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IDS N International Dalit Solidarity Network
WORKING GLOBALLY AGAINST CASTE-BASED DISCRIMINATION

ALTERNATIVE REPORT
**to the UN Committee on Economic, Social and Cultural
Rights, 61st session, review of Pakistan**

CASTE-BASED DISCRIMINATION IN PAKISTAN

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I. Introduction

This joint submission focuses on the list of issues prepared by the Committee on Economic, Social and Cultural Rights (CESCR) in relation to the initial report of Pakistan, more specifically on Scheduled Castes (increasingly referred to as Dalits) and caste-based discrimination, noted under the articles of non-discrimination and access to adequate standard of living.

This NGO report has been jointly prepared by the following two organisations:

Pakistan Dalit Solidarity Network (PDSN) is a coalition of over two dozen rights-based civil society organizations in Pakistan. It was formally launched on 5th April 2009 after a research study conducted in 2007, which identified serious violations of basic rights of Scheduled Castes (Dalits) in Pakistan. The main objectives of the network are to highlight the issue of Scheduled Castes through national and international advocacy.

International Dalit Solidarity Network (IDSN) is an international network that works on a global level for the elimination of caste discrimination and similar forms of discrimination based on work and descent. Members include national Dalit platforms in caste-affected countries, Dalit Solidarity Networks in seven European countries, and international associates among others. PDSN is a member of IDSN. www.idsn.org

II. Discrimination against Dalits in Pakistan

1. The most recent official data, from 1998, estimates that the Dalit population in Pakistan is 330,000ⁱ people. However, this data does not include ‘lower castes’ within the Muslim community, living under similarly depressed conditionsⁱⁱ, and representatives of Scheduled Castes claim that the actual number could be at least two millionⁱⁱⁱ.

2. As religious minorities in Pakistan, Hindus and Christians are suffering discrimination in an Islamic society, Scheduled Castes/ Dalits suffer double or intersecting forms of discrimination. In addition to the discrimination based on religion Dalits suffer caste-based discrimination, including the practice of 'untouchability', which is obvious in all spheres of private and public life. As a result, Scheduled Castes often live in separate colonies, may be served food in separate crockery, and not allowed to sit inside with upper castes.

3. In its 2016 Concluding Observations on Pakistan, the Committee on the Elimination of all forms of Racial Discrimination (CERD) expressed its deep concerns about 'the de facto existence of the Scheduled Castes (Dalits) and the continuing discrimination against them, particularly in employment and education' as well as 'abduction of Dalit women and girls for the purpose of forced conversion to Islam and forced marriage'^{iv}.

4. Additionally, the Special Rapporteur on Minority Issues in her annual report 2016 on caste-based discrimination noted that Dalits in South Asia, including in Pakistan, are most affected by humanitarian crisis, yet less likely to receive assistance and 'suffer from acute caste discrimination throughout all the phases of disaster response, from rescue to rehabilitation. They are also the most affected by climate change due to living in flood- and drought-prone areas'^v.

III. International legal framework on caste discrimination in Pakistan

5. Various human rights bodies have mentioned caste-based discrimination in their questions and recommendations for Pakistan related to the ongoing discrimination against Dalits, with emphasis on an urgent need for disaggregated data on the social and economic conditions for minorities and a strengthening of the legal framework for the elimination of discrimination. Herewith a short overview of the most important observations on caste based discrimination in Pakistan.

- For all UN references to caste see: [Compilation of UN references to caste-based discrimination by UN treaty bodies, Universal Periodic Review, and UN Special Procedures \(prepared by IDSN\)](#)

6. The Committee on the Elimination of all forms of Racial Discrimination adopted General Recommendation XXIX in 2002 wherein the Committee explicitly included 'caste' within the scope of the Convention. 'Strongly reaffirming that discrimination based on 'descent' includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights'. Identifying several factors that could lead to discrimination on the basis of caste and analogous systems of inherited status including 'inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality'^{vi}.

