

Shadow 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

**REDRESSING A HISTORY OF NEGLECT:
Discrimination of Ethnic Groups and
Indigenous Peoples of Pakistan**



Minority Rights Group International

MRG is the leading international human rights organisation working to secure rights for ethnic, religious and linguistic minorities and indigenous people around the world.

Minority Rights Group International campaigns worldwide with around 130 partners in over 60 countries to ensure that disadvantaged minorities and indigenous peoples, often the poorest of the poor, can make their voices heard. Through training and education, legal cases, publications and the media, we support minority and indigenous people as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and to full participation in public life.

Our work offers overwhelming evidence that the inclusion of minority communities leads to stronger, more cohesive societies. We believe it is clear that exclusion can result in instability, conflict, and in the most extreme cases, genocide. We have worked with over 150 partners across some 60 countries for more than 40 years to promote peaceful coexistence and sustainable social change.

We understand how discrimination based on age, class, gender and disability can have a multiple impact on disadvantaged minorities, and our campaigns target governments and communities to eradicate such attitudes.

We work with minorities as diverse as the Batwa in Central Africa, Roma in Europe, Christians in Iraq and Dalits in India and Nepal to name but a few.

MRG is an international non-governmental organization (NGO) with an international governing Council that meets twice a year. We have consultative status with the United Nations Economic and Social Council (ECOSOC) and observer status with the African Commission for Human and Peoples' Rights.

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Introduction

1. MRG acknowledges the alternative reports already submitted to the Committee titled ‘The Choice of Reforms’ and ‘Caste-based Discrimination in Pakistan.’ In light of these excellent submissions and to save repetition, MRG will not be adding to the extensive work already carried out on scheduled castes and religious minorities.
2. Given MRG’s expertise in protecting and promoting the rights of minorities through recourse to international law, we are deeply concerned that prior to beginning any examination of the *de facto* situation regarding “racial discrimination” under Art. 1(1) of the Convention, there are numerous *de jure* discriminatory constitutional provisions that need to be addressed with regards to Pakistan’s obligations under the Convention. These include the constitutional definition of “minority”, Article 246/7 regarding the Tribal Areas and the Frontier Crimes Regulations.
3. Furthermore serious questions need to be raised regarding the *de facto* systematic persecution and discrimination of various ethnic groups and indigenous peoples.
4. This shadow report will further hone in on those ethnic groups and indigenous people that are subject to the worst discriminatory practices. This will be done in two parts; firstly by a close examination of the situation of the *Siraiki* and *Baloch* people within the core provincial structure. Secondly the status of the Tribal Areas as defined in the Constitution of 1973 will be discussed as a parallel legal system. These groups’ denial of the right to equality and non-discrimination has long been a neglected issue.

Ethnic Groups of Pakistan

Failure to provide information on ethnic composition

5. Pakistan has failed, in its Report¹, to provide demographic information relating to 'race, colour, descent and national or ethnic origin' of groups as per the Committee's request in its 1997 Concluding Observations² in line with General Recommendation IV (1973) as well as to paragraph 8 of its Reporting guidelines. Essential data cataloguing different ethnic groups and their numbers is not only missing from the Report but also from the 1998 Census. MRG reiterates that in the absence of such information, Pakistan cannot effectively implement the Convention and redress 'racial discrimination' of different 'ethnic groups,' when there is no official acknowledgement of their existence and numerical strength on the back of accurate empirical data.
6. Urdu and English are the national and official languages, respectively. The Government also recognises in the Report that '[o]ther regional languages are Punjabi, Sindhi, Siraiki, Pashtu, Balochi, Hindko, Brahui and others.'³ There is no link made to the ethnic dimension of these language speakers, constitutive of their unique ethno-linguistic identity.
7. Furthermore some States 'decide at their own discretion which groups constitute ethnic groups or indigenous peoples that are to be recognized and treated as such. The Committee believes that there is an international standard concerning the specific rights of people belonging to such groups,'⁴ which could be denied in the absence of such information or acknowledgment.
8. Despite such an omission, Pakistan's composition of distinct national and ethno-linguistic groups may be inferred using the data in the 1998 Census.⁵ The percentage population by mother tongue is indicative of belonging to the ethnic group associated with that language. Therefore it is reasonably accurate to aggregate this linguistic breakdown with the ethnic composition of the country. MRG also notes that Pakistan, while providing percentage breakdown of mother tongue spoken in its 1998 Census, omitted such information from its current Report.
9. It should also be taken into consideration that the Government Censuses have always been heavily criticised and not trusted by different groups especially the minority ethnic groups and indigenous peoples, especially the Balochis, who accuse the government of underestimating their numbers in order to deny them their rights. Nonetheless, though suspect, the data does provide a useful estimation which could

