ALTERNATIVE REPORT

to the UN Human Rights Committee, 120th session, review of Pakistan

CASTE-BASED DISCRIMINATION IN PAKISTAN

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TABLE OF CONTENTS

TABLE OF CONTENTS .................................................................................................................................................. 2

I. INTRODUCTION .................................................................................................................................................. 2

II. DISCRIMINATION AGAINST DALITS IN PAKISTAN ......................................................................................... 3

III. INTERNATIONAL LEGAL FRAMEWORK ON CASTE DISCRIMINATION IN PAKISTAN ......................... 3

IV. NON-DISCRIMINATION AND EQUALITY BETWEEN MEN AND WOMEN (ART. 2, 3 & 26) ... 4

V. BONDED LABOUR AND HUMAN TRAFFICKING (ART. 2(2), 8 & 26) ......................................................... 5

VI. FREEDOM OF RELIGION, CONSCIENCE AND BELIEF (ARTS. 2 (2), 14, 18, 19 AND 26) ...... 6

VII. RECOMMENDATIONS ....................................................................................................................................... 8

I. Introduction

This joint submission focuses on the list of issues prepared by the Human Rights Committee (CCPR) 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 covering bonded labour and trafficking. In addition to that the submission highlights the systematic discrimination of Dalits in Pakistan.

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 330,000 people. However, this data does not include ‘lower castes’ within the Muslim community, living under similarly depressed conditions, and representatives of Scheduled Castes claim that the actual number could be at least two million.

2. As religious minorities in Pakistan, Hindus and Christians are suffering discrimination in an Islamic society, Scheduled Castes 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’.

4. Moreover, 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’.

5. However, most recently, during the first review of Pakistan under the Committee of Economic, Social and Cultural Rights, on 12 and 13 June 2017, the government of Pakistan claimed there is no caste-based discrimination in the country and stated it was unaware of where Dalit population lived.

III. International legal framework on caste discrimination in Pakistan

6. Various human rights bodies have mentioned caste-based discrimination in their questions and recommendations for Pakistan, related to the ongoing discrimination against Dalits, with an 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)

7. The CERD 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”.

8. Pakistan has completed two cycles of the Universal Periodic Review. 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.

9. In 2009, the CERD in its Concluding Observations 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.

10. In 2016 the CERD Concluding Observations 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.

11. Additionally, in 2016 the Committee on the Rights of the Child (CRC) expressed its concerns on widespread discrimination against the Scheduled Caste 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. Non-discrimination and equality between men and women (art. 2, 3 & 26)

The Committee’s list of issues, paragraph 3: Please clarify whether the anti-discrimination provisions of articles 25-27 of the Constitution cover all prohibited grounds of discrimination in line with articles 2 (1), 3 and 26 of the Covenant. Please also indicate what efforts have been made by the State party to adopt comprehensive anti-discrimination legislation that, inter alia, addresses discrimination in the private sphere; prohibits all direct, indirect and multiple forms of discrimination; contains a comprehensive list of prohibited grounds for discrimination, including religion, sexual orientation and gender identity; and provides for effective remedies in judicial and administrative proceedings.

12. 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.

13. 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) has not been addressed.

14. 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.

15. 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.

16. 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.

V. Bonded labour and human trafficking (art. 2(2), 8 & 26)

The Committee’s list of issues, paragraph 16: Please comment on reports that, notwithstanding the adoption of the Bonded Labour System (Abolition) Act, 1992, bonded labour persists in the State party, in particular in the brick kiln industry and among Christians and Scheduled Caste Hindus (Dalits). What measures has the State party taken to raise awareness of and implement the Act? Please comment on reports that the 100 million rupees allocated by the State party for the elimination of bonded labour have not been used for that purpose. Please also provide information on the implementation of the Prevention and Control of Human Trafficking Ordinance, 2002.

17. Pakistan has ratified a number of international covenants and conventions which proscribe slavery, forced labour, and debt-bondage. The Constitution of Pakistan forbids slavery and forced labour, and the Bonded Labour System (Abolition) Act of 1992 along with the Bonded Labour System (Abolition) Rules of 1995 completely outlaw bonded labour. They also cancel all existing bonded debts and forbid lawsuits for the recovery of such debts.

18. Yet, bonded labour in Pakistan is widespread, particularly in agriculture and brick making, and the majority of the bonded labour community belongs to marginalised and excluded groups such as the Scheduled Caste Hindus, Christians and Muslim Sheikhs. Dalits lack basic facilities and face social, racial and psychological discrimination. According to the 2014 Global Slavery Index, 2,058,200 people are enslaved in Pakistan and the majority of them live in the Sindh and Punjab Provinces and are engaged in the agriculture and brick kiln sector. The WFF Index places Pakistan at third position in a list of 167 countries where the problem of human slavery is most severe.
19. 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.\(^{xvi}\)

20. In its examination of Pakistan in May 2016, the CRC 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. Moreover, the CERD examined Pakistan in 2016 and in its concluding observations expressed deep concerns that:

‘\textit{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)}’\(^{xvii}\). The Committee recommended to take measures to fully implement the Act and intensity labour inspections into workplaces where ‘\textit{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}’.

