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BEYOND DHIMMA: MAQĀSĪD AL-SHARĪ‘AH, ḤIFẒ AL-KARĀMAH, AND THE RECONSTRUCTION OF INCLUSIVE CITIZENSHIP FOR RELIGIOUS MINORITIES IN PAKISTAN

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Abstract

Pakistan’s 1973 Constitution simultaneously guarantees religious freedom and equal citizenship (Articles 20, 25, 36) and reserves the highest offices of state for Muslims (Articles 41(2), 91(3)), producing a constitutional order in which non-Muslim citizens are formally included and structurally subordinated. The scholarship documenting this contradiction is now substantial, but it is analytically stalled: liberal-rights critique diagnoses the problem in a normative vocabulary that carries limited persuasive authority inside Pakistan’s religious public sphere, while Islamic-law scholarship on minority protection continues to work within a *dhimma* framework designed for a pre-national, non-citizenship polity. This article addresses that impasse. Its objective is to reconstruct minority protection in Pakistan on maqāṣidī rather than status-based foundations. Methodologically, it employs normative-doctrinal legal research combined with a documented conceptual review of 112 sources (2019–2026 peer-reviewed literature, classical uṣūlī and tafsīr texts, constitutional provisions, reported judgments, and treaty-body documentation), analysed through a maqāṣidī-comparative protocol. Three findings emerge. First, the *dhimma* contract is properly classified as a *wasīlah* (instrument) rather than a *maqṣad* (objective); its protective purposes are discharged more completely under constitutional citizenship than under differentiated status. Second, *ḥifẓ al-dīn* has been construed in Pakistani practice as majoritarian religious preference, whereas its classical formulation is distributive, it protects the religious commitment of every person under the state’s ḍimān. Third, Pakistan’s deficit is interpretive and institutional rather than textual: the constitutional text already contains the resources it fails to deliver. The article’s originality lies in the Maqāṣidī Citizenship Framework (MCF), a three-tier model that adds *ḥifẓ al-karāmah* as an operative objective and maps the ḍarūriyyāt onto four citizenship domains. Implications extend to constitutional interpretation, procedural reform of Sections 295–

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298 of the Pakistan Penal Code, curriculum policy, and the internal legitimization of minority rights within Muslim-majority constitutional states.

Keywords: maqāṣid al-sharī‘ah; inclusive citizenship; religious minorities; Pakistan; ḥifẓ al-karāmah; Islamic constitutional thought

1. Introduction

1.1 The global problem of religiously ordered citizenship

Roughly a quarter of the world’s states privilege one religion in their constitutional order, and in most of them the resulting legal architecture is not a simple denial of minority rights but something more awkward: a formal guarantee of equality operating alongside a formal reservation of political or symbolic primacy. Comparative constitutional scholarship has tended to treat this as a transitional pathology, an incomplete secularisation. That reading has aged badly. Religiously ordered constitutionalism is stable, it is spreading rather than receding, and, as recent work on legal pluralism argues, the tensions it generates arise less from doctrinal incompatibility between Islamic and international norms than from conflicting sources of legal authority and uneven interpretive method (Ullah et al., 2025).² If that diagnosis is right, the question is not how to displace religious constitutional identity but how to argue *within* it for the equal standing of those it does not name.

Pakistan is the sharpest available test of that question.

1.2 The Pakistani context

Non-Muslims constitute approximately 3.6 per cent of Pakistan’s population, yet between 1987 and 2017 they accounted for 829 of 1,534 recorded blasphemy accusations, some 54 per cent, a rate of exposure roughly fifteen times their demographic share (Suleman, 2024).³ The disproportion is not incidental to the legal order; it is produced by it. Jaffrelot (2020) argues that religious minorities were structurally destined for second-class citizenship in a state conceived as a Muslim homeland, a claim reinforced by the 1974 constitutional amendment that defined Ahmadis out of Islam and by the Zia-era insertion of Sections 295-B and 295-C into the Pakistan Penal Code (Rashid, 2023). Empirical work on lived experience corroborates the structural reading: Christians in Lahore describe themselves as occupying a distinct and diminished position on the spectrum of citizenship rather than a shared one (Indrias, 2024), and survey evidence links

² Ullah et al. (2025) frame the problem as one of legal pluralism rather than doctrinal incompatibility. The distinction matters for reform strategy: incompatibility would require doctrinal change, whereas competing authority sources require institutional arbitration.

³ The 1987–2017 figures are as reported by Suleman (2024) from Centre for Social Justice documentation. Blasphemy accusation data in Pakistan are compiled by civil-society bodies rather than by the state, and totals vary between compilers; the disproportion, however, is consistent across sources.

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perceived social discrimination to measurable decrements in psychological well-being among minority respondents (Ali & Ahmad, 2022).

At the same time, Pakistan is not a case of textual silence. Article 20 guarantees the right to profess, practise and propagate religion; Article 25 guarantees equality before law; Article 36 obliges the state to safeguard the legitimate rights and interests of minorities; and the Supreme Court's 2014 suo motu judgment in *SMC No. 1 of 2014* issued detailed structural directions on minority protection.⁴ The gap between this text and minority experience is what Mehndi (2025) calls the enforcement problem and Butt et al. (2025) call the inclusion–exclusion duality. Neither formulation explains *why* the text fails to bind.

1.3 Research problem

The explanation offered here is that Pakistan's minority-protection discourse suffers from a legitimacy mismatch. The constitutional guarantees are framed in the vocabulary of liberal rights; the countervailing provisions and the social norms that give them force are framed in the vocabulary of religious obligation. Where these collide, the religious vocabulary wins, not because it is doctrinally stronger, but because it is the only one with standing in the arena where the contest is actually decided. Sajjad (2023) makes the point directly: in a context where religious scholars are largely absent from, or hostile to, human rights discourse, minority rights remain a culturally unanchored claim.⁵ Blasphemy-law reform advocacy has failed for three decades in precisely this way.

What has not been attempted with sufficient rigour is the alternative: arguing for equal citizenship from inside the maqāsid tradition, using its own classificatory machinery, rather than importing a conclusion and seeking Islamic decoration for it.

1.4 Research gap

The maqāsid literature has expanded rapidly since 2020, but its centre of gravity lies elsewhere. A large body addresses Islamic finance and economic policy (Karimullah, 2023; Syahriani et al., 2024); another addresses *fiqh al-aqalliyyāt*, the jurisprudence of Muslim minorities living under non-Muslim rule (Mawardia, 2020; Sahidin et al., 2021). Shukri and colleagues (2023) invert that lens productively, asking how maqāsid reasoning can secure non-Muslim confidence under a Muslim-majority government in Malaysia, and Shehata (2026) has recently proposed reframing minority protection around *karāmah insāniyyah* and equal citizenship. But Shehata's treatment is

⁴ *Suo Motu Case No. 1 of 2014*, decided by a bench headed by Tassaduq Hussain Jilani J., remains the most detailed judicial articulation of minority protection obligations in Pakistani constitutional law. Its principal directions, a national council for minorities, a special police force for places of worship, enforcement of the employment quota, and curricular reform, remain substantially unimplemented.

