

**ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION (CERD)**

MINORITY RIGHTS GROUP INTERNATIONAL

REVIEW OF THE PERIODIC REPORT OF PAKISTAN

90th session of CERD

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Minority Rights Group International (MRG) is an international non-governmental organisation working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. MRG works with over 150 organisations in nearly 50 countries. MRG has consultative status with the United Nations Economic and Social Council, observer status with the African Commission on Human and Peoples' Rights, and is a civil society organisation registered with the Organization of American States.



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I. Introduction

1. This report is submitted by Minority Rights Group International (MRG) in advance of the review of the periodic report of Pakistan by the Committee on the Elimination of Racial Discrimination (CERD) at its 90th session.
2. MRG acknowledges the alternative report already jointly submitted to the Committee by a group of Pakistani CSOs, led by the Centre for Social Justice – Lahore, the Institute of Development Research and Corresponding Capabilities (IDRAC) – Islamabad, and Legal Aid Society – Karachi. MRG also recognizes the alternative report submitted together by Pakistan Dalit Solidarity Network (PDSN) and International Dalit Solidarity Network (IDSN).
3. In light of these comprehensive submissions which foreground issues related to religious minorities and caste-based discrimination, and to avoid repetition this report will focus on three overall issues, addressing the key areas of minority rights, namely non-discrimination, effective participation, and protection of identity.
4. First, given the importance of the devolution process initiated by the 18th amendment to the Constitution in 2010, this report will briefly touch upon the impact of devolution on Pakistan's ethnic and religious minorities, and the importance of their meaningful inclusion in this ongoing process. Second, in light of the considerable violence which has targeted the Hazara Shi'a community since the last review of Pakistan, this report will examine this situation in greater detail, drawing attention to the importance of broadening the constitutional understanding of minorities in Pakistan in line with the Convention to effectively address intersectional discrimination. Finally, drawing on General Recommendation No. 34 adopted by the Committee in 2011 which focuses on Racial discrimination against people of African descent, this report will bring to the attention of the Committee the often overlooked issues facing Pakistan's Sheedi population. This report will then conclude with some recommendations on how CERD should encourage the Government of Pakistan (GoP) to address these issues.

II. The 18th Amendment to the Constitution and Pakistan's Minorities

Relevant ICERD Articles: Articles: 2(1)(c), 2(2), 5(e), 5(c)

Relevant CERD recommendations:

The Committee urges the State party to expedite the measures aimed at introducing a fair distribution of national resources among different provinces, and thereby ethnic groups.

The Committee encourages the State party to provide information on the representation of ethnic groups in Government and public services in its next periodic report. The Committee further urges the State party to legislate and mainstream the existing policy on the provision of adequate political participation of all ethnic groups.

The Committee recommends that the State party provide information on the law permitting provincial assemblies to authorize the use and promotion of languages other than Urdu and English, including examples of provinces where linguistic minorities can use their language before State authorities and courts. The State party should also aim to preserve minorities' languages and culture by, inter alia, encouraging and promoting the use of mother tongues in the fields of education and in the media. It invites the State party to include, in its next periodic report, detailed information regarding the use of ethnic minority languages.

5. Since the last review, a significant development was the passage of 18th Constitutional Amendment in 2010, which has paved the way for a more decentralized governance structure by devolving considerable powers to the provincial level.
6. MRG welcomes this as a crucial step towards developing a more inclusive political structure, and addressing the legacy of the One-Unit Scheme, where West Pakistan's four provinces were amalgamated into one single unit dominated by Punjab, antagonizing Balochistan, NWFP (now KP) and Sindh. While this arrangement ended in 1971, the historical structure of the federation and the ways in which power and resources have been distributed between groups and provinces has been a key area of contestation, many of which have taken on an ethno-religious nature. In Balochistan, for example, greater autonomy over resources has been a key grievance linked to the separatist struggle, with what Balochis perceive as infringement of their rights over their own resources – a sentiment heightened by the dire socio-economic conditions in the province. Notably, the changes involved with the 18th amendment reflect some steps towards seeking redress to concerns in Balochistan, such as the revised Article 172¹ which increases the resource base of those provinces with natural resources.²
7. Moreover, devolution has helped to facilitate some specific pro-minority legislation; for example, a 2013 law in Sindh province focused on “safeguarding religious properties of minorities for communal use and barr[ing] transfer of such properties without authorization of a committee comprising government functionaries and minority representatives”.³
8. However, over five years since the passage of the 18th amendment, there are signs which highlight the importance of the GoP not viewing the amendment as an end in itself. Rather devolution and decentralization must be approached as a process focused on developing a more inclusive and representative political system.
9. It is important to note that while provincial ethnic majorities welcomed the devolution process which has since empowered their communities, minorities including Seraikis in Punjab, Hindko-speakers in KP, Pushtuns in Balochistan, and Muhajirs in Sindh received the 18th amendment

¹ Article 172 now states: “Subject to the existing commitments and obligations, mineral oil and natural gas within the Province or territorial waters adjacent thereto shall vest jointly and equally in that Province and the Federal Government.”

