

PAKISTAN's compliance of UN CERD- Alternative report for 2016 REVIEW

CSOs' Joint Submission

At CERD's 90th Session



CERD
Alternative Report
to the
UN Committee on the Elimination of Racial Discrimination (CERD)
reviewing Pakistan's combined 21st, 22nd & 23rd reports
at CERD 90th session, August 2016

Prepared by:

Centre for Social Justice

E-58, St. 8, Officers' Colony,
Walton Road, Lahore 54180
E-mail: info@csjpak.org, csjpak@gmail.com
Phone: +92-423-36661322
www.csjpak.org

Institute of Development Research and Corresponding Capabilities (IDRAC)

House # 17, Street # 51, G - 13/2, Islamabad
E-mail: info@idrac.org.pk
Phone: +92-51-2306852
www.idrac.org.pk

Legal Aid Society

Spanish Homes, Mezzanine Floor, Plot No. 13/A, D.H.A., Phase 1, Karachi.
Email: info@lao.org.pk, laocpki@hotmail.com
Phone: +92-21-99266011-4
co.lao.org.pk

Endorsed by:

Aurat Foundation, Association of Women for Awareness and Motivation (AWAM), ASR Resource Centre, Blue Veins, Bytes for All, Catholic (National) Commission for Justice and Peace, Democratic Commission for Human Development, FATA Commission for Human Rights, GODH, Peace and Development Foundation, Pakistan Institute of Labour Education and Research (PILER), Sustainable Development Vision, Society for the Protection of the Rights of the Child (SPARC), Sustainable Development Policy Institute (SDPI), Strengthening Participatory Organization, Taangh Wasaib Organization, The Institute of Women Studies and UKS Research Centre.

Introduction

This Civil Society Organisations (CSOs)¹ report was produced on the initiative of the Centre for Social Justice (CSJ), in consultation with the concerned NGOs by volunteers involving Peter Jacob, Maliha Zia, Amjad Nazeer and Tahira Abdullah, with the research assistance of Sachal Jacob.

The Centre updated the stakeholders about the State Party's report submission and developments in Pakistan. A meeting was held in Islamabad to solicit inputs on the main issues and the first draft of this report was shared to seek inputs from a number of rights-based CSOs/NGOs.

The CSOs appreciate that the Government of Pakistan (GoP) has submitted the 21st, 22nd and 23rd combined reports. Considering that the last State Party report in 2009, combined five pending reports together, it is highly recommended that the Government take all necessary steps to submit Pakistan's ICERD report on a regular basis in the future.

This report provides a sequential critique of the GoP report, identifying the concerns of the CSOs and human rights defenders. It seeks to identify the gaps in the GoP report (hereafter referred to as "the report") in responding to the Recommendations made by the Committee on the Elimination of Racial Discrimination (hereafter referred to as "the Committee"), as well as provide some of the missing information.

Recommendations made by the Committee on the Elimination of Racial Discrimination in 2009 review

Recommendations in paragraph 8:

1. The provision of demographic information about the ethnic composition of the population is appreciated, especially considering there has been no population census in Pakistan since 1998, despite the need for a decennial census exercise. However, the report fails to respond to the specific request of the Committee to receive information in the State Parties' report, emphasizing "that such information will permit a better assessment of the implementation of the Convention by State Party and wishes to receive such information in the State Party's next periodic report."

The GoP has not explained how the data it has provided will be used to ensure non-discrimination in legislation, policy formulation and resource allocation for numerically smaller ethnic groups within and across the provinces. This concern is related in

¹ The term "Civil Society Organizations" means the specific organizations endorsing this Alternative Report, and also those who have long been taking a stand on the issues stated in the report.

particular to the question of equitable distribution of the National Finance Commission Award to allocate financial resources from the provinces to the local governments at the district and village level, with a specific focus on ethnic, linguistic and religious minorities.

2. The State Party report, fails to account for millions of gypsies or nomads living in Pakistan.² A majority of these ethnically distinct and historically marginalized people do not possess National Identity Card, nor are they enrolled as voters which results in infringement of their economic, social and cultural rights.

Gypsies face systematic infringement of their rights. Their low lying settlements in the urban centers, without basic facilities are prone to all forms of hazards and calamities. According to a survey conducted by the Centre for Research and Development the gypsy children are often found begging on the roads holding balloons, flowers and newspapers. 300 gypsy children were arrested in Lahore in September 2005 for different crimes. The gypsy kids are increasing in Karachi as much as 30,000 and the number is 20,000 in Lahore.³

3. The GoP report appears to be using a very narrow definition of racism, highlighted in its claim in the Introduction that “Racism is a rare phenomenon in Pakistan and, therefore, has little or no impact on the lives of the peoples of Pakistan”.

This report questions this statement, which demonstrates the GoP's lack of understanding of the word 'racism' as defined in the Convention. This lack of understanding results in not only an inability to recognize racial discrimination but also provides an easy way out to deny its existence.

Racial discrimination is being submerged into other categories e.g. it is common to say that Pakistan has a 'class' or 'religion' issue as opposed to a 'race' or 'caste' issue⁴, whereas the definition of racism in Article 1 covers “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

² Mrs. Aqila Khawaja Assistant Professor Department of International Relations Quaid-i-Azam University Islamabad. http://www.napsipag.org/pdf/Pakistan_at_Crossroads.pdf

³ Mrs. Aqila Khawaja Assistant Professor Department of International Relations Quaid-i-Azam University Islamabad. http://www.napsipag.org/pdf/Pakistan_at_Crossroads.pdf

⁴ For instance, see “Class, Caste or Race: Veils over Social Oppression in Pakistan”, Haris Gazdar, Collective for Social Science Research, 2007.

Akbar S Ahmed, a former Pakistani bureaucrat and diplomat, had warned long ago: *'... analysts reveal a blind-spot in their discussion on ethnicity. They examine society as ideal, as it should be, not as it is. Yet, annually hundreds of Muslims are killed by Muslims and millions of rupees worth of property destroyed as an expression of ethnic frenzy. Why does that happen? How does ethnicity survive in an Islamic state? Such questions are rarely posed.'*⁵

4. The evidence at hand confirms Ahmad's apprehensions. The struggles of 'language' are but just one example of this blind spot in Pakistan, reflecting the lack of enjoyment of rights on an equal footing by marginalized racial and ethnic groups.
 - a) The Constitution of the Islamic Republic of Pakistan 1973 (hereafter referred to as "the Constitution") provides protection for language, script and culture under Article 28, recognizing these as fundamental rights. Article 251 of the Constitution further provides that *"without prejudice to the status of the National language, a Provincial Assembly may, by law, prescribe measures for the teaching, promotion and use of a provincial language in addition to the national language."*
 - b) *"Pakistan is a multilingual (and multicultural) country with six major and over fifty-nine small languages. However, the languages of the domains of power ... are English and Urdu. The state's policies have favoured these two languages at the expense of others. This has resulted in the expression of ethnic identity through languages other than Urdu... The less powerful indigenous languages of Pakistan are becoming markers of lower status and cultural shame. Some small languages are also on the verge of extinction. It is only by promoting additive multilingualism that Pakistani languages will gain vitality and survive as cultural capital rather than cultural stigma"*⁶.
 - c) The business of the State is conducted in English, including, *inter alia*, the drafting and publication of laws, parliamentary debates, policy papers and official directives.
 - d) Despite the existence of Article 251, this is rarely enforced and apart from the languages spoken at home, few in the younger generations know how to read and write other languages apart from English and Urdu.
 - e) The Punjabi language, the largest spoken mother language in Pakistan, is neither the language of instruction in schools, nor used in the provincial legislature, courts or government communications.
 - f) Languages spoken by numerically smaller ethnic groups, such as Siraiki, Balochi, Brahvi, Hindko and the languages of the northern mountain ranges are under tremendous pressure from English and Urdu. Not only is there a threat of extinction

⁵ Ahmed, A.S. 'The Politics of Ethnicity in Pakistani Society' The Asian Survey, 1990, vol. 77, p.22, quoted: Ali, Sardar Shaheen, Rehman Javaid, 'Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspectives', Curzon 2001, p. 13.

