on burial places, etc. Maximum punishment; one year, or with fine, or both.
Section 298	298 , Uttering words, etc., with deliberate intent to wound religious feelings: Maximum punishment; one year, or with fine, or both
National Action Plan 2014 Point # 5	Strict action against the literature, newspapers and magazines promoting hatred, extremism, sectarianism and intolerance.

Law	Provisions / Penalties
Loud Speaker Act 2015	It shall be unlawful for any person to use, or assist in using, permit or allow the use of a sound system which generates any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons in or beyond the vicinity.
Prevention of Electronic Crimes Act 2016 (PECA)	<p>Section # 9</p> <p>Glorification of an offence and hate speech. Whoever prepares or disseminates information, through any information system or device, with the intent to glorify an offence and the person accused or convicted of a crime relating to terrorism or activities of proscribed organizations shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten million rupees or with both.</p>
The Prevention of Electronic Crimes Act 2016 - Hate Speech (PECA)	<p>Section # 11</p> <p>Whoever prepares or disseminates information, through any information system or device, that advances or is likely to advance interfaith, sectarian or racial hatred, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.</p>

International Provisions

International Covenant on Civil and Political Rights (ICCPR)

- **Article 20** - Hate Crimes

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

- **Article 26** - Equal Citizenship

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- **Article 27** - Protection of minorities

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 practice their own religion, or to use their own language.

- **The Rabat Plan of Action 2012:**¹¹

The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

¹¹ Available at: <https://www.ohchr.org/en/newsevents/pages/therabatplanofaction.aspx#:~:text=The%20Rabat%20Plan%20of%20Action%20on%20the%20prohibition%20of%20advocacy>,

There is a *fine line*
between free speech &
hate speech.

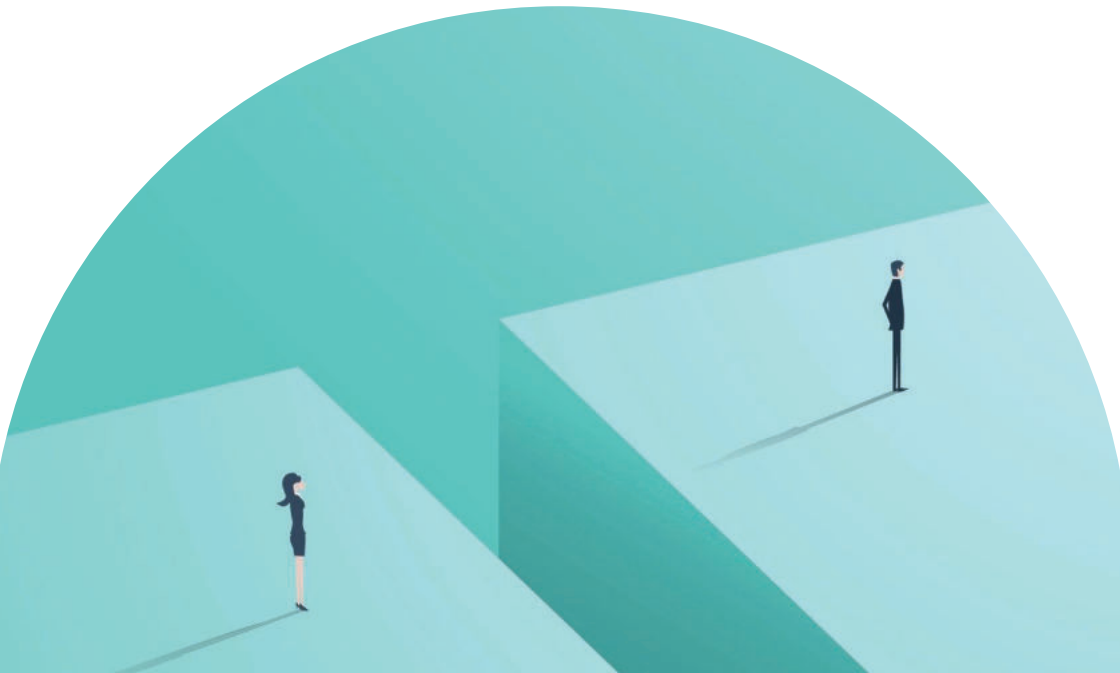
Free speech **encourages**
debate *whereas*
hate speech **incites**
violence.

Gaps in the Legal and Policy framework

There are several loopholes in the existing legislation which lead to misinterpretation of laws, exploitation of legal provisions, and impediments to the development of implementation mechanisms. These gaps in the existing legal framework contribute to the prevalence of hate speech which then goes on to contribute towards discrimination and violence against minority communities. These legal lacunas are equally detrimental to society as a whole because ultimately they lead to polarization of society along religious lines and high levels of violence towards already marginalized sections of society, which impacts on security for all and the perception of Pakistan as a stable and safe environment.

- First and foremost, *the gap in the existing policy framework relating to hate speech is the lack of an implementation mechanism*. Hate speech is addressed at the level of principle but not at the level of practice, especially hate speech which incites discrimination, hostility and violence towards religious and sectarian minorities.
 - The effectiveness of *existing legislation is compromised as it is interpreted and applied by law enforcement personnel who form part of the divided society* described above. Religious biases are deep in the fabric of Pakistan's society, thus also replicated in the attitudes of law enforcement personnel. It would take a very high degree of training, incentives, support and professionalism for these very widespread and deeply imbedded, often unquestioned social biases to be eliminated in the police, legal services and judiciary.
 - There is a *reluctance by the state to oversee or intervene in majority religious matters*. Hate is spread by some religious leaders which is caused by a lack of oversight of religious affairs such as monitoring of sermons.
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- *Media (such as TV, stage shows and loudspeakers) through which hate speech is spread are not effectively monitored and regulated as per existing legal provisions.*
- *The language of the laws and definitions concerning hate speech in a religious context are vague which leads to misinterpretation and creates additional hurdles in implementation.*



Recommendations

After monitoring the dynamics of hate speech, analyzing the severe implications of hate speech, perusing the existing legislation concerning hate speech, and studying the loopholes in legal frameworks relating to hate speech in the Punjab province of Pakistan, CCJP has come forward with the following recommendations to monitor and curb hate speech by contributing to the development and promotion of a coherent and peaceful society that accepts religious diversity.

- The state should introduce monitoring, regulation and standardization mechanisms for religious sermons, speeches, and seminary curriculum.
 - The government should enact a comprehensive policy on equality and non-discrimination as well as introduce administrative mechanisms against discrimination, to curb hate speech and hate crimes and ensure effective redress for victims.
 - The state should acknowledge hate-speech in all its forms as put forward via a detailed analytical study on the subject, and should establish federal and provincial committees to monitor hate speech and its impact on social cohesion and peaceful societies.
 - The state should reform the education system to promote critical thinking so that students do not fall prey to false information spread by hatemongers. The education system should also promote empathy for vulnerable groups and it should encourage pupils to understand social injustice.
 - The state should invest in nation-wide campaigns using newspapers, TV, radio, films and social media to promote non-discrimination and equality based on citizenship, and conduct awareness raising against hate speech among the general public.
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Notes:

The Coalition for Religious Equality and Inclusive Development (CREID) provides research evidence and delivers practical programmes which aim to redress poverty, hardship, and exclusion resulting from discrimination on the grounds of religion or belief. CREID is an international consortium led by the Institute of Development Studies (IDS) and funded by UK aid from the UK Government. Key partners include Al-Khoei Foundation, Minority Rights Group (MRG), and Refcemi.

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