

Pakistan

The definition of indigenous groups in Pakistan is vague. Under the definitions of indigenous peoples, certain distinct communities can be represented as indigenous in Pakistan. The Government of Pakistan considers indigenous people as tribal.

The Kalash are the most well known indigenous group in Pakistan. They are a pagan group practicing an ancient Hindu religion. Though there have been theories of their Greek/Macedonian origin, scientific evidence belies this claim. Their existence in what is otherwise an increasingly conservative religious atmosphere as well as the threats they have received from the Taliban have given them some international fame. NGOs and other groups are interested in their plight. The government, to its credit, has increased its security presence to ensure their protection.

The Kihals and Mors, the fishing communities of the Indus River, have been severely affected by large infrastructure projects. They are a nomadic population so National Identity Cards are a luxury. The community is considered “impure” because of their diet, which includes crocodiles.

The Meghwar, Bheel and Kohli, the scheduled tribes of Sindh are indigenous to the region and heavily marginalized. They suffer similar abuse as the Kihals and Mors, considered to be “dirty”

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with the added stigma of the customary practice of “untouchability.” Majority of them (90%) live in rural areas: Tharparkar and Umerkot in Sindh and Bahawalpur and Rahim Yar Khan in Punjab (Shah, 2007).

There is very little information that brings together the experience of indigenous communities in Pakistan and their interaction with the state. The Kalash have been subject to the most amount of anthropological study, having evoked the curiosity of European scholarly work with their claim to Greek ancestry. There is very little information available on the beliefs and lifestyle of the fishing tribes of the Indus Valley, as very few NGOs and CSOs work with them.

Legal framework related to indigenous peoples’ land rights

International law

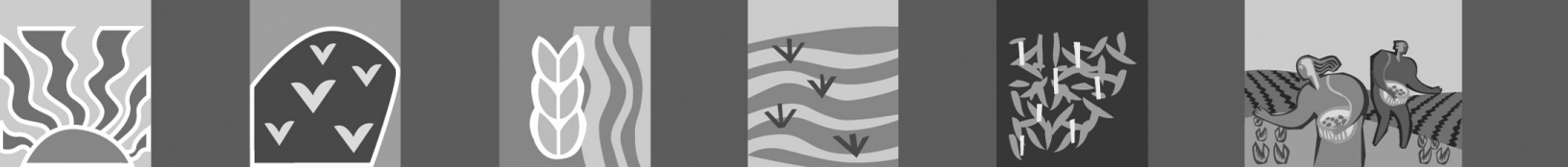
Pakistan is a signatory to the following international conventions, agreements and declarations:

- ***ILO Convention on Indigenous and Tribal Populations*** (Convention No. 107) in 1960. This convention places on the government the responsibility of providing tribal and semi-tribal populations with the tools for development.
- ***Convention on Biological Diversity (CBD)***. Its primary purpose was to ensure the “fair and equitable sharing of the benefits” that accrue from using genetic resources (CBD, 2014).
- ***United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)***. Although the document is not binding as an international treaty, it reflects the spirit of the minimum standard which countries should adhere to when it comes to their indigenous communities. It consists of the ***International***

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Covenant on Economic, Social and Cultural Rights ratified by Pakistan in November, 2008 and the ***International Covenant on Civil and Political Rights*** ratified in 2010. The latter gives every individual freedom of religion, speech, assembly, as well as the right to life, due process, fair trial and electoral rights. The former is a guarantee to such rights as education, health care, labor rights and the right to an adequate standard of living.

- ***Agenda 21*** and the ***Rio Declaration of 1992*** also recognize that indigenous peoples should be given more freedom to manage their land and resources as well as be involved in the decision making process of development projects.
- Article 1 of the ***International Convention on Elimination of All Forms of Racial Discrimination (ICERD)*** of 1966 states that “...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”
- ***UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities*** of 1992 which protects ethnic, cultural, religious or linguistic



identity of minorities, ensures free expression, association and opportunity for cultural development association of minorities amongst themselves, as well as, ensuring that states allow for education about minorities.