21. Following the 18\textsuperscript{th} amendment in the constitution of Pakistan in 2010, Sindh, Punjab and Khyber Pakhtunkhawa provinces adopted Bonded Labour System (Abolition) Act 2015. Also, the GoP budgeted Rs. 100 million for the rehabilitation of bonded labour in Pakistan. However, even with the laws criminalising bonded labour practice in Pakistan the government failed to secure a single conviction of the bonded labour perpetrators. The Government also failed to take any steps against the duty bearers who did not make any serious efforts to implement this law at grassroots and district levels.

\textbf{VI. Freedom of religion, conscience and belief (arts. 2 (2), 14, 18, 19 and 26)}

The Committee’s list of issues, paragraph 20: \textit{Please provide information on the measures taken by the State party to eliminate discrimination and violence against religious minorities in the State party, including Christians, Hindus, Shia Muslims and Ahmadis, and on the implementation of the judgment of the Supreme Court of Pakistan of 19 June 2014 in that regard. Please also provide information on the measures taken to prevent and prohibit hate speech and hate crimes against religious minorities and on the efforts made to remove religiously biased content from school textbooks and the curriculum. Please respond to concerns about the proliferation in the country of madrasas whose curricula reportedly incite hatred and that have allegedly been used as a platform for military training and recruitment by non-State armed groups.}

22. In the last five years a number of girls from minority communities have been abducted, forcibly converted to Islam and forced to marry.\(^{xviii}\) As Pakistan lacks effective laws to improve the situation the trend has increased in recent years and was recently addressed by the Special Rapporteur on Minority Issues in her latest thematic report to the human rights council (A/HRC/31/56).\(^{xx}\) The worst victims are Scheduled Caste Hindu girls who are kidnapped or lured into conversion, sexually exploited and then abandoned.\(^{xxi}\)

23. In a 2012 UPR report, it was estimated that on average some 700 Christian and 300 Hindu girls are forcibly converted to Islam each year in Pakistan, notably in Punjab, Khyber Pakhtun Kha and Sindh provinces.\(^{xxii}\) Together with Pakistan institute for Labour Education and Research (PILER), PDSN has previously appealed to the government to take notice of the abductions of Dalit girls and their forceful conversions to Islam. Despite the 2011 Prevention of Anti-women Practices Act, which abolishes the practice of forced marriages and the exchange of girls in settling disputes, as well as
the marriage of minor girls, it is found that the police refuse to intervene in such cases. Even the courts are complicit in this, by nullifying women’s previous non-Islamic marriages and recognizing their forced marriages instead (ALRC and Act-France, UPR 2012).

24. The Sindh Child Marriage Restraint Act from 2013 prohibits marriage before the age of 18, in Sindh province. However, the courts are failing to implement the law, especially in cases concerning Hindu Dalit minors. The absence of birth registration and marriage certificates among the Scheduled Caste Hindu community are significant hurdles to the implementation of the Child Marriage Restraint Act. The police and judiciary attitudes have been observed to be biased towards minorities and Dalits.

25. Several cases of minor Scheduled Caste Hindu girls have been reported in the media without an avail. To give an example, in 2015 an 11 year old Hindu Dalit girl (Seema Oad) was kidnapped from Shaheed Benazirabad District in Sindh. She was converted and finally married off to a Muslim boy within a couple of days. The case was assessed in the High Court of Sindh. After several hearings and providing evidence on the girl’s age the court decided that rather than punishing culprits and sending the girl to her parents, to send her to a Government shelter home until she reaches 18 years of age when she will be handed over to the abductors. The case clearly indicates a violation of child rights and the recently adopted Child Marriage Restraint Act 2013.

26. In November 2016, the Provincial Assembly of Sindh passed a bill titled the Criminal Law (Protection of Minorities) bill 2016, which recognises forcing a child under 18 years of age to change their religion and enter into a marriage as a punishable offence. However, some religious and extremist groups argued that the bill is against the teachings of Islam. Consequently, the Governor of Sindh did not sign the bill against forced conversions unanimously adopted by the Sindh Assembly.

27. Forced conversions is a serious issue and has been affecting the Dalit community for many years, however, other than those mentioned there have been no initiatives undertaken by the GoP at any other federal or province level to criminalise child marriage or forced conversions. The problems of forced conversions and forced marriage are interlinked as many young scheduled caste girls are forced into conversion by way of marriage.

