

Sindh Democrats Group Petition

Here is the complete Chapter Three from ``Sindh Case'', a petition filed by Sindh Democrats Group to the Supreme Court of Pakistan in response to the MQM Constitutional Petition No 46 of 1994, claiming discrimination from the federal and Sindh provincial governments. It discusses Muhajir complaints at some length.

Chapter Three

Part One

1. A legitimate question on every lip in Pakistan is what kind of deprivations and injustice have been meted out to the Muhajir community that they have taken up arms against everybody, killing and burning, looting and destroying. Surely the reasons for such an attitude should be overwhelming.
2. It is respectfully submitted before this Honorable Court that in order to resolve any conflict, especially when the conflict be so critical as in Sindh now, following parameters should be carefully considered:
 - (i) Claims of the parties in conflict.
 - (ii) All the facts and figures of the issues.
 - (iii) Resolution of the conflict according to the principles of natural justice.
3. The applicant/intervenor begs to submit the issues of the conflict as well as the facts hereunder, along with documentary proof. At the same time the applicant/intervenor requests this Honorable Court to note that Mr. Altaf Hussain, the ``supreme leader'' of the petitioner keeps issuing irresponsible statements like Muhajirs being 60% of Sindh population or being 22 million. He also wails about discrimination in admissions or in jobs without presenting cogent proofs or documentary evidence of his grievances. In this age of information revolution why Mr. Altaf Hussain does not state facts and figures indicates that he wishes only to blackmail the government into granting the Muhajir community such privileges that they are already enjoying more than their due share.
4. At the height of MQM and Muhajir anger, when ``operation clean up'' had gathered pace, some concerned citizens of Karachi, mostly Urd speaking, contacted members of impleader organization, the SDG, for a dialogue on Sindhi-Muhajir conflict.

The ensuing debate continued for six months between a number of concerned people from both sides in which complaints of the two communities were enumerated and a final compromise draft was prepared that was signed by more than 50 of the attending members. (Declaration of Peace and Amity in Sindh, enclosed as Vol 3.1 of the document). It was extremely surprising that, the grievances enumerated by the Muhajirs, after raking many intelligent, fertile and prominent brains, totaled only three:

- (i) They (Muhajirs) have not been accepted as sons of soil.
- (ii) The quota system for serices and in educational institutions is an instrument of discrimination against them.
- (iii) There has been no effort to solve the civic problems of the urban areas in Sindh which affects them (the

Muhajirs) exclusively.

5. The MQM petition also contains the total past and present grievances for which the petitioner has moved this Honorable Court. Minus those complaints that have arisen out of, and after "Operation Clean Up", the residual grievances enumerated below are ethos for which the MQM and its leaders are agitating on the streets for past so many years as their "National" (Quomi) rights:

(i) The census figure for all previous exercises are wrong. The Muhajirs are 60% of the population of Sindh and therefore should be accordingly given the due share of power in the administration of Sindh and representation of Muhajirs in National and Sindh Assemblies.

(ii) Quota in educational institutions is discriminatory to Muhajirs, they deserve more, commensurate with their percentage of the educated.

(iii) Quota in government jobs is discriminatory of Muhajirs, they deserve more, commensurate with their ability and qualifications.

(iv) Biharis should be brought to Pakistan (read Sindh) from Bangladesh.

(v) Sindhi Language has been made compulsory for Government service.

Part Two

1. The petitioner has prayed for relief under Article 22 of the constitution of Pakistan. Translated, it means that the petitioner is agitating this Honorable Court against quota in admissions to educational institutions. The relevant part of Article 22 reads as under:

Article 22 (3) (B) "no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth."

2. By educational institutions the petitioner means only Medical and Engineering University (or college) admissions, since there is no quota in other educational institutions.

3. The fact is, quota is fixed for under privileged people and areas which do not have equal opportunities as the others have. Quota was first demanded, and obtained, by All India Muslim League of India against more educated Hindu majority.