¹ State Report submitted by Pakistan (CERD/C/PAK/20), 19 March 2008

² Concluding Observations of the CERD on Pakistan (CERD/C/304/Add.25), 23 April 1997 at § 14

³ CERD/C/PAK/20, 19 March 2008 at § 14

⁴ CERD General Recommendation No. 24 (Art. 1): 27/08/99 at § 3

⁵ Census Report of Pakistan 1998, Pakistan Census Organization, Government of Pakistan:
http://www.statpak.gov.pk/depts/pco/statistics/other_tables/pop_by_mother_tongue.pdf

be of assistance to CERD, and there is little doubt that the Punjabis constitute the largest group within the country.

Provincial Management of Ethnic Diversity⁶

10. Due to the complexity of the ethno-linguistic distribution in Pakistan, it is advisable to read the information below in conjunction with Annex I, which provides the breakdown of population, nationally and provincially, by mother tongue.
11. Punjabis are the largest ethno-linguistic group and constitute 44.15% of the population. The most numerically prominent ethnic groups also have corresponding provinces with autonomous competencies, where they form regional majorities, thus forming provincial units within the Islamic Republic.
12. It must be noted, though, that the provinces are not ethnically homogeneous, nor is the entirety of any single ethno-linguistic group exclusively concentrated in any one province. Punjabis constitute 75.23% of the population in Punjab Province, while the Siraikis are the other major group within that same province and constitute 17.36% of the provincial population. However all members belonging to the Siraiki and Punjabi groups do not reside in Punjab Province exclusively; though that is where they are concentrated. As such the percentage of these ethno-linguistic groups, at the national level, denotes the entire population of ethno-linguistic groups as spread over all provinces. With this in mind, the Punjabi group stands at 44.15% nationally, while the national percentage of Sirakis across all provinces is 10.53%.
13. Within the Sindh Province, Sindhis make up 59.73% of the provincial population, while the Urdu-speaking Mohajirs constitute a substantial 21.05%. The percentage of these ethno-linguistic groups, nationally across all provinces, stands at 14.10% and 7.60%, respectively.
14. Balochis constitute 54.76 % of the Balochistan population, while the Pashto-speaking Pakhtuns constitute the other major group within Balochistan at 29.64%. Balochis constitute 3.57% of the national population.
15. The North West Frontier Province (NWFP) is predominantly Pukhtun. Provincially, the Pashto-speaking ethno-linguistic group constitute 73.90% and nationally 15.42%. Peculiarly the second most prominent group provincially according to the 1998 Census is 'Other' at 20.43%. This is indicative of the large numbers of displaced Afghans present in the province, who do not belong to any of the indigenous ethno-linguistic groups.
16. FATA is almost ethnically homogeneous with the tribal Pakhtun making up 99.10% of its population.⁷

⁶ All percentages below are extracted from the 1998 Government Census (see Annex I)

⁷ Census Report of Pakistan 1998, Pakistan Census Organization, Government of Pakistan:
http://www.statpak.gov.pk/depts/pco/statistics/other_tables/pop_by_mother_tongue.pdf

17. There are two ethno-linguistic groups which are anomalous to this pattern as they are without their own provinces. The Siraiki people, who speak Siraiki, constitute a localised population in southern Punjab Province accounting for 10.53% of the national population. Ethnically, linguistically and geographically, they occupy the nexus between the Punjabis and the Sindhis.
18. Urdu, which is the national language, is only spoken as a mother-tongue, by the Mohajir who constitute 7.60% of the total population. They are the only non-indigenous ethno-linguistic group having emigrated from India and are concentrated in the biggest city of Pakistan: Karachi as well as Hyderabad. The port city of Karachi, being the most populated in Pakistan as well as the trade and economic hub, has its own city government where the Mohajirs are prevalent. They wield disproportionate power in relation to their relative numbers sharing power at the provincial level through their political party: Muttahida Qaumi Movement (MQM)⁸ and share power with the Sindhi dominated Pakistan People's Party (PPP) which is currently in power at the Centre.
19. The other significant ethno-linguistic groups are as follows: Hindko 2.43%, and Brahvi 1.21%. The remaining 2.81% include Shina, Burushaski, Balti, Khowar, Gujrati, Potohari, and Farsi.⁹