² Katharine Adeney, ‘A Step Towards Inclusive Federalism in Pakistan? The Politics of the 18th Amendment’, *Publius: The Journal of Federalism*, vol. 42, no. 4, October 2012, p. 11

³ State of Religious Freedom in Pakistan’, (The Jinnah Institute, Pakistan 2016), 55.

with more skepticism, and a major outcome of devolution has been the demand for the creation of new provinces from provincial ethnic minorities. This includes, for example, demands in the less developed Southern Punjab for a Seraiki speaking province.

10. Moreover, under local government (LG) acts in Sindh, Punjab, and Balochistan, constitutionally recognized minorities have been rendered unable to directly elect local candidates to fill minority seats. Instead, those successful candidates who become members of union committees or councils would be responsible for selecting minority representatives.
11. This system has been justified on the grounds that it simplifies the LG elections procedures, which would otherwise be too difficult to manage. However, as the response to these measures in Sindh province have highlighted, this is a problematic claim as minorities have previously been able to elect their own representatives during previous LG elections.⁴
12. While MRG recognizes the challenges involved with instituting a significant change to the political system in Pakistan, such acts undermine the purpose of devolution itself, which is intended to lead to a more representative system of governance. This also points to the importance of ensuring adequate provincial capacity and resources to effectively take on the powers and responsibilities that have been devolved from the center.

III. Intersectional discrimination of Hazara Shi'a

Relevant ICERD Articles: Articles 1(1), 2(2), 5(b), 5(d)(vii), 5(e)(v), 6

Relevant CERD recommendations:

The Committee reiterates its recommendation that the State party broaden its understanding and constitutional definition regarding minorities, so as to take into account all the grounds of discrimination included in article 1, paragraph 1 of the Convention.

The Committee recalls the State party's obligation to ensure that all persons enjoy their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin, in accordance with article 5 (d) of the Convention.

The Committee reminds the State party of its duty to protect all persons under its jurisdiction and particularly urges the State party to take the necessary measures to ensure that all acts of violence are prosecuted and that victims have access to effective remedies.

13. Hazara are an ethnic group of Mongolian-Turkic origin who speak a Persian language. While the majority of Hazara are in Afghanistan, Pakistan also hosts a large Hazara population. Estimates

⁴Minority Member son Reserved Seats to be Elected Through Indirect Voting:
<http://tribune.com.pk/story/953937/minority-members-on-reserved-seats-to-be-elected-through-indirect-voting/>

range between 650,000 and 900,000 in the country as a whole, with around 500,000 based in and around the city of Quetta in Balochistan.⁵

14. Overlaying and intersecting with the ethnic character of the Hazara is the fact that most Hazara in Pakistan practice Shi'a Islam, though a few are Sunni. Though as Muslims they are free from certain restrictions affecting other religious groups, Shi'a are regarded as apostates by some extremist Sunni groups – in particular Sipah-e-Sahaba Pakistan (SSP), Lashkar-e-Jhangvi (LeJ) and Terik-e-Taliban Pakistan (TTP). In addition to perpetrating violent attacks, these groups are also engaged in anti-Shi'a propaganda and hate speech at every level of Pakistani society.⁶ Hazara Shi'a have disproportionately suffered in these attacks.
15. According to some estimates, between the period from 2009 to 2015, 1,659 Shi'a were killed and 2,950 were wounded in a total of reported 320 incidents.⁷ The situation for Hazaras in Quetta is particularly serious due to their clearly identifiable features, as highlighted by the series of bomb blasts around Almadar Road in January 2013 which killed 126 members of the Shi'a community, and a number of violent attacks thereafter.⁸ This reflects the intersectional discrimination Hazara Shi'a as a visible ethnic minority as well as for their faith. Notably, this is an area not adequately addressed by the limited interpretation of minority reflected in Pakistan's Constitution, emphasizing the importance of the Committee's recommendation that the State party 'broaden its understanding and constitutional definition regarding minorities' in line with Article 1 to better reflect intersectionality.
16. In addition to such high profile incidents, there are frequent incidents of shootings and other attacks against individuals or small numbers of Shi'a in Quetta. While previously known to have been the most educated community in Quetta, figuring prominently in public life in Balochistan, Hazaras' freedom of mobility has been heavily restricted due to threat of attack. At present the Hazara community in Quetta has been effectively ghettoized to two predominantly Hazara areas, namely Hazara Town and Almadar Road.⁹ Insecurity has in turn impacted other areas of everyday life for Hazara Shi'a in Pakistan, including access to education and employment, thereby constraining their opportunities, which in turn impacts their level of development,

⁵ Farah Mihar, 'Everything has shattered' – rising levels of violence against Shi'a in Pakistan', (London: Minority Rights Group International, 2014), p. 1

⁶ *Ibid.*

⁷ Farahnaz Ispahani, *Purifying the Land of the Pure*, India, HarperCollins, 2015, p 224.

