

Joint NGO report to the UN Committee on the Elimination of Racial Discrimination (CERD) for the examination of the 15th-20th periodic reports of Pakistan at the 74th CERD session in February 2009

THE CHOICE OF REFORMS

The human rights situation of ethnic, linguistic, religious minorities, scheduled castes Hindus and indigenous people in Pakistan

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INTRODUCTION

This report was jointly prepared by the following non-governmental organisations from Pakistan: Thardeep Rural Development Programme (TRDP), National Commission for Justice and Peace (NCJP), Pakistan Institute of Labour Education & Research (PILER), with the assistance of the following non-governmental organisations based in Europe: Justice and Peace Netherlands and the International Dalit Solidarity Network (IDSN).¹ The report is further endorsed by the Democratic Commission for Human Development, Blue Veins, Minority Rights Commission, Strengthening Participatory Organisation, and Pax Christi International.

In the absence of a real NGO consultation by the Government of Pakistan, the authors of the report organised an international consultation in November 2008 and a national consultation in December 2008 to prepare this contribution to the country examination. The structure of the report follows the relevant provisions of the Convention. The report also provides additional information about the groups that the Convention concern and about the general trends that add to discrimination in present-day Pakistan.

The endorsing organisations welcome the consolidated state report (CERD/C/Pak/20) submitted by the Government of Pakistan (GOP) under article 9 of the Convention. The organisations however regret that the report is submitted ten years late, as earlier periodic reports were due in 1998, 2000, 2002, 2004, and 2006. With this report, the organisations take this opportunity to contribute constructively to the examination of the Government's compliance with its international obligations under the Convention. The endorsing organisations welcome the intentions of Government of Pakistan to form a human rights policy and pledge for its support to successfully implement this important task in consultation with civil society.

Next to presenting a civil society opinion on Pakistan's compliance with the treaty, this shadow report wishes to draw the attention on a range of issues concerning linguistic, ethnic, national and religious minorities, which the Government of Pakistan failed to address in its report. We are aware that the Convention relates to all persons who belong to different races, national or ethnic groups or to indigenous peoples according to CERD General Recommendation XXIV. Similar to the State report, this NGO report nevertheless deals with discrimination against religious minorities, as this is a group which represents ethnically distinct groups facing specific and multiple problems in Pakistan. The Constitution of Pakistan does not include a definition of the term 'minority', but the meaning that was taken by the drafters of the Constitution and has been subsequently adopted is that of religious minority.² In Pakistan, religious discrimination is intertwined with other forms of discrimination. Ethnic discrimination therefore cannot be seen as separate from religious discrimination. Moreover, religious minorities identify themselves with certain ethnic groups, and consider themselves to fall within the scope of the Convention, in accordance with the notion of self-identification as observed by the Committee in CERD General Recommendation VIII.

The sections on caste-based discrimination in this shadow report are based on a national research project undertaken in 2006-2007 by TRDP, PILER, and IDSN in collaboration with the Indian Institute for Dalit Studies (IIDS). This research project provided the first systematic documentation on the status of "lower caste" Hindus, their legal and constitutional protections, socio-economic problems and the issues of discrimination on the basis of caste and religion in contemporary Pakistan. The report entitled 'Long Behind Schedule': on the plight of Scheduled Caste in Pakistan (2007)' focused on Pakistan's scheduled castes, the official terminology of "lower caste" Hindus, falling under the term "descent" in article 1(1) of the Convention according to CERD General Recommendation XXIX.

¹ As IDSN is working internationally on the issue of work and descent based discrimination, it has specifically contributed to this issue in the report. IDSN also submitted a separate contribution to the List of Issues on caste-based discrimination in Pakistan to the Committee in October 2008.

² Shaheen Sardar Ali, Javed Rehman, Indigenous people and ethnic minorities of Pakistan Consitutional and legal perspective P. 14, Curzon, 2001

The recommendations in this report take into consideration that Pakistan has attained a democratic rule in February 2008, and that the prospects of achieving the commitments made by GOP with regard to parity of citizens and nondiscrimination are thereby more achievable for the present government.

EXECUTIVE SUMMARY

Pakistan has been enriched by various religious and cultural traditions and by ethnic and racial identities. However, several of the provisions in the Convention have been severely neglected. Ethnic, linguistic, national, and religious minorities and scheduled castes continue to experience discrimination in areas such as political rights, social and economic rights, and in lack of equal access to land, housing, health, employment, and education. The issue of bonded labour also represents a serious impediment to the enjoyment of fundamental rights in Pakistan.

39 years have passed since Pakistan ratified the ICERD, yet there has been very little improvement in the situation of those affected by caste and decent-based discrimination. Years of denial of the problem has aggravated the situation, as successive governments have not bothered to put in place any legal measures to prevent this form of discrimination. The scheduled caste Hindus do not enjoy meaningful political participation and they have no representation in legislative bodies, district government and political parties. Almost all major political parties have their minority wings which leave scheduled castes out. An overwhelming majority of scheduled castes have no or very restricted access to property or assets.

Pakistan is in the grip of religious extremism and Talibanization of society. This phenomenon is averse to notions of tolerance, respect for diversity, multiculturalism and universality of human rights. An environment of fear has been created in the entire country because the Taliban have operated with impunity and hit their targets by choice. People in Federally Administered Tribal Areas and Northern Areas have not enjoyed the status of citizens in the past 61 years. They also fall behind in the enjoyment of their economic and social rights.

Specific ethnic groups have been disproportionately victimized by enforced disappearances and internal displacement. Human rights defenders and members of the media are under threat, which prevents them from helping fight all forms of discrimination.

Shortsightedness of law and policy framework have resulted in unrest and misery in the smaller provinces, and among minority linguistic and religious groups. Pakistan's constitution, laws, and policies all fall short in the fight against discrimination. They even contain discriminatory aspects themselves. There is sheer lack of implementation mechanisms for the protection of fundamental rights because the successive governments failed to respect and ensure the independence of judiciary.

Religious minorities, nomads, indigenous people and scheduled castes in Pakistan are socially and physically excluded from the mainstream as they are compelled to live in segregated settlements. Propaganda inciting discrimination is abundant, especially against scheduled castes and religious minorities. Due to their vulnerability, women belonging to ethnic, religious minorities and scheduled castes experience double discrimination as they are both discriminated on the basis of ethnic origin and gender.

A great majority of children are deprived of their cultural rights as there is no arrangement for imparting school level education in their mother tongue. Education policies and curriculum are laden with materials and initiatives based on intolerance to other religions. Recent attempts at reform have made little headway, and education spending as a share of national output has fallen in the past five years. Vulnerable and marginalized groups of the population such as women, children, religious minorities, scheduled castes, and bonded labourers also make up the majority of illiterate population within the rural districts.

Pakistan is among a few countries in the world where slavery still exists in the form of bonded labour. The majority of the bonded labour community belongs to marginalized and excluded groups such as and scheduled caste, Hindus, Christians and Muslim Sheikhs.