⁵ Sajjad (2023) develops this through readings of An-Na'im and Abou El Fadl, and through the reactive posture of Pakistani religious scholars toward human rights discourse framed as a Western agenda.

general and jurisdictionally unanchored, and Shukri's Malaysian findings do not travel to Pakistan: Malaysia's policymakers, on that study's own evidence, apply maqāṣid reasoning while carefully declining to *name* it, a strategy unavailable in a state whose constitution already names Islam as its ordering principle.⁶ No study has applied a maqāṣidī framework systematically to Pakistan's specific constitutional architecture, and none has confronted the hardest problem, that the blasphemy provisions are themselves defended as an application of *ḥifẓ al-dīn*.⁷

1.5 Objectives, questions, and contribution

1.5.1 Objectives and research questions

The study pursues four objectives: to classify the *dhimma* framework in maqāṣidī terms; to reconstruct *ḥifẓ al-dīn* distributively; to develop and specify a maqāṣidī model of inclusive citizenship; and to derive implementable reform propositions for Pakistan. Correspondingly, it asks: (RQ1) Is differentiated minority status a maqṣad or a wasīlah in classical uṣūlī reasoning? (RQ2) Does Pakistan's constitutional and penal architecture realise or invert the ḍarūriyyāt with respect to non-Muslim citizens? (RQ3) What model integrates maqāṣid reasoning with inclusive-citizenship theory without collapsing either into the other? (RQ4) What follows institutionally?

1.5.2 Contribution

The contribution is threefold. Theoretically, the article introduces the Maqāṣidī Citizenship Framework and defends the addition of *ḥifẓ al-karāmah* as an operative rather than ornamental objective. Doctrinally, it advances the wasīlah/maqṣad reclassification of *dhimma*, an argument that has been gestured at but not developed with the uṣūlī apparatus it requires. Practically, it offers reform propositions calibrated to survive Pakistan's religious-political veto points rather than reforms that are normatively attractive and politically inert.

1.6 Structure

Section 2 reviews and criticises the relevant literatures. Section 3 develops the theoretical framework. Section 4 sets out the method. Section 5 presents findings across four themes. Section 6 discusses them against prior work. Sections 7 and 8 address policy and the Islamic normative dimension respectively, and Section 9 concludes.

2. Literature Review

2.1 Four streams and their disconnections

The relevant scholarship divides into four bodies that rarely cite one another. The first documents minority conditions in Pakistan empirically. The second theorises citizenship. The third develops maqāṣid al-sharī'ah. The fourth examines Islamic law's relationship to international human rights. Each has characteristic weaknesses that the others could correct.

⁶ Shukri et al. (2023) report that policymakers across the Malaysian political spectrum accepted maqāṣid reasoning in legislation while declining to label it as such, for fear of alarming non-Muslim constituencies. Article 2A of Pakistan's Constitution forecloses the equivalent strategy.

⁷ This is the strongest form of the counter-position and is engaged directly at §5.2 rather than deferred. A framework that cannot address the hardest case for its opponents is of limited use.

2.1.1 Empirical scholarship on Pakistan

Fuchs and Fuchs (2020) reoriented this field by insisting that “religious minority” in Pakistan is inseparable from caste, and their special issue remains the most cited intervention (61 citing publications). Systematic reviews (Shah, 2021; Rehman, 2021; Younas, 2024) converge on eight recurring domains of disadvantage: religious freedom, out-group identity, media representation, social exclusion, extremism, education, economic deprivation, and constitutional-legal status. Convergence at this level, however, conceals a methodological problem. Rehman (2021) and Younas (2024) reach near-identical conclusions from overlapping corpora, and both concede that religiosity as a variable remains unexplored. The field has, in effect, reviewed itself repeatedly without generating new primary evidence, a saturation that mistakes agreement for knowledge.⁸

2.1.2 Citizenship theory

Marshall’s (1950) civil–political–social sequence remains the baseline, but its assumption of an undifferentiated citizen-subject has been dismantled from several directions: by Young’s (1989) argument that formal universality entrenches majority norms, by Kymlicka’s (1995) defence of group-differentiated rights, and by Lister’s (2007) reconstruction of inclusive citizenship as simultaneously status, rights, participation, and belonging. Lister’s four-dimensional scheme is the most useful for present purposes because it separates the legal from the experiential, and Indrias’s (2024) Lahore interviews show exactly why that separation matters, since her respondents hold full legal status while reporting near-total absence of belonging.⁹ What this literature lacks is any engagement with religiously ordered constitutionalism. Kymlicka’s model presupposes a liberal state that is neutral between conceptions of the good; Pakistan is not, and the model has nothing to say about what follows.

2.1.3 Maqāṣid scholarship

Al-Ghazālī’s *al-Mustasfā* fixed the five *ḍarūriyyāt*; al-Shāṭibī’s *al-Muwāfaqāt* supplied the inductive method (*istiqrāʾ*) by which they are derived; Ibn ‘Āshūr extended the field toward *ḥurriyyah*, *musāwāt*, and *fiṭrah*; Auda (2008) recast the whole as a systems architecture. Abu Bakar et al. (2021) note the significant point that ‘Izz al-Dīn ibn ‘Abd al-Salām, unlike al-Shāṭibī, explicitly added *al-‘ird* (honour, dignity) to the *ḍarūriyyāt*, a divergence with direct bearing on the

⁸ This is not a criticism of the individual reviews, each of which is competently executed. It is an observation about a field-level incentive structure that rewards synthesis over primary collection in a context where primary collection carries risk to researchers and participants alike.

⁹ Indrias (2024) conducted twenty-six interviews with members of the Lahore Christian community, drawing on intersectionality theory. The finding that respondents occupy a distinct position on the citizenship spectrum, rather than a diminished quantity of the same citizenship, is what makes Lister’s four-dimensional scheme preferable to Marshall’s sequence here.

argument developed below.¹⁰ Contemporary expansion has been vigorous: Tahir et al. (2024) propose *ḥifẓ al-bī'ah*, *ḥifẓ al-ummah*, and *ḥifẓ al-dawlah*; Brahim et al. (2025) apply maqāṣid to criminal-law reform as a transformative rather than symbolic project. The weakness is disciplinary drift. A substantial proportion of post-2020 maqāṣid output is applied to Islamic banking, where the framework functions as a compliance heuristic. When maqāṣid reasoning is applied to constitutional questions, it is usually asserted rather than argued, the *ḍarūriyyāt* are listed, a conclusion is stated, and the inferential step between them is left unperformed.¹¹

2.1.4 Islamic law and human rights

An-Na'īm (2008) argues that *sharī'ah* can only be authentically observed under a state that is institutionally secular; Abou El Fadl (2002) locates tolerance within the tradition's own moral ontology; Kamali (2008) works through the doctrinal detail. Sajjad (2023) usefully reframes the problem as requiring two simultaneous movements, Muslim engagement with religious freedom as an internal reform, and a human-rights structure that takes religion seriously. Shehata (2026) offers the most direct statement of the reconstructive position: classical protection of non-Muslims held real ethical resources, but its status-based structure is inadequate to the modern constitutional state, and *karāmah insāniyyah*, adaptive *ijtihād*, and international norms can be integrated into a substantive model of equal citizenship. This is the position the present article shares and attempts to make jurisdictionally operational.

2.2 Inconsistencies, limitations, and gaps

Four problems recur across these literatures.

Theoretical. Maqāṣid studies almost never engage citizenship theory, and citizenship theory almost never engages religiously ordered states. The literature therefore contains no account of how the *ḍarūriyyāt* relate to the components of citizenship, the precise question a Muslim-majority constitutional order poses.

