



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twenty-first to twenty-third periodic reports of Pakistan\*

1. The Committee considered the combined twenty-first to twenty-third periodic reports of Pakistan (CERD/C/PAK/21-23), submitted in one document, at its 2470th and 2471st meetings (see CERD/C/SR. 2470 and 2471), held on 16 and 17 August 2016. At its 2483rd and 2484th meetings, held on 25 August 2016, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined twenty-first to twenty-third periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee also welcomes the open and constructive dialogue with the State party's high-level delegation.

#### B. Positive aspects

3. The Committee welcomes the State party's adoption or establishment of the following legislative, policy and institutional measures:

- (a) The National Action Plan for Human Rights, 2016;
- (b) The Sindh Hindus Marriage Act, 2016;
- (c) The National Human Rights Commission Act, 2012, and the operationalization of the Human Rights Commission of Pakistan in 2015;
- (d) The Domestic Violence (Prevention and Protection) Act, 2012;
- (e) The Acid Control and Acid Crime Prevention Act, 2011 (the Criminal Law Act (Second Amendment));
- (f) The Prevention of Anti-Women Practices Act, 2011 (the Criminal Law Act (Third Amendment));

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\* Adopted by the Committee at its ninetieth session (2-26 August 2016).



(g) Quotas allocated for minorities and women at the federal and provincial assemblies, as well as for minorities, women and persons with disabilities in public services.

4. The Committee also welcomes the ratification by the State party of the following international human rights instruments:

- (a) The Convention on the Rights of Persons with Disabilities, in 2011;
- (b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2011;
- (c) The International Covenant on Civil and Political Rights, in 2010;
- (d) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2010;
- (e) The United Nations Convention against Transnational Organized Crime, in 2010.

## **C. Concerns and recommendations**

### **Application of the Convention**

5. The Committee regrets the lack of information provided on the application of the Convention in the domestic legal order, including examples and the number of such cases. It reiterates its concern that the laws of the State party, including the Constitution, and the jurisdiction of superior courts are not applicable to the entire territory of the State party, particularly the Federally Administered Tribal Areas (see CERD/C/PAK/CO/20, para. 9). Consequently, the Convention is not applied or implemented at all the federal, provincial and territorial levels (art. 2).

6. **The Committee recommends that the State party take all measures necessary to ensure that its Constitution and laws, particularly those laws relevant to the implementation of the Convention and other international human rights instruments to which the State is a party, as well as the jurisdiction of the courts, are applicable to the entire territory, including the Federally Administered Tribal Areas. It also recommends that the State party eliminate all the provisions in its national legislation that hamper the application of the Convention. It further recommends that the State party intensify its efforts to improve judges', prosecutors' and lawyers' awareness of the Convention and their application of it.**

### **Definition of racial discrimination**

7. The Committee is concerned that the Constitution and laws of the State party do not provide a definition of racial discrimination, in conformity with articles 1 and 2 of the Convention. It is also concerned at the narrow understanding and interpretation of racial discrimination by the State party (see CERD/C/PAK/21-23, para. 23), which leads it to suppose an absence of racial discrimination within its jurisdiction (arts. 1, 2 and 4).

8. **Drawing the attention of the State party to its general recommendation No. 14 (1993) on article 1 (1) of the Convention, the Committee recommends that the State party take the steps necessary to ensure that a definition of racial discrimination is incorporated in its domestic legislation, in line with articles 1 and 2 of the Convention. It also recommends that the State party take all measures necessary to improve the understanding of racial discrimination, its relevance for the State party, and the Convention among all public officials and the general public.**

### Legislative framework

9. The Committee is concerned at the absence of specific legislation in conformity with articles 1 and 4 of the Convention in the State party to prohibit acts of racial discrimination against individuals; declare illegal and prohibit racists organizations; and criminalize the dissemination of ideas based on superiority, hatred, incitement to racial discrimination, and all acts of violence or incitement to such acts against persons or groups of persons on the grounds of race, colour, descent, or ethnic or national origin. The Committee reiterates its concern that the State party has not yet adopted comprehensive anti-discrimination legislation (see CERD/C/PAK/CO/20, para. 11) (art. 4).

**10. Recalling its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention and No. 35 (2015) on combating racist hate speech, the Committee recommends that the State party adopt a legislative framework, including a comprehensive anti-discrimination law, that prohibits and criminalizes all acts of racial discrimination in line with article 4 of the Convention.**

### Disaggregated statistical data

11. The Committee regrets that the State party has delayed the national census and that, as a result, there is no updated data on the ethnic composition of the population. It reiterates its concern at the lack in the State party report of disaggregated statistical data on the realization of the rights enshrined in the Convention (see CERD/C/PAK/CO/20, para. 8) (art. 1).