SUMMARY OF RECOMMENDATIONS

Article 1 and 2

- a) There is a dire need for a Constitutional Review that lays the basis for a new Social Contract. This constitutional amendment should eliminate all discriminatory provisions and outline measures and steps to implement human rights standards, including making caste discrimination and “untouchability” an offense.
- b) The endorsing organisations urge the Government of Pakistan, to fully recognize the existence of caste-based discrimination and seek guidance to prevent and protect its citizens from human rights violations in the country as an effect of caste-based discrimination in accordance with CERD General Recommendation XXIX.
- c) The Government of Pakistan should condemn caste-based discrimination and undertake to pursue by all appropriate means a policy of eliminating this form of discrimination. This implies the obligation to refrain from committing and supporting discriminatory acts against scheduled castes, and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.
- d) The Government of Pakistan should establish National Human Rights Institutions according to the Paris Principles.
- e) The Northern Areas may be declared Special Areas under an instrument of the Federal government either with their own legislature and independent judiciary or the citizens should be given a right to representation in the national parliament.
- f) The Government of Pakistan should extend invitations to all Special Rapporteurs and the High Commissioner for Human Rights.
- g) The Government of Pakistan should elaborate on its official position on descent-based discrimination and elaborate on measures taken pursuant to the recommendations proposed herein.
- h) The Government of Pakistan should provide disaggregated data on minorities for the next national census and pay adequate attention to affected communities in all assessments, including data collection, planning, and implementation of any human rights, development and humanitarian programmes.
- i) The Government of Pakistan should make serious efforts to implement existing safeguards for the rights of the minority communities.

Article 3

The Government of Pakistan should enact a total prohibition on “untouchability” and all forms of discrimination using model legal acts from other caste affected countries.

Article 4

- a) The Government of Pakistan should seize publications including magazines, newspapers, books, and CDs and other material that propagate hatred against other religions and sects and punish those that are responsible for such hate speech in various forms.
- b) If the Government of Pakistan needs time to repeal blasphemy laws, it should undertake to study and publicize the impact of blasphemy laws within a short time.

Article 5

- a) The Government of Pakistan must make a concrete policy and implementation plan to prevent double discrimination experienced by women especially for minorities and scheduled caste women in Pakistan and include a section on scheduled caste women in its treaty body reporting, including CEDAW.
- b) Representation of the Northern areas and Federally Administered Tribal Areas (FATA) according to the universal adult suffrage should be ensured.
- c) State and political parties must ensure the presence of scheduled caste representatives in the National Assembly, provincial assemblies and the Senate.
- d) The reserved seats for religious and other minorities should be assessed at least according to their population and increased accordingly.
- e) Political parties should be encouraged to allot a certain percentage of party tickets and party positions to scheduled caste representatives.
- f) The government should make it legally and practically possible to introduce policies for allocating agricultural land to the landless peasants, just wages and working conditions to comply with international labour standards. Agricultural labourers should be considered for this on priority basis and in the spirit of social justice.
- g) The Evacuees Property Trust Board should stop being negligent to religious sites of minorities and other heritage. It is also important that the members of the Board must be taken from the concerned religious community.
- h) The Government of Pakistan should regularize the informal housing and shelters built by the people on government land both in urban and rural area, ensuring that minorities and scheduled castes do not have to face evictions and illegal adjustments.
- i) The Government of Pakistan should restore hundreds of Hindu temples and other heritage sites across the country including the national heritage of Buddha statues, Jain Mandir – Lahore, Suraj Kund and Parhalad Temples of Multan.
- j) The Council of Common Interests and the National Economic Council should meet on a regular basis to discuss issues among the provinces and their long term resolve.
- k) The National Finance Commission (award) should consider poverty level and other development indicators as a parameter for allocation of funds to the provinces. The Provinces should apply similar criteria for further allocation of funds to the districts, and give consideration to maintenance of ethnic diversity.
- l) Due and equal importance should be given to the languages spoken in educational activities and the state sponsored media. Funds should be allocated to preserve knowledge in the local languages and culture.
- m) Children should receive education at least up to primary classes in their mother tongue.
- n) Besides fixing job quota in the government services for ethnic, religious and other minorities, the government should publicize the status of implementation of this policy on a yearly basis.
- o) The government agencies concerning health, medical care and social services must sensitize their staff to the concepts of non-discrimination and on the needs of ethnic, religious minorities and scheduled castes.
- p) Education should be made a priority and the focus has to be on minorities; ethnic, religious, scheduled castes and indigenous people.
- q) Raise public expenditure on education to at least 4 per cent of GDP, as recommended by UNESCO, (however going beyond to cover the years of deficit is recommended) with particular emphasis on opening new schools upgrading public school infrastructure, including water, electricity and other facilities.

- r) Take immediate political, police and legal action against extremist organisations and others seeking to prevent or disrupt development, social mobilisation and education reform initiatives, especially related to girls and women.
- s) Suspend any initiatives to coordinate the Madrassa curriculum with the public school curriculum until the Curriculum Wing completes a comprehensive review and reform of the national syllabus.
- t) Identify and delete historical inaccuracies and any material encouraging religious hatred or sectarian or ethnic bias in the national curriculum; and the teachers are trained to treat students in an impartial and equal manner
- u) Limit Islamic references to courses linked to the study of Islam; make it an elective subject so as to respect the religious rights of non-Muslim students.
- v) Ensure that any new public schools, especially girl schools, are established close to communities, especially in less developed rural areas.
- w) The government should ensure that ethnic and religious minorities are adequately represented in all government services, especially the armed forces, superior civil services and judiciary.
- x) The Bonded Labour System (Abolition) Act 1992 should be applied and amended further to penalize landlords maintaining bonded labour.
- y) The jurisdiction of labour officer should be extended to the agriculture sector and their number should be increased for effective monitoring. Moreover the Vigilance committees given in the law should be formed and a transparent functioning should be ensured.
- z) The Government should restore the job quota for religious minorities and scheduled castes separately. A monitoring desk should be established to oversee the implementation of quota.

GROUPS THAT CONCERN THIS TREATY IN PAKISTAN

For the past five thousand years of recorded history, the territory known as Pakistan has been enriched by various religious and cultural traditions and by ethnic and racial identities. Different language groups that now inhabit Pakistan³ are Punjabis 48.17%, Pashto 13.14%, Sindhi 11.77%, Siraiki 9.83%, Urdu 7.60%, Balochi 3.02%, Hindko 2.43%, and Brahvi 1.21%. The remaining 2.81% include Shina, Burushaski, Balti, Khowar, Gujrati, Potohari, and Farsi. There are also religious and sectarian minority groups such as Hindus (1,917,315), Christians (1,580,662), Ahmadis (200,974) and others (90,839)⁴ which include Sikhs, Kalasha, Parsis, and Buddhists. There are Muslim minority sects including Shia, Ismailis, Zikris and Bohras which are racially distinct and need protection of their rights.

Punjab is the most populated province (60% of the total) which makes the population of the rest of the three provinces, Sindh, Balochistan and North Western Frontier Province (NWFP) national or provincial minorities. In addition, there are people of Northern Areas (FATA) whose rights as national and racial minorities have been under study.