4. (i) Without prejudice to above, the number of Medical colleges in Public Sector in the province of Sindh, and the number of seats or enrollment is as under:

Table 3.1 Distribution of Seats in Medical Schools of Sindh (source: Prospectus and application form of Health Department Sindh, inclosed in document as Vol 3.2)

MEDICAL COLLEGE	NO OF SEATS	PLACE
Dow Medical College	355	Karachi
Sindh Medical College	243	Karachi
Liaqat Medical College	358	Hyderabad
Chandka Medical College	399	Larkana
Peoples Medical College	82	Nawabshah

(ii) In private sector

MEDICAL COLLEGE	NO OF SEATS	PLACE
Agha Khan University	80	Karachi
Baqai Medical College	50	Karachi

(iii) These tables clearly indicate that Karachi, which is 27% of the population of Sindh enjoys a lion's share, that is, 46% of admissions in Medical Colleges. If the seats of other urban areas like Hyderabad, Sukkur, Nawabshah and Mirpurkhas are added, the percentage of total medical seats for urban Sindh will have more than 60%

5. The applicant/intervenor requests this Honorable Court to note that for each medical student from admission to award of degree, the government of Sindh spends R. 300,000.00. Most Karachi domiciled students strive to leave the country immediately after obtaining degree and many have settled outside. The Honorable Court is further requested to note that without exception none of the Karachi domiciled doctors is willing to leave Karachi and work in rural Sindh.

6. (i) The total enrollment of Public Sector Engineering Universities in Sindh Province is as under:

NAME OF COLLEGE	TOTAL ENROLLMENT 1993-1994	PLACE
NED Engg. University	3423	Karachi
Mehran Univ. of E&T	4265	Hyderabad
Dawood Engg. College	Refer (iii) below	Karachi

Table 3.2 The total enrollment in state owned engineering universities in Sindh

(ii) Thus the number of seats in Engineering Universities for Karachi alone is 44.5% of the total engineering disciplined seats of Sindh. Again if the seats for Hyderabad, Sukkur, Nawabshah and Mirpurkhas cities are added, total urban seats will be more than 60%.

(iii) Dawood College of Engineering and Technology is a federally administered institution that has an enrollment capacity of 399 students in the 1st year. Out of 399, eighty seats are for Karachi, thirty four for Hyderabad and Sukkur cities and sixty six for the rest of Sindh. Remaining 219 are divided among other provinces, foreigners and special seats.

If 114 seats or more are added for urban Sindh (80 Karachi + 34 Hyderabad and Sukkur cities), the total seats for Engineering admissions goes way past 60%.

(iv) Karachi and Hyderabad have a multitude of other technical institutions as follows:

- (a) Petroman Computer Institution, Karachi
- (b) Petroman Computer Institution, Hyderabad
- (c) Swedish Technology Center, Karachi
- (d) Pak-Swiss Training Center, Karachi
- (e) UNDP Plastic Technology Institute, Karachi
- (f) Metallurgical Training Institute, Pakistan Steel, Karachi
- (g) Leather Training Center, Hyderabad
- (h) And various training institutes run by many large industries and multinational corporations ("MNCs")

The intake of such institutes runs in thousands per year, all for the benefit of Urban Sindh exclusively. These

are besides the thousands of private schools and training centers from typing to computers to music and fashion that can essentially be established in large cities and that greatly increase the facilities available to city dwellers.

7. (i) In the sector of college education, out of a total enrollment of 191,478 Karachi Division's enrollment is 117,735 or a whopping 61%, Hyderabad Division (33,731), Sukkur Division (23,478) and Larkana Division (16,534) together account for the remaining 39%.

(ii) In the Post Graduate student enrollment of 29,701 for whole Sindh, Karachi Division alone accounts for 15,135 students or 51%, whereas rest of Sindh (Hyderabad=10,646, Sukkur=3920, Larkana=0) had the remaining 49%. As may be noted Larkana Division has no post graduate teaching facility.

8. (i) The measures of development of any people is indicated by its human resources, i.e. the extent its labor force is educated and healthy. The information submitted from 2 to 7 of this chapter is indicative of the educational and training facilities available to urban Sindh that prepares the Urban labor force for prevalent job market. Such privileges are hardly available to rural Sindh due to geographic and commercial reasons.