**12. The Committee urges the State party to intensify its efforts to conduct a national census as soon as possible. It recommends that the State party provide the Committee with information on the ethnic composition of the population and disaggregated statistical data on the socioeconomic situation of various groups. That would enable the Committee to evaluate the economic and social situation of those groups and the level of protection of their rights enshrined in the Convention. The collection of such data, based on self-identification by the individuals concerned, should be carried out in accordance with the Committee's general recommendation No. 8 (1990) on the interpretation and application of article 1 (1) and (4) of the Convention, and with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1).**

### National human rights institutions

13. While welcoming the establishment of the Human Rights Commission of Pakistan in 2015, the Committee is concerned at the insufficient level of financial and human resources allocated to the Commission and its limited mandate, including with regard to investigation of cases of human rights violations allegedly committed by State agencies. It remains particularly concerned at the ambiguity of the Commission's status, mandate, functions and powers and the possible duplication of the institutions involved (art. 2).

**14. The Committee recommends that the State party take the measures necessary to strengthen the independence and effectiveness of the Human Rights Commission of Pakistan in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). That includes allocating sufficient resources to the Commission and strengthening its powers and jurisdiction to investigate all cases of human rights violations, including racial discrimination, committed by any public officials. The Committee encourages the State party to seek A status accreditation from the Global Alliance of National Human Rights Institutions for the Human Rights Commission of Pakistan.**

**Racist hate speech and hate crimes**

15. The Committee notes the efforts made by the State party to address racist hate speech and hate crimes, including a number of arrests for such crimes. However, it remains deeply concerned at the reportedly high incidence of hate crimes such as harassment, violent mobs and killings of persons belonging to ethnic and religious minorities, particularly Hazaras, Christian Dalits, Hindu Dalits and Ahmadis, and the absence of investigation and prosecution. It is also concerned at reports of a rise in racist hate speech targeting ethnic and religious minorities and refugees, including by public officials and political parties, in the media, on social networks and at religious gatherings (arts. 2, 4 and 6).

16. **Drawing the State party's attention to its general recommendation No. 35 (2015) on combating racist hate speech, the Committee recommends that the State party:**

(a) **Take effective measures to enhance the reporting of racist crimes, including through reinforcing victims' trust in the police and prosecutors;**

(b) **Investigate all reported cases of racist hate speech and hate crimes, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences, and provide the victims with effective remedies;**

(c) **Take comprehensive measures to combat racist hate speech, including through enhanced human rights education and awareness-raising campaigns, and ensure that public officials refrain from such speech and condemn it.**

**Madrasas**

17. The Committee notes the information provided by the State party on the measures taken to close down a number of madrasas and to regulate the curricula thereof. However, it remains concerned that some school curricula and textbooks have content that has the potential to incite hatred against religious and ethnic minorities. The Committee is particularly concerned at reports that madrasas are given the autonomy to develop their own curricula without State oversight and that the curricula of some madrasas have content that promotes hatred, and have been used as a platform for military training and recruitment.

18. **The Committee recommends that the State party:**

(a) **Monitor school curricula and textbooks at all levels, including those of madrasas, to ensure that they promote understanding, tolerance and friendship among different ethnic and religious groups;**

(b) **Continue and intensify its efforts to reform madrasas.**

**Violence and segregation of minorities**

19. The Committee is concerned at violence against minorities, particularly Ahmadis, Hazaras and Dalits, and their de facto segregation in isolated areas without fair access to employment, health care, education and other basic services, which is exacerbated by growing violence against them (arts. 3 and 6).

20. **The Committee recommends that the State party intensify its efforts to end violence against Ahmadis, Hazaras, Dalits and other minority groups, and take effective measures to combat the segregation of members of those communities. It also recommends that the State party ensure that those who are in segregated areas enjoy their rights as stipulated in article 5 of the Convention, particularly the rights to employment, health care, education and other basic services.**

### **Blasphemy laws**

21. The Committee notes the State party's efforts to prevent misuse of the blasphemy laws. However, it is concerned at the broad and vague definition of offences against religions provided for in those laws, including sections 295, 295-A, 295-B, 295-C, 298-A, 298-B and 298-C of the Pakistan Penal Code 1860, and the disproportionate use of those laws against individuals belonging to ethnic and religious minorities. It is also concerned at reports about the large number of blasphemy cases based on false accusation and the absence of investigation and prosecutions, as well as reports that the judges who hear blasphemy cases and those accused of blasphemy are facing intimidation, death threats and murder (arts. 5 and 6).