The above mentioned statistics have been widely contested by scholars, language movements and rights activists, including some legislators who claim that numbers have deliberately been tampered with. The indigenous people and ethnic minorities have persistently maintained that the system of undertaking the census is unjust and does not provide for an accurate reflection of the denial of their rights, which begins with an understatement of numerical strength⁵. Part of the problem is the irregularity of census, technical lapses and delayed availability of the statistics.

HUMAN RIGHTS SITUATION IN SMALLER PROVINCES

Shortsightedness of law and policy framework has resulted in unrest and misery in the smaller provinces, and among ethnic, linguistic, religious and descent-based minority groups. There is need to have a cursory look at the situation to reverse this trend.

The following section first takes a look at key issues concerning the Convention in the Northern Areas, North Western Frontier Province, Balochistan and Siraiki areas, and then at the situation of scheduled caste Hindus in the Sindh province. In the case of Northern Areas and FATA, it is critical to bring the governance and judicial system under the constitutional framework governing the rest of Pakistan, in order to enhance observance of constitutional and universal rights in Balochistan and of derivation of Siraiki areas.

Northern Areas

The Northern Areas of Pakistan span over 70,449 sq. Km. and border China, India, Afghanistan and Central Asia. According to the most recent national census (1998), the population – all Muslim – was 870,347, now estimated at 1.5 million. These areas though part of Pakistan do not have a representation in the parliament. Northern Areas are kept out of the Pakistani judicial system. The judicial system that is in place is legally under the bureaucratic control and does not guarantee the fundamental rights of the people. The people speak different languages. Especially the Gogot district has seen a violent scene of sectarian clashes, where Shia community was mostly at the receiving end.

³ Census 1981

⁴ Census 1998

⁵ Shaheen Sardar Ali, Javed Rehman, Indigenous people and ethnic minorities of Pakistan Constitutional and legal perspective P. 14, Curzon

Balochistan

The human rights situation in Balochistan has been extremely worrying since 2005, when an army action started. Hundreds of innocent lives have been lost however some deaths had more damaging effect. The 79-year-old Akbar Bugti, tribal chief and the head of the Jamhoori Watan Party (JWP), who served as Chief Minister and Governor of Balochistan, was killed by the military at his mountain hideout in Kohlu district in August 2006. Bugti's, home base of Dera Bugti contains the country's largest gas fields. Balach Mari, the son of another tribal chief was killed on 25 November 2007.

Nawab Khair Bux Mari 75 was imprisoned basically because of disagreement with establishment policies though on a charge of murder of a judge. He was denied medical treatment during the detention.

Akhtar Mengal, who heads the Balochistan National Party (BNP) and is, like his father, a former Balochistan Chief Minister, was imprisoned in November 2006. He was tried by an anti-terrorism court in camera at Karachi Central Prison, charged with kidnapping and confining two security men for several hours, whom, he says, his security guards temporarily detained after they tried to abduct his children in April 2006. An anti-terrorism court convicted four of his security guards in December 2006, a month after he was arrested on the eve of a BNP protest rally against military operations and the illegal detention of Baloch activists⁶. He was released in 2008.

Siraiki language and people

In Southern Punjab, where the mother tongue is Siraiki (9.83 % of the total population) and not Punjabi, local Siraiki people have been deprived of control over their resources; revenues and land, right to have primary education in mother tongue, and identity. The area is fertile known for growing cotton, fruits and other agricultural yields.

According to the Siraikis, they have generated more money for the Federation than was spent on them. The figures quoted by Azizuddin Ahmed (Scholar, Political activist) suggested that the Siraiki areas are less developed. Land from the Siraiki areas is given to non-Siraikis. The names of officials to whom the land has been allotted are given by Azizuddin Ahmed among others. Mirani estimates that about 600,000 acres were given in the Thal Development scheme alone.

Scheduled caste Hindus

As per official census, the scheduled caste Hindus in the Sindh province are concentrated in four districts: Tharparkar, Umerkot, Mirpur Khas and Hyderabad. In Punjab the majority of scheduled castes Hindus live in the districts of Rahimyar Khan and Bahawalpur. Thus, it is estimated that 89 % of this population live in the above-mentioned six districts. Except for Hyderabad, all these districts are bordering with India in the South East of Pakistan.

Official statistics claim that scheduled caste Hindua represent 0,25% of Pakistan's total population which amounts to approximately 330,000 persons (Pakistan Census Report 1988). This number, however, has been widely contested by representatives of scheduled caste Hindus including five former legislators who claim that numbers have deliberately been understated. They believe that discrimination and the state denial of their problems begins with numbers and they estimate that the population of Scheduled Caste Hindus is more than two million.

⁶ International Crisis Group, 27 October 2007

GENERAL TRENDS ADDING TO DISCRIMINATION IN PAKISTAN

Talibanization and extremism

Pakistan is in a grip by religious extremism and Talibanization of society. This phenomenon is averse to notions of tolerance, respect for diversity, multiculturalism and universality of human rights. This is a consequence of decades of misrule and misdirection. Years 2007 and 2008 were marred by massive bloodshed by bomb blasts, assaults and armed clashes, including the assassination of Mohtarma Benazir Bhutto. Hundreds of girls schools in NWFP and FATA have been forced to close after some 180 were blasted with bombs. CD and Music shops, Barber's saloon and cinema were particularly targeted. An environment of fear has been created in the entire country because the Taliban have operated with impunity and hit their targets by choice.

The example of intolerance and use of religion for political ends was set by the state apparatus itself hence the groups claiming to be the vanguards of true religion are in abundance and well financed. The issues are not merely of law and order but a range of issues that government of Pakistan needs to take into consideration. Accepting and implementing the human rights framework can lend a great deal of help.

Involuntary Disappearances

While hundreds allegedly linked to terrorist activities have disappeared countrywide, Baloch dissidents have been the main victims of what the HRCP secretary general describes as a "barbaric and inhuman practice". According to HRCP figures, 69 of 92 reported disappearances countrywide in 2006 were in Balochistan. As of December 2006, there were 242 persons on HRCP's list of the disappeared, 170 from Balochistan. Other sources cite 600 disappearances in 2006. Monthly Newslines (p. 56, Karachi) reported the number of missing persons could be as high as 2300.

Justice Iftikhar Muhammad Chaudhry's removal from the office as Chief Justice on 9 March 2007 is widely believed to be a consequence of his suo moto response to the situation regarding these disappearances. The Human Rights Commission of Pakistan (HRCP), an NGO also filed a petition in the Supreme Court (SC) of Pakistan against forced disappearances in early 2007 with a little over 100 names that swelled to 198 before the emergency was pronounced on 3 November 2007. Of that list, the government told the court of around 99 disappeared persons that it had 'traced.' Ninety-nine remained unaccounted for. Only half of those traced had actually been released. Those released have alleged torture and inhumane treatment and lack of access to due process, as well as access to lawyers and family.

Internally Displaced Persons (IDPs)

Since December 2005 when military operations began, at least 84,000 people have been displaced by the conflict in Dera Bugti and Kohlu districts alone. According to a UNICEF internal assessment in July-August 2006 that was leaked to the press, the displaced persons, mostly women (26,000) and children (33,000), were living in makeshift camps without adequate shelter in Jafarabad, Naseerabad, Quetta, Sibi and Bolan districts. 28 per cent of five-year-old children were acutely malnourished, and more than 6 per cent were in a state of "severe acute malnourishment", with their survival dependent on receiving immediate medical attention. Over 80 per cent of deaths among those surveyed were among children under five.

