

**Joint NGO Submission by the
Pakistan Dalit Solidarity Network
and the International Dalit Solidarity Network**

**related to Pakistan for the
14th Universal Periodic Review session
scheduled for 30 October 2012**

DISCRIMINATION AGAINST DALITS IN PAKISTAN

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Brief introduction to the organisations behind this report:

The *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.

The *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.

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I. INTRODUCTION

When Pakistan was reviewed by the UPR Working Group at its 2nd session in May 2008, several states expressed concern about the protection of minorities in Pakistan. Three states specifically raised the issue of caste-based discrimination and the situation of Dalits (officially known as “Scheduled Castes”), which is the primary focus of this joint NGO submission.¹

In the outcome document (A/HRC/8/42), the following recommendation was made:

31. To take measures to eliminate discrimination against castes and high degree of poverty suffered by castes (Luxembourg) and take specific and targeted measures to effectively prevent discrimination against Scheduled Castes (Denmark).

When these recommendations were raised in the interactive dialogue, the Pakistani delegation first stated that Pakistan is a “Muslim country and does not have the concept of Dalit or Scheduled Caste”, and furthermore that Pakistan is “free from such kind of prejudices, and the existing norms do not contain discrimination on the basis of caste or creed” (para. 99 of A/HRC/8/42).

However, a few months later when the Government of Pakistan (GoP) responded to the report of the UPR Working Group, a new and more open position was taken on this issue. In an addendum (A/HRC/8/42/Add.1), it was stated that efforts are made to eliminate caste discrimination:

11. Discrimination on the basis of caste is prohibited under our law. Efforts are made to eliminate discrimination wherever it exists and to give maximum support to scheduled castes. The Federal Government has relaxed upper age limit for the scheduled castes for government jobs. The Ministry of Minorities intends to associate one member from the scheduled caste of Hindu community in the National Commission for Minorities. The Government of the Province of Sindh, where most of the scheduled caste Hindus live, has appointed an advisor from scheduled castes. We are encouraging NGOs to highlight the issues of scheduled castes to seek redress to their grievances.

Nevertheless, the Government has not lived up to its promises and obligations in this regard, as explained in this report. Nor was the national consultation process in preparation of the UPR fully inclusive of this aspect.²

This report examines the current situation of Dalits in Pakistan, and provides suggestions for follow up to the accepted recommendations from the first review in 2008 in compliance with resolution 16/21 and 5/1 of the Human Rights Council. The observations are based on government data and reports, independent studies, and recommendations by the UN, including the Committee on the Elimination of Racial Discrimination (CERD), which reviewed Pakistan in 2009.

¹ The word “Dalit” is increasingly used by non-governmental organizations and the media to refer to Scheduled Caste communities in Pakistan. The common word used in government and non-governmental reports is Scheduled Castes, and the word “Dalit” is yet to be recognized in government terminology. But the problem is that Scheduled Castes is a narrow definition and take in account only a group (low caste) of religious minorities- Hindus. Therefore, the word “Dalit” is used in this report.

² The Ministry of Human Rights in Pakistan has held four consultations with financial and technical support from the UN. While the GoP has conducted a series of consultations in preparation of its second UPR report, the process has been limited and non-representative. For example, not a single Scheduled Caste representative has been invited to the consultation in the Sindh province on 11 April 2012. The issue was however raised in the meeting and with the Ministry of Human Rights by PDSN. There was no representation of trade unions either at the consultation, which is problematic since bonded and forced labour (especially affecting Dalits) is a major concern in this region.

II. DISCRIMINATION AGAINST DALITS IN PAKISTAN

Even since the first UPR in 2008, where the GOP gave a positive commitment to address this issue continue to be socially and physically excluded from the mainstream as they are compelled to segregated housing and are denied social, political and economic rights.

In Pakistan, Dalits fall victim to caste based discrimination including the practise of 'untouchability' among Pakistan's 160 million people. Hindus and Christians in Pakistan, as religious minorities, already suffer discrimination in an Islamic society. For the Scheduled Castes there is double discrimination, because they are victimized within the Hindu community by the Hindus themselves.

