

Observations on the State of Indigenous Human Rights in Pakistan

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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; and on its website: www.cs.org

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I. Executive Summary

Many Indigenous Peoples live within the borders of Pakistan, yet the government of Pakistan refuses to acknowledge Indigenous Peoples; instead referring to most Indigenous communities as ethnic minorities. The Koochis, Rebari, Bakarwal, Kehal, Jogi, Kabootra, Sanyasi and Kalash are Indigenous Peoples in Pakistan.

Pakistan has signed or ratified several international human rights treaties and declarations, including the International Covenant on Economic, Social and Cultural Rights (CESCR), International Convention on Civil and Political Rights (ICCPR), Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination.¹ Pakistan voted in favor of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on September 13, 2007.²

II. Background

Although Pakistan voted to adopt UNDRIP³ the Government of Pakistan does not acknowledge any Indigenous Peoples within Pakistan.⁴ The Constitution of Pakistan mentions “minority” several times, but does not reference Indigenous Peoples.⁵ Instead, the federal government emphasizes minorities within Pakistan as religious minorities – not racial or linguistic minorities, or Indigenous Peoples.⁶

Pakistan submitted a report to the United Nations in 2008 pertaining to the International Convention on the Elimination of All Forms of Racial Discrimination. In that report, Pakistan omitted any reference to ethnic minorities.⁷ UNESCO cites small groups of Indigenous Peoples in Pakistan, however, such as the Kihals and Mors and Indigenous Peoples from the Indus, the Buzdar from the Sulemain Mountains and the Kalasha.⁸

The Pakistani Constitution states that adequate provisions shall be made so that minorities can freely practice their religions and develop their cultures.⁹ Further, the constitution states that all citizens shall be accorded fundamental rights, including economic and political justice, and freedom of faith and worship.¹⁰ Further, communities that possess “a distinct ‘language, script or culture’ shall have the right to preserve the same.”¹¹

The Rebari are a group of Indigenous Peoples located in northwest Pakistan, comprised of 8,000 people.¹² The Rebari are also referred to as the Rewari or Desai.¹³ Traditionally, the Rebari were nomadic cattle, goat and camel herders.¹⁴ The majority of Rabari are Hindu.¹⁵ Rabari dress is unique in the region, with colorful, embroidered clothing.¹⁶

Another group of Indigenous Peoples, the Baluch, live in the province of Baluchistan.¹⁷ According to numbers based on the 1998 census, the most recent census in Pakistan, the Baluch comprise five percent of the total population of Pakistan.¹⁸ Over fifty percent of

the Baluch are considered as living in poverty.¹⁹ During the 1970s through 1990s, the Baluch challenged the government of Pakistan demanding political and economic autonomy.²⁰

The Kalash are Indigenous Peoples located in the mountainous Chitral region in northwest Pakistan.²¹ They live in Rukmu, Mumoret and Biriu - three V-shaped valleys.²² The Kalash number just over 5,000 people²³ and are Pakistan's smallest religious minority.²⁴

While the Pakistani Government has yet to recognize the Kalash as Indigenous Peoples, after much advocacy from Kalash members, the government did recognize Kalasha as a separate religion in the National Database and Registration Authority (NDRA) in 2015.²⁵ Thus, Kalasha can now be listed on government documents requiring religious identification, such as birth certificates.²⁶ Despite Pakistan's recognition of Kalasha in the NDRA, issues directly tied to the Kalash's religious identity as Indigenous Peoples and practicing paganism, such as forced religious conversions to Islam and religious-based discrimination, remain.

The Kalash Peoples Development Network have sought UNESCO protection for Kalash cultural heritage since 2008.²⁷ The National Institute of Folk and Traditional Heritage (NIFTH) in Pakistan sponsored a conference on the issue in 2012.²⁸ The NIFTH spokesman, Sajid Mnuir, said NIFTH had been working since the 1980s to preserve Kalash Culture. However, inclusion in the UNESCO Intangible Culture Heritage list is a lengthy process.