(ii) About the second parameter of health resource development, i.e. health, the following table is submitted to indicate the breakdown of Sindh Government's budget for health department:

Total Health Department Outlay on major hospitals, Teaching and all Hospitals upto Taluka level = 1300 million

For Karachi:

Civil Hospital, Dow Medical College, Sindh Medical College, and other major hospitals, Karachi = 450 million = 35%

Rest of Sindh:

3 Medical Colleges of Sindh, all hospitals including Civil Hospital Hyderabad, Chandka Medical College Hospital, Larkana, People's Medical Hospital and all Taluka and District Hospitals = 850 million = 65%

(iii) Major health establishments like Jinnah Post Graduate Medical Center, National Institute of Cardiovascular Diseases (NICVD) and National Institute of Child Health (NICH) are federally run and have separate budgets running in crores of rupees. These all are located in Karachi city and benefit Karachiites the most.

(iv) Other medical institutes in private and public sector are as follows:

- Agha Khan Medical University Hospital
- Baqai Medical Hospital
- Lyari General Hospital
- Urology Institute run by Dr. Adeeb Rizvi
- Skin and Social Hygiene Center
- Hamdard Foundation
- Abbasi Shaheed Hospital
- Numerous centers and destitute homes run by Edhi Trust

All above institutes besides a plethora of variegates medical facilities, diagnostic centers, advisory centers and hundreds of top of the line specialties are available to the people of Karachi and those of nearby Hyderabad.

(v) In comparison, rural Sindh has Basic Health Units (BHUs) that are in most cases without doctors or paramedical staff. There are no diagnostic facilities worth the name and no specialists. People of rural Sindh have to trek many miles mostly on bullock carts to reach a qualified doctor. Child mortality is high and deaths during childbirth are numerous.

Against such formidable deprivations of Sindhi people the petitioner's claim that its supporters in urban Sindh are discriminated against is a cruel joke and the petition's plea to grant it relief at the cost of ethnic Sindhis, is an attempt to further deprive Sindhi people.

Part Three

1. The petitioner has sought relief from this Honorable Court under Article 27 which reads as follows:

Article 27 (1) ``No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.

In other words the Petitioner's prayer seeks to demand that jobs in Sindh and Federal Government be given to its supporter, meaning Urdu speaking people, without application of the legally sanctioned quota.

2. The quota in jobs is meant to give a chance to the underprivileged sections of society which for various social, cultural and economic reasons, have been left behind and cannot catch-up with their advantaged counterparts.

3. Quota in jobs was first demanded by All India Muslim League against the more educated Hindu majority. Muslim League won the plea from the British who fixed a quota of Muslims in government jobs.

4. In Pakistan, quota in jobs was for the first time fixed for immigrants from India through a government notification.

At one time 60% of all Government jobs were reserved for immigrants, out of which 15% were reserved for those who had not acquired citizenship of Paistan or domicile as yet. (copy of the notification is enclosed as Vol 3.5 in the document)

5. Even in Sindh, the less educated Sindhi Muslims had demanded, and obtained quotas in jobs from the more educated Sindh Hindus. When the number of educated Muslims fell short of the number of jobs available, Muslims from Punjab were offered the same. The proliferation of Punjabis in Sindh Police dates back to those times.

6. (i) There has been much wailing by MQM and its supporters who claim persecution and deprivation because of their inability to get government jobs. Following tables are being submitted for Federal Government jobs and for jobs in federally run autonomous bodies according to domicile.

PROVINCE WISE BREAK-UP OF THE TOTAL NUMBER OF CIVIL SERVANTS IN THE FEDERAL GOVERNMENT AS ON 1993

NO	PROVINCE/ REGION	GRADE 1-2	GRADE 3-16	GRADE 17-18	GRADE 19-20	GRADE 21-22	PRESCRIBED QUOTA % SHARE
1	Punjab	77002	172108	6788	1468	153	50.0
2	Sindh(U)	13478	25436	1003	260	33	7.6

3	Sindh(R)	9335	15723	841	168	20	11.4
4	NWFP	16145	26592	1333	303	37	11.5
5	Baluchistan	4878	6859	323	71	12	3.5
6	NA/FATA	3404	5044	431	64	2	4.0
7	AJK	3074	3202	141	32	1	2.0
8	Merit	0	0	0	0	0	10.0
	Unidentified	5994	9788	631	54	9	N/A
	Total	133310	264752	11491	2420	267	