**22. The Committee recommends that the State party consider repealing the blasphemy laws that go against freedom of expression and religion, as established in the Constitution. It also recommends that the State party take all measures necessary to prosecute and punish those who have made false accusations and to provide effective remedies to the victims of false accusations. The Committee urges the State party to take all measures necessary to protect the judges who hear blasphemy cases and those accused of blasphemy.**

### **Access to justice**

23. The Committee welcomes the free legal assistance programmes provided for in the National Action Plan for Human Rights of 2016 and the allocation of funding to that end. However, it remains concerned that persons belonging to ethnic and religious minorities, refugees and the scheduled castes (Dalits) have limited access to justice owing to high legal fees and the lack of clarity on the criteria and procedure for the application of the free legal assistance programmes (arts. 5 and 6).

**24. The Committee recommends that the State party effectively implement the planned free legal assistance programmes by establishing fair and effective criteria and procedures for application, and making information on the programmes widely available to the public, particularly to those who are most in need of legal assistance.**

### **Violence against minority women**

25. While noting the efforts made by the State party to combat violence against women, the Committee remains concerned at its persistence, particularly against women from an ethnic and religious minority background. The Committee is particularly concerned that, despite the provisions in the Criminal Law (Amendment) Act of 2004 that criminalize offences committed in the name of honour, as well as the adoption of the Criminal Laws (Amendment) Bill 2015, the practice of honour killings is still pervasive throughout the country; that the penalties provided for in the 2004 Act are not dissuasive; and that the *qisas* and *diyat* ordinances continue to be applied in those cases, resulting in perpetrators being pardoned and not being prosecuted and punished (arts. 2, 5 and 6).

**26. The Committee urges the State party to intensify its efforts to eradicate violence against women, including rapes, acid crimes and killing of women in the name of honour, by further strengthening the existing legislative framework, enhancing the enforcement of the existing laws and conducting campaigns to educate people against those phenomena. It recommends that the State party encourage reporting of cases of violence against women; investigate all reported cases, particularly honour killings, in a prompt and thorough manner; prosecute and punish the perpetrators with appropriate penalties; and provide effective remedies to the victims.**

**Bonded labour**

27. The Committee is concerned that, despite the adoption of the Bonded Labour System (Abolition) Act of 1992, bonded labour practices persist in the State party, particularly in the brick kiln and textile industries and among the scheduled castes (Dalits). It appears that the Act has not been effectively implemented owing to the lack of awareness about it among people working under debt-bondage and among law enforcement and judicial officials (arts. 1 and 5).

28. **The Committee recommends that the State party take all measures necessary to fully implement the Act and urges it to publicize information on the Act and the remedies provided for in it, particularly among affected individuals and communities, as well as relevant public officials. It also recommends that the State party intensify labour inspections into workplaces where there is a high risk of forced and bonded labour, particularly in the informal economy sector, and investigate cases of labour discrimination and labour exploitation.**

**Recognition of minorities and their right to participate in public affairs**

29. The Committee is concerned at the persistently narrow interpretation of the concept of minorities, exclusively consisting of religious minorities. It is also concerned at the absence of a legislative framework to recognize and protect all minority groups, particularly ethnic minorities and groups that are minorities on multiple grounds, in line with article 1 of the Convention (see CERD/C/PAK/CO/20, para. 10). Furthermore, while appreciating the good intentions and efforts of the State party, the Committee is concerned that the limited recognition of minorities coupled with the absence of data on the situation of various minority groups has reduced the effectiveness of the measures taken to address the challenges faced by persons belonging to minority groups, including the quota systems currently in place to enable those groups to be equitably represented in the political domain and in employment (arts. 1, 2 and 5).

30. **The Committee reiterates its recommendation that the State party broaden its understanding and constitutional definition of minorities, taking into consideration all the grounds of discrimination included in article 1 (1) of the Convention and their intersectional nature. It also recommends that the State party collect information on minorities, including relevant statistical data, and develop effective measures based on that information to ensure that people belonging to minority groups enjoy the rights enshrined in article 5 of the Convention, without discrimination.**

**Scheduled castes (Dalits)**

31. The Committee notes the State party's statement that it does not recognize any discrimination among individuals on the basis of their membership of a specific caste. It is however, concerned at the de facto existence of the scheduled castes (Dalits) and the continuing discrimination against them, particularly in employment and education. The Committee is deeply concerned at persistent reports of abduction of Dalit women and girls for the purpose of forced conversion to Islam and forced marriage. It regrets the lack of detailed information and data on the situation of Dalits in the State party (arts. 1, 2 and 5).