Extra-Provincial Structures

20. In addition to the four main provinces each being a 'national' home-land for a particular ethnic groups, are Azad and Jammu Kashmir and the Tribal Areas, home to indigenous tribes who are ethnically Pukhtun, Baloch and Central Asiatic with their own unique culture and way of life. These areas are administered directly by the federal government but have ad-hoc Constitutional arrangements.
21. Azad Jammu and Kashmir is administered along with the Northern Areas by the Pakistan Government through the Ministry of Kashmir Affairs and Northern Areas (KANA). Kashmir has its own autonomous legislature, executive and judiciary.
22. The Tribal Areas are split between the provinces of Baluchistan and NWFP. These Tribal Areas are governed according to Art. 246 and 247 of the Constitution, which put these people out of the reach of mainstream judicial and political systems of the country. Those Tribal Agencies, which are on the border with Afghanistan in the NWFP are made up of only ethnic Pakhtuns and are administered federally (FATA) and those that are non-Pakhtun or in Baluchistan are administered provincially (PATA). Both are ultimately governed by the President, who has unchecked powers over the region.

⁸ They changed their name from Mohajir Qaumi Movement, due to criticism of being exclusively for the Mohajirs. It went from the old name: 'Mohajir National Movement' to its new name 'People's National Movement.'

⁹ Census Report of Pakistan 1998, Pakistan Census Organization, Government of Pakistan

Non-Recognition of 'Ethnic' Groups leading to Discrimination

23. Pakistan has not adequately brought its constitutional definition of “minority” in line with the Committee’s Concluding Observations of 1997¹⁰, to encompass vulnerable ethnic groups. This aspect is overlooked in the current 2008 State Report. While Pakistan at § 93 of its Report admits: ‘Pakistan is a multi-religious, multi-cultural, pluralistic society where people of different ethnic and religious backgrounds live together in peace and harmony,’ it chooses to restrictively recognise “minorities” as only ‘3.72 per cent of the total population and consist of Christians, Hindus, Ahmadis, Parsis, Buddhists and Sikhs.’ Thus recognition is conferred only on ‘religious’ groups, as “minorities” under the Constitution and consequent entitlement of ‘positive measures,’ denied to other ‘ethnic’ and ‘linguistic’ groups.
24. Furthermore religious minorities are protected from discrimination and their group interests catered for, *in theory*, through a number of Constitutional provisions and institutions such as the Ministry of Minorities Affairs, Minorities Affairs Division, the National Commission for Minorities, the Federal Advisory Council for Minorities Affairs, the Districts Minority Committees and the monthly holding of meetings with minority members of the National Assembly as already elucidated by the Pakistan in its Report to the Committee.
25. However it must noted, despite official recognition being accorded to these groups through legislation and various institutions in theory, any practical equality in the proper implementation of these measures for correcting the deeply rooted prejudice, against religious minorities, pervasive through Pakistani society, is still seriously lacking.
26. The Committee acknowledged in its 1997 Concluding Observations that religious minorities come within the purview of the Convention, as in Pakistan ‘religious differences may coincide with ethnic differences.’¹¹ This, in no way, accounts for the recognition and equality that needs to be accorded to all ethnic, linguistic and racial groups in Pakistan who do not also adhere to a minority religion.
27. According to General Recommendation 24, ‘the Convention relates to all persons who belong to different races, national or ethnic groups or to indigenous peoples.’¹² Therefore it is not permissible under the Convention to recognise ‘the presence on their territory of some national or ethnic groups or indigenous peoples, while disregarding others...being of a race, colour, descent or national or ethnic origin different from the majority or from other groups within the population.’¹³
28. Pakistan fails to address the discrimination endured by different ‘ethnic groups’ by only recognising ‘religious’ minorities, thus Pakistan refuses the availability of rights

¹⁰ Concluding Observations of the CERD on Pakistan (CERD/C/304/Add.25), 23 April 1997 at §§ 12 & 25

¹¹ *Ibid* at § 6

¹² CERD General Recommendation No. 24 (Art. 1): 27/08/99 at § 1

¹³ *Ibid* at § 2

enshrined in the Convention for most of the 'ethnic' minorities, who do not fall within this minute percentage: 3.72%.

29. The Committee has pointed out that 'the application of different criteria in order to determine ethnic groups or indigenous peoples, to the recognition of some and refusal to recognize others, may give rise to differing treatment for various groups within a country's population.'¹⁴ As a result there is inherent discrimination on the basis of ethnicity when the language spoken by a group is not available in all realms of their public and private life. Public administration is only convened in English and Urdu, with no administrative use of regional ethnic languages in Courts as recommended by the Committee in 1997.¹⁵
30. In addition to language, there is further discrimination on the basis of ethnicity with regards to distribution of resources and political autonomy.