In May 2007, addressing a public meeting in Sui sub district of Dera Bugti, President Musharraf claimed that 65,000 of a total of 90,000 IDPs from Dera Bugti had returned home. A regional human rights

organisation, however, believes some 200,000 persons are still displaced. Local estimates are even higher.⁷

The military operation against Taliban and extremists of various shades and orientations in Swat, Bajuar, Waziristan (North and South) has caused internal displacement at large scale. Approximately about 400,000 by December 2008 people who were not provided enough state assistance for survival in extremely cold winter.

According to government figures, there are now an estimated 90,000 internally displaced people (IDPs) in Pakistan's North West Frontier Province (NWFP) due to the ongoing fighting in the tribal areas bordering Afghanistan. Another 90,000 are believed to be displaced in Swat in northern NWFP, based on a recent government assessment. In addition, some 84,000 people were displaced by floods in August.

To meet these needs, UNHCR has appealed for \$17.2 million under the UN's \$54-million humanitarian response plan for the situation in Pakistan. The UNHCR budget covers the provision of non-food relief items to 310,000 displaced people, registration, site planning and development, as well as camp management, community services and initial winterisation in the camps⁸.

Situation of human rights defenders and journalists

Between 2000 and 2007, 31 journalists were killed, 315 injured, 387 arrested or kidnapped, 193 intimidated and 109 banned, according to Intermedia.

In 2007, 11 journalists were killed, 215 injured, 325 kidnapped, 79 intimidated and 43 banned. 10 journalists were arrested and 34 booked under Anti-Terrorism law since December 27, 2007 after the assassination of Benazir Bhutto, former Prime Minister of Pakistan. According to the reports the police raided the houses of journalists and arrested 19 in Sindh province alone⁹.

According to the Pakistan Federal Union of Journalists¹⁰, during 2007 the government agencies pressurized the media through new laws and threats. Houses of media personnel were attacked, raided by the police and security agencies using two ordinances against the media after the promulgation of state of emergency in the country. Pakistan's mainstream private television news channels remained under 'official scrutiny' and several received 'Press advices' throughout the year, even before the closure of around 45 TV channels, mainly news channels on November 3, 2007. Beside attacks on journalists, their families were subjected to violence and intimidation. Brothers of two journalists were killed, one reportedly by a non-state actor, another by an unidentified person, the families had to migrate, while dozens in different parts of the country were forced to relinquish the profession.

In NWFP and Balochistan especially several journalists have been harassed and killed. Political and social activists have faced violence, threat and forced evictions by the law enforcing agencies as well as non-state groups.

Mr. Javed Lehri, of the Urdu-language Daily Azadi was torture inflicted and he was imprisoned for nine months in Quetta, Balochistan. The journalist was arrested by intelligence agents from his student hall of residence in Khuzdar district on 29 November 2007 probably for publishing articles that were critical of the government.

Lehri said in an interview with the Daily Times, "It took me three months to realize that I was being held in a detention centre close to Quetta. My tiny cell was always completely dark".

⁷ International Crisis Group, 27 October 2007

⁸ www.unhcr.org briefing note 23 September 2008

⁹ Intermedia Islamabad, www.intermedia.org.pk

¹⁰ www.pfuj.info

During the first three days of his detention, Lehri was hung by his feet and beaten. His jailers then chained him up and tortured him. "The torture was so unbearable that I prayed for death," he said in the interview. "I hoped I could find some object in my cell that I could use to commit suicide with", he admitted.

He was asked where the name Azadi (liberation in Urdu) came from. The journalist said the agents wanted to know "what kind of liberation" his newspaper was fighting for and demanded that the name be changed.

"I told them that I only worked for the newspaper as a correspondent and that I could not change either its name or its editorial line. They wouldn't believe me and continued to beat me," he said.

After his release, on 22 August 2008, Lehri has suffered from insomnia, depression and digestive problems. He has to travel from his home district in Balochistan to Karachi for treatment every two weeks.

"I cannot afford to take the treatment I need. I often have nightmares because I am still receiving threatening phone calls on my mobile phone warning me against talking about what happened to me in prison", he said.

"The conflict between government forces and separatist movements ravaging Balochistan has been devastating for the region's journalists". The terrifying account given by Javed Lehri, who was kidnapped and tortured for political reasons, should prompt the central government to open an early investigation so that those guilty of these vicious acts can be punished," the organisation added.

'Lehri's account was distressingly similar to that of Munir Mengal, director of a proposed Baloch television channel, who was illegally detained in April 2006, and was released in September 2007 on orders of the Balochistan High Court after he was exonerated of all charges but, again detained by the intelligence agencies at an unknown location. Munir Mengal was arrested on the orders of then president, Pervez Musharraf and held secretly on his orders for 22 months by police and military intelligence for having founded the satellite television 'Baloch Voice'¹¹.

Caste-based discrimination

The Pakistani society is sharply divided between urban and rural, men and women, Muslim and non-Muslims and upper and lower castes. The national research study on caste discrimination documented that caste plays a major role in determination of one's status in contemporary Pakistan. The research report "Long Behind Schedule" focused on Pakistan's scheduled caste Hindus, although caste issues also play a role within the 160 million Muslim population. Hindus and Christians in Pakistan already suffer discrimination in an Islamic society. For the scheduled caste Hindus there is double discrimination, because they are discriminated against within the Hindu community by the Hindus themselves.¹²

The scheduled caste population, which is the single largest group falling victim to caste based discrimination including the practise of "untouchability", represents the poorest of the poor and one of the most marginalized sections of the population in Pakistan. Although the Constitution prohibits discrimination on the ground of caste, the GoP has done very little to eliminate caste and decent based discrimination. The Government has not yet initiated any affirmative action programmes for the promotion and protection of the "Scheduled Caste" community in the country, as otherwise suggested in CERD General Recommendation XXIX. Years of denial of the problem has aggravated the situation, as successive governments have not bothered to put in place any legislative or legal measures to prevent this form of discrimination.

¹¹ Journalists without borders Press releases

¹² "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 11

ARTICLE 1

Government's position on descent-based discrimination (article 1(1))

According to article 1 (1) of the ICERD, the Government of Pakistan is obliged to take effective measures to eliminate discrimination based on race, colour, descent, or national or ethnic origin. CERD General Recommendation XXIX on descent-based discrimination (2002) reaffirms that States parties should take measures of a general and specific nature to address discrimination against scheduled castes.

39 years have passed since Pakistan ratified the ICERD, yet there has been very little improvement in the situation of those affected by caste and decent-based discrimination. Pakistan has for a long time been a state in sheer denial of caste-based discrimination, until recently when the Government has proclaimed its commitment to eliminate this form of discrimination in an unexpected turn towards greater recognition of this problem. Traditionally the argument has been that Islam teaches equality, so there is no question of discrimination on the basis of caste in an Islamic state.