Methodological. Doctrinal maqāṣid work is overwhelmingly “library research” without a stated corpus, inclusion criteria, or analytic protocol. Of the maqāṣid studies surveyed for this article, fewer than one in five specified how sources were selected.¹² Findings are consequently unreplicable, and the field cannot accumulate.

¹⁰ The divergence is substantive rather than terminological: 'Izz al-Dīn's inclusion of *al-irḍ* among the protected interests supplies the classical warrant for the six-fold scheme adopted at §3.1.3. Al-Shāṭibī retains the five without addition.

¹¹ The pattern is: statement of the *ḍarūriyyāt*, statement of a policy conclusion, and no demonstrated inference connecting them. The *wasīlah/maqṣad* test proposed at §4.3 is intended as one remedy.

¹² This proportion is an observation from the present corpus and is offered as such rather than as a systematic bibliometric finding; a formal methodological review of the maqāṣid literature would be a useful contribution in its own right.

Geographical. Malaysia and Indonesia dominate applied maqāṣid research on pluralism (Shukri et al., 2023; Ramadhanty et al., 2026; Sudirman et al., 2026). Both are constitutionally and demographically unlike Pakistan: Malaysia’s non-Muslim population approaches 40 per cent and possesses substantial electoral leverage, Indonesia’s Pancasila settlement declines to establish Islam at all. Pakistan combines a small, politically weak minority population with an explicitly Islamic constitutional identity and an operative penal apparatus around religious offence. No published maqāṣidī analysis addresses that configuration.

Policy. Recommendations in this field cluster at a level of generality, “strengthen implementation,” “raise awareness,” “reform curricula”, that cannot be operationalised or evaluated. Almost none address the procedural mechanics through which harm is actually produced, such as the registration threshold for a blasphemy FIR.¹³

Research gap. No study has developed a maqāṣidī framework of inclusive citizenship that (a) classifies differentiated minority status within uṣūlī categories rather than assuming it, (b) confronts the majoritarian construction of *ḥifẓ al-dīn* on its own terrain, and (c) is calibrated to Pakistan’s constitutional architecture. This article addresses that gap.

Table 1. Synthesis of literature streams and identified deficits

Stream	Representative work	Principal contribution	Principal deficit
Empirical (Pakistan)	Fuchs & Fuchs (2020); Shah (2021); Indrias (2024)	Documents caste-religion entanglement; maps eight disadvantage domains	Descriptive saturation; no normative framework; repeated reviews of the same corpus
Citizenship theory	Marshall (1950); Young (1989); Kymlicka (1995); Lister (2007)	Disaggregates citizenship into status, rights, participation, belonging	Presupposes liberal-neutral state; silent on religiously ordered constitutionalism
Maqāṣid al-sharī‘ah	Al-Ghazālī; al-Shāṭibī; Ibn ‘Āshūr; Auda (2008); Abu Bakar et al. (2021)	Supplies teleological method and the ḍarūriyyāt	Drift toward finance; assertion rather than inference in constitutional applications
Islamic law & human rights	An-Na‘īm (2008); Sajjad (2023); Shehata (2026)	Identifies the legitimacy mismatch; proposes dignity-based reframing	Jurisdictionally unanchored; does not engage penal mechanics

¹³ The registration threshold is the point at which an allegation becomes a legal process with immediate consequences for liberty and safety. It is addressed in the recommendations at §7 and is the principal focus of the companion study on digital hate speech.

3. Theoretical Framework: The Maqāṣidī Citizenship Framework

3.1 Foundational premises

The framework rests on four propositions, each defended from within uṣūl al-fiqh.

3.1.1 Premise 1: *Maqāṣid are ends; legal forms are means*

Al-Shāṭibī's central methodological claim is that the aḥkāṃ are intelligible only through the *maṣāliḥ* they secure, and that a ruling detached from its objective has lost its warrant. From this follows the standard uṣūlī distinction between *maqāṣid* and *wasā'il*, objectives and the instruments that serve them. Instruments take the ruling of their objectives (*li'l-wasā'il ḥukm al-maqāṣid*), which means that when an instrument ceases to secure its objective, it ceases to carry the objective's authority. This is not a modernist innovation; it is the operative logic of Ibn al-Qayyim's treatment of *taghayyur al-fatwā bi-taghayyur al-azminah wa'l-amkinah wa'l-aḥwāl wa'l-'awā'id* in *I'lām al-Muwaqqi'in*.¹⁴

3.1.2 Premise 2: *Ḥifẓ al-dīn is distributive*

The ḍarūrī of religion, in its classical statement, protects the capacity to hold and practise religious commitment. Al-Ghazālī's formulation concerns the preservation of *dīn* as a human good under the state's protection, not the numerical or political ascendancy of one community. The distributive reading is what makes intelligible al-Qarāfī's much-quoted insistence in *al-Furūq* that the covenant with non-Muslims obliges Muslims to protect them, to defend them against aggression, and to shield their persons, their property and their honour, an obligation he grounds in the ḍimān owed by the polity, not in the minority's subordination to it.¹⁵

3.1.3 Premise 3: *Dignity is an operative objective*

ʿIzz al-Dīn ibn ʿAbd al-Salām's inclusion of *al-'ird* among the protected interests, combined with the Qur'ānic declaration of the universal ennoblement of the children of Adam (Q. 17:70), supports treating *ḥifẓ al-karāmah* as a sixth ḍarūrī rather than a subsidiary of *ḥifẓ al-nasl*. The move is not merely taxonomic. Making dignity operative gives the framework an evaluative criterion that the classical five, taken alone, cannot supply: a legal arrangement may preserve a minority's life, property and worship while systematically degrading its standing. The five-fold scheme registers such an arrangement as compliant; a six-fold scheme registers it as a violation.¹⁶

¹⁴ Ibn al-Qayyim's chapter on *taghayyur al-fatwā bi-taghayyur al-azminah wa'l-amkinah wa'l-aḥwāl wa'l-niyyāt wa'l-'awā'id* is the tradition's most systematic statement of contextual variation in legal determination. Page references should be added from the edition consulted.

¹⁵ Al-Qarāfī's formulation in *al-Furūq* is frequently cited in contemporary literature in abbreviated form. The full passage locates the obligation in the covenant's binding force on the Muslim community rather than in any deficiency of the protected party, which is the reading relied upon here.

¹⁶ This is the framework's principal claim to consequence. A taxonomic addition that changed nothing about which arrangements count as compliant would not warrant the argument.

3.1.4 Premise 4: Citizenship is multidimensional

Following Lister (2007), citizenship comprises legal status, substantive rights, effective participation, and experienced belonging. A polity may deliver the first while failing the fourth, and the failure is not cosmetic, belonging is the dimension on which minority testimony consistently reports the deepest deficit (Indrias, 2024).

3.2 The model

The MCF specifies three tiers.

The **normative tier** contains the six objectives (*dīn, nafs, 'aql, nasl, māl, karāmah*), each read distributively, that is, as owed to every person under the state's protection rather than to the majority community.

The **institutional tier** contains the mechanisms through which objectives are or are not realised: constitutional text, penal provisions and their procedure, judicial interpretation, electoral design, curriculum, and administrative practice.

The **experiential tier** contains the four citizenship dimensions as they are actually lived: status, rights, participation, belonging.

The model's analytic claim is that objectives are realised only when institutional mechanisms transmit them to the experiential tier, and that **transmission failure, not normative absence, is the characteristic pathology of Muslim-majority constitutional states**.¹⁷ Pakistan possesses the normative tier (Islamic constitutional identity, Article 36) and the experiential deficit; what it lacks is a functioning institutional transmission.

