

## **Joint NGO Submission**

**by Thardeep Rural Development Programme,  
Pakistan Institute of Labour Education and Research,  
and the International Dalit Solidarity Network**

**related to Pakistan for the  
second Universal Periodic Review session  
scheduled for May 2008**

### **Caste-based discrimination in Pakistan:**

**The status of “lower caste” Hindus in Pakistan, their socio-economic problems, legal and constitutional protections, and the issues of discrimination on the basis of caste, religion and lower status in the society**

# Caste-based discrimination in Pakistan

## Background

In this submission, the Thardeep Rural Development Programme (TRDP)<sup>i</sup>, Pakistan Institute of Labour Education and Research (PILER)<sup>ii</sup> and the International Dalit Solidarity Network (IDSN)<sup>iii</sup> provide alternative information about caste-based discrimination as a serious human rights problem in Pakistan, despite the Government of Pakistan's general denial that such form of discrimination takes place. New research on caste-based discrimination in Pakistan ("Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan, 2007<sup>iv</sup>), which is the first documentation of caste-based discrimination in Pakistan, looks into the status of "lower caste" Hindus in Pakistan, their socio-economic problems, legal and constitutional protections, and the issues of discrimination on the basis of caste, religion and lower status in the society. This study focused on Pakistan's "lower caste" Hindus officially known as "Scheduled Castes" though caste issues also play a role within the 160 million Muslim population. The "Scheduled Castes", who are equal to those known as Dalits in India and elsewhere, is the single largest group falling victim to caste based discrimination including the practise of "untouchability" and the poorest of the poor in Pakistan<sup>v</sup>. 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. Official statistics claim that Scheduled Castes consist of 0,25% of Pakistan's total population which amounts to approximately 330,000 persons (Pakistan Census Report 1988).<sup>vi</sup> This number, however, has been widely contested; representatives of Scheduled Castes claim that numbers have deliberately been made lower and that the divide between upper and lower caste Hindus is incorrect, thus suggesting that numbers may be as high as 2,000,000.<sup>vii</sup>

In UN terminology, caste-based discrimination is known as "discrimination based on work and descent"<sup>viii</sup>. Two Special Rapporteurs from the UN Sub-Commission on the Promotion and Protection of Human Rights have undertaken a comprehensive study on this form of discrimination and have prepared UN draft Principles and Guidelines on the Effective Elimination of Discrimination based on Work and Descent (hereafter "draft P & G on work and descent").<sup>ix</sup> IDSN recommends that the draft P&G should serve as a general framework to prevent caste-based discrimination taken in conjunction with the recommendations from the recent national research project from Pakistan. Under sections 1-3 and 5-7 stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review, TRDP and IDSN have made the following recommendations on how the Government of Pakistan can effectively address this form of discrimination which is a violation of fundamental human rights.

### 1. National consultations in Pakistan with civil society

The Government authorities of Pakistan have not invited civil society to participate in any broad national consultation as otherwise suggested in the general guidelines for the preparation of information under the UPR.

### 2. Pakistan's normative and institutional framework for the promotion and protection of human rights

The Constitution of Pakistan, often suspended and ruthlessly amended by the frequent military regimes, does not provide any protection to minorities in general and Scheduled Castes in particular.

The Constitution, which declares Pakistan as an "Islamic Republic," talks of equality with a general statement: "all citizens are equal before law and are entitled to equal protection".<sup>x</sup> It, however, does not mention protection of rights of Scheduled Castes and other such marginalized sections or provides any mechanisms for protection for their interests. Articles 36 and 38 are the most relevant for Scheduled Castes. Article 36 says: "the state shall safeguard the legitimate rights and interests of minorities, including their due representation in the federal and provincial services." Similarly, Article 38 says that the state shall "secure the well-being of people, irrespective of sex, caste, creed or race by raising their standard of living [...]". However, the Constitution does not recognise the term "Dalit" as in India and there has always been resistance

to declare discrimination based on caste a crime arguing that there cannot be caste discrimination in a Muslim country. This indifferent attitude of the state and lack of interest on the part of independent institutions and academia has resulted in absence of any reliable data and documentation disaggregated on caste in general and on the socio-economic status of Scheduled Castes in particular.<sup>xi</sup>

