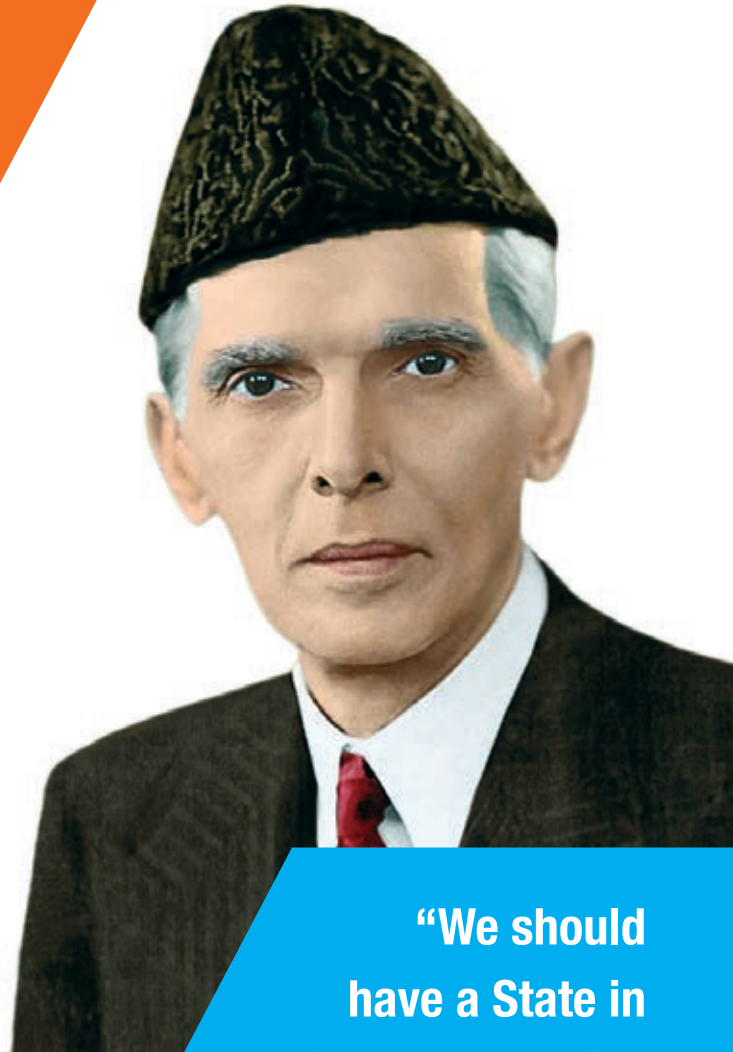


# Annual Report 2015-16



## National Commission for Human Rights Pakistan



**“We should  
have a State in  
which we could live  
and breathe as free  
men and which we  
could develop according  
to our own lights and  
culture and where principles  
of Islamic social justice could  
find free play.”**

Muhammad Ali Jinnah

# Annual Report 2015-16



**National Commission for Human Rights Pakistan**



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## ACRONYMS

AGPR	Accountant General Pakistan Revenues
APNS	All Pakistan Newspapers Society
CAT	Committee against Torture
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on Migrant Workers
CRC	Committee on the Rights of the Child
CRPC	Criminal Procedure Code
CWA	Community Welfare Attaché
FIR	First Information Report
GOP	Government of Pakistan
GSP+	Generalised Scheme of Preferences
HEC	Higher Education Commission
HEIs	Higher Education Institutions
HRC	Human Rights Committee
ICC	International Coordinating Committee of National Human Rights Institutions
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRC	IHRC International Human Rights Commission
JIT	Joint Investigation Team
MOIB	Ministry of Information and Broadcasting
MOFA	Ministry of Foreign Affairs
MOP&HRD	Ministry of Overseas Pakistanis and Human Resources Development
MOU	Memorandum of Understanding
NCHR	National Commission for Human Rights



NHRIs,	National Human Rights Institutions
NIM	National Institute of Management
NIRM	National Institutions and Regional Mechanisms
NSA	National Services Academy
NSPP	National School of Public Policy
OHCHR	Office of the High Commissioner for Human Rights
PBA	Pakistan Broadcasting Association
PC	Privatization Commission
TAF	The Asia Foundation
TOT	Training of Trainers
UBL	United Bank Limited
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review
WAT	War against Terror

## LETTER FROM CHAIRMAN

We are members of the brotherhood of Islam in which all are equal in rights, dignity and self-respect. Consequently, we have a special and a very deep sense of unity. But make no mistake, Pakistan is not a theocracy or anything like it. Islam demands from us the tolerance of other creeds and we welcome in closest association with us all those who, of whatsoever creed, are themselves willing and ready to play their part as true and loyal citizens of Pakistan.

### - Quaid-e-Azam, Mohammad Ali Jinnah, 1948

Quaid-e-Azam, Mohammad Ali Jinnah, the Father of the Nation, was an ardent protector and promoter of human rights. He envisioned an inclusive and impartial government that defends religious freedoms, rule of law, and dignity for all. It was after having observed the treatment of Muslims in India, that he proposed the creation of a nation where people of every race and creed were welcomed and treated with due respect.

It came as no surprise, then, that after he was elected president of the Constituent Assembly of Pakistan in 1947 he formed and headed a committee on “Fundamental Rights of the citizens of Pakistan and on matters relating to Minorities” the very next day, and in his speech he articulated his vision for the future of human rights in the country:

You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed -- that has nothing to do with the business of the State.

### - Quaid-e-Azam, Mohammad Ali Jinnah, 1947

Let us look back to his speeches from 1919-1948 in order to fully understand and reflect his vision in our work today.

What is surprising, though, is that, for a country whose founder was so adamant on defending human rights, Pakistan’s National Human Rights Institution (NHRI), the National Commission for Human Rights (NCHR) is the youngest in the region. Yet, it is important to note that the NCHR is bestowed with a broad mandate equipping it to become the strongest institution upholding human rights in the country.

In its preamble, the NCHR Act, 2012<sup>1</sup> provides its raison d’être as follows:

1 See Annexure-I: The National Commission for Human Rights Act, 2012

WHEREAS it is expedient to provide for the creation of National Commission for Human Rights, for the purpose of promotion and protection of Human Rights as provided in the Constitution of Islamic Republic of Pakistan and various international instruments to which Pakistan is state party or shall become a state party.

As the premier human rights institution in the country, the Commission remains central to the promotion and protection of human rights in Pakistan.

The Commission' statutory legal basis and particular legal responsibilities are an independent part of the State apparatus. The law grants the Commission jurisdiction over intelligence agencies and the armed forces under Sections 14 and 15 of the NCHR Act, 2012, and the Commission has also been granted judicial powers, as much as that of a civil court, delineated by Sections 13 and 17 of the Act.

The Commission's independence, in line with the Paris Principles, is legally preserved under Section 16(1) of the Act:

The Commission and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independently and separate from any government, administration, or any other functionary or body directly or indirectly representing the interest of any such entity.

Section 27 of the NCHR Act, 2012 guarantees the commission's financial independence:

The Government shall allocate specific amount of money for the Commission in each financial year and it shall not be necessary for the Commission to take prior approval from the Government to spend such allocated money for the approved and specific purposes.

Our struggle for independence is a part of our day to day business. Many a times we face frustrations and disappointments what makes us resilient is our faith in the rationale of the institution in service of the people of Pakistan.

In addition to hearing complaints from affected parties, the Commission acts as a watch dog over both institutions and individuals. As a completely independent body, the NCHR conducts non-partisan and impartial investigations and does not bend its will to anything other than the fundamental rights enshrined in the Constitution and International Human Rights Treaties.

Whereas human rights are diffused in this Act, the functions of the Commission

cover implementation of the International Human Rights Treaties. This includes monitoring the reporting, by publishing alternative reports, on the treaties, as well as ensuring proper steps are taken to ensure its execution and implementation.

This is the first Annual Report published by the Commission. Required by law, the report serves as a tool for institutional accountability, while raising public awareness of the Commission's work. Intended for a broad readership, ranging from parliamentarians to human rights activists, as well as the general public, the report treads a fine line between sophisticated and accessible.

The Commission has always been grateful for the support extended by the Senate through its Functional Committee on Human Rights in overcoming many challenges. Furthermore, the NCHR appreciates the UNICEF for their generous support, as well as other partners including the European Union, UNDP, Democracy Reporting International, The Asia Pacific Forum, The Asia Foundation, Pakistan Institute of Labour Education and Research (PILER) for their moral and material support to the Commission.



**Justice (Retired) Ali Nawaz Chowhan**  
Chairman

A blue geometric graphic element consisting of a parallelogram shape, positioned behind the 'INTRODUCTION' text.

# INTRODUCTION

The National Commission for Human Rights (NCHR/the Commission) protects and promotes fundamental rights across Pakistan and operates as part of the International Human Rights System.

The Commission has a mandate that extends across the country, including, inter alia, the federal capital, four provinces, the Tribal Areas in addition to special areas.

The establishment of the Commission has been a landmark achievement in bringing to life the spirit of promotion and protection of Human Rights enshrined in the 1973 Constitution of the Islamic Republic of Pakistan. It was created under the NCHR Act, 2012 passed by the National Assembly on 04 May 2012 while the President of Pakistan signed into law on 30 May 2012. It took two years for the Chairman and Members to be appointed. Pakistan finally notified the establishment of the National Commission for Human Rights (NCHR/the Commission) in May 2015.

The Commission is unique and does not resemble other parts of the government. With powers that of a civil court, the Commission is not under the authority of the executive or legislature. The Members, though not elected, have been appointed by elected representatives. This institutional identity of the Commission as a public body has important implications for the regulation of its accountability, funding and reporting arrangements. The Commission is answerable to the people and their Constitution, as well as the International Human Rights System.

The effective functioning of the Commission serves as link between the international and regional Human Rights machinery within the national context, pursuant to the Paris Principles. On the basis of the criteria established in the Principles it can be said that, as of May 2015, Pakistan now has a recognised NHRI although it is yet to be accredited. As an impartial body, the Commission is part of the State structure as an entity dependent upon its statutory basis for existence and all its actions. Its work is non-partisan and independent of the Government.

## HUMAN RIGHTS CONTEXT

Following Pakistan's first democratic transition of power in 2013, institutions of governance, accountability and rights awareness have become emboldened and stronger, and forces of free media and public pressure of government performance are making political actors more responsive.

Human Rights in Pakistan face the challenges of militancy and terrorism that have plagued the country since they boiled to the surface in 2001, when Pakistan allied with the United States of America in the War against Terror (WAT). Terrorist attacks and military operations have killed over 80,000 people.

The state response to terrorism has relied predominantly on military operations, accompanied by laws constitutionalizing the response, creating new challenges: the 2014 National Action Plan restored the death penalty and over 400 death row convicts have been executed since. In Karachi during "clean-up operations" in 2013, over 1,000 people were killed in encounters with a credible inquiry yet to be conducted. Alarming, enforced disappearances go unaccounted for in Baluchistan and Sindh. "National security" is increasingly being used to justify shrouding operations in mystery. In the state's response to terrorism, it is paramount that Human Rights are guaranteed, and thorough, non-partisan investigations into reports of incidents are conducted along with counter-terrorism responses.

An issue of great importance in Pakistan is Women's Rights. Aurat Foundation reported 10,070 cases of violence against women in year 2014. A combination of weak laws, poor institutional capacity and lack of accountability impedes the process of justice for victim of violence. New laws have strengthened the situation, but implementation is still lacking.

With increasing violence and intolerance, violations of minority rights have been on the rise. Incidents of mob violence targeting Ahmadis, Christians and Hindus have risen. According to the Minority Rights Group International (MRGI), Pakistan has joined the top 7 countries where minority lives are most at risk – a list that Pakistan does not strive to be on.

Pakistan has a workforce of over 60 million in 2016. Of this, 45% work in the agriculture sector the remaining 55% work in non-agriculture professions, mostly

in the informal sector. Only a tiny 15-17% can find work in the formal sector. Inadequate protection of labour rights denies minimum wage, risks occupational health and safety, undermines job security and denies justice to workers in job related disputes. The entire agricultural sector is outside the ambit of labour laws.

Many large industries employ undocumented or temporary workers without clear contracts denying them state pension, key benefits and protections such as social security and old age benefits. Despite a minimum wage set by law, it is estimated that 37.4% of workers continue to be paid less than the minimum wage in the garment sector which is the largest industrial employer in the country. There is no law prohibiting gender discrimination in wages, and women receive less in pay than men on average.

Democratic governance and media freedom, though, have fostered space for political action for Human Rights and public welfare. Expansion in telecommunications and social media has further empowered citizens to engage with the state for rights and hold accountable.

A positive operational environment for NHRIs augurs well for the future of rights in the country. Institutions such as the NCHR, the National Commission on Status of Women (NCSW), the National Assembly's Standing Committee on Law, Justice and Human Rights and Senate Functional Committee on Human Rights, and similar bodies at the provincial level, are among some working towards a positive environment for Human Rights. These institutions further the rights agenda by noting violations of Human Rights, scrutinise legislation from rights perspective, and engage state institutions to protect Human Rights.

Pakistan has been the beneficiary of the Generalized System of Preference Plus (GSP+) since January 2014 providing ten years of duty-free or preferential export rates in the EU markets. Access to this trading concession is conditional upon effective implementation of 27 international conventions on Human Rights, labour rights, women rights, protection of environment and governance and accountability. Complying by its international obligations, Pakistan has established the Human Rights commissions and the Treaty Implementation Cells (TICs) at the federal and provincial levels. The first review by the European Commission of the country's compliance has stressed the need for concrete improvements on implementing the conventions attached to the GSP+. With greater attention on Pakistan's Human Rights actions and the future of the country's economic progress is linked to a demonstrated commitment by the state to Human Rights.



The National Commission for Human Rights (the Commission) has been constituted on the recommendation of a bi-partisan parliamentary committee. The Commission started limited activities with the appointment of eminent jurist and scholar Justice (R) Ali Nawaz Chowhan as Chairman on 19 May 2015. The Members of the Commission, Anis Haroon (Member Sindh), Ch. Muhammad Shafique (Member ICT), Kishwar Shaheen Awan (Member Punjab), Dr. Yahya Ahmed (Member KP), Ms. Fazila Aliani (Member Balochistan), Dr. Begum Jan (Member FATA), Ishaq Masih Naz (Member Minorities), and, ex-officio member, Khawar Mumtaz (Chairperson National Commission on the Status of Women (NCSW)) were also notified simultaneously.

The Commission is an independent and autonomous body working for the promotion and protection of Human Rights as per the NCHR Act XIV of 2012. This legislation gives the Commission a broad mandate in the promotion and protection of Human Rights. This mandate follows the Fundamental Rights as guaranteed by the Constitution and as provided for in international treaties the country has ratified. The Act guarantees a pluralistic composition of members in the NCHR, the freedom to make rules and procedures, appoint staff and consultants, financial independence, and accountability through the submission of annual reports to the parliament.

The Commission is not only a central element of a strong national Human Rights system: it also plays the role of a “bridge” between civil society and the Government; it links the responsibilities of the State to the rights of citizens and connects national laws to regional and international Human Rights systems.

Sections 16 and 27 of the NCHR Act XIV read:

16. Independence of the Commission.—(1) The Commission and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any government, administrations, or any other functionary or body directly or indirectly representing the interests of such entity.

27. Financial freedom of the Commission.—The Government shall allocate specific amount of money for the Commission in each financial year and it shall not be necessary to take prior approval from the Government to spend such allocated money

for the approved and specific purposes.

The Commission, however, had some teething troubles as noted earlier. It was severely handicapped with there being no rules in place and little money or logistical support available to discharge its duties. It is, therefore, a noticeable feat that the Commission has managed to perform rather well. Thanks to the tireless working of Honourable Chairman and Members of the Commission, a robust institutional arrangement was soon functioning efficiently for the promotion and protection of Human Rights in Pakistan.

### **Composition of the Commission**

Section 03 of the National Commission for Human Rights Act, 2012 states that the Commission shall consist of members and a Chairperson

- A Chairperson
- One member from each Province, Federally Adminstrated Tribal Areas and Islamabad Capital Territory
- Chairperson of the National Commission on Status of Women
- One member from Minority communities
- A Secretary appointed by the Commission.

### **Powers and Functions of the Commission**

The NCHR is empowered to investigate Human Rights violations, spread Human Rights literacy, publish research on international law, raise awareness about Human Rights protections, make recommendations for the implementation of treaty obligations, and develop a national plan for the promotion and protection of Human Rights.

The Commission is mandated to deal with the armed forces and intelligence agencies on matters related to Human Rights violations under Section 14 & 15 of the Act. The commission has all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908). It may call for information or report in cases of Human Rights from government or its organisations.

Section 09 of the NCHR Act XIV of 2012 bestows broad and overarching mandate to the Commission which includes inter alia:

- To hear public petitions / complaints and take suo moto notices of Human Rights violations;
- To direct or hold Inquires and Investigations in any incident of Human Rights violation;
- To propose, amend or review legislation from Human Rights

perspectives;

- To review the factors, including acts of terrorism that inhibit the enjoyment of Human Rights and recommend appropriate remedial measures;
- To study treaties, other international instruments on Human Rights and reports submitted by the Government of Pakistan on them including the comments thereon, to make recommendations for their effective implementation.
- To submit independent reports to the Government on the State of Human Rights in Pakistan for incorporation in reports to the United Nations' bodies or committees;
- To undertake and promote research in the field of Human Rights and spread Human Rights literacy among various sections of society for the promotion and protection of Human Rights in Pakistan;
- To develop a national plan of action for the promotion and protection of Human Rights in Pakistan;
- To establish/declare Human Rights court at district level for the purpose of speedy trial of offences arising out of violation of Human Rights.

### **Institution Building**

Institution building of the Commission got underway with the appointment of Chairperson and Members in May 2015. One measure of the Commission's dedication to Human Rights was the Kasur Child Abuse Investigation that was conducted with scarce funds and a lack of available transport. Adoption of government's financial rules related to assignment account and the formulation of rules in November 2015 for Complaints and Human Resources allowed Complaint Redress Mechanism to be set in place by December 2015. Tharparkar investigation was another milestone achieved in March 2016 despite a dearth of resources.

The Establishment of Admin & Finance, Research & Publications, Complaints, and International Conventions Wings started defining the institutional organism of the Commission in July 2016 as funding was made available to the Commission. It is truly only since July/August 2016 that the Commission was able to get down fulfilling its mandate in earnest as listed in the table below.

Even to date, the Commission is working with limited budget & staff. Despite all technical, operational and financial constraints, we were able to finalize

our structure, negotiated our staff requirements, formulated various rules and regulations, acquired space for our office and procured necessary equipment and furniture. The Commission has set up its regional offices for KPK and FATA in Peshawar and in Punjab, Sindh and Baluchistan.

**The table below shows our progress with regard to institution building.**

S#	Milestone achieved	Month of achievement
1.	Appointment of the Honourable Chairman and Members	May, 2015 (19.05.2015)
2.	Allocation of a room, as office, in the Ministry of Human Rights	May, 2015 (26.05.2015)
3.	Celebration of the Minority Day	11 August, 2015
4.	Kasur Investigation	19 August, 2015
5.	Field visit of the Commission to KPK	13 October, 2015
6.	Formulation of Complaint Handling Rules	06 November, 2015
7.	Field visit of the Commission to Punjab	10 November, 2015
8.	Formulation of Condition of Service Rules for the Members	20 November, 2015
9.	Formulation of Condition of Service Rules for Employees	20 November, 2015
10.	Formulation of Financial Procedure	20 November, 2015
11.	Interaction with Youth, Bahria University, Islamabad	November, 2015
12.	Interaction with Youth, LUMS, Lahore	01 December, 2015
13.	Celebrating Universal Human Rights Day	12 December, 2015
14.	Allocation of space for the office in PMU Building (non-functional)	December, 2015
15.	Complaint Handling/ Hearing of Complaints	15 December, 2015
16.	Advocacy for GSP+ and visit to National Human Rights Institute, Germany	08 December, 2016
17.	Procurement of Furniture and equipment	December 2015
18.	Interaction with Asia Pacific Forum, Australia	19 January, 2016
19.	Briefing to the Senate	February, 2016
20.	Finalization of organogram of NCHR in consultation with the Federal Government	February, 2016.
21.	Field visit of the Commission to Sindh	08 March, 2016
22.	Tharparkar Investigation	09 March, 2016

23.	Celebrating International Women Day	March, 2016
24.	Sanctioning of interim grant	April 2016
25.	Grant made operational	May 2016
26.	Procurement of Head office building on rent	May 2016
27.	Procurement of some furniture	June 2016
28.	Procurement of some official vehicles	June 2016
29.	Establishment of Regional Office KPK & FATA	June 2016
30.	Establishment of Regional Office Baluchistan	June 2016
31.	Establishment of Regional Office Sindh	June 2016
32.	Establishment of Complaint Wing & appointment of staff in the head office	May/June 2016
33.	Establishment of Research and International Conventions Wing and appointment of staff	May/June 2016
34.	Establishment of Administration and Finance Wing	May/June 2016
35.	Appointment of regional/provincial coordinators	May/June 2016
36.	Briefing to the Functional Committee, the Senate of Pakistan on proposed procedural amendments to prevent misuse of blasphemy law	July/August 2016
37.	Briefing to Standing Committee on Human Rights, National Assembly of Pakistan on illegal organs transplantation	July/August 2016
38.	Successfully conducted 12 meetings of the Commission during	15 Aug 2015-16
39.	Towards Implementation of International Human Rights Conventions	Sept. 2016
40.	National Consultation on Strategic Plan	Sept.2016.
41.	Consultative Roundtable on the role and scope of the NCHR in Punjab	Dec. 2016
42.	Seminar and Consultative Roundtable to Commemorate the Universal Human Rights Day and launch of strategic plan of the Commission	Dec. 2016















# **STRATEGIC PLAN 2016-2020**

NCHR began work in 2015 from a one-room space with a just a few staff members. Faced with monetary and infrastructural obstacles in the first year, the Chairperson and Members have shown committed dedication to move the institution into its operational phase. Generous support from, both, national stakeholders as well as Pakistan's international allies has helped boost capacity.

Within the first year of its existence, the Commission developed its Strategic Plan. It is more aptly called the national plan of action pursuant to the provisions of section 9(k) of the NCHR Act XVI of 2012.

The Commission understands that solutions to issues of Human Rights are a sine qua non for good governance. These are also essential for the advancement of democratic values in Pakistan's pluralistic society. The Strategic Plan for the Commission was, therefore, developed through a national consultative process following internationally respected procedures, practices and guidelines formulated by the UN.

The Commission had faced practical problems in finding its institutional space



within state structures that often overlap occluding clarity of mandate. The commission also faced severe resource constraints that seriously hampered its capacity to function with a high degree of efficacy. Inadequate office space,

budgetary constraints and approval of necessary procedures and rules for execution of financial and administrative authority consumed over a whole year before materializing.

The Commission has always been grateful for the support extended by the National Assembly and the Senate through its Functional Committee on Human Rights in overcoming some of these challenges. The Commission moved from a one-room office to a more reasonable space one year after its inception. Hiring of staff began as the Government started releasing funds to the Commission, although the dispatch of funding has remained infrequent, inconsistent, and insufficient.

In the Strategic Plan, the Commission set up long-term priorities for its mandate and has also converted the long plan into specific strategic priorities. Given that the present Commission's tenure ends in 2019, its strategic priorities have been converted into achievable targets over the next three years i.e. from 2016 to 2019.

The planning process allowed the Commission to start internal and external consultations examining its mandate and evaluating available mechanisms for delivery. In the beginning, the Commission sought recommendations from civil society organisations. Later on, a high-level dialogue was held with the American Pakistan Foundation (APF) which helped learn success stories and lessons from NRHIs in the Asia Pacific region and helped refine some of the NCHR priorities. Building on these, the Commission decided to make a concrete strategic plan converting its mandate to specific priority actions.

To ensure the strategic planning process remained inclusive, the Commission organised five stakeholder consultations—four in provincial capitals and one in Islamabad Capital Territory—led by the Chairperson and NCHR members. Human rights experts, members of civil society, legal fraternity, academics, trade unions, and leadership of political parties participated in the consultations. The consultations gathered inputs from key stakeholders on priority Human Rights issues and recommendations for the institutional development of the Commission. The Commission finalised its strategic priorities with recommendations from the consultation process in its meeting held on 21st September 2016 in Islamabad.

## MISSION

To support in increasing state's capacity to deliver on its responsibility to protect and promote Human Rights for all by:

1. Providing for speedy investigation and redress by acting as a

watchdog on state machinery to respond to violation of Human Rights;

2. Mainstreaming Human Rights awareness and education in the society;
3. Bringing all state legislation, policies, institutions and actions in conformity with Human Rights obligations enshrined in the constitution and ratified international treaties and conventions;
4. Creating a culture of collaboration for a pro-rights environment in Pakistan

## **PRIORITY INTERVENTION AREAS (STRATEGIC PLAN)**

The strategic planning process has helped the NCHR to identify its five major strategic priorities in the next five years. These areas are:

1. Human Rights education
2. Human Rights violations complaint handling & investigation
3. Compliance on international obligations
4. Review of national legal framework
5. Addressing marginalization & vulnerability

### **Strategic Priority #1: Spreading Human Rights Education**

Human rights education has long been identified as the most important step towards protection and promotion of human rights in any society. It becomes even more important in countries like Pakistan where human rights violations are widespread, literacy rate is low, and awareness and understanding of human rights is severely deficient even among the most educated sections of the society.

A combination of violent social and cultural norms and weak state institutions and policies is one of the factors behind the growing violation of rights in the country.

Sustainable curbing of human rights violations is only possible if citizens across the society understand and share values for the respect and protection of human rights. Only when the common citizens have a comprehension of their fundamental rights and means to secure those rights, can there be a conducive environment for reinforcement and compliance to the fundamental rights. A robust human rights education programme is one way to move in that direction.



The National Commission for Human Rights Act, 2012, under section 9 (h) mandates the commission to spread human rights literacy among various sections of the society and promote awareness on safeguards available under the law. Stakeholders participants in the consultations also identified human rights education as one of the key priority areas for the NCHR. Moreover, in all internal discussions at the NCHR and also with various stakeholder meetings throughout the first year of the Commission, human rights education has topped the list of suggestions presented.

Adopting human rights education as key priority area, the NCHR intends to put all efforts to mainstream this at policy level during the next three to four years. While recognizing limitations in terms of financial and human resource capacities, the Commission intends to intervene strategically while expecting high level impact. It will go into strategic partnership with the institutions listed below, though the list is not exhaustive. Key objective set out is that high level state officials are trained about promotion and protection of human rights and a culture of human rights is developed within major state institutions.

### Strategic Priority # 2: Addressing human rights violations: Complaint handling and investigations

The National Commission for Human Rights Act, 2012 under section 9 (a, b & I) empowers the NCHR to investigate human rights cases through its own initiative (taking suo-moto actions) or based on petitions and complaints filed by victims. The Commission is legally mandated to receive and investigate complaints of human rights violations. It is authorized to refer the complaint to a relevant authority and recommend prosecution or other necessary action. The Act also obliges the government or the concerned authority to respond to the NCHR on whether the Commission's recommendations have been implemented, how it plans to do so, or why the recommendations cannot or should not be implemented.

Recognising the importance of an effective redress mechanism for the human rights compliance, the NCHR is fully committed to develop and exercise its functions of investigation into human rights violation cases a top priority.

### Strategic Priority # 3: Enhancing Pakistan compliance with international human rights obligations

Pakistan has ratified major UN core human rights conventions listed below.

1. International Convention on the Elimination of All Forms of Racial Discrimination

2. International Covenant on Civil and Political Rights
3. International Covenant on Economic, Social and Cultural Rights
4. Convention on the Elimination of All Forms of Discrimination against Women
5. Convention on the Rights of the Child
6. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
7. Convention on the Prevention and Punishment of crimes of genocide.

In addition to the above-mentioned conventions, Pakistan has also ratified 36 conventions of International Labour Organization (ILO) including eight core standards known as International Labour Standards (ILS).

Pakistan's entry into the GSP+ regime has added to the human rights responsibilities of the country. Granted in January 2014, the GSP+ is a trade incentive scheme under which the European Union has allowed Pakistan almost tariff free exports to 28 European countries. The scheme has generated positive results for the economy of the country raising exports by 22 percent or over 1 billion dollars in year 2014. However, the scheme is conditional to compliance on 27 international conventions concerning human rights, labour rights, environment and good governance attached to the GSP+. The first review of the scheme conducted in January 2016 has highlighted serious compliance gaps.

While Pakistan's global importance is well recognized and it is adequately represented at the UN and other international forums, there have been certain setbacks recently. After serving three terms on the 47-member United Nations Human Rights Council (UN-HRC), Pakistan lost elections in 2015 while contesting for one of the five vacant seats of Asia-Pacific Group in the Council.

The Sustainable Development Goals (SDGs) are a set of 17 targets aimed at ending poverty, fighting inequality and injustice, and tackling climate change. The UN Member States have adopted the 2030 Agenda for Sustainable Development. Under this, every country, including Pakistan, is committed to define its development agenda, socio-economic policies, and actions towards achieving the goals outlined in the agenda. Pakistan's parliament has already passed a resolution adopting SDGs 2030 agenda. As informed by official bodies, a comprehensive National Action Plan for achieving the national SDGs is being developed.

The NCHR has a mandate to ensure Pakistan's compliance on international obligations, particularly concerning human rights treaties (as per section 2.d, 9.j and 9.l of the NCHR Act 2012). While recognizing the significance of this role, especially with regards to strengthening a pro-rights environment, the NCHR seeks to prioritise this agenda.

#### Strategic Priority # 4: Reviewing of national legal framework to increase protection and promotion of human rights

The National Commission for Human Rights Act, 2012, section 9 (d & e) mandate the Commission to review safeguards provided by the constitution of Pakistan and any other law and recommend amendments or adoption of new laws. The Commission is also mandated to review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend remedial measures. During the consultative process, issues concerning lacunas in laws that impede compliance to human rights standards, in addition to absence of laws to comprehensively protect human rights, were frequently highlighted. Need for reforms in laws that are in contradiction to basic human rights and Pakistan's international obligations was also pointed out.

The NCHR recognizes the need to address this issue as the effective functioning of the Commission itself is dependent upon a pro-human rights system in the country. The Commission has therefore marked this as its priority agenda.

#### Strategic Priority # 5: Addressing Marginalization and Vulnerabilities

Pakistani citizens' access to fundamental rights - when put into the framework of two international covenants International Covenant on Civil and Political rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) is abysmally low. Various sections of the society struggle to enjoy basic rights including that to fundamental freedoms, protections, right to engage, and access basic services such as health and education.

The NCHR enjoys a wide mandate and is committed to contribute to the development of a society where everyone everywhere has access to human rights. However, a realistic approach would suggest a long way is to be covered before we reach to an ideal level. Obviously, everyone is entitled to enjoy basic rights which are enshrined in the constitution and are also provided by the UNDHR, international conventions and treaties ratified by Pakistan. However, certain groups deserve more attention than others, because of their vulnerabilities and



systematic exclusion from the mainstream.

During the consultative process in the four provinces, the participants identified “marginalized” groups and suggested to the NCHR to put them on priority for all possible action and assistance to improve their access to human rights.

Following stakeholder’s recommendations and also internal inputs from members, the NCHR has decided to consider following groups as marginalized and pay attention to their problems during the period of the first Strategic Plan i.e. 2016-2020. These groups include labour, women, children, minorities and other vulnerable groups.

## STRATEGIES

The priority areas outlined to be pursued in the next three to four years the Commission demand effective strategic actions. The NCHR plans to undertake the following concrete steps to achieve its goals listed earlier.

- NCHR’s institutional development
- Collaboration, cooperation & partnership
- Advocacy & Networking
- Research & Documentation

### NCHR’s Institutional Development

Given the heavy mandate provided in the National Commission for Human Rights Act 2012 and the expectations expressed by different stakeholders, particularly the civil society during the consultative process on the Strategic Plan, it is quite important for the NCHR to focus on institutional development in the coming years. Without adequate logistics, skilled staff, functioning equipment, and relevant systems, it is unimaginable for the Commission to undertake effective steps towards fulfilment of its mandate to protect and promote human rights.

In the coming years, the NCHR would take institutional development as one of the key objectives and put in place all necessary resources and efforts to materialize

this agenda. Towards this end, the following engagements are envisaged:

- Resolution of administration and budgetary issues with the government, in addition to putting in place a fully functional office. The NCHR plans to assign dedicated staff (Secretary and one member), supervised by the Chairperson, to resolve all pending issues with government;
- Human Resource Development: Recruitments are made and adequate staff is in place. Employees are trained and fully skilled to deal with tasks related to the Commission's mandate, including receiving and handling of complaints;
- Provincial Offices: Provincial offices are established and made fully functional with adequate staff;
- Organisational Policies: Policies relating to Human Resource Management, Financial Policy and Rules, systems and structures are developed, approved and are in practice for effective function of the NCHR;
- Monitoring and Evaluation System: Effective Monitoring and Evaluation systems, covering internal systems, are in place and contributing to improving the quality of work done by the Commission;
- Governance and Decision Making Process within Commission: Chairman, members, and secretary have a consensus on democratic principles and governance structure of functioning and fully equipped to engage and provide leadership;
- Advisory Groups: Advisory groups are established;
- Communication Strategy: A comprehensive communication and media strategy is developed and a website of the NCHR is developed and launched.
- Partnership Development with International Organisations: In addition to securing adequate budget and resources from the government, the NCHR plans to establish partnership for technical support with international partners such as UN including UNDP, UNICEF, EU etc.

### Collaboration, Cooperation and Partnership

As a part of the NCHR's mandate of protection and promotion of human rights, receiving and processing complaints of human rights violations is a critical function of the Commission. Due to an inadequate structure to respond to human rights violations, the state and non-governmental institutions on human rights have a huge inflow of complaints for redress. Based on this experience, the NCHR considers collaboration, cooperation and partnership with different stakeholders as an important strategic objective to fulfil its mandate. Moreover, the NCHR desires compliance on existing and new laws, and this mandate can only be accomplished by establishing constructive relationship with the parliament, government and civil society.

## Advocacy and Networking

It is important for the NCHR to continue engagement and participation with actors and institutions in the state and the non-governmental sectors to pursue its role as the apex institution for the protection and promotion of Human Rights in Pakistan. In this regard, the Commission's engagements will pursue the following objectives:

1. Mainstreaming Human Rights at all levels of federal and provincial government
2. A clear agenda for policy advocacy with the state to ensure all government functions follow Human Rights standards
3. Prepare and implement advocacy plans with parliamentarians for improvement in current laws and to help legislate anew when needed
4. Engage in international lobby and advocacy for high impact in situations of Human Rights violations
5. Establish a mechanism to comment on country reports submitted under the UN Human Rights Conventions, and prepare and submit own alternative reports.

## Research and Documentation

Research and documentation are an important strategy and has great significance for the Commission in guiding its actions and giving policy directions. It is vital that decision, direction and intervention are drawn from solid evidence and reason rather than emotion and rhetoric. The NCHR would pay full attention to research and documentation so that the Commission has its own database and resources, and its interventions and actions are guided by solid research and accurate analysis. Towards this end, NCHR has established a Research wing to undertake on following key agenda:

1. Identify key thematic areas for research and analysis for the next three years and commission research on priority areas;
2. Conduct baseline studies on Human Rights situations on a regular basis
3. Establish a fully functioning library on Human Rights with adequate resources
4. Appoint a separate research section with qualified staff
5. Record Human Rights violation in a database. Overtime, this NCHR

service will be able to provide reliable information for action and decision making to various stakeholders including the government

6. Prepare Human Rights Manuals and update frequently
7. Make sure NCHR research and documentation is solid and can be confidently cited and used by the parliament, government and other institutions.

### Implementation and Monitoring Process for the Strategic Plan

To implement the Strategic Plan in letter and spirit, the Commission will establish a separate monitoring and evaluation unit with qualified staff. This unit will be supplemented by an Accountability Committee comprising 2-3 NCHR members and a senior staff to oversee the process of monitoring and evaluation within the commission. This committee will guide preparation of quarterly and yearly work plans. The committee will then monitor implementation progress.

## NCHR – STRATEGIC PLAN: THREE-YEAR WORK PLAN

### NCHR's Institutional Development

Sr. No	Key Targets	2017	2018	2019
	Administrative and Budgetary Issues			
	Human Resource Development			
	Provincial Offices			
	Organisational Policies			
	Monitoring and Evaluation System			
	Decision Making Process within Commission			
	Advisory Groups			
	Communication Strategy			
	Partnership Development with International Organisations			

## Strategic Priority #1: Spreading Human Rights Education

Sr. No	Key Targets	2017	2018	2019
Police Trainings				
	Establishment of Partnerships with Policy Academies			
	Development of Training Curriculum for Policy Academies			
	Training of Police Trainers			
Training for Civil Servants				
	Partnerships with Civil service academies			
	Support in Development of Human Right Education Curriculum			
Human Rights Education through Education System				
	Partnership with Higher Education Commission			
	Review of Education Curriculum			
	Partnership with Media Groups and Associations			
	Development of Key messages for Media			

## Strategic Priority # 2: Addressing human rights violations: Complaint handling and investigations

Sr. No	Key Targets	2017	2018	2019
	Establishment of a Complaint handling Unit			

	A complaint mechanism will be developed in order to receive and process complaints on violations of human rights			
	Develop Standard Operating Procedures for filing, hearing and disposing off complaints.			
	Hire and train skilled and qualified staff in complaint handling;			
	Specialised and fully operational software will be developed where data on violations is fed, stored and processed;			
	Develop an investigation unit with staff specialising in human rights investigation.			
	Develop a task force on Enforced disappearances			

### Strategic Priority # 3: Enhancing Pakistan compliance with international human rights obligations

Sr. No	Key Targets	2017	2018	2019
	Report to UPR			
	Establishment of GSP+ Desk			

	Follow-up plan on recommendations from treaty bodies			
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#### Strategic Priority # 4: Reviewing of national legal framework to increase protection and promotion of human rights

Sr. No	Key Targets	2017	2018	2019
	Establishment of a Legislative Analysis Unit			
	Development of National Framework on Human Rights			
	Collaboration with Pakistan Institute for Parliamentary Services (PIPS)			
	Input to Parliament			

#### Strategic Priority # 5: Addressing Marginalization and Vulnerabilities

##### Women's Rights

Sr. No	Key Targets	2017	2018	2019
	Establishment of Women's Rights Unit. The Unit will undertake following activities:			
	Collaborate and work closely with women's rights organisations			
	Engage in CEDAW compliance process in Pakistan as well as treaty reporting			

	Identify legislative needs and recommend to government to enact increase protection and promotion of women's rights in line with constitutional provisions and international standards			
	Review current status of gender mainstreaming within government policies and provide recommendations for further strengthening;			
	Monitor incidents of violence against women			
	Conduct instant inquiries on cases and reports of violence against women.			
	Coordinate and work closely with National Commission on Status of Women and Provincial Commissions on the Status of Women for protection and promotion of the rights of the women.			

## Children

Sr. No	Key Targets	2017	2018	2019
	Consultations with stakeholders			
	Right to Education			
	Partnerships with Child Rights organisations			



	Child Rights Commission: Advocacy for the establishment of Child Rights Commission and establish close working relationship with Child Rights Commission			
	Review of the Legal Framework			

## Minorities

Sr. No	Key Targets	2017	2018	2019
	Monitoring of Supreme Court Verdict on minorities' Rights			
	Partnerships and Engagement with Minorities' Rights organisations			
	Prompt investigations into case violations of minorities' rights			
	Review of Laws on minorities rights			

## Persons with Disabilities

Sr. No	Key Targets	2017	2018	2019
	Establishment of Disability Rights Organisation: NCRH will establish a disability rights units. The unit will perform following tasks:			
	Review of Legal Framework			
	Implementation of Job Quota			
	Policy Guidelines on Disability Rights			

	Monitor Implementation of CRPD			
	Partnership with Disability Rights Organisations			

## Labour Rights

Sr. No	Key Targets	2017	2018	2019
	Consultations with Stakeholders			
	Review of Compliance with ILO Conventions			
	National Policy Framework on Labour Standards			
	Advisory Group on Labour Rights			
	Task Forces on Agricultural Workers & bonded labour			

## Transgender

S r . No	Key Targets	2017	2018	2019
	NCHR will conduct thorough analysis of issues faced by this group of citizens and will prepare a comprehensive set of recommendations			



## **PROMOTION OF HUMAN RIGHTS**

The Paris Principles provide that the Commission should promote Human Rights, referring directly to the obligation to:

1. Assist in the formulation and delivery of education initiatives;
2. Publicize Human Rights; and
3. Increase public awareness, including through the media.

