



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/PAK/CO/20
16 March 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-fourth session
16 February – 6 March 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

PAKISTAN

1. The Committee considered the fifteenth to twentieth periodic reports of Pakistan (CERD/C/PAK/20), submitted in one document, at its 1910th and 1911th meetings (CERD/C/SR.1910 and CERD/C/SR.1911), held on 19 and 20 February 2009. At its 1927th and 1928th meetings (CERD/C/SR.1927 and CERD/C/SR.1928), held on 4 March 2009, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fifteenth to twentieth periodic report and the opportunity thus offered to resume the dialogue with the State party. It also expresses appreciation for the frank and sincere dialogue held with the delegation and the efforts made to provide responses to many questions raised in the list of issues and posed by Committee members during the dialogue.

3. Noting that the report was almost ten years overdue when submitted, the Committee invites the State party to observe the deadlines set for the submission of its reports in the future.

B. Positive aspects

4. The Committee notes the commitments pledged by the State party, in particular with regard to the establishment of an independent national human rights institution and its commitment to promote equal rights of minorities, during the process of the Universal Periodic Review of the Human Rights Council and encourages the State party to fulfil them.

5. The Committee notes with appreciation the constitutional provisions and other legislation aimed at establishing equality between all citizens of the State party, as well as the institutional framework for the protection of human rights, including the establishment of the Ministry of Minority Affairs as well as the National Commission for Minorities. The Committee also welcomes the special measures put in place to advance the equal enjoyment of rights by members of minority groups, such as reserved seats in the federal as well as provincial legislatures.

6. The Committee notes with appreciation the State party's intention to ratify the amendments to article 8, paragraph 6, of the Convention.

7. The Committee welcomes the ratification by the State party of the International Covenant on Economic, Social and Cultural Rights in 2008. It also welcomes the State party's signing of the International Covenant on Civil and Political Rights and invites the State party to proceed with the process for the ratification and incorporation of the Covenant into domestic law.

C. Concerns and recommendations

8. The Committee reiterates its concern about the lack of disaggregated statistical data in the report of the State party regarding the ethnic composition of its population and on the enjoyment by members of ethnic minorities, including non-citizens, of the rights protected under 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.

9. The Committee reiterates its regret about the paucity of information on the Federally Administered Tribal Areas (FATA) and the North-West Frontier Province (NWFP), including the economic and social situation prevailing therein. It notes with

concern that the laws of the State party are not applicable in these provinces to the same extent as in the other parts of the territory.

The Committee urges the State party to ensure that its national laws, including in particular legislation relevant to the implementation of the Convention and other human rights instruments ratified by the State party, are applicable in its entire territory, including the FATA and NWFP. It also reiterates its request that the State party provide more specific information regarding the socio-economic situation in FATA and NWFP, as well as data on the ethnic and linguistic groups living therein.

10. While appreciating the State party's laws for the protection of recognized religious minorities, the Committee reiterates its concern about the absence of similar protection for relevant ethnic or linguistic groups. It welcomes the delegation's acknowledgment of the intersectionality, to a certain extent, of ethnicity and religion in the State party. (art. 1)

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.

11. Notwithstanding the existing legislation aimed at ensuring the principle of non-discrimination in the State party, the Committee reiterates its concern that no comprehensive anti-discrimination law has been adopted. It also expresses concern about the lack of information on concrete measures taken to implement the existing anti-discrimination laws and special measures, in spite of reports of persisting de facto discrimination against members of certain minority groups. (art. 2)

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.

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 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).

The Committee refers the State party to its general recommendation 29 (2002), on descent-based discrimination, and recommends that the State party adopt legislation aimed at the prohibition of caste-based discrimination and take effective and immediate measures to ensure its

effective implementation. The State Party is also invited to provide, in its next periodic report, statistical data on persons belonging to scheduled castes in the territory of the State party, including their enjoyment of all rights protected under article 5 of the Convention.

13. The Committee notes the information provided by the delegation of the State party on the envisaged establishment of a national human rights institution in accordance with the relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly res. 48/134, annex) by July 2009. (art. 2)

The Committee encourages the State party to proceed with the envisaged plans to establish a national human rights institution in accordance with the Paris Principles, as scheduled.

14. The Committee remains concerned about the lack of information on the implementation of article 4 of the Convention, in particular with regard to the obligation of the State parties to prohibit racist organizations. (art. 4)

The Committee recommends that information regarding the implementation of article 4, in particular 4 (b), is made available in the next periodic report to the Committee, detailing its efforts to prohibit and suppress racist organizations.