Pakistan as a state is in sheer denial of caste-based discrimination. The argument is that Islam teaches equality so there is no question of discrimination on the basis of caste in an Islamic state. From Quaid Azam to General Musharraf, the Pakistani rulers have always claimed that religious minorities enjoy equality in Pakistan.<sup>xii</sup> The founder of the country, Muhammad Ali Jinnah, had idealized Pakistan with clear separation of religion and politics, and he had declared that religion would have very little to do with the affairs of state. Jinnah, well aware of the discrimination and divide on the basis of caste in British India, had clearly declared that the claims of Scheduled Castes and other minorities had to be met and that there should be constitutional safeguards to protect them.<sup>xiii</sup> Contrary to Jinnah's vision, the Constitution of Pakistan from 1973<sup>xiv</sup> defines in Chapter 1 of Part III that: "Islam shall be the state religion of Pakistan, and its head must a Muslim man."

**Recommendation no. 1**

- *The Government of Pakistan should enact specific laws and implement special measures that prohibit discrimination against Scheduled Castes as well as establish a body like a national commission on the status of Scheduled Castes to rectify the situation.*
- *The Government of Pakistan should include disaggregated data on caste and pay adequate attention to affected communities in all assessments, including data collation, planning, and implementation of any human rights, development and humanitarian programmes.*

**3. Implementation of Pakistan's national and international human rights obligations and commitments**

A responsible state and civilized nation is supposed to enact laws and make policies, which are beneficial for its citizens without any discrimination. Contrary to these fundamental democratic principles, much legislation and many policies in Pakistan are discriminatory in nature, which deprive citizens of equal rights. The majority of the discriminatory laws have been introduced during military regimes<sup>xv</sup> with some policies also adopted by so-called democratic governments.

The regime of General Zia Ul Haq<sup>xvi</sup> was the worst in this regard. General Zia, in his bid to prolong his own illegitimate rule, took refuge in Islamization. He made several amendments in the Constitution, which resulted in wider exclusion of women and other marginalized groups such as Scheduled Castes. These changes were given constitutional cover through the 8<sup>th</sup> amendment. Zia introduced Ushar and Zakat (Islamic taxes), which were against even other section of Muslims leave alone non-Muslims. Similarly, through an amendment in Article 260 of the Constitution, Ahmadis, a group who considers themselves Muslims, were declared non-Muslims. Ahmadis were then forcibly declared non-Muslims against their faith and it was made a punishable crime for Ahmadis to identify themselves as Muslims<sup>xvii</sup>. The worst came in the shape of the Anti-Blasphemy Law and Law of Evidence (Qanoon-e-Shahadat) through amendments in Pakistan Penal Code (PPC), which is discriminatory in nature and against the universal principle of equality.

**Special provisions for Scheduled Castes:** There is no provision in the law that clearly condemns discrimination or talks about the protection of the rights of Scheduled Castes, which results in discrimination in social and economic life. While the Government of Pakistan has enacted laws intended to reverse some of the effects of discrimination, it has not made a serious effort to fully implement or enforce those laws. One example is the extensive problem with bonded labour in Pakistan. A report by Anti-Slavery International (1996) documented that bonded labour is prevailing in Pakistan despite the 1992 Act, and large numbers of labourers, including children, continue to be put into bondage in exchange for loans.<sup>xviii</sup> The Government has failed to fully implement the National Policy and Plan of Action (2001) for the abolition of Bonded Labour and Rehabilitation of freed bonded labourers (an extension of the 1992 Bonded Labour System Abolition Act) created to address the needs of released bonded labourers' children, the majority of whom are Scheduled Castes.<sup>xix</sup> A fund was created as part of the plan of action and six years later a substantial portion of it remains unused and held by government functionaries, as the released bonded labourers continue to live under inhumane conditions in camps on the outskirts of Hyderabad. Another example involves the Government of Pakistan's failure to implement the six percent quota reserved for Scheduled Castes in government services positions.<sup>xx</sup>