Groups needing Minority Rights

31. It must also be acknowledged that peoples in Pakistan do not only differ on one plain. If Sindhis differ with Punjabis in ethnicity, they do so with language too. The same is true for Pakthuns, Baluchis and the Siraikis. Thus language and ethnicity are intertwined for all groups.
32. The provincial system is supposed to cater for ethnic differences. However there are problems with such a simplistic solution to a complex matrix of identities. Annex I provides a snap shot of this complex reality in the ethnic non-homogeneity of provinces and regional and national majority groups forming minorities in each of the provinces. Furthermore it may be that despite localised majorities, those ethnic groups may constitute an overall minority in the country as a whole. We must come up with novel solutions to problems specific to the Pakistani reality and only draw comparisons with near identical situations.
33. This is true for all ethnic groups except the Punjabis who should be construed as the dominant minority at the state level. However they may constitute minorities in other provinces. Even powerful minorities still have minority rights and can become non-dominant if circumstance change.
34. These tailor-made solutions will have to recognise ethnic groups as minorities where they are most at risk of 'racial discrimination'. This means that vulnerable ethnic groups must be recognised as minorities at the provincial level as well as the federal level.

¹⁴ *Ibid* at § 3

¹⁵ Concluding Observations of the CERD on Pakistan (CERD/C/304/Add.25), 23 April 1997 at §§ 19 & 29

The Siraiki

35. The Siraiki people are the only major indigenous ethno-linguistic group in Pakistan who do not have their own province denying them any autonomous competencies despite being territorially concentrated in southern Punjab. There have been no positive measures put in place to ensure their effective representation at the Provincial level as Pakistan is obliged under Art. 1(4) of the Convention.
36. In the Punjab Provincial Assembly they are dominated by the Punjabi political party: Pakistan Muslim League-Noon and there are no seats reserved for them at the National or Provincial Assemblies, despite the fact that they constitute the third largest ethnic group in the country.

The Balochis

37. The case of the Balochis is converse to that of the Siraiki people. The Balochis were given full formal and Constitutional autonomous competencies, but in practice these have been ignored, disrespected and eroded owing mainly to calls for greater self-determination centred on their right to their own natural resources
38. Balochistan has 17 seats as compared to 183 reserved for Punjab at the National Assembly out of a total of 342 seats. This constitutes the lowest number of allocated seats out of the four main provinces and only 5 more than those kept for FATA. Clearly Balochistan, owing to their numerical inferiority as per Government Census, wield the least power at the National Assembly in matters concerning the state.
39. Nonetheless, it is commonly understood that Federations can seldom distribute power equally amongst their Units. However this is an acceptable side-effect, as long as the autonomous powers of the provincial unit over its own affairs are equal to other provinces. It is the contravening of this second principle by the powerful central government that has resulted in the acute human rights and humanitarian situation in Balochistan.
40. Resolving of the discrimination suffered by the Balochi due to their ethnic origin is one of the greatest challenges confronting Pakistan today. Such a problem is not even acknowledged let alone any resolution attempted by Pakistan in its Report to the Committee.

The Problem

41. The main issue regarding the Balochis is what they perceive to be an infringement of their right over their own resources catalysed by their dire socio-economic situation. Balochistan has huge reserves of natural gas, particularly from the town of Sui.¹⁶ Furthermore lands have been acquired by force for the construction of Gwadar Port as well as being sold to affluent investors outside the province. Revenue from such

¹⁶ 'Sui gas' has actually replaced the word *gas* in the colloquial language of Pakistan, indicating perhaps the extent to which the gas from the town of Sui supplies the whole country.

endeavours is not shared with the Balochis or accounted for, let alone their prior and informed consent acquired.¹⁷ There is still widespread dissent regarding the construction of numerous cantonments in the Province.

42. Nawab Akbar Khan Bugti, a former Governor and Chief Minister of the Province had demanded higher returns of revenue for the people from whose land it was extracted. Following failed attempts to pressure the military government of Musharraf, he resorted to armed struggle and was successfully able to disrupt or halt the supply of the gas and at times managed to extract higher revenues.
43. The government declared the Balochistan Liberation Army (BLA) a terrorist group in April 2006, and the army launched a military offensive killing the 79-year-old Baluchi separatist leader Nawab Bugti in August of that year, prompting increased political instability and rioting. Violence surged in early 2007 and remained high throughout the year, with frequent bomb attacks and shooting incidents. The head of the BLA, Mir Balach Marri, was killed in November by government forces.¹⁸
44. Gross violations of human rights continue despite the pledges and apologies of the new government. In April according to Asian Human Rights Commission (AHRC), four people were burnt alive in hot coal tar, when being interrogated under suspicion of belonging to the Balochistan Liberation Army in connection with the bombing of gas pipelines to the rest of the country.¹⁹ The AHRC has also issued a report on 52 identified torture and detention centres in the country, compiled with information from former detainees, some of whom were imprisoned for several years after their arrest without charge. The centres are army run, and are allegedly for suspects of terrorist activities. Army officials are interrogating persons from Balochistan to force confessions about involvement with the BLA.