⁶ Rahman, Tariq, 'Language policy, multi-lingualism and language vitality in Pakistan', Quaid-e-Azam University, Islamabad, 2003.

- of these languages but additionally, their users are afflicted with feelings of social inferiority and shame.⁷ The State's language policy is somehow creating a kind of ethno-linguistic discrimination.
- g) Minorities such as the Kalash⁸ community, minority languages like Brahvi, and the language of the ethnically distinct Hazara Shia community in Balochistan are clearly under a serious threat of extinction.
 - h) Pertaining to the strong demands for separate provinces by Siraiki and Hindko speakers, the recognition of their right to cultural and linguistic identity has been denied, and an environment conducive political environment has not been created for a negotiated resolution of this issue.

Two Resolutions have been passed, one in the National Assembly (May 2012) and one in the Punjab Assembly (May 2012) in favour of securing the "political, administrative and economic interests of the people of the southern region of province of Punjab" and the creation of a new province of "Janoobi (South) Punjab" within the current province of "Punjab". The Punjab Assembly was called upon to present a Bill to create such province.⁹

- i) Despite these Resolutions and the report of the National Commission, in favour of creating new provinces, no Constitutional measure has been taken so far to pave the way for the creation of new provinces.¹⁰

Recommendations in paragraph 9:

The assertions in the GoP report with regard to the application of laws and human rights in the Federally Administered Tribal Areas (FATA)¹¹, are contrary to the facts. In fact, national legislation and the courts' jurisdiction does not extend to FATA, as per Article 274(3) and (7) of the Constitution, resulting in a territory of Pakistan being deprived of its fundamental human rights and protections under the law. FATA also has no access to a proper, accountable judiciary, which could oversee and guarantee the exercise of human rights.

⁷ Ibid.

⁸ <http://tribune.com.pk/story/1124108/clash-chitral-kalash-girls-forced-conversion-islam/>

⁹ Report of the Commission for Creation of New Province(s) in the province of the Punjab. <file:///F:/Language%20&%20Culture%20Pakistan/Report%20on%20Creation%20of%20New%20province-reopr.pdf>

¹⁰ Ibid.

¹¹ FATA is a semi-autonomous area between Pakistan and Afghanistan. Under the Constitution of the Islamic Republic of Pakistan 1973, FATA is included among the territories of Pakistan (Article 1). It is represented in the National Assembly and the Senate but remains under the direct executive authority of the President of Pakistan (Articles 51, 59 and 247). Laws framed by the National Assembly do not apply here, unless ordered by the President, who is also empowered to issue regulations for the peace and good governance of the Tribal Areas. Today, FATA continues to be governed primarily through the notorious Frontier Crimes Regulation (FCR, 1901). It is administered by the Governor of Khyber Pakhtunkhwa in the capacity of an agent to the President of Pakistan, under the overall supervision of the federal Ministry of States and Frontier Regions (SAFRON).

5. The judiciary, political parties, civil society, provincial governments and segments of the population in FATA have been demanding the extension of the jurisdiction of the courts to FATA, which is yet to be addressed.¹²
6. The government report also speaks of the “FATA Youth program”, without explaining the quantum of success, and its contribution to the implementation of the Convention. Its existence alone is not sufficient to contribute to its effective implementation. It must actively engage in and address the core issues of the Convention, and also measure, analyse and share its impact.

Recommendations in paragraph 10:

Legal framework for non-discrimination

7. The claim of discrimination being “understood adequately” in the GoP report seems exaggerated. The Constitution prohibits racial discrimination without providing a definition of ‘racial’ or ‘discrimination’, leaving a vacuum of interpretation, or a normative gap. The GoP’s report does not see the need for defining these terms, as it believes that the interpretation of the Courts adequately addresses the issue¹³.

While the courts have indeed sought to interpret ‘discrimination’, the definition lacks an in-depth and holistic analysis, ignoring key aspects such as cross-cutting or double discrimination¹⁴. This makes it difficult to address the different types of discrimination, and also to identify where discrimination occurs. For example, the mass massacres of the Hazara community in Balochistan are discussed in terms of religious violence (sectarian violence i.e. between two major Muslim sects: Sunni and Shia), but the racial aspect is rarely raised as a crucial cross-cutting factor and of double discrimination¹⁵.

Civil society organizations and activists continue to demand an Amendment to the Constitution, to include a concrete and holistic definition of ‘discrimination’ and to specifically eliminate and provide protection against discrimination for all.

8. There are certain anomalies in the Constitution too. While purporting equality and non-discrimination in the chapter on fundamental rights, it includes Articles which clearly discriminate against certain categories of citizens. For instance Articles 41(2) and 91(3) bar non-Muslim citizens from holding the offices of the President and Prime Minister respectively. Article 31 assigns the Government freedom to impose the Islamic way of

¹² ‘[SC urged to extend superior courts’ jurisdiction to FATA](http://www.dawn.com/news/1163524)’, <http://www.dawn.com/news/1163524>

¹³ “Fourth periodic reports of State Parties: Pakistan”, Government of Pakistan, 2011.

¹⁴ “Rights? What Rights? An Analysis of Emerging Human Rights from Constitutional Case law in Pakistan”, Maliha Zia and Aiyan Bhutta, Legal Aid Society, 2016.

¹⁵ “In Pakistan, the Hazaras are Punished over Race and Religion”, Malik Siraj Akbar, Huffington Post, 06-06-2012.

life. 203E (4); prohibits non-Muslim lawyers from pleading cases in the Federal Shariat Court, and Article 260 (3) defines religion(s) of citizens in narrow brackets.

9. The Principles of Policy in the Constitution are non-justiciable. Therefore, they are used for purposes of guidance, but do not form actionable laws themselves.
10. Article 36, part of the section on the Principles of Policy, provides a Constitutional equality of rights of minorities, requiring 'legitimacy'. No definition or explanation of what purports to be 'legitimate' has been provided anywhere. Importantly, Article 36, dealing with rights of the minorities, is the only proviso where the term "legitimate rights", has been used in the Constitution of Pakistan.

Hence, Article 36 derogates the fundamental rights of minorities by conditioning their fundamental rights and using an undefined and illogical subjection to an indeterminate notion of "legitimacy".

11. The claim about the establishment of a National Commission for Minorities is contrary to the facts. There exists a Commission operating under the federal Ministry of Religious Affairs, as opposed to an independent, autonomous statutory entity.. An ad hoc body, constituted without any statutes, powers or authority can never function as an autonomous and vibrant Commission according to the Paris Principles.¹⁶
12. The State Party's report has cited some examples from the past about members of religious minorities holding senior positions in the Judiciary, etc. What it fails to quote are current examples because there is no representation of non-Muslim citizens in the Higher and Superior Judiciary, while the ratio of non-Muslims and women in the superior civil services and higher public offices is negligible today. Similarly, there are relatively few examples of ethnic and racial minorities in senior public positions, especially women. It is the institutional, as well as the social and political discrimination and racist attitudes that bar all kinds of minority citizens from attaining higher public positions. The lack of recognition or identification of this gap also leads to the GoP report failing to mention any efforts underway to bridge this exclusion.