"Untouchability" is obvious in all spheres of private and public life. As a result, Scheduled Castes live in separate colonies, they are served food in separate crockery, and they cannot sit inside with upper castes.

Another aspect of this problem is caste discrimination in disaster management (see the last section of this report on "high priority concerns not addressed in the first UPR").

Official statistics claim that Scheduled Castes consist of 0,25% of Pakistan's total population which amounts to approximately 330,000 persons.³ Representatives of Scheduled Castes however claim that numbers may be as high as 2,000,000. These data do however not include 'lower castes' within the Muslim community, living under similarly depressed conditions.⁴

III. IMPLEMENTATION OF UPR RECOMMENDATIONS FROM FIRST REVIEW

Status and recommendations of accepted recommendations (of relevance to the issue of caste discrimination) from the UPR in 2008:

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); (accepted)

Status quo of implementation: Since the first UPR, the GoP has taken no specific measures to address the concerns highlighted in the abovementioned UPR recommendations. Minority groups continue to suffer in Pakistan, and no new legislation or amendments in laws have been made to ensure the freedom of religion and belief. In fact, the last four years have been more troublesome for minorities, because religious extremists have continued to terrorize these groups.⁵

³ Pakistan Census Report 1988

⁴ Source: "Long Behind Schedule: A Study on the Plight of Scheduled Castes in Pakistan" (2008). The focus of the study is on Pakistan's Scheduled Castes residing in lower districts of Sindh and Southern Punjab in Pakistan. It was part of a Regional Study on Caste-based Discrimination in South Asia, and is available here: http://idsn.org/fileadmin/user_folder/pdf/Old_files/asia/pdf/RR_Pakistan.pdf

⁵ Examples of this worrying trend include the following three cases: In 2011, Salman Taseer, governor of Punjab province and a Muslim by belief, was gunned down in broad day light in Islamabad for meeting a Christian woman imprisoned under alleged allegations of blasphemy and forwarding her application of mercy to the president. His murder was followed by the killing of Mr. Shahbaz Bhatti, a sitting federal minister and a representative of Christians. Both the murders and street mobilization by fundamentalists' organizations for the release of murderers further terrorized the minorities. Ms Sherry Rehman, a female Member

The major groups of non-Muslim minorities in Pakistan - the Ahmadis, Christians and Hindus - have remained under attack during the last four years.⁶ Ironically, the government has not taken any specific steps and has kept silent on these issues, despite its commitment to the cause at the first UPR and the constructive dialogue with CERD in 2009 on these issues.

In the Concluding Observations by CERD in 2009 (CERD/C/PAK/CO/20), the Committee stated its concern that no comprehensive anti-discrimination law has been adopted, in spite of reports of persisting de facto discrimination against members of certain minority groups.⁷

Recommendations:

- The GoP should enact and implement measures to ensure effective protection of minorities, taking into account all the grounds of discrimination included in Article 1 (1) of the Convention, as recommended by CERD.
- The GoP should take specific steps to eliminate discrimination against Dalits in Pakistan in accordance with CERD General Recommendation 29 (2002).⁸

31. To take measures to eliminate discrimination against castes and high degree of poverty suffered by castes (Luxembourg) and take specific and targeted measures to effectively prevent discrimination against Scheduled Castes (Denmark); (accepted)

Status quo of implementation: While there are constitutional safeguards in place to prohibit caste-based discrimination in Pakistan, the GOP has not made a serious effort to fully implement or enforce those laws. Since the first UPR, the GOP has taken no specific action aimed at eliminating the practice of discrimination on the basis of caste or eradicating poverty among Scheduled Castes. Scheduled Caste populations in Pakistan continue to suffer high degree of poverty, as no major scheme has been launched for this group.