- The **UN 1926 Slavery Convention** or the Convention to Suppress the Slave Trade and Slavery prevents slave trade and abolishes all forms of slavery.
- The **United Nations Supplementary Convention on the Abolition of Slavery** is a more expansive document that covers situations such as bonded labor.
- The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** which was acceded to by Pakistan in 1996, with reservations based on its Constitution.

As a beneficiary of donors, Pakistan is also bound to abide by provisions that safeguard the interest of indigenous communities. The World Bank states that it “...seeks to position excluded groups, such as the indigenous peoples, at the center of the development agenda.” It aims to give indigenous people the tools and capacity for self-development and realizes that the knowledge they hold may be critical to adapting to climate change (World Bank, 2014).

The Asian Development Bank (ADB) is more clear and extensive in its support for indigenous communities. “The ADB’s indigenous peoples safeguards aim to ensure that the design and implementation of projects foster full respect for indigenous peoples’ identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the indigenous peoples themselves so that they receive culturally appropriate social and economic benefits, are not harmed by the projects, and can participate actively in projects that affect them” (ADB, 2014).

National Law and Policy

The 1973 Constitution was an improvement on the Constitutions of 1956 and 1961 because it provided for provincial autonomy and freedoms for ethnic minorities. However, even though ethnic minorities were mentioned, there was very little provision for ethnic minorities and indigenous cultural groups within provincial laws. Thus indigenous groups have to derive their individual and collective rights from the general articles of the Constitution that protect an individual’s freedom.

Article 36 of the Pakistani Constitution obligates it to safeguard the interests of minorities and Article 38 makes the state responsible for taking steps to ensure social and economic equality.

Over the years, Pakistan has had a Ministry of Religious Affairs and Minority Affairs, a Minorities Affairs Division, Federal Advisory Council for Minority Affairs, District Minority Committees, a National Commission for Minorities, as well as, a National Committee on the Kalash People. These were all institutional frameworks to implement constitutional freedoms.

The **National Resettlement Policy** formed in 2002 places strict measures to preserve the communities of indigenous people and ensure fair compensation for any development schemes that adversely affect them.

The third **national report on the implementation of the CBD** published in 2006 states that some goals have been established with regard to maintaining the socio-cultural diversity of local and indigenous communities. The Lok Virsa and the Pakistan National Council of Arts, as well as the Ministry of Culture, Sports and Youth Affairs have the institutional framework to carry



out activities in relation to this. The Pakistan Intellectual Property Organization exists to protect traditional knowledge and practices from corporate patenting.

The *National Climate Change Policy of 2012* has several measures to ensure that indigenous knowledge, practices and species are protected and used appropriately. One specific policy measure states that the Pakistani government will “Ensure close coordination among forest and livestock departments for efficient management of rangelands and other resources while ensuring the rights of the indigenous people.”

The *National Sustainable Development Strategy*, also drafted in 2012, espouses that a clear regulatory process is needed to make sure that indigenous communities who have rights over forestry and rangeland are protected.

Since national policy confuses ethnic minorities and all tribal groups with indigenous peoples, there is limited legislation on the specific cultural rights of indigenous communities. Their land use rights are still unlegislated.

Trends

This report will expand more on Meghwars, Bheels and Kholis communities as a case study due to the distinctiveness and marginalization of these communities.

Meghwars, Bheels, and Kholis

The scheduled caste tribes of Sindh have a distinct religion, culture and language (Dhatki) as compared with those who live around them. They are dependent on the land and have been part of the agricultural system in Sindh for centuries (even becoming landowners for a very brief