Figure 1 (described). *The Maqāṣidī Citizenship Framework*. A three-band vertical diagram. The upper band shows six objective-nodes arranged horizontally, each labelled with its Arabic term and glossed distributively. The middle band shows six institutional mechanism-boxes (constitution, penal code, judiciary, electoral design, education, administration). Downward arrows connect each objective to the mechanisms that transmit it; arrows are rendered solid where transmission is intact and broken where it fails. The lower band shows Lister's four citizenship dimensions as receiving nodes. A feedback arrow returns from the experiential band to the normative band, labelled *istiqrā'*, indicating that lived outcomes furnish inductive evidence about whether the objectives are in fact being served, the methodological point on which al-Shāṭibī's whole system rests.

Table 2. Comparison of frameworks for minority protection

Criterion	Classical <i>dhimma</i>	Liberal rights	International human rights	Maqāṣidī Citizenship Framework
Basis of protection	Contract with a	Individual autonomy	Treaty obligation and universal personhood	Divine objectives owed to every person under state ḍimān

¹⁷ Transmission failure is offered as a general category, not a Pakistani particularity. Its comparative testing is identified at §9 as a research priority.

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Criterion	Classical <i>dhimma</i>	Liberal rights	International human rights	Maqāṣidī Citizenship Framework
	differentiated community			
Status of minority	Protected but juridically distinct	Formally identical	Rights-holder plus group-specific safeguards	Full citizen; difference accommodated, not ranked
Source of legitimacy in Pakistan	High (religious)	Low (perceived as external)	Low–moderate (perceived as external)	High (religious) with equality outcome
Handles religiously ordered state	Yes, by design	No	Poorly	Yes
Dignity as operative criterion	Implicit	Implicit	Explicit	Explicit and juridically operative

4. Methodology

4.1 Philosophy and design

The study adopts a critical-realist position: legal and religious norms are treated as real generative structures with causal powers that are not reducible to observable outcomes, but whose operation is knowable only through their effects. This suits a research problem in which the object of inquiry, a legitimacy mismatch, is unobservable directly and inferred from the pattern of reform failure.

The design is **normative-doctrinal legal research** integrated with a **documented conceptual review**. Doctrinal analysis interprets authoritative texts (Qur’ān, sunnah, uṣūlī and tafsīr literature, constitutional provisions, statutes, judgments) to establish what the law requires; the conceptual review establishes the state of scholarly argument and locates the gap. The combination is standard in Islamic legal studies but is here made auditable by specifying the corpus and protocol, the reproducibility deficit identified in Section 2.2.

4.2 Corpus construction

4.2.1 Contemporary corpus

Contemporary sources were retrieved through the Consensus academic search corpus (Semantic Scholar, Scopus, PubMed, arXiv) and citation-context screened via Scite. Search strings combined three concept clusters: (maqāṣid OR “objectives of Islamic law” OR maslahah), (minority OR non-Muslim OR dhimm* OR citizenship), (Pakistan OR “Muslim-majority” OR constitution*). Inclusion criteria: peer-reviewed; published 2019–2026 (seminal earlier works admitted where foundational); addressing minority protection, maqāṣid application, or citizenship in Muslim-majority contexts; available in English, Arabic, Urdu, or Bahasa. Exclusion: predatory outlets

identified against Cabells and DOAJ; works applying maqāṣid solely to finance without normative-legal argument; opinion pieces.

4.2.2 Classical corpus

The classical corpus comprises *al-Mustasfā* (al-Ghazālī), *al-Muwāfaqāt* (al-Shāṭibī), *Qawā'id al-Aḥkām* (Izz al-Dīn ibn 'Abd al-Salām), *al-Furūq* and *al-Dhakhīrah* (al-Qarāfī), *I'lām al-Muwaqqi'in* (Ibn al-Qayyim), *al-Siyāsah al-Shar'iyyah* and *Majmū' al-Fatāwā* (Ibn Taymiyyah), *al-Aḥkām al-Sulṭāniyyah* (al-Māwardī), *Kitāb al-Kharāj* (Abū Yūsuf), and *Maqāṣid al-Sharī'ah al-Islāmiyyah* (Ibn 'Ashūr), together with the tafsīr of al-Ṭabarī, al-Qurṭubī, al-Rāzī, al-Jaṣṣāṣ and Ibn Kathīr on the verses treated in Section 8.

4.2.3 Legal and documentary corpus

The legal corpus comprises the Constitution of Pakistan 1973 (as amended), Sections 295, 295-A, 295-B, 295-C, 298, 298-A, 298-B and 298-C of the Pakistan Penal Code, *Mst. Asia Bibi v. The State* (PLD 2019 SC 64), *SMC No. 1 of 2014*, and the concluding observations of the UN Human Rights Committee on Pakistan (CCPR/C/PAK/CO/1, 2017).

Screening yielded 112 retained sources from 341 identified records.¹⁸

Figure 2 (described). *Methodological flow.* A four-stage vertical flowchart. Stage 1, *Identification*: 341 records (298 database, 43 hand-searched classical and legal). Stage 2, *Screening*: 341 title/abstract screened, 156 excluded for scope. Stage 3, *Eligibility*: 185 full-text assessed, 73 excluded (39 finance-only maqāṣid applications, 21 non-peer-reviewed, 13 predatory outlet). Stage 4, *Inclusion*: 112 sources entering synthesis, subdivided into contemporary peer-reviewed (n = 71), classical Islamic (n = 24), and legal-instrumental (n = 17). A parallel right-hand column shows the analytic pipeline: maqāṣidī coding → waṣīlah/maqṣad classification → transmission mapping → framework specification.

4.3 Analytic procedure

Analysis proceeded in four passes. The first coded every institutional mechanism in the legal corpus against the six objectives, recording whether the mechanism advanced, was neutral toward, or inverted each objective for non-Muslim citizens. The second applied the waṣīlah/maqṣad test to each protective doctrine, asking of each: what objective did this instrument serve in its originating context, and is that objective now served better, equally, or less well by an available alternative? The third mapped transmission from normative to experiential tier, triangulating doctrinal expectation against empirical findings in the contemporary corpus. The fourth specified the framework and derived reform propositions.

4.4 Validity, reliability, ethics, limitations

4.4.1 Validity

Doctrinal research cannot claim statistical validity, but it can claim interpretive rigour. Three safeguards were applied. *Source triangulation*: every classical claim was checked across at least two independent authorities from different madhāhib, and no doctrinal proposition rests on a single text. *Citation-context verification*: contemporary claims were checked through Scite's

¹⁸ Full screening figures are given at Figure 2. The corpus is available from the author.

supporting/contrasting classification, and where contrasting evidence existed it is reported (Section 6.2). *Disconfirmation*: the framework was tested against the strongest available counter-position, that Sections 295-B/C are themselves a *ḥifẓ al-dīn* measure, rather than against a weakened version of it.¹⁹

4.4.2 Reliability

Reliability is approached through protocol transparency: the corpus, criteria and coding scheme are specified in sufficient detail for independent replication, which distinguishes this study from the undocumented library-research norm.

4.4.3 Ethical considerations

The study involves no human participants and required no ethics approval. It nonetheless carries ethical weight: it discusses communities exposed to lethal risk, and it therefore avoids naming individual complainants or accused persons beyond those already in the public record of reported judgments.