28. Moreover, since 2012, religious motivated incidents that led to violence have been rising in Pakistan. In 2014, more than a dozen Hindu temples were attacked/ burned and looted in different districts of Sindh including Lakana, Sanghar, Hyderabad, Tharparker, Umerkot, Mirpurkhas and Sukkur. Hundreds of angry Pakistanis attacked a Hindu temple and set it on fire in Larkana, Sindh Province. During the period several incidents were reported about killings/ murders of Dalit and minority people but the law enforcement agencies rarely investigated the incidents or arrested culprits and criminals who were involved in the killings and attacks on religious sites.

29. In June 2014, the Supreme Court of Pakistan took suo moto and issued a landmark judgment for the protection of religious minorities in Pakistan. If it is implemented in a true spirit it could provide a better protection and relief to religious minorities in Pakistan. However, in the 2016 examination of Pakistan the CERD expressed its deep concerns about, ‘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 recommended enhancing reporting, prosecuting the perpetrators, providing effective remedies to the victims, and taking comprehensive measures to combat and condemn hate crimes.

30. Furthermore, there is a lack of political participation of religious minorities in the parliament. Article 51(2A) of the constitution of Pakistan provides 10 reserved seats for religious minorities in the National Assembly, and 23 seats for minorities in the four provincial assemblies under Article 106. Unfortunately, these reserved seats are often filled by persons who are neither competent nor representative of their supposed electorate. The concept of the model of ‘proportional representation’ has, in fact, been abused and the notion of representation has been defeated by the political leadership of the nation.
31. Additionally, the current public school curriculum in Pakistan contains derogatory remarks against religious minorities, inciting religious hatred and bias, and treating non-Muslim students unequally, violating article 25 (1) of the Constitution of Pakistan, which guarantees equality and equal protection for all citizens.

32. There were some positive developments in the last few years as the provincial and national Government started a process of reforming curriculum and included human rights in the text books. In 2016, Sindh High Court (SHC) under the public interest litigation directed the provincial education ministry to teach human rights at schools and promote peace in society through education, but the progress is still very slow.\textsuperscript{xix}

33. Lastly, on 22 February 2017, the National Assembly Standing Committee on Federal Education and Professional Training unanimously passed the ‘Compulsory Teaching of the Holy Quran Bill 2017’ for students at levels 1 to 12. This is the opposite of the promises made that the Holy Quran would only be taught to Muslim students. Islamic lessons are already being taught to non-Muslim students from class one onward. There are no arrangements for religious education of non-Muslim students.

\textbf{VII. Recommendations}

\textbf{Caste-based discrimination}

- 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.

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

\textbf{Minorities}

- Implement systems ensuring effective political participation of minorities and their true representation in all political parties in Pakistan, reserving 5% of general seats to minority candidates. Selection of those for reserved seats should be done by the minority community itself not by a political party.
The GoP should make attempts to amend or repeal the blasphemy law that facilitates persecution of religious minorities and legitimizes impunity for perpetrators of violence against religious minorities.

**Bonded labour**

- Ensure an effective implementation of the Bonded Labour System (Abolition) Act 2015, establish effective district vigilance committees and ensure immediate rehabilitation of the freed bonded labourers so they can get out of bondage.
- The GoP should ensure that Scheduled Caste peasants are given their due share of agricultural productions, so that labourers are not subjected to bonded labour. This can be achieved by making progressive changes in the Tenancy Legislation (especially the Sindh Tenancy Act).
- The GoP should implement international conventions and treaties abolishing bonded labour.
- The GoP should extend an invitation to the UN Special Rapporteur on contemporary forms of slavery.

**Education**

- The GoP should reform the school curriculum to ensure it complies with article 22 of the Constitution of Pakistan and international human rights treaties, including the Universal Declaration on Human Rights and UNESCO guidelines.

**Further recommendations**

- 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.
- 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.

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7. CRED General recommendation XXIX on article 1 para. 1, of the convention (Decent).


xii 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/


xvii The same at reference iv, page 6, para 27.


xix The Wire. Bring Back Our Girls: Pakistan’s Hindus Struggle Against Forced Conversions. Available at: https://thewire.in/99522/pakistan-minorities-girls/

xx The same at reference v.


xxii UPR Stakeholder submission by the Asian Legal Resource Centre and ACT-France, 23 April 2012.

xxiii Daily Kawish October 4, 2015

xxiv Geo TV, 7 January 2017, “Sindh governor returns forced conversion bill”. Available at: https://www.geo.tv/latest/126435-Sindh-governor-returns-forced-conversion-bill


xxvii The same at reference as iv, paragraph 15.


xxix Tribute, 4 February 2016, “Promoting tolerance: education dept has four weeks to add human rights to curriculum”. Available at: https://tribune.com.pk/story/1039805/promoting-tolerance-education-dept-has-four-weeks-to-add-human-rights-to-curriculum/