In 2009, CERD expressed concerns about the fact that the GoP has “not yet adopted a law prohibiting discrimination on the basis of caste” and about 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).⁹

of Parliament and currently serving as ambassador to US, received death threats after she submitted a bill in the parliament seeking amendments in blasphemy law. She was forced to withdraw the bill as her party currently in power bows down before religious parties.

⁶ According to Human Rights Commission of Pakistan, 110 Ahmadis were killed during the years from 2009-10 and 11. Hindus also continue to face incidents of violations and intimidation. The most horrific incidence is the killing of three Hindu men in district Shikarpur, Sindh on Eid Day (November 7, 2011). It was due to the hatred and religious bigotry in Pakistan that 151 Pakistani Hindus sought asylum in India in 2011 (Source - HRC).⁷

⁷ In paragraph 11 of the Concluding Observations (CERD/C/PAK/CO/20), the following recommendation was made: “The Committee recommends that the State party adopt a comprehensive law on the elimination of discrimination on the grounds of race, colour, descent or national or ethnic origin, taking into consideration all elements of the Convention. It also wishes to receive detailed information on the measures taken to implement anti-discrimination legislation with a view to eliminating de facto discrimination.”

⁸ CERD GR 29 (2002) proposes that States parties take measures to eliminate “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”

⁹ In para. 12 of the Concluding Observations (CERD/C/PAK/CO/20) CERD states that: 12. While the Committee welcomes the steps taken by the State party to address caste-based discrimination, such as a range of development schemes and the appointment of a member of a scheduled caste as advisor to the Sindh Province Senate, it is concerned that the State party has not yet adopted a law prohibiting discrimination on the basis of caste. It is further

PDSN and IDSN recommend the government to take such steps in accordance with CERD's recommendations, and include such information in the next periodic report to CERD, which was due on 4 January 2012.

Another pressing issue is the accuracy and lack of disaggregated data on caste in Pakistan.¹⁰ In the first phase of the new national census process, which was started in 2011, no special efforts have been made to ensure accuracy of the data based on caste. Without accurate, disaggregated data on caste, it is impossible to assess and redress issues concerning food security, employment, and living conditions enjoyed by this group, as well as other minorities in Pakistan.

Recommendations:

- The GoP should adopt a law prohibiting discrimination on the basis of caste and take effective and immediate measures to ensure its effective implementation to protect those discriminated against on the basis of caste, as recommended by CERD;
- The GoP should endorse and make use of the draft UN Principles and Guidelines for the effective Elimination of Discrimination based on Work and Descent as a comprehensive framework to eliminate caste discrimination;
- The GoP should provide information on concrete measures taken to combat caste-based discrimination and statistical data on persons belonging to Scheduled Castes in the next periodic report to CERD, as recommended by CERD, and in other treaty body reports;
- The GoP should restore the six percent job quota for Scheduled Castes in the government services positions.

32. To enhance efforts in the provision of adequate housing and address the identified backlog in this regard (South Africa); (accepted)

Status quo of implementation: No government schemes have been launched to provide adequate housing for Scheduled Castes during last four years. Instead, they continue to live in poor housing constructions and hutments. Several government reports have depicted a very dismal picture of housing in general in Pakistan and for the poorest section of the population in particular.¹¹

Recommendations:

- The GoP should provide adequate housing and shelter to marginalized groups, including Scheduled Castes;
- The GoP should extend an invitation to the UN Special Rapporteur on adequate housing.

33. To continue to increase substantially spending on health in order to strengthen access to health services and, as such, effective enjoyment by all to the right to health (Luxembourg); (accepted)

concerned about the lack of information in the State party's report on concrete measures taken to combat caste-based discrimination. The Committee is also concerned about 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).

¹⁰ Scheduled Caste representatives reject the official figures in the last census held in 1998, as they think the number of Scheduled Castes was considerably lower than the actual number.

¹¹ Pakistan Social and Living Standard Measurement Survey, Government of Pakistan (2010-11), Pakistan Statistical Book 2010 & 11, and Reports of Urban Resource Centre (URC), Karachi.