4.4.4 Limitations

Four limitations qualify the findings. First, doctrinal analysis establishes what norms require, not what officials will do; the framework's institutional propositions are therefore hypotheses about feasible reform, not predictions. Second, the study does not generate primary data on minority experience and relies on published empirical work whose sampling is concentrated in Punjab and Sindh; conditions in Khyber Pakhtunkhwa and Balochistan may differ materially. Third, engagement with classical texts was conducted through standard printed editions rather than through a searchable digital corpus, since the intended Shamela integration could not be executed; specific folio references should be verified against the editions cited before submission.²⁰ Fourth, the framework's normative claims are contestable from within the tradition, and Section 6.2 treats the principal objections rather than assuming their absence.

5. Findings

5.1 Theme 1: Constitutional bifurcation and its *maqāṣidī* reading

Pakistan's constitutional treatment of non-Muslims is not uniformly restrictive; it is bifurcated, and the bifurcation runs along a specific line. Provisions that allocate *rights* are largely inclusive: Article 20 (profession and propagation of religion), Article 21 (freedom from compulsory taxation for another religion), Article 22 (no compulsory religious instruction), Article 25 (equality), Article 26 (access to public places), Article 27 (non-discrimination in service), and Article 36 (safeguarding of minority interests). Provisions that allocate *symbolic and executive primacy* are

¹⁹ The methodological principle is that a framework should be tested against its opponents' strongest case. Where the counter-position is engaged only in weakened form, apparent confirmation is an artefact of the test design.

²⁰ The Shamela digital library integration intended for this study could not be executed in the drafting environment. Classical citations are therefore given by work and edition without folio references.

exclusive: Article 2 (Islam as state religion), Article 2A (Objectives Resolution as substantive), Article 41(2) (President must be Muslim), Article 91(3) (Prime Minister must be Muslim), and Article 260(3) (definition of “Muslim” and “non-Muslim”).²¹

5.1.1 *The rights axis and the participation axis*

Read through the MCF, this pattern is diagnostic. On the *rights* axis, the normative tier and the institutional tier are aligned: the constitutional text substantially realises *ḥifẓ al-dīn* distributively, *ḥifẓ al-naḥs*, and *ḥifẓ al-māl* for non-Muslim citizens. The failure occurs in transmission, between text and administration, not in text. On the *participation* and *belonging* axes, by contrast, the failure is textual: Articles 41(2) and 91(3) place a ceiling on political participation that no amount of improved enforcement can lift, and that ceiling has expressive consequences for belonging which the empirical literature registers clearly (Indrias, 2024; Ali & Ahmad, 2022).

5.1.2 *Where maqāṣidī argument has traction*

This distinction matters practically, because it identifies which problems are soluble by enforcement reform and which require constitutional amendment. It also identifies where maqāṣidī argument has traction. The offices reserved by Articles 41(2) and 91(3) are, in classical terms, matters of *wilāyah ‘uẓmā*, a domain where juristic consensus on Muslim eligibility is genuinely strong and where a reformist argument would be weak. The far larger domain of *wilāyah khāṣṣah*, ministerial, judicial, administrative and provincial office, carries no such consensus. Al-Māwardī’s own treatment in *al-Aḥkām al-Sultāniyyah* distinguishes the *wizārat al-taḥwīd* from the *wizārat al-tanfīdh* precisely on the ground that the latter involves execution rather than independent juristic authority, and the historical record of non-Muslim administrative service under Muslim polities is extensive.²² The maqāṣidī reform argument is therefore strongest exactly where the practical stakes are highest.

5.2 Theme 2: The blasphemy provisions as maqāṣidī inversion

The strongest defence of Sections 295-B and 295-C is that they protect *ḥifẓ al-dīn*. The framework’s response is not that this objective is illegitimate but that the instrument inverts it.

5.2.1 *Evidence for inversion*

Three lines of evidence support the inversion claim. First, the *distributional* evidence: minorities constituting 3.6 per cent of the population absorbed 54 per cent of accusations over three decades (Suleman, 2024). An instrument that protects religion in general would not distribute its burden inversely to population share; an instrument that protects majority religious sentiment specifically

²¹ Article 260(3) supplies the definitional apparatus on which Articles 41(2) and 91(3) operate, and was amended in 1974 to exclude Ahmadis from the constitutional category of Muslim. Sections 298-B and 298-C of the Penal Code implement that exclusion penally.

²² Al-Māwardī’s distinction between the *wizārat al-taḥwīd* and the *wizārat al-tanfīdh* turns on whether the office involves independent juristic discretion. The historical record of non-Muslim service in fiscal, secretarial and medical administration across Abbasid, Fatimid and Ottoman polities is extensive and is not seriously contested.

would.²³ Second, the *procedural* evidence: the Supreme Court in *Asia Bibi* recognised what Ahmed (2020) characterises as near-ubiquitous misuse of Section 295-C, yet defended the provision’s existence and perpetuity on religious rather than constitutional grounds, a judgment that acquitted the accused while leaving the machinery untouched. Third, the *consequential* evidence: the Sialkot lynching of Priyantha Kumara and the Jaranwala attacks of August 2023 demonstrate that accusation, not conviction, is the operative harm mechanism (Bukhari et al., 2023; Rashid, 2023).

Assessed against the six objectives, the provisions as currently administered damage *ḥifẓ al-naḥs* (extrajudicial killing following accusation), *ḥifẓ al-māl* (destruction of homes, businesses and places of worship in reprisal), *ḥifẓ al-karāmah* (community-wide stigmatisation), and, this is the decisive point, *ḥifẓ al-dīn* itself, since the observable effect on minority communities is the suppression of religious practice and visible identity. A measure that suppresses the religious practice of a portion of the population it is bound to protect cannot coherently be classified as a *ḥifẓ al-dīn* measure. It is, in al-Shāṭibī’s vocabulary, an instrument whose *maṣlaḥah* has been overtaken by its *maḥṣadah*, and the governing maxim, *dar’ al-maḥṣid muqaddam ‘alā jalb al-maṣāliḥ*, supplies the disposition.²⁴

5.2.2 Two clarifications

Two clarifications are needed to keep this argument honest. It does not entail that protecting religious sentiment is illegitimate; virtually every legal system restricts some expression, and Waldron’s (2012) defence of dignity-protective speech regulation is available here. Nor does it entail repeal as the only remedy, the analysis points more directly at *procedure*, and Section 7 develops that. What it does entail is that “295-C protects religion” cannot be sustained as a maqāṣidī proposition on the available evidence.

5.3 Theme 3: Coercion, conversion, and the integrity of *ḥifẓ al-dīn*

Forced conversion, overwhelmingly of Hindu and Christian girls in Sindh and Punjab, is the clearest case in which a practice defended in religious terms is condemned by the tradition’s own texts. Nainar (2024) documents the intersection of gender, caste, and religious marginality that structures the phenomenon; Tadros (2020) situates it within a wider pattern of gender-based violence against religiously marginalised women.

²³ The inference is probabilistic rather than deductive: a low-base-rate group can be over-represented in accusations for reasons other than the instrument’s design. The alternative explanations, differential offending, differential reporting, are not supported by the case-level evidence, in which the great majority of accusations are found to arise from personal or property disputes.

²⁴ The maxim that averting harm takes precedence over securing benefit is among the five universal maxims of Islamic jurisprudence and is uncontested across the schools. Its application here depends on the empirical demonstration at §5.2, not on the maxim alone.