15. While taking note of the strain imposed on the national and provincial resources by the mass influx of refugees in Pakistan, in particular large numbers of refugees from Afghanistan, and also noting the cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee is concerned that the State party has not acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and that it has not yet adopted any specific refugee legislation. (art. 5 (b))

The Committee recommends that the State party consider acceding to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and enact a comprehensive legal framework governing the reception and treatment of refugees and related categories of persons.

16. While taking into account the efforts of the Government to address the problems of the Baluchi Community, the Committee expresses concern about reports on the situation in Baluchistan regarding acts of violence against foreigners and Baluchi civilians, including Baluchi women. (arts. 5(b))

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.

17. Notwithstanding the measures taken by the State party such as the amendments of the Criminal Law Act 2004 and the Protection of Women Act 2006, the Committee

expresses concern about acts of violence against women, especially those of minority background. (art. 5 (b))

In the light of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party ensure the effective implementation of the laws aimed at protecting women from violence and provide information on the measures taken and their results in its next report. It also encourages the State party to adopt the Bill on domestic violence without delay.

18. The Committee welcomes the steps taken by the State party to ensure adequate political participation of minorities, such as the reservation of seats for minority members in the National Assembly, as well as the introduction of quotas to admit members of minorities to Government services. However, the Committee notes that minorities are comprehended by the State party exclusively as religious minorities other than Muslims and that no specific policy or legislative framework appear to exist to ensure appropriate representation of all ethnic groups. (arts. 5 (c) and 2, para. 2)

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.

19. The Committee, acknowledging the complex relationship between ethnicity and religion in Pakistan, notes the State party's commitment to freedom of religion and the safeguards established therefore. That notwithstanding, it expresses concern about reported infringements of the right to freedom of religion and the risk that blasphemy laws may be used in a discriminatory manner against religious minority groups, who may also be members of ethnic minorities. (art. 5 (d) (iv))

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.

20. While welcoming the mandate assigned to the National Finance Committee to re-assess the allocation of national resources between the Provinces, the Committee notes with concern the current unequal economic and social development between the different provinces and therefore the different ethnic groups in the State party. (art. 5 (e))

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.

21. While welcoming the steps taken to abolish the practice of bonded labour, including the adoption of the Bonded Labour System Abolition Act, the Committee is concerned about the persistent existence of bonded labour in the State party, which appears to be related to, inter alia, the unequal distribution of land. It also expresses

concern that such practice mainly affects marginalized groups such as scheduled castes. (5 (e) (i) and (iv)).

The Committee urges the State to intensify its efforts to implement the laws and programmes adopted to put an end to bonded labour and discrimination against marginalized groups such as the scheduled castes. It further encourages the State party to carry out the national survey on this practice without delay and to continue cooperation with the International Labour Organization in combating this phenomenon.

22. The Committee welcomes the policy that provincial assemblies may authorize the promotion and official usage of minority languages and that minority languages may be used in legal proceedings as interpreters are available during judicial proceedings. It notes, however, the paucity of information regarding the status of languages, including the use of minority languages before State authorities and courts of law. It is also concerned that minority languages may not be used in the educational system to an extent commensurate to the proportion of the different ethnic communities represented in the student body. (art. 5 (e) (vii))

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.

23. The Committee remains concerned about the lack of information on the implementation of article 6 of the Convention regarding the establishment of effective judicial protection and remedies against acts of racial discrimination and mechanisms to seek reparation for damages suffered from such acts. (art. 6)

The Committee reiterates its recommendation that the State party include, in its next periodic report, comprehensive information on the legislative and other measures adopted as well as the mechanisms established to provide effective remedies and reparation to victims of racial discrimination. It should also include information as to how the public at large is informed about the legal remedies available against violations of the Convention.

24. The Committee notes with concern the lack of information on the steps taken to comply with article 7 of the Convention regarding measures taken with a view to combating prejudices which lead to racial discrimination and to promoting tolerance and friendship among its ethnic groups. (art. 7)

The Committee recommends the State party to provide in its next periodic report information on article 7 such as measures taken to eradicate the social acceptance of racial and ethnic prejudice, e.g. by intensifying public education and awareness-raising campaigns, incorporating educational

objectives of tolerance and respect for other ethnicities, as well as instruction on the culture of all minorities in the State party, and ensuring adequate media representation of issues concerning all ethnic and religious minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of Pakistan.

25. The Committee encourages the State party to proceed with the ratification of ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

26. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

27. 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.

28. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and invites the State party to consider doing so.

29. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized and disseminated in the official and national languages.

30. The Committee recommends that the State party continue to consult with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

31. The Committee invites the State party to submit its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the Fifth Inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

32. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 13, and 21 above.

33. The Committee recommends that the State party submit its twenty-first and twenty-second periodic reports in a single document, due on 4 January 2012, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.

- - - - -