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**Caveat** that should be kept in mind while reading my answers: though the Supreme Court of Pakistan has interpreted fundamental rights enshrined in the Pakistani Constitution very widely, major problems with enforcement and protection of human rights arise because of the failure of the executive and at times failure of the lower courts.

I have not included citations of the cases decided by the Supreme Court in the following answers for reasons of brevity.

Some of the questions were difficult to understand because of gra, I have answered them according to my own understanding of what the question meant

### **1. Who is "human" in the concept of modern human rights?**

Human is given a very wide meaning in the Pakistani constitution by the Supreme Court. It has used it to provide constitutional protection to men, women, and children, persons with disabilities, transgender persons and minorities. Even where the text of the constitution only uses the word 'man', the Supreme Court has interpreted it to include all humans, most famously for Article 14 which states "The dignity of man... shall be inviolable", and the Court has interpreted it to include all humans.

### **2. How is carried out of the protection of a right which is not regulated in the Constitution in your legal system? What kind of balancing is done when a right uncounted in the Constitution is conflicted with a constitutional right?**

For rights not protected by Constitution, their protection is based on the statutory provisions which provide for such rights.

I am not aware of any right that might conflict with a constitutional right. If however, there is a right that might be accepted in international human rights law, but is incompatible with principles of Islam (as interpreted by courts or mainstream Islamic scholars), then that right remains unprotected, and will be considered unconstitutional, since it contradicts Islamic principles. So for examples homosexuality is not protected by the legal system.

- 3. Do International Human Rights Documents applied in your country represent minimum standards that are already provided or the must-reach aims? Are there any regulations in your legal system above international human rights standards? If there are, would you please explain?**

The Pakistani Courts have been very generous in their interpretation of Constitutional rights, and do interpret those rights in line with international treaty obligations of Pakistan. The only exception being rights that may conflict with Islamic principles. Thus Islamic principles are considered the highest source of law, above even the Constitution, which is interpreted in light of Islamic principles.

- 4. In your legal system, is the jurisdiction an actor itself to move forward human rights standards? If it is, would you please explain?**

I am unable to understand this question. If you are asking whether individuals can bring cases raising human rights issue, then the answer is yes. Some of the most important cases expanding the scope of Constitutional rights have been brought by individuals trying to protect/enforce their rights. There have also been instance of public interest litigation where members of civil society have initiated public interest litigation to further the protection of fundamental human rights. In addition, the Supreme Court itself has taken cognizance of certain issues under its suo motu powers, and these decisions have played an important role in expanding the scope of fundamental human rights.

- 5. Are there values and issues in your country that are not covered by human rights documents but need to be protected under the concept of human rights? If your answer is yes, would you please explain?**

Yes there are certain values that are not **explicitly** protected by the Chapter on Fundamental Human Rights in the Constitution, i.e. not explicitly mentioned. For example rights of differently abled persons are not explicitly mentioned in the Constitution, however the Supreme Court has interpreted article 25 (right to equality) to extend Constitutional protection to such people. The same is the case with transgender people, who are not explicitly mentioned in the Constitution, but the Court has interpreted article 14 (right to dignity) and article 9 (right to life) to provide protection to transgender people.

There are certain issues that are not protected, primarily those that are considered in conflict with Islamic principles. So for example right to sexuality, and right of homosexuals is not protected in Pakistan.

In addition many values are not protected under the Chapter on Fundamental Human Rights in the Constitution which imposes obligation on the government, but are mentioned in the Chapter on Principles of Policy, which does not impose obligations on the government, just requires that the government acts in accordance with the Policies as far as possible with the resources available.

**6. Are there such human right regulations in the legal system of your country that is protected by the constitution but contradicts social reality and justice?**

There are no such regulations, in fact the preamble to the Constitution and the Objective Resolution (made substantive part of the Constitution under article 2A) state that the state should guarantee social, economic and political justice. Though there are human right regulations, protected under the Constitution, which are not properly protected in practice due to the failure of the government in protecting them and failure of the society. Thus rights of women, minorities, transgender, and children, to give a few examples, are protected under the Constitution (as interpreted by the Supreme Court), but in reality there are many problems in the enforcement of such rights and protection accorded to these groups.