⁸ See the following MRG publications for details of these incidents : Farah Mihar, 'Everything has shattered' – rising levels of violence against Shi'a in Pakistan', (London: Minority Rights Group International, 2014); 'Searching for Security: Rising Marginalization of Religious Communities in Pakistan', (London: Minority Rights Group International, 2014); Asia Chapter, *State of the World's Minorities and Indigenous Peoples 2014*, (London: Minority Rights Group International, 2014); Asia Chapter, *State of the World's Minorities and Indigenous Peoples 2015*, (London: Minority Rights Group International, 2015); Asia Chapter, *State of the World's Minorities and Indigenous Peoples 2016*, (London: Minority Rights Group International, 2016)

⁹ 'State of Religious Freedom in Pakistan', (The Jinnah Institute, Pakistan 2016), 48.

including poverty levels.¹⁰ This insecurity also manifests along gendered lines, with the mobility of Hazara women particularly restricted.¹¹

17. The government's response to the situation of Hazara in Pakistan has fallen short of its commitments, particularly Articles 2(2) and 5(b) of the Convention concerning right to life, security, and adequate protection of the Convention.¹² Failure to effectively investigate and then apprehend those perpetrating attacks has heightened the sense of vulnerability of Hazara, and has led to the assumption amongst some that authorities are not only unable or unwilling to adequately address the situation, but possibly also complicit.¹³ While there is no strong evidence to support this, it points to the almost total impunity of perpetrators and the lack of sense of protection Hazara feel from local and national level authorities.
18. While we welcome that the government has taken some steps to address the situation facing Hazaras, including in the context of the National Action Plan, progress towards effectively addressing their insecurity remains limited. Indeed, just months after authorities expressed satisfaction with the reduction in attacks on Hazara Shi'a as a result of the NAP in February 2015,¹⁴ a series of attacks followed.¹⁵ As those who have been working on minority and related issues in Pakistan have long-noted, addressing issues of extremism require more substantive action, addressing underlying structures of discrimination and impunity in line with Pakistan's international commitments.

¹⁰ *Ibid.*

¹¹ Farah Mihar, 'Everything has shattered' – rising levels of violence against Shi'a in Pakistan', (London: Minority Rights Group International, 2014), 4.

¹² As party to the International Covenant on Civil and Political Rights, the government is similarly falling short of its commitments, particularly with regard to article 6 (right to life), article 18(freedom of religion) and article 27 (minority rights).

¹³ Such sentiments are heightened by cases such as the attack on Hazara in Quetta on 16 February 2013 when 110 people were killed and 200 others injured in a remote-controlled bomb attack targeting a bazaar near Hazara Town. Following the attack, a leaked police secret dossier showed the police had information on the impending attack, including names and photos of the key perpetrators. Despite being privy to this, neither the Frontier Corps (FC) nor the police took action to make arrests. (for more information see:

http://minorityrights.org/wp-content/uploads/2015/07/MRG_Brief_Pak_MRG.pdf

¹⁴ Sharif calls for action against seminaries backing terrorism': <http://www.dawn.com/news/1164537>

¹⁵ In late May, five members of the community in Quetta were killed in two separate shootings, followed by the deaths of five more Hazara in June. In early July two brothers were shot and killed when queuing at a passport office in Quetta. (See Asia Chapter, State of the World's Minorities and Indigenous Peoples 2016: <http://minorityrights.org/wp-content/uploads/2016/07/MRG-SWM-2016.pdf>)

IV. Afro-descendants in Pakistan: The Sheedi Community

*Relevant ICERD Articles: Articles: 1(1), 2(2), 5(b), 5(e)(i)(vi)*¹⁶

Relevant CERD recommendations:

The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chapter I), when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee also encourages the State party to participate actively in the Durban Review Conference in 2009.

The Committee reiterates its recommendation that the State party broaden its understanding and constitutional definition regarding minorities, so as to take into account all the grounds of discrimination included in article 1, paragraph 1 of the Convention.

The Committee recommends that the State party provide it with data on the ethnic composition of the population. The collection of such data should preferably be based on self-identification by the individuals concerned, and carried out in accordance with the Committee's general recommendation VIII concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention, and with paragraphs 10 and 11 of the guidelines for the submission of CERD-specific reports, approved at its seventy-first session (CERD/C/2007/1). The Committee wishes to emphasize 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.