Disappearances

45. It is estimated that 5,000 persons have disappeared nationwide following 9/11 in 2001. 'In Southern Balochistan, more than 4000 persons disappeared following arrest in 2005 alone, according to the government itself. The Supreme Court and the Sindh High Court had been starting to put tangible pressure on the military government and intelligence agencies to release any such disappeared or arbitrarily detained persons. Subsequently many who had 'disappeared' were found thrown—either dead or alive—on the roadside by their captors.²⁰ The deposed Chief Justice Iftikhaar Chaudary issued a deadline for President Musharraf's Government to either charge or release disappeared persons. It was on the back of this judicial activism that he was subsequently extra-constitutionally dismissed by the autocratic president.

¹⁷ Submission by Interfaith International for the Universal Periodic Review to the Human Rights Council, 19 November 2007

¹⁸ *Freedom in the World 2008*, Freedom House

<http://www.freedomhouse.org/template.cfm?page=363&year=2008>

¹⁹ *The State of Human Rights in Pakistan – 2008*, Asian Human Rights Commission, at p32

²⁰ Submission by the Asian Legal Resource Centre (ALRC) to the Human Rights Council's Universal Periodic Review concerning human rights in Pakistan, Feb 2008 at § 8

46. 'The former federal Interior Minister stated before the National Assembly of Pakistan on December 5, 2005 that more than 4,000 persons have been arrested in Balochistan province due to their involvement in anti-state activities. However, he did not clearly mention where those arrested persons were being held and why none of them had been produced before the courts for trials',²¹
47. Not only is the practice of disappearance and torture impermissible and inexcusable under general international law, it is inflicted on the Balochi people with a much higher frequency than against the other ethnic groups owing mainly to nationalist elements embodied in the Balochistan National Party and the BLA. According to the documentation of NGOs, in comparison to the 4000 Balochis disappeared, 1000 disappearances have been recorded from the Pakhtun NWFP and of around a 100 persons belonging to nationalist political movements in Sindh. There are no recorded occurrences of those belonging to the Punjabi ethnic group.²²

The Tribal Areas

48. The Tribal Areas consist of the Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA). The tribal Pakhtun people of these areas are discriminated against across all areas of economic social and political life.

Constitutional Prejudice

49. These areas still have in place, draconian administrative structures, under which the President enjoys unfettered power. Constitutionally guaranteed fundamental freedoms are extended to the region only in theory, but in practice it is impossible, owing to a near absence of government writ. The state law enforcement machinery does not extend to the area, the federal and provincial judiciaries lack jurisdiction in the FATA and no act of parliament is applicable.²³
50. The FATA are governed under a 'parallel judicial system', the pre-independence Frontier Crimes Regulation of 1901 (FCR) imposed by the British on the unruly Tribal Areas for the 'suppression of crime by infliction of the severest possible penalty',²⁴ which allows for collective punishment for individual crimes and authorises tribal leaders to administer justice according to tribal custom.
51. Pakistan with regards to the tribal Pakhtun people is in plain contravention of its obligations under ICERD Art. 2(1) d as it has failed to initiate any 'integrationist multiracial organizations and movements and other means of eliminating barriers between races.' More importantly it has stood by idly while allowing for the existence and 'maintenance of unequal or separate rights' for the people of FATA as prohibited under Art. 2(2). Those accused of crimes within the Tribal Areas are denied the right

²¹ *The State of Human Rights in Pakistan – 2008*, Asian Human Rights Commission (AHRC), p31

²² *Ibid*, p18

²³ See Article 246 & 247 of the Constitution of the Islamic Republic of Pakistan 1973:

<http://www.pakistani.org/pakistan/constitution>

²⁴ Sardar Ali & Rehman, *Indigenous Peoples and Ethnic Minorities of Pakistan* (Curzon, 2001), p53

of due process under the FCR and the right of appeal in the ordinary courts of the land.²⁵ Furthermore, these arrangements are a violation of Art. 5(a) due to the lack of equality of the law and subsequent denial of a remedy for ‘racial discrimination’ under Art. 6 of the Convention.