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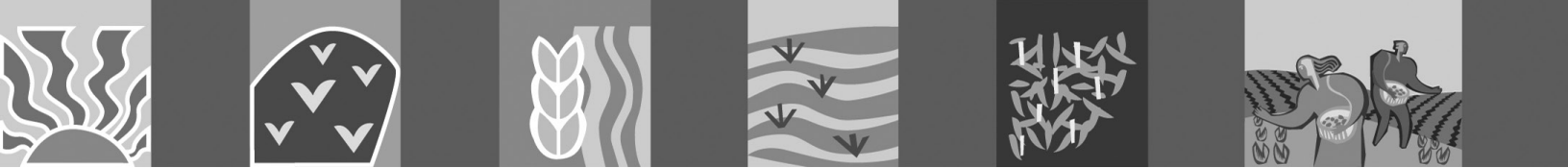
period after the partition). Their low caste makes their religion (Hindu or Muslim) irrelevant. Their beliefs are closer to pre-Hindu animism (Lieven, 2011). The Meghwars, Kholis and Bheels of Sindh suffer from the harsh injustices of both their surrounding environment and society. Thus they can be aptly used as a case study for indigenous communities in Pakistan.

The farmers of these tribes are known as haris of Sindh, referred to as such because of the Hindi word harijan (God’s children) which used to describe the Dalit population. They have been alienated from their livelihood through conditions of bonded labor (Wagha, 2012).

Indigenous peoples in Pakistan are not interlinked in any way and do not work together for their rights. They are distinct populations in terms of language, ethnicity and belief systems. The systems of oppression that affect them and the history of their people vary.

History of Land Rights in Sindh

The British instituted a multitude of land governance and taxation mechanisms. In the case of areas where tribal identity and self-



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government was strong, the British encountered resistance. They decided to pursue a policy of non-interference. The tribes were allowed to self-govern so long as they formally accepted British rule (Gazdar, 2009:6).

The zamindar system, originally applied in Bengal, gave the responsibility of the entire village to one landowning family, which naturally created resentment. The zamindar became the owner of the land and the hari became the equivalent of a serf. Almost all zamindars were Muslims. The British modified this system to the mahalwari system, where a village was seen as a collective entity and multiple landowners were given the responsibility of collecting taxes (Gazdar, 2009:8).

Two factors were taken into consideration before conferring the title of landlord: (1) possession of the land; and (2) historical rights or claim over it. A record of sale was meaningless as the rigid notions of private property did not exist (Gazdar, 2009:9).

The ryotwari system considered the tiller of the soil as the owner of the soil. Revenue expectations were allotted to specific areas of land and all those working on the land had an incentive to maximize output. Ideally, in Sindh, this would have meant

that the hari, the laborer, was the owner of the land (Gazdar, 2009:11-12).

The debate on land reform did not take into account the conditions of agriculture in Sindh. Though it was accepted that the zamindar was exploiting the tenant, the zamindar’s investment in the irrigation of land, something which was a slightly complex and resource-driven task, was not taken into consideration. Without the state creating the framework to replace the zamindar, the economies of scale made land reform a meaningless proposition (Gazdar, 2009:24-25).

The government of Zulfiqar Ali Bhutto created laws in Sindh that favored the tenant. The cost of input shares was placed on the zamindar and relaxed on the hari. When Bhutto’s government was removed from power, tensions against the military reached a point that it became unforeseeable for the Punjabi landowners to manage their land in Sindh. Many sold their land and moved away. It was under these circumstances that some landless poor, including Bheel families, were able to acquire land (Gazdar, 2009:19).

Later, the input share law that had allowed for a feeling of empowerment amongst the hari was overturned. Most investment in Sindh agriculture was done to favor the existing ruling class or for the government to use as a means to award loyalists (Gazdar, 2009:13).

Property Rights and Bonded Labor

The bonded labor system in Sindh sustains itself because of difficulties in irrigation. The amount of investment required in water and the lack of irrigation in certain areas compelled small farmers to work on larger farms. These farmers were



forced to work for low wages and incurred debts that they did not understand and could not repay. They were treated much like slaves: constrained, imprisoned, chained and even bought and sold (Arif, 2008:24-25).