In June 2016, UNESCO Islamabad, through the 2003 Convention for safeguarding the Intangible Cultural Heritage, proposed to add the Kalash to the list.²⁹ The Committee, to decide on proposals, meets annually, and as of February 2017 had not yet decided to add the Kalash to the Intangible Cultural Heritage list.³⁰

Urdu is the official language of Pakistan although English is often used, particularly in correspondences within the government and in courts and universities.³¹ Urdu is spoken by 7.75% of the total population of Pakistan, however, as a mother tongue, and English is a foreign language in Pakistan.³² The Kalasha language is spoken in several valleys within the Chitral District of the Khyber Pakhtunkhwa Province, including Rumbur, Bumburet and Birir Valleys.³³ Kalasha is an ancient Dardic language³⁴

III. Recommendations from Previous UPR Cycles

Pakistan submitted a national report on June 6, 2012, in preparation for the second UPR process. The national report noted that the National Assembly and Senate have Standing Committees on Human Rights, aimed at monitoring human rights issues and making legislation recommendations.³⁵ A troika of countries reviewed Pakistan during the second UPR cycle on October 30, 2012. The UN Human Rights Council adopted Pakistan's responses to recommendations in 2013.³⁶

Several countries made recommendations broadly focused on human rights. During the second UPR cycle, Jordan recommended Pakistan “[c]ontinue developing the institutional framework with respect to the promotion and protection of human rights.”³⁷ Additionally, Nicaragua recommended Pakistan to harmonize its legislative domestic framework with international human rights instruments to which Pakistan is a party.³⁸ Ecuador suggested Pakistan “[i]ncorporate human rights into public policies and strengthen the human rights institutions”³⁹ Pakistan accepted these recommendations.⁴⁰

Religion was a focus in previous UPR cycles; and an issue that affects many Indigenous Peoples in Pakistan. The Other Stakeholders Report commented that members of non-Islam religions, such as Hindus and Christians, suffer discrimination.⁴¹ One stakeholder highlighted violations pertaining to religion, noting abduction, forced marriage and forcible conversion of Christian and Hindi women had increased.⁴² Women and girls were kidnapped, raped and forced to convert to Islam. Additionally, Liberation noted that the government of Pakistan did not investigate and prosecute these abductions, forced marriages and forced conversions.⁴³ ECLJ noted Christian women frequently report sexual assaults by Muslims.⁴⁴

Additional countries made recommendations made during the second UPR cycle that were adopted by Pakistan in May 2013. Those recommendations are below:

“Review and align the legislation with freedom of religion and belief and freedom of expression, as stipulated in the ICCPR” (Sweden);⁴⁵

“Increase action to tackle violations of religious freedom especially, but not only, against members of religious minorities” (Italy);⁴⁶

“Take appropriate, efficient measures to prevent discrimination and violence against religious minorities, bringing instigators to religious violence to justice.” (Slovakia);⁴⁷

Focusing on education, several countries recommended Pakistan make improvements to “ensure the enrollment of all segments of society in education.”⁴⁸ This included providing universal free primary education to all children regardless of sex, nationality, race or ethnic origin.⁴⁹ Germany suggested Pakistan “[r]eview public school curricula in order to eliminate prejudice against religious and other minorities (Germany);⁵⁰ Furthermore, the Holy See recommended Pakistan to “promote the full safeguarding of religious freedom and other human rights by programmes which, beginning in primary school and within the context of religious instruction, will educate everyone to respect their brothers in humanity.”⁵¹ Pakistan accepted all recommendations above.

IV. Continuing Rights Violations

A. Cultural Appropriation (Violation of UNDRIP Article 15)

In September 2016 *Parched*, an Indian film about four Rabari women, was released. The film, which features Radhika Apte - a popular Indian actress - as the lead was screened at the Toronto Film Festival in 2015.⁵² Leena Yadav wrote and directed *Parched*.⁵³

An individual from the Rabari approached the high court seeking a ban on the film. Members of the Rabari claim the film portrays the female Rabari characters in the film in a crude light; damaging the Rabari reputation and culture.⁵⁴ The film incorporates traditional Rabari dress into the film and the film's characters are clearly represented as Rabari women. The petition filed with the Gujarat High Court states, "*Parched* is presented in a highly destructive, improper, inappropriate and offensive manner against the sentiments of the [Rabari]. It shows a particular community as vulgar, rude, offensive and crude and creates wrong image of it in the society."⁵⁵