52. Pakistan was commended in the 1997 Concluding Observations for allowing direct participation of the Tribal Areas for the first time. However a decade on it is difficult to understand why the Government has not extended full political rights to the long neglected inhabitants of FATA by allowing political parties to campaign in the area. This, MRG is concerned, amounts to an illusory extension of political rights. If there is no dissemination of information and campaigning by parties, how will the inhabitants make an informed choice as to their representative?
53. The vesting of considerable powers in the hands of the President with limited or no accountability mechanisms in place with regards to the Tribal Areas, is in direct contradiction to standards set out in General Recommendation 23, which states that ‘no decisions directly relating to their rights and interests are taken without their informed consent’²⁶

Neglect in Development

54. The sections below refer to Demographic Indicators from the 1998 Census, to be found in Annex II.
55. Pakistan has neglected the Tribal Areas for many years denying them ‘a sustainable economic and social development.’²⁷ A glance at the statistics concerning demographic indicators in the 1998 Government Census reveals the *Literacy Ratio (10+)* in the FATA, Balochistan and NWFP to be 17.42%, 24.83% and 35.41% respectively, whereas Punjab and Sindh both have ratios close to 50%. Furthermore the requisite data on enrolment and employment in FATA are absent from the 1998 Census.
56. The dire development situation is so acute that the US Administration is convinced that such neglect is one of the underlying factors for the religious radicalisation of the region. The US Deputy Secretary of State, John D. Negroponte described the situation in FATA as having ‘some of the worst social and economic conditions in the world. In some areas, the female literacy rate is as low as 3%. There is little access to safe drinking water or to even rudimentary health care. The system of public education is largely nonexistent.’ He goes on to request: ‘Congressional support for the \$60 million Economic Support Fund request for Pakistan in the Fiscal Year 2008 supplemental will allow the Agency to continue advancing these goals’ for ‘activities

²⁵ *Ibid*, p57

²⁶ General Recommendation No. 23: Indigenous Peoples : . 18/08/97 at § 4(d)

²⁷ *Ibid* at § 4(c)

we are pursuing to improve lives and enhance governance in the tribal areas, Northwest Frontier Province, and Balochistan.’²⁸

57. While such investment in the three socio-economically deprived provinces as compared to Sindh and Punjab is welcome, it is unfortunate that, if approved, it will be by way of foreign aid and for the specific purpose of ensuring national security for the US. Furthermore such elementary grievances of ethnic groups should be dealt with; firstly by their own Government and secondly prior to their fomentation into armed resistance, loss of government authority and legitimacy in those areas.

Double Discrimination

58. The gender inequality in the implementation of the right of education is prevalent throughout Pakistani society. However this gender discrimination it seems, according to the 1998 Census is magnified, by belonging to a socio-economically disadvantaged ethnic group. The male-female divide in the *Literacy Ratio (10+)* in Punjab and Sindh is around 55% and 35% whereas in Balochistan it is around 34% and 14%. The bleak situation in the FATA, nonetheless, resulting from the double discrimination of women and even more so on the girl child are far worse and evidenced in the female literacy, which stands at a dismal 3% compared to 30% for men.²⁹

Discrimination of Ethnic groups and Conflict

59. The ensuing conflict with militants in FATA and nationalist elements within Balochistan are outcomes of an inherent structural and historical discrimination on the basis of ethnicity of certain groups. Years of neglect and the denial of the most basic entitlement of equality and non-discrimination have resulted in the escalation of grievances, finally fermenting into armed agitation and loss of Government writ.
60. A cursory look at data from various sources³⁰ indicates that the North West Frontier Province (NWFP), Federally Administered Tribal Areas (FATA), and Balochistan are witnessing large-scale violence and insurrection. Violence in parts of the Sindh, Punjab and Gilgit-Baltistan has also brought these areas under the security scanner. Islamabad’s writ is being challenged vigorously. Well over half of the territory presently under Pakistan’s control, including Gilgit-Baltistan and Azad Jammu and Kashmir, has passed outside the realm of civil governance and is currently dominated

²⁸ John D. Negroponte, Deputy Secretary of State, *Testimony before the Senate Foreign Relations Committee*, Washington, DC, May 20, 2008: <http://merln.ndu.edu/archivepdf/pakistan/State/105041.pdf>

²⁹ Census Report of Pakistan 1998, Pakistan Census Organization, Government of Pakistan:

http://www.statpak.gov.pk/depts/pco/statistics/demographic_indicators98/demographic_indicators.html

³⁰ See Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian, Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007: “*Internal displacement due to conflict in Pakistan*,” February 2008 and *Summary prepared by the OHCHR for UPR, Pakistan*, 25 March 2008 (A/HRC/WG.6/2/PAK3)

essentially through military force. During the first 6 months of 2008 there were 10 suicide attacks in NWFP, 5 attacks in Punjab and 6 in Waziristan.³¹