32. **Recalling its general recommendation No. 29 (2002) on article 1 (1) of the Convention (Descent), the Committee recommends that the State party take the measures necessary to end discrimination against Dalits, particularly in accessing employment and education. It urges the State party to take immediate action to end the forced conversion and forced marriage of Christian and Hindu Dalit women and to prosecute and punish the abductors with penalties commensurate with the gravity**

of the crime. It requests the State party to include information on the situation of Dalits in the country, including relevant statistical data, in its next periodic report.

#### Descendants of East Africans (*Sheedi*)

33. The Committee regrets the absence of information on the situation of the *Sheedi* community, the descendants of East Africans, who reportedly face discrimination and restrictions on their participation in cultural activities, including the annual *Sheedi Mela*, which had been held in Karachi for centuries (arts. 1, 2 and 5).

34. **The Committee recommends that the State party take the measures necessary to ensure that the *Sheedi*, both individuals and the community, enjoy their rights to participate in cultural activities and to resume their historic cultural event, *Sheedi Mela*. It requests the State party to provide information on the situation of the *Sheedi*, including relevant statistical data, in its next periodic report.**

#### Gypsies

35. The Committee notes with concern reports that the majority of gypsies in the State party have been restricted in enjoying the rights enshrined in article 5 of the Convention, particularly rights to access to employment, social protection benefits, health-care services, education and other public services, mainly owing to their lack of identity documents. It regrets the lack of information and data provided by the State party on the situation of gypsies in Pakistan (arts. 1, 2 and 5).

36. **Bearing in mind its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party take effective measures to issue gypsies with identification documents. It requests the State party to include information on the situation of gypsies in the country, including relevant statistical data, in its next periodic report.**

#### Refugees and asylum seekers

37. The Committee highly commends the State party for having received and hosted over 3 million refugees, mainly from war-torn Afghanistan, over a number of decades in spite of the grave security and other challenges it faces. The Committee, however, is concerned at the growing hostility and violence against those refugees, particularly in the wake of the attack on the army-run school in Peshawar in December 2014. It is also concerned at the large number of unregistered refugees, whose access to public services is restricted and whose living conditions in refugee camps and urban informal settlements is poor. It is further concerned at the absence of a legislative and policy framework to manage refugees and to facilitate voluntary repatriation (arts. 2 and 5).

38. **The Committee recommends that the State party take effective measures to mitigate the intensified hostility towards Afghan refugees and to protect them from violence. It also recommends that the State party conduct comprehensive registration of refugees and take effective measures to ensure their right to access employment, health-care services, education, water and sanitation and other public services. It further recommends that the State party expedite the adoption of a national refugee law and a comprehensive policy on voluntary repatriation and management of Afghan nationals. The Committee encourages the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.**

#### Human rights defenders

39. The Committee is concerned at the high number of cases of intimidation, abduction and killing of human rights defenders, lawyers and journalists working for the rights of

minorities, and at the limited action taken by the State party to investigate such cases and to bring the perpetrators to justice (arts. 5 and 6).

40. The Committee recommends that the State party ensure that all reported cases of intimidation, abduction and killing of human rights defenders, lawyers and journalists are promptly and thoroughly investigated and that those responsible are held accountable. It also recommends that the State party take all measures necessary to provide a safe environment for those working to protect and promote human rights.

## **D. Other recommendations**

### **Ratification of other treaties**

41. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

### **Follow-up to the Durban Declaration and Programme of Action**

42. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

### **International Decade for People of African Descent**

43. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

44. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

**Amendment to article 8 of the Convention**

45. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

**Declaration under article 14 of the Convention**

46. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

**Common core document**

47. The Committee encourages the State party to submit its common core document, which dates to 1998, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for the such documents.

**Follow-up to the present concluding observations**

48. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 14, 18 and 28 above.

**Paragraphs of particular importance**

49. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 22, 30 and 32 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

**Dissemination of information**

50. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

**Preparation of the next periodic report**

51. The Committee recommends that the State party submit its combined twenty-fourth to twenty-sixth periodic reports, as a single document, by 4 January 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.