7. Pakistan has completed two cycles of the Universal Periodic Review^{vii}. During the first review Pakistan received several recommendations regarding the protection of religious minorities and three states specifically raised the issue of caste-based discrimination and Scheduled Castes. Similarly, in 2012 Pakistan received two specific recommendations on caste-based discrimination and protection of Scheduled Castes, as well as several for the protection of religious minorities.

8. In 2009, the CERD in its Concluding Observations^{viii} expressed serious concerns on the situation of Dalits in Pakistan who face 'the persisting de facto segregation of and discrimination against Dalits

regarding their enjoyment of all economic, civil, political, and social rights (arts. 2, 3 and 5)'. The CERD referred to its general recommendation 29 (2002), on descent-based discrimination, and recommended to Pakistan to 'adopt legislation aimed at the prohibition of caste-based discrimination and take effective and immediate measures to ensure its effective implementation' as well as provide statistical data on persons belonging to Scheduled Castes.

9. In 2016 the CERD Concluding Observations^{ix} reiterated its previous concerns on de facto discrimination against the Scheduled Castes (Dalits), particularly in the area of employment and education, limited access to justice and the persistence of bonded labour practices in Pakistan despite the legal prohibition, especially 'in brick kiln and textile industries and among the Scheduled Castes (Dalits)'. The Committee also expressed deep concerns at the repeated reports on abduction of Dalit women and girls for the purpose of forced conversion to Islam and forced marriage and recommended to take measures necessary to end discrimination against Dalits, prosecute and punish the abductors with penalties commensurate with the gravity of the crime and provide relevant statistical data on the situation of Dalits.

10. Additionally, in 2016 the Committee on the Rights of the Child (CRC) expressed its concerns on widespread discrimination against the Scheduled Caste or Dalit children in Pakistan and recommended to take concrete measures to address it, including reviewing its national legislations and practices, awareness raising and public education programmes to combat and prevent discrimination as well as negative societal attitudes.

IV. Article 2(2): Non-discrimination

The list of issues point 7 states: *Please clarify whether the anti-discrimination provisions in the State party's legislation, including articles 25-27 of the Constitution, prohibit discrimination on any ground in all aspects of life. Please also indicate whether the State party intends to adopt comprehensive anti-discrimination legislation. Please further provide information on the measures taken to combat persistent discrimination facing Dalits and persons belonging to ethnic and religious minority groups.*

11. We note that the Constitution of Pakistan prohibits discrimination in general and states that all citizens are equal in the eyes of law. Article 27 of the Constitution provides general safeguards against discrimination in services and jobs, yet, there are no specific provisions prohibiting caste-based discrimination, nor are there any specific laws that give effect to the available anti-discrimination provisions in the Constitution or makes discrimination on any grounds a punishable crime. According to the Government of Pakistan (GoP) specific legislation outlawing caste-based discrimination is not necessary because a) Pakistan does not recognise caste-based discrimination as an issue in the country; and b) Islam teaches equality hence discrimination on the basis of caste in an Islamic Country of Pakistan is irrelevant.

12. However, the reality is contrary and a range of evidence shows that discrimination on the basis of caste and descend does exist in Pakistan. Dalits or Scheduled Caste Hindus, low caste Christians and to some extent some castes within Muslims, which are considered low on the basis of descend, do face discrimination in every walk of life whether it is economic, social, cultural or political sphere. The CERD recommendation from 2009 to adopt a law prohibiting discrimination on the basis of caste has not been implemented and the concern of the 'persisting de facto segregation of and discrimination against Dalits regarding their enjoyment of all economic, civil, political, and social rights' in paragraph 12 of the Concluding Observations (CERD/C/PAK/CO/20)^x has not been addressed.