The Commission spreads awareness about Human Rights, and fosters understanding and respect for the rights of others. The range and scope of its promotional activities are limited only by our resources and creativity. Generally, however, the Commission has undertaken or plans to undertake:

1. Public education through awareness campaigns;
2. Training, both generally and for key groups such as NGOs, police, prison officials, Bureaucracy, journalists and the judiciary;
3. Publications, e.g., web site, annual and special reports;
4. Seminars and workshops;
5. Community-based initiatives (sports, theatre, film, public art...);
6. The development of curricula for schools, from primary through to secondary and post-secondary studies, in partnership with the concerned education authorities;
7. Media events, press releases and press conferences.

### **Advocacy and Public Awareness**

The Commission has been busy in various awareness raising and advocacy initiatives. During the last one year, the Commission participated in 66 national and international conferences and seminars reaching up to 6000 individuals, including parliamentarians, lawyers, and rights activists, among others.

The Commission has been promoting a wide understanding and acceptance of Human Rights principles through programmes of public awareness and the media.

Sessions to promote public awareness have been of two general types:

1. General or public awareness campaigns, during which basic information on the Universal Declaration on Human Rights (UDHR) was presented to the public and the role of the Commission in safeguarding Human Rights was explained;
2. Targeted campaigns, focussed on the NCHR Act, 2012 and the institutional arrangements for the Commission across Pakistan.

At this initial stage, the Commission has focused on general public awareness campaigns to inform the public about the workings of the Commission, and services offered, as the Commission is new and operating in a politically sensitive context.

General campaigns have been quite effective albeit relatively expensive and labour-intensive. It has not been possible to hold face-to-face meetings throughout the country with as many people as possible because of financial constraints. Because of the scale of the effort, these general public sessions were held in cooperation and coordination with The Asia Foundation, UNICEF Pakistan and others. Consideration was given to use media campaigns as an adjunct to these sessions. Public sessions can also be done quickly and informally, and usually involve a representative of the institution meeting with the general public or a specific group. Targeted sessions are needed as many a type of right are not widely understood or honoured. These would encourage a better understanding and acceptance of Human Rights principles in important and/or emerging areas. For example, where women's rights are not well understood or accepted, the Commission plans to carry out targeted campaigns focussing on making women more knowledgeable and men more respectful.

The Commission's work for the Promotion of Human Rights in 2015-2016 are as follows:

### **Website & Social Media**

The Internet remains a potent tool for disseminating information about the Commission.

The website of the Commission has been developed and is online. It has information on how to register a complaint and allows lodging one online. It is still being developed as lots of content is needed to make it fully functional. All efforts have been made to make it of wide use in reaching the public by creating it in both Urdu as well as English. Thus the website ensures that Human Rights defenders, NGOs and the international community have access to current information about the Commission and the Human Rights context.

The website is managed along with social media platforms such as Facebook and Twitter for disseminating information and raising awareness about issues the Commission is involved in.

## **Dialogue with Asia Pacific Forum Australia**

The Commission organized three days of dialogue with Asia Pacific Forum Australia which was held in Islamabad on 19-21 Jan 2015. The Dialogue was well attended by Ministers, Diplomats, officials, civil society and representatives of UN and INGOs. This three days dialogue contributed in the awareness of NCHR role in the promotion and protection of Human Rights in Pakistan.

## **GSP+**

The Commission was invited by the Government of the Federal Republic of Germany for exchange of knowledge and experience with regard to Human Rights institutions. The Chairman NCHR visited Germany, participated in 11 meetings, met officials and advocated for the extension of GSP+ Status to Pakistan which was well received.

## **Minority Day**

The Commission is aware of difficulties that minorities are facing in Pakistan. We, therefore, celebrated minority day and have taken up the issue of the establishment of the National Commission for Minorities in Pakistan.

## **Universal Human Rights Day**

The Commission celebrated Human Rights Day and organized a national conference in Karachi in 2015 and a national seminar in Islamabad in 2016.

## **International Women Day**

The Commission celebrated international women day.

## **The Commission's Approach**

Human rights promotion is a core function of the Commission being a basic element of the Paris Principles. It enables information and knowledge about Human Rights to be disseminated to the general public and to specific target groups. Ultimately, it is an established fact that Promotion activities create a culture of Human Rights so that every individual in society shares the same values. When these values are reflected in the national and provincial Human Rights legal frameworks then it leads to social evolution and every citizen acts accordingly. Our Strategic Plan for



Human Rights promotion aims to move individuals beyond knowledge. We want them to spring into action.

Legal frameworks, laws, redress mechanisms and other measures are necessary, however, they are not sufficient. Promotion ensures that all members of the Pakistani society:

1. Know their rights and all redress mechanisms if rights are abused;
2. Embody the concept of shared responsibility and how rights are interlinked with their communities.
3. To hold their officials accountable, and to inform them of their duties to uphold the Fundamental Rights.

Our Human rights promotion activities are integrally linked to protection. A lack of knowledge results in actions that breach Human Rights principles. This is regardless of the fact whether violations are intentional or unintentional, structural or specific. In either case, Human Rights education and the inculcation of Human Rights values can promote change in behaviour without recourse to punitive sanctions. The Commission holds that successful Human Rights promotion, therefore, helps prevent violations from occurring in the first place.

Some promotional activities are considered core — this annual report, for example, or publications on what the NCHR inquires and investigates — the promotional programme as a whole tried to respond to identified strategic needs. Our strategic approach implies cooperation with partners. This helps to leverage resources, amplify messages, and improve community relations and checks against duplication. Cooperation also minimizes gaps in our Strategic Plan and, to the extent possible, avoids contradictory messaging.

The Commission has undertaken a variety of initiatives to promote Human Rights. Our imagination holds many a goals that we must realize but, alas, we are limited by our resources. The following are the major actions the Commission has taken since its formation last year:

1. Human rights education and training;
2. Public awareness initiatives, including campaigns, local events and sessions;
3. Media strategies, including press conferences, press releases and newspaper inserts; radio and television interviews and public service

announcements;

4. Publications, including general information pamphlets, special reports, website development
5. Seminars and/or workshops as vehicles to examine and promote a better understanding of Human Rights issues and the role of the Commission protecting rights and advocating for change;
6. Community based initiatives as a public vehicle for promoting Human Rights; and
7. Policy development, to ensure that knowledge is developed and disseminated about emerging Human Rights issues and the approach that the Commission takes or intends to take to them.

As per the guidelines by the Office of the High Commissioner for Human Rights (OHCHR) for the National Human Rights Institutions (NHRIs), the extent to which the above-mentioned approaches are used, or whether others are adopted, depends on:

1. The level of Human Rights awareness among the population;
2. Priority Human Rights concerns (e.g., vulnerable groups like children, women, minorities, disabled etc.);
3. The need to inform the public about the Commission's existence and the services it can offer;
4. The capacity of the Commission (bringing in outside experts to carry out specialized training for the police, is essential till the time needed human resources are available in house);
5. The literacy rate of the target population (radio spots should be a priority over print publications to reach a remote and largely illiterate audience);
6. The financial resources (television may be effective, but is very expensive); and
7. The possibility of cooperation as the cost and complexity of general Human Rights orientation sessions locally can be reduced if done in partnership with local NGOs, civil society.

## Public Education

Human rights education is the key to developing a culture of Human Rights and nowhere is this more important than in the formal education sector. Pakistan's International obligations under Treaty Instruments specifically include Human Rights education in the formal sector. The NCHR Strategic Plan ensures that this obligation is met.

The NCHR Act, 2012, under Section 9 (h) mandates the Commission to spread

Human Rights literacy among various sections of the society and promote awareness on safeguards available under the law. What follows is a brief overview of activities the Commission has undertaken for public education to date. This section of the annual report describes in detail how the Commission plans to support Human Rights education at the primary, secondary and tertiary levels.

Stakeholders participants in the consultations held across the country for the Strategic plan also identified Human Rights education as one of the key priority areas for the NCHR. Moreover, in all internal discussions at the Commission and also with various stakeholder meetings throughout the first year of the Commission, Human Rights education has topped the list of suggestions presented.

The Strategic Plan 2016-2020 has, therefore, made Human Rights Education the first priority for the Commission. The Commission finalised its strategic priorities with recommendations from the consultation process in its meeting held on 21st September 2016 in Islamabad. These priorities were made public in a seminar and consultative roundtable in Islamabad on 20 December 2016. The Strategic Plan has been printed for wider circulation and is available from the Commission free of cost.

The NCHR intends to mainstream this at the policy level during the next three years. It has begun to form strategic partnerships with key institutions so that high level state officials are trained about promotion and protection of Human Rights leading to a culture of Human Rights in state institutions.

Adopting Human Rights education as key priority area, the NCHR intends to put all efforts to mainstream this at policy level during the next three to four years. While recognizing limitations in terms of financial and human resource capacities, the Commission intends to intervene strategically while expecting high level impact. It will go into strategic partnership with the institutions listed below, though the list is not exhaustive. Key objective set out is that high level state officials are trained about promotion and protection of Human Rights and a culture of Human Rights is developed within major state institutions.

The Commission's Strategic Plan 2016-2020 has been developed with each element reinforcing commission priorities. Activities are progressive ranging from basic to more specific and are in depth. The development of the Strategic Plan, for example, was itself coupled with general awareness. This led the "Seminar and Consultative Roundtable to Commemorate the Universal Human Rights Day

and launch of Strategic Plan of the Commission” in collaboration with The Asia Foundation (TAF). The event was held on 20<sup>th</sup> December 2016 at the Islamabad hotel. The objective was to celebrate the Universal Declaration of Human Rights in the wake of the International Human Rights Day and to launch the strategic plan 2016-2020.

The event highlighted not only the importance of the day but also its own contribution in promoting and protecting Human Rights underlining the fact of Government making sincere efforts through the legislative process and implementation of the conventions ratified by Pakistan. The event also strengthened and improved coordination and communication between the Commission, Federal and Provincial government institutions and the civil society and media. An allied objective was awareness on and visibility of NCHR for the protection and promotion of Human Rights.

The Seminar and Consultative Roundtable underscored the fact that the federal and provincial governments accord a high priority to Human Rights. This has also been evident in the legislative process and reflects clearly in the speedy implementation of the United Nations (UN) Human Rights conventions and treaties ratified by Pakistan. The launch of the of the NCHR Strategic Plan formed a part in the same process and has been a key step towards an effective promotion and protection regime for Human Rights enshrined in the Constitution of Islamic Republic of Pakistan.

The consultation strengthened the NCHR and the Human Rights regime in Pakistan by promoting multi-stakeholder engagement on Human Rights issues including women’s rights, religious freedom, and freedom of expression. The process also contributed in building the capacity of government and civil society institutions to promote better working relationships through improved communications and information sharing.

### **Working with the Education System**

Mainstreaming Human Rights in the whole education system of the country is a huge task and requires serious political will from the state and the parliament, in addition to massive allocation of resources. The NCHR, while recognizing limitations in terms of its resources, has started taking practical steps to facilitate an effective intervention in this regard.

## Targets for Human Rights Education

Over the next three years, the Commission plans to enter into a dialogue with federal and the provincial education ministries to first conduct an analysis of the existing curriculum to assess how far the curriculum incorporate Human Rights education and identify the gaps that need to be filled. NCHR would endeavour to make practical recommendations for incorporating Human Rights education in various text books. The dialogue may also open up some key initiatives by these institutions for inclusion of Human Rights in the curriculum.

## Teaching and learning

The Commission shall consider a variety of factors to ensure quality teaching and learning:

- Teaching and learning practices and methodologies that are coherent with Human Rights principles;
- Appropriate teaching and learning materials, including textbooks;
- Support for teaching and learning, including networking, exchanges, information-sharing and the use of new technologies; and
- Assessment methodologies for Human Rights education.

The Commission plans to play a particularly useful role through its sub-regional, regional and international contacts with other institutions to support the collection and sharing of Human Rights education material and good practices in Human Rights education. The NCHR documentation centre shall offer material and services to teachers and other personnel involved in formal or informal education. The Commission shall also help to review textbooks in the light of the substantive expertise it has in Human Rights principles. This same expertise will be used to support the development and/or review of other Human Rights education material, such as teaching guides, manuals or teaching aids. The Commission websites will also offer interactive educational opportunities for teachers and pupils. All of these principles and ideas will also apply to education in the informal sector.

## Education and professional development

Teachers play a vital role in making Human Rights education effective. They must have the requisite Human Rights knowledge and demonstrate a true commitment to the principles and values they espouse. Their teaching methodologies also need to reflect Human Rights principles. The Commission will support the education and professional development of teachers (as well as of other school personnel, such

as heads of institutions and inspectors), which is a responsibility shared by many, including ministries of education, universities, teacher-training centres, and unions.

The Commissions Strategic Plan referred to above obliges development in some detail what is required with regard to curricula on Human Rights education; developing and using appropriate training methodologies; developing and disseminating appropriate resources and material; effective networking and cooperation; promoting and participating in international education; and training and evaluating training activities.

The Commission's MOU with the HEC has already led to the introduction of a module on Human Rights in all teachers' training courses being offered at HEIs. The NCHR also plans to work with other organizations with responsibility for training and certifying teachers in the medium to long term to help develop programmes for teachers so that they have both the knowledge and personal qualities required to become effective in Human Rights education. The Commission will support efforts by ensuring that teacher training institutions have the mandate and capacity to develop competencies in this area. At the same time, the Commission will work to make sure teachers get training and become successful in Human Rights education.

#### Human rights education at the tertiary level: MOU with the Higher Education Commission

The Commission has started to work in close collaboration with stakeholders to develop programmes to help colleges and universities introduce specific courses on Human Rights or incorporate Human Rights elements in existing programmes. Recognizing its own resource limitations, the NCHR has entered into a dialogue with the Higher Education Commission (HEC) for inclusion of Human Rights in the curriculum at institutions of higher education in Pakistan. The dialogue with the HEC led to the signing of a Memorandum of Understanding<sup>1</sup> (MOU) to work together at institutes of higher education in Pakistan for the promotion of Human Rights as enshrined in the Constitution and stipulated in the international Human Rights conventions to which Pakistan is a party. Chairman NCHR Justice (R) Ali Nawaz Chowhan and Chairman, HEC Prof. Dr. Mukhtar Ahmed signed the MOU in a simple ceremony at the HEC offices on December 21, 2016.

Chairman HEC welcomed the initiative for the MOU by Chairman NCHR asserting Human Rights education was essential to create a just society. He said the fundamental doctrine, concepts and principles of Human Rights were universal in value and HEC fully agree to spread awareness for the promotion and protection of Human Rights at Institutions of Higher Education across the country.

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1 See Annexure II



Addressing the ceremony Chairman NCHR Justice Ali Nawaz Chowhan said Human Rights were held sacred in Islam and are in line with our own traditions. He quoted the Quran and references from Islamic history to illustrate that the noble values must permeate down to everyone in our society. He said Human Rights Education was his personal priority besides being a key component in the freshly launched strategic plan of the NCHR. He shared there was clash in our jurisprudence as many points were contentious in our case law and the Supreme Court of Pakistan must sit in as a full court to resolve this confusion and conflict.

This MOU has created a framework of cooperation between the NCHR and the HEC to create awareness, promote research and studies in the field of Human Rights at higher education institutions (HEIs). Both institutions shall work together to equip academia, researchers, professionals and students with knowledge and understanding of the fundamental doctrines, principles and compliance of international Human Rights law and to impart trainings to develop the intellectual, practical and transferable skills necessary for that purpose.

The MOU aims to spread Human Rights literacy and to promote awareness of the safeguards available for the protection of these rights through publications, print and electronic media, seminars and other available means in all major languages of the country. The two parties shall make efforts to introduce, strengthen or expand courses, and programmes of studies in Human Rights at HEIs particularly on rights of marginalized groups including women, children and minorities. Both institutions also agreed to undertake and promote research in the field of Human Rights in developing the Human Rights culture and to work for the establishment of Human Rights study centres at HEIs to undertake research and study treaties, other international instruments on Human Rights that Pakistan has signed and ratified and to make recommendations for their effective implementation.



### In Sum

Human rights promotion and education is the biggest priority for the Commission. It is a key undertaking that is discharged in a variety of ways. The particular activities that the Commission plans to undertake will depend on a variety of factors. Nonetheless, the Commission will: develop and distribute information on Human Rights, including its annual report;

- Engage in public awareness sessions; provide specialized training to key constituents;
- Use the media to promote understanding and awareness of Human Rights and of their own work; and
- Ensure that Human Rights education is imparted in schools and at institutions of higher learning.

The Commission must continue to develop the knowledge, skills and abilities, tools and technical approaches to create a strong culture of Human Rights. It shall be ensured that international Human Rights norms are accepted and implemented on ground across Pakistan.



## Interaction with International Human Rights System:

One of the key roles of NHRIs, as outlined in the Paris Principles, is the interaction with international human rights mechanisms and the promotion of ratification of human rights treaties<sup>2</sup>. The Sub-Committee on Accreditation of ICC (...) highlights the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. (...).<sup>3</sup>

National Human Rights Institutions also have a duty to contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence<sup>4</sup>.

In this regard, Section 9(J) of NCHR Act 2012 also obligates National Commission for Human Rights Pakistan to submit independent reports to the Government for on the state of Human Rights in Pakistan for incorporation in reports to UN bodies or committees.

In general, NHRIs should contribute to the State parties reports, including through consultation and comments to the State official report; drafting an alternative/ NHRI report; making oral presentations in the pre-sessional working groups of Treaty Bodies, in addition to providing written information prior to the formal examination of a State party report. The Treaty Bodies receive information on States' parties implementation of treaty provisions from NHRIs, NGOs and UN agencies<sup>5</sup>.

Complying with its obligations, NCHR submitted its following independents report to the Federal Government and treaty bodies.

- NCHR's submission on implementation of United Nations Convention against Torture and other form of Cruel, Inhuman, Degrading Treatment and Punishment (UNCAT);

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2      **GA Resolution 48/134, paragraph 3(d).**

3      **Information Note for National Human Rights Institutions (NHRIs) inter action with the UN Treaty Body System by OHCHR at page # 4.**

4      **GA Resolution 48/134, item 3(d).**

5      **Supra note 2 at page no. 5**

- NCHR's submission on 'List of Issues' pertaining to International Covenant on Civil and Political Rights (ICCPR);
- NCHR's submission on 'List of Issues' pertaining to International Covenant on Economic, Social and Cultural Rights (ICESCR);
- NCHR's submission on 3<sup>rd</sup> Universal Periodic Review of Pakistan (UPR).

# **PROTECTION OF HUMAN RIGHTS**



The protection mandate centres on the rule of law, the administration of justice<sup>1</sup> and fighting impunity<sup>2</sup>. The Commission is instrumental in promoting law reform and strengthening judicial and security institutions, including the police and prison systems. The Commission is the product of the legislative branch of State, but operates autonomously. It is not part of the judicial branch of the State although it has a quasi-judicial jurisdiction and authority.

The Commission supports compliance with international standards as well as the existence of internal accountability systems, and helps ensure that the administration of justice conforms to Human Rights standards and provides effective remedies, particularly to minorities and to the most vulnerable in society.

Investigating Human Rights abuse is central to this role. The Commission's role and responsibilities regarding human rights violations include:

- Investigations;
- Alternative dispute resolution;
- Seeking redress or remedies through specialized tribunals, including by addressing courts as *amicus curiae* where warranted;
- Receiving individual complaints;
- Public inquiries; and,
- Monitoring.

The Commission's role has been that of the watchdog. It has been reviewing conditions in detention facilities, visiting facilities unannounced and requesting private interviews with detainees. It has set up a complaint redressal mechanism to receive and process complaints of any nature that constitute a human rights violation.

The Commission is a complementary mechanism designed to ensure that the rights of all citizens are fully protected. It offers something that the legal system or other institutionalized processes cannot. In particular, it has a focus on Human Rights that allows it to develop and apply expertise and to ensure that Human Rights are integrated into all the areas over which the commission has jurisdiction.

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1 E/CN.4/2005/102/Add.1: "Updated Set of principles for the protection and promotion of Human Rights through action to combat impunity". Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>.

2 General Assembly resolution 60/147: "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law".

## Human Rights Complaints

The NCHR Act, 2012 provides the Commission powers of a civil court to hear and consider complaints and petitions concerning individual situations brought before it. The Commission accepts and investigates complaints of human rights violations from aggrieved parties as well as from complainants that may not be directly affected.

The Commission has been receiving complaints or taking suo-moto notices on violations of human rights or abetment thereof; or negligence in the prevention of such violation, by a public servant. This process is governed by the Complaint Rules for the Commission. These rules were approved for publication in the official gazette on 6<sup>th</sup> November, 2015<sup>3</sup>.

As per the mandate bestowed by the Act, the Commission started probing in petitions/complaints received on human right violations from mid of Dec 2015 under Article 9(a) & (b) of Act XVI of 2012:

9. Functions of the Commission. The Commission shall perform all or any of the following functions, namely.
  - (a) suo-moto or on a petition presented to it by a victim or any person on his behalf, inquire into complaints of.
    - (I) violations of Human rights or abetment thereof; or
    - (II) Negligence in the prevention of such violations, by a public servant.

Any citizen or institution affected by a Human Rights violation is able to complain not only on their own behalf, but also on behalf of others who are similarly affected. This possibility of “class action” or representative complaints helps ensure widespread problems may not be considered isolated aberrations.

The NCHR Complaints Hearings are in addition to the general power to investigate. Investigating alleged Human Rights abuses and situations is fundamental to the work of the Commission. It is also a considerable challenge. Investigations are neutral processes: they do not favour the complainant or the respondent. Investigations collect information about allegations of Human Rights abuse and seek to reach a determination about what actually occurred and whether the allegations are well founded.

## Complaint Rules

The Commission has developed rules of procedure to be applied to all investigations. These Complaint Rules have been made public by virtue of

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3 See Annexure-III

having been published in the official gazette<sup>4</sup>. These rules also serve to inform complainants of the investigatory process improving public confidence in the Commission for receiving and acting on Human Rights Complaints.

Perhaps the biggest contribution that complaint rules facilitate is the prevention of future violations. Following the Paris Principles, the actions of individuals acting in their formal or employment capacities are considered the actions of the authority itself, for example if they were taken in the course of employment. This means that the employers are liable for the actions of their employees and so should be named as respondents in any complaint. Employers can lessen their responsibility if they can demonstrate in the course of the investigation that they took all reasonable action to ensure that the violation did not occur and to deal with the violation once they knew or should have known it had occurred. In addition, however, employers may be required to take other actions to prevent further violations, such as training their personnel in their Human Rights responsibilities, developing a suitable policy on the issue at hand or more effective mechanisms to enforce existing policies.

Similarly, if a violation results from the lack of an appropriate governmental law, regulation or policy or if the existing law, regulation or policy is insufficient or poorly applied, the Commission is mandated to propose actions in these areas as part of the remedy. This is to ensure that the underlying or systemic cause of the violation is addressed so that similar violations do not occur.

### **Record of Complaints during FY 2015-2016:**

As per the mandate bestowed by the Act, the Commission started probing in petitions/complaints received on human right violations from mid of Dec 2015.

Table: Salient numbers reflecting achievements of the Commission in protecting Human Rights:

Category	ICT	Pb	Sd	KP	Bal	FATA	GB	UN/ Abroad	Total
Complaints	83	179	74	62	4	8	1	8	419
Suo-Motu	10	35	10	20	4	2	-	1	82

<sup>4</sup> See Annexure-III

Total [Complaints, Petition & Suo Motu Notices]	93	214	84	82	8	10	1	9	501
Status of Complaints, Petition & Suo Motu Notices									
In Hearing	14	23	2	6	-	1	-	1	47
Petitions Under Inves- tigation at Initial Stages	34	97	47	48	5	7	-	6	244
Disposed Off	45	94	35	28	3	2	1	2	210

## CATEGORICAL SUMMARY OF COMPLAINTS RECORD

Sr NO	Category	ICT	Punjab	Sindh	KPK	Baluch-istan	FATA	GB	UN/From Abroad	Total
1	Abduction	6	5	1	1	-	-	-	-	13
2	Abuse of Power	2	1	-	-	-	-	-	-	3
3	Administrative Issues	1	2	2	-	-	-	-	-	5
4	Blasphemy	-	5	-	-	-	-	-	-	5
5	Child Abuse	2	3	-	-	-	-	-	-	5
6	Civic Matters	1	4	1	-	-	-	-	-	6
7	Civil Matters	3	4	4	-	-	-	-	-	11
8	Compensation	-	1	1	1	-	1	-	-	4
9	Corruption	1	-	3	-	-	-	-	-	4
10	Court Matters	-	1	-	-	-	-	-	-	1
11	Criminal Matters	1	8	3	-	-	-	-	-	12
12	Criminal Negligence	-	1	-	1	-	-	-	-	2
13	Custodial Killing	-	-	1	-	-	-	-	-	1
14	Custodial Matters	1	-	-	-	-	-	-	-	1
15	Death in Police Custody	-	1	-	-	-	-	-	-	1
16	Discrimination	2	1	-	1	-	-	1	-	5
17	Domestic Violence	-	3	1	-	-	-	-	-	4
18	Drugs	-	1	-	-	-	-	-	-	1
19	Education Matters	2	2	1	-	-	1	-	-	6
20	Environment	2	1	-	-	-	-	-	-	3
21	Extra Judicial Killing	-	-	60	-	-	-	-	-	60
22	False Implication	1	1	1	-	-	-	-	-	3
23	Family Matters	4	8	3	2	1	-	-	1	19
24	Financial Matters	3	7	1	3	-	-	-	-	14
25	Forced Labor	-	4	-	-	-	-	-	-	4
26	Forced Marriage	-	1	1	-	-	-	-	-	2
27	Fraud	-	-	-	-	-	-	-	1	1
28	Government Negligence	-	-	1	-	-	-	-	-	1
29	Harassment	3	8	-	3	-	-	-	-	14
30	Health	3	5	1	5	-	1	-	-	15
31	Honor Killing	-	1	-	-	1	-	-	-	2
32	Human Rights	6	5	4	1	-	-	-	-	16
33	Human Trafficking	-	1	-	-	-	-	-	-	1
34	Illegal Demolition	-	-	1	-	-	-	-	-	1
35	Illegal Gratification	1	-	1	-	-	-	-	-	2
36	Illegal Jirga Conviction	-	-	-	1	-	-	-	-	1
37	Immorality	1	-	-	-	-	-	-	-	1
38	Irrelevant	-	2	3	-	-	-	-	-	5
39	Jailed Abroad	-	-	-	1	-	-	-	2	3
40	Karokari	-	-	1	-	-	-	-	-	1
41	Land Grabbing	-	2	1	1	-	-	-	-	4
42	Land Matters	1	8	4	2	-	-	-	1	16
43	Medical Negligence	3	1	1	3	-	-	-	-	8
44	Mercy Appeal	-	3	-	-	-	-	-	-	3

Sr NO	Category	ICT	Punjab	Sindh	KPK	Baluch-istan	FATA	GB	UN/From Abroad	Total
45	Miscarriage of Justice	-	1	-	-	-	-	-	-	1
46	Missing Person	2	6	3	5	1	3	-	1	21
47	Minority Rights	1	2	-	-	-	-	-	-	3
48	Murder	-	7	4	3	-	-	-	-	14
49	Official Accommodation	1	-	-	-	-	-	-	-	1
50	Official Negligence	1	-	-	-	1	-	-	-	2
51	Police Abuse	1	7	2	7	-	-	-	-	17
52	Police Inaction	5	17	3	6	-	-	-	-	31
53	Police Matters	-	-	2	-	-	-	-	-	2
54	Police Torture	-	-	-	-	-	-	-	1	1
55	Professional Misconduct	-	-	1	-	-	-	-	-	1
56	Property Matters	-	2	-	-	-	1	-	-	3
57	Rape	-	2	-	1	-	-	-	1	4
58	Sectarian Killing	-	1	1	1	1	-	-	-	4
59	Service Matters	23	34	9	18	-	-	-	-	84
60	Sub-Judice	-	2	-	-	-	-	-	-	2
61	Sexual Harassment	-	2	1	1	-	-	-	-	4
62	Terrorism	1	-	-	-	2	-	-	-	3
63	Theft	2	2	-	-	-	1	-	-	5
64	Threat to Life	3	10	8	4	-	1	-	-	26
65	Torture	2	10	4	4	1	-	-	-	21
66	Unlawful Detention	-	4	31	1	-	1	-	1	38
67	Unlawful Occupancy	1	-	-	-	-	-	-	-	1
68	Vani	-	-	-	2	-	-	-	-	2
69	Violence against Women	-	4	1	3	-	-	-	-	8

The Commission publishes its recommendations and efforts to seek remedies. Disseminating investigation results and recommendations also allows sharing how the commission was led to the decisions taken on cases. Similarly another role for the commission is to ensure supporting communications to treaty bodies under optional protocols to seek remedies for cases that have exhausted national remedies. This is a jurisdiction for whose exercise the occasion has not yet been presented.

Publication helps to inform public opinion and encourage discussion. This has been particularly important as the cause of many complaints stem from wider problems of unfairness that needs to be addressed by the parliament in addition to the relevant branch of government. Publication of the results of the Commission's investigation has been an effective means of assuring complainants that the NCHR takes their issues seriously.

The Commission also have standing to appear before the Honourable Supreme



Court, High Courts and special courts for instance human rights courts.

## **Highlighted Cases 2015-2016**

### **A blind man from Oman**

This was a complex complaint. The complainant Amjad Butt is a Kashmiri citizen of Pakistan from Lahore. He went to Oman and started working as a welder with his 'Kafeel' [Legal title of employer in Oman literally translating to 'sustainer' in Arabic]. They had a good relationship but the work was hard. His eyes were affected by constantly gazing at the intense ultra-violet welding arcs without proper protective gear.

He asked his Kafeel for medical help. The Kafeel, however, did not help. He even refused to give him back his passport he had retained in his possession following local custom.

Now the local law is such that in order to file a complaint against the Kafeel, you need a "No Objection Certificate" from the Kafeel. Then the brother of his Kafeel was a high official in the justice system of Oman.

Offended at his persistence in seeking medical help, the Kafeel locked him up with the cattle and the sheep in his desert farm. Amjad Butt did not get any medical assistance. He lost his eyesight.

He came back to Pakistan, somehow, without his passport. He tried seeking legal help. He went to many NGOs and contacted the local courts in Lahore. He even set up a page on Facebook and gave interviews on television channels.

There was no action. No law could help for no court has jurisdiction in Oman.

He learnt from media articles that the National Commission for Human Rights might be able to help. He lodged a complaint with the NCHR.

Chairman NCHR took up his case. It involved very complex legal issues as two different sovereign territories were involved. It was the persistence of the Commission, though, in pursuing this complaint that got the wheels turning. The complainant was happy he got full relief. "I have collected my passport", he told the NCHR Bench on the last hearing.

There was a lot of media coverage of this development. Newspapers also carried photographs of the blind complainant. He also got the appointments for medical treatment in the United States through the OPF who is in the process to secure the same for him. He expects to fly to America soon for his treatment.

The Complainant has thanked the NCHR and has also requested that his case may be processed for hearing by the International Human Rights Commission (IHRC) to recover his dues from his Omani Kafeel. The Commission has written a letter

to MOFA seeking guidance how individual complaints could be processed for the IHRC.

### **Land for the Islamabad Hindu community**

The Islamabad Hindu Panchayat (IHP) President Dr. Ashok Tanwani approached the NCHR on 31 May 2016. They wanted a land allocation from the Capital Development Authority (CDA) for community uses including cremation services.

The Hindu community has been trying since long. They did not have even cremation grounds. Their case had been circulating between Senate committees and other government offices from CDA to the Ministry of Human Rights or the Ministry of Religious Affairs since 2012.

Cremation is a basic human need of those in the Hindu faith. The Senate Functional Committee recommended the CDA make land allotment as per rules. However, the matter remained pending in different forums.

The IHP had spoilt their case. Their original plea was for a share in the land allocated to the Sikh community. It was only after five or six hearings that the process made clear a parcel of land allocated a community cannot be allotted to anyone else without their consent. The CDA said the Sikh community was not responding. Since it was now the property of the Sikhs, no government agency had jurisdiction.

The NCHR then asked the IHP to amend its application for direct allotment of land by the CDA. The revised application was filed on 20 September 2016. But they did not respond. Three more formal hearings went unattended. Then the NCHR tool serious notice and sent own officials to serve the final summons with a policeman in tow.

There are some 800 Hindus in Islamabad and are represented by the IHP. They demanded land as their basic human right for three things:

- Cremation Centre
- Community Hall
- Temple

When no one from the CDA attended the first three hearings, NCHR wrote a letter to CDA why no one appeared despite the summons. The letter to Chairman CDA and Chief Commissioner asked to explain their failure to comply and were also required to explain why you did not depute an official to represent the CDA in the NCHR case.

The CDA requested postponement though their Director Law that was granted till 30 June 2016. On that date, NCHR order on that date observed there was no Hindu cremation place in Islamabad. The CDA was asked to propose a few sites

as the Hindu community needed land for two uses:

- Cremation ground
- Temple/Community Hall

Chairman NCHR instructed the CDA to allocate the land to the IHP for these purposes as requested. The CDA said they have no objection for such allocation provided the IHP responds to CDA queries and completes the process as per rules. President IHP Dr. Tanwani handed over the needed papers. On the next hearing, Direct CDA informed that the matter was placed for a decision in front of the CDA Board. The CDA board approved a 2354 square yard plot of land in H9/2 Islamabad on 9 December 2016.

### **The UBL pension case**

Raja Mohammad Sarfaraz and other United Bank Limited (UBL) pensioners launched a complaint with the NCHR in February-2016. They said pensions were too low because the privatization process violated their human rights.

Monthly pensions were as low as 400 rupees per person. Complainants said they cannot survive on such low pensions. They said they had served the bank for decades. This was an old case that had been going from door to door in Islamabad. The UBL was privatized through the Privatization Commission (PC) in the early 1990s. President of Pakistan once ordered the bank to pay pensions. This matter was disposed by the High Court and then the Supreme Court.

The NCHR issued its first notice on the complaint on 17 February 2016. It was a tough case. The Commission took it up on humanitarian grounds.

Paragraph 8, bullet point 12 of the Privatization Policy of February 1994 said, “Genuine interest of the employees working in entities proposed to be privatized would be adequately safeguarded.” Paragraph 12 point c obliged the new owners to, “provide reasonable compensation to employees rendered surplus as a result of privatization and help in their retaining employment elsewhere.”

The Commission said other policy grounds establish the grund norm that the purchaser must take liabilities along with assets. If interests of the employees are not safeguarded then the contract becomes an unconscionable contract since it fails to protect the rights of the employees. UBL and the Privatization Commission of Pakistan were the two respondent parties in the complainant.

During the course of multiple hearings, UBL showed policies and circulars of the Government of Pakistan that showed the employees had opted for salary increases in lieu of pensions. The Complainants placed on record a letter by President of Pakistan that UBL employees are civil servants and their rights must be protected as such. UBL contented that because the bank was privatized so the employees could not be considered civil servants. This was the ground on which

the High Court and the Supreme Court had decided the case in favour of the bank management in earlier litigation.

The NCHR, however, took up the case on the basis of Human Rights law. A major issue was that the employee's pension was frozen at the 1991 level. Employing legal norms that equity governs by good conscious because ordinary law was rigid, the Commission observed constitutionalism and Human Rights are now the basic standards upon which the world has consensus that these must be ensured in all countries of the world without discrimination. Also human rights are fundamental rights protected by the Constitution in Articles 8-28 and 29-40. Good conscious is the principle with which the NCHR took up the case of UBL employees.

The Commission held numerous hearings but could not conclude the matter. The Privatization Commission did not ensure representation. Therefore, the commission was left with no option but to proceed ex parte. Other parties were heard.

The NCHR held that the liabilities safely pass to the new purchasers along with benefits. While leaving out the provisions relating to the interest of the retired employees the contract between UBL, State Bank of Pakistan (SBP) and the PC was incomplete. Rather, the Commission said, it would be considered unconscionable. The failure of any of the parties in this regard will be cured by law, justice and equity.

The NCHR said the applicant is entitled to get what he would have received from the UBL if it had not been privatized. His rights would not have been taken away merely because of omission to safeguard his interest in the contract whether inadvertently or with a design. The amount being given to him as pension does not meet his daily needs and this gives rise to violation of human rights. Because of which this commission entertained his complaint and conducted hearings.

In its order dated 5 September 2016 the NCHR held that the applicant was "entitled to receive the pension to which he would have been entitled if the bank has not been privatized. The new management of the UBL has therefore, the liabilities passed to it after it took over the bank along with all rights, assets and liabilities. It should therefore, pay to the complainant after due calculations, all increments and arrears due since his retirement in the year 1988. This is to be done within a period of 45 days.

The UBL management has since challenged the NCHR decision in the Islamabad High Court where the case is now being heard!

### **Violence against a woman**

The Complainant had a court marriage with a man from Mianwali in Rawalpindi. All was well at first. She went to and lived happily in Mianwali. Soon it transpired the man was already married. Domestic conflicts started. The man divorced

his first wife. The first wife was his second cousin. The domestic conflict grew larger and the whole family got involved. Her in laws bound her to a chair, made deep knife cuts near her ankles and then poured acid on the cuts. She was not allowed any treatment. Then upon the promise of extending treatment, they got her to sign many documents. Even then they did not release her. She was kept in illegal confinement for one year. After which period, her in laws left her at the Holy Family hospital. She contacted her own family who took her to the civil hospital for treatment. But the doctors refuse to extend treatment without due legal documentation. Police Station New Town, Rawalpindi also refused to register a case saying the incident took place outside their jurisdiction. Her need for treatment was urgent as her hand could be permanently damaged.

An advocate of the High Court guided her in seeking relief from the NCHR. He also acted as her counsel free of cost. A formal complaint was lodged with the Commission.

NCHR took up the complaint on a compassionate basis. Case was fixed and respondents were summoned.

New Town Police said the incident took place in Mianwali so they could not take cognizance. However, the court guided them to act in her aid following the Criminal Procedure Code (CRPC) since part of the crime took place in their area and partial jurisdiction lies with them. The Commission also observed that the police was bound to make the First Information Report (FIR) and register it in its roznamcha (daily register).

However, on the next hearing they said their legal department had not cleared them. The NCHR observed that the case could later be transferred and a Joint Investigation Team (JIT) could be formulated and then the case may be transferred for investigations after registration of the FIR. The police agreed to follow these instructions and created a JIT with Mianwali Police. Police followed court instructions in taking cognizance and entered the case into their roznamcha and took her to the hospital for treatment.

Her treatment was thus started.

### **Registration of drug for hepatitis C with DRAP**

The Chief Executive Officer of Scotmann Pharmaceuticals submitted a complaint alleging the Drug Regulatory Authority (DRAP) was violating and infringing upon the human rights of millions of Pakistani Patients by denying them access to the cutting edge therapeutic goods. The drug in question was Sofosbuvir used to treat Hepatitis B and C. The generic version of the medicine has been freely available in neighbouring countries at low prices.

According to the facts of the case, the complainant and a few other companies were manufacturing Sofosbuvir in Pakistan and were registered with DRAP in that



capacity. They were allowed to manufacture and export but they were not allowed to register the same product for sale in the domestic market. The complainant prayed that DRAP may be directed to hold an extra ordinary meeting of the registration board to grant across the board registrations of Sofosbuvir without further delay to all manufacturers and exporters of this drug as Hepatitis B and C were nearly an epidemic in Pakistan and people needed access to affordable treatment for this life threatening disease.

An estimated 18 million Pakistanis are infected with the hepatitis B and C. This means every 10th Pakistani is suffering from viral hepatitis. A number of deaths can be attributed to hepatitis mainly because of cirrhosis and liver cancer. Pakistan has one of the highest prevalence of the hepatitis C virus as it stands 2nd in the Middle East and the Asia Pacific Region after Egypt.

Millions of Pakistanis suffering from hepatitis C were unable to get a low cost Sofosbuvir since DRAP has granted registration to only one pharmaceutical company. Prices were high because there was no competition in the market place. The local company registered to sell in Pakistan was representing a multinational pharmaceutical company and the price for a pack of 28 tablets was earlier sold for Rupees 55,000 which was later reduced to Rupees 33,000 per pack. However, this was still a very high cost and out of reach for most patients.

Registrar issued notices to the Secretary, Ministry of National Health Services Regulations and Coordination, Government of Pakistan and the CEO of DRAP in Islamabad. The Registrar informed them of the complaint lodged with the Commission and required them to send a representative fully conversant with the issue in question on the hearing date. The notice also informed both the respondent that if no representation was made, the Commission would proceed ex-parte at their own risk and cost.

The DRAP was quick to resolve the issue. The Commission closed the case when the complainant said they have got the relief they wanted. DRAP had furnished a letter addressed to the complainant that conveyed the approval of Chairman Registration Board on their request to register the said drug. The complaint was successfully closed.