Recommendations in paragraph 11:

13. Despite repeated reiteration in the State Party's report of racial discrimination being nonexistent in Pakistan, there has been no appreciable change in the social and economic status of marginalized castes and ethnic groups since the creation of Pakistan in 1947. According to the World Bank's "World Development Indicators (WDI) 2015" over 50 percent of Pakistan's population is living below the poverty line.¹⁷ The impact of this

¹⁶ <http://tribune.com.pk/story/1110485/myth-minorities-commission/>

¹⁷ Business Recorder, June 15, 2015. <http://www.brecorder.com/business-and-economy/189:pakistan/1195906:over-50-percent-of-population-living-below-poverty-line-world-bank/>.

rising trend is more visible among the Christian and Dalit/Hindu minority groups, who are found in a majority in hazardous occupations or working under debt-bondage in slave-like conditions, as Labour Watch Pakistan observed.¹⁸ The case is similar with ethnic minorities, such as Siraiki speakers from South Punjab.

14. Whereas the recommendation of the Committee refers to enacting legislation imposing a ban and prosecution of caste-based discrimination, the State Party's report merely denies the existence of caste. This is once again based on the State's inability to recognize caste-based discrimination, thus denying its existence. It also reflects how the lack of definition of 'discrimination' within the context of this Convention and a few other international human rights conventions, can result in complete denial of an issue, and thus there are no protections put in place and no actions taken for prosecution.

Recommendations in paragraph 12:

15. The State party report claims that the government institutions have developed sensitivity about racial discrimination, however, the questionnaire used for the National Population Census still holds an entry for the Scheduled Castes in the category of Religion. This derogation of the Constitution of Pakistan shows that the normative pledges in the Constitution fail to translate into protection of rights against racial discrimination. Due to the assumption of non-existence, the practice of discrimination on the basis of ethnicity, religion, caste, racial origin, and profession is ignored and there is no forum for aggrieved persons to seek remedies.

The State Party report fails to provide data on the status of the enjoyment of Constitutional fundamental human rights of Scheduled Castes, required by the Committee in this paragraph.

16. Not only does caste-based discrimination exist in Pakistan, but economic and social marginalization also occurs on that basis, as do hate crimes. According to the last Census (1998), when the national literacy rate was 45%, the minorities lagged far behind this average by 11% to 28 %. The literacy rate among Christians was 34%, Jati (caste) Hindus 19 %, Scheduled Caste (Dalit) Hindus 17% and among other minorities (Sikhs and others) around 23%.¹⁹

Due to poor educational, livelihood and economic opportunities available to members of religious and racial minorities, a higher child mortality rate is observed among Hindus and Christians than the national average. For example, a study on minority women of

¹⁸ <http://labourwatchpakistan.com/bonded-and-forced-labour-in-pakistan/>

¹⁹ Federal Bureau of Statistics, quoted in Human Rights Monitor, National Commission for Justice and Peace, 2002-3003 p. 44.

Sindh and Punjab provinces in 2012 observed a higher child mortality rate amongst Hindus and Christians at 10.30 %, compared to the national average of 8.7 %.²⁰ Widespread hunger, malnutrition and associated health implications, caused a high infant mortality rate in 2014 and 2015 in predominantly Dalit Hindu-populated district of Tharparkar in Sindh. The issue was taken up by the former Chief Justice of Pakistan, Mr. Iftikhar Muhammad Chaudhry, who stated in a letter to the Supreme Court of Pakistan that the situation was tantamount to the denial of fundamental rights of the citizens of Tharparkar under Articles 9²¹ and 14²² of the Constitution, as the Government made no adequate arrangements to save the lives of human beings as well as livestock at the onslaught of seasonal drought.²³

In March 2016 the National Commission on Human Rights (NCHR) also took *suo moto* action on the reports of a high number of infant and child fatalities in Tharparkar. It recommended that the federal Government and provincial Government of Sindh should order action against the National and Provincial Disaster Management Authorities, respectively, as well as several other departments, including the Sindh Provincial Health, Food and Agriculture Departments, and the local government, for negligence in managing the drought that caused the deaths of hundreds of children and failing to address the situation in the desert area of Sindh.²⁴ However a compliance of the NCHR's orders is still awaited.

Recommendations in paragraph 13:

17. While CSOs and rights defenders appreciate the setting up of State national human rights institutions (NHRIs), however we observe with concern that the Federal and Provincial Authorities in many instances do not offer their cooperation, thus these institutions cannot deliver on the promises and objectives of such human rights institutions. This includes the financial independence and autonomy of the NHRIs, resulting in their being dependent on the administrative Government Department, as well as the lack of sufficient funds, resources and staff to function efficiently and autonomously.
18. The haphazard and non-systematic devolution of power to the provinces under the 18th Constitutional Amendment (2010) has caused dysfunctionality of some of the ministries and line departments, including Human Rights, Minorities and Women, which has

²⁰ Jennifer and Jacob, Life on the Margins, NCJP, 2012, p.28. http://csjpk.org/Life_on_the_margins.pdf

²¹ Rights to Security, including life.

²² Inviolability of the dignity of man.

²³ <http://tribune.com.pk/story/977861/sc-disposes-of-suo-motu-case-on-deaths-of-thar-children/>

²⁴ <http://pakobserver.net/2016/04/13/thar-tragedy-nchr-holds-sindh-govt-accountable/>

adversely affected the enjoyment of rights of the poorer, marginalized and discriminated sections of Pakistani society.²⁵

Recommendations in paragraph 14:

19. It is appreciable that the Government of Pakistan and the provincial Governments have started taking some action against hate speech, e.g. the use of loudspeakers for that purpose. However hate speech exists in other forms, especially in the curriculum and textbooks taught in public sector schools, colleges and universities. This form of hate speech targets, *inter alia*, non-Muslim minorities, along with clear racial, ethnic and gender biases, and it also promotes ethnocentrism and ideological divisiveness.²⁶

A study by the United States Commission on International Religious Freedom (USCIRF) noted a marked increase of religiously biased content in the textbooks in 2016:

*“Although the removal of some biases from the curriculum indicates a positive trend, the presence of new biased or intolerant content in current textbooks demonstrates the need for a more comprehensive curriculum reform effort. The textbook review identified 70 new excerpts, which indicates that the trend toward a more biased curriculum towards religious minorities is accelerating.”*²⁷

The report concludes that *“the public school system is still fundamentally intolerant of religious minorities: In public school classrooms, Hindu children are forced to read lessons about ‘Hindus’ conspiracies toward Muslims’, and Christian children are taught that ‘Christians learned tolerance and kind-heartedness from Muslims’.*²⁸ This represents a public shaming of religious minority children that begins at a very young age, focusing on their religious and cultural identity and their communities’ past history. A review of the curriculum demonstrates that public school students are being taught that religious minorities, especially Christians and Hindus, are *‘nefarious, violent, and tyrannical by nature’*²⁹. There is a tragic irony in these accusations, because Christians and Hindus in Pakistan face daily *persecution, are common victims of crime, and are frequent targets of deadly communal violence, vigilantism, and collective punishment.*³⁰

²⁵ The 18th Amendment to the Constitution (2010) resulted in large scale devolution across the country and reduction of national responsibilities identified in the Constitution, with the burden being shifted largely to provinces, but without the technical expertise, capacity building or requisite resource allocation.