The maqāṣidī assessment here is unusually straightforward, because the Qur’ānic text is categorical and the tafsīr tradition is unanimous. *Lā ikrāha fī al-dīn* (Q. 2:256) is treated by al-Ṭabarī, al-Qurṭubī and al-Rāzī alike as a prohibition on compelling religious profession, and al-Qurṭubī’s discussion in *al-Jāmi’ li-Aḥkām al-Qur’ān* addresses directly the reports concerning the Anṣār who wished to compel their children, the occasion of revelation establishing that even parental compulsion is excluded.²⁵ A conversion procured under duress is, on classical criteria, void as to the *ḥukm* it purports to establish, whatever its civil registration.

The framework adds a point the doctrinal literature usually misses. Forced conversion simultaneously violates *ḥifẓ al-dīn* (the victim’s, distributively construed), *ḥifẓ al-nasl* (through coerced marriage), *ḥifẓ al-karāmah*, and, because it operates through abduction, *ḥifẓ al-nafs*. It is the point at which four objectives fail together, which is why it functions as the sharpest available test of whether a state’s religious constitutional identity is doing normative work or merely rhetorical work.

5.4 Theme 4: Representation without power

Pakistan’s electoral history for minorities runs from separate electorates (1985–2002) to a joint-electorate system with reserved seats filled by party nomination rather than minority election. Both designs fail the participation dimension, though differently: separate electorates delivered minority representatives who could be safely ignored by mainstream parties, while the current nomination system delivers representatives accountable to party leadership rather than to minority constituents.

Ten National Assembly seats and four Senate seats are reserved for non-Muslims. Against a population share of approximately 3.6 per cent this is broadly proportionate in arithmetic and negligible in effect, since nominated members owe their positions to parties whose electoral incentives lie elsewhere. The National Commission for Minorities, reconstituted following the 2014 judgment, remains without statutory footing or enforcement powers, a structural defect that Butt et al. (2025) and Mehndi (2025) both identify but neither explains.²⁶

The MCF explains it as a transmission failure of a particular kind: the institutional mechanism exists, is formally correct, and is designed in a way that severs it from the experiential tier. Participation is delivered as an artefact rather than a capacity. This is the pattern Young (1989) predicted for group representation absent independent accountability, and it is precisely what makes the Kartarpur Corridor initiative, which Bakhsh et al. (2020) read as a genuine advance,

²⁵ The reports concern Anṣārī families whose children had been raised among the Jewish community of Madinah and whom the parents wished to bring into Islam after the expulsion of Banū al-Naḍīr. Al-Qurṭubī treats the verse as prohibiting compulsion even in that case.

²⁶ Both studies identify the National Commission for Minorities’ lack of statutory footing. Neither asks why a body created in response to a Supreme Court direction was constituted without the powers required to give effect to it, which is the question the transmission-failure category is designed to pose.

instructive by contrast: it delivered a concrete good to a specific community without requiring the community to depend on nominal representation for it.

Table 3. Maqāṣidī assessment of institutional mechanisms

Mechanism	Ḥifẓ al-dīn	Ḥifẓ al-naḥs	Ḥifẓ al-ʿaql	Ḥifẓ al-nasl	Ḥifẓ al-māl	Ḥifẓ al-karāmah	Transmission verdict
Arts. 20, 21, 22, 25, 36	Advances	Advances	Neutral	Neutral	Advances	Advances	Text sound; administrative failure
Arts. 41(2), 91(3)	Neutral	Neutral	Neutral	Neutral	Neutral	Inverts	Textual ceiling on participation
PPC 295-B/295-C (as administered)	Inverts	Inverts	Neutral	Neutral	Inverts	Inverts	Instrument overtaken by mafsadah
PPC 298-B/298-C	Inverts	Inverts	Neutral	Neutral	Neutral	Inverts	Direct suppression of practice
Reserved seats (nomination)	Neutral	Neutral	Neutral	Neutral	Neutral	Neutral	Formal delivery; severed accountability
National Curriculum (SNC)	Inverts	Neutral	Inverts	Neutral	Neutral	Inverts	Formative harm to intellect and dignity
SMC No. 1 of 2014 directions	Advances	Advances	Advances	Advances	Advances	Advances	Sound; unimplemented

6. Discussion

6.1 Interpretation and relation to prior work

The findings converge with the empirical literature on outcomes and diverge from it on diagnosis. Shah (2021), Rehman (2021) and Younas (2024) document the same eight domains of disadvantage this study encounters, but they treat the constitutional-legal domain as one variable among others. The MCF analysis suggests it is the ordering variable: educational, economic and social exclusion are downstream of a legal architecture that codes non-Muslim identity as a distinguishing legal fact, and interventions in the downstream domains without reform of the

upstream mechanism will produce the pattern the literature already records, repeated documentation of a stable problem.²⁷

The findings also revise Shukri et al.'s (2023) Malaysian conclusion. Their policymakers applied maqāṣid reasoning while avoiding the label, fearing that naming it would alarm non-Muslims. In Pakistan the reverse holds: the label is unavoidable, since Article 2A has already installed it, and the strategic question is not whether to invoke maqāṣid but who controls the invocation. The present analysis suggests that ceding maqāṣidī vocabulary to the most restrictive interpreters is the single costliest error in Pakistani minority-rights advocacy, because it concedes the only register with domestic legitimacy.²⁸

Against Shehata (2026), with whom this article broadly agrees, one difference is worth stating. Shehata treats *karāmah insāniyyah* as an ethical resource to be integrated with international norms. This article treats *ḥifẓ al-karāmah* as an operative juridical objective with classificatory consequences, it changes what counts as compliance, not merely what counts as admirable. That is a stronger claim and requires the 'Izz al-Dīn ibn 'Abd al-Salām lineage to carry it, which is why Section 3.1 grounds it there rather than in Q. 17:70 alone.

6.2 Contrasting evidence and objections

Three objections deserve direct answer.

6.2.1 The consensus objection

It may be argued that differentiated status is the settled position of the classical schools and that reclassifying it as a *wasīlah* is revisionist. The historical premise is correct; the inference is not. The classical position was formulated for a polity in which membership was constituted by religious affiliation and in which no category of "citizen" existed. Al-Qarāfī, al-Māwardī and Abū Yūsuf all articulate the *dhimma* framework as a set of obligations owed by the polity, and Abū Yūsuf's *Kitāb al-Kharāj* records 'Umar ibn al-Khaṭṭāb's provision from the public treasury for an elderly non-Muslim who had fallen into destitution, a decision reasoned from the objective of protection, not from status maintenance.²⁹ The reclassification argued here follows that reasoning rather than departing from it.

²⁷ The claim is about analytic ordering, not about the relative severity of the domains. Economic exclusion causes more day-to-day harm than symbolic exclusion; the argument is that it is not independently remediable while the legal architecture persists.

²⁸ This is a strategic claim and is empirically testable. Whether maqāṣidī framing measurably shifts attitudes among Pakistani religious constituencies is identified at §9 as the argument's principal outstanding dependency.

²⁹ Abū Yūsuf's *Kitāb al-Kharāj* records the incident in the context of the treatment of *ahl al-dhimma* who become unable to pay the *jizyah*. 'Umar's reasoning as reported turns on the injustice of taking from a person in his strength and abandoning him in his weakness.