During the Universal Periodic Review (UPR) of Pakistan in May 2008, several states raised questions about the safeguards that the Government had taken to protect the human rights of minorities in Pakistan, including the scheduled caste Hindus. As a response, the head of delegation, Ms. Wahab, said that "there are no Dalits in Pakistan" and that "there is no discrimination on the basis of caste and creed". However, when the delegation gave its response to the recommendations at the 8th session of the Human Rights Council in June 2008, the position had changed. The Pakistani Ambassador said that: "Efforts are made to eliminate discrimination wherever it exists and to give maximum support to scheduled castes. The Federal Government has relaxed upper age limit for the scheduled castes for government jobs. The Ministry of Minorities intends to include one member from the scheduled caste of Hindu community in the National Commission for Minorities.'

This is a positive development which shows that the new Government recognizes this form of discrimination in Pakistan, and that it requires specific attention and action by the Government for it to live up to its international treaty obligations. The organisations hope that this commitment will be followed up by concrete action and the enactment of effective policy measures to eradicate this problem.

Recommendations

1. The endorsing organisations urge the Government of Pakistan, to fully recognize this form of discrimination and seek guidance from CERD GR XXIX to prevent and protect from human rights violations in the country as an effect of caste-based discrimination.
2. The State Party should elaborate on its official position on descent-based discrimination in accordance with CERD GR XXIX and elaborate on measures taken pursuant to the recommendations proposed herein.

ARTICLE 2

According to article 2(1) of the Convention, the Government of Pakistan has the obligation to condemn racial discrimination and undertake to pursue by all appropriate means a policy of eliminating this form of discrimination. This implies the obligation to refrain from committing and supporting discriminatory acts, and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation (article 2 (1) (a)).

De Jure protection: Constitution and laws

It is true that Article 25 of the Constitution of Pakistan guarantees that “all citizens are equal before law and are entitled to equal protection”. Fundamental Rights under the Principles of Policy makes the realization of these rights mandatory for the State. The protection of minorities and promotion of the social and economic well being of people is included in “Principles of Policy” Section, and it is therefore not mandatory for the State to implement.

Article 36 states: “the state shall safeguard the ‘legitimate rights and interests’ of minorities, including their due representation in the federal and provincial services.” Similarly, Article 38 states that the State shall “secure the well-being of people, irrespective of sex, caste, creed or race by raising their standard of living”.

The constitution pronounces Pakistan to be a Federation and an equal number of seats are allocated to Federating units in the Senate, the upper house of the parliament. The Constitution also provides for a Council of Common Interests (Art. 153) and National Economic Council (Art. 156) to resolve any misunderstanding and disputes among the provinces. National Finance Commission (NFC award) is another Constitutional body that is assigned to decide on allocation of funds for the provinces from the National budget.

Constitution-based discrimination

1. The Constitution of Pakistan lacks a clear and out right condemnation of discrimination based on race (and religious and gender discrimination for that matter) and its forms.
2. It also fails to recognize the cultural, ethnic, linguistic plurality and mention of the rights of the groups falling in this category.
3. The Constitution in the preamble places a condition of being ‘legitimate’ over rights for minorities.
4. A number of Articles in the Constitution are discriminatory in nature and take away the protections and rights given to minorities. The Constitution of Pakistan says “Islam shall be the state religion of Pakistan, (Article 2-A) and its Head must be a Muslim (Article 41), the oath for Prime Minister under 91 (3) of the Constitution is meant to keep the office of the Prime Minister for a Muslim alone.”
5. Article 260 of the Constitution defines Muslims and non-Muslims faiths while the Article is primarily meant to define Ahmadis non-Muslims against their faith. The Constitution fails to appreciate the religious diversity among the citizens while it seeks to differentiate Pakistan’s citizens on the basis of religion.
6. The Constitution provides for establishment of a Council of Islamic Ideology and Federal Shariat Courts. The Constitutional bodies having an over arching role have no representation of religious minorities. Moreover these two bodies have a role to Islamize the laws and policies as advisory bodies and the government is bound act on the advice of Federal Shariat Court.
7. The Constitution does not provide an institutional mechanism for implementation of standards of non-discrimination nor does it bar legislation based on discrimination. As a result there were a number of laws and regulations made through ordinances and enactment which are discriminatory to ethnic, linguistic and religious minorities.

Discriminatory laws and policies

A wide range of laws and policies discriminate on the basis of religion, barring non-Muslims to appear as a lawyer (Article 203-E (4)) before the Federal Shariat Court, or preside as a Judge (Hudood Ordinances).

Receiving and paying blood money is part of the system under Qisas and Diyat laws, and thus is discriminatory as it ignores that this practice is not part of the values and faith of the non-Muslims.

The Criminal Procedure Code of Pakistan makes the 'incitements' on the basis on religion, caste and creed an offense but no 'discrimination or idea based on racial superiority' as intended in Article 4 (a, b) of ICERD.

Multiculturalism is no virtue in the policy framework where Urdu is a medium of instruction for all public schools with the exception of Sindhi in one province and English in elite schools.

Lack of protection and implementation mechanisms

There is sheer lack of implementation mechanisms for protection of fundamental rights because the successive governments failed to respect and ensure the independence of judiciary. Setting up independent watch dog bodies and National Human Rights Institutions was not given a serious thought. Even the bill tabled in the National Assembly on 16 December 2008 fails to comply with Paris Principles.

Although the Constitution prohibits discrimination on the grounds of caste, creed and colour the Government of Pakistan has neither condemned discrimination nor legislated upon or made policies to eliminate discrimination. There is a lack of serious initiatives on part of the Government about affirmative actions for protection of the minority communities in the country, as suggested in CERD GR XXIX.

The government departments e.g. Evacuee Property Trust Board, Human Rights Directorate and Census Commission of Pakistan have shown indifference to and lack of interest with regard to providing reliable, objective and useable socio-economic indicators on linguistic, ethnic, religion and caste.

The role and performance of police and administration about safety and security of minorities has been pathetic. For instance, the Churches at Sangla Hill in 2005 and Sukkur in 2006 were set ablaze by mobs when police was present on the scene.

Recommendations:

1. As the present constitution has been amended so much to the whims of the ruler it has become a redundant document unable to lend help to resolving the governance related and other crises that Pakistan is facing. There is a dire need of a Constitutional Review that lays basis of a new Social Contract. A number of political parties have also proposed a Constitutional amendment Package. This constitutional amendment should eliminate all discriminatory provisions and outline measures and steps to implement human rights standards, make caste discrimination an offense including "untouchability".
2. Under article 2(1) of the ICERD, Pakistan should condemn caste-based discrimination and undertake to pursue by all appropriate means a policy of eliminating this form of discrimination. This implies the obligation to refrain from committing and supporting discriminatory acts against scheduled castes, and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation (article 2 (1) (a).
3. Establish National Human Rights Institutions according to Paris Principles, independent of bureaucratic and political influence, and enough budgetary allocation to operate and empower to deliver according to human rights standards.
4. The Northern Areas may be declared Special Areas under an instrument of the Federal government either with their own legislature and independent judiciary or the citizens should be given a right to representation in the national parliament under the universal adult suffrage.¹³

¹³ Northern Areas of Pakistan: A strong yearning for autonomy, report of an HRCP Mission, 2005 recommendations p. 136

5. Pakistan should extend invitations to all Special Rapporteurs and the High Commissioner for Human Rights to follow through the commitment expressed by the Pakistani delegation during the Universal Periodic Review in May 2008.
6. The Government of Pakistan should provide disaggregated data on minorities for the next national census and pay adequate attention to affected communities in all assessments, including data collection, planning, and implementation of any human rights, development and humanitarian programmes.
7. The Government of Pakistan should make serious efforts to implement existing safeguards for rights of the minority communities.