Source: Establishment Division Survey 1-1-1993

EMPLOYEES OF AUTONOMOUS/SEMI-AUTONOMOUS CORPORATIONS/BODIES UNDER THE ADMINISTRATIVE CONTROL OF THE FEDERAL GOVERNMENT BY PROVINCE/REGION OF DOMICILE

Part-I

NO	PROVINCE/ REGION	PAY SCALE IN PAKISTANI RUPEES					
		6500 & Above	6000 to 6499	5240 to 5999	4480 to 5239	3040 to 4479	2250 to 3039
1	Punjab	382	357	409	1694	11435	15519
2	Sindh(U)	288	227	343	1231	7317	8302
3	Sindh(R)	36	35	47	209	1712	2178
4	NWFP	46	40	70	284	2440	3102
5	Baluchistan	10	13	19	74	450	803
6	AJK	6	3	7	24	305	406
7	N. Areas	0	1	2	0	55	96
8	Abroad	0	0	0	9	16	24
9	FATA	2	5	14	41	187	172
10	No Response	6	6	9	21	169	241
Total Employees		776	687	920	3587	24086	30843

Part-II

NO	PROVINCE/ REGION	PAY SCALE IN PAKISTANI RUPEES					
		1400 & 2249	760 to 1399	640 to 759	639 or less	Grand Total Number %	
1	Punjab	26068	95560	17833	4442	173699	51.4
2	Sindh(U)	12627	37122	4595	867	72919	21.6
3	Sindh(R)	3113	12223	1879	759	22191	6.6
4	NWFP	5339	22944	6087	2486	42838	12.7
5	Baluchistan	1168	4731	1887	816	9971	3.0
6	AJK	478	3435	935	125	5724	1.7

7	N Areas	171	569	168	15	1077	0.3
8	Abroad	12	8	16	0	85	0.1
9	FATA	188	577	425	96	1707	0.4
10	No Response	588	5702	764	158	7664	2.2
Total Employees		49752	182871	34589	9764	337875	100.0

(ii) Urdu speaking people form 22.64 % of the population of Sindh and 5% of Pakistan. Their share in Federal Government and autonomous jobs should be 7.6%, but they are holding 9.75% (40210 out of 412240) and 21.58% (72919 out of 337875 jobs) respectively. The share of rural Sindhis is only 6.33 % (26087 out of 412240) in Federal Government jobs and 6.56% (22191 out of 337875) jobs in autonomous against their [rightful] share of 11.4%

(iii) Without prejudice to the argument that most of them are illegal immigrants in Pakistan, they are holding far too many jobs, illegally and unfairly at the cost of Sindh people.

The breakdown of the 19% share of Sindh in Federal services is as under:

REGION	Number	%
Urban Sindh	40210	51.3%
Rural Sindh	26087	33.3%
Other provinces holding jobs of Sindh quota	12028	15.4%
Total	78325	100%

7. As far as Sindh Government jobs are concerned on which Mr. Altaf Hussain has blown hot and cold more than once, following table shows the domicile wise jobs allocation:

TOTAL NUMBER OF EMPLOYEES IN GOVERNMENT OF SINDH 496,691

DISTRICTS	TOTAL EMPLOYEE	%	URBAN	%	RURAL	%
Karachi	265647	100	259234	97.6	6413	2.4
Hyderabad	48362	100	35984	74.4	12378	25.6
Sukkur	31183	100	16836	54.0	14347	46.0
Tharparkar	17541	100	10311	59.0	7230	41.0
Remaining	133958	100	N/K		N/K	
Total	496691	100	383218	78.0	109422	22.0

Source: Census Book 1981

TOTAL NUMBER OF NON-GOVERNMENT EMPLOYEES IN SINDH 1,183,116

DISTRICTS	TOTAL EMPLOYEE	%	URBAN	%	RURAL	%
Karachi	611859	100	582866	95.0	28993	5.0
Hyderabad	170299	100	80718	47.0	82581	53.0
Sukkur	37680	100	21398	56.7	16282	34.3
Tharparkar	45694	100	17372	38.0	28322	62.0

Remaining	317584	100	N/K		N/K	
Total	1183116	100	799898	67.6	383218	32.4

Source: Census Book 1981

8. MQM leadership and its supporters are only representative of 22.64% population of Sindh and 5% population of Pakistan. This "electoral representation" of people who hold far more jobs (78% Government and 67.7% non-Government) than their due share (22.64%), most of whom come and go whenever they like from India, most of whom are illegal immigrants, have the temerity to demand, and then to kill and burn when such absurd demands are not met, only because, perhaps, one of their grandfathers waved a Pakistani flag 50 years ago in the streets of Junagadh.