The Constitution of Pakistan prohibits slavery and contains various articles that impose on the State the responsibility to provide just working conditions (Arif, 2008:26-28). Along with the Bonded Labor Abolition Act of 1992, the State provides ample safeguards against slavery. However, bonded farm labor still exists as landowners claim the relationship is based on the Sindh Tenancy Act. In 2001, a National Policy and Plan of Action for the Abolition of Bonded Labor and Rehabilitation of Freed Bonded Laborers was adopted resulting in amendments to the tenancy law. These included expunging the “temporary tenants” category, accepting as loans between landowner and tenant only that which have been recorded and prohibiting a landowner from extracting labor from a tenant’s family or restricting the movement of the tenant and his family (Arif, 2008:29-31).

The amendments to the tenancy law did not prevent violations. Tenancy agreements were not signed so that a landlord could deny that the hari was a tenant. Under the law, the landlord provides funds for certain inputs, however, landlords charged these on the tenant, and included personal expenses, which led to the tenant being eternally in debt. A tenant is supposed to receive one third to half of the produce but, in reality, only receives daily subsistence or less (Arif, 2008:32-33).

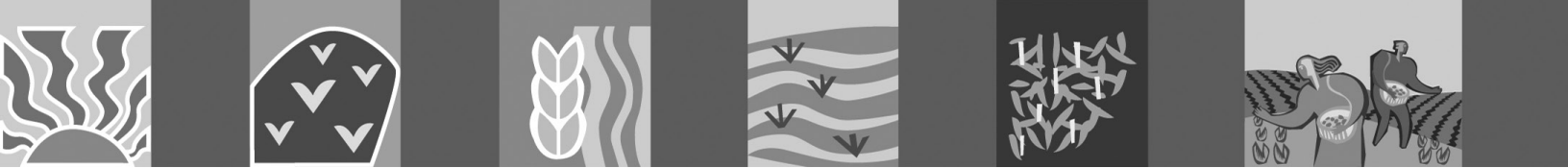
The Tenancy Act was updated in 2013 but the situation remains the same. Land belonging to haris can be occupied by members of the upper caste, since haris have very little legal recourse.

Bonded laborers who have been freed overwhelmingly belonged to scheduled castes. Although they may have been working on the same land for generations, they are not entitled to it in any way (Shah, 2007:7). Only 17% of scheduled caste members own land, of which 90% are between one and five acres and are located in non-irrigated, desert areas. Scheduled caste members receive unequal pay even if they do the same amount of work as members of other castes or Muslims (Shah, 2007:28-29,45).

Pakistan has not been spared from the corporatization of the agricultural sector. In 2011, the United Arab Emirates bought about 324,000 hectares (ha) of land in Baluchistan, Punjab and Sindh (Pesticide Action Network Asia & the Pacific, 2012:3). Al-Dahra, a UAE company, has a land lease agreement for 10 years in Mirpurkhas, Sindh starting from 2007. Export goods included alfalfa and Rhodes grass. Surveyed residents were unwilling to express dissatisfaction with this land lease arrangement perhaps out of fear (Pesticide Action Network Asia & the Pacific, 2012:6-7,9).

However, the consequences of such export-based agricultural production are not hard to predict. Water use is greater for these crops, thus water is diverted to corporate farms. With farmers working on products that are not intended for local food production, they have to purchase items such as flour and vegetables, leaving them at the mercy of price fluctuations. Furthermore, what was previously common grazing land for livestock is now private property, and several residents had to reduce their livestock for fear of imprisonment for making use of “private grass” (Pesticide Action Network Asia & the Pacific, 2012:13-15).

Corporate agriculture comes with mechanized farming techniques requiring less labor. The



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lower caste Hindu groups in Mirphurkhas were extremely unwilling to criticize their worsening situation and grateful that they were not kicked off the land all together (Pesticide Action Network Asia & the Pacific, 2012:10).

Others were not so lucky. A Meghwar village was forcefully evacuated for an intended residential development. Since Al-Dahra has entered the picture, about 100-150 Meghwar and Kolhi families were moved because their homes were on land that is part of the lease agreement (Pesticide Action Network Asia & the Pacific, 2012:16).