13. Moreover, the Scheduled Caste population faces discrimination in their access to public services. As Dalit population is mainly concentrated in rural areas, in Sindh and South Punjab, they face intense deprivation of basic necessities such as education, health and an adequate standards of living.

Scheduled Caste communities also face gender and caste-based discrimination when trying to gain access to hospitals^{xi}.

14. Furthermore, untouchability practices are evident in the daily life of Dalits in Pakistan. They are not being invited by the so called 'upper castes' to social gathering events. Some cases have been observed where separate crockery was kept in a restaurant for Dalits and there were incidences when they were denied services at barbershops.

15. What is more, hundreds of thousands of Dalits were affected by the floods in Pakistan in 2010 and 2011, yet many of them were denied access to relief camps and discriminated against when trying to access other humanitarian aid^{xii}.

V. Article 11: Right to an adequate standard of living

The list of issues paragraph 22: *Please provide information on the steps taken to reduce the number of persons living below the poverty line, particularly among persons belonging to ethnic and religious minority groups, such as Christians, Dalits and Hindu. Please also specify the measures taken to address the situation of the large number of the working poor who live above the income poverty line yet lack access to education and health and live in substandard living conditions.*

16. Discrimination on the basis of caste and religion is one of the key reasons for the backwardness of Dalits and Scheduled Castes in Pakistan, facing exclusion and poverty. Scheduled Caste Hindus face discrimination in availing economic opportunities or starting their own business, hence they suffer from high degrees of poverty.

17. According to the World Bank in 2013 over 50% of Pakistan's population continued to live in poverty^{xiii} by the national standards. Majority of the poor live in rural areas, are unskilled, and work in the informal sector. In the Sindh and South Punjab provinces the majority of the poor are Dalits, who are landless and work as bonded labourers in agriculture and brick kiln industry or in manual (sanitation) work that other majority groups are unwilling to do. The implementation of the 5% job quota for minorities continues to be poor despite the direction from the Supreme Court in 2014.

18. Moreover, the majority of Dalit population is unskilled workers and work in informal sector hence there is no mechanism that ensure minimum wage resulting in incidence of child labour and bonded labour, higher among Scheduled Castes people in Sindh and South Punjab than other communities. The Special Rapporteur on minority issues highlighted the intersectionality of caste and forced and bonded labour in Pakistan, and stated that Dalits, who are mainly minority Hindus, are disproportionately affected by forced and bonded labour, particularly in the Sindh and Balochistan provinces^{xiv}. In its examination of Pakistan in May 2016, the Committee on the Rights of the Child expressed serious concern over the continuous practice of bonded and forced labour affecting vulnerable children, including Dalit children, and urged the GoP to eradicate all forms of bonded and forced labour of children, and in particular children from marginalised and disadvantaged groups such as Dalit children, and bring the responsible employers to justice.

19. Whilst the GoP did undertake some initiatives in poverty reduction there is no available data indicating the effects it had on religious minorities, Dalits or Scheduled Castes. Moreover, no national poverty reduction programmes were directed at Dalits or Scheduled Castes, hence its impact on the community is unknown.

VI. Recommendations

- The GoP should adopt a law prohibiting discrimination on the basis of caste and take effective and immediate measures to ensure its effective implementation to protect those discriminated against on the basis of caste, as recommended by the CERD.
- The GoP should provide information on the concrete measures taken to combat caste-based discrimination and statistical data on the persons belonging to Scheduled Castes in the next periodic reports to treaty bodies as recommended.
- The GoP should restore the 6% job quota for Scheduled Castes in government services and announce a quota in higher education so the Scheduled Castes can get quality jobs in higher positions
- GoP should launch special projects/ initiatives to raise the socio economic conditions of the Scheduled Castes.