²⁶ Peter Jacob’s time series studies & Tahira Abdullah’s comparative research study on textbooks in 3 provinces clearly demonstrate this: (1) “Education or Harvesting Hatred?”; (2) “Education vs. Fanatic Literacy”; (3) “Liberation from Suffocating Education”; (4) “Textbooks of Hate or Peace?” (2012-2015).

²⁷ TEACHING INTOLERANCE IN PAKISTAN: RELIGIOUS BIAS IN PUBLIC SCHOOL TEXTBOOKS, USCIRF, 2016.

http://www.uscirf.gov/sites/default/files/USCIRF_Pakistan_FINALonline.pdf

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

20. Discussion in public on the plight of discriminated communities remains controversial and is generally avoided. The most recent example is of a private television channel's recorded talk show in which the host discussed the oppression of the Ahmadiyah community. This show was cancelled before it was telecast, by PEMRA, the Pakistan Electronic Media Regulatory Authority³¹ amid outrage from the religio-political groups and demands for a public apology from the TV channel for "for promoting controversial and sectarian views"³².
21. The hate speech against different sects and incitement to kill continues on large scale with Shia community being the chief victims of targeted killings.⁷⁰

Recommendations in paragraph 15:

Refugees and IDPs

Whereas it is true and appreciated that the GoP has been hosting around 3.5 million Afghan refugees, the largest number around the world, for the last 37 years (since 1979), despite a plethora of its own social, political, economic and security problems, the claim for possessing sufficient arrangements to deal with them and their dignified treatment is overstated. Since 2004, the number of Afghans voluntarily repatriating from Pakistan has reduced from 38,000 a year (approximately) to 7,600 in 2015.³³

22. As reported by UNHCR, around 37% of the returnees cited worsening living conditions in camps and 29% cited fear of detention or deportation. Afghan refugees' presence, particularly after the attack on the Army Public School (APS) Peshawar in December 2014, is increasingly being perceived as a security threat, resulting in increased forced displacement (e.g. through demolishing their informal peri-urban settlements (katchi abaadis) or repatriation. Reports of police extortion, abuse, threats, bribery demands and harassment are not uncommon. Hostility of the general public towards Afghan refugees also went up, particularly post-APS 2014³⁴.
23. IDPs: Although hundreds of thousands of Afghan refugees have returned home, around 1.5 million Pakistani citizens are reported to be internally displaced, either due to conflict-related security operations (e.g. North Waziristan/FATA) or unprecedented monsoon floods or drought. Across the country, floods displaced around 920,000 people in 2015 (about 0.75 million people only in Sindh province). Re-settlement of people fleeing conflict and military operations in north-western parts of Pakistan is a very slow

³¹ "PEMRA bans Hamza Ali Abbasi from hosting Ramzan show", Dawn: <http://www.dawn.com/news/1265476>

³² "PEMRA asks TV One, Aaj News to apologise after controversial Ramzan transmission", 20-06-2016, the Express Tribune.

³³ Human Rights Commission of Pakistan (HRCP), annual report 2015, chapter 6, page 4.

³⁴ HRW 2014, "What are you doing here: police abuses against Afghans in Pakistan": <https://www.hrw.org/report/2015/11/18/what-are-you-doing-here/police-abuses-against-afghans-pakistan>

process. Women from FATA faced serious problems in seeking Government assistance, as a majority did not have Computerized National Identity Cards (CNICs). Inadequate livelihood opportunities in their areas of origin, existing insecurity, missing male household heads, and damaged homes hamper women's urge to eagerly return home (HRCP 2015).

24. Despite hosting millions of refugees Pakistan lacks an effective legal framework to deal with them. Pakistan has not ratified the UN Convention on Refugees and the Optional Protocol. Eventually, it relies on ad hoc measures. The head of UNHCR visited Pakistan in June 2015 and emphasized the need for chalking out a 'viable roadmap' for the return of Afghan refugees. As agreed then between Pakistan's Ministry of Foreign Affairs and UNHCR, tangible and concrete measures to reintegrate them back into their own country and arrange their safe, voluntary return and moreover, a dignified stay so long as they are around is going to be the most practical way to deal with the Afghan refugees³⁵.

Recommendations in paragraph 16:

25. The State Party report is mute on the recommendation about violence in Balochistan. The CSOs recommend that information about how the federal and provincial Governments are responding to the reported cases and allegations related to involuntary enforced disappearances, and the State's judicial commission on disappearances, would be important and necessary to discuss.³⁶

Recommendations in paragraph 17:

26. The State Party report cites some progress in legislation on violence against women (VAW), while the rising reported incidents of VAW raise serious questions and suggest that the State measures to eradicate violence against women and girls (VAWG) needs more serious political commitment, strict implementation of laws and policies, measures towards changing mindsets, and the elimination of a permissive culture, tolerant and condoning of such violence, especially "honour" killing, burning women to death, burying women alive, illegal-jirga/punchayat-sanctioned gang-rape, child rape, acid crimes, "compensation" giving of girls as 'peace offerings' to enemy tribes or clans, bride price, dowry deaths or torture, suicide – the list goes on and on.
27. The collection and compilation of accurate data is very problematic, as both the Government and CSOs/NGOs rely upon the number of cases reported to and recorded by the police, or those reported by the print and electronic media. These figures are widely

³⁵ Daily Dawn (June 23, 2015) UNHCR Chief Praises Pakistan for hosting Afghan Refugees: <http://www.dawn.com/news/1189958>

³⁶ See "Enforced Disappearances in Pakistan: UN Working Group on Enforced or Involuntary Disappearances' report and recommendations", HRCP, 2012: <http://hrcp-web.org/publication/book/enforced-disappearances-in-pakistan/>

acknowledged as being just “the tip of the iceberg”, hence it is unwise to quote them here, or to accept them as being factual. The vast majority of crimes against women and girls occur in the remote rural areas where police reporting rare and the media seldom reaches. Over a decade ago, following an Amnesty International report on “honour” killings in Pakistan, a UN agency disclosed that half the entire world’s recorded “honour” killings are reported in Pakistan (this, despite the low reporting/recording numbers).

According to the data gathered by Aurat Foundation, an NGO working for women rights, as many as 7,010 cases of violence against women were reported in Punjab in 2014. Similarly, 1,707 cases of kidnapping were reported during the year, while those of rape and gang rape numbered 1,408.

Honour killing too was highest in Punjab, coming to around 340 reported cases. The NGO recorded that six women were kidnapped, four raped, three committed suicide and six were murdered every single day in Pakistan in 2014.³⁷

But still VAWG continues unabated. There has been little or no attempt by the State to address the impunity of perpetrators of such violence in society, as very often, they are either politically highly placed themselves, or they can garner strong political backing. There a lack of interest in a robust, across-the-board institutionalization of VAWG education in the curriculum of key criminal justice administration sectors including the police, medico-legal staff and the subordinate judiciary. A few ad hoc training sessions conducted by trained lawyers, activists, or NGOs cannot substitute for the formal incorporation of gender studies, racial, ethnic and minorities’ issues sensitisation into the regular curriculum, which is urgently required.