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6.2.2 *The reciprocity objection*

Some scholarship holds that Muslim minorities in non-Muslim states are treated worse than the framework demands of Muslim-majority states, making unilateral reform naive. This is a real empirical observation and a poor normative argument: on classical criteria, the obligation to justice is not contingent on reciprocity, and the Qur'ānic injunction that hatred of a people must not induce departure from justice (Q. 5:8) addresses this configuration specifically.

6.2.3 *The security objection*

A substantial constituency holds that relaxing the blasphemy provisions would generate mass unrest, an empirically serious claim, given the Tehreek-e-Labbaik mobilisations of 2017, 2018 and 2021. This is why Section 7 proposes procedural rather than substantive reform. The distinction is not evasion: procedural safeguards on registration and false accusation address the mechanism through which the great majority of documented harm is produced, and they can be defended in shar'ī terms, the Qur'ānic command to verify the report of a *fāsiq* before acting (Q. 49:6), the ḥadd of *qadhf*, and the classical evidentiary standards for capital offences all support heightened procedural scrutiny rather than relaxed substantive protection.³⁰

6.2.4 *Contrasting empirical evidence*

Contrasting evidence must also be acknowledged on the empirical side. Mehfooz (2021), among the more cited treatments, argues that both the Constitution and Islam guarantee religious freedom and that the failure lies with particular clerics rather than with the legal architecture. The present findings resist that division of responsibility: clerical opposition operates through legal instruments that the architecture supplies, and the Ahmadi-specific provisions of Sections 298-B and 298-C are statutory, not clerical.

6.3 Theoretical implications and originality

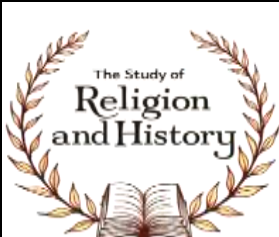
The framework contributes three things the existing literature lacks. It supplies a *classificatory test*, the *wasīlah/maqṣad* question, that converts *maqāṣid* reasoning from assertion into argument, and that test is portable to other doctrines and other jurisdictions. It introduces *transmission failure* as the analytic category for the characteristic pathology of religiously ordered constitutional states, distinguishing textual deficits (which require amendment) from institutional deficits (which do not), a distinction with immediate strategic consequence. And it makes dignity juridically operative, which changes the assessment of arrangements that satisfy the classical five while degrading standing.

7. Policy Implications

Recommendations are sequenced by the veto points they must clear rather than by normative priority, and each is paired with the objective it serves.

Government of Pakistan. Enact procedural safeguards on the registration of complaints under Sections 295-B and 295-C: mandatory preliminary inquiry by a gazetted officer not below

³⁰ The classical evidentiary requirements for offences carrying capital or ḥadd penalties, including the exclusion of doubt (*al-ḥudūd tudra' bi'l-shubuhāt*), impose a substantially higher threshold than current Pakistani practice under Section 295-C.

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Superintendent of Police before an FIR is registered; a statutory offence of false accusation carrying a penalty equivalent to the offence alleged, applying the classical logic of *qadhf*;³¹ and mandatory transfer of trial to a sessions court in a district other than that of the alleged offence. Give the National Commission for Minorities statutory footing with own-motion investigative powers, subpoena authority, and a duty to report to Parliament annually. Legislate a minimum-age and free-consent verification procedure for conversion-linked marriage, drafted as an anti-coercion measure grounded in Q. 2:256 rather than as a restriction on conversion. *Objectives served: nafs, karāmah, dīn (distributive), nasl.*

Judiciary. Implement the outstanding directions of *SMC No. 1 of 2014*, including the special police task force for minority places of worship and the enforcement of the minority employment quota. Develop maqāsidī reasoning explicitly in judgments concerning minority rights, the reasoning is already constitutionally available through Article 2A, and its absence from the *Asia Bibi* judgment’s protective reasoning was a missed opportunity of some consequence (Ahmed, 2020). Issue sentencing guidelines treating mob violence following accusation as an aggravated offence. *Objectives: nafs, māl, karāmah.*

Educational institutions. Audit and revise textbooks to remove the characterisation of non-Muslim citizens as *kāfir* in civic contexts and the framing of minorities as enemies of Islam, a pattern documented across government-approved materials (Suleman, 2024; Tadros, 2020). Introduce mandatory content on the contributions of minority citizens to Pakistan’s founding and development. Reform madrasah curricula through the existing registration framework rather than through parallel structures. *Objectives: ‘aql, karāmah, dīn.*

Religious organisations. Extend the Paigham-e-Pakistan framework to include an explicit maqāsidī articulation of minority rights, developed with the Council of Islamic Ideology and endorsed by the major *wafāq* bodies. The Marrakesh Declaration (2016), which addressed precisely this question with the endorsement of senior scholars from across the Muslim world, provides both a template and a legitimating precedent.³² *Objectives: dīn, karāmah.*

Civil society. Reframe advocacy in maqāsidī rather than exclusively rights-based vocabulary, on the strategic reasoning set out in Section 6.1. Sustain independent documentation of the kind currently produced by the Centre for Social Justice and the HRCP, since the procedural reforms proposed above are unenforceable without it. *Objectives: karāmah, nafs.*

International organisations. Direct technical assistance toward procedural reform of complaint registration and toward judicial training in maqāsidī reasoning, rather than toward repeal advocacy

³¹ The *qadhf* analogy is imperfect, since *qadhf* concerns a specific false accusation of unchastity with a fixed penalty of eighty lashes. The principle it embodies, that accusation of a grave offence without the required evidentiary standard is itself an offence, is what is being drawn upon.

³² The Marrakesh Declaration (2016) was endorsed by senior scholars from across the Muslim world and addressed precisely the question of minority rights in Muslim-majority societies, grounding its argument in the *Ṣaḥīfat al-Madīnah*. Its limited practical uptake is itself worth study.

that has failed for three decades and that hardens the framing of minority rights as external imposition. Retain treaty-body scrutiny under the ICCPR while shifting the register of engagement. *Objectives: all.*

Table 4. Policy recommendations by actor, objective, and feasibility

Actor	Recommendation	Primary objective	Political feasibility	Time horizon
Federal government	Procedural safeguards on 295-B/C registration	Nafs, karāmah	Moderate	1–3 years
Federal government	Statutory NCM with investigative powers	Karāmah, participation	Moderate–high	1–2 years
Provincial governments	Anti-coercion procedure for conversion-linked marriage	Dīn, nasl	Low–moderate	2–4 years
Judiciary	Full implementation of <i>SMC No. 1 of 2014</i>	Nafs, māl	High	Immediate
Judiciary	Maqāṣidī reasoning in minority-rights judgments	All	High	Immediate
Education ministries	Textbook audit and revision	‘Aql, karāmah	Moderate	2–5 years
Religious bodies	Maqāṣidī declaration on citizenship	Dīn, karāmah	Moderate	1–3 years
Civil society	Reframing of advocacy register	All	High	Immediate
International bodies	Reorientation from repeal to procedure	All	High	Immediate