### **Recovery of Missing Person**

Miss Hani Abdul Baloch complained that her father –a telephone operator and a social worker in Karachi— was picked up from a toll plaza by armed persons. She alleged that some Agencies were involved in the forcible abduction of her father. The Commission took notice and pursued with the authorities. We later learnt that Abdul Wahid Baloch was recovered thereafter. He met with the Chairman NCHR during the formers' visit to Karachi and expressed his thanks to the Commission

for its effort leading to his recovery.

## **Inquiries and reports**

The Commission carries out regular information gathering and monitoring to identify where inquiries and investigations are required. The first step is to determine if the issue is within jurisdiction. Triaging ensures priority cases and emergencies are handled appropriately. Early information and counselling is extended to all parties. Avenues of alternative dispute resolution to encourage amicable settlement are explored at the outset.

Via investigations, by gathering physical, testimonial and documentary evidence, by researching and analysing the evidence, the Commission is able to also provide recommendations for ensuring such does not happen again.

Act XVI of 2012 follows the Paris Principles in requiring that the NCHR should have access to all documents and all persons necessary for it to conduct an investigation. Other powers devolve from the Paris Principles and the nature of the investigation itself. These powers are clearly defined and legally entrenched in the NCHR Act, 2012, including the power to conduct onsite investigations as necessary, including powers to visit detention facilities, etc. The Act also bestows the power to call parties to a hearing; and the power to hear and question every individual who, in the opinion of the Commission, has knowledge concerning the issue under investigation or is otherwise in a position to assist the investigation.

The power to initiate investigations is a capacity that has been an extremely important and far-reaching source of strength for the institution. It allows an NHRI to ensure that vulnerable groups are given a public voice. Issues requiring attention are identified looking at trends of incoming complaints, media scanning following a strategic planning exercise. The Parliament marks issues for the NCHR to investigate and report. Community and non-governmental organizations also try to bring urgent local issues to the attention of the NCHR. Media reports are another indication of problem a problem leading the Commission to initiate an investigation.

In the first year, the Commission produced 18 reports reviewing different aspects of law and Human Rights. Salient among these were:

1. Kasur Child Abuse Incident;
2. A report on Tharparkar Crisis: The Haunting Footprints of Drought, Hunger and Poor Governance;
3. Forced ouster of Tenants of Okara Farms
4. Proposed Procedural Amendments to check Misuse of Blasphemy Laws in Pakistan
5. A Study on Honour Killings in Pakistan and Recommendatory



### Checks through Law

6. PIMS Hospital-An Appraisal Report
7. Investigative report on Mina Hajj Tragedy
8. A report on Exploitative Trade of Human Organs in Pakistan
9. Report on Transgender Persons (A need for Mainstreaming)
10. Report on FATA South Waziristan IDPs: Plights, Issues and Challenges
11. Towards Implementation of International Core Human Rights Conventions by NCHR

Following is a brief review of reports published by the NCHR during 2015-2016:

### **Report on the Kasur scandal**

The Kasur Scandal broke out in July 2015 in the international and local media. The shameful events brought the issue of child sexual abuse and exploitation to the forefront of national discourse. It was reported that a gang of paedophiles sexually abused a large number of children in village Hussain Khanwala in district Kasur were sexually abused. Allegedly, the crime has been going on for a long time. Law enforcing agencies came out as inapt for they failed to take cognizance of this horrific abuse. The large scale of this scandal indicated police inaptitude was beyond mere criminal negligence. Rather, it bordered with connivance.

The Commission took suo moto notice under Section 9 of the NCHR Act, 2012 considering the nature of the incident. Relying on media reports, the Commission expressed concern strongly condemning the reported incident as the victims were children. The Commission also constituted a fact finding committee to investigate the matter and ascertain facts.

### **NCHR Observations**

The NCHR report observed that children were sexually abused in village Hussain Khanwala, district Kasur on large scale since 2010. The perpetrators blackmailed victims and their parents. In this regard, it was unfortunate that parents and village residents had to take to the streets to actually get the authorities to take notice. And that too after the videos had been widely circulated. Predators like those who sexually abused the children in Kasur thrive on our state of callousness and tendency to overlook issues considered taboos here. This allowed the perpetrator to continue with their onslaught and the victim had no immediate recourse to relief or justice.

**Kasur child abuse scandal: Punjab govt makes no headway on suggestions, says NCHR**

By Riazul Haq Published: March 6, 2016

ISLAMABAD: Five months have passed since the release of the infamous Kasur child pornography scandal report, but the Punjab government has yet to implement the recommendations to enforce preventive measures and devise a policy to avoid child abuse incidents in future.

It was reported in August 2015 that a gang of 20 to 25 men had filmed as many as 400 videos of sexual abuse involving at least 280 children belonging to Hussain Khanwala village in Kasur district. Most of these children were believed to be younger than 14 years old.

A joint investigation team (JIT) found flaws in the preventive mechanism at the local level. It also found police and security officials to be ‘de-sensitised’ to handle such cases, in many of which victims are also believed to be harassed.

The gang suspected of being involved in the scandal was also found to be linked with a dispute over a 12-acre irrigation department property in the village.

Following the incident that shocked the country, the National Commission for Human Rights (NCHR) made some suggestions for the Punjab administration to avert such incidents in future, and also recommended some policy changes at the federal level, but the body’s report seems to have received a lukewarm response at every level.

The NCHR also recommended that the Centre take steps for prompt passage of pending bills relating to child protection. The report mentions the Criminal Laws Amendment Bill 2009, the National Commission on the Rights of Children Bill 2009, and The Charter on the Child Rights Bill 2009. It also suggests that the federal government check flaws in the Police Act 2002.

A few days ago the Senate Subcommittee on Human Rights passed the Criminal Laws (Amendment) Bill pending since 2009. However, little has been done to follow the NCHR recommendations at any level.

Silence

The human rights body had asked the Punjab police chief to investigate the “cal- lous ineptitude and criminal negligence in preventing child sexual abuse in Kasur and prosecute all those who were involved and responsible”.

The NCHR stated that it would also monitor the proceedings, and sought a month- ly progress report from the provincial chief secretary on the proceedings of the JIT under his command.

“Nevertheless, the Punjab government has not shared details regarding imple- mentation on the recommendations, as we do not know what is the update on policy level changes,” said NCHR Islamabad member Muhammad Shafique.

The commission also suggested that the Punjab prosecutor general appoint expe- rienced prosecutors and his office monitor the proceedings.

Shafique said the Punjab government had yet to implement child protection mech- anism at district level, adding that the impact of a child protection bureau estab- lished recently had yet to be gauged.

Meanwhile, Nasreen Jalil, chairperson of the Senate panel, suggested inviting the prosecutor general in the next meeting.

[https://tribune.com.pk/story/1060117/kasur-child-abuse-scandal-punjab-govt- makes-no-headway-on-suggestions-says-nchr/](https://tribune.com.pk/story/1060117/kasur-child-abuse-scandal-punjab-govt-makes-no-headway-on-suggestions-says-nchr/)

That, crime prevention mechanism and social protection mechanism of the State and their approaches towards situational crime prevention and social crime prevention failed in protecting innocent children and preventing their sexual abuse in District Kasur. Prima Facie it appears that policemen at Ganda Singhwala police station showed inaptitude and failed to take cognizance of this horrific large scale abuse which amounts not only to criminal negligence rather it was connivance.

That inappropriate use of anti-terrorism act against complainants and inhabitants of village Hussain Khanwala of District Kasur is causing fear of police-persecution and mistrust, leading towards social boycott to participate in investigation. The Commission welcomes the recent announcement of the Chief Minister Punjab for immediate withdrawal of cases registered under the Anti-terrorism Act.

Stringent accountability action has to be taken against concerned officials both at police station level, the DPO and those on duty for special reporting. It is for consideration that the political leadership is also questioned by the Honourable Chief Minister on its inaptitude and lack of concerns for their constituency resulting in bringing a bad name.

## Policy Recommendations

NCHR strongly recommended the Federal Government take steps for expeditious enactment of following pending bills:

- i. The Criminal Laws Amendment Bill 2009,
- ii. National Commission on the Rights of Children Bill, 2009 and
- iii. The Charter on the Child Rights Bill, 2009.
- iv. To check flaws in the Police Act 2002

Apart from a number of progressive steps with regard to child protection, the bills propose amendments in the PPC to expand the definition of sexual abuse of children; criminalise child pornography and ban internal trafficking (a major contributor to organised sexual abuse of children). Unfortunately, much like society at large, the elected representatives of the people have shown strong reaction to the plight of children vulnerable to abuse and exploitation. The bill is yet to be passed by the National Assembly and Senate. It is imperative that this important piece of legislation is passed to fulfil its commitment to our children and to the international community. Where the latter is concerned, Pakistan ratified the UN Convention on the Rights of the Child and its optional protocol on the Sale of Children, Child Prostitution and Child Pornography. Both call for Pakistan to take effective legislative and administrative steps to curb child sexual abuse.

NCHR recommended that child protection system should be reviewed and reformed in compliance with the provisions of the CRC. Budgetary provisions will be increased for child protection and appropriate administrative actions will be taken for child protection and assistance. Government of Pakistan should take all necessary steps to adopt and implements National Plan of Action for Children and National Child Protection Policy at Federal, Provincial and Local levels in accordance with the concluding observations of the Committee on the Rights of the Child.

NCHR recommended that Federal and Provincial governments should promote public awareness about child rights and child protection issues in collaboration with all relevant stakeholders including CSOs. Law enforcing agencies, prosecution, judiciary, lawyers and social welfare departments should be sensitized at Federal, Provincial and district levels. Physio-social treatment and counselling for victims and their families should be developed systematically.

NCHR requested the people representation and religious leaders to get sensitized and play their due role to stop recession of our moral values and to keep a vigil over rough elements in the society.

The NCHR expected of the Federal Government and the Provincial Government to review all Police laws as these have not changed the abhorrent police culture nor has made this institution worthy of trust.

The NCHR requested the Punjab Government to establish a Trauma and Counselling Centre at Kasur.

### **Specific Recommendations**

NCHR will write to Police Department Punjab to investigate callously inaptitude and criminal negligence rather connivance of police in preventing this child sexual abuse and prosecute all those who were involved and responsible. NCHR will monitor the proceedings. It will also monitor the investigation and proceedings of Joint Investigation Committee and progress report will be sought from Chief Secretary Punjab on monthly basis. Frequent interaction with Joint Investigation Committee will be ensured through IG Police office Punjab.

NCHR will write to Prosecutor General of Punjab office to appoint well trained and experienced prosecutors and progress on prosecution legal and judicial proceedings be monitored.

NCHR will work with DCO & DPO Kasur for trauma counselling of victims and their families in collaboration with civil society organisations and representatives of local peoples.

### **Impact of the Report:**

The Committee submitted its report to the Commission in September 2015. This was made public in October 2015. Prime Minister of Pakistan Mian Mohammad Nawaz Sharif took notice of the report and endorsed the NCHR recommendations in the report. He also directed all concerned departments to implement these in letter and spirit.

The Kasur Scandal report was also discussed in the Functional Committee on Human Rights of the Senate on 02 March 2016. This led to the adoption of the “Criminal Law (Amendment) Bill, 2016” by the Committee. The law, soon to be presented in the Senate, criminalizes child trafficking, child pornography, prostitution and cruelty to children as recommended by the Commission.

The National Commission for Human Rights has issued the report of its fact-

finding mission that probed the Kasur incident of child abuse.

### **Report on the Tharparkar Crisis**

The Commission took suo moto notice of recurring deaths of children in Tharparkar in December 2015 and inquired about the incident from all concerned provincial departments. The Commission also constituted a fact finding committee to ascertain facts and investigate the matter. The Chairman NCHR himself headed the Committee that visited Tharparkar on 08–13 March 2016. The Committee as given the following tasks:

1. To assess the ground situation in the drought stricken region that, in the past three years, has experienced a very high number of deaths and loss of livelihood because of drought and breakdown of healthcare infrastructure
2. To prepare a report based on the information gathered and observations made during the course of the trip, and present it before the Parliament as well as the nation so that relevant interventions can be made to improve the situation in the district
3. To launch necessary lobbying efforts in order to not only address the current crisis of the region, but also to develop a long term plan to deal with natural disasters, especially the drought in Tharparkar.

During the five days fact finding mission the Committee held meetings with:

1. Victims and their families
2. Representatives of civil society
3. Provincial and district governments
4. Provincial coordinator on Thar Senator Taj Haider
5. The Bar Associations
6. Local Press Club
7. Sindh Press Club, Karachi,
8. Union Council Members from Thar, and
9. The Member Provincial Assembly from Thar.

The Committee visited various hospitals sites and recorded the statements of victims and inhabitants to be reflected in its comprehensive fact finding report. The Committee observed inaccessibility to food, underdevelopment, poor

healthcare infrastructure, water supply, system of declaration of drought, and gaps in government relief efforts as prime factors behind the crisis in Tharparkar.

## THE EXPRESS TRIBUNE

### **NCHR terms Tharparkar deaths a violation of human rights**

By Qaiser Butt Published: March 24, 2016

ISLAMABAD: Declaring the deaths in Tharparkar a human rights violation, the National Commission on Human Rights (NCHR) has criticised the Sindh government over its “unsatisfactory measures” to save the lives of children who have passed away due to malnutrition and other diseases.

Expressing dismay over the steps taken by the provincial government to diminish the suffering of the people, the commission has directed the authorities concerned to take effective steps for saving human lives in Tharparkar.

The directives were issued by chairman NCHR Justice (retd) Ali Nawaz Chohan last week after his four-day tour to different parts of the district. He was accompanied by Anees Haroon, member of the NCHR Sindh chapter.

Let them die

The two-member delegation during its stay in Karachi met high-ranking officials of the provincial government, including Pakistan People’s Party senior leader Taj Haider.

The NCHR termed the government’s steps a temporary solution to address the serious situation, and decided to present a workable resolution of the crisis, a senior member of the commission told The Express Tribune.

“The NCHR is in the process of preparing a package of recommendations for the government,” the member said.

“Immediate and lasting steps are required to put an end to these human rights violations in the most backward district of the province.”

The recommendations will be announced at a press conference by Chowhan on March 29.

The tragedy



According to official statistics released by the Sindh government, a total of 143 children aged up to five years lost their lives in Tharparkar due to malnutrition, disease and poverty between October 2015 and February 2016.

While addressing a press conference in Mythic last month, Sindh Health Minister Jam Mehta Dahari admitted the government was unable to control the fatalities of malnourished children.

He, however, said they were focusing to provide maximum healthcare facilities to pregnant women to avoid premature births.

<https://tribune.com.pk/story/1071811/nchr-terms-tharparkar-deaths-a-violation-of-human-rights/>

## **Recommendations**

The Committee issued a detailed report titled, “A Report on the Tharparkar Crisis: The Haunting Footprints of Drought, Hunger and Poor Governance”. The report made the following recommendations:

1. A robust family planning and reproductive healthcare network is extremely important to establish in the region
2. A network of ambulances may be established that should specifically focus on covering distant areas.
3. There is a need to impose Essential Services Act to compel government doctors to move to and perform their duties in Tharparkar and those who violate the professional oath should not only be dismissed, they should be fined and blacklisted.
4. Hospitals and healthcare facilities need to follow the procedure of hygiene and cleanliness
5. A merit based system of appointments be implemented especially in this sensitive hour as there is a dire need of serious and committed efforts to help the region out of the crisis.
6. There is surely a need to build RO plants in order to treat the water to make it acceptable for consumption and drinking purposes.
7. There should be a separate budget allocation for Tharparkar till the region stands on its own feet in terms of development and the wellbeing of its people.
8. A university with departments that are specifically relevant to Tharparkar’s peculiar conditions be established.
9. Provisions be made for compulsory employment of the local population in any development projects undertaken in the area such

exploration of coal reserves.

10. A proper transportation network should be established to accommodate maximum commuters.
11. There is a need to establish a stable support system to secure the human development and deprivation and to develop the capacity to respond to humanitarian crisis for the population of Tharparkar
12. There is a dire need to make concerted efforts to strengthen a rights based culture that addresses rights in an all-encompassing way.
13. It is suggested that a special prosecutor for human rights violation be appointed and a Sessions Court be assigned at Mithi for such purposes.

### **Interim Report on Okara farms**

The Commission learnt from the press about reports of skirmishes between the authorities and the tenants of farm land in Okara in June 2016. There were allegations of forced eviction of tenants amid reports authorities violated the law. Registration of cases against the under the Anti-Terrorism Act, 1997 led to worsening law and order situation in the most fertile agricultural region of Okara. This became a matter of concern as a human rights issue.

Taking suo moto notice, the Commission constituted an investigating committee of three honourable members to visit the area and gather the correct information for proceeding further in the matter. The Committee visited Okara and submitted an interim report. There was need for further investigations, inspection of revenue records, the agreements between the tenants and the government, Fard Wajib ul Arz (land entitlement parchments) applicable to the parties, the practice of payment of consideration by the tenants for the use of the land and the legal rights of all sides.

The Commission set the following key-objectives for the Committee:

1. To assess the ground situation in Okara where there is a clash between the Anjuman Mazarin Punjab (AMP), local administration and the administration of Military Farms.
2. To prepare a report based on facts, information gathered and observations made during the visit and present it before the Parliament and the nation so that the necessary and required intervention can be made to address the issue.
3. To highlight the urgency to not only address the issue of arrest of tenants but also promote efforts to suggest a permanent solution to the dispute that is acceptable to all the stakeholders

The Committee planned a two-day visit in line with the NCHR's mandate to investigate incidents of human rights abuse and propose recommendations to prevent these. The Committee visited Okara and submitted an interim report with observations and interim recommendations as the complexity of the issue warranted detailed investigations before the Commission could take a position on the range of issues involved between tenant members of the Anjuman Mazarin Punjab (AMP) and the Okara military farm management.

In his preface to the interim report<sup>5</sup>, Chairman NCHR stressed the most important issue which preceded other issues, was the ascertainment of the locus standi of the Federal Government to hold on to a property that prima facie belongs to the Punjab Government. This question remained enshrouded in mystery. The violence was because of incarceration of protesting leaders and their involvement in charging them under the Anti-Terrorism Act. The investigation by has not ended. The Commission said a reference will also be made to the Board of Revenue, Punjab for providing it details about the ownership status of the property. In the meanwhile, the Commission submitted an interim report along with observations and interim recommendations to the Functional Committee on Human Rights of the Senate of Pakistan.

### **Observations**

1. The conflict between the hereditary tenants and the management came to surface in 2001 when the administration of Okara Military Farms tried to change the status of Mazarin (tenants) to contractors but the tenants refused to accept this change.
2. The restrictions imposed on the peaceful gatherings of AMP by local authorities in Okara since mid-April 2016 appeared to be arbitrary and un-constitutional
3. The version of events presented by the local authorities making a link between action against AMP's leadership and National Action Plan against terrorism is not based on good motives and is draconian.
4. The use of heavy military vehicles and show of weaponry against common citizens, particularly in a settlement which already has heavy military presence, reflect an excessive use of force, which can jeopardize the interest of the country as well as tarnish the image of the security establishment.
5. In past 15 years, the Government of Punjab has not tried to resolve this issue. A further delay in resolving the issue will carry serious implications on people's right to life, liberty, safety and security, right to livelihood, employment and other economic and social rights.

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<sup>5</sup> [http://csjpak.org/wp-content/uploads/2016/08/Okara\\_Interim\\_report\\_3.pdf](http://csjpak.org/wp-content/uploads/2016/08/Okara_Interim_report_3.pdf)

## **Interim Recommendations**

The following interim recommendations were made:

1. The Board of Revenue, Punjab should collaborate with NCHR for an independent inquiry about the legal status of parties involved with respect to property
2. The body so constituted should also advise about the liabilities
3. The cases under Anti-Terrorism Act, 1997 should not be preceded on the issue in hand until the NCHR or the body constituted in collaboration with NCHR hands down its findings in the meanwhile as a good will gesture
4. The Government should be benign to the leaders of AMP and release them on ensuring bail bonds for keeping good behaviour until the findings are hand down.

## **Report on the misuse of Blasphemy Law**

Provisions of Pakistan Penal Code (PPC) on offences against religion are viewed incompatible with Pakistan's obligations under the International law, including the guarantee to freedom of expression; freedom of thought; conscience and religion; and equal protection of law. Considering the threat of violent reprisals against advocates, war against terrorism and fraught political conditions, repeal or substantial amendment in Blasphemy laws to bring them in line with Pakistan's international legal obligations may not be immediately feasible. However, the procedural safeguards should be developed to prevent misapplication or misuse of the law regarding the offence of blasphemy.

The NCHR after extensively analysing national and international laws, important case law, international obligations and reports of reputed international organizations on the afore-mentioned subject, recommended some essential procedural amendments to prevent misuse and misapplication of blasphemy laws in Pakistan considering the fact that repeal or substantial amendment in blasphemy laws to bring them in line with Pakistan's international legal obligations may not be feasible, given the threat of violent reprisals against advocates, war against terrorism and fraught political conditions.

## **Recommendations**

Following were the recommendations proposed by the NCHR to prevent the misapplication or misuse of the law regarding the offence of blasphemy:

1. Section 156-A of Code of Criminal Procedure, 1898 ("CRPC") be amended by adding all blasphemy-related offences, including in

particular Sections 295-B, 298-A, 298-B and 298-C of PPC in order to decrease prosecutions based on false and malicious complaints.

2. Ensure that prosecuting and investigating agencies discharge their functions independently and impartially, in a manner that respects and protects human rights without discrimination, and that prosecutorial discretion be exercised to ensure that only bona fide complaints of recognizable criminal conduct are registered and pursued.
3. Register criminal cases where courts have concluded or there are reasonable grounds to believe that complainant and/or the witnesses in blasphemy cases have committed perjury.
4. Cases of blasphemy be tried by the District and Sessions Judge.
5. Amend Schedule II of the CRPC, 1898, to make all blasphemy related offences (Sections 295 to 298-C of PPC, 1860) bailable, and ensure bail is only denied where there is substantial risk of flight, term, harm to others, or interference with the investigation that cannot be allayed by other means.
6. Remove Section 295-A of PPC, 1860 from the list of scheduled offences under the Anti-Terrorism Act, 1997.
7. Awareness, training and regularization of Imam, Investigation, prosecution, judges and lawyers on the blasphemy laws be conducted.
8. District peace/interfaith committees and local scholars of known credibility should be involved in blasphemy cases at initial stage of institution of proceedings.
9. In the substantial law, the aspect of repentance is missing. Whereas, forgiveness was allowed by the Prophet Muhammad (PBUH) to those who repented.

## **Report on trade and transplantation of human organs**

The NCHR undertook the study on the issue of exploitative trade and transplantation of organs in Pakistan on the ‘Recommendations/Decisions of the National Assembly Standing Committee on Human Rights’ made in its meeting held on 22<sup>nd</sup> July 2016.

Organ transplantation is an essential surgical procedure that saves thousands of children and adult lives each year. Transplanting human organs gives people a renewed chance at living full and active lives. Different systems are being adopted all over the world to facilitate the patients who are waiting for such transplantation.

Pakistan was considered as a destination for “transplant tourism” prior to 2010. People with renal failure would travel from different countries to Pakistan for

kidney transplant procedures. However, it was soon discovered that most donors hailed from poor backgrounds. It was also learnt that most of them were bonded labourers. They were manipulated by agents to sell their organs to pay off their debts and earn their freedom. Unfortunately, poor donors were not paid any consideration by the organ traffickers in many cases.

This led to the eruption of the scandal in the national media. The Honourable Supreme Court of Pakistan took notice of the situation. The Supreme Court then directed the Federal Government in 2007 to enact a law to curb the exploitative trade of organs in Pakistan.

The Parliament enacted the “Transplantation of Human Organs and Tissues Act, 2010” as a consequence of this judicial activism. The law aimed to curb trade of human organs and to regulate the process of transplantation without any financial compensation all across Pakistan.

Provinces enacted their own laws on this subject matter in the aftermath of the 18<sup>th</sup> Constitutional Amendment. The Punjab province promulgated the “Transplantation of Human Organs and Tissues Ordinance, 2012”. The Sindh Assembly enacted the “Sindh Transplantation of Human Organs and Tissues Act, 2013”. “The Khyber Pakhtunkhwa Medical Transplantation Regulatory Authority Act, 2014” was enacted in the KPK province. And the Baluchistan Assembly enacted the “Baluchistan Transplantation of Human Organs and Tissues Act, 2012”.

Sporadic incidents were reported in the press of these laws being unable to curb the heinous trade and transplantation of human organs. This prompted the Commission to conduct a detailed study on the issue titled, “A study on the issue of Exploitative Trade and Transplantation of Human Organs in Pakistan”. The study took cognizance of international guidelines, Conventions and Protocols, Islamic Fatwa (decrees) and analysed the laws on the same subject matter from different jurisdictions which included United Kingdom, United States of America and India.

## **Recommendations**

The NCHR study made many recommendations to amend existing Federal and Provincial laws. These recommendations were framed to protect the best interest of needy patients and to curb organ trafficking within the lawful jurisdiction of Pakistan:



1. Offence for punishment of organ trade be amended to the extent that offence becomes cognizable, non-compoundable, non-bailable and amount of fine be extended from one million to five million rupees.
2. Procedure for registration of cases regarding commercial dealings of organs be amended while reducing the timeline of 15 days to a specific no. of days as it will cause delays in registration of cases.
3. DNA theft be declared as unlawful and made part of offences stipulated in the afore-mentioned Acts, if the DNA has been taken from the individual for such purposes without his/her consent.
4. Monitoring Authority must be given the powers of Civil Court with regards to summoning of persons, issuing search warrants for raids and production of documents.
5. Powers of Monitoring Authority be amended keeping in view the functions of Task Force on Organ Procurement and Transplantation established in United States which includes that Authority must regulate deceased donor organs and maintain check and balance on the transplantations and the process in regards to a deceased donor organ transplantation along with other lines of duty.
6. Monitoring Authority shall also establish Organ Transplantation Network for the purposes of identifying potential donors, preservations of organs and a system to allocate donated organs among transplant donors. (Keeping in view the structure and functions of Organ Procurement and Transplantation Network established in United States vide Organs Transplant Act, 1984)
7. Monitoring Authority be restructured so that Member from Pakistan Medical and Dental Council and National Commission of Human Rights be added in the constitution of Authority. Also, Monitoring Authority shall work on District Levels and concerned DCOs and EDOs of the District be made part of the Authority.
8. Licensing requirement must be strictly followed and proper mechanism regarding the license be created. Any medical personnel who needs to perform anatomical examination, post-mortem examination, removal of organs from the body of deceased, storage of anatomical examination and use of body for public purposes must be required to have a license from the Authority.

### **Report on Transgender Persons**

A country where the rights of mainstream segments of the population are frequently trampled upon, the plight of marginalised segments of the society is unimaginable. The Senate of Pakistan Standing Committee on the Marginalised Segments of the



Society entrusted the NCHR to work on the issues of the transgender community. “Transgender” includes a group of people that enjoys least amount of respect and rights in the country. The recent incidents of crimes including rapes, murder and harassment, committed against the transgender community of Pakistan have prompted human rights bodies to call for the protection of the transgender community of Pakistan in all respects.

Not only the preamble to Universal Declaration of Human rights state equality, in dignity and rights, of all human being but also the Constitution of Pakistan safeguards the Fundamental Rights of the citizens of Pakistan through Article 8 to 28. Despite such guarantees and safeguards, the living standards of the transgender community are not improving due to a variety of reasons ranging from segregation by the society to the administrative apathy.

Transgender community, though miniscule, has a significant presence across Pakistan in all ethnicities. As enshrined in the constitution, it is the responsibility of the state to confer on them their due rights and dignity. Their integration in the mainstream populace cannot be achieved until and unless the “abnormality” associated with transgender persons is transformed into a new normal by giving them equal opportunities as compared to other Pakistanis- be it in politics, education or public offices.

The NCHR prepared a report which indicates that various government and state agencies, if assigned roles and responsibilities regarding the uplifting of the transgender community, can play a positive role in safeguarding the rights of the transgender persons. Such a state level intervention is necessary to bridge the gap between mainstream population segments and marginalised communities like transgender persons.

Through our report, the NCHR has suggested workable and practical recommendations for elevating the status of the transgender community. Furthermore, our Commission proposed a draft a policy for the protection of the rights of transgender people in collaboration with the relevant stakeholders, which is under consideration of the Senate Committee, and soon a bill is expected to be passed for the rights of the transgender persons.



## Report on the Marginalized Groups

Rule of the law and the equality in all spheres of life entail an important principle of equal status of citizenship in society. The social contract theory envisions the intermingling of state and society on reciprocal basis, which demands equality in both rights and obligations from both sides. Unfortunately, the track record of Pakistan on the issue of inclusion of the marginalised groups in the mainstream public life has not been very healthy. The widening inconsistencies and inequalities require the adoption of sound, implementable policies to empower the marginalised segments of society and promote their economic inclusion regardless of their religion, sex, race or ethnicity.

The term ‘marginalized group’ is not defined in existing national legal framework. However, according to the UN human rights expert, the term includes persons with disabilities, youth, women, lesbian, gay, bisexual, transgender and intersex people, members of minority groups, indigenous people, internally displaced persons, and non-national, including refugees, asylum seekers and migrant workers.

Marginalized segments include various groups worldwide who face challenges in exercising, or seeking to exercise their rights and freedoms. The main issues faced by these segments include discrimination, inequality, violence, maltreatment and poverty.

To understand the issue, this report emphasizes on the following five major categories of marginalized groups due to their vulnerability and disproportionate human rights sufferings;

1. Women
2. Children
3. Disabled persons
4. Transgender persons
5. Religious minorities
6. Internally displaced persons (IDPs)

### **The Role of NCHR**

The Commission has the statutory role to receive and redress complaints of human rights violations. The Complaint Rules of the Commission have been in place since 2015 and the NCHR has been entertaining complaints from members of marginalized groups for the protection of their human rights. Following is a glimpse of the complaints received from the marginalized to date:

Sr. No.	Description	Complaints
1	Women	33
2	Children	03
3	Transgender persons	03
4	Minorities	18
5	Disable Persons	03
6	Total Complaints	512
7	Total suo moto	89

The Commission is also reviewing laws related to marginalized groups particularly women, children, transgender persons and minorities.

### **Recommendations**

NCHR recommends following measures to protect and promote the human rights of marginalized groups:

1. To initiate dialogue with concerned ministries and departments to identify their roles and responsibilities to protect marginalized groups in Pakistan.
2. To initiate dialogue towards development of integrated and all-inclusive framework for the protection of rights of vulnerable and marginalized groups.
3. To expedite pending bills related to marginalized groups & make

recommendations for effective implementation of existing laws

## **Appraisal of Pakistan Institute of Medical Sciences (PIMS) Islamabad**

### **Summary of the Report:**

States have the primary obligation to protect and promote human rights. Human rights obligations are defined and guaranteed by international customary law and international human rights treaties, creating binding obligations on the States that have ratified them to give effect to these rights.

The State attempts to provide healthcare through a three-tiered healthcare delivery system and a range of public health interventions. The former includes Basic Health Units (BHUs) and Rural Health Centres (RHCs) forming the core of the primary healthcare model; secondary care including first and second referral facilities providing acute, ambulatory and inpatient care through Tehsil Headquarter Hospitals (THQs) and District Headquarter Hospitals (DHQs) and tertiary care comprising teaching hospitals. Most people receive healthcare through private out-of-pocket payments made directly to the providers at the point of care.

Pakistan spends only 0.5% of its gross domestic product (GDP) on health, which is very low. This leads to an inability of the government to provide the required medicine and laboratory support to health care delivery resulting in an out-of-pocket expenditure on health of around 80%.

### **Composition of Committee:**

The mandate for NCHR demands that it assesses the situation pertaining to human rights, identify issues and suggest measures for the improvement of services. The Commission constituted a committee of the following three Members and tasked it to visit Pakistan Institute of Medical Sciences and submit its report about the situation there;

1. Ch. Muhammad Shafique, Member ICT
2. Mrs. Fazila Aliani, Member Baluchistan
3. Mr. Ishaq Masih, Member Minorities

### **Mandate of the Committee:**

1. Situation analysis of Right to Health in Islamabad Capital Territory
2. Assessment of efficacy of healthcare services in Islamabad Capital Territory
3. To Carry out an observational assessment

4. To submit a report, recommending the facility specific as well as policy specific interventions

### **Methodology adopted for the appraisal:**

The assessment has been done against 7 key aspects of Right to Health I.e. Availability, Accessibility, Acceptability, Good Quality, Non-Discrimination, Participation and Accountability. The report highlights the observations of the Commission and demonstrates hospital as well as policy specific recommendations.

### **Key Findings of NCHR:**

#### **Excessive Workload**

PIMS workload consist of 68% primary healthcare, 42% patients come from KPK, 11% from AJK and 8-9% from FATA, Tribal Areas and Upper Punjab. PIMS was supposed to cater about five hundred patients per day but currently over nine thousand patients are examined in the Out Patients Departments daily.

#### **Overcrowding**

It is estimated that 10,000 patients visit PIMS every day; it has risen from 434,633 to 10,45981 from the years 1987-1988 to 2014-2015.

#### **Scarce Emergency Services**

There is a severe shortage of staff in the emergency department. The hospital administration needs to hire more medical and paramedical staff for the assistance of patients, particularly in emergency cases.

#### **Waste Management Dilemma**

PIMS lacks proper system of solid waste management and the hospital administration for disposal of its wastes is relying on the conventional methods. Incinerator of the hospital is out of order and thus the medical waste lies inside the CDA/hospital waste containers.

#### **Courtesy Centre – Not for all**

Courtesy Centre has been established by hospital administration for the facilitation of VIPs and privileged groups of the society.

#### **Sanitation issues and Housekeeping issues**

Sanitary conditions in the hospital are very poor. The inner and outer premises of the hospital are giving an ugly look due to negligence of the concerned staff and because of poor sanitary conditions.

## **Sterilization Issues**

Sterilization of all the instruments, tools and equipment is not done in a proper acceptable way. Doctors, nurses and all the medical staff face a severe challenge for protecting themselves from communicable diseases.

## **Passive Complaint Handling Mechanism/Grievance Management**

There is no proper complaint handling or grievances management system. No system is in place for an oral or written expression of displeasure or dissatisfaction with service received that can be immediately resolved by the staff present.

## **Shortage of Human Resource – Nurses and Paramedical**

PIMS lacks Human Resource, recruitment is not being done from the last seven years and those who are serving consider themselves as underemployed.

Absence of Electronic Health Record

Lack of Computerized Recordkeeping

### **Critical Recommendations of the Committee:**

1. More attention on preventive healthcare is need of the time as it is the role of Government for the delivery of preventive serves at the basic healthcare.
2. The process of developing health policies should be evidence based, participatory and contextually relevant.
3. Budget allocations of hospitals should be viewed in the context of inflation and population growth.
4. Funds should not be allocated to hospitals without regard to their efficiency or appropriateness of use of resources; instead, progress in achieving outcomes should be the criteria for resource allocation.
5. A social and health insurance system should be developed within the framework of a broad-based social protection strategy. A dedicated policy and legal framework, an institutional mechanism and a sustainable pool of fund with per-capita, cost sharing by the Government needs to be established for this purpose.
6. Workload can be managed by introducing Triage System i.e. sorting of patients according to the urgency of their need for care or the process of determining the priority of patients' treatments based on the severity of their condition.
7. There is an urgent need to improve services at emergency unit of PIMS to entertain maximum number of patients. It is recommended to put in place



a monitoring mechanism to check whether the duty staffs observe their duties or not. It is suggested to have a filter-out mechanism for patients who visit the emergency unit for minor ailments.

8. Administration of the Hospital is suggested to incorporate Electronic Health Record for the patients to avoid the manual handling of patient record.
9. Launch a National Inquiry of overall healthcare system to have an in-depth analysis of health related issues on National level.
10. Campaigns for the awareness on Right to Health and Health Standards with all the stakeholders including healthcare units, regulatory bodies, service providers and service consumers.
11. Advocacy to incorporate Right to Health as a fundamental right in the Constitution of Islamic Republic of Pakistan, 1973

## **Report on Gaddani Ship-Breaking Incident**

### **Observations:**

1. Ship breaking yard/Contractor is not following the rules laid out.
2. Foam (Chemical) is essential to use for these burns incidents.
3. Owner of the plot did not fulfil the requirement of Gas, and Oil Cleaning.
4. Health and safety department and environment department are not functioning as per required in this sensitive place.
5. Federation of Ship breaking is working totally on paper not on ground.
6. Balochistan Development Authority's role is very important but in this situation they were out of sight.

### **Recommendations:**

1. When ship come to yard for breaking plot must be sealed till the complete security measures and permission of all departments are taken.
2. Contractors to be registered in the Federation/Department or Concerned authority.
3. NCHR should call the meeting with affected members for detailed discussion.
4. Contractor is responsible for worker safety and life. He should submit a worker safety bound for the entire slot.
5. Contractors should provide the bio data to the Gadani authority for registrations.



6. Contractor should be responsible to enter the worker in EOBI.
7. In case of any incident contractor and other relevant departments should be responsible.
8. An emergency hospital with complete accessories in Gadani ship yard is a must.
9. A fire station is very necessary in this area.
10. Access for ambulances is imperative for any incidents.

## **Jail Visits**

The conditions of prisons give rise to abuse and human rights violations. Human rights standards provide for prisoners to have the same rights as everyone else with certain limitations due to liberty restrictions. However, the reality is seldom near that ideal. It has been reported in the press and observed by many international human rights bodies that prisoners often suffer denial of basic human rights, such as the right to adequate food, sanitation and health care. Prisoners also often suffer verbal and physical abuse.

Deprived of liberties, prisoners are vulnerable to all forms of ill treatment. Also, respect of their fundamental rights depends upon the authorities in charge. The purpose of visiting prisons and places of detention, therefore, is to monitor and to ensure that the human rights of the prisoners are protected. Regular visits can improve transparency within detention centres, which in turn has been known to reduce abuse.

To protect and promote human rights in Pakistan, Article 9 (c) of the Act XVI of 2012 authorizes the Commission to undertake jail visits:

“notwithstanding anything contained in any other law for the time being in force, the Commission or any person authorized by it may visit any jail, place of detention or any other institution or place under the control of the Government or its agencies, where convicts, under trial prisoners, detainees or other persons are lodged or detained for purposes of ascertaining the legality of their detention as well as to find out whether the provisions of the applicable laws or other provisions relating to the inmates living conditions and their other rights are being complied with.”

Pakistan has also signed and ratified<sup>6</sup> the following international human rights instruments that bestow a similar jurisdiction upon the NCHR as the apex national human rights institution.

Treaty	Ratification Date
CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	17 Apr 2008
CCPR - International Covenant on Civil and Political Rights	23 Jun 2010
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women	12 Mar 1996 (a)
CERD - International Convention on the Elimination of All Forms of Racial Discrimination	21 Sep 1966
CESCR - International Covenant on Economic, Social and Cultural Rights	17 Apr 2008
CRC - Convention on the Rights of the Child	12 Nov 1990
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	17 Nov 2016
CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	05 Jul 2011
CRPD - Convention on the Rights of Persons with Disabilities	05 Jul 2011

The NCHR has conducted thorough and detailed investigations and purviews of the various jails across the country. The following prisons have been visited to date:

1. Central Prison Karachi, Karachi, Sindh
2. Central Prison for Women Sindh, Karachi, Sindh
3. Youthful Offenders Industrial School, Karachi, Sindh
4. Adiala Jail, Rawalpindi, Punjab:



5. District Jail, Jhelum, Punjab
6. District Jail, Gujarat, Punjab
7. Quetta Jail, Quetta, Baluchistan

These visits allow monitoring of the human rights situation duly documented in visit reports thereof. Many of the issues observed by NCHR arise across the board, in many of the jails across the country.

The documentation gathered exclusively by the NCHR from the Central Prison Karachi (CPK), Karachi, Sindh, sheds light on some of these issues and serves as an example for the problems faced by many of the other jails in Pakistan.



For example, the Commission noted with concern that minor inmates at the Youthful Offenders Industrial School, Karachi, Sindh received religious education from other prisoners without any vetting by the concerned authorities. The pamphlets circulated by the prisoners teach skewed principles, that fall under the doctrine of extremism. Instead of reformation the young prisoners were being taught negative, twisted theories. The Commission insists that only qualified teachers should impart religious education and they must do so using texts duly approved by relevant authorities.

The NCHR found that though the following rehabilitation programs are in place, the problem of unvetted dissemination of Islamic teachings in jails seems to be a problem across the country, and the Government should step in through effective measures, so that juveniles are not turned into obstinate extremists.