Following the petition, the Gujarat High Court sought responses from the Central Board of Film Certification in Pakistan, the Information and Broadcasting Ministry as well as Leena Yadav.⁵⁶ Yadav maintains that the film is a fictional work and that the costumes are a mix of Gujarati and Rajasthani costumes⁵⁷, and that the Rabari are not specifically named in the film. Yadav claimed the characters are not Rabari women. She asserted, "[o]ur identity is not made by the clothes we wear."⁵⁸ There is no record of Yadav reaching out to the Rabari community for consultations or permission prior to the creation or release of the film.

The cultural appropriation occurring in *Parched* is in contravention to the UNDRIP. Article 15 states Indigenous Peoples have the right to dignity of their cultures and traditions.⁵⁹ Furthermore, UNDRIP recognizes the importance of respect for Indigenous cultures.⁶⁰

B. Restrictions on Religious Freedom and Traditions (Violations of UNDRIP Articles 7, 8, 9, 11, 12, 25 and ICCPR Article 18)

As Pakistan's smallest religious minority, religion is a critical issue to the Kalash as Indigenous Peoples. Kalasha, as a religion, is constantly under threat as attempts are made to voluntarily and forcibly convert members of the Kalash from Kalasah to Islam. Traveling Islamic scholars occasionally show up in the Kalash villages, and young girls are sometimes forcibly converted to Islam.⁶¹

A member of the Kalash noted forced conversions are widely used as a means to rid the Kalash of their Indigenous religion in a systematic and institutional manner.⁶² For example, in public schools Kalash children are forced to take a class on Islam, but do not study curriculum about Kalash religion.⁶³ Luke Rehmat, the founder of the Kalash Peoples Development Network (KPDN), notes that the government of Pakistan must do more to legally protect the Kalash from these religious pressures and forced conversions.⁶⁴

Additionally, the Kalasha religion emphasizes a respect for nature and the Kalash consider the springs, from which they get their water, to be holy. As such, people are prohibited from wash clothes and bathing in the springs.⁶⁵ In 2016, a group of Muslim individuals from the neighboring community bathed and washed their clothing in the springs. Kalasha has been further under attack over the past several years as various natural disasters – including a series of earthquakes and floods – have been blamed by many members of the Muslim majority on the Kalash “non-believers.”⁶⁶

The Kalash’s freedom to practice their religion, particularly in a Muslim-dominated country, is guaranteed under several articles within UNDRIP. Pakistan’s lack of action in response to reports of forced conversions and the systemic conversion of the Kalash violates UNDRIP. UNDRIP Article 7 confers Indigenous Peoples “...have the collective right to live in freedom, peace and security as distinct peoples...”⁶⁷ Further, Article 8 notes that Indigenous Peoples have the right not to be “...subjected to forced assimilation or destruction of their culture.”⁶⁸ Kalash have a right, as Indigenous Peoples, to belong to an “Indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned...”⁶⁹ Additionally, Article 18 of the ICCPR protects everyone’s right to freedom of religion.⁷⁰

C. Lack of Access to Education and Official Documentation in Language (Violation of UNDRIP Articles 14, 15, 16)

The Forum for Language Initiatives notes, “[l]inguistic diversity is an essential part of life and vital for the long-term survival of humanity.”⁷¹ A census is scheduled to occur in March 2017. The previous census was administered in 1998. In the 1998 census, there was no option to collect information on an individual's mother tongue. The only option provided was for the five largest languages in Pakistan. Thus, Indigenous languages were ignored.