Status quo of implementation: Health remains a major issue for majority of Pakistanis, and the poor population is facing intense deprivation of basic necessities such as education, health and an adequate standard of living, affecting the rural population and people belonging to marginalized groups. The situation in rural areas is far worst, particularly where Scheduled Caste populations live (such as district Umerkot and Mithi).

There is no evidence that government increased spending on health during last few years.¹² In fact, Pakistan spends a very minimal percentage of its GDP on health and education.¹³

Recommendations:

- The GoP should commit to taking serious measures to strengthen equal access to basic services, with an emphasis on the most marginalized communities, including Scheduled Castes.
- The GoP should pay adequate attention to caste-affected communities in all assessments, including data collation, planning, and implementation of any human rights, development and humanitarian programmes.

34. To take effective measures to allow women, particularly in rural areas, to have access to health services, education, clean water and sanitation (Luxembourg); (accepted)

Status quo of implementation: Dalit women in Pakistan experience multiple forms of discrimination as they are both discriminated on the basis of caste and gender. They continue to be extremely vulnerable to discrimination and social exclusion, and are often subject to physical assaults, including rape, due to their weak socio-economic status.

Since the UPR in 2008, the GoP has taken no action to increase women access to health services, clean water and sanitation. Related data suggests there has been no significant improvement in these areas. Budgetary allocation to social sector also suggests that social development was not on the priority of government.

One of the key concerns faced by women, particularly Hindus in Sindh province, is the problem of forced conversion under the disguise of marriage of choice. The worst victims are Scheduled Caste girls who are kidnapped or lured into conversion, sexually exploited and then abandoned.¹⁴ A case from late February 2012 clearly illustrates the need for immediate response by the government to the increase in these cases.¹⁵ The problem of faith conversion is a serious situation, which affects a minority and marginalized group in a country where the majority are Muslims.

¹² A latest report (Annual Health Report 2012) of Pakistan Medical Association (PMA), reveal that Pakistan has spent a very meager amount of 0.23 per cent of its GDP on health during the fiscal year of 2011-2012.

¹³ Human Development Report 2010 of Mahbub ul Haq Development Centre, Lahore. The poor spending on health is reflected from budgetary allocations of the government. According to the Economic Survey Government of Pakistan 2011 and official budget documents, the budgeted health to GDP ratio during 2007-08 was 0.18% which decline to 0.16% during 2009-08. This health to GDP ratio remained at 0.16% in 2009-10 and declined in 2010-11 to 0.1% in 2010-11.

¹⁴ It has been estimated by the Pakistan Hindu Council, a social organization in Pakistan, that at least 25 Hindu girls are reported kidnapped each month in Sindh, leaving out those cases that are unreported.

¹⁵ One example is the case of Ms. Rinkel Kumari, a 17-year old Hindu girl from the town of Mirpur Mathelo, was kidnapped on February 24 2012. The kidnapping was allegedly ordered by a Member of the National Assembly (MNA) of the Pakistan People's Party (PPP). The same week that Rinkel was kidnapped three other Hindu girls were kidnapped and underwent the same harassment, conversion, and forced marriage including a physician who worked at a prestigious hospital in Karachi.

In a review of Pakistan's implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2007, the Committee expressed deep concern about the lack of constitutional safeguards for women.¹⁶ Information on measures taken to prevent and eliminate multiple forms of discrimination against women, including Dalit women in Pakistan, should be considered in the review of Pakistan by CEDAW in 2013.

Recommendations:

- The GoP should take specific measures to increase Dalit women's access to health services, clean water and sanitation, and include this information when it is being reviewed by CEDAW in 2013 and other treaty body reports.
- The GoP should take effective measures to prevent and investigate cases of forced conversion of girls, with an emphasis on the most vulnerable groups such as Scheduled Caste girls.
- The GoP should eliminate multiple forms of discrimination experienced by Dalit women on the basis of caste and gender in accordance with CEDAW General Recommendations 25 and 28.