## Rehabilitation Classes at CPK

<b>REHABILITATION CLASSES</b>		
<b>S.#</b>	<b>NAME OF CLASS</b>	<b>DETAILS</b>
1	Society for Advancement of Health, Education & Environment (SAHEE)	<ul style="list-style-type: none"> <li>➤ This Class was commenced in the year 2007.</li> <li>➤ In this Class there are Six courses i.e. Communication Course, Learning How-to Learn, Way to Happiness Course, Ups and Down Course, Urdu Literacy and Sindhi Literacy.</li> </ul>
2	Fine Arts School	<ul style="list-style-type: none"> <li>➤ This School was commenced in the year 2007.</li> <li>➤ The Music Class, Performance of Art Class and Embroidery Course are also under progress with Fine Arts School.</li> </ul>
3	Computer Training & English Language Centre (CT&ELC) and Library	<ul style="list-style-type: none"> <li>➤ This Centre was commenced in the year 2001.</li> <li>➤ In this Centre there are (06) different Courses are running i.e. Introduction to Computers for beginners, Basic Hardware Course, Certificate in Information System (CIS), Certificate in Information Technology (CIT), Diploma in Information Technology (DIT) and two levels of English Language Course.</li> <li>➤ There are 620 books available in the Library of Computer Training &amp; English Language Centre.</li> </ul>

Jails also have a problem of being understaffed and overcrowded. The following tables of data gathered by NCHR show that there is a dearth of both capacity and resources in the CPK jail:

## Vacancies at CPK

### **STATEMENT SHOWING THE VACANCY POSITION OF CENTRAL PRISON KARACHI AS STOOD ON 04.02.2017**

<i>S. No</i>	<i>Name of Post with BPS</i>	<i>Sanctioned Strength</i>	<i>Working Strength</i>	<i>Deficiency</i>
01	Superintendent BS-19	01	01	-
02	Deputy Superintendent BS-17	03	03	-
03	Assistant Superintendent BS-16	15	09	06
04	Senior Medical Officer BS-18	01	01	-
05	Medical Officer BS-17	02	02	-
06	Head Clerk BS-14	03	03	-
07	Senior Clerk BS-09	06	06	-
08	Junior Clerk BS-07	07	02	05
09	Computer Operator BS-12	06	06	-
10	Religious Teacher BS-12	01	01	On 365 L.P.R
11	Sherwing Master BS-11	02	02	-
12	Maintenance Master BS- 11	02	02	-
13	Primary Teacher BPS-06	02	02	-
14	Dispenser BPS-06	06	06	-
15	Weaving Master BPS-05	01	01	-
16	Deying Master BPS-05	01	01	-
17	Tailor Master BPS-05	01	-	01
18	Electrician BPS-05	02	0	02
19	Generator Operator BPS-06	01	01	-
20	Wireless Operator BPS-07	03	03	-
21	Assistant Sub-Inspector BPS-09	06	03	03
22	Head Constable BPS-07	34	27	07
23	Head Constable Driver BPS-07	03	03	-
24	Senior Prison Constable BPS-05	17	09	08
25	Prison Constable BPS-05	458	273	185
26	Lady Head Prison Constable BPS-07	02	01	01
27	Lady Prison Constable BPS-05	03	01	02
28	Sweeper BPS-01	27	26	01



## Under Trial Production

STATEMENT SHOWING THE DETAILS OF PRODUCTION/NON-PRODUCTION OF UNDERTIAL PRISONERS FOR THE MONTHS OF NOVEMBER, DECEMBER 2016 & JANUARY 2017 IN RESPECT OF CENTRAL PRISON KARACHI.						
S#	Name of Months	Name of District	No of Prisoners required	No of Prisoners produced	No of Prisoners not produced	Reason for non-production
1	November 2016	West	2722	2043	679	Due to short supply of police escort/vans by the court police, Due to strike of advocates and produced before other courts
	-do-	East	2445	1953	492	-do-
	-do-	South	1775	1528	247	-do-
	-do-	Central	1675	1402	273	-do-
	Total		8617	6926	1691	-
2.	December 2016	West	2739	2229	510	-do-
	-do-	East	2965	2372	593	-do-
	-do-	South	1757	1589	168	-do-
	-do-	Central	1453	1274	179	-do-
	Total		8914	7464	1450	-
	January 2017	West	2960	2503	457	-do-
	-do-	East	3233	2756	477	-do-
	-do-	South	1891	1780	111	-do-
	-do-	Central	1388	1181	207	-do-
	Total		9472	8220	1252	-
	Grant Total		27003	22610	4393	-

Furthermore, many a prisoner has been rotting in jail for petty crimes that do not have a surety bond that are not dealt with expediently, and the government must ensure that they are dealt with accordingly. The following is a list of women in CPK that are confined for want of bail.

# CPWS Surety Money Data

## DETAIL OF FEMALE UNDER TRIAL PRISONERS CONFINED IN CENTRAL PRISON FOR WOMEN SINDH @KARACHI FOR WANT OF BAIL/ SURETY AMOUNT

S#	Name in Full	Date of Admission	U/S	FTR No.	P.S.	Trial Court	Bail Surety Amount
1	KISHWAR MASIH D/O SADIQ MASIH	01.03.12	302/34/109	670/11	SAEEDABAD	I ADJ WEST	500,000/-
2	HALEEMA W/O SHAHZADA	07.12.15	365-A/34 PPC	03/14	KANAGRI	ATC-V	300,000/-
3	NUSRAT W/O MUHAMMAD AZAM	05.11.13	302/324/392/34	571/13	KIA AVCC	III ADJ EAST	150,000/-
4	KANWAL W/O MUHAMMAD TUNAID	12.05.15	392/34	216/15	TAMURIA	XII JM CENTRAL	135,000/-
	II CASE		381A PPC	218/15	TAMURIA	IV JM CENTRAL	
	III CASE		23/DA	220/15	TAMURIA	I ADJ CENTRAL	
	IV CASE		392/34	96/15	BILAL COLONY	VI JM CENTRAL	
	V CASE		395/353/324/ 7-ATA	112/15	SIR SYED	ATC-X	
5	KIRAN@ HINA D/O ALAUDDIN W/O MUHAMMAD ALI	20.10.15	302/324/34 PPC	573/15	SURJANI	VIII ADJ WEST	100,000/-
6	SAMINA @ SHABANA W/O AZIZ UR REHMAN	19.03.16	371-AB	46/16	SHER SHAH	VIII ADJ WEST	100,000/-
7	BASHEERAN W/O MEHNDI HASSAN	03.11.15	381/34 PPC, R/W 395 PPC	464/15	DEFENCE	III ADJ SOUTH	100,000/-
8	SUMAIRA W/O KASHIF @ ASHIQ	21.11.15	381/34 R/W 395 PPC	464/15	DEFENCE	III ADJ SOUTH	100,000/-
9	HAUSA W/O MANSOOR AHMED	30.06.15	365 A/34 PPC	99/15	MADINA COLONY	ATC-IX	100,000/-
10	SUMAIRA ZAFAR D/O ZAFAR IOBAL	28.04.15	392/34	232/13	SAUDABAD	JM XV EAST	50,000/-
	IIND CASE		381/A	284/15	FEROZABAD	II JM EAST	



## Coordination with the Parliament



## Meeting Record of Senate of Pakistan

### Meetings of the Functional Committee on Human Rights

1. In the Meeting of the Functional Committee on Human Rights dated 27<sup>th</sup> July, 2016 the Commission gave its recommendations on the “protection against Harassment of Women at Workplace (Amendment) Bill, 2016” introduced by Senator Mohammad Azam Khan Swati in the Senate on 18<sup>th</sup> July, 2016.

In the Meeting of the Functional Committee on Human Rights dated 27<sup>th</sup> July, 2016 the Commission gave its recommendations on the “longstanding issue of Peasants of Okara”

In the meeting of the Senate Functional Committee held on 27<sup>th</sup> July, 2016 the Commission gave its briefing to the Committee with particular reference to human rights violations

2. In the meeting of the Functional Committee on Human Rights dated 16<sup>th</sup> August, 2016 the Commission submitted “proposed amendments regarding procedural changes to check the misuse of Blasphemy law in Pakistan” to the Committee and the matter is pending with the senate committee.

3. In the meeting of the Senate Functional Committee held on 31<sup>st</sup> August, 2016 the Commission gave its briefing to the Committee “on the deaths of 1200 people in Baluchistan, (as mentioned in the media) during last 2 years”.

In the meeting of the Senate Functional Committee held on 31<sup>st</sup> August, 2016 the Commission gave its briefing to the Committee on the “Quetta carnage/attack on police training college Quetta and reasons for the security lapse in hospital”.

In the meeting of the Senate Functional Committee held on 31<sup>st</sup> August, 2016 the Commission gave its recommendations to the Committee on the following issues: -

- a. The jurisdiction/reasons of arrest of people by Pakistan Rangers
- b. The inquiry of the death of Mr. Aftab Ahmed under the custody of Pakistan Rangers (Sindh).

4. In the meeting of the Functional Committee on Human Rights dated 22<sup>nd</sup> September, 2016 the Commission gave its report on the “missing person from Nalla Gujjar, Karachi.”

5. In the meeting of the Senate Functional Committee held on 17<sup>th</sup> November, 2016 the Commission submitted “proposed amendments regarding procedural changes to check the Misuse of Blasphemy law in Pakistan.” The matter is however, still lying with the Functional Committee.

6. In the meeting of the Functional Committee on Human Rights dated 16<sup>th</sup> January, 2017 and 7<sup>th</sup> March, 2017 the Commission gave its recommendations to the Committee on the agenda of “the Transgender persons (protection of rights) Bill, 2017” referred by the House, in its sitting held on 9<sup>th</sup> Jan, 2017, the matter is still lying in the Functional Committee.

In the meeting of the Functional Committee on Human Rights dated 16<sup>th</sup> January, 2017 and 7<sup>th</sup> March, 2017 the Commission gave its findings to the Committee on the “torture of domestic servant minor girl Tayyaba”.

In the meeting of the Functional Committee on Human Rights dated 16<sup>th</sup> January, 2017 the Commission gave its findings to the Committee on the issue of the “reported disappearance of four social media activities in the first week of January, 2017.”

In the meeting of the Functional Committee on Human Rights dated 16<sup>th</sup> January, 2017 the Commission gave its findings to the Committee on the following issues

- i. Human Rights defender Rashid Rehman killed in Multan.
- ii. The case of 35 persons missing from Malakand internment Centre sometime back out of which only 7 were recovered and the remaining 28 untraced
- iii. Labor rights and formation of labor unions.

7. In the meeting of the Senate Functional Committee held on 7<sup>th</sup> March, 2017 the Commission gave its recommendations to the Committee on the “the National Commission on the rights of the child Bill, 2017” referred by the House in its sitting held on 17<sup>th</sup> Feb, 2017 the matter is however, lying with the Functional Committee.

In the meeting of the Senate Functional Committee held on 7<sup>th</sup> March, 2017 the Commission gave its recommendations to the Committee on the “torture on two boys, who were subjected to brutal torture by Islamabad police and were, forced to confess various crimes”, referred by the House in its sitting held on 15<sup>th</sup> Feb, 2017 the matter is however, lying with the Functional Committee.

8. In the meeting of the Special Committee on Marginalized Segments of the Society dated 25<sup>th</sup> November, 2016 NCHR gave its recommendations on “its role in addressing the issues confronted by the Marginalized Segments in the country along with legislation carried out in this regard.”

### **Meeting Record of National Assembly**

National Assembly Secretariat Standing Committee on Human Rights

1. In the meeting of the Standing Committee on Human Rights dated 19<sup>th</sup> September, 2016 NCHR gave its recommendations to the Standing Committee of National Committee on Human Rights on the “existing Laws of Human Organ Transplant”. The Committee has approved some of these recommendations.





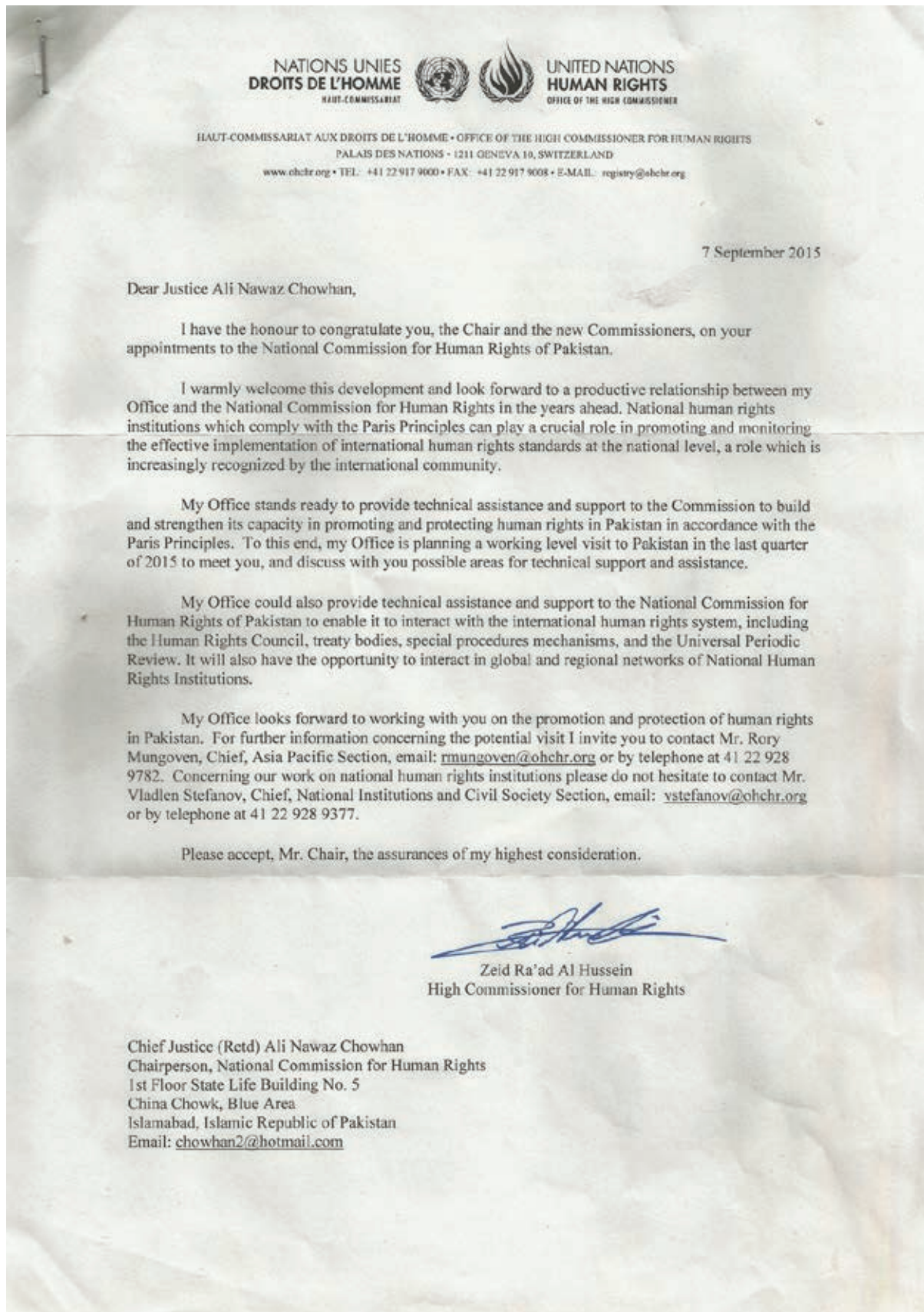
## **APPRECIATION FOR THE NCHR**

The Commission has received liberal National and international and international support since its formation in May 2015. The Commission is being recognised by human rights stakeholders inside Pakistan and abroad. This sustains the Commission in its commitment to the protection and promotion of human rights in Pakistan.

The Common wealth invited the Commission to attend and participate in the validation meeting to launch the “the Common wealth/Women’s Judicial Bench book on Violence against Women and Girls for the Asia Region”. The Embassy of the Federal Republic of Germany has been a strong supporter of the Commission in Pakistan. They have facilitated state level visits of German dignitaries to the NCHR offices in Pakistan and have also hosted Chairman of the Commission in Germany. The Punjab Bar Council welcomed the institutionalization of the Commission. The Chairman Human Rights Committee of the Punjab Bar Council also visited the NCHR offices in Islamabad. The Prime Minister’s office has been the real force behind the success of the Commission to date. The Prime Minister was pleased with the Commission’s report on “The Haunting Footprints of Drought, Hunger and Poor Governance: a Report on the Tharparkar Crisis”. A similar letter of appreciation from the Prime Minister’s Office was also sent on the Commission’s report titled “Towards Implementation of Core International Human Rights Instruments”. The Sindh Human Rights Commission has been a close networking partner and the NCHR always strives to maintain a close working relationship and coordination for shared objectives to promote and protect human rights. Sindh Human Rights Commission Chairperson Justice (R) Majida Rizvi wrote an acknowledgement letter on the publication of the NCHR Strategic Plan 2016-2020.

National Assembly of Pakistan is the direct reporting authority for the Commission alongside the Senate. Speaker National Assembly Sardar Ayaz Sadiq has been a key supporter of the Commission’s mandate. The United Nations High Commission for Human Rights Zeid Ra’ad Al Hussein maintains a close working relationship of the NCHR ensures his guidance and grown with technical assistance received from his office.

Following are a few transcripts of the letters of support and appreciation the Commission has received.





Secretary  
to the Prime Minister  
Ph: 9210360

Prime Minister's Office  
Islamabad

No. 5(4)/DS(IA-III)/2016

13 May, 2016

Subject- The Haunting Footprints of Drought, Hunger and Poor Governance: a Report on the Tharparkar Crisis

Dear Mr. Justice (R) Ali Nawaz Chowhan,

On behalf of the Prime Minister, I would like to acknowledge the receipt of the report on the Tharparkar crisis and to convey his appreciation of your efforts to highlight the human aspects of this extremely serious issue.

2. The detailed examination of issues in the report reflects well on the quality of effort put in by the Commission, under your able guidance, in preparation of the report. This report will contribute to the Government's understanding of the plight of the people of Tharparkar, due to the prevailing drought, gaps in socio-economic development of the region and governance. While the matter falls in the jurisdiction of Government of Sindh, the Federal Government also stands to benefit a great deal from this for any possible interventions on its part.

3. The Prime Minister has asked me to assure you that the report will be examined in consultation with the relevant stakeholders with a view to find ways and means to improve the situation especially in the light of recommendations contained in the report.

With best regards,

( Fawad Hasan Fawad )  
Secretary to the Prime Minister

Mr. Justice (R) Ali Nawaz Chowhan,  
Chairman,  
National Commission for Human Rights,  
Islamabad.



IMMEDIATE

**PRIME MINISTER'S OFFICE  
ISLAMABAD**

Subject: TOWARDS IMPLEMENTATION OF CORE  
INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Enclosed, please find a copy of the report titled 'Towards Implementation of Core International Human Rights Instructions', prepared by National Commission for Human Rights.

2. The Prime Minister has noted the contents of the report and has been pleased to desire that Attorney General for Pakistan, being head of the Treaty Implementation Cell, may ensure effective implementation of the recommendations.

  
(Dr. Ijaz Munir)  
Additional Secretary

Attorney General for Pakistan, Islamabad  
PM's Office u.o. No. 6(39)DS(E-I)/2016, dated 09-11-2016

Cc: Chairman, National Commission for Human Rights, Islamabad



DEAN  
National Management College

GOVERNMENT OF PAKISTAN  
*National School of Public Policy*

Telegram: PASCOL  
Fax: 99201294  
Telephone(s): 99202908 (Dir)  
99202913-44 (Ex. 3-44)

Shahrah -e-Quaid-e-Azam, Lahore  
No. DS (T&C)/105 NMC/IST-1  
Dated: 27 September, 2016

Dear

Chief Justice (e) Ali Nawaz Chowhan Sahib,  
سید علی نواز چوہان

A delegation of participants along with faculty members from the National Management College had the honor to visit your office on 8<sup>th</sup> September 2016, as a part of their inland study tour to Balochistan. It was an enriching and engaging experience to discuss issues of Human Rights Situation in Balochistan.

The visit was not only highly informative but also gave the officers an opportunity to learn about the organizational set up, functions and the working of the National Commission for Human Rights.

I, on behalf of the Rector, the faculty and the participants of the 105<sup>th</sup> National Management Course, would like to extend my gratitude for the warm welcome and forthright and beneficial discourse with the contingent.

With best regards,

Yours sincerely,

(NAEEM ASLAM)

Chief Justice (Retd) Ali Nawaz Chowhan,  
Chairman,  
National Commission for Human Rights,  
Government of Pakistan,  
5<sup>th</sup> Floor, Evacuee Trust Building,  
Near Marriott Hotel, Agha Khan Road,  
Islamabad.  
Cell: 0092-300-9496782  
Tel: 0092-51-9216771-2





Embassy  
of the Federal Republic of Germany  
Islamabad

P.O. Box 1027 - Islamabad - 44000 - Pakistan

Justice (r) Ali Nawaz Chowhan  
Chairman  
National Commission for Human Rights  
Islamabad

Ina Lepel

Ambassador of the Federal Republic of Germany

Islamabad, 16 September 2016

Dear Justice Chowhan,

I am pleased to inform you that the State Secretary of the German Federal Foreign Office, Mr. Stephan Steinlein, intends to visit Islamabad on 22 September.

As Human Rights are a key pillar of our foreign policy and as the National Commission for Human Rights is a key institution in the field of Human Rights in Pakistan, State Secretary Steinlein would be interested in a meeting with you and the Commissioners on 22 September at 15:00hrs.

I am delighted and honored to hear from my colleague Kai Müller-Berner about your readiness to receive the State Secretary at the National Commission's office and to enable a discussion with the Commissioners. The purpose of the visit would be to learn more about the work the Commission, the state of Human Rights in Pakistan and how we can work together to improve the situation.

Due to an appointment at cabinet level immediately after his visit to the National Commission's office, the State Secretary will have to leave at 15.40 hrs at the latest. I would therefore be grateful if you and the Commissioners could keep this unfortunate limitation in mind in planning and conducting the interaction.

Please feel free to contact me or my Political Officer Mr. Kai Müller-Berner ([Wi-1@isla.diplo.de](mailto:Wi-1@isla.diplo.de), phone: 0301-585 6284) for any questions you may have, as well as for further details.

Sincerely yours,

# FINANCIAL REPORT

Work on the accounting procedures for the NCHR Fund began in March 2016 with the purchase the case for approval of the accounting procedure from office of the office of the Controller General of Accounts. The Commission was told accounting procedure of the NCHR Fund would be considered only after approval of financial rules. These were followed with the case for opening of an assignment account of the Commission with the Finance Division and the Controller General of Accounts for approval. The opening of Assignment Account titled “National Commission for Human Rights” followed the approval and sanction of letter to the Accountant General Pakistan Revenues (AGPR).

The original budget allocated to the Commission for the year 2015-16 –Rupees five million only — was insufficient and a case of supplementary grant of Rupees 100 million was moved. After approval of the supplementary grant, the first release of Rs. 80 million was transferred in the Commission’s assignment account near the end of April, 2016. Financial operation of the Commission, however, only started from 10 May.2016 when the AGPR issued the cheque book for the assignment account.

Payment vouchers and cheques for an expenditure of Rs. 55.598 million on payment of salaries and other operating expenses were issued by 30 June 2016. This is the date when the fiscal year ended the balance budget lapsed. The Commission prepared its books of accounts of the expenditure incurred.

The total budget including supplementary grant and expenditure was as under:

Budget	Expenditure
105, 000,000	58,832,339

The main reason allocated funds could not be fully utilized was due to late receipt of supplementary grant. It was an achievement, however, as the Commission succeeded in hiring the office buildings and successfully arranged for necessary logistical support. Out of the total expense of Rs. 58.832 million, payment of salaries amounted to Rs. 29.061 million while an amount of Rs. 29.770 million was spent to meet other operating expenses of the Commission.

## ANNEXES

## ANNEXURE-I: NCHR Act, 2012

### *NCHR ACT, 2012 (Act XVI OF 2012)*

An Act to provide for the establishment of a National Human Rights Commission  
WHEREAS it is expedient to provide for the creation of a National Commission for Human Rights, for the purposes of promotion and protection of Human Rights as provided for in the Constitution of the Islamic Republic of Pakistan and the various international instruments to which Pakistan is a state party or shall become a state party;

It is hereby enacted as follows:

### CHAPTER-I

#### PRELIMINARY

1. Short title, extent and commencement. — (1) This Act may be called the National Commission for Human Rights Act, 2012.

(2) It extends to the whole of Pakistan except Chapter V which shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions. — In this Act, unless there is anything repugnant in the subject or context,—

(a) “Armed forces” means army, navy, air force and all other civil armed forces including military intelligence agencies;

(b) “Chairperson” means the Chairperson of the Commission, as appointed under section 4;

(c) “Commission” means National Commission for Human Rights constituted under section 3;

(d) “Human Rights” means the rights relating to life, liberty and dignity of the individual guaranteed and included in the international instruments including political and women rights;

(e) “Member” means a member of the Commission and includes the Chairperson;

(f) “Prescribed” means prescribed by rules made under this Act; and

(g) “Public servant” means a public servant defined under section 21 of the Pakistan Penal Code (Act XLV of 1860).

## CHAPTER-II

### ESTABLISHMENT OF COMMISSION FOR HUMAN RIGHTS

3. Establishment of Commission.—(1) The Federal Government shall constitute a Commission to be known as the National Commission for Human Rights to exercise the powers and perform the functions under this Act.

(2) The Commission shall consist of —

(a) a Chairperson, who has been, or is qualified to be, a judge of the Supreme Court or a person having demonstrable knowledge of, or practical experience in, matters relating to Human Rights;

(b) One member from each Province, Federally Administered Tribal Areas and Islamabad Capital Territory having demonstrable knowledge of, or practical experience in, matters relating to Human Rights;

(c) Chairperson of the National Commission on Status of Women;

(d) One member from minority communities; and

(e) A Secretary, who shall be appointed by the Commission:

Provided that of the total membership of the Commission, at-least two shall be women members.

(3) A member shall not be less than forty years of age and shall have knowledge and experience relating to Human Rights.

(4) The headquarters of the Commission shall be at Islamabad and it may establish its offices at other place or places in Pakistan as it may consider appropriate.

(5) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among other, to acquire, hold and dispose of any property and shall sue and be sued by the said name.

(6) All members of the Commission shall work on full time basis on prescribed terms and conditions and the Chairman on ceasing to hold office shall be ineligible for holding any office of profit in the Government, Federal or Provincial, for a period of two years:

Provided that it shall not apply to the Chairperson of the National Commission on the Status of Women.

4. Appointment of Chairperson and members.—(1) The Federal Government shall, through public notice, invite suggestions for suitable persons for appointment as Chairperson and members of the Commission and, after proper scrutiny, shall submit a list of these persons to the Prime Minister and the Leader of the Opposition in the National Assembly.



(2) The Prime Minister shall in consultation with the Leader of the Opposition in the National Assembly forward three names for each post to a Parliamentary Committee for hearing and confirmation of any one person for each post:

Provided that in case there is no consensus between the Prime Minister and the Leader of the Opposition; each shall forward separate lists to the Parliamentary Committee.

(3) The Parliamentary Committee shall be constituted by the Speaker of the National Assembly consisting of the following four members, namely:—

(a) Two members from the Senate; and

(b) Two members from the National Assembly:

Provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall consist of the members from the Senate only as mentioned in paragraph (a) and the provisions of this section shall, *mutatis-mutandis*, apply:

Provided further that out of the four members of the Committee, two shall be from the Treasury Benches, one from each House and two from the Opposition Benches, one from each House. The nomination of members from the Treasury Benches shall be made by the Leader of the House and from the Opposition Benches by the Leader of the Opposition.

(4) The Parliamentary Committee shall regulate its own procedure.

(5) The Parliamentary Committee shall forward the names of the nominees confirmed by it to the President, who shall appoint the Chairperson and members accordingly. .

5. Term of office of Chairperson and of members. — (1) A person appointed as Chairperson or a member shall hold office for a term of four years from the date on which he enters upon his office:

Provided that the term of office may be extended once in the manner provided in section 4.

(2) The Chairperson or a member may resign from his office in writing under his hand addressed to the President and on acceptance of the resignation, such vacancy shall be filled within sixty days.

6. Removal of the Chairperson and members.—The Chairman and members may be removed from office on the grounds and in the manner provided for in Article 209 of the Constitution of the Islamic Republic of Pakistan.

7. Acting Chairperson. —At any time when the Chairperson is absent or unable to perform the duties of his office for any reason, or, in the event of the vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the members of the Commission shall elect an Acting Chairperson from amongst

themselves until the incumbent Chairperson resumes his office, or as the case may be, until the appointment of a new Chairperson to fill such vacancy which shall not exceed sixty days.

8. Terms and conditions of service of members including Chairperson.—The salaries and allowances payable to, and terms-and conditions of service of the members, other than ex-officio member, shall be such as may be prescribed by the Federal Government in consultation with the Commission:

Provided that neither the salary and allowances nor the terms and conditions of service of a member shall be varied to his disadvantage after his appointment.

## **CHAPTER-III**

### **MANAGEMENT AND PROCEDURES OF THE COMMISSION**

9. Functions of the Commission.—The Commission shall perform all or any of the following functions, namely:—

(a) suo-moto or on a petition presented to it by a victim or any person on his behalf, inquire into complaints of—

(i) Violation of Human Rights or abetment thereof; or

(ii) Negligence in the prevention of such violation, by a public servant;

(b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court by filing application for becoming a party to the proceedings before such court;

(c) Notwithstanding anything contained in any other law for the time being in force, the Commission or any person authorized by it may visit any jail,

place of detention or any other institution or place under the control of the Government or its agencies, where convicts, under trial prisoners, detainees or other persons are lodged or detained for purposes of ascertaining the legality of their detention as well as to find out whether the provisions of the applicable laws or other provisions relating to the inmates living conditions and their other rights are being complied with;

(d) review the safeguards provided by or under the Constitution of the Islamic Republic of Pakistan or any other law for the time being in force for the protection of Human Rights and recommend adoption of new legislation, the amendment of existing laws and the adoption or amendment of administrative measures for their effective implementation:

Provided that if requested by the Government, the Commission may examine any legislation and submit its views thereon and comment on the implication of the same for legislation;

- (e) Review the factors, including acts of terrorism, that inhibit the enjoyment of Human Rights and recommend appropriate remedial measures;
- (f) Study treaties, other international instruments on Human Rights and reports submitted by the Government of Pakistan on them including the comments thereon, to make recommendations for their effective implementation;
- (g) Undertake and promote research in the field of Human Rights, maintain database on the complaints on violence of Human Rights received and development of Human Rights norms;
- (h) spread Human Rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, print and electronic media, seminars and other available means in all major languages of the country;
- (i) Direct investigation and inquiry in respect of any incident of violation of Human Rights;
- (j) Submit independent reports to the Government on the state of Human Rights in Pakistan for incorporation in reports to United Nations' bodies or committees;
- (k) Develop a national plan of action for the promotion and protection of Human Rights; and
- (l) Such other functions as it may consider necessary for the promotion of Human Rights.

10. Procedure of the Commission.—(1) The Commission shall regulate its own procedure.

(2) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.

(3) The quorum for a meeting of the Commission shall not be less than one-half of the total membership of the Commission.

(4) The decision of the Commission shall be taken by the majority of its members present and, in case of a tie, the member presiding the meeting shall have a casting vote.

11. Advisory Committee.—The Commission may constitute an advisory committee consisting of Human Rights activists, civil society organizations, members of bar associations, members of press clubs and such other representatives of the Federal and Provincial Governments as may be concerned with the functions of the Commission:

Provided that the members of the advisory committee shall perform their functions in an honorary capacity to assist the Commission in their areas of competence and expertise.

## CHAPTER-IV

### INQUIRIES AND INVESTIGATIONS

12. Inquiry into complaints.—(1) The Commission while inquiring into the complaints of violations of Human Rights may call for information or report from the Federal Government or a Provincial Government or any other authority or organization, subordinate thereto, within such time as may be specified by it:

Provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own:

Provided further that in case the complaint relates to areas that are security sensitive, the Commission shall obtain a report within fifteen days from the Federal Government and if the report is not received within thirty days the Commission may proceed to inquire into complaint on its own:

Provided also that if on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been Initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complaint accordingly.

Source: Ministry of Law and Justice

## ANNEXURE-II: MOU with HEC

### MEMORANDUM OF UNDERSTANDING

National Commission for Human Rights, Islamabad &  
Higher Education Commission Islamabad

The National Commission for Human Rights (hereinafter referred to as NCHR) and the Higher Education Commission (hereinafter referred to as HEC), collectively referred to as “the parties” are entering into this memorandum of understanding (MOU). Through this MOU, the parties herein agreed to work together for the promotion of Human Rights as enshrined in the Constitution and international Human Rights conventions to which Pakistan is a party at institutes of higher education in Pakistan.

#### Purpose and Scope:

- The purpose of this MOU is to create a framework of cooperation between the parties for following purposes;
- To create awareness, promote research and studies in the field of Human Rights at higher education institutions (‘HEIs’) in Pakistan;
- To equip academia, researchers, professionals and students with knowledge and understanding of the fundamental doctrines, principles and compliance of international Human Rights law and to impart trainings to develop the intellectual, practical and transferable skills necessary for that purpose;
- To spread Human Rights literacy and promote awareness of the safeguards available for the protection of these rights through publications, print and electronic media, seminars and other available means in all major languages of the country;
- To make efforts to introduce, strengthen up or expand courses, and programmes of studies in Human Rights at HEIs particularly on rights of marginalized groups including women, children and minorities;
- To undertake and promote research in the field of Human Rights in developing the Human Rights culture;
- To work for the establishment of Human Rights study enters at HEIs to undertake research and study treaties, other international instruments on Human Rights that Pakistan has signed and ratified and to make recommendations for their effective implementation.

## **Responsibilities under this MOU:**

1. The parties hereby agreed to undertake and promote studies and research in the field of Human Rights in following manners;
2. To jointly arrange seminars, walks, conferences and workshops throughout the country.
3. To hold seminars, workshops, offer short courses and trainings and to carry out research activities.
4. To hold essay and poetry competitions, debates, declamation contests, painting & poster competitions, performing art etc. amongst the students of HEIs.
5. To undertake Human Rights literacy campaign and in that context to publish inspiring, motivating and persuading booklets, pamphlets and brochures within the prescribed legal and cultural limits and in accordance with law and constitution.
6. Any other activity jointly agreed between the parties within the sphere of this MOU.
7. The development and implementation of specific activities based on this a MOU will be separately agreed and arranged with consultation of both parties.
8. The parties will nominate focal persons to coordinate activities under this MOU and will mutually take financial responsibility to implement this MOU.
9. If any difficulty arises in giving effect to the provisions of this MOU, the Chairman HEC and NCHR have powers to remove the difficulty.

## **IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES THAT:**

### **Duration**

This MOU is at-will and may be modified by mutual consent of parties. This MOU shall become effective upon signature and will remain in effect until modified or terminated by any one of the parties by mutual consent. In the absence of mutual agreement by the parties, this MOU shall end after the expiry of three years.

### **Termination**

This MOU shall remain in force initially for a period of three years from the date of signatures of the parties. The MOU may be terminated by either party giving a written notice to the other party at least thirty calendar days in advance of the effective date of termination. The termination shall not affect the validity



or duration of activities or agreements under this MOU which are initiated prior to such termination.

### **Liaison**

NCHR and HEC will maintain regular liaison to foster cooperation and to ensure that there is proper and effective communication between the parties on the implementation of agreed agenda.

### **Effective date and Signature**

This MOU shall be effective upon the signatures of the Parties.

#### **Chairman**

*National Commission for Human Rights, Islamabad.*

#### **Chairman**

*Higher Education Commission, Islamabad.*

## ANNEXURE-III: NCHR Complaint Rules

Government of Pakistan

Ministry of Law, Justice and Human Rights

(Human Rights Wing)

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Islamabad, the 6<sup>th</sup> November, 2015

### NOTIFICATION

S.R.O. (1)/2015. – In exercise of the powers conferred by section 33 of the National Commission for Human Rights Act, 2012 (XVI of 2012), the National Commission for Human Rights, in consultation with the Federal Government, is pleased to make the following rules namely:-

1. Short title and commencement — (1) These rules shall be called the National Commission for Human Rights (Complaint) Rules, 2015.

(2) They shall come into force at once.

2. Definitions. — Unless there is anything repugnant in the subject or context, -

(a) “Act” means the National Commission for Human Rights Act, 2012 (XVI of 2012); and

(b) “Complaint” means a complaint or petition made in writing to the Commission in any language under the Act;

1. Complaint to the Commission — (1) Upon information received from any proper source or based on its own knowledge the Commission may under sections 9(a) and 9(b) take Suo-Moto action against violation of human rights and may proceed to take action as laid down in sections, 12, 13, 14, 15, 17, 18, and 21.

Explanation — Proper source includes registered non-governmental organizations (NGOs), associations of trade unions or any other representative organization.

(2) A victim or any person authorized by him may present personally or send through registered post or through courier service a complaint to the Commission at its headquarters or a regional office. Where a complaint is received in the regional office it shall immediately be transmitted to the headquarters to be placed before the Commission before any action is taken.

(3) The complaint under sub-rule (2) shall be supported by an affidavit about truthfulness of its text and it shall briefly state the facts relating to, —

(a) Violation of human rights or abetment thereof; or

Negligence by a public servant in the prevention of such violation.

(4) A complaint may be made to the Commission as soon as possible but preferably within three months from the date the cause of action arose.

(5) After satisfying itself about the allegations in the complaint and examining any law, the safeguards under the Constitution and various treaties ad, if need be after hearing the complainant or his representative, the Commission may proceed to take action envisaged in chapters III, IV and V of the Act or, as the case may be, make a reference to the Federal Government or Provincial Government for taking an appropriate action.

4. Inquiry — (1) For purposes of inquiry and investigation, the omission may requisition services of any officer or investigation agency of the Federal or a Provincial Government.

(2) The Commission after completion of an inquiry held under the act may take all steps which may be necessary under section 18 of the Act.

(3) The Commission may, while exercising its jurisdiction under the Act, if required, publish public notices in the newspapers of wide circulation, besides sending notices at the known addresses of the parties.

(4) The Commission may appoint commissions for examination of witnesses, documents and any other public record or for seeking information and pay any fee or charges for that purpose.

(5) No anonymous or pseudonymous complaint shall be entertained. However, the Commission, on being convinced about truthfulness of the facts alleged, may proceed under its suo-moto jurisdiction.

(6) In case of frivolous and vexations complaints and delays caused by anyone in responding to an action required to be taken on directions of the Commission, the Commission may award costs or order payment of compensation to an aggrieved party.

5. Miscellaneous Functions — The Commission may –

(a) Establish working groups from among its members as necessary and set up local or regional sections to assist it in discharging its functions;

(b) Maintain consultation with other bodies responsible for the promotion and protection of human rights;

(c) develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups, especially children, migrant workers, refugees, physically and mentally disabled persons, or to specialized areas;

(d) Seek an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

- (e) Hear any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law; or
- (f) Make recommendations to the competent authorities, especially by proposing amendments or reforms of the laws regulations and administrative practices, especially if they have created the difficulties encountered by the persons in order to assert their rights.

## ANNEXURE-IV:

### Interaction with International Human Rights System

One of the key roles of NHRIs, as outlined in the Paris Principles, is the interaction with international human rights mechanisms and the promotion of ratification of human rights treaties<sup>1</sup>. The Sub-Committee on Accreditation of ICC (...) highlights the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. (...).<sup>2</sup>

National Human Rights Institutions also have a duty to contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence<sup>3</sup>.

In this regard, Section 9(J) of NCHR Act 2012 also obligates National Commission for Human Rights Pakistan to submit independent reports to the Government for on the state of Human Rights in Pakistan for incorporation in reports to UN bodies or committees.

In general, NHRIs should contribute to the State parties reports, including through consultation and comments to the State official report; drafting a shadow /NHRi report; making oral presentations in the pre-sessional working groups of Treaty Bodies, in addition to providing written information prior to the formal examination of a State party report. The Treaty Bodies receive information on States' parties implementation of treaty provisions from NHRIs, NGOs and UN agencies<sup>4</sup>.

Complying with its obligations, NCHR submitted its following independents report to the Federal Government and treaty bodies.

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1 GA Resolution 48/134, paragraph 3(d).

2 Information Note for National Human Rights Institutions (NHRIs) interaction with the UN Treaty Body System by OHCHR at page # 4.

3 GA Resolution 48/134, item 3(d).

4 Supra note 2 at page no. 5

1. NCHR's submission on implementation of United Nations Convention against Torture and other form of Cruel, Inhuman, Degrading Treatment and Punishment (UNCAT);
2. NCHR's submission on 'List of Issues' pertaining to International Covenant on Civil and Political Rights (ICCPR);
3. NCHR's submission on 'List of Issues' pertaining to International Covenant on Economic, Social and Cultural Rights (ICESCR);
4. NCHR's submission on 3<sup>rd</sup> Universal Periodic Review of Pakistan (UPR).