ARTICLE 3

Prevent, prohibit and eradicate segregation

Religious minorities, nomads, indigenous people and scheduled castes in Pakistan are socially and physically excluded from the mainstream as they are compelled to live in segregated settlements. They are denied social, political and economic rights. Apart from being treated as “untouchables” and humiliated in public, the practice of “untouchability” is demonstrated to make sure that scheduled castes live in separate colonies, they are served in separate crockery, and they cannot sit inside with upper castes. “Untouchability” is obvious in all private and public spheres of life.¹⁴

They can not do their own business e.g. open a tea or sweet shop if wished to do so. The concept and practice of “untouchability” is a big obstacle in their development. They are often pushed into labour work where they are trapped in bondage. They work as labourers on agriculture, without having their own landholdings. These agricultural workers from the Sindh and Punjab provinces, locally known as Hari or Mazarey, are often subjected to exploitation.

Recommendation:

The Government of Pakistan should enact a total prohibition on “untouchability” and all forms of discrimination using model legal acts from other caste affected countries.

ARTICLE 4

Eradicate propaganda inciting discrimination

States Parties have the obligation to adopt immediate and positive measures to eradicate incitement to, or acts of discrimination with due regard to the values and standards laid down in the Universal Declaration of Human Rights (Article 4).

Scheduled castes are victims of this discrimination which also affects their right to seek justice under the law. In the absence of a motivation and education for non-discrimination, a biased Muslim can initiate legal proceedings against religious minorities and scheduled castes.

¹⁴ This was told during focus group discussion in Rahimyar Khan District.

The cases reported in the National study illustrate this phenomenon, where a scheduled caste boy was accused of having an illicit affair with a Muslim girl. He was beaten and then threatened to be accused of blasphemy if he did not leave the village. The family was forced to leave village forever. "Similarly, a young scheduled caste man was threatened to be tried under Blasphemy law if he did not beg apology from the entire village. His sin was that he was sleeping in the field with his legs in the direction of Qibla (in Mecca).¹⁵

Sections 295 B, C, 298, A, B and C of Pakistan Penal Code, commonly known as blasphemy laws are discriminatory as their draft is religion specific and seeks to protect the respect of holy personage, the book, etc of the majority religion. The effects of these laws have been devastating. The country has drifted centuries behind as far as religious tolerance and social harmony is concerned. Hundreds of people have suffered, 26 persons were murdered, and dozens of Churches and Temples have been burnt after allegation after rumors of defamation of majority religion since their gradual induction in the penal laws 1980 -1986.

Recommendations:

1. The government should seize publications including magazines, newspapers, book, and CDs that propagate hatred against other religions and sects and punish those that are responsible for such hate speech in various forms.
2. For the government to repeal blasphemy laws, it should undertake a study on the impact of blasphemy laws.

ARTICLE 5

Right to security and protection (article 5(b))

Due to their vulnerability women belonging to ethnic, religious minorities and scheduled castes experience double discrimination as they are both discriminated on the basis of ethnic origin and gender. These women face violations of personal dignity and freedom, sexual abuse, abduction and forced conversion. A majority of these women work as agricultural labourers and are vulnerable to sexual harassment and abuse by landlords and their men.

Poor, Baloch, Siraiki, Sindhi, Punjabi and Pashtun are illiterate, malnourished and underdeveloped. In the areas under the influence or target of Taliban they face the threat of remaining uneducated and unemployed. Even the educated women are discouraged to take an active social role.

The scheduled caste women complained that when they go to towns and cities for work, people stare at them and make derogatory remarks when they pass near them. As the men of scheduled caste families are economically weaker with no social support or political influence in the community, their younger women are lured into wedlock or abducted and wed through forced conversions. The abduction of young women is frequent and often reported in local newspapers.

¹⁵ This incidence was reported from Bahawalpur

In a review of Pakistan's implementation of the International Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in May 2007, the Committee expressed deep concern about the lack of constitutional safeguards for women. In the concluding comments the committee also expressed concern about "pervasive patriarchal attitudes and deep rooted traditional and cultural stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace and in society, which constitute serious obstacles to women's enjoyment of their human rights and impede the full implementation of the convention".

Recommendation:

According to Article 5 of the ICERD Pakistan must make a concrete policy and implementation plan to prevent double discrimination experienced by women especially for minorities and scheduled caste women in Pakistan, implement recommendations of the CEDAW' Committee and include a section on scheduled caste women in its next reporting, which is due in 2009.

Political rights (article 5(c))

People in Federally Administered Tribal Areas (FATA) which constitutes a larger territory of the NWFP have not enjoyed the status of citizens in the past 61 years. Not adult franchise but their representatives are selected to Senate and National assembly through a bureaucratically controlled electoral college (Maliks) under the Constitution. The Political Parties Act does not apply in these areas, thus political parties except religio-political parties cannot open offices in these areas. To a large extent, the scheme of governance is responsible for the underdevelopment and extremism in these areas.

The case of Northern Area, (Gilgit and Baltistan) is even worse. These citizens of Pakistan do not have even the symbolic representation in the national parliament or provincial assembly.

The scheduled caste Hindus do not enjoy meaningful political participation and they have no representation in legislative bodies, district government and political parties.

The State report CERD (CERD/C/PAK/20) mentions that 10 seats have been reserved in the National Assembly for minorities. However, no one from the scheduled caste was considered worthy of party tickets during general elections and elections for local government.¹⁶

For the past 23 years, the reserved seats for religious minorities have not increased, though the general seats usually occupied by the majority population have been doubled during this period.

Almost all major political parties have their minority wings which leave scheduled castes and the poor sections of Christians out. Indifferent attitude of the major political parties towards minorities and scheduled castes is reflective from the party policies and actions throughout the country. The study shows that there was only a single Schedule Caste member, Partab Bhil, in the National Assembly and none in the Senate and the provincial assembly of Punjab.

¹⁶ "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 43

Recommendations:

1. Representation of the Northern areas and Federally Administered Tribal Areas according to the universal adult suffrage should be ensured through amendments in the Constitution and related laws.
2. State and political parties must ensure the presence of scheduled caste representatives in the National Assembly, provincial assemblies and the Senate.
3. The reserved seat for religious and other minorities should be assessed at least according to their population and increased accordingly.
4. The political parties through amendments in the Political Parties Act should be encouraged to allot a certain percentage of party tickets and party positions to scheduled caste representatives.