9. The applicant/intervenor respectfully begs this Honorable Court to note that at the time of Partition not all Muslim minority provinces were developed as UP and CP. For example Hyderabad Deccan was as backward as Sindh if not more. Therefore all refugees were not more educated or emancipated than Sindhi people. After coming to Pakistan unchallenged opportunities were made available to them in diverse fields like Banking, Shipping, Airlines, Insurance, etc. At one time State Bank of Pakistan had 90% Urdu speaking employees.

In time Urdu speaking people became experts in various fields, the expense and expertise of which was obtained because of their most favorable location in urban Sindh rather than any previous experience in India.

There are upward of 2 million Pakistanis working in the Gulf States and the West, sizable number of whom are Urdu speaking. Exact data has not been collected yet but most of these people came to Pakistan much after partition and obtained admission to professional colleges and/or necessary experience and expertise in different fields, emigrating thereafter to greener pastures using Pakistan only as a stepping stone.

If Federal and Sindh Government jobs as well as federally and provincially administered autonomous and semi-autonomous are tabulated from the above data, the following picture emerges.

Note: Sindh's total share in the federal jobs is 19%, which is divided on 40% (7.6% of 19%) and 60% (11.4% of 19%) basis for urban and rural areas respectively.

REPRESENTATION OF RURAL AND URBAN AREAS IN THE FEDERAL AND PROVINCIAL SERVICES

ORGANIZATIONS	URBAN		RURAL	
	% Due Share	% Actual	% Due Share	% Actual
Federal Govt.	40.0	51.3	60.0	33.57
Fed. Govt. Corporations	40.0	113.0	60.0	32.6
Sindh Govt.	40.0	78.0	60.0	22.0
Provincial Govt. Corporations	40.0	67.0	60.0	32.4

Source: Census Book 1981

Part Four

1. The petitioner had invoked Article 15 of the Constitution of Islamic Republic of Pakistan, under which the petitioner has prayed for bringing Biharis from Bangladesh to Pakistan, meaning Sindh.

2. These Biharis are original residents of Bihar province who had opted to settle in the East wing of Pakistan at the time of partition.
3. When East Pakistan broke away to become Bangladesh, the Biharis, who are Urdu speaking, were numbered to be 250,000 and they opted to come to Pakistan.
4. The legal position is that only government servants of the Muslim minority provinces were asked to opt for Pakistan, or to stay in India. Those who chose to migrate to Pakistan, either settled in east or the west wing of the country. Biharis chose to migrate to East Pakistan. They had domiciles of East Pakistan for twenty four years when their country broke to become two separate states. Most of them are married in East Pakistan; most children were born there; all of them spoke and studied Bengali. In short they assimilated admirably in the Muslim homeland they chose to live in the first place.
5. Nationality and domicile are two separate issues that must be handled carefully while determining the legal status of Biharis. Nationality is the "legal relationship involving allegiance on the part of an individual and usually protection of the part of the state." Domicile means "a person's fixed, permanent and principal place of living."
6. Any individual living in the East wing of Pakistan had his/her allegiance to the State of Pakistan. But the protection to the individual's right was exercised by the State of Pakistan through its agents in the East wing. Thus for all practical purposes, the government of East Pakistan, acting as agent of the Government of Pakistan was providing the protection to the individual.
7. (i) The creation of Pakistan as a state is a unique phenomenon and the breaking up of Pakistan into two separate states has made the case even more complex.