**Gender discrimination:** Women in Pakistan are considered extremely vulnerable to discrimination and social exclusion, and due to their vulnerability Scheduled Caste women may experience double discrimination as they are both discriminated on the basis of caste and gender. Scheduled Caste women are subject to rape assaults and culprits easily get away due to the weak socio-economic status of victims. 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.<sup>xxi</sup> In the Concluding Comments, the Committee also expressed concern 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".<sup>xxii</sup> The Government of Pakistan should take due consideration of these strong concerns expressed and take into account the double discrimination experienced by Scheduled Caste women in its next reporting to CEDAW.

**International human rights obligations:** The Government of Pakistan has signed but not yet ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it must do.<sup>xxiii</sup> Ratification of the ICESCR would create a source of binding obligation for Pakistan, and the country would be obligated to pursue laws and policies to improve the socio-economic status of its most vulnerable groups.<sup>xxiv</sup> Pakistan should also comply with its reporting obligations under the UN treaty body system. In August 2007 the Committee on the Elimination of Racial Discrimination (CERD) considered examining Pakistan without a report since the periodic reports were long overdue<sup>xxv</sup>, but the examination was postponed as Pakistan agreed to submit the reports in due time. Moreover, Pakistan should extend invitations to Special Rapporteurs who have requested country visits, including the Special Rapporteur on Racism (extended follow-up request in 2006), the Special Rapporteur on Adequate Housing (request in 2006) and the Special Representative to the General Secretary on Human Rights Defenders (follow-up request in 2007).<sup>xxvi</sup> In its candidacy to the Human Rights Council (HRC), the Government of Pakistan committed itself to the promotion of human rights at domestic and international level in some voluntary pledges<sup>xxvii</sup>. In these pledges, the Government of Pakistan stated that there is a general prohibition on discrimination based on caste and promised that minorities should enjoy equal rights and participation in political life according to the Constitution. These constitutional provisions, however, only have effect if they are implemented and if adequate measures are enacted to ensure this protection.

**Recommendation no. 2**

- *At the national level, the Government of Pakistan must reinforce a quota system in the judiciary, and law enforcement departments for Scheduled Castes must be established if the state and other actors are sincere in bringing this group out of the present state of denial and deprivation<sup>xxviii</sup>*
- *At international level, Pakistan should ratify the ICESCR without any further delay; take due consideration of and implement CEDAW Concluding Comments 2007; comply with its reporting obligations under the UN treaty body reporting procedure; extend invitations to Special Rapporteurs requesting country visits; and follow up on its voluntary pledges for its HRC candidacy.*

**5. Achievements, best practices, challenges and constraints in eliminating caste-based discrimination in Pakistan**

**Achievements:** In early January 2002 General Musharraf abolished the separate electorates and introduced reserved seats for minorities. This meant that non-Muslims can contest and vote for general seats, whereas reserved seats for non-Muslims have also been kept intact. These reserved seats are allotted by the political parties according to number of their members in the respective assembly. The 2002 General Elections were held under the joint electoral system and this time Muslim candidates had to seek votes from non-Muslims. In most of villages where minorities lived, the Muslim candidates had to visit and promise a development.

There was also a six percent job quota imposed for the Scheduled Castes in Pakistan from 1956 until 1998. In effect, several educated Dalit youths were appointed to some government jobs and were enrolled in the Pakistan Army for the first time. However, as described in section 3, this provision was only partially implemented and it was removed in 1998. Since then President Musharraf, the federal and Sindh Public Service Commissions have been allocating more seats based on merits to Scheduled Castes, but there is still poor representation of Scheduled Caste in the political sphere.