36. To take urgent measures to ensure that adequate resources are allocated for education (Finland); (accepted)

Status quo of implementation: In 2010, a new section 10 A was inserted in Pakistan's Constitution by an 18th amendment in order to make primary education for 5-16 years children free and compulsory. However, the resources allocated to make this commitment a reality are very limited, even compared to other countries in the region.¹⁷ Low enrolment rates at the primary level, lack of trained teachers, and poor physical infrastructure mark the educational system of the country.¹⁸ Viewed in this context, the quality of education in the country points to the GoP's failure in fulfilling its constitutional obligation to provide this fundamental service to its citizens.

Recommendation:

¹⁶ In the Concluding Comments, the Committee expressed concerned about "pervasive patriarchal attitudes and deep-rooted traditional and cultural stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace and in society, which constitute serious obstacles to women's enjoyment of their human rights and impede the full implementation of the Convention".

¹⁷ The GoP's spending on education at less than 2% of the GDP is the lowest expenditure on the sector in the region. Bangladesh spends 2.5%, Nepal 3.1%, India 3.2%, OECD countries 6.2%, while Malaysia spends 23% of its GDP on education. Also, it is pertinent to note that India, Bangladesh and Sri Lanka are all on track to meet their education Millennium Development Goals. Bangladesh has improved access to primary schools at double the rate seen in Pakistan in the last 20 years. India's progress in reducing the number of children out of schools is ten times the rate seen in Pakistan.

¹⁸ Pakistan has the highest dropout rate with hardly 10 percent of the population completing twelve years of schooling. The state is the largest provider of education service in the country, serving 19 million or two thirds of the almost 28 million children enrolled in schools. Private education system caters to merely 9.1 million or 33% of school children. A recent report, 'Education Emergency in Pakistan' reveals that only 35% of school children, aged 6-16, can read a story, while 50% cannot read a sentence. Their performance is only slightly better than that of out-of-school children, of whom 24% can read a story. This is an alarming demonstration of the ineffectiveness of schooling, particularly the state schooling system.

- The GoP should commit to taking serious measures to ensure equal access to education for all, including marginalized children from the Scheduled Caste community.

III. GENERAL RECOMMENDATIONS (ON HIGH PRIORITY ISSUES NOT INCLUDED IN THE UPR RECOMMENDATIONS)

Bonded labour:

The problem of bonded and debt labour continues to be a major problem in Pakistan, affecting between 3-8 million labourers in the Sindh province.¹⁹ Moreover, the problem of child labour is on the rise as a result of natural disasters in 2010-2011.²⁰ The majority of bonded labourers and landless rural workers are from the Scheduled Caste and other marginalized communities.

After the 18th constitutional amendment in Pakistan in 2010, labour legislation is to be done in the provinces. No province has yet made any legislation condemning bondage. It is therefore important that such legislation is enacted and implemented.

- 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 Tenancy Legislation (especially the Sindh Tenancy Act);
- The GoP should implement international conventions and treaties abolishing bonded labour,²¹ and the National Policy and Plan of Action (2001) for the abolition of Bonded Labour and Rehabilitation of freed bonded labourers, and distribute land among them so that they can get out of bondage;
- The GoP should extend an invitation to the UN Special Rapporteur on contemporary forms of slavery.

Disaster management:

Pakistan is vulnerable to disasters, and has faced severe floods in 2010 and 11. Scheduled Castes are some of the worst victims of disasters, both natural and manmade. In 2011, the President of Pakistan announced an inquiry into incidents of discrimination against Scheduled Castes in relief during the 2011 flooding, but the report is yet to be made public. The GoP must make the report public and take action against those responsible officials, and enact special measures for the rehabilitation of those Scheduled Castes affected