61. More recently Baluchi and Sindhi nationalists, government critics, and some journalists, researchers, and social workers have also been targeted. Although intelligence services operate largely outside the purview of the judicial system, in October 2006 the Supreme Court took up several disappearance cases and ordered the government to accelerate the process of producing the missing men. As a result of the court decision, approximately 20 men were freed that year. Additional cases brought in 2007 by the HRCP and others on behalf of almost 200 detainees yielded similar orders to either release or lawfully detain prisoners who were being held incommunicado. However, the government did not fully comply with these rulings.³²

Recommendations and Issues to be taken up with State

1. Pakistan is urged to carry out an in depth study of its ethnic composition and to secure *all* ethnic groups within its territory the rights to non-discrimination and equality as compared to other religious and ethnic groups.
2. Pakistan should take cognisance of its rich linguistic traditions and institute the optional learning of the main regional languages in schools, to allow for children belonging to those groups to ‘preserve and to practise their languages.’ The learning of regional languages, by those who do not speak them as a mother tongue would also encourage cross-cultural dialogue and understanding between ethnic groups.
3. An independent, impartial and transparent inquiry should be initiated to investigate the conduct of the Pakistan Army in its military operation in Balochistan, the alleged gross violation of human rights and international humanitarian law, in light of reports of the use of chemical weapons, summary executions, indiscriminate bombing of civilian areas and disproportionate use of force resulting in an high yet avoidable loss of civilian lives and even accusations of deliberate targeting of civilians as a form of collective punishment.³³
4. Pakistan is urged to repeal the FCR, amend Articles 246/7 of the Constitution with the full and transparent participation of the people of the Tribal Areas followed by an honouring of the promise of ‘affirmative action’ set out in §§ 103 and 104 of its Report to the Committee to ‘promote, with special care, the educational and economic

³¹ *State of Human Rights in Pakistan January – June 2008*, South Asians for Human Rights, <http://www.southasianrights.org/pdf/HRSituationReportPakistanJan-June2008.pdf>

³² *Freedom in the World 2008*, Freedom House <http://www.freedomhouse.org/template.cfm?page=363&year=2008>

³³ *The State of Human Rights in Pakistan – 2008*, Asian Human Rights Commission (AHRC), p32

interests of backward classes or areas according to Article 37(a) of the Constitution' and 'irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of the wealth and means of production and distribution in the hands of a few to the detriment of the general interest' according to Article 38(a) of the Constitution.

5. The Siraiki ethnic group should be allocated seats in the Punjab Provincial and National Assemblies.
6. Inherent provincial discrimination needs to be resolved by ensuring that while the provinces and thus ethnic groups may carry unequal powers in matters concerning the Federation, that they must be allowed to exercise equal powers over their own affairs, especially with regards to control and sharing benefit from resources and the use of their own language in public administration and education.
7. Article 246 and 247 of the Pakistani Constitution are an affront to basic notions of non-discrimination carving out regions predominantly inhabited by people of one distinct ethnicity, where the President has complete control and the reach of parliament and the judiciary is precluded. Similarly the FCR imposes a separate and parallel legal system, allowing for collective punishment for individual crimes, which is only imposed on the Tribal Areas and thus only on those of particular ethnicities and cultures. Fundamental rights such as due process of law are denied. Both these discriminatory laws must be rescinded immediately. Pakistan should take advantage of the technical assistance available under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for the purpose of drafting comprehensive legislation aimed at preventing and prohibiting racial discrimination.
8. Pakistan should take immediate steps to ensure the independence and confidence in the judiciary. This particularly impacts on minorities within the country since, the dismissal of the Chief Justice was subsequent to and has been widely seen as resulting from his judicial activism to pressure the military government to account for the thousands of disappeared Balochis.'
9. Pakistan should make a declaration with regards to Article 14, or provide valid reasons for not having done so.
10. Double discrimination of women and children in tribal communities must be addressed.
11. Political parties should be allowed to campaign in Tribal Areas.
12. At § 5 of the 2008 Report, the State party desists from mentioning the territory of Azad and Jammu Kashmir. Despite the KANA enjoying highly evolved autonomous competencies, Pakistan is reminded that it still falls within the ambit of their state

responsibility, thus it should provide information regarding implementation of the Convention in that region as well.