28. Despite the promulgation of various pro-women laws in the country over the past decade, there have been no laws specifically focusing on the legal protections that women belonging to religious, racial and ethnic minorities need. Sindh is the only province that has recently promulgated a law on required registration of marriages for Hindus, thereby for the first time giving legal recognition of Hindu marriages in Pakistan. However, personal laws are required, including protection in marriage, divorce or judicial separation. An antiquated family law still exists for Christians, which is in desperate need of amendment. The main obstacle in creating or amending such laws is the objection of the men (including leaders) of these religious, racial and ethnic minority communities to legally protecting women’s rights in marriage, divorce and custody, than those found in customary practices and age-old traditions. Thus, law makers have also been reluctant in
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enacting such laws as it is not a 'priority' concern.³⁸ Thus, there is a lack of protection for minority women's family rights in a patriarchal and violent society.

Recommendations in paragraph 18:

29. The State Party fails to provide information sought in the recommendation: "to provide information on the representation of ethnic groups in Government and public services." The Government report relies on stating the measures it has taken, rather than providing concrete examples of the representation of ethnic, racial and religious minorities in the federal or provincial public services. It cannot be assumed that any measures are being effectively implemented until verifiable evidence is presented. Independent observation suggests that Government actions on reservation of job quotas lack proper implementation as shown below.

30. Quota system for jobs

It is appreciated that the federal and provincial Governments issued notifications about reservation of job quotas for government services (since 2009). However, there are three lacunae that hamper positive results in this regard:

- a) Since the Government overlooks the set quotas and reservations in admissions in higher public sector education (colleges, universities, and professional institutions), the availability of highly educated and professional minority candidates qualifying for reserved public sector jobs will remain limited without education. Hence, either the policy will have negative implications such as low academic performance or a certain number of seats will remain vacant due to not meeting the eligibility criteria. The reservation for jobs is meaningless without reservation for admissions in higher/professional educational institutions.
- b) The reservation policy for jobs for minority communities has been introduced through Executive notifications, which do not carry the same weight and advantages as Parliamentary legislation. It is also then very easy to overturn them through notifications by subsequent political administrations.
- c) The Government fails to make a policy for minorities to enjoy their rights under the job quota policy, and also fails to set up a regulatory body to oversee and monitor compliance. There is also a need for an effective grievance redressal and referral system.

³⁸ Experiences of Maliha Zia, Advocate High Court, during negotiations for laws on religious minorities with community leaders and Government departments,

- d) The required collection and compilation of data is missing, which could be used to evaluate the outcomes of the job reservations notification.

Political representation of religious minorities

31. The founder of Pakistan, Quaid-e-Azam Mohammad Ali Jinnah's soul-stirring speeches on the rights of minorities are often quoted but in practice, his ideals are not reflected in Pakistan's laws or policies, nor in their implementation. The goals set under his leadership in the Lahore Resolution (1940), later called the "Pakistan Resolution", is missing in the statutes of Pakistan today. This Resolution, which was strongly supported by the religious and ethnic minorities during the independence movement, stated, *inter alia*:

"That, *adequate, effective and mandatory safeguards* should be specifically provided in the constitution for minorities in these units and in these regions for the *protection of their religious, cultural, economic, political, administrative and other rights* and interests *in consultation with them*".

In fact the above strong and specific language has been replaced by vague and subjective expressions such as "legitimate rights" found in Article 36 of the Constitution.

32. The Government of Pakistan has yet to make efforts to cleanse the political system of the negative effects of an apartheid mode of separate electorate for religious minorities, which remained in practice from 1979 to 2002. The five general and three local bodies elections held under this mode, whereby the citizens were not allowed to vote beyond their religious identity, leaving the society divided on the basis of religion and sect. The federal and provincial Governments need to make more sincere efforts to include the religious and ethnic minorities and sects in the national political mainstream (please refer to the recommendations section below).

The Ahmadiyah community is disenfranchised in politics due to a forced segregation. Whilst Ahmadis consider themselves to be Muslims, the majority Muslim sects in Pakistan continue to consider them non-Muslims, with a Constitutional Amendment declaring them to be non-Muslims.. The law criminalises Ahmadis if they declare themselves to be Muslims or use Muslim terminology in their worship places.³⁹ It has been mandatory to identify one's religion as well as signing a declaration which

³⁹ Sections 298-A; 298-B; and 298-C added to the Pakistan Penal Code.

specifically targets the Ahmadiyah community,⁴⁰ This is inconsistent with their beliefs, which they refuse to sign in protest.⁴¹ Any person not signing the declaration was therefore added to a supplementary list of voters as non-Muslims, resulting in a separate electorate for the Ahmadiyah community. The Pakistani citizens of the Ahmadi community refuse to participate in elections in protest and therefore have not had their representative in any legislative body in many decades.

33. There has been no increase in the reserved seats for minorities in the National Assembly (lower house of Parliament), and the four Provincial Assemblies since 1985, although the general seats have been increased by over 65 percent for the National Assembly and by at least 23 percent in the Provincial Assemblies, resulting in weak representation of the minorities.
34. The legislature seats reserved for minorities are filled through nominations and selection by the winning parties under the formulae of proportional representation. Neither the People's Representation Act (1976) nor the Political Parties Act (with several amendments), nor any other law addresses the concerns of minorities, like truly representative and effective political participation, transparency and accountability before the electorate and the communities they represent. The danger is that the ineffective representation of minorities might create an environment where people are forced to prefer some form of a separate electorate, which is evidently detrimental *to the national fabric*.

Recommendations in paragraph 19:

Landmark Judgement of the Supreme Court

35. Disposing of a number of petitions and *suo moto* actions, the Supreme Court of Pakistan (SCP) addressed many of the above issues jointly in a landmark judgement on 19 June 2014.⁴² The eight matters before the SCP were about issues of protection of places of worship, forced conversions and forced marriages, registration of minority community marriages, affirmative action for provision of job opportunities, and security of ethnic and sectarian minorities such as the Kalash tribes and Ismailis.⁴³

⁴⁰ Chief Executive's Order No. 15(2002), The Gazette of Pakistan, Ministry of Law, Justice and Human Rights, June 17, 2002.

⁴¹ "A Brief on Ahmadis and Elections in Pakistan", 15-04-2016: www.persecutionofahmadis.org

⁴² SCP *Suo Moto* CMA 1 2014.

⁴³ The Kalash are an ethnic, linguistic, cultural, religious minority living in Chitral district of Khyber Pakhtunkhwa, Pakistan for many centuries – they are often subjected to forced conversion, physical threats and economic exploitation. Ismailis are a sub-branch of the Shia Islamic sect, mostly living in Karachi and Gilgit-Baltistan. Ismailis have been targets of terrorist and sectarian attacks.

Instead of providing a separate remedy for each complaint, the Apex Court chose to deliver an extraordinary, landmark judgement, emphasizing the Constitutional rights of all citizens, e.g. equality of human rights without any discrimination. The SCP ordered wide-ranging measures and institutional arrangements for protecting the rights of all minority citizens.

The Supreme Court ordered the establishment of a National Council for Minorities and three different task forces to: (1) formulate a strategy for religious and social pluralism and harmony in the country, (2) introduce educational curriculum reforms, and (3) ensure security of minorities' places of worship through a special force.

The National Council for Minorities was to be set up with a mandate to monitor the implementation of minorities' fundamental human rights as well as to contribute advice on policy matters. By nature of this SCP-set mandate, it was bound to be a permanent, independent and statutory human rights institution according to the UN prescribed Paris Principles.