**Constraints:** Although the Constitution of Pakistan generally prohibit discrimination, there is hardly any affirmative action aimed at uplifting Scheduled Castes from their present backward situation. Until any direct and indirect efforts have not been taken by the government, it would be considered to be half hearted and bear no results.<sup>xxxix</sup> The Bonded Labour (System) Abolition Act 1992 and the six percent job quota needs to be implemented effectively in Pakistan.

The marginalization of Scheduled Castes in Pakistan is also obvious within the mainstream political process.<sup>xxxix</sup> None of the major political parties have given any importance to Scheduled Castes representation when deciding on awarding party tickets during general elections or elections for local government. Muslims mainly occupy the political space of the country irrespective of what party and area they belong to. However, almost all major political parties have their minority wings, which are dominated by upper caste Hindus, and rich Christians, leaving Scheduled Castes to have an insignificant role in it. Indifferent attitude of the major political parties towards scheduled castes is reflective from the party policies and actions throughout the country. The study shows that there was only a single schedule caste member in the National Assembly and none in the Senate and provincial assembly of Punjab.<sup>xxxix</sup>

**Challenges:** Scheduled Castes in Pakistan are the worst victims of discrimination on the basis of caste, descent and occupation and are in a dually disadvantageous position as they are Hindu (minorities in a Muslim majority country), and also “lower castes”.<sup>xxxix</sup> They are socially and physically excluded from the mainstream as they are compelled to segregated housing and are denied social, political and economic rights. Apart from being treated as “untouchables” and humiliated in public, the practice of “untouchability” is demonstrated to make sure that Scheduled Castes live in separate colonies, they are served in separate crockery, and they cannot sit inside with upper castes. “Untouchability” is obvious in all private and public spheres of life.<sup>xxxix</sup> Moreover, the Scheduled Caste population in Pakistan is overwhelmingly rural in nature. As in rural areas no industry or other business centres are located, most of the population depends on agriculture for their livelihood, and by working on share cropping conditions, they are vulnerable to bonded labour and other exploitations by the landlords.<sup>xxxix</sup> Vulnerable and marginalized groups of the population such as women, children, religious minorities, low caste, bonded labourers also make the majority of illiterate population within the rural districts.<sup>xxxix</sup>

**Recommendation no. 3**

- *The government of Pakistan must enact a total prohibition on “untouchability” in public and private places and all forms of discrimination using model legal acts from other caste affected countries (e.g. India and Nepal)*
- *The six percent job quota should be restored and there should be special quota and scholarships for Dalit students in higher education, such as medical and engineering.*
- *State and political parties must ensure the presence of Scheduled Caste representatives in the National Assembly, provincial assemblies and the Senate. To make the political system more inclusive, it should be mandatory for all political parties, through amendments in the Political Parties Act, to allot a certain percentage of party tickets and party positions to Scheduled Caste representatives.*

**6. Key national priorities to improve the human rights situation of Scheduled Castes in Pakistan**

The key national priorities to improve the situation of Scheduled Castes in Pakistan should seek guidance from the international framework established in the draft UN principles and guidelines (“draft P&G”) on discrimination based on work and descent as referred to above. The draft P&G serve as a guiding framework prescribing general and specific measures for the effective elimination of such form of discrimination by caste-affected governments and other relevant actors such as UN agencies, national human rights institutions and civil society.

The draft P&G underline that discrimination based on work and descent is a form of discrimination prohibited by international human rights law.<sup>xxxvi</sup> In UN terminology discrimination based on work and descent is defined as “any distinction, exclusion, restriction, or preference based on inherited status such as caste [...] that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. This type of discrimination is typically associated with the notion of purity and pollution and practices of “untouchability”, and is deeply rooted in societies and cultures where this discrimination is practiced”. As an overarching principle the draft P&G establish that all states, including Pakistan, have a duty to make sincere efforts to dispel the prejudicial beliefs that constitute, support and reinforce discrimination based on work and descent,

including notions of “untouchability”, pollution and caste superiority or inferiority, as well as to prevent actions taken on the basis of such beliefs. The principles and guidelines suggest the specific measures to be implemented for the effective elimination of this form of discrimination, including all necessary constitutional, legislative, administrative, budgetary and judicial measures and appropriate forms of affirmative action and public education programmes to prevent, prohibit and provide redress for discrimination based on work and descent in both public and private spheres; and ensure that such measures are respected and implemented by all State authorities at all levels.<sup>xxxvii</sup>