Caste Based Discrimination

Meghwars, Kohlis and Bheels reside mostly in rural areas. There are disputes about the size of the population of the scheduled castes, with official statistics limiting their number to about 300,000 out of the Hindu population of about 2 million. Scheduled caste members claim that they comprise the majority of Pakistan’s Hindu population. Census data inquires about religion but does not clearly ask about caste affiliation, so it is not reliable in this regard. Estimates suggest that 70-90% of Hindus in Pakistan belong to scheduled caste communities. If this is true and census data is inaccurate, then marginalization of scheduled

caste members begins from here. Development schemes and quotas for employment are skewed against them (Shah, 2007:17).

Scheduled caste members have very limited access to health facilities. Thus, rates of tuberculosis, Hepatitis B, and Hepatitis C are high, as well as infant mortality and malnutrition. Village health facilities often refuse to serve members of the scheduled castes. Women are forced to turn to midwives of their same caste when giving birth (Shah, 2007:32)

The literacy rate of scheduled caste members is appallingly low: 74% are illiterate, 15% have completed primary school, 4% have completed matriculate, and 1% are graduates (Shah, 2007: 30). Education is constrained by lack of schools and teachers (Shah, 2007:59). Malnutrition and discrimination restricts education further. Children are more likely to be beaten in school. They are expected to sit in the back of the classrooms and are made to clean schools (Shah, 2007:39). Curriculums are also discriminatory with an anti-Hindu bias (Shah, 2007:60).

Shelter is also severely lacking. Their houses are without toilets, sewage, running water or electricity. Portable drinking water is not available. Their housing communities are separate and often located on the outer perimeters of the village (Shah, 2007:32,34).

There are severe enforcements against inter-caste marriage. Scheduled caste members were even being denied relief provisions after natural calamities (Shah, 2007:33).

They are excluded from the political structure of the state. They are not mentioned in political party manifestos. The Poverty Reduction Strategy Papers and the Medium Term Development



Framework does not mention castes. National identity cards can be difficult to obtain because of semi-nomadic lifestyles of tribes or, in the case of bonded laborers, the need for employers to verify permanent addresses. Enumerators who conduct census or compile voters' lists are often from higher castes and can exclude scheduled caste members. Thus, their vote can easily be disenfranchised. In other cases, they are compelled and threatened to vote a certain way (Alaiwah, 2012).

Sexual abuse and harassment is rife in the scheduled caste community. Sixty percent of bonded laborers are sexually abused. Young girls and women from these communities can be kidnapped with no recourse for families. Police will claim that the girl has converted to Islam and married of her own accord. These women can then be passed on to employers or end up in the streets (Shah, 2007:71-73).

No member of the scheduled caste community is employed in law enforcement or judicial institutions of the government. Those who manage to secure gainful employment in the public or private sector face discrimination.

Assessment of key actors promoting/impeding IPs' rights

Government

There is no specific government agency or ministry working with scheduled caste members. A public sector job quota for scheduled caste members was implemented in 1957 but was never instituted and was scrapped in 1998.

Scheduled caste members are threatened with blasphemy laws to ensure their cooperation.

They are also suspected to be Indian RAW agents and mistreated (Alaiwah, 2012).

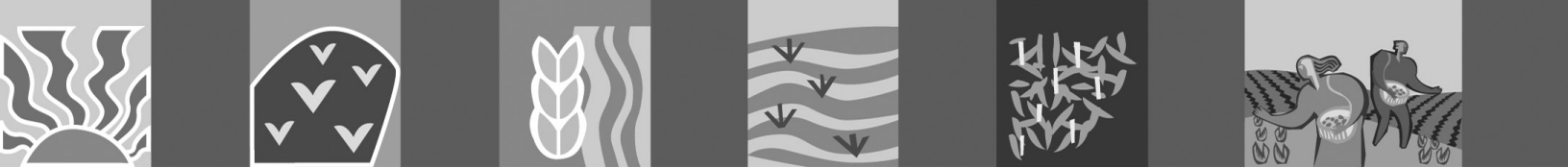
The local governing structure, as well as traditional authorities, continues to practice "untouchability" and treat scheduled caste members discriminatorily.