The remaining three orders included: (a) ensuring criminal proceedings against perpetrators of the violation of the human rights of minority individuals and communities, (b) curbing hate speech in the media and social media, and (c) ensuring the implementation of the existing reservation of jobs for minorities in the government/public sector. The SCP also specified, as necessary, whether the orders were to be implemented by the federal or provincial Governments.

Up to December 2015, a year and half later, the federal and provincial Governments together had reached only 44 percent on-paper compliance.⁴⁴ The federal Government made the least on-paper compliance (20 percent). The federal Government also failed to constitute a Committee tasked with the implementation of this hallmark judgement, nor was the implementation discussed in the federal and provincial Parliament/legislatures.

Freedom of religion and belief, thought and expression

36. The religious, racial, ethnic and sectarian minorities have suffered unspeakable infringement of their fundamental human rights due to the so-called 'blasphemy laws' which are basically the language inserted by the military dictator, General Zia-ul-Haq (1977-88), into Sections 295-B, 295-C, 296, 298-A, 298-B and 298-C of the Pakistan Penal Code (1860), providing for stringent punishments for various prescribed offences relating to religion.⁴⁵

Section 295 B deals with the desecration of the Holy Quran and Section 295 C with insult against Prophet Muhammad (PBUH). The first carries life imprisonment while the latter carries a mandatory death penalty. Section 298 A seeks to protect the honour of the

⁴⁴ No court hearing on a subsequent petition was held after December 2015: <http://tns.thenews.com.pk/judging-rights/#.V2Y8z1V97IU>

⁴⁵ <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>.

family members, companions, caliphs and wives of the Prophet, against any insult; it carries two years of imprisonment, fine or both. Sections 298 B and 298 C place restrictions on Ahmadis for preaching their faith and calling themselves Muslim or using the epithet used by Muslims. Both carry imprisonment up to three years, fine or both. Section 295 C is a non-bail-able offense while the remaining four are cognizable and bail-able offenses.

The Government has not provided comprehensive data and analysis of the use, abuse, misuse or exploitation of the “blasphemy laws”. However, according to research by non-government institutions, at least 1,446 persons had been accused under the “blasphemy laws” from 1987 to 2014.⁴⁶ (Muslims 724, Ahmadis 501, Christians 185, Hindus 26 and 10 whose religion was not known). Hence, over half of the victims were non-Muslims whereas they are merely a tiny fraction of Pakistan’s population. The data includes accusations because the consequences of a perceived heresy have proven to be equally or even more disastrous, resulting in vigilantism, brutal loss of life, liberty and property.⁴⁷ Court cases may take years to be resolved. 1,117 of the incidents were in Punjab, 304 in Sindh, 35 in Khyber Pakhtunkhwa, and five in Balochistan. The data makes Pakistan stand out as a country having more cases of “blasphemy” than the rest of the world put together in the past few decades.

The inherent flaws in these laws and their arbitrary application caused serious and grave human rights violations which successive Governments of Pakistan have failed to acknowledge or address. At least 53 persons have been assassinated or killed, including several deaths in custody, 64 women and many children have also been accused. The amended text of these laws is religion-specific, hence it carries an embedded religious discrimination.

The convictions so far by the trial courts have been overturned by the higher judiciary (some cases are still pending), which lends credibility to the argument that the law is flawed and open to abuse, resulting either in wrongful accusations and convictions, or in vigilante mobs taking the law into their own hands.

A research study carried out recently by the Legal Aid Society (Karachi) showed that: “The majority of blasphemy cases were based on false accusations stemming from property issues or other personal or family vendettas rather than genuine instances of blasphemy and they inevitably lead to mob violence against the entire (minority) community”.

Another research study by the International Commission of Jurists (ICJ) in November 2015 showed that 15 out of 25 acquittals under Section 295-C, were because the high court found the charges to be: “fabricated complaints, malice or personal vendettas”, nine were acquitted because of procedural flaws in prosecution and investigation, and two on grounds of insanity.⁴⁸

⁴⁶ Human rights Monitor, National Commission for Justice and Peace, Lahore, 2014 plus cases in 2015. See also reports and a research kit prepared by the Jinnah Institute.

⁴⁷ See <http://newlinemagazine.com/magazine/licence-to-kill/>

⁴⁸ <http://www.icj.org/pakistan-trials-for-blasphemy-fundamentally-unfair-icj-new-report/>

The UN Special Rapporteur on Religious Tolerance had warned the GoP about such abuse over 20 years ago. Recording his opinion in the country reports after his visit to Pakistan in 1995, he recommended to substantially amend the laws.⁴⁹ The views, reiterated by the Human Rights Committee ref. ICCPR in 2011 in the General Comment 34, Para 48, stated that “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant (ICCPR).⁵⁰

The human rights violations caused by the “blasphemy laws” of Pakistan were discussed in the Universal Periodic Reviews of Pakistan (2008 and 2013),⁵¹ and recommendations were made for introducing amendments to these laws and establishing non-discrimination⁵² to foster religious tolerance and peace.⁵³ The Working Group Session for the Universal Periodic Review of Pakistan (2012), paragraphs 38, 59, 67, 78, 79, .80 and 105, underlined these concerns and several specific recommendations were made, addressing the issues regarding the “blasphemy laws”.⁵⁴ The State Party representatives rejected all the recommendations concerning amendments to the blasphemy laws.⁵⁵

37. Besides violating the Constitutional freedom of religion and belief, freedom of thought and expression, the “blasphemy laws” pose real existential risks, especially for religious minorities. They cannot enjoy the protection of law and security, until these laws are amended and the public is educated about the requisite respect for all religions and beliefs. Successive Governments of Pakistan have failed to address worst forms of human rights violations under the “blasphemy laws” spanning over three decades.
38. The Supreme Court of Pakistan recently stated in the Mumtaz Qadri judgement that criticizing the “blasphemy laws” – which are human-made not divine laws – cannot be

⁴⁹ E/CN.4/1996/95/Add.1, para. 81, (report on country visit to Pakistan)

⁵⁰ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f34&Lang=en

⁵¹ A/HRC/8/42, Para. 27, 28 and 37

⁵² A/HRC/8/42, Para. 106, Recommendation and Conclusions No. 1: “To remove restrictions on freedom of religion or belief and amend legislation that discriminates against persons belonging to minorities” (Canada) and “effectively protect and satisfy the unimpeded exercise of freedom of religion of non-Muslim citizens” (Greece) and “the repeal of laws discriminating against non-Muslims, if any” (Denmark).

⁵³ In 2008 and 2013 respectively.

⁵⁴ A/HRC/22/12, Para. 122.28. “Ensure that blasphemy laws and their implementation are in line with international law” (Switzerland); “Enact legislation ensuring freedom of religion and belief for all religious groups and consider abolishing the so-called blasphemy laws” (Austria); “Repeal or reform thoroughly the so-called blasphemy law” (Netherlands); 122.32. “Repeal discriminatory blasphemy laws against religious minorities and ensure that there is no impunity for those who commit hate crimes” (Namibia); “Repeal the blasphemy law and respect and guarantee freedoms of religion or belief and of expression and opinion for all, including Ahmadis, Hindus and Christians” (France). 122.33. “Repeal the blasphemy law, or at least amend it to protect persons from eventual abuses or false accusations and lighten corresponding penalties, that are currently disproportional” (Holy See).