**Recommendation no. 4**

- *The draft P&G should serve as a guiding framework for the implementation of effective measures to be taken by the Government of Pakistan in the fulfillment of its international human rights obligations.*

**7. Capacity-building and technical assistance through bilateral, regional and international cooperation in Pakistan**

The following initiatives are recommended to effectively eliminate caste-based discrimination in Pakistan:

- Technical assistance for drafting of legal measures to include Scheduled Castes [...]
- Assistance for implementation of act (Forced/bonded/slave labour)
- The implementation of special measures to prevent discrimination against Scheduled Castes in times of crises and political turmoil
- Technical support and assistance, involving UN experts and international institutions of expertise, to identify of suitable policies and programmes to tackle discrimination based on caste
- Technical assistance to conduct a new national census including disaggregated data on caste
- Technical and institutional support to establishing transparent and accountable monitoring mechanisms on the implementation of anti-discrimination and affirmative action legislation;
- Technical and capacity building support to a nation-wide programmes addressing specific target groups as well as the public in general for the elimination of caste discrimination
- Technical support to strengthen the National Human Rights Commission for the effective monitoring of human rights violations against vulnerable groups;
- Technical support for development of guidelines for planning and implementation of development planning and budgeting with a view to secure those affected by caste-base discrimination to implement their social, political and cultural rights reflected in planning and reporting for Millennium Development Goals and other national plans for achievement of development goals across the socio-economic and cultural rights spectrum.
- Support to respond to the need for further research on caste-based discrimination and its impact on poverty and social conflict, caste and human right violations and the impact of economic liberalization on patterns of caste inequalities

## Annex 1: List of references

### 1. Human rights reports

- "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Zulfiqar Shah, Indian Institute of Dalit Studies (2007)
- Aide Memoire: Women's rights in Pakistan. CEDAW 38<sup>th</sup> session. Justitia et Pax Netherlands (2007)
- "Crime or custom? Violence Against Women in Pakistan", Human Rights Watch (1999)  
<http://hrw.org/english/docs/2006/09/06/pakist14124.htm>
- "Pakistan: Proposed reforms to Hudood Laws Fall Short", Human Rights Watch (2006)  
<http://www.hrw.org/reports/1999/pakistan/>
- "This menace of Bonded Labour". Debt Bondage in Pakistan. Anti-Slavery International (1996)
- "Making things worse" by Dalit Network Netherlands, February 2007:  
[http://www.ohchr.org/english/bodies/cerd/docs/ngos/tsunami\\_report.pdf](http://www.ohchr.org/english/bodies/cerd/docs/ngos/tsunami_report.pdf)

### 2. International legal standards

#### 2.1. International treaties

- 2.1.1. International Convention on the Elimination of Racial Discrimination  
CERD General Recommendation no. XXIX
- 2.1.2. International Convention on the Elimination of All Forms of Discrimination against Women
- 2.1.3. International Covenant on Civil and Political Rights 1966 and its optional protocols
- 2.1.4. International Covenant on Economic, Social and Cultural Rights
- 2.1.5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
- 2.1.6. Convention on the Rights of the Child 1989 and its optional protocols

#### 2.2. UN Commission on Human Rights and the Sub-Commission on the Protection and Promotion of Human Rights

- 2.2.1. UN draft principles & guidelines on discrimination based on work and descent
- 2.2.2. Sub-Commission resolution 2006/14: Discrimination based on work and descent
- 2.2.3. Commission on Human Rights resolution 2005/109: Discrimination based on work and descent
- 2.2.4. Sub-Commission resolution 2005/22: Discrimination based on work and descent
- 2.2.5. Sub-Commission resolution 2004/17: Discrimination based on work and descent
- 2.2.6. Prevention of discrimination and protection of indigenous peoples: Working paper by Mr. Goonesekere on the topic of discrimination based on work and descent, submitted pursuant to Sub-Commission resolution 2000/4