In February 2016 the Kalash held a ceremony at the Kalasha Dur – or Kalasha Culture Center – to launch the Kalasha Language and Culture Preservation Project.⁷² A Pakistani official, Mr. Akram, the assistant commissioner in Chitral, attended the ceremony. He assured the Kalash that he would work to include the Kalasah Language into the curriculum in government schools in Chitral.⁷³

Many Kalash children attend primary school and some attend secondary school and university.⁷⁴ In August 2012, there were nine Kalasha primary schools, funded partly or fully by non-profit organizations, including the Aga Khan Foundation.⁷⁵ In Kalasha schools children are taught the Kalasha language and about Kalasha religion and culture.⁷⁶ There is not enough space at the private Kalasha schools, however, for all of the Kalasha children of primary school age.⁷⁷ Nearby Government Primary Schools, however, run solely by the government of Pakistan, are not taught in the Kalash language but rather in Urdu and English.⁷⁸ Upon starting secondary school, the only option in the region are government-run secondary schools. Those schools do not teach in the Kalasha language, nor about Kalasha religion or culture. Additionally they have mandatory

Islamic studies as part of the curriculum.⁷⁹

Indigenous Peoples have a right to education in their language. Indigenous Peoples have the right “...to establish and control their educational systems and institutions providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning.”⁸⁰ Further, Indigenous children have the right to all levels of state education.⁸¹ There is an insufficient amount of state-run primary schools offering education in the Kalasha language. Furthermore, not only are there no secondary schools that teach in Kalasha, but state-run secondary schools include mandatory curriculum on Islamic studies; which may harm the Kalasha religion and culture.

A. Kalash Livelihood and Natural Disasters (Violation of CESC)

To complicate educational and language matters further, one of the primary schools in the Kalasha Valleys was destroyed by floods in 2013.⁸² Severe flooding occurred in the valley in 2010, 2013 and 2015.⁸³ Following the floods in the summer of 2015, in November 2015 an earthquake that registered at 7.5 on the Richter scale occurred in the Chitral Valley.⁸⁴

The primary source of income for the Kalash is through farming and livestock.⁸⁵ Tourism, however, also contributed to the economy in the Kalash Valley for several years.⁸⁶ The floods and following earthquakes had devastating consequences on the Kalash’s land.⁸⁷ As such, their ability to farm and thus their economy has been negatively impacted.

Pakistan ratified the CESC in 2008.⁸⁸ Under CESC, Pakistan recognized the “right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”⁸⁹ Pakistan committed to taking steps to ensure the realization of that right. The commitments made through CESC extend to Indigenous Peoples within Pakistan. UNDRIP further recognizes that rights enshrined in treaties apply to Indigenous Peoples.⁹⁰

V. Questions

1. How will Pakistan ensure that consultation cooperation with Indigenous Peoples occurs with regards to media and film to prevent appropriation of Indigenous Peoples’ cultures?
2. What steps will Pakistan undertake to provide a sufficient amount of state-run primary schools that offer education in Indigenous Peoples’ languages?
3. How will Pakistan provide state-sponsored education at the secondary level for Indigenous Peoples without jeopardizing their culture and traditions?
4. How will Pakistan ensure that forced conversions of women and girls from Kalasha to Islam cease?

VI. Recommendations

Cultural Survival recommends that the government of Pakistan:

1. Take concrete steps to implement the provisions of UNDRIP into domestic laws of Pakistan.
2. Recognize Indigenous Peoples in the Constitution of Pakistan.
3. Highlight consultation and cooperation processes that members of the public may be able to undertake with Indigenous Peoples so as to avoid cultural appropriation.
4. Increase cultural awareness of Indigenous Peoples within the media so as to avoid future cultural appropriation without prior consultation with the Indigenous Peoples affected.
5. Request that the Kalash to be added to UNESCO's Intangible Cultural Heritage List.
6. Take concrete steps to ensure that members of the Kalash are not suffering from forced conversions to Muslim from neighboring communities.
7. Ensure that Kalash children have education to primary education in the Kalasha Language.
8. Amend the curriculum in state-run secondary schools so as to not require Kalash students to study Islam.
9. Obtain the Free, Prior and Informed Consent of Indigenous communities in all projects affecting them
10. Ensure Indigenous participation in decision-making at all levels in all matters affecting them.
11. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Pakistan.
12. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples' Outcome Document.

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- 88 University of Minnesota, Human Rights Library, Ratification of International Human Rights Treaties – Pakistan, <http://hrlibrary.umn.edu/research/ratification-pakistan.html>
- 89 International Covenant on Economic, Social and Cultural Rights (1976), <http://hrlibrary.umn.edu/instreetree/b2esc.htm>, Article 11(1)
- 90 See *UNDRIP* stating that “Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights² and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development”