⁵⁵ A/HRC/22/12/Add.1.

considered blasphemy.⁵⁶ The Government has failed to use this opportunity to initiate a process to amend the “blasphemy laws”.

39. The Government has not prosecuted the assassins of then Minister for Minorities Affairs, Mr. Shahbaz Clement Bhatti, who was murdered in March 2011 in Islamabad.

Right to land, places of worship and private properties

40. The private and communal properties (e.g. places of worship and education) belonging to minorities are often subjected to encroachment and land grabbing. The State institutions supposed to protect these properties have neglected their oversight and due diligence. Some of the historical religious places are being sold, and transformed into commercial places – the Jewish synagogue in Karachi, the Temple of the sun god (Suraj Miani) and the Jain Mandir of Lahore are just a few examples. The historical Temple of Parhalad Bhagat in Multan, which was destroyed by a fanatic mob in 1992, has still not been restored.
41. Instead of giving the charge to their respective minority communities, a Government-appointed board manages the places of worship belonging to Hindus and Sikhs, under the pretext of “evacuee property” (dating back to the creation of Pakistan in 1947). The Government Evacuee Trust Property Board (ETPB) administers evacuee properties left behind by Hindus and Sikhs who migrated to India after independence in 1947, and controls and manages about 109,400 acres of agricultural land and about 46,500 acres of built-up urban sub-units.⁵⁷

The ETPB officials have been found involved in corruption related to properties owned by minorities, and allowing encroachment to land mafias in return for kickbacks.⁵⁸ The ETPB Chairman was alleged to be involved in selling hundreds of acres of land belonging to religious places, e.g. Sikh Gurdwara Janam Asthan in Nankana Sahib, to various realtors illegally.⁵⁹ In April 2016, the ETPB former Chairman, Syed Asif Hashmi, was arrested for his alleged corruption, illegal occupation and unlawful practices during his tenure (December 2008 to March 2013).⁶⁰

Several land grabbers have occupied the ETPB land illegally, hand in glove with ETPB officials, employees and politicians. For instance, over 5,000 acres of ETPB land across Punjab, over 4,000 acres of land across Sindh, while around 200-300 acres in Khyber Pakhtunkhwa are in unlawful possession of encroachers. In Balochistan, ETPB commercial property worth billions was sold off illegally by its two former heads, who were retired military generals during General Musharraf’s dictatorship rule (1999-

⁵⁶ Criminal Appeals No. 210 and 211 of 2015, Supreme Court of Pakistan judgment.

⁵⁷ <http://www.etpb.gov.pk/>

⁵⁸ <http://tribune.com.pk/story/805367/evacuee-board-to-take-action-against-officials/>

⁵⁹ <http://tribune.com.pk/story/1022455/grave-charges-former-gurdwara-parbandhak-committee-supremo-released-on-bail/>

⁶⁰ <http://www.thenews.com.pk/print/111055-Asif-Hashmis-arrest-first-step-towards-justice>

2008).⁶¹ The ETPB must not continue to perform functions that primarily belong to the respective minority communities.

While the similar the Evacuees Trusts in the neighbouring countries were abolished several decades ago and the communal Trusts have only one representative of the government. In Pakistan on the other hand, the concern communities have symbolic representation in ETPB, having little power they cannot help check misappropriation of the resources and perform functions that primarily belong to respective communities.

42. The government must not only protect the properties of Hindu and Sikh Communities, and retrieve the occupied land but also allow respective communities to manage their places of worship.

Recommendations in paragraph 21:

43. The State Party report mainly relies on normative material rather than facts on the ground. The Government has not collected official statistics on different forms and locales of slavery in practice in Pakistan in the recommendation in the paragraph 21. However the figures collected by Green Rural Development Organization estimated that over 2.3 million people are serving under the inhuman practice of debt bondage.⁶²

Pakistan has still not ratified ILO Convention 177, pertaining to Home-Based Workers, and neither has it adopted the national policy drafted and presented way back in 2008.

44. The Global Slavery Index estimates 1.13 percent of population of Pakistan under slavery, which is a conservative assessment, while the Index rates the State's response to bonded labour as CCC.⁶³
45. The State Party report mentions 100 million Rupees being reserved for the elimination of bonded labour. This amount was announced in 2001 and has not been used till 2016 – at least, not for the said purpose. It seems that successive Governments lack the commitment, a serious plan and clarity about tackling the issue of bonded labour.

Recommendations in paragraph 22:

46. This recommendation questioned whether the Provincial Assemblies have authorized the use of Mother Languages in the courts and in education as the medium of instruction, about which the State Party report is silent.

Mother languages in Pakistan have not been acknowledged sufficiently. In fact, in certain cases they have been deliberately silenced. For instance the Punjab Assembly has been barred from using the languages of the province for conducting parliamentary business in the Provincial Assembly. It must be noted that there are two major ethnic languages in Punjab, i.e. Punjabi and Siraiiki.

⁶¹ <http://www.dawn.com/news/1253863>

⁶² <http://tribune.com.pk/story/965777/bonded-labour-modern-day-slavery-in-pakistan/>

⁶³ <http://www.globalslaveryindex.org/index/#>

Recommendations in paragraph 23:

47. The State Party again chose not to respond to the question of awareness about and reparations paid to the victims of racial discrimination. The Government report needs, at the very least, to make a formal commitment to bridge this data and action gap in the near future.

Recommendations in paragraph 24:

48. The State Party report assumes that an answer to paragraph 24 is provided under the response to paragraph 22, which is just a deflection and avoidance of the question.

Recommendations in paragraph 25:

49. The State Party response fails to give a reason for non-compliance of ratification of the ILO Convention 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, and also does not provide a timeline **commitment** to do so.

Recommendations in paragraph 26:

50. The State Party report fails to appreciate the importance of the International Convention on Rights of Migrant Workers and Families in the human rights framework as well as in international trade. We disagree that this recommendation is not considered applicable to Pakistan by the Government representative, for several reasons and we recommend that the State Party be required to consider the ratification seriously.

Recommendations in paragraph 27:

51. Civil Society welcomes the designated date of August 11 as the annual National Minorities Day and would like to recommend that observing this occasion should be used for creating an environment of acceptance of plurality, diversity, respect, and promoting an inclusive, harmonious concept of Pakistan and its heterogeneous society, rather than perceiving Pakistan as a social, religious, and political hegemony of the majority.

The Government urgently needs to find ways to encourage ethnic, racial, religious and interfaith harmony, on the common grounds and universal values, i.e. human rights, equality of all citizens, gender justice, equality in development, tolerance, respect and peace.

52. The institutional functions need to be kept in view while making a match between means and ends. For instance, the security of places of worship of the minorities is clearly not best managed by a Parliamentary Standing Committee. A special task force is required, as ordered by the Supreme Court on 19 June 2014.

Recommendations in paragraph 28:

53. The stance in the State Party's report contradicts the position that it took in paragraphs 80, 81 and 84 because if racial discrimination, in any form and manifestation, was truly non-existent the government would not have been obliged to take measures against it. Moreover Pakistan should use the advantage of participation in Durban process for a mutual learning and finding the ways out to fight discrimination on the basis of race, descent and profession.
54. The normative / aspirational material cannot be presented as living social reality unless empirically proven. If the aspiration of the constitution of Pakistan was given precedence over the reality of today, then one can argue that slavery is not allowed but this position would be taken at the cost of ignoring the plight of millions of people living in bondage. And the next generation will fail to see a change.