¹⁹ According to the Human Rights Commission of Pakistan (HRCP), there are 3-8 million people working as bonded labour in Sindh and Punjab in agriculture and brick kiln sector mostly as debt ridden workers. Anti-Slavery International In Pakistan laws dealing with the bonded labour include the Bonded Labour System Abolition Act 1992 and Sindh Tenancy Act, 1950 to regulate the relationship between landlord and tenant. However implementation of these laws remains a far cry. Besides, ILO Conventions, 29 and 105 and International Convention on Civil and Political Rights which Pakistan has ratified call for elimination of bonded labour. Yet, the problem remains wide spread. HRCP annual reports of last three years mention that more than 6000 bonded labourers were released through court orders and by law enforcement agencies during 2009 and 2011 which reflect the intensity of the problem. Source: Human Rights Commission of Pakistan, The State of Pakistan's Children, Annual Report SPARC, 2010.

²⁰ In Pakistan the number of child laborers is on rise in Pakistan. After the floods in 2010 and monsoon rains in 2011, the destruction of schools and poor conditions in camps compelled the parents to send their children to work. Source: The State of Pakistan's Children, Annual Report SPARC, 2010

²¹ Forced Labour Convention, 1930 (No. 29) Abolition of Forced Labour Convention, 1957 (No. 105) Minimum Age Convention, 1973 (No. 138) Worst Forms of Child Labour Convention, and 1999 (No. 182), Freedom of Association and Protection of the Right to Organize Convention, 1948, No.87, Right to Organize and Collective Bargaining Convention, 1949 (No. 98), Universal Declaration of Human Right (1948), Equal Remuneration Convention, 1951 (No. 100), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

by this situation. Since these people are landless peasants, genuine rehabilitation should include provision of land for cultivation and housing.

As a consequence, the GoP should make it mandatory that an initial mapping of the communities affected by the disaster is undertaken, so that those engaged in the relief work are aware whether communities that are usually excluded in the social process, including on the basis of caste, do not fall victims of the disaster.²²

- The GoP must provide special guidelines for assisting scheduled castes during relief and rehabilitation work in disaster management laws and plans;
- The GoP and international agencies should take special care to address the situation of the most vulnerable groups, including women, children, the sick or disabled, the aged, and caste-affected groups in disaster management, including in the policy, planning, implementation and evaluation of relief plans.²³

Political participation:

- The GoP should take effective measures to secure that Scheduled Castes are granted meaningful participation in the political process.
- The GoP should immediately end the practice of citing the caste of an applicant or a petitioner in the official court documents.
- The GoP should ensure that women can take their assigned seats in the Assembly and the Senate.
- The GoP should take effective steps to ensure the safety and protection of human rights defenders.

Capacity-building and technical assistance through bilateral, regional and international cooperation:

Initiatives, which are recommended to support elimination of caste-based discrimination in Pakistan, include:

- Technical support and assistance to identify suitable policy frameworks and national programmes to prevent and tackle caste discrimination, involving UN experts and international institutions of expertise;
- Technical and institutional support to review anti-discrimination legislation; establish monitoring mechanisms on the implementation of anti-discrimination and affirmative action legislation; enable and implement legislation and national action plans to abolish forced and bonded labour;
- Support to thematic research on caste discrimination in Pakistan, including on human rights violations; the situation of affected communities; and its impact on poverty and access to development.

²² For example, local authorities must be given clear instructions for ensuring that no discrimination takes place in relief during emergencies. Special attention needs to be made to ensure that the location of the relief camps, or sites from where the relief activities are carried out, are easily accessible to the „excluded“ communities and that where necessary, special sites are created to ensure that the relief activities could be easily accessible to the excluded communities on par with the rest of the communities.

²³ Agencies engaged in relief work after the disaster and proceeding to carry out rehabilitation or reconstruction work need to ensure that in their own policy for rehabilitation of the victims of the disaster, as well as that of the government, the rehabilitation programme that is being envisaged to be undertaken directly considers the existence of „excluded,“ communities and incorporates and attends to these communities in drawing up their plans of action, and will be monitored during implementation and form part of any evaluation.