## **ANNEXURE-V: UNIVERSAL PERIODIC REVIEW**

## ANNEXURE-V: Universal Periodic Review

### 1. Introduction

The National Commission for Human Rights (NCHR), established in May 2015 under the National Commission for Human Rights Act 2012, is Pakistan's first National Human Rights Institution (NHRI). The Commission has an extensive mandate which includes powers to take suo moto notice<sup>1</sup> of human rights violations, carry out fact finding missions and investigate complaints of human rights abuses.

Pakistan has undergone two cycles of Universal Periodic Review (UPR) in 2008 and 2012 and has witnessed developments, both beneficial and detrimental to the ethos of human rights in the country. The establishment of the NCHR and the introduction of legislation safeguarding women from domestic violence are some positive developments.<sup>2</sup>

Pakistan's submission of its UN treaty body reports in late 2015 and early 2016 came ahead of its first Generalised Scheme of Preference Plus (GSP+) compliance review. The challenge of national security in recent years has resulted in anti-terrorism laws. Stringent measures aimed at curbing terrorism and crushing militancy might be needed to protect Pakistan's national security. Yet, national legislation enacted in the past five years reveals that many of its provisions are in contrast with human rights standards as enshrined in the country's constitution and international treaties.

The outcome document of the last UPR (2012) adopted in March 2013 contains 167 recommendations. In response to this, Pakistan accepted 126 recommendations, noted 34 and rejected seven recommendations.<sup>3</sup>

This report provides an overview of the progress made by the state in implementation of accepted recommendations and provides recommendations to overcome gaps in areas where there has been little or no progress. It also makes additional recommendations where Pakistan can improve promotion and protection of human rights.

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<sup>1</sup> Initiating inquiries into human rights violations on its own initiative.

<sup>2</sup> Establishment of NCHR [http://202.83.164.28/ministries/mohr/mohr.php?mc\\_id=7](http://202.83.164.28/ministries/mohr/mohr.php?mc_id=7)

The Punjab Protection of Women Against Violence ACT 2016 <http://punjablaws.gov.pk/laws/2634.html>

<sup>3</sup> A look back at our promises: Civil society mid-term assessment report available at <http://hrcp-web.org/hrcpweb/wp-content/uploads/2015/09/A-look-back-at-our-promises.pdf>

## 2. National Framework on Human Rights

### 2.1 Legal and Institutional framework for Human Rights Protection

The Constitution guarantees fundamental rights and freedoms in line with universal human rights values.<sup>4</sup> Pakistan's legislative framework provides for human rights protection and is largely in line with international standards. However, there are a few laws that infringe upon human rights of minorities and people living in certain geographical areas. For example, the exercise of the freedom to profess religion and to manage religious institutions (Article 20 of the Constitution of Pakistan) is subject to 'law, public order and morality'. Such restrictions and their arbitrary application lead to and facilitate potential discriminatory amendments (i.e. Pakistan Penal Code). This and other laws which are discriminatory or restrictive in nature require revision and reform.

As per Article 2 (2) of the International Convention on Civil and Political Rights (ICCPR), several mechanisms exist in Pakistan at the state level to give effect to rights contained in the Covenant. However, these mechanisms suffer from institutional weaknesses such as political interference, budgetary constraints, lack of trained personnel and restrictive power. A primary example of this can be found in the delayed notification for the establishment of the NCHR<sup>5</sup>.

The Ministry of Human Rights, earlier a wing within the Ministry of Law, Justice and Human Rights, was restored to a full-fledged Ministry of Human Rights in November 2015. In its June 2016 meeting the Senate Standing Committee on Law, Justice and Human Rights noted that the Ministry entrusted with ensuring human rights in the country is not delivering as expected.<sup>6</sup> Further, after the 18th Amendment to the Constitution of Pakistan in 2010, a bulk of legislative and implementation responsibilities with regards to human rights are transferred to the provinces. The Federal ministry, following the amendment, can only cover the geographical area of the Islamabad Capital Territory.

Multiple departments and institutions are responsible for the protection and promotion of human rights in the country and often their mandates overlap and create confusion. For example, the Ministry of Human Rights launched a 16-point National Action Plan<sup>7</sup> for the promotion and protection of human rights in

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<sup>4</sup> Articles 8 to 28 include the right to security of person (art. 9); safeguards as to arrest and detention and right to a fair trial (arts. 10 and 10A); inviolability of individual dignity (art. 14); freedom of religion (art. 17); freedom of expression and right to information (arts. 19 and 19A); and equality before law (art. 25). Chapter II of the Constitution focuses on the Principles of Policy' and includes guidelines aimed at ensuring some of the core human rights.

<sup>5</sup> Whereas the legislation for the establishment of the Commission was passed in 2012 the Commission was set up in 2015. After being established the NCHR has had to wait several months before receiving its allocated funding, hampering its ability to function and implement its mandate. <http://www.dawn.com/news/1242806>

<sup>6</sup> <http://www.dawn.com/news/1217813>

<sup>7</sup> Full text of the plan is available on <http://www.mohr.gov.pk/>

February 2016. Legally, the NCHR is mandated to release such a plan, and a number of tasks in the Ministry's action plan come under the NCHR mandate.

The National Commission on the Status of Women (NCSW), established in 2000, was granted administrative and financial autonomy through the 2012 Act.<sup>8</sup> From December 2015 until October 2016, the NCSW remained without a chairperson (due to administrative lapse of the Ministry). Similarly, provincial bodies on women rights such as the Provincial Commissions on Status of Women in Punjab and Khyber Pakhtunkhwa (KP) are unable to function as independent institutions. The KP Commission lacks autonomy of funds and is dependent on the provincial social welfare and women development department. The government has long made promises for the establishment of an independent Minority Rights Commission and a Commission on the Rights of the Child. The establishment of these commissions is also a requirement under Pakistan's international human rights law commitments.

**Recommendation:** The Government of Pakistan (GoP) should remove the conditionality from Article 20 the Constitution of Pakistan, 1973 and must ensure the provision of adequate resources and safeguard the independence and autonomy of all Commissions.

### 3. Scope of International Obligations and Cooperation with Human Rights Mechanisms

Pakistan has demonstrated an increasing commitment for the protection and promotion of human rights by ratifying a number of relevant UN human rights treaties. The country is party to seven of the nine human rights core treaties.<sup>9</sup> As mentioned earlier Pakistan has also increased its engagement with treaty bodies and as of 2016 submitted all its reports, some of which had been pending for over three years.<sup>10</sup> In 2013 Pakistan received the visit of the UN Special Rapporteur (SR) on the Independence of Judges and Lawyers and the Working Group on Enforced or Involuntary Disappearances. The government, however, has not made a standing invitation to the special procedures and has not accepted the request of a number of other relevant mandates to visit its territory, namely, the UN special procedures such as the SR on torture, the SR on extrajudicial, summary or arbitrary executions, the SR on freedom of religion and belief and

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<sup>8</sup> See text of the law at [http://www.na.gov.pk/uploads/documents/1331808860\\_398.pdf](http://www.na.gov.pk/uploads/documents/1331808860_398.pdf)

<sup>9</sup> Pakistan has not ratified the 2003 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families the 2010 International Convention for the Protection of All Persons from Enforced Disappearances; <http://indicators.ohchr.org/>

<sup>10</sup> <http://hrcp-web.org/hrcpweb/govt-urged-to-answer-un-committees-questions-on-pakistans-rights-record/>

the SR on the promotion and protection of human rights and fundamental freedoms while countering terrorism.<sup>11</sup>

Recommendation: The GoP should extend a standing invitation to Special Rapporteurs and comply with UN special procedures.

### 3.1 Status of the Implementation of the Recommendations from the Second UPR in 2012

The outcome document of Pakistan's second UPR was adopted in March 2013. During the review process Pakistan received 167 recommendations, out of which 126 were accepted, 34 noted and seven rejected. A civil society mid-term assessment has suggested that out of 67 accepted recommendations, 38 recommendations have not been implemented at all, while 29 have only been partially implemented.<sup>12</sup> Recommendations from 2012 reviews were not properly disseminated to concerned departments. The state institutions and the civil society did not actively follow up on the implementation of the recommendations of the second cycle of the UPR.

Recommendation: The GoP should take necessary measures inter alia: (i) to disseminate UPR recommendations and (ii) to ensure effective implementation of recommendations, by means of an independent monitoring body.

#### A. Civil and Political Rights

##### Right to Life (Art. 6 ICCPR)

Violation of the fundamental right to life remains a challenge in the country due to the War-on-Terror, armed conflicts, and religious extremism. The state-led operation Zarb-e-Azb, launched on 15 June 2014, has led to a drop in terrorist attacks and fatalities. The 'Karachi Operation', initiated in September 2013, has helped to restore law and order and reduced killings in Karachi. However, alleged extra-judicial killings in the city of Karachi have increased. According to a report of the Dawn newspaper 925 people were killed by the law enforcement agencies in 'encounters' during the year 2015 alone.<sup>13</sup>

Recommendation: The GoP should ensure the right to a fair trial and end impunity. All those guilty of extra-judicial killings must be brought to justice.

##### Right to fair trial (Articles 9, 10, 14, 15 ICCPR)

Pakistan's Constitution does provide safeguards related to arrest, detention, and the right to a fair trial. However, these safeguards have been reversed since the federal government extensively amended the key legislation on terrorism (Anti-

<sup>11</sup> <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/PKIndex.aspx>

<sup>12</sup> <http://hrcp-web.org/hrcpweb/wp-content/uploads/2015/09/A-look-back-at-our-promises.pdf>

<sup>13</sup> <https://www.dawn.com/news/1154281>

Terrorism Act 1997) and enacted new legislation, resulting in an enhanced parallel judicial system, the Anti-Terrorism Courts (ATCs). These include the Investigation for Fair Trial Act 2012, the Anti-Terrorism (Amendment) Act 2013, the Anti-Terrorism (Second Amendment Act) 2013, the National Counter Terrorism Authority Act 2013, the Pakistan Protection Act 2014 (with a sunset clause hence expired in July 2016) and the Constitution (21st Amendment) Act 2015.<sup>14</sup> The above legislations gave sweeping power to the military, para-military and police forces.

**Recommendation:** The GoP should review anti-terrorism laws and bring them in line with the ICCPR. Subsequently the GoP must invest in the capacity building of the judiciary and ensure equitable access to justice.

### Death Penalty

Mandatory capital punishment for offences that do not involve intentional killing violates Article 6 (2) of the ICCPR. The State of Pakistan lifted the moratorium on the death sentence for all death row prisoners in March 2015. According to UN Human Rights Experts, 8,300 persons were on death row by October 2015.<sup>15</sup> As of July 2016, over 400 death row convicts were executed.<sup>16</sup>

**Recommendation:** The GoP should ratify the Second Optional Protocol of the ICCPR aiming at the abolition of the death penalty and as an immediate action reintroduce the moratorium on the death penalty.

### Freedom of thought, conscience, and religion (Arts. 18 and 27 ICCPR)

While the Pakistani Constitution ensures the right to freedom of thought and religion, this right has been made conditional to ‘law and public morality’. Also, blasphemy laws (Section 295 B and C of the Pakistan Penal Code) remain an area of deep concern. According to a report, 1,377 cases of blasphemy accusations were recorded in 2014.<sup>17</sup> Passing of the Prevention of Electronic Crimes Bill, 2016 in the name of preventing cybercrime has been seen to curtail the internet freedom in the name of national security.

**Recommendation:** The GoP should encourage public hearings and enhance stakeholder engagement to ensure legislation is heard before it is passed. Laws guarding freedom of expression need to be less ambiguous and subject to better implementation.

### Torture and other inhumane or degrading treatment (Articles 1,2 CAT)

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<sup>14</sup> Although some of this legislation was time bound and has expired since there are talks of extending the validity of such acts and in some cases renewing them. In particular, military courts see more at: <http://dunyanews.tv/en/Pakistan/369587-Military-courts-extension-Govt-calls-parliamentary>

<sup>15</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16560&LangID=E>

<sup>16</sup> [https://en.wikipedia.org/wiki/Capital\\_punishment\\_in\\_Pakistan](https://en.wikipedia.org/wiki/Capital_punishment_in_Pakistan)

<sup>17</sup> HRCP State of Human Rights Report 2014, <http://hrnp-web.org/hrnpweb/data/ar14c/3-2%20Freedom%20of%20thought%20-%202014.pdf>



Pakistan ratified the Convention against Torture (CAT) in June 2010 and is yet to withdraw reservations on Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30. The government also did not accept the Inquiry Procedure under the Convention.<sup>18</sup> The state has not yet enacted a law to combat, prevent and criminalise torture. The civil society has documented a rise in killings and torture of suspects in Karachi during para-military security operations. Recommendation: The GoP should withdraw reservations to CAT, ratify the OP-CAT and enact domestic legislation, which includes a definition of torture.

#### Enforced Disappearances

Pakistan has not ratified the UN International Convention for the Protection of All Persons from Enforced Disappearance (ICPED). The Criminal Code of Pakistan does not contain the crime of enforced disappearance.

Recommendation: The GoP should ratify the ICEPD, bring about required changes in domestic law and recover all those who are still missing.

### **B. Economic, Social and Cultural Rights**

#### Education, health and wages (Articles 11, 12, 13) ICESCR

Economic growth in the country has not been equitable. According to the latest official data, national average monthly wages are US\$ 126.19, but a significant proportion, 58.48 per cent, of workers earns US\$96 per month.<sup>20</sup> A very large proportion of the population — 42 per cent — is illiterate and 24 million children are out of school.<sup>21</sup> Less than 2 per cent of the GDP is allocated to education. Health indicators are dismal and the government spends barely 0.42 per cent of the GDP on health.

Recommendation: The GoP should immediately raise the GDP allocation to education and health to five per cent. Education to be viewed as critical as national security, with the GoP ensuring not only resources but also invest in teachers' trainings and ensure quality of education for all children. The GoP shall also ensure the implementation of minimum wage standards.

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<sup>18</sup> [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=PAK&Lang=EN+](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=PAK&Lang=EN+)

<sup>19</sup> Ibid.

<sup>20</sup> Source: Ibid.

<sup>21</sup> <http://www.dawn.com/news/1254909>

### C. Vulnerable Groups

#### Children (Articles 19,12, 39, 37 (a), 28(2)) CRC

There is an increase in incidences of children being physically and sexually assaulted. Year 2014 was one of the worst in terms of child homicide.<sup>22</sup> Since 2012, provinces have enacted several pieces of legislation that include the Sindh Right of Children to Free and Compulsory Education Act 2013; the Sindh Child Marriage Restraint Act 2013; the Punjab Child Marriage Restraint Act 2015; the Balochistan Free and Compulsory Education Act 2014. Despite legislation, child development indicators are grim. In 2011, the ILO adopted Convention 189 Domestic Workers Convention which protects children working inside private homes. In 2015, the ILO estimated that there are at least 8.5 million domestic workers in Pakistan, many of whom are women and children<sup>23</sup>, however, it is pertinent to mention that national law of Pakistan does not recognize child domestic labour as a crime/punishable offence.

**Recommendations:** The GoP should immediately establish the National Commission on the Rights of the Child or delegate said responsibility to NCHR. The GoP should ratify the ILO Convention 189 and enact the Domestic Workers Bill in line with the aforementioned convention. The GoP should review section 89 of the Pakistan Penal Code (PPC) to protect children.

#### Women (Articles 1, 2,5) CEDAW

Pakistan has ratified the Convention on Elimination of Discrimination Against Women (CEDAW) since 2010, the government has passed several laws and instituted procedures for the protection of women's rights.<sup>24</sup> The recently promulgated Criminal Law Amendment (Offences in the Name or Pretext of Honour) Act 2016 and the Criminal Law Amendment (Offences relating to Rape) Act 2016 provide further safeguards. At least 4,308 cases of violence against women and girls were reported for the first six months of 2015. The figure included 709 cases of murder; 596 of rape and gang rape; 36 of sexual assault; 186 of "honour" crimes; and 1,020 of kidnapping.

**Recommendation:** The GoP should strictly implement existing laws to protect women. Law enforcement authorities should receive trainings for gender

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<sup>22</sup> <http://hrqp-web.org/hrqpweb/data/HRCp%20Annual%20Report%202014%20-%20English.pdf>

<sup>23</sup> [http://www.ilo.org/islamabad/info/public/fs/WCMS\\_347029/lang--en/index.htm](http://www.ilo.org/islamabad/info/public/fs/WCMS_347029/lang--en/index.htm)

sensitization, to better implement their work. The GoP should make crimes in the Prevention of Anti-Women Practices Act 2011 cognizable.

#### Forced Labour and Working Conditions (Article 8) ICCPR, (Articles 6, 7) ICESCR

The country has constitutional safeguards against forced labour yet this phenomenon remains widespread. The Global Slavery Index put the number of people working in slavery-like conditions in Pakistan at 2,134,900 and Pakistan's ranking at number three among 167 countries reviewed for slave labour<sup>25</sup>. Further, Pakistan has since 2012 witnessed a number of incidents which highlight a problem with health and safety in workplaces. There are no independent laws in place that instruct occupational health and safety, and incidents such as the Baldia Factory Fire<sup>26</sup> resulting in the death of over 200 workers and the Gadani shipbreaking incident<sup>27</sup> in 2016 exemplify this problem.

Recommendation: The GoP should take necessary steps to make health and safety mechanism effective. The GoP must review and strengthen legal provisions on occupational health and safety to make them compliant with the ICESCR and ensure that maladministration is addressed adequately.

#### Rights of Minorities (Article 1,2,5) ICERD, (Articles 2,25,26) ICCPR

The constitution of Pakistan currently bars a non-Muslim from becoming President of the country. Further as per the Constitution Article 260: 3(A) and 3(B), Ahmedis are declared as non-Muslim. Ahmedis consider themselves Muslims and reject inclusion in the category of non-Muslims. This state of affairs is contrary to the ICCPR Articles 2, 25 and 26 that categorically prohibit the ratifying state against discrimination on religious grounds. This categorization is also in violation of provisions of ICERD article 5. Forced conversions have also been on the rise. A civil society report claims that between 100 and 700 Christian girls, and around 300 Hindu girls, are married forcibly each year and forced to convert to Islam.<sup>28</sup> This issue has also been addressed by the Special Rapporteur on Minority Issues in a thematic report to the human rights council (A/HRC/31/56).<sup>29</sup>

Recommendation: The GoP should take effective measures to prevent and investigate cases of the forced conversion of girls and reconsider constitutional provisions which lead to violations of CERD and ICCPR articles mentioned above.

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<sup>25</sup> <http://www.dawn.com/news/1264018#>

<sup>26</sup> <http://newslinemagazine.com/magazine/burning-questions-the-karachi-factory-fire/>

<sup>27</sup> <http://www.dawn.com/news/1294669>

<sup>28</sup> [https://www.af.org.pk/pub\\_files/1416847483.pdf](https://www.af.org.pk/pub_files/1416847483.pdf)

<sup>29</sup> Iszak-Ndiaye, Rita, "Minorities and discrimination based on caste and analogous systems of inherited status" Report to the 31<sup>st</sup> Session of the Human Rights Council (A/HRC/31/56), 2016:

[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A\\_HRC\\_31\\_56\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_56_en.doc)

## **ANNEXURE-VI: CONVENTION AGAINST TORTURE**

## ANNEXURE-VI: Convention Against Torture

### I. Introduction:

1. NCHR expresses its gratitude to the Members of the UN Committee against Torture ('CAT') for providing this opportunity to submit information relevant to the implementation of the Convention in connection with examination of the initial report of Pakistan by the CAT during its 60<sup>th</sup> session.<sup>1</sup>
2. NCHR is, legally, an independent national human rights institution dedicated to promote and protect human rights as provided for in the Constitution of Islamic Republic of Pakistan 1973 and the various international instruments to which Pakistan is a state party or shall become a state party.<sup>2</sup>
3. Established in May 2015, NCHR has a broad mandate stipulated in the National Commission for Human Rights Act 2012 (hereinafter called as 'Act').<sup>3</sup> As an impartial state body, the NCHR, legally, works independently of the Government and is accountable to the Parliament of Pakistan.<sup>4</sup>
4. The primary functions and powers of the NCHR include, among others, to conduct investigations into allegations of human rights abuse(s), either on petitions filed by individuals or institutions, or through suo-moto action; review existing and proposed legislation in relation to human rights principles; carry out research and advise on policy matters pertaining to the situation of human rights in Pakistan; contribute to national human rights awareness-raising and advocacy initiatives in the country; review and report on the Government's implementation and monitoring of the state of human rights; make technical recommendations and follow up on the implementation of treaty obligations and develop a national plan of action for the promotion, protection and

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1 For details, please visit [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1108&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1108&Lang=en) (last accessed on 10<sup>th</sup> March, 2017).

2 See NCHR Act 2012

3 See section 9 of NCHR Act 2012

4 See sections 16 and 26(4) of NCHR Act 2012

fulfillment of human rights in Pakistan.<sup>5</sup>

5. After taking a start from a mere scratch amidst nerve wrecking challenges<sup>6</sup>, hardships and frustration, NCHR has entered into the operational phase<sup>7</sup>. With presence in all provinces, it has formed a basic complaint redressal mechanism, carried out fact finding missions related to child sexual abuse in Kasur (Punjab) and recurring deaths of children in Thar (Sindh), visited jails and hospitals, prepared numerous thematic reports on various human rights issues, built relations with parliamentary committees by making submissions regarding review of existing and proposed legislation and defined strategic priorities of the Commission pursuant to its statutory mandate.<sup>8</sup>
6. In this submission, the NCHR reports to the Committee on following Articles due to technical, financial and organizational constraints associated with the infancy of the Commission;

**Article 1: Definition of Torture,**

**Article 2: Prevention of Torture,**

**Article 3: Non-Refoulment,**

**Article 4: Torture as a Criminal Offence,**

**Article 8: Extraditable Offences,**

**Article 10: Education and Information Regarding Prohibition of Torture,**

**Article 12: Prompt and Impartial Investigation,**

**Article 13: Right to Complaint,**

**Article 14: Right of Redress, Fair and Adequate Compensation and Rehabilitation,**

**Article 15: Statements obtained as a Result of Torture,**

**Article 16: Act of other Cruel, Inhuman, Degrading Treatment or Punishment.**

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<sup>5</sup> See section 9 of NCHR Act 2012

<sup>6</sup> The NCHR is facing challenges due to aversion towards its financial and administrative independence. 'Fund of the Commission' as envisage in section 23 of NCHR Act 2012 is not functional which is sine qua non for its financial independence. NCHR is presumed to be under the administrative control of the Ministry of Human Rights contrary to section 16 of NCHR Act 2012.

<sup>7</sup> "It is obvious that both the executive and the ministry are biased and hell-bent on creating hurdles for the National Commission on Human Rights," said by Senator Baber of the Functional Committee on Human Rights, the Senate of Pakistan available at <http://www.dawn.com/news/1301547> (last accessed on 13th Feb 2017). Please refer to the portion relating to "Ministry Vs. NCHR" in the article.

<sup>8</sup> See Annex-I (Interim Performance Report) and section 9 of the NCHR Act 2012.



In respect of each Article discussed in the present submission, the NCHR formulates suggestions that the Committee may consider while examining Pakistan's initial report on UNCAT during its 60th session, which is scheduled to be held from 17<sup>th</sup> April to 12<sup>th</sup> May 2017.

## **II. Historical and Sociological Context of Torture:**

7. Acts of torture are conceptualized inter alia as crimes of obedience.<sup>9</sup> In our region, practice of torture has roots in cruel and colonial eras and because of the impacts of invasions, intolerance due to schisms and prolonged military dictatorship practicing torture to create fear and subdue people.
8. In recent past, the Soviet Invasion of Afghanistan had disturbed the humanitarian values. This led to the growth of militancy, extremism, and rise of violent groups practicing torture on different segment of society having diverse beliefs and ethos justifying torture through twisted doctrines. These violent groups are well organized with finances and logistics to pursue their ends.
9. The Government has successfully executed counter terrorism operations like 'Zarb-e-Azab'. The counter-terrorism measures are sometime harsh and cruel. The arising situation makes it difficult to keep a balance between observance of human rights and rule of law which is obvious when the state is at war. Anyway, the need for developing a mechanism to create a balance is felt. The NCHR raises its voice wherever it sees excesses on the part of the law enforcing agencies. It has also demanded appointment of an observer status in the Special Courts to ensure due process and fair trial guaranteed by the Article 10-A of the Constitution.
10. Pakistan is an Islamic State. Ironically the clash of interpretations of the ideologies is in the way of fully implementing the jurisprudence under the Constitution which is the cause of fostering of diverse ideologies and thus disturbing of harmony, tolerance and peace. These causes are to be addressed

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9 See Herbert C. Kelman, (2005), 'The policy context of torture: A social-psychological analysis', ICRC available at <https://www.icrc.org/en/international-review/article/policy-context-torture-social-psychological-analysis> (last accessed on 25th March 2017)

for banishing torture.

11. NCHR recommends stringent measures towards control of hate speech, interfaith harmony, review of curriculum of madrassahs and addition of human rights in their curriculums as well as in training programmes of police, military, intelligence and other law enforcing agencies.

### III. State Report and Its Methodology:

12. The NCHR is mandated to review Pakistan's compliance with international treaties and is obliged to contribute in state reports.<sup>10</sup> The United Nations Paris Principles and other guidelines encourage NHRIs to interact with the UN treaty body system and contribute in state report while maintaining independent status. Incidentally, NCHR was neither invited nor consulted in the process of preparing state report on UNCAT.
13. In this regard, it is suggested that the Federal Government may ensure that the NCHR is able to carry out its mandate fully, effectively, and independently of any administrative or financial control. It is also suggested that NCHR may be enabled to interact UN mechanisms independent of government in accordance with the Paris Principles.

### IV. Implementation of Specific Provisions of the Convention:

#### Article 1: Definition of Torture

14. The Convention requires state parties to define torture in a manner that, at a minimum, adopts all the elements of article 1 of the Convention.<sup>11</sup> The Committee clearly requires domestic legislation to follow, at a minimum, the definition contained in article 1 of the UNCAT.<sup>12</sup> The Committee recommends in almost every concluding observation that a State shall enact the crime of

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<sup>10</sup> See Section 9 of NCHR Act, 2012.

<sup>11</sup> For details, please see CAT, General Comment No. 2: Implementation of Article 2 by States Parties (24 January 2008) UN Doc. CAT/C/GC/2. Also see APT (2016), 'Guide on Anti Torture Legislation', Geneva available at <http://www.apr.ch/en/resources/guide-on-anti-torture-legislation/> (last accessed on 11<sup>th</sup> March 2016).

<sup>12</sup> Ibid at para 9.

torture “as defined by the Convention”<sup>13</sup> or that the “definition encompasses all the elements of article 1 of the Convention”<sup>14</sup>. In its General Comment No. 2 on how to introduce effective measures to prevent torture, the Committee asserted that States shall draft their domestic legislation “in accordance, at a minimum, with the elements of torture as defined in article 1 of the Convention”.<sup>15</sup> Although it is the view of the Committee that States parties adopt a definition similar to the one contained in the Convention, they also acknowledge that States have the possibility to provide a definition that is even more protective and that “advances the object and purpose of the Convention”.<sup>16</sup>

15. Article 1 of the Convention defines the term ‘torture’ by prescribing following four cumulative elements;

- (i) Severe mental or physical suffering must be inflicted,
- (ii) Act or omission must be inflicted intentionally,
- (iii) For a specific purpose, and
- (iv) By a public official or with the consent or acquiescence of a public official.

16. Considering aforementioned jurisprudence, the NCHR considers that laws in Pakistan are non-compliant with Article 1 of the Convention. Although a plethora of constitutional clauses, other statutory provisions and case law can be relied upon<sup>17</sup>, torture has not been explicitly defined in national laws in accordance with Article 1 of the UNCAT read with Article 7 of ICCPR.

17. Article 14 of the Constitution supports the theory of prohibition against torture but is slightly problematic in the sense that it only narrows down what torture could be used for, to everything excluding the extraction of evidence. So in order to be fully compliant with Article 1 of UNCAT, the existing loophole must be abridged by prohibiting torture in all its forms and this could be

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13 CAT, Concluding observations of the Committee against Torture on Bosnia and Herzegovina (20 January 2011), UN Doc. CAT/C/BIH/CO/2-5.

14 CAT, Concluding observations of the Committee against Torture on Germany (12 December 2011), UN Doc. CAT/C/DEU/CO/5.

15 See supra note 12.

16 Supra note 12 at para 9.

17 For details please see, Pakistan’s initial report on UNCAT at para # 23-34.

achieved by adopting a similar definition of torture provided by Article 1 of UNCAT read with Article 7 of ICCPR, which is much wider in terms of its scope.<sup>18</sup>

18. Additionally, PPC and other national laws while addressing torture, criminalize some acts, ancillary to torture in a general way while ignoring element of mental suffering. For instance section 332 of the PPC defines ‘hurt’ as: ‘Whoever causes pain, harm, disease, or injury to any person or impairs, disables or dismembers any organ of the body or part thereof of any person without causing his death, is said to cause hurt’ is very limited in scope and ignores mental sufferings as torture. Additionally, there is no any penalty prescribed in penal laws against those who inflict torture by “encouraging, abetting ordering, tolerating or perpetrating prohibited acts”<sup>19</sup>.
19. Furthermore, Article 156(d) of the Police Order 2002 states that whoever being a Police Officer, “inflicts torture or violence to any person in his custody; shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine”. The scope of the statute is limited as it only prescribes penalties for police officers and does not extend to other public officials.
20. *Muhammad Amin v State*<sup>20</sup>, the referred case law is not a norm setting relating to criminal conviction of police officers involved in acts of torture.<sup>21</sup> The reported judgment only relates to the denial of bail to the accused police officers, rather than indicating that they were ever subject to criminal convictions for their involvement in acts of torture. Therefore, it is difficult to establish that the police officers were convicted on account of torture.
21. In this regard, the Federal government may define ‘torture’ in national laws along with aforementioned elements including other forms of cruel, inhuman, degrading

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18 For details, please see RSIL, (2012), “ Policy brief on the implementation of convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT) in Pakistan” available at <http://rsilpak.org/category/reports-policy-briefs/page/2/> (last accessed on 11<sup>th</sup> March 2017).

19 For details, please see CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment) at para 7.

20 [2007 PCrLJ 1303].

21 Supra note 18 at para # 34.

treatment and punishments.

## Article 2: Prevention of Torture

22. There are numerous constitutional and other statutory provisions existing in Pakistan which cumulatively shape national preventive mechanism. But this mechanism is ineffective to prevent incidents of torture. These include;

The Constitution:

- Article 4: ‘The right of individuals to be dealt with in accordance with the law.’
- Particularly relevant is that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with the law (Art. 4(2)(a)).
- Article 9: ‘Security of Person. No person shall be deprived of life or liberty save in accordance with law’.
- Article 10: ‘Safeguards as to arrest and detention. No person who is arrested shall be detained in custody without being informed, as soon as he may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.’
- Article 10A: ‘Right to a fair trial. For the determination of his civil rights and obligation or in any criminal charge against him, a person shall be entitled to a fair trial and due process’.
- Article 14: ‘Inviolability of the dignity of man. The dignity of man and, subject to law, the privacy of home, shall be inviolable.’
- Article 199: ‘Jurisdiction of the High Court’ (Habeas Corpus)

Criminal Procedure Code, 1898:

- Section 491: ‘Power to issue directions of the nature of habeas corpus’
- Section 202(1): ‘Postponement of issue of process’
- Section 103: ‘Search to be made in the presence of a witness.’

Qanun-e-Shahadat Order, 1984:

- Article 38: ‘Confession to police officer not to be proved. No confession made

to a police officer shall be proved as against a person accused of any offence.’

- Article 39: ‘A confession by the accused while in the custody of the police is not to be proved against him. Subject to article 40, no confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.’
- Article 40: ‘How much of information received from accused may be proved. When any fact is proved to be discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.’

Police Order 2002:

- Article 35: ‘Responsibility on complaints of neglect and excess by police’.
- Article 156(d): ‘Punishment for vexatious entry, search, arrest, seizure of property, torture, etc.’

High Court Rules and Orders:

- Vol III, Chapter 11-B, para 12: ‘Rights of Accused to access to counsel and friends’

23. Despite existing national preventive mechanism, there are significant barriers to redress for victims of torture in Pakistan. The unwieldy nature of the laws prohibiting torture, the complex structure of institutionalized preventive mechanisms, and lack of independent and impartial oversight make it difficult for victims to succeed in cases alleging torture. For instance, the Police Order 2002 was enacted to introduce a system of independent monitoring on the operations of the police and to provide for accountability mechanisms to report police abuse. Article 35 of the Police Order, 2002 explains the procedure of complaints relating to neglect and excesses by the police and says that “(1) Where the Zila Nazim on the basis of any complaint or information has reason to believe that any police official has committed an act of neglect, failure or excess, or the Union Public Safety Committee on its own motion or on receipt of a complaint from an aggrieved person reports to the Zila Nazim about police neglect, failure or excess, the Zila Nazim may direct Head of District Police to



take remedial measures, including registration of First Information Report in a cognizable offence in appropriate cases within the period specified by him and the Zila Nazim shall inform the concerned Commission at the District level accordingly” and “(2) Head of District Police or the concerned competent authority shall immediately take remedial measures, and may suspend the concerned official where necessary, initiate an inquiry and take appropriate action in accordance with law”. The NCHR observes that complex and weak institutional mechanisms to prevent torture and lack of independent oversight made the whole system ineffective.

24. Torture mostly happens in places of detention. This is a big challenge for human rights monitoring organizations and institutions.
25. Recognized places of detention under Pakistani criminal laws are Prisons, judicial lockups and Police lockups. These are run under Prison Act 1894, Police act 1861, and CrPC 1898. Chapter 38 of the Jail Manual deals with the visit of jail by official and non-official visitors to carry out inspection and to ensure proper compliance with the rules. The present system of such inspection is not effective and there is need for strengthening the mechanism of jail inspection so as to ensure proper compliance with the rules and provision of proper accommodation, food, medical facilities, etc. to jail inmates. It is noted that whipping was legally allowed in Prison rules and it was also practiced in many jails until recently when the apex court of Pakistan banned it. Similarly, solitary confinement which has been declared inhuman if prolonged for more than a reasonable time is widely practiced in detention centers.
26. Recognized legal duration for keeping an accused person in police custody is 24 hours according to section 61 of CrPC and after that police can obtain remand from Magistrate under Section 167 of CrPC for not more than 14 days in aggregate. But contrary to this prescribed duration the pretexts to enhance this duration are sought by the police due to lack of effective procedural mechanism for arrest and due to the lacunas in laws.
27. Rules 552 to 562 of Pakistan Prison Rules 1978 provide for proper facilities so as to enable prisoners to meet their relatives and friends. The conditions of

such meeting places are, however, stated to be deplorable. It is recommended that proper facilities, such as fans and chairs, etc should be made available in the meeting halls for the comfort of prisoners and their relatives/friends. Children, accompanied by parents or guardians, may also be allowed to meet their relations in prisons.

28. In view of the above, the NCHR recommends the followings;

- i. First of all, OPCAT should be immediately ratified by Pakistan and properly mandated and legally empowered National preventive Mechanism should be established.
- ii. Relevant provisions of PPC, CrPC and prison rules (as mentioned above) should be amended and improved to reduce the chances of torturous acts.
- iii. Adequate number of police/judicial lockups may be constructed and the conditions of existing lockups be improved, providing therein the facilities such as fans, benches, toilets, etc.
- iv. Arrangements should be made for the construction of separate prisons for women convicts and juveniles. Proper food, education, training and other facilities should also be provided to women and juvenile offenders.

Prohibition of Torture and Counter terrorism measures

29. NCHR categorically condemns terrorist activity as being illegal and immoral; incompatible with respect for human rights and dignity; and posing a serious threat to international peace and security.

30. NCHR recognizes and supports Pakistan's legal duty to protect the nation and its residents from terrorist attacks, and to cooperate with its international allies to globally fight terrorism. At the same time NCHR believes that this legal duty demands compliance with the Pakistani Constitution and Pakistan's binding international legal obligations including those pursuant to the Convention. NCHR believes that human rights compliant counter-terror initiatives are needed, as noted by, UN Security Council Resolution 1456.<sup>22</sup> NCHR believes

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22 S/RES/1456 (2003); para. 6: "States must ensure that any measure taken to combat

that human rights compliant initiatives will be useful to properly target, prosecute and punish terrorist activity; and will be useful in prevention and diversion of terrorist activity.

31.NCHR has observed that Pakistan's counter-terror initiatives have practically failed to fully comply with its international legal obligations, including those pursuant to the Convention, and the jus cogens absolute prohibition against torture, cruel, inhuman and degrading treatment from which there can never be justifiable derogation. NCHR believes that absolute compliance with the prohibition is an unequivocal prerequisite to effectively fight terrorist activity. In NCHR's view, any acquiescence or condonation or participation in torture creates new victims; creates new human rights violations; undermines rule of law and legal frameworks; and increases the likelihood of mistakenly targeting or punishing innocent individuals and diverting focus from actual wrongdoers who should be prosecuted. Furthermore, NCHR believes that these errors can inadvertently contribute to the conditions that are conducive to terrorism.

32.NCHR believes that torture violations do not occur in a vacuum; they are invariably accompanied by a host of other serious human rights violations such as denials of: security of the person, habeas corpus, due process rights, fair trial rights; and violations of the principle of non-refoulement. Unfortunately in Pakistan, we have seen the destructive interplay of these human rights violations in counter terrorism measures specifically in matters relating to preventive detention under the law. Preventative detention is not prohibited outright under international law. To an extent, international law provides some latitude with regards to this mechanism.<sup>23</sup> However, the circumstances under which the detention is conducted make a substantial difference in determining whether or not it is lawful under international law.

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terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.”

23 For details analysis on preventive detention under Int'l and national laws, please see, Sheikh, Maira. & Khan, Moghees Uddin. (2014), An Examination of Preventative Detention under Pakistan's Domestic Law Framework, Islamabad available at <http://rsilpak.org/wp-content/uploads/2016/04/Preventative-Detention-Under-Pakistans-Legal-Framework-23-4-2015.pdf> (last accessed on 12th March 2017).

33.The incident of custodial death of Mr. Aftab Ahmed allegedly at the hands of law enforcing agencies under preventive detention had brought into focus the extrajudicial / custodial deaths & torture during preventive detention and highlights the need for adoption of anti-torture legislation in Pakistan<sup>24</sup>and to review anti-terror laws specifically section 11 EEEE in the ATA, 1997 which disallows judicial discretion in the matter of detention of suspects for up to 90 days without any independent and impartial oversight mechanism.

34.In view of the above, the NCHR recommends establishment of independent and impartial oversight over preventive detention of suspects for up to 90 days as the present mechanism has failed, review of ATA, 1997 particularly section 11 EEEE and inclusion of due process and fair trial standards in this regard.

### **Article 3: Non-refoulement**

35.The Extradition Act 1972<sup>25</sup> and The Foreigners Order 1951 are relevant regarding Pakistan's compliance on its obligations under Article 3 of the Convention. However, these laws are not fully consistent with the Convention.

36.NCHR has observed that Article 5 of the Extradition Act 1972 does not explicitly proscribe extradition if the fear of torture on return is present; however, it does explicitly envision possible restrictions on extradition if detriment to the individual is probable in terms of discrimination and lack of due process protections.<sup>26</sup> Similarly, Article 13 of the Act allows for the refusal to

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24 Mr. Aftab Ahmed was under preventive detention in the custody of the Pakistan Rangers under the orders of the Anti-Terrorism Court, under Section 11-EEEE who died on May 3<sup>rd</sup> 2016. The matter was discussed in the Functional Committee on Human Rights, the Senate of Pakistan. According to reports, the victim was tortured. Please see <https://www.samaa.tv/pakistan/2016/05/autopsy-report-confirms-aftab-tortured/> and <http://nation.com.pk/islamabad/06-May-2016/ppp-moves-senate-over-aftab-s-custodial-death> (last accessed on 12<sup>th</sup> March 2017)

25 Please see sections 5 -14 of the Extradition Act 1972.

26 Section 5 states “(1) Subject to the provisions of sub-section (2), every fugitive offender shall be liable to be apprehended and surrendered in the manner provided in this Act, whether the offence in respect of which his surrender is sought was committed before or after the commencement of this Act and whether or not a court in Pakistan has jurisdiction to try that offence” and sub-section 2 states that “no fugitive offender shall be surrendered:(a) if the offence in respect of which his surrender is sought is of a political character or if it is shown to the satisfaction of the Federal Government or of the Magistrate or court before whom he may be

surrender a fugitive offender if doing so would be “unjust or inexpedient”. But this leaves it to the discretion and interpretation of the judiciary as to whether such a provision would include torture and cruel and unusual punishment to be one of the “unjust” factors outlined by Section 13. These legal lacunas need to be abridged.<sup>27</sup>

#### Article 4: Torture as a Criminal Offence:

37. As mentioned earlier, the requirement that a State criminalize the act of torture is a basic obligation under the Convention. Under article 4 of the Convention, every State party “shall ensure that all acts of torture are offences under its criminal law”. This article is understood to oblige State parties to criminalize torture as a specific crime, separate from other types of offences found in criminal law.<sup>28</sup> In its General Comment No. 2, the Committee against Torture emphasized that torture must be made a distinct crime as this will “directly advance the Convention’s overarching aim”.<sup>29</sup>

38. The Convention also requires States parties to criminalize the commission and the attempt to commit torture, complicity in torture, other forms of participation in torture, instigation of, and incitement to torture, as well as acts by public officials that acquiesce or consent to torture.