19. The Sheedi community of Pakistan are the descendants of East Africans brought as slaves by Arab merchants between the eighth and nineteenth centuries. There is no reliable figure regarding the size of the community's population, with estimates ranging considerably from from 50,000 to just under 1 million according to the Young Sheedi Welfare Organization (YSWO). Nevertheless, Pakistan is recognised as having one of the largest populations of Afro-descendants in Asia. Sheedis are based in Southern Pakistan, with an estimated 50 percent residing in lower Sindh, 20 percent in the city of Karachi, and 30 percent in Balochistan. The majority of Sheedi are Muslim, but have distinct cultural traits linking back to their particular history.¹⁷

20. Sheedis have and continue to suffer racial discrimination in Pakistan, particularly in social and economic areas, such as marriage and in the workplace. Many Sheedi live in the same areas of

¹⁶ Also relevant here is CERD General Recommendation No. 34 adopted by the Committee in 2011 which focuses on Racial discrimination against people of African descent.

¹⁷ Alice Albinia, 'Pakistan's Sheedis struggle to end centuries of discrimination' in the Asia Chapter of *Afro Descendants: A Global Picture*, (Minority Rights Group International, London: 2015): <http://stories.minorityrights.org/afro-descendants/home/>

the country to which their ancestors were brought as slaves, and remain economically, socially, and political disenfranchised. According to local groups working with the Sheedi community, many still work as labourers for high-caste feudal lords, and there is a lack of Sheedi involvement in the political leadership of the country. Sheedi women are particularly vulnerable, with many encountering discrimination in their access to economic opportunities and compensation.¹⁸ Moreover, restricted access to jobs, recreation, and educational prospects for Sheedi youth is an area of particular concern for groups such as YSWO, given the crime and gun culture in the area of Lyari, where many Sheedi reside.¹⁹

21. Growing intolerance and insecurity in the Pakistan has also had restrictive implications on Sheedi participation in cultural activities. In particular, due to growing security threats after 2010, the Sheedi community was forced to suspend the annual Sheedi Mela which had been held in Karachi at the shrine of Pir Mangho for centuries.²⁰ In 2014, representatives of the Sheedi community appealed to the government for assistance in reviving their cultural activities which had been obstructed due to this security situation.²¹ However, with no signs of the situation relenting, in 2015 after five years without celebration, the elders of the community were compelled to take the the decision to move the Sheedi Mela to Hyderabad.²²

¹⁸ *ibid.*; See also ‘The Sidi Project: South Asia’s African Diaspora’: <http://thesidiproject.com/>

¹⁹ In the shadow of fire and bullets: African dancers of Lyari shed new light on restive area: <http://tribune.com.pk/story/588882/in-the-shadow-of-fire-and-bullets-african-dancers-of-lyari-shed-new-light-on-restive-area/>

²⁰ Footprints: Sheedi Mela – the festival that was’ <http://www.dawn.com/news/1138853>

²¹ Govt help south for Sheedi Mela Revival <http://www.dawn.com/news/1139395>

²² ‘After five years: Sheedi festival returns but far away from Karachi’: <http://tribune.com.pk/story/857879/after-five-years-sheedi-festival-returns-but-far-away-from-karachi/>

V. Recommendations

Drawing on the above, MRG requests the Committee to make the following recommendations to the Government of Pakistan

22. Remove or reform any legislation which removes, restricts, or limits direct election of minority representatives in local elections
23. Promote an inclusive process of devolution that allows minority groups, defined in line with the Convention, to have an opportunity for effective participation
24. Adopt measures to make sure there is meaningful and effective minority representation in core institutions of the Pakistani state at all levels
25. Ensure that provincial level governments have the necessary resources and capacity to effectively take on the responsibilities (including those that relate to the protection of and securing rights of minorities) that have been devolved from the Federal government as a result of the 18th Amendment to the Constitution
26. Take immediate steps to stop attacks against minorities, including Hazara Shi'a, and provide effective protection, particularly in areas vulnerable to militant attacks, in consultation with representatives of the communities themselves
27. Initiate prompt, impartial and independent investigations of attacks on minorities and prosecute those found to be responsible, respecting international standards of due legal process
28. Develop appropriate and effective mechanisms to curb the use of incitement to violence and other forms of hate speech against Hazara Shi'a and other minorities
29. Make amendments necessary to ensure that that the constitutional definition of minorities takes into account all grounds of discrimination included in Article (1) (1) of the Convention, to address issues not otherwise effectively addressed, including the intersectional discrimination of Hazara Shi'a and the conditions of the Sheedi population
30. Carry out a study to better understand the economic, social, and political conditions of the Sheedi population, implement measures to address the longstanding discrimination they experience, and provide security where possible to allow for their safe enjoyment of their cultural and religious practices