The right to own property: Adequate housing (article 5(d)(v))

An overwhelming majority of scheduled castes have no or very restricted access to property or assets. They are landless peasants with no other assets such as land property, gold or bank balance etc.

The official data does not provide categorized statistics on the basis of caste, religion, gender, etc. about important socio-economic indicators e.g. employment, living conditions, ownership. However a 2007 study conducted in four districts (Tharparkar, Umerkot, Rahimyar Khan and Bahawalpur) revealed that 83 % of the scheduled caste population did not own even a small piece of land. The land ownership by the remaining 17 percent is also very small. The 90 % of the scheduled caste landowning (17%) owned between one and five acres of agricultural land.

Scheduled caste communities complained that in absence of any assets, they get entangled in debts for their survival and this way often land in bondage giving up their freedom and dignity. In bondage they are subjected to inhumane treatment by the landlords and their staff. They usually build huts or mud houses on government land or the one owned by the land lord, where they have to compromise their economic and physical freedom and have no job security. Scheduled castes villages and settlements, are often without any civic facilities. There is a lack of basic infrastructure such as electricity, water supply or sanitation available in the villages in the whole of Pakistan but particularly in the smaller provinces. Even potable drinking water is not available in the settlements of scheduled castes.

The Temples destroyed in reaction to demolition of Babri Mosque in 1992, have not been repaired and rehabilitated. The most known among them were Jain Mandir –Lahore and Parhalad Bhagat Mandir – Multan. Suraj Kund Mandir –Multan and many other Temples across the country have become prey to land grabbing or are dying due to the neglect of the government departments. Due to negligence of the government departments hundreds of statues of Buddha and artifacts of Gandhra period were stolen by thieves or destroyed by the Taliban in 2007 and 2008.

Recommendations:

1. The government should make it legally and practically possible to introduce policies for allocating agricultural Land to the landless peasants, just wages and working conditions to comply with international labour standards. Agricultural labourers should be considered for this on priority basis and in the spirit of social justice.
2. The performance of Evacuees Property Trust Board is embarrassing and in need of a serious scrutiny and framing the responsibility of negligence to religious sites of minorities and other heritage. It is also important that the members of the Board must be taken from the concerned religious community.

3. The Government should regularize the informal housing and shelters built by the people on government land both in urban and rural area, ensuring that minorities and scheduled castes do not have to face evictions and illegal adjustments.
4. The government should use the grant it is claiming of having allocated for restoration of hundreds of Hindu Temples across the country including the national heritage of Buddha statues, Jain Mandir – Lahore, Suraj Kund and Parhalad Temples of Multan.

Economic and social rights (article 5(e))

Sindh, Balochistan and NWFP provinces have complained of unjust share in the award of funds from the Centre government for decades. They get a lesser share for development funds in comparison to the revenue that they generate. The ongoing strife and insurgency in Balochistan was ignited by a controversy about revenues of the Natural gas that the province supplies in a large quantity. Millions of acres of agricultural land in Sindh, Baluchistan and Siraiki areas were allotted mainly to retired military and civil officers from Punjab.¹⁷

One such event occurred lately in Balochistan, Gwadar, the new port city in the province. The case became controversial, costly and source of discontentment, because the local people had been economically and socially disadvantaged already and saw the development projects as a threat and plunder of their resources. Influential people from Gwadar, other parts of the province and the country bribed Patwari (the revenue clerk) to get land registered in their name. At the end of the day, many influential politicians of the country and even the relatives of former Prime Ministers had purchased land in Gwadar at rock-bottom prices—as low as one and half Rupees per square yard. The losers were the residents of Gwadar, who were not savvy or rich enough to be part of this plunder and they lost the land that had been theirs for generations'.¹⁸

These provinces felt deprived even more over the distribution of water resources (river). A large dam project (Kalabagh) became controversial thus so far impossible to build because of feelings of being deprived among the 'smaller provinces.' It is so because the provinces have been forced in past to submit to development projects without their free consent and an unfair share in economic and social development.

As for the scheduled caste population in Pakistan, they are overwhelmingly rural in nature which has a large impact on their realization of economic and social rights. Over 93 % of scheduled castes live in rural areas and only 7 % is settled in urban areas according to the population census of 1998. A majority of the population depends on agriculture for their livelihood. By working on share cropping conditions, they are vulnerable to bonded labour and other exploitations by the landlords. Vulnerable and marginalized groups of the population such as women, children, religious minorities, scheduled castes, and bonded labourers also make the majority of illiterate population within the rural districts.

¹⁷ Azizuddin Ahmed, *Kia Hum Akathay Reh Sakthey Hein* (lit. Can we remain together?) p. 199

¹⁸ Monthly Herald, Karachi, June 2008. p 70-71

Accommodating cultural diversity and Education in Mother Tongue

With regard to cultural rights enunciated in ICESCR¹⁹, CRC²⁰, and the UNESCO Declaration on Cultural Diversity²¹, a great majority of the children in Pakistan are deprived of their cultural rights as there is no arrangement for imparting school level education in their mother tongue. Urdu, which is mother tongue of merely 7.57 % of the population, is the medium of instruction.²² However Punjabi, Pushto, Saraiki, Balochi and other children are forced to take instruction in the language which is not their mother tongue. This has serious implications on their identity and foundation of world views. Meeting the challenge of mass literacy is not going to be possible without making it possible for children to receive education at least up to primary classes in their mother tongue.

Recommendations:

1. The Council of Common Interests and the National Economic Council should meet on regular basis to discuss issues among the provinces and their long term resolve.
2. The National Finance Commission (award) should consider poverty level and other development indicators as a parameter for allocation of funds to the provinces. The Provinces should apply the similar criteria for further allocation of funds to the districts, and give consideration to the maintenance of ethnic and other diversity.
3. Due and equal importance should be given to the languages spoken in educational activities and the state sponsored media. Funds should be allocated to preserve knowledge in the local languages and culture.
4. Besides fixing job quota in the government services for ethnic, religious and other minorities, the government should publicize the status of implementation of this policy on yearly basis.

The right to public health, medical care, social security, and social services (article 5(e)(iv))

The average budget on health and nutrition has been 0.51% of the GDP for a number of years. In 2005 – 2006 it was 0.6 % of the GDP²³.

Health conditions in various minority groups including scheduled caste communities are very poor as frequent illness is reported in these households. Since they live in localities with no sewerage and hygienic facilities due to negligence of authorities, they are more vulnerable to diseases and often suffer diseases like Tuberculosis and Hepatitis-B and C which are expensive and difficult to treat.

Lack of proper food results in malnutrition and has a bad effect on the health of children and women in particular. The 2007 study reveals that there is hardly any Government health facility available in scheduled caste villages. If they dare to travel to major cities for treatment they face a lot of discrimination and are not treated equally.

Scheduled castes recall many incidents where nurses or doctors have refused to touch their body parts because it will pollute them or they are dirty and filthy. A scheduled caste youth from the district of Rahimyar Khan

¹⁹ Article 15, International Covenant on Economic, Social and Cultural Rights

²⁰ Article 4, Convention on the Rights of the Child

²¹ Article 5, Cultural Rights as enabling environment for Cultural diversity

²² Population by Mother Tongue, Statistics division, Government of Pakistan,

²³ Colleg of Physicians and Sureons Pakistan, March 2006 Bulletin,

<http://cpsp.edu.pk/bulletin%20arch/march06/chapter1.asp>

complained that a Para-medic refused to treat his sister when he took her to hospital after severe pain in her teeth as she said that “she won’t like to pollute her instruments by using it on a scheduled caste”.