39. Although a plethora of constitutional clauses, other statutory provisions and case law are existed<sup>30</sup>, custodial torture has not been explicitly defined and criminalized in accordance with Articles 1 & 4 of the Convention read with

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produced that the requisition for his surrender has, in fact, been made with a view to his being tried or punished for an offence of a political character” and “(g) If it is shown to the satisfaction of the Federal Government or of the Magistrate or court before whom he may be produced that he might if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions”.

27 Section 13 states that “if it appears to the Federal Government that by reason of the trivial nature of the case or by reason of the application for the surrender of a fugitive offender not being made in good faith or in the interest of justice or for any other reason it would be unjust or inexpedient to surrender the fugitive offender, it may, by order at any time stay the proceedings under this Act against him and direct any summons or warrant issued under this Act to be canceled and the fugitive offender, if he is in custody or under detention, to be discharged”.

28 For detail analysis see, ‘Guide on Anti-torture Legislation’ at supra note 12 p.11.

29 See General Comment No. 2 at supra note 12.

30 For details please see, Pakistan’s initial report on UNCAT at para # 23-34.

Article 7 of ICCPR.

40. The prevailing provisions of Pakistan Penal Code have failed to provide justice and redress to victims of custodial torture. The Constitution too does not define torture or deem it a crime although the Constitution of Pakistan under Article 14 (2) expressly prohibits the use of torture for extracting evidence. Lack of such legislation provides impunity to the perpetrators who are mostly either policemen or members of the armed forces.
41. A bill on ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2014 (Hereinafter called as ‘Bill’) is under consideration of the Parliament to strengthen existing legal mechanism.
42. NCHR welcome the criminalization and punishment of torture, custodial death and custodial rape in the draft Clauses 3 to 7 of the bill. At the same time, it regrets that other forms of cruel, inhuman and degrading treatment (CIDT) are not regulated in the draft law. Articles 16 and 12 of the Convention, require member states to promptly and impartially investigate complaints of torture as well as CIDT. Torture and CIDT are interdependent, indivisible and interrelated and the threshold between them is often not clear.<sup>31</sup> In addition, torture and CIDT are both absolutely prohibited.<sup>32</sup> We therefore propose to extend the application of all the clauses to CIDT.
43. In Article 12, the Convention requests prompt and impartial investigation. We thus very much welcome that the draft bill authorized the National Commission for Human Rights to investigate complaints. Because the bill was drafted before operationalization of NCHR, it vests the Federal Investigation Agency (FIA) the jurisdiction to investigate during this interval. NCHR suggests that the bill should be revised and NCHR should be given the exclusive jurisdiction to investigate matters relating to custodial death, torture and rape because attributing jurisdiction to the FIA, the impartiality and independence of torture investigations is jeopardized.

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31 General Comment No. 2, Implementation of article 2 by States parties, UN Doc. CAT/C/GC/2, 24 January 2008, para. 3.

32 See Concluding Observation on Zambia, UN Doc. CAT/C/ZMB/CO/2, 26 May 2008, para. 5.



44. In the context of prompt and impartial investigations, NCHR is also concerned about draft Clause 15 of the bill. Clause 15 of the Bill specifies a separate procedure for complaints against members of the armed forces and intelligence agencies. In such cases, the FIA is to seek instructions from the federal government and act accordingly. A similar provision has been inserted in the NHRC Act, 2012, indicating that external oversight mechanisms are not being given direct power of investigation into abuses committed by the armed forces and intelligence agencies. These types of clauses contribute to a climate of impunity and deprive people of remedies. These clauses must be reviewed and normal procedure may be prescribed to for complaints against members of armed forces and intelligence agencies in the interest of the victims of torture to ensure dispensation of justice.

45. NCHR recommends that the government shall adopt comprehensive national legislation to provide effective implementation of the UN Convention against Torture and also recommends ratification of OPCAT.

46. NCHR recommends that the government should review ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2014 to bring it in conformity of UNCAT.

### **Article 8: Extraditable Offences**

47. The definition of “extradition offence” refers to an offence that falls within the Schedule attached to the Extradition Act, 1972 committed within Pakistan’s jurisdiction and that constitutes a criminal act under Pakistan’s law. The offence must also be reflected within an existing extradition treaty or, under Section 4 of the Act.<sup>33</sup> The Schedule attached to extradition Act, 1972 has 23 offences including numerous offences ancillary to torture. However, torture as a separate and specific offence is not included in the list of extradition offences.

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33 Please see Schedule attached to the Extradition Act 1972.

48.NCHR recommends that torture as a separate offense along with its various categories and punishments should be included in the Schedule attached to Extradition Act, 1972.

### **Article 10: Education and Information Regarding Prohibition of Torture**

49.The Convention requires state party to ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other person who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.<sup>34</sup> It also obliges state party to include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.<sup>35</sup>

50.NCHR observes that specific prohibition of torture in rules and instructions are not included. For instance reference may be made to Pakistan Prison Rules of 1978. Rule 1065 demands that all prison officers treat prisoners with humanity and dignity, while Rule 1066 demands that no prison officer strike any prisoner or use excessive force unless carrying out his duty. Similarly, Rule 1106 guarantees punishment for officers who disobey. These corresponding provisions do not address inclusion of prohibition of torture as required under the Convention.

51.Law enforcing agencies particularly Pakistani police officials who are at the dealing end in the field are not well versed, and most of the trainings are highly technical or irrelevant as compared to their educational and social or cultural backgrounds.

52.Neither torture prevention is adequately included in training programs of officials nor there is any training mechanism for medical personnel dealing with detainees or asylum seekers or any other potential victims of torture and ill treatment.

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34 See Article 10 of UNCAT

35 Ibid

53. UN Istanbul Protocol provides for the effective investigation and documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. But no steps have been taken to legislate and enforce such kind of mechanism in Pakistan.

54. Due to aforementioned, the overall environment could not become conducive for the eradication of torture. Even police, who is highly targeted for training, could not produce expected results.

55. NCHR recommends the followings;

- i. Prohibition of torture must be included specifically in the rules or instructions related to functionaries.
- ii. Training modules like Istanbul protocol should be used as reference document for designing training programs with respect to eradicate torture.
- iii. Promotion and protection of Human rights with particular focus on combating torture should be made compulsory part of training programmes for all public officials working in departments which may have a direct or in direct link to any of the aspects of torture such as police ,prison ,rangers ,military and para military organizations, health professionals ,District administration officers, educationists ,etc.
- iv. Frequent training programmes should be conducted in accordance with the International Standards in collaboration with the other states investigation agencies.
- v. UN standard guidelines for training law enforcement officers should be used as guiding documents and can be adapted according to local administrative and social needs of our society.

#### **Article 12: Prompt and Impartial Investigation & Article 13: Right of Complaint**

56. As mentioned earlier, lack of prompt and impartial investigation and oversight mechanism is one of hurdles in preventing custodial torture in Pakistan. Although institutionalized mechanisms are existed, their complex structures

and abusive conduct make them ineffective and discourage victims of torture to bring their complaints before them.<sup>36</sup>

57. Therefore, NCHR suggests that existing national preventive mechanism should be reviewed and NCHR should be given wider role to curb the menace of custodial torture.

#### **Article 14: Right of Redress, Fair and Adequate Compensation and Rehabilitation**

58. As mentioned earlier provisions relating to redress, fair and adequate compensation and rehabilitation of victims of custodial torture in Pakistan are limited in their scope as compare to Article 14 of the Convention. Therefore, the system needs to be strengthened.

59. Although ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2014 (Hereinafter called as ‘Bill’) contains a clause but it does not provide for meaningful redress.<sup>37</sup> Compensation is the sole form of redress foreseen in the Draft Bill. In addition, compensation is only granted if the torture perpetrator is found guilty and fined according to draft Clause 4 paragraph 3. Since it is the actual fine that is transferred to the victim, the victim is only compensated if the perpetrator pays the fine. This is not compatible with the Convention that requires prompt, fair and adequate compensation regardless whether the perpetrator is found guilty and pays a fine. When a representative of the state inflicts torture, it is the primary responsibility of the state to compensate the victim.

60. Furthermore, it is important to stress that compensation for torture and the criminal responsibility of the perpetrator are not necessarily connected. It might be established that torture was inflicted, but the perpetrator cannot be held responsible for procedural reasons such as a statutory period of limitation. The system of compensating thus needs to be detached from awarding of fines.

61. Moreover, compensation alone is not sufficient redress for a victim of torture. The Committee has repeatedly stated that Article 14 of the Convention requires member states to enact other forms of redress including restitution,

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36 See supra note at

37 See clause 4 of the Bill

rehabilitation, satisfaction and guarantees of non-repetition.<sup>38</sup>

62.NCHR thus propose to include a Clause in the Draft Bill or enabling legislation that allows torture victims to seek full redress.

### **Article 15: Statement obtained as a Result of Torture:**

63.NCHR is concerned on the admissibility of extra-judicial confessional of an accused obtained by an investigating officer under section 21-H of ATA. This section vitiates even the formal procedural safeguards afforded in regular criminal trials, notably the exclusion of confessions obtained in police custody. Section 21(H) of the ATA specifically permits extra-judicial confessions—such as confessions written up by the police—to be used in trials in ATC. Failure to exclude such confessions has the effect of tacitly condoning the use of coercion and torture by police to extract inculpatory testimony from detainees which is against the spirit of Article 15 of the Convention, the Constitution of Pakistan and Law of Evidence.<sup>39</sup>

64.NCHR recommends that ATA should be reviewed particular section 21(H) of ATA to bring them in conformity with CAT.

### **Article 16: Acts of other Cruel, Inhuman or degrading Treatment or Punishment**

65.As mentioned earlier, Pakistani law does not expressly criminalize other forms of cruel, inhuman and degrading treatment (CIDT). Although the draft bill on torture NCHR criminalizes act of torture, custodial death and custodial rape in the draft Clauses 3 to 7 of the bill. But it does not fully include CIDT. Articles 16 and 12 of the Convention require member states to promptly and impartially investigate complaints of torture as well as CIDT. Torture and CIDT are interdependent, indivisible and interrelated and the threshold between them is

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38 Please see, General Comment No. 3, Implementation of Article 14 by State parties, UN Doc. CAT/C/GC/3, 13 December 2012.

39 For example see Articles 23 & 14 of the Constitution, 1973.



often not clear.<sup>40</sup> In addition, torture and CIDT are both absolutely prohibited.<sup>41</sup>

66. NCHR therefore propose to criminalize CIDT expressly. It also propose to extend the application of all clauses of the anti-torture bill to CIDT.



BY I. A. REHMAN

## A poor apology for torture

An informed Pakistani would have thought he or she was reading a report about a country other than Pakistan.

THE government has little reason to be satisfied with its performance last week before the UN Committee Against Torture (CAT) that was discussing its initial report under the UN Convention against Torture (UNCAT).

The official delegation was led by Pakistan's human rights minister, Kamran Michael, who enjoys a good reputation for understanding his task. It included Barrister Zafarullah Khan, the government's principal expert on laws and human rights. But they had a brief no one could defend.

The problem began with an unsatisfactory initial report although its authors had plenty of time to make it a little more presentable, since it was submitted in 2016, four years after it was due.

This report claimed Pakistan was an almost torture-free country. The articles of the Constitution and penal laws that touched on torture were quoted to give the impression that these instruments had eliminated the practice. Article 3 of the Constitution was quoted to argue that exploitation had ended, Article 14 was quoted to prove that the dignity of the human person had become inviolable, the Extradition Act was supposed to have ruled out refoulement (handing over of persons to parties who could subject them to torture), and the laws adequately defined torture and made punishment for it unavoidable.

The disconnect between the report and the reality on the ground was total. An informed Pakistani would have thought he or she was reading a report about a country other than Pakistan.

The Pakistan delegation's difficulties were aggravated by the presentation of several shadow reports submitted by international and Pakistani NGOs.

One of these shadow reports took due notice of the fundamental rights in the Constitution that prohibited the use of torture for the purpose of extracting confessions, and declared the dignity of man to be inviolable. Also criminal law did not admit testimony recorded by the police to reduce the risk of torture, and unnatural deaths were supposed to be judicially probed.

However, the report pointed out, there was no

law which specifically defined and criminalised torture and which provided for a fair and accessible mechanism for redress and reparation.

Further, the report pointed out, existing laws as well as the requirements under CAT were poorly implemented. The incidence of torture and other cruel, inhuman or degrading treatment or punishment was systematic.

It was said that while pursuing the 'war on terror' the government had adopted several policies and laws which were in violation of the established norms of justice. The presidential decree called Actions (in Aid of Civil Power) Regulation 2011 was cited for retroactively authorising incommunicado detention of suspects. The military courts established in 2015 had weakened the right to a fair trial and helped continuation of enforced disappearances by providing a cover to the perpetrators.

The report further highlighted the culture of impunity and the almost complete lack of accountability for torture. (In the initial report submitted by the government, no data had been presented to substantiate the claim that torture was unacceptable not just constitutionally and legally but also in practice.)

Finally, the report voiced concern about violence against women. The state continued to fail half its population by its failure to eliminate the impunity of those perpetrating violence on women.

As if this were not enough, the National Commission for Human Rights (NCHR) filed a virtual rebuttal of the state party's report.

The commission complained that it had not been associated with the preparation of the initial report, and was more candid and truthful than the authors of that report.

As regards Article 1 of the UNCAT (definition of torture), the commission observed that "laws in Pakistan are non-compliant with the article" and "torture has not been explicitly defined in national laws". Referring to Article 14 of the Pakistani Constitution, the NCHR proposed an enlargement of the prohibitory clause to cover torture in all its forms. The commission also suggested changes in the relevant sections of the Penal Code and the

Police Order 2002.

About prevention of torture (Article 2), the NCHR noted the numerous articles of the Constitution, sections of the Criminal Procedure Code, Qanun-i-Shahadat, the Police Order and High Court Rules and Orders that shaped the national preventive mechanism. "But this mechanism is ineffective in preventing incidents of torture," the commission declared.

The NCHR was equally forthright while stating that "Pakistan's counter-terror initiatives have practically failed to fully comply with its international, legal obligations".

Similarly, as regards non-refoulement (Article 3 of UNCAT), the NCHR found that the relevant laws, the Extradition Act and the Foreigners Order, "are not fully consistent with the Convention".

The NCHR was also critical of the measures taken to promote education and information regarding the prohibition of torture (Article 10 of UNCAT), or for prompt and impartial investigation (Article 12), or for guaranteeing the right to redress and compensation/rehabilitation (Article 14), or for statements obtained through torture.

CAT noted the discrepancies in the three reports and launched a barrage of questions that could not be answered and the delegation was reduced to seeking refuge in an Urdu poem that reflected its helplessness.

This unfortunate situation was the result of the government's failure to consult the NCHR and civil society organisations in a proper manner. The government should have realised that the bureaucratic system of writing *sub accha* reports for gullible politicians won't work at the UN.

There is a need to derive lessons from the poor apology for torture. Instead of venting its spleen against civil society or the NCHR, Islamabad must admit that torture is endemic in Pakistan and that it is necessary to revamp the criminal justice system, check deviation from due process, and raise effective barriers to torture in law and practice. The UN committee will be less angry if it is offered a truthful account and if the line of reform is clearly delineated. ■

40 General Comment No. 2, Implementation of article 2 by States parties, UN Doc. CAT/C/GC/2, 24 January 2008, para. 3.

41 See Concluding Observation on Zambia, UN Doc. CAT/C/ZMB/CO/2, 26 May 2008, para. 5.





## **ANNEXURE-VII:**

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

## ANNEXURE-VII: International Covenant on Civil and Political Rights (ICCPR)

### I. NATIONAL COMMISSION FOR HUMAN RIGHTS

1. NCHR expresses its gratitude to the Members of the UN Human Rights Committee (hereinafter called as “Committee”) for providing this opportunity to report on List of Issues adopted by the Committee at its 118th session.<sup>1</sup>
2. NCHR is an independent national human rights institution dedicated to promote and protect human rights as provided for in the Constitution of Islamic Republic of Pakistan 1973 and the various international instruments to which Pakistan is a state party or shall become a state party.<sup>2</sup>
3. Established in May 2015, NCHR has a broad and overarching mandate stipulated in the National Commission for Human Rights Act 2012 (hereinafter called as ‘Act’).<sup>3</sup> As an impartial state body, the NCHR works independently of the Government and is accountable to the Parliament of Pakistan.<sup>4</sup> The NCHR’s financial and performance reports are also presented to the Parliament on an annual basis.<sup>5</sup>
4. The primary functions and powers of the NCHR include, among others, to conduct investigations into allegations of human rights abuse(s), either on petitions filed by individuals or institutions, or through suo-moto action; review existing and proposed legislation in relation to human rights principles; carry out research and advise on policy matters pertaining to the situation of human rights in Pakistan; contribute to national human rights awareness-raising and advocacy initiatives in the country; review and report on the Government’s

1 See ‘List of Issues’ available at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN) (last accessed 9<sup>th</sup> Feb.2017).

2 See NCHR Act 2012

3 See section 9 of NCHR Act 2012

4 See section 16 of NCHR Act 2012

5 See section 26(4) of NCHR Act 2012

implementation and monitoring of the state of human rights; make technical recommendations and follow up on the implementation of treaty obligations and develop a national plan of action for the promotion, protection and fulfillment of human rights in Pakistan.<sup>6</sup>

5. Despite financial and administrative constraints since its establishment, NCHR formed a basic complaint redressal mechanism, carried out fact finding missions related to child sexual abuse in Kasur (Punjab) and recurring deaths of children in Thar (Sindh), prepared numerous thematic reports on various human rights issues, built relations with parliamentary committees by making submissions on issues related to human rights regularly and established regional offices in all provinces of Pakistan.<sup>7</sup>

## **II. LIST OF ISSUES IN RELATION TO THE INITIAL REPORT OF PAKISTAN**

6. Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) in June 2010<sup>8</sup> and submitted its initial state report to the Committee in October 2015.<sup>9</sup>
7. In November 2016, during its 118th session, the Committee adopted “List of issues” in relation to Pakistan’s compliance with the International Covenant on Civil and Political Rights (ICCPR), in which the Committee asked wide ranging multiple questions.<sup>10</sup>
8. The Committee listed thirty (30) issues related to seventeen (17) thematic divisions and asked one hundred and twelve (112) questions related to

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6 See section 9 of NCHR Act 2012

7 See Annex-I (Interim Performance Report).

8 Please see ratification status at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=EN) (last accessed on 9<sup>th</sup> Feb, 2017)

9 Pakistan’s Initial report can be accessed at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN) (last accessed on 9<sup>th</sup> Feb.2017).

10 See supra note 1.

implementation and compliance of almost nineteen (19) articles of ICCPR. Amongst one hundred and twelve (112) questions, forty six (46) are related to legal and policy matters and rest require information either on statistics or administrative or executive measures related to implementation of various articles of ICCPR.<sup>11</sup>

9. The Committee requires replies from the State party on list of issues and will review Pakistan's initial report on the implementation of ICCPR during its 120th session, which is scheduled to be held from 3rd July to 28th July 2017.<sup>12</sup>

10. This report corresponds directly to the List of Issues set out by the Committee and is first formal interaction of NCHR to any UN treaty bodies. In this submission, the NCHR reports to the Committee on selected questions related to following thematic issues due to technical, financial and organizational constraints associated with the infancy of the Commission;

- Constitutional and legal framework within which the covenant is implemented (Art. 2),
- Right to life and security of person (Arts. 6, 7 & 9),
- Counter-terrorism measures (Arts. 4, 6, 7, 9, 10 and 14),
- Torture, ill-treatment and deprivation of liberty (Arts. 7, 9 and 10),
- Right to a fair trial and the administration of justice (Arts. 14 and 18),
- Freedom of religion, conscience and belief (Arts. 2 (2), 14, 18, 19 and 26),

11. In respect of each issue highlighted in the present submission, the NCHR formulates suggestions that the Committee may consider while reviewing Pakistan's initial report during its 120th session, which is scheduled to be held

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11 Ibid.

12 See reporting cycle, session 20/2017 at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PAK&Lang=EN) (last accessed at 9<sup>th</sup> Feb 2017).

from 3rd July to 28th July 2017.

### III. CONSTITUTIONAL AND LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED (Art. 2),

Question: Please provide information on the measures taken to ensure the direct application of Covenant provisions at all levels of the domestic legal order: federal and provincial, including in the Federally Administered Tribal Areas.<sup>13</sup>

12. Being a dualistic country, Pakistan has to domesticate in legislation international treaties for their implementation and compliance. Therefore, mere ratification of international treaties does not ensure their implementation within Pakistani legal framework. In its initial report, the government of Pakistan relied upon on existing provisions of Constitution and penal laws to give effects to ICCPR however these measures are not sufficient to implement the covenant.

13. The NCHR informs the Committee that although the Pakistani Constitution contains a list of civil and political rights in the chapter on Fundamental Rights it does not cover the entire breadth of rights covered under the ICCPR.<sup>14</sup> Additionally, there are laws that discriminate on the basis of sex or religion and infringe upon rights of marginalized and vulnerable groups.<sup>15</sup> Furthermore, existing laws do not comply with international obligations created under ICCPR. For example Article 7 of ICCPR requires State Party to criminalized torture explicitly in the legislation however neither Constitution nor any other law in Pakistan criminalizes torture overtly as yet.

14. The NCHR observed that the judiciary is even reluctant to interpret questions related to Jus Cogen or erga omnes rights or obligations in accordance with international law, where national legislation does not comply with international

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13 See supra note 1 at para # 1.

14 See Part II, Chapter I Fundamental Rights, Articles 8-28 of the Constitution.

15 For example see offences relating to religion in PPC sections 295-298.

treaty on the basis of doctrine of dualism. However, in the case of *Al Jihad Trust v Federation of Pakistan* the Supreme Court of Pakistan concluded that international human rights law may be referred to in interpreting the constitution, provided that “there is no inconsistency between the two”.<sup>16</sup>

15. The NCHR informs the Committee that after 18<sup>th</sup> amendment to the Constitution, matters pertaining to promotion and protection of human rights devolved to provinces. This has created confusion in roles and responsibilities of institutional mechanisms existing at federal and provincial levels. The Federal Ministry of Human Rights, following the amendment, is limited to geographical area of the Islamabad Capital Territory.<sup>17</sup> However, it extends its jurisdiction through administrative actions which at times compromise powers and functions of independent institutions like NCHR. For example under section 9(k) of the NCHR Act, it is the responsibility of the Commission to develop “a national action plan of action for the promotion and protection of human rights”. However, such a plan was developed by the Ministry of Human Rights without any consultations of the NCHR<sup>18</sup> and was abruptly approved by the Office of the Prime Minister, sanctioning an amount of PKR 250 million at a time when NCHR was struggling for its budget. Through this plan, the Ministry usurped the mandate and functions of NCHR and undermined its independence by proposing national human rights institute.

16. Similarly, this confusion can be seen at provincial levels related to mandate and functions of provincial departments and provincial commissions responsible for protection and promotion of human rights as their mandates overlap. Despite legal provisions, human rights commissions whether federal or provincial including NCHR & NCSW lack financial and administrative autonomy which undermine their independence and statutory functions.<sup>19</sup>

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16 1999 SCMR 1379 at para 16.

17 See *infra* note at 22.

18 Full text of the plan is available on <http://www.mohr.gov.pk/> (last accessed on 9<sup>th</sup> Feb, 2017).

19 For example see sections 16 and 27 of NCHR Act 2012



17. There isn't any coordination mechanism existed amongst independent commissions viz. a viz. federal ministry and provincial human rights departments. Subsequently it resulted in a disconnect and lack of coordination amongst institutions and departments, leading to the ineffective delivery of services by the government institutions.
18. The NCHR reports to the Committee that FATA is governed by Frontier Crimes Regulations (FCR) which violates universal human rights including rights protected in ICCPR and contravenes fundamental rights as guaranteed in the Constitution. FCR permits the use of anachronistic methods of governance such as collective punishment, guilt by association, and disproportionate attacks and punishments, and effectively legalizes human rights violations. Despite some positive developments<sup>20</sup>, fundamental rights as guaranteed in the Constitution are not applicable to people of FATA and superior courts cannot exercise their writ jurisdictions. The government is mulling to bring it in the main streamline and efforts are afoot.

### **Recommendation:**

19. The NCHR recommends that government should review national legal framework to give effects to provisions of ICCPR in Pakistan and should amend all laws that discriminate on the basis of sex and religion to make them compliant with the Covenant.
20. The NCHR recommends that the government should develop a coordination mechanism amongst commissions, institutions and departments responsible for promotion and protection of human rights at federal and provincial levels in consultation with all stakeholders keeping in view mandates, objectives and independence of Commissions.

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20 <http://www.mofa.gov.pk/pr-details.php?mm=NDE4NA,,>

21. The NCHR recommends that the government should repeal FCR, extend to the people of FATA same rights that have been guaranteed to other citizens of the country under the Constitution of 1973 and enable superior judiciary to exercise its writ jurisdictions.

Questions: Please clarify information indicating that the National Commission of Human Rights has been severely limited in its capacity and functioning owing to a lack of adequate funding and of cooperation from the federal and provincial authorities, that it has been restricted from investigating allegations of human rights abuses brought against the intelligence agencies and that it was not consulted in the process of developing a national action plan on human rights or in drafting the State party's report to the Committee, despite its mandate. Please provide information on the new national human rights institute to be established under the 2016 national action plan for human rights, including on its mandate, powers, composition and relationship with the Commission.<sup>21</sup>

22. NCHR informs the Committee that the scope of work of the NCHR is limited due to lack of adequate funding and inadequate cooperation of Federal and Provincial Governments.<sup>22</sup>

23. Section 27 of the NCHR Act, 2012 provides Financial Freedom of the Commission<sup>23</sup> whereas; the Federal Government is aiming to bring the Commission should be under the administrative control of the Ministry of Human Rights and that the Secretary, Ministry of Human Rights should act as the Principal Accounting Officer of NCHR and suggested that the Secretary, Ministry of Human Rights may delegate its financial powers to the officer designated by NCHR. NCHR believes that the afore-stated view is violative

21 See supra note 1 at para # 2

22 "It is obvious that both the executive and the ministry are biased and hell-bent on creating hurdles for the National Commission on Human Rights," said by Senator Baber of the Functional Committee on Human Rights, the Senate of Pakistan available at <http://www.dawn.com/news/1301547> (last accessed on 13th Feb 2017). Please refer to the portion relating to "Ministry Vs. NCHR" in the article.

23 See section 27 of NCHR Act, 2012.

of financial freedom of the Commission in view of Section 27 of the Act. It also undermines its independence as enshrined in section 16 of the Act and affects its statutory functions as provided in section 9 of the Act. The Senate Special Committee on Marginalized Segment of Society in its meeting held on 23<sup>rd</sup> Jan. 2017 recommended that the Government should establish a permanent secretariat of NCHR as per the legal requirement, which should be independent and not under the administrative control of any Ministry, and the NCHR should be empowered to appoint 171 vacant posts in collaboration with the Establishment and Finance Divisions at the earliest.

24. NCHR drafted financial and recruitment rules pursuant to section 33 of NCHR Act which were forwarded to the Federal Government for consultation and notification in the official Gazette. These rules are not notified yet, hampering NCHR to start recruitment process to fill 171 vacant positions. Furthermore, the Federal Government has not created viz. a viz. operationalized 'Fund of the Commission' as provided in section 23 of the Act.
25. Sections 14 and 15 of the NCHR Act, 2012 are related to the procedure with complaints of human rights violations against armed forces and intelligence agencies. The aforesaid sections confer limited powers to inquire into complaints of human rights violations against armed forces and intelligence agencies.
26. NCHR informs the Committee that it was not consulted in the process of developing a national action plan on human rights or in drafting the State party's report to the Committee, despite its mandate.<sup>24</sup> Under this plan, the Ministry is trying to establish National Human Rights Institute by aiming to assume the mandate and functions of NCHR and undermine its independence through this institute. No details have been released regarding the mandate, powers, or independence of proposed human rights institute. The relationship of proposed Institute with NCHR has been kept blurred. It is strange that the government allocated funds to the institute, while the NCHR remained starved of funds. NCHR has serious concerns that the new human rights institute will

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24 See section 9 of NCHR Act, 2012.

usurp the mandate and objectives of the NCHR and undermine its existence. It is pertinent to mention here that after 18<sup>th</sup> amendment to the Constitution, the Federal Government is limited to reporting on international conventions and treaties by virtue of item no 32 of the Federal Legislative List under the Constitution of Pakistan 1973.

### **Recommendations:**

27. NCHR recommends that Government must ensure and safeguard financial, administrative and functional independence of NCHR.

## **IV. RIGHT TO LIFE AND SECURITY OF PERSON (Arts. 6, 7 & 9)**

Questions: Please clarify whether the State party intends to reinstate the moratorium on the death penalty. Despite the State party's justification for lifting the moratorium, only 39 of the 351 executions carried out between December 2014 and January 2016 appear to have been for charges of terrorism. Please comment on this. Please explain how the application of the death penalty to blasphemy and narcotics-related offences is compatible with article 6 (2) of the Covenant and comment on allegations that death sentences have often been handed down in trials not in compliance with international fair trial standards.<sup>25</sup>

28. The NCHR inform the Committee that in Pakistani legal system, capital punishment is prescribed for following twenty seven (27) different crimes, which include;

- i. Murder – Section 301 of Pakistan Penal Code (PPC)
- ii. Aggravated murder – Sec 302 of Pakistan Penal Code (PPC)
- iii. Robbery resulting in death – Sec 396 of PPC
- iv. Bearing false witness intending or knowing the accused may be convicted of a capital offence, if an innocent person is convicted and executed as a result – Sec 194 of PPC
- v. Acts to strike terror or create a sense of fear and insecurity...resulting

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25 See supra note 1 at para # 6.

in death

- vi. Haraabah – Sec 15 of the Offences Against Property (Enforcement of Hudood) Ordinance, 1979
- vii. A scheduled offence likely to create terror or disrupt sectarian harmony – Sec 7 of the Anti-Terrorism Act, 1997
- viii. Hijacking – Sec 402-B, C of PPC
- ix. Sabotage of the railway system – Sec 127 of the Railways (Amended) Act, 1995
- x. Rape – Sec 6 of the Offence of Zina Ordinance (Enforcement of Haddood), 1979
- xi. Gang rape – Sec 10(4) of the Offence of Zina Ordinance (Enforcement of Haddood), 1979
- xii. Stripping a woman's clothes – Sec 354-A of PPC
- xiii. Abduction to subject someone to unnatural lust – Sec 12 of the Offence of Zina Ordinance (Enforcement of Hudood), 1979
- xiv. Kidnapping or abduction of minor – Sec 364-A of PPC
- xv. Kidnapping for ransom or extortion – Sec 365-A of PPC
- xvi. Importing, exporting into and from Pakistan dangerous drugs – Sec 13 of the Dangerous Drugs Act, 1930
- xvii. Importing, exporting inter-provincially or manufacturing drugs – Sec 14 of the Dangerous Drugs Act, 1930
- xviii. Drug smuggling – Sec 9 of the Control of Narcotics Substances Act, 1997
- xix. Adultery – Sec 5 of the Offence of Zina Ordinance (Enforcement of Haddood), 1979
- xx. High treason – Sec 2 of the High Treason Act, 1973
- xxi. Waging or abetting war against Pakistan – Sec 121 of PPC
- xxii. Mutiny and subordination – Sec 31 of the Pakistan Army Act, 1952

- xxiii. Abetment of mutiny – Sec 132 of PPC
- xxiv. Giving up military passwords, intentionally using unassigned military passwords – Sec 26 of the Pakistan Army Act
- xxv. Offences in relation to enemy, treachery, mutiny, and cowardice – Sec 24 of the Pakistan Army Act, 1952
- xxvi. Arms trading – Sec 13-A(1) of the Pakistan Arms (Amendment) Ordinance, 1996
- xxvii. Blasphemy – 295-C of PPC

29. In 2008, the Government of Pakistan had voluntarily placed a temporary moratorium on executing prisoners on death row. After a brutal terrorist attack on school children in Peshawar, Pakistan lifted a six-year de facto moratorium on use of the death penalty — first for terror-related cases and then, in March 2015, in all capital cases. As reported in the State report, the decision was taken by the government with political consensus in context of the December 2014 barbaric terrorist attack on a school in Peshawar on demand of families of the victims to take all legal measures to protect the life and property of the people.<sup>26</sup>

30. Although Article 6(2) of the ICCPR permits application of death penalty, however, it restricts to the “most serious crimes”, as understood restrictively by the Committee in accordance with ECOSOC safeguards.<sup>27</sup> Application of death penalty to those offences which do not qualify to ‘the most serious crime’ threshold as interpreted by the Committee weakens the government’s assertion that the moratorium on death penalty was lifted to tackle terrorism.

31. Therefore, the NCHR has serious concern on the application of the death penalty to blasphemy and narcotics-related offences as imposition of mandatory capital punishment for offences that do not involve intentional killing violates

Article 6(2) of the ICCPR.

<sup>26</sup> See Pakistan initial report at para #74.

<sup>27</sup> Please refer to ‘Safeguards guaranteeing protection of the rights of those facing the death penalty’ approved by ‘Economic and Social Council resolution 1984/50 of 25 May 1984 available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx> (last accessed on 8th Feb. 2017).



32. Wrongful executions are a common phenomenon.<sup>28</sup> And in a country like Pakistan, where investigation and evidence gathering needs significant improvements and prevailing corrupt practices, sometimes the truth of the deceased being innocent never comes to our knowledge, even decades later.<sup>29</sup> Therefore, it is better for an official to pardon erroneously than to punish erroneously.

33. In addition, the imposition of death sentences in result of in-camera trials compromises international standards of fair trial as enshrined in Article 14 of ICCPR and contravenes Article 10-A of the Constitution of Pakistan which furnishes a fundamental right to every citizen of Pakistan to have a fair trial and due process.

Recommendations:

34. The Government of Pakistan should consider ratifying the Second Optional Protocol of the ICCPR aiming at the abolition of death penalty. During the transitory phase, it should not execute death penalty for those offences which do not fall into the category of ‘the most serious crime’ in accordance with Article 6(2) of ICCPR.

## **V. COUNTER-TERRORISM MEASURES (Arts. 4, 6, 7, 9, 10 and 14)**

Questions: Please address concerns about the Protection of Pakistan Act, 2014, and allegations of its misuse by law enforcement officials, in particular regarding the fact that the Act allows for preventive detention for up to 90 days and gives law enforcement officials extensive powers to carry out searches without a warrant, to arrest people without judicial approval for a wide range of vaguely defined offences, to withhold information relating to a detainee, accused person or internee deemed to be an “enemy alien” or “a militant” and to use firearms.<sup>30</sup>

35. NCHR categorically condemns terrorist activity as being illegal and immoral; incompatible with respect for human rights and dignity; and posing a serious

28 <http://www.dawn.com/news/1291838> (last accessed on 8th Feb. 2017)

29 Ibid

30 See supra note 1 at para # 10.

threat to international peace and security.

36. NCHR recognizes and supports Pakistan's legal duty to protect the nation and its residents from terrorist attacks, and to cooperate with its international allies to globally fight terrorism. At the same time NCHR believes that this legal duty demands compliance with the Constitution and Pakistan's binding international legal obligations including those pursuant to the Covenant.
37. NCHR is seriously concerned that Pakistan's counter-terror initiatives have failed to fully comply with its international legal obligations, including those pursuant to the Covenant and other conventions particularly right to fair trial and due process, right to be heard, right to be tried by independent and impartial court or tribunal, right to appeal and pardon etc.
38. NCHR believes that absolute compliance with the international standard protected in the Covenant and other conventions is an unequivocal prerequisite to effectively fight terrorist activity. In NCHR's view, any acquiescence or condonation to international minimum standards or participation in torture creates new victims; creates new human rights violations; undermines rule of law and legal frameworks; and increases the likelihood of mistakenly targeting or punishing innocent individuals and diverting focus from actual wrongdoers who should be prosecuted. Furthermore, NCHR believes that these errors can inadvertently contribute to the conditions that are conducive to terrorism.
39. NCHR informs the Committee that in July 2014, Pakistan passed the Protection of Pakistan Act (POPA) for "speedy trial" of offences related to "waging of war or insurrection against Pakistan". The law had a "sunset clause" of two years, and expired on 14 July 2016.
40. The NCHR had serious concerns on POPA 2014 as the law violated numerous norms of international human rights law.

Questions: Please explain the legal basis for allowing military courts to sentence civilians, including juveniles, to death and explain how doing so is in conformity with article 14 of the Covenant. Please clarify whether persons tried by military courts are guaranteed the right to a fair trial and comment on reports that the majority of persons held in custody by military authorities are subjected to torture and other ill-treatment. Please clarify whether the judgments of military courts

are issued and made public.<sup>31</sup>

41. The NCHR reports to the Committee that military courts were set up in January 2015 under the Pakistan Army (Amendment) Act, 2015, commonly known as the 21st Constitution Amendment. The special legislation, a part of the National Action Plan, had a sunset clause by virtue of which it expired on Jan 7<sup>th</sup>, 2017 and the military courts ceased to exist.
42. On January 6, 2015, the Parliament passed the Twenty-First Amendment to the Constitution to allow the establishment of military courts to pave the way for “the trial of persons who claim, or is known, to belong to any terrorist group or organization using the name of religion or a sect (*sic erat scriptum*).” The Amendment also allowed military courts to try civilians accused of religious or sectarian terrorism. Even more importantly, the Twenty-First Amendment denied fundamental rights to the accused tried in-camera before military courts, including the right to attorney of choice, the right to fair trial, and the right not to be tortured for extracting evidence.
43. International standards require that military courts, like all other courts, must be independent, impartial and competent, and in criminal cases must respect minimum guarantees of fairness, including those set out in Article 14 of the ICCPR.<sup>32</sup>
44. Fairness requires that trials should be public except for in certain prescribed circumstance, in which good cause exists for conducting parts or all of a hearing in camera. The Army Act does not guarantee either public trials in courts martial, or public hearings in courts martial appeals.<sup>33</sup> In an Ordinance passed on 25 February 2015, the government further amended the Army Act to allow judges of military courts to hold in camera trials and made a provision for proceedings through video link.<sup>34</sup>

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31 See supra note 1 at para # 11.

32 Draft Principles Governing the Administration of Justice Through Military Tribunals, U.N. Doc. E/CN.4/2006/58 at 4, 2006.

33 See infra note 31. An Ordinance passed on 25 February 2015, amending the Army Act, allows judges of military courts to hold in camera trials, and keep the identities of individuals associated with the cases secret. The Ordinance was enacted as law in November 2015.

34 For details, please see ICJ (2016) ‘Military Justice in Pakistan: A briefing Paper’ available at <https://www.icj.org/wp-content/uploads/2016/06/Pakistan-Military-court-Ad>

45. Human rights organizations, trial monitors, journalists and even NCHR & family members of the accused persons tried by military courts have not given access to military courts' proceedings.
46. The Pakistan Army Act bars civilian courts from exercising their appellate jurisdiction over decisions of courts martial.<sup>35</sup> Civilian courts in Pakistan have held they may use their extraordinary writ jurisdiction to hear cases related to military courts where "any action or order of any authority relating to the Armed Forces of Pakistan is either qoram non judice, mala fide, or without jurisdiction." The Supreme Court, responding to petitions challenging the 21st Amendment, reiterated this power of judicial review in cases decided by military courts.<sup>36</sup>
47. NCHR is seriously concerned on the imposition of death penalty to juveniles as it violates fundamental principles protected in ICCPR, CRC and JJSO 2000.