#### 2.3. ILO standards

Forced Labour Convention, 1930 (No. 29); Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35); Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111); Worst Forms of Child Labour Convention, 1999 (No. 182); Worst Forms of Child Labour Recommendation, 1999 (No. 190)

ILO Global Report 2007: Discrimination at Work in Asia

[http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD\\_BLOB?Var\\_DocumentID=6815](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=6815)

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<sup>i</sup> TRDP is a national NGO in Pakistan Lanka which is implementing rural development programmes in Thar in the Sindh province. TRDP has been heavily involved in documenting and supporting the situation of bonded labourers and land rights. [www.thardeep.org](http://www.thardeep.org)

<sup>ii</sup> PILER is a non-governmental, non-profit institution, which started as an initiative of individuals from the trade unions, academia and professionals from various fields of life who were concerned about the plight of working people in Pakistan. [www.piler.org.pk](http://www.piler.org.pk)

<sup>iii</sup> IDSN is an international lobby and advocacy network working for the elimination of caste-based discrimination globally: [www.idsn.org](http://www.idsn.org)  
IDSN members are a) National Advocacy Platforms in South Asia and b) Dalit Solidarity Networks in Europe and the US. National platforms include: The National Campaign on Dalit Human Rights – India; The Dalit NGO Federation – Nepal; Human Development Organization – Sri Lanka; and emerging national advocacy platforms Pakistan Dalit Network – Pakistan and Bangladesh Dalit Human Rights - Bangladesh. Dalit Solidarity Networks include: The Dalit Solidarity Network – UK; The Dalit Solidarity Platform – Germany; The

Dalit Network – Netherlands; The Dalit Solidarity Network – Denmark; The Dalit Solidarity Network – Sweden; The French Dalit Collectif – France; The Dalit Solidarity Forum – USA; Dalit Solidarity Platform – Belgium. International associates of IDSN include: Human Rights Watch; The International Movement Against all Forms of Discrimination and Racism; The Lutheran World Federation; Anti-Slavery International; The Minority Rights Group International; The Asian Human Rights Commission; The Robert F. Kennedy Foundation; ICMICA/Pax Romana; FORUM-ASIA; The World Council of Churches; The Commonwealth Human Rights Initiative; Franciscans International; and the Centre for Human Rights & Global Justice

<sup>iv</sup> This report is part of a regional research project on caste-based discrimination in South Asia conducted by the Indian Institute for Dalit Studies (IDS) in association with the International Dalit Solidarity Network (IDSN) funded by the Danish development agency DANIDA. The research team included: Mr. Zulfiqar Ali Shah, Ms. Bushra Khanum, Mr. Purbhu Lal Satyani and Mr. Shujauddin Qureshi. The national reports were first presented in November 2007. The focus of this study is on Pakistan's Scheduled Castes residing in lower districts of Sindh and Southern Punjab in Pakistan.

<sup>v</sup> Ibid. p. 5

<sup>vi</sup> Ibid. p. 9

<sup>vii</sup> Ibid. p. 12

<sup>viii</sup> As recognised by the Commission on Human Rights in resolution 2005/109 and the Sub-Commission on the Promotion and Protection of Human Rights in resolution 2004/17, 2005/22 and 2006/14.

<sup>ix</sup> The draft P&G on work and descent have been submitted to the OHCHR as part of the final report prepared by the Special Rapporteurs but they are not yet considered an official UN document as of December 2007. In the final report the Special Rapporteurs recommend the Human Rights Council to adopt the draft P&G with necessary amendments and submit them to the General Assembly, and to include discrimination based on work and descent among the studies to be conducted by the Human Rights Council.