Political Parties

The Pakistan Muslim League-N (PLM-N)'s manifesto promises the acceleration of the Hindu Marriage Bill. It also promises quotas for minorities in public sector jobs and educational opportunities (PML-N, 2013:45). It states that it will continue its policy of irrigating and allotting land to landless peasants, women haris, and tenants (PML-N, 2013:31). No specific promises were made to scheduled caste members.

The Pakistan People's Party Parliamentarians (PPP)'s manifesto is by far the friendliest manifesto towards minorities, with extensive measures on how to mainstream and protect them including the revival of a National Commission for Minorities and an Equality Commission for fair pay and job concerns (PPPP, 2013:5). It also promises to continue its land reform measures and provide land to landless peasants (PPPP, 2013:42). It mentions indigenous communities in relation to their culture and language, which it promises to preserve through various measures. It does not specifically mention Hindus or scheduled caste members.

Pakistan Tehreek-e-Insaf (PTI)'s manifesto is generally brief and non-specific so does not provide any specific guarantees for indigenous communities, scheduled caste members or haris of Sindh but does promise to "expedite distribution of cultivable state land among landless farmers" (PTI, 2013:24).



The Muttahida Qaumi Movement Pakistan (MQM) is the fourth largest party and is particularly powerful in Sindh. It does not mention scheduled caste members or Hindus but wants to cease the use of the term “minorities” and wants to undo political quotas for minorities (MQM, 2013:29). It suggests amendments to the Tenancy Act, Domestic Violence Act and the establishment of hari courts.

Civil Society and Social Movements

The Scheduled Castes Federation of Pakistan is a forum to raise awareness of issues but its scope and reach is very limited. The Human Rights Commission of Pakistan (HRCP) and the National Commission of Justice and Peace work on human rights and minority rights, and as a consequence deal with some issues of scheduled caste members (Alaiwah, 2012). The Pakistan Institute of Labor Education and Research (PILER) looks into the issues of bonded laborers. The Applied Social Research Centre/Institute of Women’s Studies Lahore produced a short pamphlet in Urdu concerning the issues of scheduled caste members in 2004. Thardeep Rural Development Organization carries out development programs in Sindh and may serve the needs of local scheduled caste members (Alaiwah, 2012). The Sukaar Development Foundation and the Association for Water Applied Education & Renewable Energy (AWARE) also work primarily in Tharparkar and Umerkot.

SCOPE has been working in Tharparkar district for some time, and has developed and implemented projects to work closely with these communities particularly in promoting and protecting their land rights to private land, communal land and exploitation in agriculture labor.

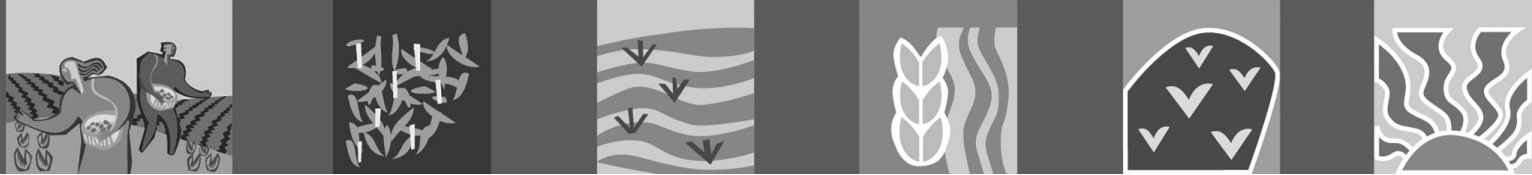
The South Asia Partnership – Pakistan and the Bhit Shah Deceleration & Coordination Council organized a Hari Conference on April 8, 2007. Landless peasants came up with a list of terms that would ease their conditions (Arif, 2008:38-39).

Currently, there are no governmental or non-governmental commissions or groups to monitor instances of abuse against scheduled caste members. The statistics that have been compiled are a result of extrapolation from smaller surveys.

The media can also play an active role in the possibility of a future broad-based social movement. A study of Pakistan’s various English newspapers has shown consistent positive coverage for minorities (Ambreen, 2014). ■

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For the complete list of references, please contact the author of this study as indicated at the beginning of this article.