#### Recommendations:

48. The NCHR recommends that the government should not revive the 21st Amendment principally.
49. In case of its revival<sup>37</sup>, the government should ensure procedures of military courts meet fair trial standards in accordance with article 14 of the ICCPR. At the minimum, these include: trial by independent and impartial judges free from the military chain of command; full protection of the right to defense, including the right to confront witnesses and representation by a lawyer of one's choosing; judgments including the essential findings, evidence and legal reasoning; and the right to appeal before civilian courts;
50. The government should ensure that under no circumstances should cases of children who were under the age of 18 at the time of the alleged offence are transferred to military courts for trial;

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vocacy-Analysis-brief-2016-ENG.pdf (last accessed 9th Feb 2017)

35 Section 33 of Pakistan Army Act, 1952

36 See, Ghulam Abbas Vs. Federation of Pakistan through Secretary Ministry of Defence (2014 SCMR 849). Also see Ex.-Gunner Muhammad Mushtaq & Ex-Lance Naik Mu karram Hussain through Secretary Ministry of Defence (Civil Appeal No. 718 & 1366 of 2015)

37 See 'Opposition amenable to military courts' revival' available at <https://tribune.com.pk/story/1320109/opposition-amenable-military-courts-revival/> (last accessed 9<sup>th</sup> Feb.2017)

51. The government should engage in a process of stakeholder consultations with a view to elaborating concrete and specific recommendations for legislation and other measures aimed at addressing serious flaws in the criminal justice system, including in terrorism cases;
52. The government should set up protection procedures for judges, lawyers, and witnesses in cases of terrorism and other serious crimes;
53. The government should examine and assess the compatibility of Pakistan's counter-terrorism legislation, in particular the Anti-Terrorism Act, 1997; the Actions (in Aid of Civil power) Regulations, 2011 with domestic and international human rights law and standards, particularly those addressed to the administration of justice, and revise the laws to bring them in conformity with Pakistan's human rights obligations;
54. The government should provide for access to effective remedies and reparation, including compensation, for people unlawfully arrested, detained, and convicted under Pakistan's anti-terrorism laws; and
55. The government should ensure participation of NCHR in trials by military courts as an observer throughout the proceedings, if these are revived.

## **VI. TORTURE, ILL-TREATMENT AND DEPRIVATION OF LIBERTY (Arts. 7, 9 and 10)**

Questions: Please clarify whether torture is explicitly criminalized in the legislation of the State party and provide information on the adoption of the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2015, and on the steps taken to address criticisms that the Bill is not in compliance with international standards, in particular regarding the investigating body. Please justify the compatibility of section 21-H of the Anti-Terrorism Act, 1997, with article 7 of the Covenant.<sup>38</sup>

56. Pakistan ratified the United Nations Convention Against Torture (UNCAT) in 2010, but has failed to promulgate anti-torture legislation, and to even define

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38 See supra note 1 at para 12.

torture. Torture includes the denial of basic human rights to those detained and interrogated for the purpose of extracting confessions, which is invariably possible in Pakistan. NCHR believes that human rights can be rooted in a culture only when the ethical and moral foundations of that society are compatible with human rights concepts and norms.

57. The prevailing provisions of Pakistan Penal Code have failed to provide justice and redress to victims of custodial torture. The Constitution too does not define torture or deem it a crime although the Constitution of Pakistan under Article 14 (2) expressly prohibits the use of torture for extracting evidence. Lack of such legislation provides impunity to the perpetrators who are mostly either policemen or members of the armed forces.
58. NCHR is concerned on the fact that it was not given opportunity to express its opinion on ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2015 (Hereinafter called as ‘Bill’).
59. Although the objective of this Bill is to give effects to provisions of CAT and to bring domestic laws of the country in conformity with the convention, it does not incorporate definition of torture as envisioned in Article 1 of CAT.
60. Section 14 of the Bill vests the Federal Investigation Agency (FIA) with exclusive jurisdiction to investigate complaints of torture until the NHRC becomes functional. It is worthy to note that NCHR is fully functional and is currently hearing complaint of torture pursuant to Section 9 of NCHR Act.
61. Section 14 of the Bill also clearly violates UNCAT which states, “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”<sup>39</sup>
62. The neutrality of the investigation agency is jeopardized in Pakistan and may cause miscarriage of justice. Vesting the responsibility of investigation with the FIA, as it operates presently, will only give a cover to the perpetrator. The investigation body needs to be entirely delinked from the law enforcing institutions whose official is being implicated. Otherwise, it will only provide

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39 Section 14 of ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2015



impunity to the perpetrators of custodial torture.

63. Next, Section 15 of the Bill specifies a separate procedure for complaints against members of the armed forces and intelligence agencies. In such cases, the FIA is to inform the federal government and act according to its directions. This provision is discriminatory. It will shield the armed forces from any criminal proceeding in case of a complaint of torture. UNCAT provides for accountability of all law enforcement agencies on equal footing. To require the FIA to act on the advice of the federal government compromises the investigation of these cases. A similar provision has been inserted in the NHRC Act, 2012, indicating that external oversight mechanisms are not being given direct power of investigation into abuses committed by the armed forces and intelligence agencies. These clauses must be reviewed and normal procedure may be prescribed to for complaints against members of armed forces and intelligence agencies in the interest of the victims of torture to ensure dispensation of justice.

64. NCHR is concerned on the admissibility of extra-judicial confessional of an accused obtained by an investigating officer under section 21-H of ATA. This section vitiates even the formal procedural safeguards afforded in regular criminal trials, notably the exclusion of confessions obtained in police custody. Section 21(H) of the ATA specifically permits extra-judicial confessions—such as confessions written up by the police—to be used in trials in ATC. Failure to exclude such confessions has the effect of tacitly condoning the use of coercion and torture by police to extract inculpatory testimony from detainees which is against the spirit of Article 7 of ICCPR, the Constitution of Pakistan and Law of evidence.<sup>40</sup>

### **Recommendations:**

65. NCHR recommends that the government shall adopt legislation to provide effective implementation of the UN Convention Against Torture, withdraw reservations and ratify OP-CAT.

66. NCHR recommends that the government should review adoption of ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment)

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40 For example see Articles 23 & 14 of the Constitution, 1973.

Bill, 2015 and 21(H) of ATA to bring them in conformity with CAT.

## **VII. RIGHT TO A FAIR TRIAL AND THE ADMINISTRATION OF JUSTICE (Arts. 14 and 18)**

Question: Please provide information on the measures taken to ensure that the Constitution and federal laws, as well as the jurisdiction of the highest courts, are applied to the entire territory of the State party, including the Federally Administered Tribal Areas.<sup>41</sup>

67. The NCHR reports to the Committee that FATA is governed by Frontier Crimes Regulations (FCR) which violates universal human rights including rights protected in ICCPR and contravenes fundamental rights as guaranteed in the Constitution. FCR permits the use of anachronistic methods of governance such as collective punishment, guilt by association, and disproportionate attacks and punishments, and effectively legalizes human rights violations. Despite some positive developments<sup>42</sup>, fundamental rights as guaranteed in the Constitution and other federal laws are not applicable to people of FATA and superior courts cannot exercise their writ jurisdictions.

### **Recommendations**

68. NCHR recommends that the government must ensure that the Constitution and federal laws, as well as the jurisdiction of the highest courts shall apply to the entire territory including FATA and The NCHR recommends that the government should repeal FCR as it violates ICCPR and the Constitutions of Pakistan.

Questions: Please clarify concerns about the broad and vague definition of offences against religion provided for in the blasphemy laws and the disproportionate use of those laws against individuals belonging to religious minority groups. Please provide information on the measures taken to tackle the large number of blasphemy cases based on false accusations and the absence of investigations and prosecutions in such cases. Please also provide information on the lack of mechanisms to

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41 See supra note 1 at para # 18.

42 <http://www.mofa.gov.pk/pr-details.php?mm=NDE4NA>, (last accessed 9<sup>th</sup> Feb, 2017)

protect the judges who hear blasphemy cases and those accused of blasphemy from intimidation, threats of murder and murder.

69. Pakistan's "blasphemy laws" consist of a variety of "crimes" including "misusing" religious epithets, "defiling" the Holy Quran, "deliberately outraging religious sentiment", and using derogatory remarks in respect of the Prophet Muhammad. Sentences for these offences range from fines to long terms of imprisonment, and the case of defamation of the Prophet Muhammad (section 295-C), a mandatory death sentence.
70. The law is widely misused to settle personal vendettas and 'serves the vested interests of extremist religious groups and are not only contrary to the Constitution of Pakistan, but also to international human rights norms, in particular those relating to non-discrimination and freedom of expression and opinion'.<sup>43</sup>
71. During Pakistan's second Universal Periodic Review in 2012, Pakistan received seven recommendations related to its blasphemy laws but none of them are implemented. Pakistan rejected recommendations 122.30, which called for the derogation of the law on blasphemy to guarantee in practice the right to freedom of religion. Pakistan noted a number of recommendations including recommendation 122.28, which asked the Government to ensure that blasphemy laws and their implementation are in line with international law; Enact legislation ensuring freedom of religion and belief for all religious groups and consider abolishing the so-called blasphemy laws; Repeal or reform thoroughly the so-called blasphemy law; recommendation 122.31, which asked Pakistan to modify or repeal the blasphemy laws in order to bring them in line with the principles related to freedom of thought, conscience and religion, and in particular with its obligations under the International Covenant on Civil and Political Rights (ICCPR); recommendation 122.32, which called for repealing the discriminatory blasphemy laws against religious minorities and ensure that there is no impunity for those who commit hate crimes /

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43 United Nations Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers (4 April 2013) (A/HRC/23/43/Add2), <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session23/Pages/ListReports.aspx> (last accessed on 9<sup>th</sup> Feb. 2017)

Repealing the blasphemy law and respect and guarantee freedoms of religion or belief and of expression and opinion for all, including Ahmadis, Hindus and Christians; and recommendation 122.33, which called for repealing the blasphemy law, or at least amend it to protect persons from eventual abuses or false accusations and lighten corresponding penalties, that are currently disproportional. Pakistan accepted recommendation 122.121, which called on the Government to continue its efforts to enhance legislation and measures to further address the situation of religious minorities, including blasphemy laws, forced conversion and discrimination against non- Muslim minorities, and recommendation 122.156, which asked the Government to adopt measures to ensure the protection of religious minorities, including Ahmadis, Christians, Hindus and Sikhs, prevent the abuse of blasphemy legislation, halt forced conversions, and take necessary steps to prevent violence against members of religious minority communities .<sup>44</sup>

72.The criminalization of the exercise of the rights to freedom of expression and religion or belief in Pakistan is incompatible to Pakistan’s international human rights obligations, including its obligations to respect the rights to freedom of thought, conscience and religion; freedom of expression; and the right to equal treatment before the law.<sup>45</sup> Furthermore, the retention of the mandatory death sentence, as a penalty upon conviction for a crime, including under 295-C of the Penal Code, violates Pakistan’s obligations under the Covenant including to respect the rights to life, to a fair trial, and to prohibit torture and other cruel, inhuman or degrading treatment or punishment.<sup>46</sup>

73.The NCHR recognizes that repeal or substantial amendment in blasphemy laws to bring them in line with Pakistan’s international legal obligations may not be immediately feasible, given the threat of violent reprisals against advocates, war against terrorism and fraught political conditions. However, the procedural safeguards should be developed to prevent misapplication or misuse of the law regarding the offence of blasphemy.

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44 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PKSession14.aspx> (last accessed 9th Feb 2017)

45 Articles 6, 7, 14 of ICCPR

46 Ibid.

74. NCHR has laid down its report on proposed procedural amendments to prevent misuse of blasphemy laws before the Senate Functional Committee on human rights and recommended following measures;

Amend section 156-A of CrPC which reads “Investigation of offence under section 295 C, Pakistan Penal Code. Notwithstanding anything contained in this Code, no police officer below the rank of a Superintendent of Police shall investigate the offence against any person alleged to have been committed by him under section 295 C of the Pakistan Penal Code, 1860 (Act XLV of 1860)” to include all blasphemy-related offences, including in particular sections 295-B, 298-A, 298-B and 298-C of the PPC, 1860, with a view to decreasing prosecutions based on false and malicious complaints.

Ensure the effective implementation of section 156-A of CrPC, which provides that for complaints under section 295-C, no officer below the rank of a Superintendent of Police shall investigate the complaint.

Ensure that prosecuting and investigating agencies discharge their functions independently and impartially, in a manner that respects and protects human rights without discrimination, and that prosecutorial discretion be exercised to ensure that only bona fide complaints of recognizable criminal conduct are registered and pursued.

1. Register criminal cases where courts have concluded or there are reasonable grounds to believe that complainant and/or the witnesses in blasphemy cases have committed perjury.
2. Cases of Blasphemy be tried by the District and Sessions Judge.
3. As a short-term, temporary measure, until wider reform of the blasphemy laws and measures to address the flaws in their implementation is accomplished, amend section 196 of the CrPC to ensure no court can take cognizance of any blasphemy-related offence, particularly under sections 295-B and 295-C of the PPC, without intervention from the provincial or federal governments. While the NCHR remains generally opposed to the requirement of sanction for the commencement of legal proceedings due to the poor prosecution and investigation in blasphemy cases, this additional

temporary safeguard may act as an effective deterrent against malicious or frivolous prosecution.

4. Amend Schedule II of the CrPC, 1898, to make all blasphemy related offences (sections 295 to 298-C of PPC, 1860) bailable, and ensure bail is only denied where there is substantial risk of flight, harm to others, or interference with the investigation that cannot be allayed by other means.
  5. Remove section 295-A of PPC, 1860 from the list of scheduled offences under the Anti-Terrorism Act, 1997.
  6. Awareness, training and regularization of Imam, investigation, prosecution, judges and lawyers on the blasphemy laws be conducted.
  7. District peace / interfaith committees and local scholars of known credibility should be involved in blasphemy cases at initial stage of institution of proceedings.
  8. Amend the substantive law to include aspect of forgiveness to those who repented at any stage of proceedings as forgiveness was allowed by the Prophet (PBUH).
- 75.NCHR informs that there is not any mechanism exist to protect judges, prosecutors and investigators who deal blasphemy cases in Pakistan. Judges who hear blasphemy cases have reported being harassed, intimidated, and threatened to convict individuals accused of committing blasphemy. Some judges have reported receiving letters and phone calls warning them of attacks against themselves and their families if defendants in blasphemy cases are acquitted.<sup>47</sup>

### **Recommendations:**

- 76.NCHR recommends that Pakistan should review the blasphemy laws in order to bring them in line with the principles related to freedom of thought, conscience and religion, and in particular with its obligations under the International Covenant on Civil and Political Rights (ICCPR), should develop procedural safeguards to prevent misuse of blasphemy laws and develop a comprehensive strategy to protect judges, lawyers, investigators who deal blasphemy cases.

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47 See supra note 42.



## VII. SUMMARY OF RECOMMENDATIONS:

Constitutional and legal framework within which the covenant is implemented:

1. NCHR recommends that government should review national legal framework to give effects to provisions of ICCPR in Pakistan and should amend all laws that discriminate on the basis of sex and religion to make them compliant with the Covenant.
2. NCHR recommends that the government should develop a coordination mechanism amongst commissions, institutions and departments responsible for promotion and protection of human rights at federal and provincial levels in consultation with all stakeholders keeping in view mandates, objectives and independence of Commissions.
3. NCHR recommends that Government must ensure and safeguard financial, administrative and functional independence of NCHR.

### Right to life and security of persons:

4. NCHR recommends that the Government of Pakistan should considering ratifying the Second Optional Protocol of the ICCPR aiming at the abolition of death penalty. During the transitory phase, it should not execute death penalty for those offences which do not fall into the category of ‘the most serious crime’ in accordance with Article 6(2) of ICCPR.

### Counter-Terrorism Measures:

5. NCHR recommends that the government should not revive the 21st Amendment principally. In case of its revival<sup>48</sup>, the government should ensure procedures

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48 See ‘Opposition amenable to military courts’ revival’ available at <https://tribune.com.pk/story/1320109/opposition-amenable-military-courts-revival/> (last accessed 9<sup>th</sup> Feb.2017)

of military courts meet fair trial standards in accordance with article 14 of the ICCPR. At the minimum, these include: trial by independent and impartial judges free from the military chain of command; full protection of the right to defense, including the right to confront witnesses and representation by a lawyer of one's choosing; judgments including the essential findings, evidence and legal reasoning; and the right to appeal before civilian courts;

6. NCHR recommends that the government should ensure that under no circumstances should cases of children who were under the age of 18 at the time of the alleged offence will be transferred to military courts for trial;
7. NCHR recommends that the government should engage in a process of stakeholder consultations with a view to elaborating concrete and specific recommendations for legislation and other measures aimed at addressing serious flaws in the criminal justice system, including in terrorism cases;
8. NCHR recommends that government should set up protection procedures for judges, lawyers, and witnesses in cases of terrorism and other serious crimes;
9. NCHR recommends that the government should examine and assess the compatibility of Pakistan's counter-terrorism legislation, in particular the Anti-Terrorism Act, 1997; the Actions (in Aid of Civil power) Regulations, 2011 with domestic and international human rights law and standards, particularly those addressed to the administration of justice, and revise the laws to bring them in conformity with Pakistan's human rights obligations;
10. NCHR recommends that the government should provide for access to effective remedies and reparation, including compensation, for people unlawfully arrested, detained, and convicted under Pakistan's anti-terrorism laws; and

- 11.NCHR recommends that the government should ensure participation of NCHR in trials by military courts as an observer throughout the proceedings, if these are revived.

Torture, ill-Treatment and Deprivation of Liberty:

- 12.NCHR recommends that the government should adopt legislation to provide effective implementation of the UN Convention Against Torture, withdraw reservations and ratify OP-CAT.

- 13.NCHR recommends that the government should review adoption of ‘the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2015 and 21(H) of ATA to bring them in conformity with CAT.

**Right to a fair trial and the administration of justice:**

- 14.NCHR recommends that the government must ensure that the Constitution and federal laws, as well as the jurisdiction of the highest courts shall apply to the entire territory including FATA and The NCHR recommends that the government should repeal FCR as it violates ICCPR and the Constitutions of Pakistan.

- 15.NCHR recommends that Pakistan should review the blasphemy laws in order to bring them in line with the principles related to freedom of thought, conscience and religion, and in particular with its obligations under the International Covenant on Civil and Political Rights (ICCPR), should develop procedural safeguards to prevent misuse of blasphemy laws and develop a comprehensive strategy to protect judges, lawyers, investigators who deal blasphemy cases.

## **ANNEXURE-VIII: IMPLEMENTATION OF CORE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS**

### **Introduction:**

National Commission for Human Rights (NCHR) is established through Act XVI of 2012 in accordance with the Paris Principles. In its preamble, the Act provides its *raison d'être* as follows;

“WHEREAS it is expedient to provide for the creation of National Commission for Human Rights, for the purpose of promotion and protection of Human Rights as provided in the Constitution of Islamic Republic of Pakistan and various international instruments to which Pakistan is state party or shall become a state party.”

The National Commission for Human Rights Act, 2012 stipulates a broad and overarching mandate for the promotion, protection and fulfillment of human rights, as provided for in Pakistan’s Constitution and international treaties. As an impartial state body, the NCHR works independently of the Government and is directly accountable to the Parliament of Pakistan. The NCHR’s financial and performance reports are also directly presented to the Parliament for approval on an annual basis.

The primary functions and powers of the NCHR include, among others, to conduct investigations into allegations of human rights abuse(s), either on petitions filed by individuals or institutions, or through suo-moto action; review existing and proposed legislation in relation to human rights principles; carry out research and advise on policy matters pertaining to the situation of human rights in Pakistan; contribute to national human rights awareness-raising and advocacy initiatives in the country; review and report on the Government’s implementation and monitoring of the state of human rights; make technical recommendations and follow up on the implementation of treaty obligations and develop a national plan of action for the promotion, protection and fulfillment of human rights in Pakistan.

The Commission commenced its finite activities in May/June 2015, with the appointment of the Chairperson and its Members. Despite all financial and organizational constraints associated with the Commission’s infancy, the same is working tirelessly for the promotion and protection of human rights in Pakistan. The table below shows some of our achievements in the preceding year (August 2015-16).

S#	Milestone achieved	Month of achievement
1.	Appointment of the Honorable Chairman and Members	May, 2015 (19.05.2015)
2.	Allocation of a room, as office, in the Ministry of Human Rights	May, 2015 (26.05.2015)
3.	Celebration of the Minority Day	August, 2015 (11.08.2015)
4.	Kasur Investigation	August, 2015 (19.08.2015)
5.	Field visit of the Commission to KPK	October, 2015 (13.10.2015)
6.	Formulation of Complaint Handling Rules	November, 2015 (06.11.2015)
7.	Field visit of the Commission to Punjab	November, 2015 (10.11.2015)
8.	Formulation of Condition of Service Rules for the Members	November, 2015 (20.11.2015)
9.	Formulation of Condition of Service Rules for Employees	November, 2015 (20.11.2015)
10.	Formulation of Financial Procedure	November, 2015 (20.11.2015)
11.	Interaction with Youth, Bahria University, Islamabad	November, 2015
12.	Interaction with Youth, LUMS, Lahore	December, 2015 (01.12.2015)
13.	Celebrating Universal Human Rights Day	December, 2015 (12.12.2015)
14.	Allocation of space for the office in PMU Building (non-functional)	December, 2015
15.	Complaint Handling/ <b>Hearing of Complaints</b>	Started in December, 2015 (15.12.2015)
16.	Advocacy for GSP Plus and visit to National Human Rights Institute, Germany	December, 2015 (08.12.2016)
17.	Procurement of Furniture and equipment	December 2015
18.	Interaction with Asia Pacific Forum, Australia	January, 2016 (19.01.2016)
19.	Briefing to the Senate	February, 2016
20.	Finalization of organogram of NCHR in consultation with the Federal Government	February, 2016.
21.	Field visit of the Commission to Sindh	March, 2016 (08.03.2016)
22.	Tharparker Investigation	March, 2016 (09.03.2016)
23.	Celebrating International Women Day	March, 2016
24.	Sanctioning of interim grant	April 2016
25.	Operationalization of grant	May 2016
26.	Procurement of <b>Head office</b> building on rent	May 2016
27.	Procurement of some furniture	June 2016
28.	Procurement of some official vehicles	June 2016
29.	Establishment of Regional <b>Office KPK &amp; FATA</b>	June 2016
30.	Establishment of Regional <b>Office Balochistan</b>	June 2016
31.	Establishment of Regional <b>Office Sindh</b>	June 2016
32.	Establishment of <b>Complaint Wing</b> & appointment of staff in the head office	May/June 2016
33.	Establishment of <b>Research and International Conventions Wing</b> and appointment of staff	May/June 2016
34.	Establishment of Administration and Finance Wing	May/June 2016
35.	Appointment of regional/provincial coordinators	May/June 2016
36.	Briefing to the Functional Committee, the Senate of Pakistan on proposed procedural amendments to prevent misuse of blasphemy law	July/ August 2016
37.	Briefing to Standing Committee on Human Rights, National Assembly of Pakistan on illegal organs transplantation	July/ August 2016
38.	Successfully conducted 12 meetings of the Commission during (Aug 2106- Aug 16)	Aug.15-Aug.16

Herewith is our response to ‘List of Issues’ pertaining to core human rights conventions in context of GSP + for your consideration please. This report also explains our efforts towards implementation of core international human rights instrument during first year (Aug. 2015-Aug.2016) of formation of the Commission.

At the end, the Commission reiterates its commitment to work tirelessly for the promotion and protection of human rights as provided in the Constitution of Islamic Republic of Pakistan and various international instruments to which Pakistan is state party or shall become a state party.

### **1. Convention on the Prevention and Punishment of the Crime of Genocide:**

There is no issue listed which requires comments of the Commission.

### **2. International Convention on the Elimination of All Forms of Racial Discrimination:**

*Issue: There is hardly any racial discrimination in Pakistan. Serious discrimination is made on religious grounds.*

2.1 Despite the fact that freedom of religion and minority rights are being protected by the constitution and numerous steps were taken to protect minorities including prescription of minimum quota for minorities in public employment at federal and provincial levels, discrimination and violence against religious minorities including Ahmadis, other minority sects and Christian is recurring throughout the country.

2.2 Minorities are represented by a Member (minorities) in the Commission for the promotion and protection of right of minorities.

2.3 Soon it became operational in end of May 2015, the Commission engaged itself in the promotion, awareness and advocacy of rights of minorities in Pakistan. Despite financial and logistic constraints, the Commission initially conducted a series of awareness sessions on rights of minorities in central and southern Punjab. At the national level, the Commission celebrated minority day on 11<sup>th</sup> August 2015, wherein, ambassadors,



officials, parliamentarians, members of the civil society and minorities participated.

2.4 The Commission is actively protecting rights of the minorities in Pakistan.

Since December 2015, it is hearing petitions/complaints of minorities, *suo-moto* investigating incidents of grave violence and providing relief by virtue of being a judicial forum. The Commission probed into various incidents of violence against minorities in Pakistan during year 2015-16, including, *Mandi Bahauddin's Chak 44* incident of May 2015, Nankana Sahib incident, forced conversion of hindu girl in Sindh etc. During a *suo-moto* proceeding on '2015 Mina stamped', the Commission also inquired about the performance of Ministry of Religious Affairs & Interfaith Harmony and Ministry of Human Rights with regard to state of minorities in Pakistan. Currently, the Commission is hearing a complaint of *Dr. Askoh Kumar* against Capital Development Authority wherein the complainant prayed for provision of place for performance of rituals on death for *hindu* community residing in twin cities of Rawalpindi and Islamabad.

2.5 The Commission is also engaged with the Parliament on legislative reform to protect rights of minorities in Pakistan. On 16<sup>th</sup> August 2016, the Commission briefed the Functional Committee on Human Rights, the Senate of Pakistan on freedom of speech, conscience and misuse or misapplication of **blasphemy laws** and suggested the following amendments in procedural law to prevent misuse or misapplication of blasphemy laws<sup>1</sup>;

- i. Amend section 156-A of CrPC which reads "*Investigation of offence under section 295 C, Pakistan Penal Code. Notwithstanding anything contained in this Code, no police officer below the rank of a Superintendent of Police shall investigate the offence against any person alleged to have been committed by him under section 295 C of the Pakistan Penal Code, 1860 (Act XLV of*

*1860)*" to include all blasphemy-related offences, including in particular sections 295-B, 298-A, 298-B and 298-C of the PPC, 1860, with a view to decreasing prosecutions based on false and malicious complaints.

- ii. Ensure the effective implementation of section 156-A of CrPC, which provides that for complaints under section 295-C, no officer below the rank of a Superintendent of Police shall investigate the complaint.
- iii. Ensure that prosecuting and investigating agencies discharge their functions independently and impartially, in a manner that respects and protects human rights without discrimination, and that prosecutorial discretion be exercised to ensure that only *bona fide* complaints of recognizable criminal conduct are registered and pursued.
- iv. Register criminal cases where courts have concluded or there are reasonable grounds to believe that complainant and/or the witnesses in blasphemy cases have committed perjury.
- v. Cases of Blasphemy be tried by the District and Sessions Judge.
- vi. As a short-term, temporary measure, until wider reform of the blasphemy laws and measures to address the flaws in their implementation is accomplished, amend section 196 of the CrPC to ensure no court can take cognizance of any blasphemy-related offence, particularly under sections 295-B and 295-C of the PPC, without intervention from the provincial or federal governments. While the NCHR remains generally opposed to the requirement of sanction for the commencement of legal proceedings, this additional temporary safeguard may act as an effective deterrent against malicious or frivolous prosecution.
- vii. Amend Schedule II of the CrPC, 1898, to make all blasphemy related offences (sections 295 to 298-C of PPC, 1860) bailable, and ensure bail is only denied where there is substantial risk of flight, harm to others, or interference with the investigation that cannot be allayed by other means.
- viii. Remove section 295-A of PPC, 1860 from the list of scheduled offences

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<sup>1</sup> Please refer to the 'Submissions on proposed amendments to check the misuse of blasphemy laws in Pakistan' of the Commission, before the Functional Committee on Human Rights, the Senate of Pakistan dated 16th August 2016.

under the Anti-Terrorism Act, 1997.

- ix. Awareness, training and regularization of Imam, investigation, prosecution, judges and lawyers on the blasphemy laws be conducted.
- x. District peace / interfaith committees and local scholars of known credibility should be involved in blasphemy cases at initial stage of institution of proceedings.
- xi. In the substantive law, the aspect of repentance is missing. Whereas, forgiveness was allowed by the Prophet (PBUH) to those who repented.

2.6 In coming years, the Commission will scale up its promotion and protection activities related to rights of minorities, increase interaction with federal and provincial governments and institutions through its regional offices, pursue pending Bills to protect minorities in the Parliament.

2.7 The Commission advocates and recommends that the ruling of the Honourable **Supreme Court** of 19 June 2014 and judgment of Honourable **Lahore High Court** (PLD 2002 Lahore 587) need to be complied in letter and spirit which directed the government inter alia; to set up a national council for minorities' rights, develop appropriate curricula to promote religious and social tolerance, take measures against hate speech, and establish a special police force to protect the places of worship of minorities.

2.8 During its *suo-moto* proceedings on '2015 Mina Stampede', the Commission observed that '**National Commission on Minorities**' is not enjoying independent and autonomous status as it is created by an executive order, not representing all sects of minorities, hence redundant. The Commission advocates and recommends that National Commission on Minorities be restructured to represent all sects of minorities and should be made autonomous and independent under the law.

### 3. International Covenant on Civil and Political Rights:

*Issue: (a) Reports on very grave violations in the context of counter - terrorist and counter-insurgency operations, including extra-judicial killings, unacknowledged detention and enforced disappearances.*

3.1 The Commission is competent to intervene in such situations where a complaint is made to the Commission against members of armed forces or intelligence agencies, alleging that an act or practice of such an agency is inconsistent with or contrary to any human rights under sections 14 & 15 of the NCHR Act.

3.2 The Commission started hearing complaints / petitions since mid of December 2015 and has examined some of the complaints of alleged human rights violations related to counter-terrorist and counter-insurgency operations. So far, we have received 14 complaints of **enforced disappearances and unacknowledged detention** which are being heard by the Commission. Additionally we have received a complaint of Senator Miss Nasreen Jalil, Chairman Functional Committee of Human Rights, the Senate of Pakistan of enforced disappearances and unacknowledged detention of 60 persons. The Commission is investigating the matter in collaboration with Commission of inquiry on Enforced Disappearances.

3.3 For example, the issue of enforced disappearance and unacknowledged

detention of Muttahida Qaumi Movement worker Mr. Aftab Ahmed<sup>2</sup> was referred to the Commission by the Functional Committee on Human Rights, the Senate of Pakistan.<sup>3</sup> The Commission inquired into the case as per its mandate and subsequently, laid down its interim inquiry report before the Functional Committee on Human Rights, the Senate of Pakistan which is summarized as follows;

**“ON FACTS:** The Ministry of Interior, in response to the Commission’s letter on the subject, informed the Commission that Mr. Aftab Ahmed is under preventive detention in the custody of the Pakistan Rangers under the orders of the Anti-Terrorism Court, under Section 11-EEEE who died

during preventive detention. This is a custodial death in a lawful preventive detention case within the jurisdiction of the Anti-Terrorism Court. The Commission has examined the issue and is of the following opinion:

**ON LAW:**

1. There appears to be no provision in the ATA, 1997, which deals with custodial deaths.

2. In view of Section 32, ATA, 1997, the Anti Terrorism Court is deemed to be a Court of Session and the provisions of the Criminal Procedure Code, 1898, as applying to a Court of Session applies to the Anti Terrorism Court.

3. Under Section 3, Protection of Pakistan Act, 2014, inquiry could be ordered by the head of the concerned law enforcement agency and a judicial inquiry could be ordered by the Federal Government only in cases of encounter killings and not custodial killings.

4. Under Section 176, Criminal Procedure Code, 1898, all deaths in custody are to be inquired by the specified Magistrate. We are of the opinion that since the preventive detention was under the orders of the Anti-Terrorism Court when the custodial killing took place, it was the duty of the concerned Anti-Terrorism Court to order an inquiry by the concerned Magistrate into this custodial death or on a liberal reading of the law, conduct the inquiry itself. But an objection may be raised that Section 176 only deals with deaths in police custody and not rangers custody.

**5. Way forward:** Firstly, the Commission needs to inquire further as to whether any judicial inquiry has been conducted by a Magistrate or the Anti-Terrorism Court and if not, why not. Secondly, as reported in the newspapers, an internal inquiry is being conducted by the military/rangers and NCHR requires a copy of such inquiry report.

Thereafter, NCHR will proceed on this issue and will lay down its final report before the Senate of Pakistan.”<sup>4</sup>

3.4 The Commission will scale up its protection activities particularly hearing of alleged human rights complaints / petitions including enforced disappearances and unacknowledged detentions and will increase its accessibility in provinces including FATA. The Commission has set up its regional offices for KPK and FATA in Peshawar and is in process of establishing its regional offices in Punjab, Sindh and Balochistan.

3.5 The Commission calls on the government for criminalizing enforced disappearance, ratifying the Convention on Enforced Disappearances, and vesting the commission of inquiry on enforced disappearances with greater authority and resources and suggests that its proceedings should be made public and time bound. In order to ensure that the right to a fair trial is implemented, the Commission reiterates that it should be given observer status in Military Trials.<sup>5</sup>

*Issue: (b) Reports on arbitrary deprivation on life: on imposition of the death penalty for other than the most serious crimes and for crimes committed by persons below the age of 18; on use of torture; on enforced disappearances.*

3.6 The Constitution (Eighteenth Amendment) Act, 2010 (10 of 2010) inserted in the Constitution of Islamic Republic of Pakistan 1973, Article 10A which ensures ‘**Right to fair trial**’.

3.7 Article 10-A of the Constitution of Pakistan furnishes a fundamental right to every citizen of Pakistan to have a fair trial and due process. This principle is interpreted by the higher courts that in order to fulfill the requirements of fair trial and due process the case against an accused should be proved not just beyond reasonable doubt but also “beyond the shadow of reasonable doubt”.<sup>6</sup>

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<sup>4</sup> Please see ‘Interim Report on Murder of Mr. Aftab Ahmed’ of the Commission before the Functional Committee on Human Rights, The Senate of Pakistan dated 16<sup>th</sup> August 2016.

<sup>5</sup> Please see ‘Fair trial: NCHR wants its observer in military courts’ in The Express Tribune dated 23<sup>rd</sup> July 2015 at <http://tribune.com.pk/story/924844/fair-trial-nchr-wants-its-observer-in-military-courts/> (Last accessed on 21<sup>st</sup> August 2016).

<sup>6</sup> Please see Tariq Pervez Vs. The State (1995 SCMR 1345) at page 1347, Muhammad Akram Vs. The State (2009 SCMR 230) at page 236 and Criminal Appeal No. 5-J of 2012 (Shoaib Mehar Vs. the State) Lahore High Court Lahore.



3.8 “Right to fair trial’ is connected to ‘presumption of innocence’ in *Shariah* Law.

In the authority of the *Sunnah* we find the direction that it is better for an official to pardon erroneously than to punish erroneously. The seriousness of this rule can be understood by the fact that it applies to both, *tazir* and *hadd* crimes.

3.9 Hence, it is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right. In Islamic law, **capital punishments** are not awarded in cases where reasonable doubt exists.

3.10 Wrongful executions are a common phenomenon.<sup>7</sup> And in a country like Pakistan, where investigation and evidence gathering is still in its embryonic stages, and corruption quite rampant, sometimes the truth of the deceased being innocent never comes to our knowledge, even decades later. These defects in criminal justice system create a good case for reasonable doubt where capital punishments should not be awarded. Pakistan is party to ICCPR which restricts death penalty to “most serious crimes”.<sup>8</sup>

3.11 In Pakistan, **death penalty** is awarded as a last resort and for deterrence purposes in most serious crimes considering the crime situation and exceptional circumstances of terrorism. However, the Commission cogitates that weaknesses of the police and the judicial system combined with the use of death penalty carry a very high risk of irreversible miscarriages of justice. The Commission recommends that the category of ‘most serious crimes’ should be reviewed from international law’s perspective and death penalty should be restricted to the most serious crimes as a last resort in accordance with ICCPR. For this purpose, the Commission will engage itself with all stakeholders and lay down a comprehensive report before the Parliament. Unfortunately, we are in state of war and extremism has had a very negative impact on the very fabric of our civilization and has taken away the charms

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<sup>7</sup>See an Article on ‘7 reasons why Pakistan should not have the death penalty’ in Daily DAWN dated Mar 13<sup>th</sup> 2015 at <http://www.dawn.com/news/1169323> (last accessed on 21th August 2016).

<sup>8</sup>Article 6 of ICCPR.

which were being nourished for purposes of creating separate homeland. Once we overcome the menace of terrorism and extremism, we will have the opportune time to review our trial system and focus on areas where death sentences can be taken away as a punishment.

3.12 The Commission considers that uncertainty about the age of the convicts and **executions of juveniles** constitute a continued violation of Article 6 of ICCPR and article 37 of CRC. The Commission is preparing a comprehensive overview of Juvenile Justice System in Pakistan for consideration of the Honorable Parliament and recommends that a law on juvenile justice should be enacted complying all related provision of CRC including articles 37 and 40; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the “Havana Rules”), and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”).

*Issue: (c) Reports on arbitrary arrests and detention; on violation of the right to a fair trial; on failure to protect judges, lawyers and witnesses against violence and threats.*

3.13 Article 10 of the Constitution 1973 provides safeguards against arbitrary arrests and detentions supplemented by Article 10-A which ensures rights to fair trial and due process of law.

3.14 In order to implement Article 10 and 10-A of the Constitution 1973, Articles 9 & 14 of ICCPR and in accordance with Section 9 of the NCHR Act, the Commission is dealing numerous complaints of violation of rights protected in ICCPR and the Constitution of Pakistan including arbitrary arrests and detentions. Approximately 294 complaints are lodged related to violations of rights enshrined in the ICCPR and protected in the Constitution of Pakistan 1973 before the Commission since December 2015 and 14 are disposed off while rest is pending at various stages of hearings before the Commission. A detailed account of complaint received and action thereupon is tabled below;

### LIST OF COMPLAINTS RECORD

Category	ICT		Punjab		Sindh		KPK		Baluchistan		FATA		Gilgit Baltistan		UN / From Abroad		Total Complaints	
Cases	58	20%	131	45%	58	20%	32	11%	3	1%	6	2%	1	0%	5	2%	294	
Minority	3		11		2												16	
Suo Moto	4		15		4		2				1						26	
STATUS OF COMPLAINTS																		
In Hearing	2	3%	4	3%	-		2	6%	-		-				1	20%	9	3%
Resolved/ Disposed off	8	14%	2	2%	2	3%	1	3%	-		-		1	100%	-		14	5%
Processed*	8	14%	24	18%	9	16%	10	31%	1	33%	4	67%			3	60%	59	20%
Unresolved**	30	52%	76	58%	40	69%	14	44%	1	33%	2	33%			1	20%	164	56%
Case Consigned***	10	17%	22	17%	7	12%	5	16%	1	33%	-				-		45	15%
Unprocessed****			3	2%											-		3	1%

**Note:**

\*Sent Notices & Reminders for Comprehensive Report and Rejoinder;

\*\*Cases are in process for examine and review;

\*\*\*Cases does not fall within the ambit of NCHR, Incorrect Address of Complainants & No Further Action (NFA) Files;

\*\*\*\*Files not Available.