Following the 2017 census the GoP should introduce a development package for Scheduled Caste (Dalits) according to their population in the country. This development package may include:

- Introduce special housing schemes and distribution of land among Scheduled Caste landless populations.
- Meaningful political participation of Scheduled Castes through increasing reserved seats in legislative bodies – such as senate, provincial and national assemblies,
- Restoration of a 6% job quota and reserve quotas in higher education.
- Special poverty reduction programmes for Scheduled Castes including living allowance and food rationing

Recommendations targeted at combating caste-based discrimination

- The GoP should endorse and make use of the draft UN Principles and Guidelines for the effective Elimination of Discrimination based on Work and Descent as a comprehensive framework to eliminate caste discrimination.
- The GoP should officially recognise caste-based discrimination and take legislative and policy measures for its elimination.
- Through the National and Provincial Commission of Minorities the GoP should identify suitable policy frameworks and national programmes to prevent and tackle caste discrimination by involving the UN experts and national and international human rights institutions /experts.

Relevant UPR recommendations accepted by the GoP

- Continue its efforts for the improvement of the health system and the elimination of discrimination against women and discrimination on the basis of caste (Holy See).
- Ratify the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination against Women (Uruguay); Pending /Not implemented
- Government should immediately ratify CEDAW optional protocol and Take deterrent measures to combat discrimination against women, girls and religious minorities and work towards eliminating poverty among those groups (Iraq);

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- ⁱ Pakistan population census 1998: www.pbs.gov.pk/population-tables.
- ⁱⁱ Source: “Long Behind Schedule: A Study on the Plight of Scheduled Castes in Pakistan” (2008). The focus of the study is on Pakistan’s Scheduled Castes residing in lower districts of Sindh and Southern Punjab in Pakistan. It was part of a Regional Study on Caste-based Discrimination in South Asia, and is available here: http://idsn.org/fileadmin/user_folder/pdf/Old_files/asia/pdf/RR_Pakistan.pdf
- ⁱⁱⁱ “Caste-based discrimination in Pakistan”, International Dalit Solidarity Network briefing note (May 2014).
- ^{iv} Concluding observations on the combined twenty-first and twenty-third periodic reports of Pakistan, October 2016, page 6, para 31 & 32. Available here: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CERD%2fC%2fPAK%2fCO%2f21-23&Lang=en
- ^v Iszak-Ndiaye, Rita, “Minorities and discrimination based on caste and analogous systems of inherited status” Report to the 31st Session of the Human Rights Council (A/HRC/31/56), 2016: <http://idsn.org/wp-content/uploads/2016/03/Special-Rapporteur-on-minority-issues-report-on-caste.pdf>
- ^{vi} CERD General recommendation XXIX on article 1 para. 1, of the convention (Decent).
- ^{vii} Universal Periodic Review of Pakistan, 2008 and 2012, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PKindex.aspx>
- ^{viii} CERD Concluding Observations 2009, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CERD%2fC%2fPAK%2fCO%2f20&Lang=en
- ^{ix} CERD Concluding observations 2016, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CERD%2fC%2fPAK%2fCO%2f21-23&Lang=en
- ^x Consideration of reports submitted by state parties under article 9 of the convention. Concluding observations of the Committee on the Elimination of Racial Discrimination: Pakistan, 2009. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CERD%2fC%2fPAK%2fCO%2f20&Lang=en
- ^{xi} The express tribute, Pakistan. Discrimination: For women in rural areas, healthcare not a basic right. Available at: <https://tribune.com.pk/story/573754/discrimination-for-women-in-rural-areas-healthcare-not-a-basic-right/>
- ^{xii} Equality in Aid: addressing caste discrimination in humanitarian response, International Dalit Solidarity Network, 2013. Available at: http://idsn.org/wp-content/uploads/2014/02/EqualityInAid_web_version.pdf
- ^{xiii} World Bank, 2013, available at: <http://povertydata.worldbank.org/poverty/country/PAK>
- ^{xiv} Anti-Slavery International, Poverty, Discrimination and Slavery: The Reality of Bonded Labour in India, Nepal and Pakistan (2008), p. 14.