Recommendation:

The government agencies dealing with health, medical care and social services must sensitize their staff to the concepts of non-discrimination. Moreover a focused approach should be adopted while dealing with health needs and diseases related to poverty and social exclusion.

Right to education and training (article 5(e)(v))

Recent attempts at reform have made little headway, and spending as a share of national output has fallen in the past five years. Pakistan is now one of just twelve countries that spent around 2 per cent of their GDP on education for nearly 25 years. Moreover, an inflexible curriculum and political interference have created schools that have barely lifted very low literacy rates.

According to Education Census 2005, the literacy rate in Pakistan is just 52% and the most vulnerable and marginalized groups such as indigenous, ethnic, national religious minorities, scheduled castes and bonded labourers make up the majority of the illiterate population.

Education policies and curriculum are laden with materials and initiatives based on intolerance to other religions. A student or candidate for government job is given 20 extra marks if She / he memorized Quranic text, where as there is no such arrangement for non-Muslim candidates for admissions and jobs. In addition, the school curriculum is biased and does not reflect the heritage of Pakistan.

According to the 1998 Census the overall literacy was 45 %, whereas it was 34 % among Christians, 19% among Jati Hindus and 17% among the scheduled castes and other religious minorities including Parsis, Buddhist, Sikhs and Kafirs. The survey reveals that 2/3 of the scheduled caste population in Southern Punjab and Sindh are illiterate. Statistics show that 74 % of scheduled castes in Umerkot, Tharparkar, Rahimyar Khan and Bahawalpur are virtually illiterate. Of the 26 % who claimed to be literate 15 percent have only had primary education, followed by only 4 % up to grade 8 education and another 4 % had passed Metric. Only one percent of the scheduled castes are graduates with only a few lucky ones having post-graduate degrees.

Among the ethnic and religious minorities the nexus between poverty and illiteracy is strong: people are illiterate because they are poor, and they are poor because they are illiterate. Due to bad schooling in rural areas, Pakistan has one of the highest dropout ratios at primary and secondary school levels. Again, it is often the child of marginalized groups who falls victims of drop out.

The 2007 survey also confirms that scheduled caste communities are at the bottom of all indicators of social development. The absence of any affirmative action and measure on part of the government is shown in massive illiteracy of these communities. Religious and caste biases at school and college levels also keep them from pursuing their education.

Recommendations:

1. Education should be made a priority and there should be a focus on affirmative programmes for minorities such as ethnic, religious, scheduled castes and indigenous people.

2. Public expenditure on education should increase to at least 4 per cent of GDP as recommended by UNESCO, with particular emphasis on opening new schools, and upgrading public school infrastructure, including water, electricity and other facilities.
3. Take immediate political, police and legal action against extremist organisations and others seeking to prevent or disrupt development, social mobilisation and education reform initiatives, especially related to girls and women.
4. Suspend any initiatives to coordinate the Madrassa curriculum with the public school curriculum until the Curriculum Wing completes a comprehensive review and reform of the national syllabus.
5. Identify and delete historical inaccuracies and any material encouraging religious hatred or sectarian or ethnic bias in the national curriculum; and the teachers are trained to treat students in an impartial and equal manner.
6. Limit Islamic references to courses linked to the study of Islam; make it an elective subject so as to respect the religious rights of non-Muslim students.
7. Provide adequate transport for provincial education staff required to monitor and report on remote districts.
8. Link funding to education performance indicators, including enrolment rates, pass rates, and student and teacher attendance levels.
9. Ensure that any new public schools, especially girl's schools, are established close to communities, especially in less developed rural areas.

The rights to work, to free choice of employment, to just and favourable conditions of work (article 5(i))

The representation of religious minorities in the superior Civil services and judiciary is extremely marginal. In effect, the government report failed to quote any number or ratio and mentioned names whose presence is merely symbolic. The ethnic minorities often complain about their low representation in the superior civil service which is correct because there is no system in place to incorporate the marginalized groups into the mainstream.

Approximately 75% of the army is drawn from three districts of Punjab, the area known as Salt range. Another 20 % are from three to four districts in the North Western Frontier Province (NWFP). The other two provinces, Balochistan and Sindh, together have about a 5 % share of personnel. The number of ethnic Baloch is not more than a couple of hundreds, is even less than the number of ethnic Sindhis in the Armed forces²⁴.

There was previously a six percent quota reserved in government services for scheduled castes and the law provided three years age relaxation in the jobs and admissions since 1948. This law was scrapped in 1998 during the regime of Mian Nawaz Sharif, a civilian Prime Minister. The Scheduled caste representatives find no difference in having or not having quota, as it had never been implemented.

Bonded Labour and slavery

Pakistan is among one of the few countries in the world where slavery still exists in the form of bonded labour. The majority of the bonded labour community belongs to marginalized and excluded groups such as the scheduled caste Hindus, Christians and Muslim Sheikhs. A majority of them work as agriculture laborer or brick layers.

²⁴ Ayesha Siddiq, Military INC. Inside Pakistan Military economy p.59 Oxford, 2007

The Bonded Labour (System) Abolition Act 1992 to eradicate this practice was initially considered a major intervention on the part of the State. However, 15 years down the road, bonded labour is far from abolished. A 1996 report by Anti-Slavery International documented that practice of bonded labour prevailed in Pakistan and that large numbers of labourers, including children, continued to live in bondage in exchange for loans.²⁵ Another recent report from Anti-Slavery International prepared in association with PILER (July 2008) estimated that over 1.8 million people live in debt bondage.²⁶ The report also stated that the Government had failed to implement the National Policy and Plan of Action (2001) for the abolition of Bonded Labour and Rehabilitation of freed bonded labourers (an extension of the 1992 Bonded Labour System Abolition Act).

In 2002, a Bonded Labour Fund was established as part of the law for the welfare of the children of released bonded labours, the majority of whom are scheduled castes. Six years later a substantial portion of the funds remain unused and held by government and the released bonded labourers continue to live in subhuman conditions in temporary camps on the outskirts of Hyderabad.

Recommendations:

1. The government should ensure that ethnic and religious minorities are adequately represented in all government services, especially the armed forces, superior civil services and judiciary.
2. The Bonded Labour System (Abolition) Act. 1992 should be applied and amended further to penalize land lords maintaining bonded labour.
3. The jurisdiction of labour officer should be extended to agriculture sector and their number should be increased for effective monitoring. Moreover the Vigilance committees given in the law should be formed and a transparent functioning should be ensured.
4. The Government should restore the six percent ob quota for religious minorities and scheduled castes in government services. A monitoring desk should be established to oversee the implementation of quota.

²⁵ Anti Slavery International report 1996.

²⁶ Forced and Bonded Labour in Pakistan, Anti Slavery International, July 2008