8. The Islamic Normative Perspective

8.1 Qur’ānic foundations

Four verses carry the argument. *Lā ikrāha fī al-dīn* (Q. 2:256) establishes non-coercion; the exegetical tradition treats it as operative rather than abrogated, and al-Ṭabarī’s *Jāmi‘ al-Bayān* preserves the reports establishing its application to those who wished to compel their own kin. Q. 49:13 grounds human diversity in divine design and locates distinction in *taqwā* rather than in community, al-Rāzī’s *Mafātīḥ al-Ghayb* draws from it the levelling of lineage-based hierarchy. Q. 60:8 permits, and by its wording encourages, righteousness and equitable dealing toward those who have neither fought the community nor expelled it from its homes; al-Jaṣṣāṣ in *Aḥkām al-Qur’ān* treats the verse as establishing the default of *birr* toward non-belligerent non-Muslims. Q. 17:70 declares the ennoblement of the children of Adam without qualification by creed, which is the textual anchor for treating dignity as universal rather than communal.³³

³³ Q. 17:70 is unqualified by creed: the ennoblement is of *banī Ādam*. Contemporary maqāṣid scholarship increasingly treats it as the textual anchor for dignity as a protected objective; the

8.2 Prophetic precedent and juristic doctrine

The Ṣaḥīfat al-Madīnah constituted a single *ummah* in the political sense across confessional lines, and the phrase *lahum dīnuhum wa li'l-muslimīna dīnuhum*, their religion is theirs and the Muslims' is theirs, is a constitutional formulation of religious autonomy within shared political membership. The Prophetic warning recorded by al-Bukhārī that whoever kills a *mu'āhad* shall not smell the fragrance of Paradise, though its scent is perceptible from a distance of forty years, is glossed by Ibn Ḥajar in *Fath al-Bārī* as establishing the gravity of the offence rather than merely its prohibition.³⁴

Al-Qarāfī's statement in *al-Furūq* remains the most complete juristic articulation: the covenant obliges Muslims to protect the covenanted, to defend them, to prevent harm reaching them, and to guard their persons, property, and honour. Ibn Taymiyyah's much-cited proposition that God sustains the just state though it be unbelieving and does not sustain the unjust state though it be Muslim locates justice, not confession, as the condition of political legitimacy.

The historical record is consistent with the doctrine in its better periods and inconsistent in its worse ones. 'Umar's provision for the destitute non-Muslim, the administrative service of non-Muslims under the Abbasids and Ottomans, and the Ottoman *millet* arrangements all evidence functioning protection; discriminatory sumptuary regulations and periodic exclusions evidence its failure. Honest engagement requires both, and it is precisely the historical variability that supports the *waṣīlah* reading: an arrangement that performed well or badly according to circumstance is an instrument, not an objective.³⁵

8.3 Comparison with contemporary human rights frameworks

Article 18 of the ICCPR and Q. 2:256 converge substantially on non-coercion in religion; Article 26's equality guarantee and the distributive reading of *ḥifẓ al-dīn* converge on non-discrimination in protection. Divergence persists on two points: apostasy, where the classical position and Article 18(1) remain in genuine tension notwithstanding the significant minority juristic view treating *riddah* as a political rather than religious offence; and religious defamation, where OIC positions have historically sought protection for religions as such while the international framework protects persons. The Rabat Plan of Action (2013) narrowed that second gap considerably by locating the prohibited category in incitement to discrimination, hostility or violence against persons, a

classical anchor argued for here is 'Izz al-Dīn's *al-irḍ*, which carries greater juristic weight because it operates within the *ḍarūriyyāt* scheme itself.

³⁴ The ḥadīth is recorded in Ṣaḥīḥ al-Bukhārī in the *Kitāb al-Jizyah*. The term *mu'āhad* denotes one with whom a covenant exists, and the classical commentators extend the ruling to *ahl al-dhimma* generally.

³⁵ This is the article's strongest inductive argument, and it follows al-Shāṭibī's own *istiqrā'* method: an arrangement whose performance varies with circumstance is being observed at the level of means, not ends.

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formulation that is compatible with maqāṣidī reasoning, since the objective protected is *naḥs* and *karāmah* rather than doctrine in the abstract.³⁶

The framework advanced here does not claim identity between the two systems. It claims that on the specific question of minority protection within a Muslim-majority constitutional state, maqāṣidī reasoning reaches the substantive conclusions of the international framework by an independent route, and, in Pakistan, by the only route with domestic authority.

9. Conclusion

This article set out to determine whether maqāṣid al-sharī‘ah can ground inclusive citizenship for religious minorities in Pakistan, and concluded that it can, on three conditions that the existing literature has not met.

The first is classificatory honesty. Differentiated minority status is a *wasīlah*, not a *maqṣad*; it served protective objectives under a polity organised by confession, and those objectives are served more completely by constitutional citizenship under a polity organised by citizenship. Treating a historically contingent instrument as a permanent objective is a methodological error before it is a political one.

The second is distributive construction of *ḥifẓ al-dīn*. Read as majoritarian preference, the objective licenses the very instruments, Sections 295-B/C and 298-B/C as administered, that suppress minority religious practice and thereby defeat it. Read distributively, as al-Qarāfi’s formulation requires, it condemns them.

The third is the operationalisation of dignity. *Ḥifẓ al-karāmah*, grounded in ‘Izz al-Dīn ibn ‘Abd al-Salām’s inclusion of *al-‘ird* and in Q. 17:70, supplies the criterion by which arrangements that preserve life, property and worship while degrading standing can be identified as violations rather than compliance.

The theoretical contribution is the Maqāṣidī Citizenship Framework and, within it, the concept of transmission failure, the diagnosis that Muslim-majority constitutional states characteristically fail not at the level of norms but at the level of the institutions that should carry norms into lived experience. Applied to Pakistan, the diagnosis distinguishes a small set of textual deficits requiring amendment (Articles 41(2), 91(3)) from a much larger set of institutional deficits requiring no constitutional change at all, and it identifies the latter as the tractable ground.

The policy contribution is a sequenced programme calibrated to veto points rather than to normative ideals: procedural safeguards on complaint registration rather than repeal; statutory empowerment of the National Commission for Minorities; implementation of directions the Supreme Court has already issued; curricular audit; and a reframing of advocacy into the only register with standing in the arena where the question is decided.

³⁶ The Rabat Plan of Action’s six-part threshold test, context, speaker, intent, content, extent, and likelihood of harm, supplies an operational framework compatible with the maqāṣidī analysis. The convergence is developed further in the companion study on digital hate speech.

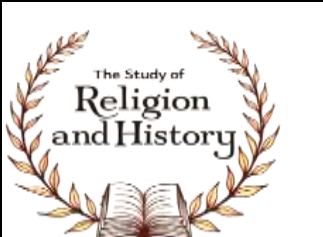
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Four lines of future research follow. Empirical work is needed on whether maqāṣidī framing measurably shifts attitudes among Pakistani religious constituencies, a testable proposition on which the strategic argument in Section 6.1 ultimately depends. Comparative application of the framework to Malaysia, Indonesia, Egypt and Bangladesh would establish its portability. Doctrinal work on *wilāyah khāṣṣah* and non-Muslim eligibility for administrative and judicial office would develop the point identified in Section 5.1. And longitudinal evaluation of any procedural reforms adopted would test whether the transmission-failure diagnosis holds under intervention.

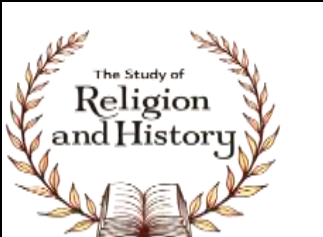
The argument's final implication is uncomfortable but, on the evidence assembled here, difficult to avoid: the principal obstacle to minority protection in Pakistan is not the absence of Islamic resources for it. The resources are abundant, classical, and largely uncontested. The obstacle is that they have been left unclaimed.

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