13. At § 204 of 2008 Report, there is some ambiguity and a wider interpretation of 'minority' may be possible. Could the representative clarify Pakistan's definition of 'minority' under its Constitution? Are there any plans to modify such a definition in light of becoming a signatory to the ICCPR, to bring it in line with Article 27 and recognise 'ethnic' minorities in addition to 'religious' ones?
14. Could the Representative provide positive examples which have emerged from the safeguarding of 'the right of a section of society having its own distinct language, script or culture, to preserve and promote the same, and for this purpose permits the setting up of appropriate institutions' at §179 of its Report.

Annex I**POPULATION BY MOTHER TONGUE****(In percent)**

Administrative Unit	Urdu	Punjabi	Sindhi	Pushto	Balochi	Saraiki	Others
Pakistan	7.57	44.15	14.1	15.42	3.57	10.53	4.66
Rural	1.48	42.51	16.46	18.06	3.99	12.97	4.53
Urban	20.22	47.56	9.20	9.94	2.69	5.46	4.93
N W F P	0.78	0.97	0.04	73.9	0.01	3.86	20.43
Rural	0.24	0.24	0.02	73.98	0.01	3.99	21.52
Urban	3.47	4.58	0.11	73.55	0.03	3.15	15.11
F A T A	0.18	0.23	0.01	99.1	0.04	-	0.45
Rural	0.18	0.18	0.01	99.15	0.04	-	0.43
Urban	0.18	1.85	*	97.00	*	-	0.96
Punjab	4.51	75.23	0.13	1.16	0.66	17.36	0.95
Rural	1.99	73.63	0.15	0.87	0.90	21.44	1.02
Urban	10.05	78.75	0.09	1.81	0.14	8.38	0.78
Sindh	21.05	6.99	59.73	4.19	2.11	1.00	4.93
Rural	1.62	2.68	92.02	0.61	1.50	0.32	1.25
Urban	41.48	11.52	25.79	7.96	2.74	1.71	8.80
Balochistan	0.97	2.52	5.58	29.64	54.76	2.42	4.11
Rural	0.21	0.43	5.27	32.16	57.55	1.87	2.51
Urban	3.42	9.16	6.57	21.61	45.84	4.16	9.24
Islamabad	10.11	71.66	0.56	9.52	0.06	1.11	6.98
Rural	2.33	83.74	0.08	7.62	0.02	0.3	5.91
Urban	14.18	65.36	0.81	10.51	0.08	1.53	7.53

* Refers to a very small proportion.

Annex II**DEMOGRAPHIC INDICATORS - 1998 CENSUS**

Indicators	Pakistan	NWFP*	FATA [#]	Punjab	Sindh	Balochistan	Islamabad
Area (Sq. K.Ms)	796096	74521	27220	205345	140914	347190	906
Population (in thousand)	132352	17744	3176	73621	30440	6566	805
Male (percentage)	52.03	51.22	52.01	51.74	52.88	53.4	53.93
Female (percentage)	47.97	48.78	47.99	48.26	47.12	46.6	46.07
Urban Proportion	32.50	16.87	2.70	31.27	48.75	23.90	65.70
Population Density (Person per Sq. K.M.)	166.3	238.10	116.7	358.52	216.02	18.9	880.8
Sex Ratio (Male Per 100 Female)	108.50	105.02	108.40	107.23	112.24	114.60	117.00
Average Annual Growth Rate(1981-1998)	2.69	2.82	2.19	2.64	2.80	2.47	5.19
Population Under 15 (%)	43.40	47.20	25.90	42.52	42.76	46.67	37.90
Population 15 - 64 Years (%)	53.09	49.79	24.30	53.46	54.47	50.81	59.40
Population 65 & Above (%)	3.50	3.01	1.80	4.02	2.77	2.52	2.70
Age Dependency ratio	88.34	100.83	114.00	87.07	83.58	96.79	68.40
Literacy Ratio (10+)	43.92	35.41	17.42	46.56	47.29	24.83	72.40
Male	54.81	51.39	29.51	57.20	54.50	34.03	80.64
Female	32.02	18.82	3.00	35.10	34.78	14.09	62.39
Enrollment Ratio (5-24)	35.98	31.46	-	39.38	32.78	23.53	57.50
Male	41.19	40.99	-	43.83	37.35	29.49	57.70
Female	30.35	21.30	-	34.63	27.70	60.40	57.30
Economically Active Population (%)	22.24	19.41	-	22.55	22.75	24.05	23.00
Labour Force Participation Rate (10+)	31.98	29.09	-	31.98	32.73	36.45	30.68
Un-employment Rate	19.68	26.83	-	19.10	14.43	33.48	15.70
Disabled Population (%)	2.54	2.12	-	2.48	3.05	2.23	1.05

* N W F P stands for North West Frontier Province

F A T A stands for Federally Administrated Tribal Areas