Recommendations in paragraph 29:

55. Civil Society welcomes the Government's announcement that the State Party's report would be made public – however the report was not available on the GoP website until 30 June 2016. It has not been disseminated through the media, nor is any translation available to CSOs/individuals.

Recommendations in paragraph 30 – 33:

56. Concerning the institutional and political transition the Civil Society and rights defenders believe that “normalcy” is not a prerequisite to State compliance with human rights standards and binding obligations. We believe that the quality of transitions and reforms very much depends upon the State's compliance with its human rights obligations. CSOs and rights defenders wish to work in cooperation with the Treaty Implementation Cell of the Ministry of Human Rights and also with the National Commission on Human Rights and its provincial counterparts. However, such cooperation is a two-way street and it is the State Party's responsibility to ensure the inclusion and participation of Civil Society Organizations in the implementation, monitoring, reporting and consultation process of this Convention.
57. At the same time we reiterate the continuation of our efforts and struggle for advocacy with the State to intensify its efforts towards respect, protection, promotion and fulfilment of its international obligations towards the human rights of all citizens of Pakistan, as per Article 25 and others of the Constitution.

CSOs and rights defenders' recommendations for the State Party's 2016 review

1. Civil Society calls upon the State party to seriously re-examine its position on the prevalence of racial discrimination in Pakistan; and calls upon the State party to make the Optional

Declaration provided for in Article 14 of the Convention and introduce domestic laws to define, prosecute and punish discrimination. The government should also assess the protection of rights available to ethnic, linguistic minorities, gypsies and the indigenous people.

2. Through educational, legislative and institutional measures, the Government of Pakistan needs to promote and protect the ethno-linguistic and socio-cultural rights of all the people of Pakistan. It should promote additive multilingualism rather than subtractive bilingualism. Introducing promotion-oriented rights of people's languages – through a just and equitable system of education – in order to secure Pakistan from the threat of ethno-lingual conflicts and deprivation among various numerically small ethno-lingual, racial and religion-based groups.⁶⁴

Demonstrating acceptance for ethno-linguistic diversity, cultural richness and historical legacy, all languages of Pakistan need to be promoted (politically, socially and academically) at par with Urdu and English languages. Shrinking languages like Brahui, Hindko and those at the verge of extinction like Kailashi, Gilgati, Balti, Shin, Brochski and other similar languages needs special measures for their protection and growth in the country. We believe that languages can serve instrumental in promoting diversity, tolerance and plurality that Pakistan essentially needs at this juncture of time.

3. Regarding refugees: Pakistan needs to actively work to find a way out for their assisted voluntary return home, based on the accepted UN principles of human rights. Police and other law enforcement agencies need to be sensitized to treat refugees in a dignified and humane manner and desist from harassment and intimidation.
4. The CSOs call on the Government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and hold independent inquiries into the allegations of enforced disappearances also recommended by the Working Group on Enforced or Involuntary Disappearances after its visit to Pakistan in 2013.⁶⁵
5. Constitutional, administrative and policy changes be introduced to extend the judicial protection of rights (court's jurisdiction) to FATA and other tribal areas to bring the people at par in equality of rights.
6. IDPs: Likewise planned and systematic measures need to be taken to minimize internal displacement and mitigate its effects, whether caused by natural disasters or security operations in conflict zones. Pakistan should adhere to the internationally recognized UN

⁶⁴ Rahman, Tariq: "Language policy, multi-lingualism and language vitality in Pakistan", Quaid-e-Azam University, Islamabad, 2003.

⁶⁵ A/HRC/22/45/Add.2.

principles in the policy and legislative framework to acknowledge IDPs' needs and entitlements, and learn from international experiences as well. While addressing their concerns the IDPs and refugees themselves must be heard. The role of CSOs/NGOs in facilitating IDPs and Afghan refugees must be acknowledged and their humanitarian contribution must not be obstructed.

7. The CSOs call upon the State institutions, primarily the federal and provincial Governments, to cooperatively work together for an early and effective compliance of the whole SCP judgement on 19 June 2014,⁶⁶ through a cross-section and broadly represented implementation committee, which needs to include CSOs and widely accepted minority representatives. In order to ensure that five percent job quota for minorities is implemented in letter and spirit, the government should set up a regulatory – recommendatory body at provincial and federal levels, moreover the similar quota should be introduced for admissions in the professional and academic institutions.
8. The CSOs call upon the State Party to also set up a parliamentary committee or an inter-ministerial committee to oversee the implementing of the historic landmark judgement in compliance with the provisions of the Constitution, and also in adherence to its obligations as a State Party to this Convention.
9. The Evacuee Property Trust Board should be reconstituted to give control to respective communities to manage their places of worship and properties attached to them.
10. The indicators of disparity in education and health show that the disparity in rights protection, is resulting in the tragic deaths of hundreds of infants and children, and the marginalization of millions of people belonging to scheduled castes, tribes and ethno-lingual minorities. Hence, in addition to the necessity of collecting accurate data about scheduled castes, gypsies or nomads and caste-based discrimination, there is a need to address discrimination and marginalization on the basis of caste, race, gender, language and ethnicity.
11. CSOs also note with concern the absence of an autonomous, independent National Commission for Minorities, empowered according to the Paris Principles and the historic, landmark judgement of the Supreme Court of Pakistan,⁶⁷ which is an absolute necessity, as a bare minimum. The Government should establish this Commission without any further delay.
12. Pakistan needs to ratify the UN human rights Conventions not yet ratified, including, the Convention on the Protection of Rights of Migrant Workers and members of Families, Death Penalty, ILO C-177, CEDAW Optional Protocol, amongst others. Where Pakistan has

⁶⁶ S.M.C. 1, 2014. http://www.supremecourt.gov.pk/jsearch/Judgment/S.M.C._1_2014.pdf

⁶⁷ Infra 64.

ratified Conventions with reservations and/or General Declarations (e.g. CEDAW), these need to be re-examined for withdrawal. We call upon the State Party to make the Optional Declaration provided for in Article 14 of this Convention. The government must effectively implement the women friendly legislations to curb Violence Against Women on urgent basis.

13. The representation for reserved seats in the Senate, National and Provincial Assemblies, may be filled through intra party elections to make the process of election more transparent and the their categories and number should be increased in the spirit of affirmative action to include representation from labour, farmers, persons with disability and transgender community.
14. In view of the recommendation of the Special Rapporteur on Religious Tolerance⁶⁸ and the UN Human Rights Committee's General Comments 34,⁶⁹ the Government of Pakistan should substantially amend the blasphemy law to halt the abuse of these laws urgently.
15. The government should pass legislation to criminalize bonded labour providing with an implementation mechanism besides using the funds for elimination of bonded labour effectively.
16. The Government of Pakistan should engage to stamp out the root cause of hate speech, including the discrimination in education policy and hate speech on the basis of race, ethnicity, language, religion, sex or gender, origin or identity in the textbooks and online spaces, while ensuring that this law clearly and carefully defines inciting speech to ensure that it isn't used to curb legitimate political or ideological expression. The government should adopt a declared policy for Interfaith harmony along with an action plan.
17. The government should protect human rights defenders against harassment, intimidation and threats to their life and liberty. The application of the regulations on NGOs should be non-discriminatory and without interfering with fundamental freedoms guaranteed under the domestic and international laws.



⁶⁸ E/CN.4/1996/95/Add.1 Para 82.

⁶⁹ CCPR/C/GC/34, Para 48.