<sup>x</sup> Chapter I, The Constitution of the Islamic Republic of Pakistan

<sup>xi</sup> "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 5

<sup>xii</sup> Ibid. p. 10

<sup>xiii</sup> Jinnah made this statement in a Press Conference on 15<sup>th</sup> August 1944: *"I wish to say a word to make the position of the Muslim League clear. As far as the Scheduled Castes and other minorities are concerned their just claims will have to be met before any complete settlement is achieved. I can tell my friends of the Scheduled Castes that at no time have I overlooked their interests and position and I may claim that in the past I have done all I could to help them, and I shall always stand for their protection and safeguard in any future scheme of constitution for I think that the wrongs and injustices inflicted on them for centuries should not be allowed to continue under any civilized form of government."*

<sup>xiv</sup> Currently, the Constitution of 1973 is under use, though it had been ruthlessly amended by General Zia ul Haq and General Musharraf who took over in military cop in 1999 and remains in power till 2007. Still, however, the 1973 Constitution is considered a consensus constitution in Pakistan.

<sup>xv</sup> Pakistan has witnessed prolonged military regime. More than half of the years since Independence have been ruled by military governments.

<sup>xvi</sup> General Zia overthrew an elected Prime Minister, Zulfiqar Ali Bhutto in 1977 by imposing Martial Law on the country.

<sup>xvii</sup> General Zia promulgated an ordinance in this regard in 1984.

<sup>xviii</sup> "This menace of Bonded Labour". Debt Bondage in Pakistan. Anti-Slavery International, 1996

<sup>xix</sup> A majority of the freed bonded labourers living in camps near Hyderabad in the Sindh province are Scheduled Castes. It is estimated that 1.7 million bonded labourers live in Sindh and an overwhelming majority of them are Scheduled Castes ("Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 3)

<sup>xx</sup> An official memo issued on 15<sup>th</sup> March 1993 by the Establishment Division accepted that there was a clear violation of the six percent quotas reserved for Scheduled Castes and three years age relaxation. It directed all the concerned departments to strictly observe the quota but just five years after the memo was issued, the quota was removed.

<sup>xxi</sup> CEDAW Concluding Comments (CEDAW/C/PAK/CO/3), para. 14

<sup>xxii</sup> Ibid. para. 28

<sup>xxiii</sup> As understood from Article 38 of the Statute of the International Court of Justice, Pakistan's international obligations towards Scheduled Castes arises from a variety of sources, including, international treaties, customary international law, jus cogens norms, and other general principles of law. Statute of the International Court of Justice art. 38, June 26, 1945, 59 Stat. 1060.

<sup>xxiv</sup> Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331, 339 ("[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith."). See also "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 3

<sup>xxv</sup> Pakistan has not submitted its 15<sup>th</sup>-19<sup>th</sup> periodic reports (from 1998-2006)

<sup>xxvi</sup> OHCHR list of country visits requested by Special Rapporteurs: <http://www2.ohchr.org/english/bodies/chr/special/countryvisitsnz.htm#pakistan>

<sup>xxvii</sup> The letter concerning Pakistan's contribution, commitments, and voluntary pledges to promote human rights from 24 April 2006: <http://www.un.org/ga/60/elect/hrc/pakistan.pdf>

<sup>xxviii</sup> "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 4

<sup>xxix</sup> Ibid. p. 17-18

<sup>xxx</sup> Ibid. p. 43

<sup>xxxi</sup> Ibid. p. 52

<sup>xxxii</sup> "Long Behind Schedule": A study on the plight of Scheduled Caste in Pakistan by Shulfiqar Shah, 2007 p. 11

<sup>xxxiii</sup> Ibid. p. 11-12

<sup>xxxiv</sup> Ibid. p. 20-21

<sup>xxxv</sup> Ibid. p. 24

<sup>xxxvi</sup> As proclaimed by the Universal Declaration of Human Rights and, inter alia, by the ICCPR, ICESCR, ICERD, ICEDAW, CRC and the International Labour Organization Convention No. 111 and CERD General Recommendation no. XXIX.

<sup>xxxvii</sup> Final report including draft P&G prepared by Special Rapporteurs Prof. Yokota and Prof. Chung pursuant to Sub-Commission resolution 2006/14.