**7. Are there any social realities contradicting international human rights concept based on individualism?**

Yes there are. For example, freedom of speech though protected in the Pakistani Constitution is limited in Pakistan and does not protect speech that may be considered blasphemous, or against national security. Similarly discrimination based on sexual orientation is part of the legal system, with section 377 of the Pakistan Penal Code criminalizing sexual relations between same-sex couples. Similarly Islamic inheritance law requiring inheritance to be divided between men and women in the ration of 2:1, is protected under the law, even though it goes against right not be discriminated on the basis of gender.

**8. In your legal system, are there legal mechanisms to protect human rights if fundamental rights are violated by private persons? Are these mechanisms effective?**

No such mechanisms are contained in the Constitution, though the Supreme Court has at times interpreted the Constitution to provide enforcement of rights in such cases.

So for example if certain actions of private actors lead to violation of fundamental rights, then the Supreme Court of Pakistan has interpreted the Constitution to consider such violation by private actors as amounting to violation by the state of its obligations to protect fundamental rights, since the state failed to protect the rights of the victims. So for example in case of deteriorating law and order situation in the city of Karachi, as a result of violence committed by private individuals, the Supreme Court (in the case of PLD 2013 SC 443) held that such a situation amounted to the violation of rights, under article 9 (security of person/right to life) and 24 (protection of property), by the state.

In addition certain acts of parliament which have also legislated on certain rights, may provide enforcement mechanism against private persons. So for example the Transgender Persons (Protection of Rights) Act, 2018, provides for mechanism to protect the right of a transgender person if the right is violated by a private persons.

**9. Are there groups in your country who have their own national, ethnical, religious and linguistic identities? Could you please give some information about them (especially if you feel yourself one of them)?**

Yes there are a number of groups with their own ethnic and linguistic identities, in addition to religious minorities in Pakistan. So for example the four provinces of Pakistan represent the four main ethnicities in Pakistan: Punjabis, Baloch, Pashtun and Sindhis. In addition to these main groups there are other such groups as well. It can be argued that the rights of some of these groups are not adequately protected in Pakistan. Two of the largest groups who argue their rights are not adequately protected are the Baloch and Pashtun. Same is the case with religious minorities, where again Pakistan has failed to adequately protect religious minorities. As far as the Constitution is concerned, it provides for both right to religion (article 20 and 22) and right to preservation of language and culture (article 28).

**10. What is the definition of the notion “minority” according to your constitutional system? What is your opinion on this concept? Do you think that minority rights should be protected broadly by the constitutional level? Do you think that constitutional regulations that would broaden the rights of minorities will solve the conflicts between majorities and minorities?**

Minorities are mentioned in the preamble of the Constitution, in the Objective Resolution (made substantive part of the Constitution under article 2A) and in Article 36 (Chapter on Principles of Policy, which does not bind in the same way that Chapter on Fundamental Rights does). The Constitution

considers anyone not belonging to the Islamic Faith as a minority. Other groups are not considered minorities (such as ethnic or linguistic groups) by the Constitution. These articles in addition to the fundamental right to religion (article 20) provide for protection of the 'legitimate rights and interests of minorities'. There is no such comparable right for other types of minorities, though the preamble and section 37 provide for protection and promotion of the interest of backwards classes and areas.

Constitutional regulation alone would not be sufficient to provide adequate protection to minorities. It is an important part of such protection, but would also require a change in the social and political sensibilities of the people, so that they understand the importance of upholding minority rights. It would also require that both the government and lower courts are vigilant in protecting the rights of such groups.

- 11. What do you think on the notion and the concept of minority rights in international law? Could the international regulations/treatments be a response to the reality and problems of the peoples in your country? In other words, do they cover the reality in your country from the view of the state and the view of peoples?**

International conception of minority rights can only be a single prong in the strategy to provide protection to minorities. To provide adequate protection to minorities, in addition to promulgating international law principles into local law, what is required is the need to educate people and try to change their attitude towards minority rights. This would require a concentrated effort to change the social and political landscape to create an awareness about the need and importance of minority rights.

- 12. What you think is the most current human rights problem in your country?**

For me the most current human rights problem include rights of women, minorities, transgender people and people with disability. So in other words, I personally cannot pick a group and say that their problems are more pressing than those of the other group.