(ii) During the birth of Pakistan, Muslims of majority provinces became indigenous nationals of the new country, whereas Muslims from minority provinces became nationals after they opted for Pakistan giving up the nationality of India. In Pakistan, however, which had two wings and five Muslim majority provinces, each individual opted to stay in any of the two wings or any of the five provinces of Pakistan according to his/her social and economic preference. All Muslims of Bihar opted to migrate to the East wing of the new Muslim state, Pakistan.
8. The total logic of Biharis claim to want to come to Pakistan now from Bangladesh is the "nationality" of Pakistan, or the name written in their passport. There was no other physical contact.
9. Assuming for a minute, Bangladesh, having been in the forefront of Pakistan movement and being the majority province having 56% population of Pakistan, insisted on naming their country Pakistan and the west Pakistan was then constrained to semantically renaming itself Punjabistan or whatever, would then all Bihajirs stay in (East) Pakistan? And would also Urdu speakers from here then have made a bee line to migrate to the (Haqiqi) Pakistan? The answer is of course NO?
10. The fact of the matter is that West Pakistan or Pakistan, promises a better life for Biharis. Hence their desire to migrate here. Having been affiliated with the ignominious Al-Shams and Al-Badar has only added an urgency to their desire for migration.
11. Opinion on Biharis by Justice Abdul Hayee Qureshi is enclosed. His findings, albeit for different reasons, are that Biharis are not Pakistani nationals. (Report by Justice Abdul Hayee Qureshi, enclosed as Vol 3.7 of document).
12. Historically Sindhi people have always welcomed people from outside. In 1901 and 1935 substantial migration took place from Punjab and was welcomed. In 1946 when Hindu-Muslim riots erupted in District

Bihar, Mr. Hussain Shahid Suharwardi requested G. M. Syed, then President Sindh Muslim League, to help settle the unfortunate Bihari Muslims in Sindh. The request was acceded to and Karachi's Bihar colony is a testament to the generosity of Sindhi minds.

13. 50 years down the road, after immense betrayals and colossal treachery and double-cross, when Sindhi people are being murdered in their own homeland for jobs and admissions by those very people for whom they opened their homes and hearts, it will be an act of miracle if any Sindhi agrees to accept even one outsider.

14. Without prejudice to above, a valid question begs the answer. When MQM leadership and its supporters are agitating in the streets and in this Honorable Court for more seats in the professional colleges and for more jobs in Government service, why are they demanding 250,000 more people should come to Pakistan and settle in Sindh?

Part Five

1. The remaining two grievances from the consolidated list of complaints of the petitioner and Muhajir Intellectuals are:

- (i) Sindhi language has been made compulsory for government jobs.
- (ii) There has been no effort to solve the civic problems of urban areas, which affect Muhajirs exclusively.

2. The complaint that Sindhi language has been made compulsory for government servants is bizarre to say the least. A government servant by reason of his profession, is liable to be transferred anywhere in Sindh. The people of far flung areas, mostly uneducated, in many cases do not speak or understand Urdu. To find out their problems and to do justice to them, the government servant will need to know their language. Even British, the imperialists from 7 seas away, thought it wise and included it as a prerequisite to a stint of serve in Sindh.

3. (i) As far as the problem of civic amenities of urban Sindh is concerned, although Urdu speaking intellectuals correctly enumerated it as a massive irritant, the petitioner, MQM had understandably not listed it as one of the grievances.

(ii) The reason is that the municipal corporations of both Karachi and Hyderabad were under the stronghold of the petitioner for six long years between 1987 and 1992. With the KMC budge of Rs 4 billions per year and HMC budged of Rs 190 milion per year, the amount MQM received in the six years is a whopping Rs. 25 Billion.

(iii) While the petitioner had most of the power and all the money for six long years, Hyderabad fell in ruins and Karachi went to dogs. Not a single worthwhile project was initiated or executed in both the major cities. The present ad-hoc administrator of HMC has done more for the Hyderabad city roads and drainage system in six months than the petitioner did in all six years of unchallenged supremacy.

(iv) Same is the case with Karachi. Under the care of a young man, humanely and scrupulously motivated, the KMC had shown a far better performance in 12 months than MQM, the champion of Muhajirs, did in all its pristine glory.

(v) The petitioner had, for its own sake, not agitated this Honorable Court on the point of civic amenities in urban Sindh, but as is indicated by the ``Declaration for peace and amity in Sindh" many Urdu speaking people of Sindh are greatly perturbed by the crumbling civic services, and the violence it has generated among the users. In fact the petitioner and its supporters must bear the maximum responsibility for this

induced violence and chaos.