### CATEGORICAL LIST OF COMPLAINTS RECORD

Category	ICT	Punjab	Sindh	KPK	Baluchistan	FATA	GB	UN / From Abroad	Total
Abuse of Power	2	-	-	-	-	-	-	-	2
Administrative Issues	1	2	2	-	-	-	-	-	5
Blasphemy	-	3	-	-	-	-	-	-	3
Child Abuse	1	1	-	-	-	-	-	-	2
Civic Matters	-	1	-	-	-	-	-	-	1
Civil Matters	4	5	3	-	-	-	-	-	12
Compensation	-	1	-	-	-	1	-	-	2
Corruption	1	-	3	-	-	-	-	-	4
Court Matters	-	1	-	-	-	-	-	-	1
Criminal Matters	1	8	3	-	-	-	-	-	12
Criminal Negligence	-	1	-	-	-	-	-	-	1
Discrimination	1	-	-	-	-	-	1	-	2
Domestic Violence	-	3	1	-	-	-	-	-	4
Drugs	-	1	-	-	-	-	-	-	1
Education Matters	-	-	1	-	-	-	-	-	1
Environment	-	1	-	-	-	-	-	-	1
Extra Judicial Killing	-	-	60	-	-	-	-	-	60
False Implication	-	-	1	-	-	-	-	-	1
Family Matters	3	3	1	-	1	-	-	1	9
Financial Matters	-	3	-	-	-	-	-	-	3
Forced Labor	-	3	-	1	-	-	-	-	4
Forced Marriage	-	1	1	-	-	-	-	-	2

Category	ICT	Punjab	Sindh	KPK	Baluchistan	FATA	GB	UN / From Abroad	Total
Government Negligence	-	-	1	-	-	-	-	-	1
Harassment	3	3	-	2	-	-	-	-	8
Health	1	2	-	1	-	1	-	-	5
Human Rights	3	4	2	-	-	-	-	-	9
Human Trafficking	-	1	-	-	-	-	-	-	1
Immorality	1	-	-	-	-	-	-	-	1
Irrelevant	-	2	3	-	-	-	-	-	5
Jailed Abroad	-	-	-	1	-	-	-	-	1
Karokari	-	-	1	-	-	-	-	-	1
Kidnapping	3	2	-	-	-	-	-	-	5
Land Grabbing	-	1	1	1	-	-	-	-	3
Land Matters	1	5	4	-	-	-	-	1	11
Medical Negligence	1	-	1	-	-	-	-	-	2
Mercy Appeal	-	1	-	-	-	-	-	-	1
Missing Person	1	4	2	2	1	1	-	1	12
Murder	-	3	4	1	-	-	-	-	8
Official Accommodation	1	-	-	-	-	-	-	-	1
Official Negligence	1	-	1	-	-	-	-	-	2
Police Abuse	1	6	1	4	-	-	-	-	12
Police Inaction	4	11	2	5	-	-	-	-	22
Police Matters	-	-	1	-	-	-	-	-	1
Property Matters	-	-	-	-	-	1	-	-	1

Category	ICT	Punjab	Sindh	KPK	Baluchistan	FATA	GB	UN / From Abroad	Total
Rape	-	1	-	-	-	-	-	1	2
Service Matters	18	25	6	10	-	-	-	-	59
Sex Trade	-	1	-	-	-	-	-	-	1
Sub Judice	-	2	-	-	-	-	-	-	2
Terrorism	1	-	-	-	-	-	-	-	1
Theft	2	2	-	-	-	1	-	-	5
Threat to Life	-	4	8	1	-	-	-	-	13
Torture	1	8	2	3	1	-	-	-	15
Unlawful Detention	-	3	-	-	-	1	-	1	5
Unlawful Occupancy	1	-	-	-	-	-	-	-	1
Violence against Women	-	1	1	-	-	-	-	-	2

Tables: Visit of Jails	
Sr. No	Description
1.	Visit of Quetta Jail
2.	Visit of Adiala Jail

3.15 The Commission is developing a comprehensive strategic plan and a human rights redress mechanism involving all relevant stakeholders at federal and provincial levels. Through this policy and plan, the Commission will build up its online complaint redress system and maintain a database for further strategic planning. Protection and promotion/ awareness of human rights are core components which require adequate finances, human resource, logistics etc. Currently the Commission is facing acute financial shortfall for the year 2016-17 as Rs. 41 million is allocated to the Commission which is even not enough to maintain its status-quo irrespective of its proposed annual plan which requires Rs. 129 million as an annual budget. Furthermore, the allocated budget of Rs. 41 million is being released in quarterly installments creating further problems for the Commission considering that the Commission is in formative stage.

3.16 The Commission is deeply concerned over the reports on failure to protect judges, lawyers and witnesses against violence & threats and will work with the government and Parliament for comprehensive policy to protect judges, lawyers and witnesses against violence and threat.

#### 4. International Covenant on Economic, Social and Culture Rights:

Issue: (a) Evidence of violence to the equality of men and women in the enjoyment of all economic, social and cultural rights set for in the covenant ( art.3 and 7).

3.17. The Commission recognizes that despite numerous steps taken by the government to promote the progressive realization of the rights enshrined in

the covenant, considerable shortcomings persist with regard to equal rights of men and women, access to education, participation in the labour market and representation in political life, forced marriages, protection of mothers before and after birth, child labour and less spending in the health and education sectors.

3.18 The Commission will work with the government and the Parliament for the promotion and progressive realization of economic, social and cultural rights as enshrined in the ICESCR and protected as either fundamental rights or principles of policy in the Constitution of 1973.

Issue: (b) Wages not guarantying conditions provided under art.7 fair wages and equal remuneration for work of equal value without distinction of any kind; decent living for themselves and their families in accordance provision of the

covenant: safe and healthy working conditions ; equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; rest leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

3.19. The Commission will work with all relevant federal and provincial departments and authorities to ensure fair wages, equal remuneration, decent living and safe and healthy working conditions and equal opportunity for everyone to be promoted in his employment.

3.20 The Commission has dealt with at least 17 complaints of discrimination in promotion cases and currently hearing a complaint Mr. Raja Sarfraz Vs. United Bank Limited<sup>9</sup> related to rights enshrined in the ICESCR wherein the complainant has challenged the discriminatory practice of the Bank with regard to his retired employees in pension matters. The Commission has summoned the Bank, Ministry of Finance and Privatization Commission of Pakistan and is inquiring facts of the case.

**Issue: (c). Violations regarding the existence and free functioning of trade unions ( art.8).**

3.21. The Commission will work with all relevant federal and provincial ministries to promote and protect rights enshrined in Article 8 of ICESCR with regard to the existence and free functioning of trade unions in Pakistan.

**Issue: (d) Violations of consensual marriage, and lack of implementation of norms protecting children from exploitation.**

3.22. The Commission is reviewing juvenile justice system in Pakistan and will propose amendments to existing and proposed legislation on the issue. The issue of child protection including violations of consensual marriage will be dealt comprehensively.<sup>10</sup>

**Issue: (e). Violation of art.12 resulting from failure to fight the polio epidemic and to stop attacks on polio workers. More in general, the right of every one to the enjoyment of the highest attainable standard of physical and mental health is in conflict with the situation and development in the health system.**

3.33. The Commission urges the government to protect polio workers in Pakistan. In order to inquire the status and implementation of the right of every one to the enjoyment of the highest attainable standard of physical and mental health, the Commission has started inspecting public sectors hospitals in Islamabad Capital Territory ('ICT').



Issue: (f). Failure to implement the right of every one to education (violation of art.13).

Right to education is fundamental right protected in the Constitution of 1973. For promotion of human rights literacy, the Commission is in process of signing MOUs with different stakeholders including Higher Education of Pakistan.

#### 5. Convention on the Elimination of All Forms of Discrimination Against Women:

Issue: (a) Illicit trade and sale of small arms and there use against women and the authorities' failure to prevent, investigate, prosecute and punish such acts.

Despite many positive developments including adoption of new legislation at national and provincial levels, protection of women remains an area of very serious concern.

The Commission is working in harmony with the National Commission on Status of Women ('NCSW') to promote and protect women rights in Pakistan as the Chairperson of the NCSW is a member in NCHR.

The Commission is supplementing the efforts of NCSW by entertaining complaints of violence against women and proposing amendments in existing and proposed legislation on protection of women in Pakistan.

The Commission is reviewing the existing legal framework for the protection of women in collaboration with UNWOMEN and Aurat Foundation and recommends that the government should review Chapter XXA Offences against Women of Pakistan Penal Code, enhance penalties and address issues of burning and other forms of violence.

Issue: (b) Persistence of child and forced marriages, stove burning and acid throwing, marriage to the Quran, polygamy and so called honor killing (Karo – kari).

The Commission is reviewing legal framework of child protection in collaboration with UNICEF and will submit lay the report on juvenile Justice in Pakistan before the Parliament. Issues in question will be dealt comprehensively in the report.

Issue: (c). Attacks on schools busses targeting children, including girls:

The Commission urges the government to provide adequate security to school buses and other related transport to protect children in Pakistan.

**Issue: (d). Adduction for the purpose of forced conversion and forced marriages.**

The Commission is concerned on incidents of abduction for the purposes of forced conversion, marriages and illegal organ transplantation.

The Commission is inquiring recent cases of abduction of children in Lahore and has prepared a comprehensive review to law on illegal organ transplantation.

## **6. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**

**Issue: (a) Extensive reported violations of the convention, e.g. numerous reports that torture and ill-treatment are routinely used by law enforcement and investigation officials.**

**Lack of compliance with reporting requirements.**

The Commission is hearing numerous complaints of alleged police torture and feels that a comprehensive definition of torture is required in accordance with UNCAT.

Therefore, it recommends that definition of torture should be enacted as per UNCAT and it should be made crime under the law.

Furthermore, it suggests that legislation is required to provide meaningful redress for victims in line with Article 14 of the CAT including restitution, rehabilitation, satisfaction and guarantees of non-repetition.

## **7. Convention on the Rights of the Child:**

**Issue: (a) Serious discrimination against women and girls.**

Despite many positive developments including enactment of national and international laws, child marriages, sexual exploitation of children, child labour, lack of access to education and healthcare and forced conversion persist in our society.

The Commission will work with the Senate and National Assembly of Pakistan to address the issue of discrimination against women and girls by reviewing existing legal frame for the protection of rights of women and children and proposing amendments or new legislation on the issue.

Furthermore that the Commission is preparing a comprehensive review of Juvenile Justice System in Pakistan for consideration of the Honourable Parliament and recommends that a law on juvenile justice should be enacted complying

provisions of CRC including articles 37 and 40; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the “Havana Rules”), and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”).

**Issue: (b) Violence of children’s right to life, survival and development.**

In addition to the complaint mechanism, the Commission will establish a specialized ‘child protection desk’ at the head office and regional offices of the Commission to address and prioritize issues of child protection including violence against children’s right to life, survival and development.

**Issue: (c). Violence (including sexual abuse), torture, corporal punishment, ill-treatment or honor killings that affect children. Persistence of inhumane customs and rituals:**

Child pornography, one of the worst forms of sexual violence against children, was not adequately dealt with in Pakistan Penal Code before the adoption of Criminal Law (Amendment) Bill 2016. The Bill was adopted by the Parliament in March 2016 when it discussed the report of the Commission on Kasur Child Sexual Abuse Scandal, which surfaced in July 2015.

In July/August 2015, international and local media reported the Kasur Scandal which brought the issue of child sexual abuse and exploitation to the forefront of national discourse. It was alleged that children of village Hussain Khan Wala of District Kasur were sexually abused at large scale for a long time and law enforcing agencies showed inaptitude and failed to take cognizance of this horrific large scale abuse which amounted not only to criminal negligence rather it was connivance.

Considering the nature of the incident and relying on the media reports, the Commission took suo-moto notice under Section 9 of the Act and expressed its concerns and strongly condemned the reported incident, where the victims were children in their adolescence and constituted a fact finding committee of the Commission to ascertain facts and investigate the matter.

**Impact of the Report:**

The Committee submitted its fact finding report to the Commission in September 2015 which was made public in October 2015. Excellency the Prime Minister of Pakistan took notice of the report, endorsed the recommendations reflected in the report and directed all concerned departments to implement them in letter and spirit.

The Fact finding report was also discussed in the Functional Committee on Human Rights of the Honourable Senate on March 2<sup>nd</sup> 2016 which led to the adoption of Criminal Law (Amendment) Bill, 2016 by the Committee.

Furthermore, the Commission will work with the Parliament to review and expedite all pending bills on child rights and child protection including Juvenile Justice System Bill.

**Issue: (d) Children abandoned or otherwise deprived of their family environment, often due to poverty and violence.**

The Commission urges the government to review or develop national and provincial policies on child protection and devise or strengthen mechanisms at federal and provincial levels for their effective implementation.

**Issue: (e). State of health of children and inadequacy of health-care services.**

Considering the nature of the incident, deteriorating condition of health of children and inadequacy of public health-care services, the Commission took suo- moto notice of recurring deaths of children in Tharparker in December 2015 and inquired about the incident from all concerned provincial departments. Additionally, the Commission constituted a fact finding committee headed by the Chairman himself to ascertain facts and investigate the matter. The Committee visited Tharparker on 8<sup>th</sup> – 13<sup>th</sup> March 2016. During five days fact finding mission the Committee held meetings with the representatives of civil society organizations, victims and their families, provincial and district governments which includes a detailed meeting on the issue with the Provincial coordinator on Thar, the Bar Associations, local Press Club, Sindh Press Club Karachi, members of the union councils of Thar, member of the Provincial Assembly of Thar . The Committee visited various hospitals sites and recorded the statements of victims and inhabitants to be reflected in its comprehensive fact finding report.

### **Impact of the Report:**

The Committee submitted its fact finding report to the Commission in April 2015. Excellency the Prime Minister of Pakistan took notice of the report, endorsed the recommendations reflected in the report and directed all concerned departments to implement them in letter and spirit.

The Fact finding report was also discussed in the Functional Committee on Human Rights of the Honourable Senate and Standing Committee on Human Rights, National Assembly of Pakistan and some of its recommendations were compiled with by the provincial government.

**Issue: (f). Prevalence of early and forced marriages;**

The Commission will work with the Senate and National Assembly of Pakistan to address the issue of early and forced marriages by reviewing existing legal frame for the protection of rights of women and children and proposing amendments or new legislation on the issue.

**Issue: (g). High number of internally displaced persons, children facing socio-economic deprivation as a result;**

The Commission urges the government to develop a mechanism through which social-economic deprivation of children will be addressed.

**Issue: (h). Recruitment of children by non-state actors for armed actions;**

The Commission will work with the government to develop a curriculum eliminating teaching of religious or sectarian intolerance; promoting human rights, peace and fostering dialogue between different religions and beliefs' as per Article 29 of CRC.



## ANNEXURE-IX: Media Clippings

Daily "DAWN" 01 December 2016

# Debate on blasphemy law in Senate body takes new turn

Members agree to continue deliberations in light of Senate committee report that proposed improvement in procedural aspects of blasphemy law

By Jamal Shahid

ISLAMABAD: The debate in a parliamentary committee on the blasphemy law took a new turn when its members decided to carry forward the deliberations in the light of a 24-year-old Senate report.

Senator Farooq Baloch of the PPP said in 1992 the then Senate Committee on Law and Justice made recommendations to improve on the procedural aspects of the blasphemy law.

"Unfortunately, the report was confined to the archives for unknown reasons and remained untraceable for a long time," Senator Baloch told the Senate Functional Committee on Human Rights when it met to discuss and amend the procedural aspects of the blasphemy law on Friday.

The committee decided to consult the report after Senator Baloch highlighted the details of the document and recommended that it should be made the starting reference point for suggesting ways and means to prevent the misuse of the blasphemy law.

Senator Baloch said an amendment was introduced in the Senate on November 4, 1991, seeking the mandatory death penalty for blasphemy in place of the life imprisonment.

The amendment was promptly referred to the Standing Committee on Law and Justice the same day.

He said the law and justice committee was then headed by Raja Farooq Haq, the incumbent leader of the house in Senate, and included Yousaf Bhatti, a former attorney general, among others.

In its report, the committee observed that there was a need for a more specific definition of the offence under Section 295 PPC (blasphemy) because in the words of the committee, "In its present form it was very generalised."

According to the report, the committee also asked as to what punishment was given for blasphemy during the lifetime of Prophet Muhammad and the four caliphs or afterwards and in other Muslim countries.

Raising these questions, the report, was however, silent on whether it approved or disapproved the proposed amendment in the law, he said.

Nonetheless, the functional committee, under MQM Senator Naseem Jafri, accepted the proposal to make the 1992 report the basis for guidance in further debate to make changes to the procedural aspects of the blasphemy law.

Talking to media later, the PPP senator said it was a mystery how and why the Criminal Law (Third Amendment) Bill 1991 was passed despite the fact that the relevant committee had sought clarifications and not approved it.

Senator Baloch said the report of the committee remained untraceable for a long time until he was alerted about it by I.A. Rahmani of the Human Rights Commission of Pakistan, which was how he finally located the document.

He said a critical re-examination of Section 295-C was needed particularly because this provision also did not enjoy the unanimous support of Islamic scholars.

Giving the historical background, he said, "Federal Shariat Court (FSC) in October 1990 ruled on a petition that only the death sentence could be awarded for blasphemy."

The sentence of life imprisonment for blasphemy was a violation of the injunctions of Islam. The FSC also directed to add a clause that any act of blasphemy of other prophets should also be punishable with death and that Section 295-C be amended by April 30, 1991. However, this was not done and should be investigated why it was ignored."

He said even the petitioner had expressed apprehensions that in its present form the law could create ambiguity and legal complications, emphasising that the proof of intent was necessary to secure the conviction.

He also referred to a recent Supreme Court ruling that discussion on the blasphemy law and pointing out how to prevent its misuse was not blasphemy.

Chairman National Commission on Human Rights (NCHR) retired Justice Ali Nawaz Chohan proposed to include the aspect of repentance in the substantive law.

"Forgiveness was allowed by Prophet Muhammad to those who repented," said Mr Chohan.

However, Senator Mufiz Abdul Sattar was the only member to object and cautioned the committee to refrain from making amendments to the blasphemy law. "While the Prophet forgives, he also had many pots to death," he said, warning the committee not to touch the law.

Senator Mohammad Moksis Khan Laghari believed that the blasphemy law was a technical issue. The procedural aspects needed amendments starting with the definition of the word blasphemy to prevent innocent people from becoming the victims.

Daily "DAWN": 02 January 2016

# Senate body to approach FO for complaint against Canadian citizen

NCHR chairman informs committee that the accused wanted in the recent attack on Ahmadi worship place was absconding

By Kaiba Ali

ISLAMABAD: The Senate Functional Committee on Human Rights on Monday decided to approach the Foreign Office to lodge a formal complaint with the Canadian government against the key suspect of a recent attack on a worship place of the Ahmadi community in Chakwal.

During a meeting chaired by Senator Naseem Jafri, the committee was briefed about the attack on the Ahmadi community in the Dabial village on Rastul Aweel 12 falling on Dec 12.

The committee was informed by Chairman National Commission on Human Rights (NCHR) retired Justice Ali Nawaz Chohan that the key culprit behind the incident was Abdul Rashid, a Canadian national of Pakistani origin.

He said the NCHR had already written a letter to the Canadian High Commission in Islamabad about the involvement of the

Canadian national in the incident.

The attack occurred when the 12th Bahadur Aweel procession changed its route and moved towards the Ahmadi institution, ensuing firefight, deaths on both sides and eventually, the ransacking of the place of worship.

"We have gathered information and also sent a team to check the facts," the chairman NCHR said. "It was clear and known to all that this person, Abdul Rashid, is a local of Islamabad region and had recently shifted to Chakwal."

Justice Chohan said the accused had a history of propagating extremism and creating troubles in the name of religion.

"He has been doing this in Toronto too. He organised the mob out of the procession and attacked the worship place."

The chairman NCHR said Rashid had absconded from the scene and was still at large. "The commission has forwarded these details to all concerned, including the interior ministry and the Canadian High Commission, with the hope that action will be taken against such troublemakers," he added.

"We blame the police and the administration for failing to stop the act of violence," Justice Chohan said and told the committee that others accused who organised the gang of attackers, including Usman Azam, Syed Taseer and Tasvir Shah, were still evading the police.

While the senators blamed the police and the administration for the failure to prevent the act of arson, District Police Officer (DPO), Chakwal, Munir Masood informed the meeting that the three culprits identified by Justice Chohan had been arrested. "There has never been any history or violence or clash among communities in that area. So it was unexpected for us too," the DPO said.

However, Senator Nisar Khan said there had been reports on social media that the police did not act to prevent the violence which continued for around five hours.

However, the DPO said additional police personnel, including elite and reserves, were deployed during the procession.

"There were around 300 houses of the Ahmadi community in the village and the police force was sent to protect them as the attack occurred," he added.

He said the police were currently engaged in reconciliation between the two communities and assured the committee that the resettlement of those who left their homes would start soon. He said the majority community should pay compensation to the victims.

The committee decided to write to the Foreign Office to forward the matter to the Canadian government.

It also decided to write to the Punjab government to pay compensation to the victims.



## ✓ Violations of child, transgender rights at all time high

ISLAMABAD: Violations of the rights of labour, children and the transgender community are at an all time high in the country, the National Commission on Human Rights (NCHR) chairman said on Sunday.

"It is against the law to discriminate against the transgender community during employment, training, education, the sale of goods and the supply of services, public functions and housing," said NCHR Chairman retired Justice Ali Nawaz Chohan.

Violations of various human rights were discussed in a meeting held at the NCHR office, including the death of workers in Gadani, violations of children's rights and increasing incidents of violence against transgender persons.

Members of the commission particularly stressed on the plight of the transgender community and said that their rights were protected by the Constitution.

It was decided that the commission will draft a detailed and comprehensive on the abuse and rights of the transgender community and will also make recommendations for the legislation and policies needed for safeguarding their rights.

During the meeting, it was observed that cases of child labour and child sexual abuse were emerging at an alarmingly high rate and that the conditions of children's health and education were worsening with time.

"The federal and provincial governments are required to submit a report on the implementation of the recommendations made by the NCHR regarding the Kasur incident, which is still pending," Mr Chohan said.

He said the prime minister had already issued directions to the federal and provincial governments to implement the commission's recommendations.

Talking about the Gadani incident, Mr Chohan pointed out that international and national labour protection acts were not implemented in the country due to which such incidents occur.

The commission stressed on the implementation of these acts across the country in order to ensure workers' rights are protected and decided to prepare a detailed report over the Gadani incident which will be submitted to the government and parliament.

The fire which had broken out at the Gadani ship breaking yard is said to be the third largest in the world and killed several workers in November. — Jamal Shahid

## ✓ NCHR takes action against supply of substandard wheat to flourmills

Summons Punjab chief secretary, secretary health to clarify situation and submit report on Dec 16

**Khalid Iqbal**  
Islamabad

National Commission for Human Rights (NCHR) Chairman Justice Ali Nawaz Chohan Tuesday summoned Punjab chief secretary and secretary health over media reports regarding supply of expired wheat to flourmills by the District Food Department.

Taking action on a news item appeared in 'The News' on December 6, 2016 titled 'District Food Department allegedly supplying expired wheat to flourmills' the NCHR has summoned the officials to clarify the situation. The NCHR chairman has taken suo moto action under Section 9 of the NCHR Act 2012.

According to notice F.No.2 (367) 16-Complain (NCHR) issued by chairman to chief secretary and secretary

Health government of Punjab that "a propose to the above noted subject, I am directed to forward you self-explanatory press news published in 'The News' dated 06-12-2016 contents of the press clipping reveal that 'District Food Department allegedly supplying expired wheat to flourmills' but public authorities concerned are not taking this issue seriously. Despite several complaints lodged by consumers, the higher authorities have failed to stop sale of sub-standard 'atta'. You are requested to look into the matter as per law and furnish a comprehensive report to this office on or before 16th December, 2016 to be placed before the commission for information/necessary action please.

Nation 'ommission for Human Rig. (NCHR) Cocodi-

nater Information to Chairman Syed Ahsan Karim told 'The News' that the chairman has taken suo moto action on the news item. We will not spare anybody they are playing with public lives, he warned.

Unfortunately, District Food Department is continuously supplying outdated expired wheat to flourmills playing with the lives of public openly, but higher authorities have not taken any action against responsible officials.

The consumers have demanded of Punjab Chief Minister Shahbaz Sharif to take immediate action against the concerned officials for playing with the health and lives of public.

All Pakistan Flourmill Association (APFA) Senior Vice Chairman Muhammad Belal in his statement to 'The News' claimed that flourmills are

being supplied four-year old wheat for grinding. He also admitted that wheat sacks remained in open space after enduring monsoon rains of four years. It is impossible to produce quality flour with expired wheat, he said. 'We wanted to provide quality 'atta' to public but we need cooperation of District Food Department,' he said. He said that government authorities should take action against rule violators.

It is worth mentioning here that majority of flourmills with full backing of District Food Department are openly using 27 per cent water in wheat grinding, which not only makes 'atta' substandard but also over weight. This unsafe 'atta' is also being sold at the rate of Rs780 to Rs800 per 20-kilogram bag while several shopkeepers are selling it for [ ]

## Residents approach human rights body against garbage dumping

By Ikrant Junaedi

ISLAMABAD: Dumping of garbage was once considered to be a common issue only in urban areas. But now people living in the rural areas are also complaining about it.

A delegation of residents from Fatchjang in Thursday approached the National Commission for Human Rights (NCHR), saying the environment in their area was being polluted by the dumping of garbage.

NCHR Chairman retired Justice Ali Nawaz Chohan told *Dawn* that a clean environment was one of the major human rights and the matter would be taken up with the authorities concerned.

Mohammad Munir Butt, the chairman of the Citizens Forum Fatchjang, told *Dawn* that he and other residents held a meeting with senior NCHR consultant Mirza Idris Baig and informed him about the dumping of garbage by the Tahsil Municipal Administration (TMA).

"The TMA has started dumping garbage in the open, creating a foul smell in the area," he said.

"Moreover, we use underground water through wells which are located on the path of

the rainwater. Now the rainwater would pass from the garbage before reaching the wells. Within a few years, the underground water will become polluted," he said.

Another resident, Malik Amir Ahsan, said last month the NCHR took notice of the matter after which the TMA stopped throwing the garbage in the open. However, on Wednesday they again started dumping the garbage in the same site.

"We visited the office of the NCHR where the senior consultant advised us to write a complaint and he would contact the TMA representatives and the residents to take a decision on the matter," he said.

When contacted, Tahsil Municipal Officer Fatchjang Khan Badshah said the TMA had stopped dumping garbage on the directions of the NCHR.

"We are trying to find a new site but residents of not a single village are ready to allow us to dump the garbage of the city near their area. Currently, we don't have any dumping place and are looking for a site away from villages," he said.

Dumping of garbage has become a big issue across the country. In Karachi, even collection of garbage has become a problem.

In Islamabad, garbage was dumped in Sector

11 for long but the high court took notice and stopped the practice a few years ago.

Later, when the garbage was being dumped in the National Park area, the Supreme Court took suo motu notice and stopped it too. A project to establish a landfill site at Kuri could not be implemented due to the concerns among environmentalists that the underground water would be polluted.

Senate Functional Committee on Government Assurances is also hearing a same issue on the calling attention notice of Senator Chaudhry Tanveer Khan of the PML-N. The senator claimed that the garbage of Islamabad and Rawalpindi was dumped in the Nallah Latah.

Justice Chohan added that dumping of garbage was not a solution to the issue as the country cannot find so many landfill sites.

Developed countries such as France, Germany and even Turkey have stopped dumping and are recycling the garbage and making energy and fertilizer from it, he said.

"Pakistan is a signatory to the Paris Agreement within the United Nations Framework Convention on Climate Change. So we need to make a national policy to address the issue," he said.

## NCHR takes notice of Taxila school plight

TAXILA: The National Commission on Human Rights (NCHR) on Tuesday took notice of the plight of a century old school and seeks a report from the deputy commissioner, Rawalpindi and other relevant authorities.

Ahsan Kazmi, the information coordinator, NCHR, while talking to *Dawn* on Tuesday said the NCHR chairman retired Justice Ali Nawaz Chohan had taken notice under section 9 of NCHR.

According to a news report, students at the government high school in the Thatta Khalil union council attend classes in a graveyard, which also serves as a play ground for them in recess time.

The NCHR chairman has directed the relevant authorities of Rawalpindi administration to look into the matter and submit a report to him. — Correspondent

# HR activists urge govt to formulate NCHR Fund

**Myra Iman  
Islamabad**

Human rights activists and political leaders demanded of the government to create National Commission on Human Rights (NCHHR) Fund as stipulated in the NCHHR Act of 2012 to ensure the Commission functions as an independent body to credibly protect and promote human rights across the country.

The demand came forward at an event titled "Seminar and Consultative Round Table to

Commemorate the Universal Human Rights Day and launch of Strategic Plan of the Commission" organised by NCHHR on Tuesday.

The Strategic Plan of the Commission has five priority areas that are Human Rights Education, complaint handling and investigation, compliance on international obligations, review of the national legal framework and addressing marginalisation and vulnerability.

Speaking on this occasion, Chairman NCHHR Justice (P) Ali

Nawaz Chowhan declared that rule of law was contingent upon the role that only the Supreme Court can play in Pakistan. "The apex court must sit as a full court to clarify legal questions for benches lead to divergence in legal opinion and its interpretation", he said.

He said that the Senate Functional Committee on Human Rights was playing an important institutional role to promote and protect the fundamental rights of the people.

Senator Farhatullah Babar

appreciated the central role accorded to the NCHHR in the national institutional setup as the only federal agency that can go into the provinces as federal ministries are bound to operate within the geographical limits of Islamabad, the national capital. He highlighted the issue of forced disappearance and rampant death penalty awards as issues that the country needs to find a solution for.

Senator Babar urged the NCHHR to take cognisance of

forced disappearances to check forces that are behind systemic abuse of human rights in the country.

Emami journalist and human rights activist I.A. Rabbani welcomed the launch of the NCHHR strategic plan and urged the chairman to fight for the independence and autonomy of the commission.

He said the Constitution of Pakistan will be 60 years old in 2023 and the next seven years should be spent to make sure that it accords all fundamental and basic rights in all the cit-

izens of the country. "The NCHHR is an autonomous body," he said urging NCHHR chairman to stay steadfast and act as a friend of the people.

Ambassador of Germany Ina Lerpel also addressed the seminar appreciating the role of NCHHR and assuring all support to the Commission by her country and its institutions.

Balochistan Member of the NCHHR Paria Aham highlighted the activities of NCHHR during his commitment to work for promotion and protection of human rights.

Ambassador of Netherlands, Diplomats of EU, Spain and representatives of UN, Country Director The Asia Foundation and Democracy Reporting International attended the event in addition to NCHHR Members, civil society organizations, Human Rights Defenders, government departments, academia and minority representations. The Chairman NCHHR presented accounts to all dignitaries and reiterated his commitment to work for promotion and protection of human rights.



## HEC, NCHR sign MoU for protection of human rights

Myna Ishaq  
Islamabad

National Commission for Human Rights (NCHR) and Higher Education Commission (HEC) on Thursday signed a Memorandum of Understanding (MoU) to work together at institutions of higher education for the promotion of human rights as enshrined in the Constitution and stipulated in the international human rights conventions to which Pakistan is a party.

NCHR Chairman Justice (r) Ali Nawaz Chaudhry and Higher Education Commission (HEC) Chairman Prof. Dr. Nishat Ahmad signed the MoU in a ceremony held at the HEC. The ceremony was attended by HEC Executive Director Asif Ali and HEC Director General Academics Dr. Raza Chohan along with other senior members of staff. The NCHR delegation included Member Balochistan Paula Aliani and Secretary Mansoor Agha Ansari and other concerned staff.

HEC chairman welcomed the NCHR effort asserting that human rights education was es-

sential to create a just society. He said the fundamental doctrine, concepts and principles of human rights were universal in value and HEC fully agree to spread awareness for the promotion and protection of human rights at institutions of Higher Education across the country.

Addressing the ceremony, NCHR Chairman Justice Ali Nawaz Chaudhry maintained that human rights were held sacred in our religion and are in line with our own traditions. He quoted the Quran and references from Islamic history to illustrate that the noble values must permeate down to everyone in our society. He said Human Rights Education was his personal priority besides being a key component in the freshly launched strategic plan of the NCHR. He shared there was clash in our jurisprudence as many points were contentious in our case law and the Supreme Court of Pakistan must sit in as a full court to resolve this confusion and conflict.

This MoU creates a framework of cooperation between the NCHR and the HEC to cre-

ate awareness, promote research and studies in the field of human rights at higher education institutions (HEIs). Both institutions shall work together to equip academics, researchers, professionals and students with knowledge and understanding of the fundamental doctrine, principles and compliance of international human rights law and to impart trainings to develop the intellectual, practical and transferable skills necessary for that purpose.

The MoU aims to spread human rights literacy and to promote awareness of the safeguards available for the protection of these rights through publications, print and electronic media, seminars and other available means in all major languages of the country.

The two parties will also make efforts to introduce, strengthen or expand courses and programmes of studies in human rights at HEIs particularly on rights of marginalised groups including women, children and minorities. Both institutions also agreed to undertake and promote research in the field of human rights to develop the human rights culture and to work for the establishment of human rights study centres at HEIs to undertake research and study studies, other international instruments on human rights that Pakistan has signed and ratified and to make recommendations for their effective implementation.

## NCHR wants fact-finding commission report on Gadani tragedy made public

The commission seeks immediate release of compensation for the victims

By Sahar Baloch

KARACHI: The National Commission for Human Rights (NCHR) has demanded that the fact-finding commission's report on the Gadani ship-breaking yard tragedy be made public.

At a meeting held on Thursday, the NCHR also sought immediate release of compensation for the families of those who lost their lives in the incident and suffered injuries.

The meeting was presided over by NCHR member from Sindh Asim Haroon and attended by members of the fact-finding commission.

Mr Haroon said that working conditions at the ship-breaking yard needed an overhaul, adding that restoration of the labour inspection system in all the four provinces under competent labour inspectors should be considered on a priority basis.

She said that Gadani, being the second largest ship-breaking yard after Taiwan, was a victim of "negligence of relevant agencies and core labour conventions".

She said that "contract system in all industrial establishments should be abolished" according to a recent decision taken by the Supreme Court. A separate law to facilitate union formation should be

devised in line with the Trade Unions Act, 1926. "Ship-breaking needs to be recognised as an industry so that labour rights can be upheld," she added.

Meanwhile, the burns centre of the Civil Hospital discharged the last two injured of the Gadani incident that took place on Nov 1.

According to the centre's in-charge, Dr Ehsan Al Ishaq, they had received 27 injured on the day of the incident and 10 of them were admitted.

"Among them, seven died within the next three days due to 90 to 100 per cent burn. One was discharged and the remaining two left for their villages against medical advice," Dr Ehsan added.

One of the doctors at the centre said that many of the injured were referred to Patel Hospital in Gulshan-e-Iqbal which had facilities for treating burn patients.

"In this case, majority of the injured received burn injuries between 80pc and 100pc. Those with minor injuries were shifted to either Patel Hospital or eventually went back to their hometowns," the doctor added.

At the same time, the death toll remains 28 with about 60 injured and 10 missing. The number of missing labourers is based on the number of families who approached the National Trade Union Federation (NTUF), according to its deputy general secretary, Nasir Mansoor.

Both the trade unions and members of the NCHR maintain that the number of dead may vary and "need to be confirmed by relevant authorities and contractors who kept records of workers".

Investigation

# Kahuta child abuse case hobbled by 'negligence'

NCHR deplors disappointing role of prosecutors, medical officers

A QASIR BUTT  
ISLAMABAD

While investigating a case of child sexual abuse and pornography at Kahuta, the National Commission for Human Rights (NCHR) has observed that the role of police prosecutors and medical officers has been disappointing in most such cases.

"The accused involved in most of such cases could not be sentenced by the courts due to criminal negligence on the part of police prosecutors and medical officers," the NCHR Chairman Justice (ret'd) Ali Nawaz Chohan observed on Tuesday, during a public hearing of Kahuta case.

He said prosecutors failed to pursue the cases in the courts for years – a situation that encouraged the offenders to commit such offences again.

"In many similar cases the medico-legal reports were manipulated in favour of the accused. Corrupt

"The accused involved in most of such cases could not be sentenced by the courts due to criminal negligence on the part of police prosecutors and medical officers

NCHR Chairman Justice (ret'd) Ali Nawaz Chohan

practices by the medical officers have also encouraged the criminals, who can influence the medical officer with money or other means," he said.

Referring to his past experience as a high court judge in Punjab, Chohan said people pay heavy amount of money to be posted as a medical officer. "Had five or six accused involved in child sexual abuse and pornography cases been convicted by the courts, the recurrence of such crime would have been minimised up to a large extent," he said.

He urged the parents of victim children and civil society to check such



corrupt practices by adopting a procedure of follow up that is guaranteed under the relevant laws.

The commission would continue its investigations into Kahuta child sexual abuse and pornography case before preparing a comprehensive report, he added. The case surfaced on August 12 after Kahuta police arrested three persons on the complaint of a young student, Hassan Ali, who had accused them of sexual abuse.

During probe, the police found that the three accused – Adnan Satti alias Bangsh, Haseeb Arshad and Elitesham – were members of an organised gang of crimi-

nals involved in child sexual abuse and pornography.

The NCHR had to intervene in the case on an application by a rights activist, Khawar Riaz Qadri who had alleged that the police role in the probe was not up to the legal requirements. The activist had presented evidence of the existence of the gang in parts of Kahuta for five years.

Before presenting the case challan in the court, police arrested another accused Wagar Satti, who is also a brother of the principal accused Adnan Satti. However, Wagar managed to get bail from a court with the argument that he was not nominated in the FIR. Originally the police had booked the accused only under section 377 PPC (applicable against the unnatural offence) but it had to add other sections of the laws relevant to the offence of pornography on the instruction of the NCHR.

On the insistence of Qadri, the police also added in the FIR some unknown persons, who were also involved in the crime. The commission has so far recorded statements of the DSP and the SHO who could not satisfy it on many issues.

## NCHR summons govt officials over sale of substandard items at USC

Khadija Iqbal  
Islamabad

National Commission for Human Rights (NCHR) chairman has summoned Secretary Ministry of Industries and Production and Managing Director (MD) Utility Stores Corporation (USC) on November 15 over media reports regarding sale of substandard items at the utility stores present before commission to present a comprehensive reply over the matter.

Taking action on a news item appeared in The News on October 20, 2016 titled 'Sale of substandard items goes unchecked', the NCHR has

summoned the officials from Ministry of Industries and Production and USC to clarify the situation.

According to notice # No.2 (119) 16-Complaint (NCHR) issued by Chairman to Secretary Ministry of Industries & Production and Managing Director (USC) that "a propose to the above noted subject, I am directed to forward you self-explanatory press news published in 'The News' dated 20-10-2016 contents of the press clipping reveal that utility stores are selling sub-standard food items but public authorities concerned are not taking this issue seriously. De-

spite several complaints lodged by consumers, the higher authorities have failed to stop sale of sub-standard food items. You are requested to look into the matter as per law and furnish a comprehensive report to this office on or before 15th November, 2016 to be placed before the Commission for information/necessary action please.

National Commission for Human Rights (NCHR) Coordinator Information to Chairman Syed Ahsan Kazmi told 'The News' that the chairman has taken suo moto on the news item and summoned concerned bosses to appear

before commission till November 15 to clear their position. "We are trying to take serious action on such kind of humanly stories because public directly affecting," he said.

It merits mentioning here that the state-run utility stores of twin cities of Rawalpindi and Islamabad are allegedly on top of the list in selling sub-standard food items to public but authorities concerned are not taking this issue seriously. Despite several complaints lodged by consumers, the higher authorities have failed to stop sale of substandard food items.



## NCHR sees agencies' failure behind Quetta carnage

By Our Staff Correspondent

QUETTA: The National Commission on Human Rights (NCHR) has said that the Aug 8 suicide bombing at the Civil Hospital Quetta has exposed the failure of intelligence agencies, security forces, government departments and doctors and urged the government to conduct a 'merciless inquiry' into the incident to fix responsibility.

"Those responsible for the failure must be exposed," NCHR Chairman retired Justice Ali Nawaz Chohan said while talking to journalists at the Quetta Press Club here on Tuesday. He had come there to offer his condolences on the death of two journalists in the attack.

Retired Justice Chohan said that the commission could conduct an inquiry into the incident if it was assigned the job by the government.

He emphasised the need for ascertaining why the agencies concerned could not prevent the attack. He called for capacity-building and improving performance of intelligence agencies, security forces and law enforcement agencies to prevent

such an incident in future.

He said that it had been noticed that the agencies responsible for providing security to people had failed to study patterns of terrorism often repeated by terrorists.

He urged intelligence agencies and security forces to study the pattern of suicide attacks and acts of terror to prevent such incidents. "The same pattern has been witnessed in the Civil Hospital blast which was earlier seen in large-scale killing of people of the Shia Hazara community in the city in the past," he said.

The NCHR chairman deplored that 475 doctors working at the hospital could not provide emergency medical aid to the victims of the blast.

"It has been observed that doctors working at government hospitals in Quetta lack professional skills and training to deal with an emergency situation," he said and asked health department to ensure the doctors' capacity building in this regard.

He recommended that the Balochistan government take stern departmental action against doctors and paramedics who were not performing their duties at government hospitals.

"The government should suspend or transfer those doctors who are not willing to work in the cities/towns other than Quetta despite being posted there."

Retired Justice Chohan said that he was extremely grieved over the huge loss of life in the attack. "It is a national loss as the cream of senior lawyers have been killed in the blast."

He recommended that the government send junior lawyers of Quetta to foreign countries to seek master's level education in law so that the vacuum created by the death of a large number of senior lawyers in the attack might be filled.

He urged the government to provide same amount of compensation and similar facilities to the families of the two slain journalists which were being given to the families of slain lawyers.

NCHR member from Balochistan Farha Agha and its provincial coordinator Amner Jan Jamaldini accompanied retired Justice Chohan. President of the Quetta Press Club Shehzada Zulfiqar and senior journalists of the city were present on the occasion.

### NCHR chalks out strategic plan

Our correspondent

ISLAMABAD: National Commission on Human Rights (NCHR) has developed its strategic plan which will soon be implemented across the country.

The information was shared by Chairperson NCHR Ali Nawaz Chohan in a meeting with the State Secretary for Foreign Office Germany Stephan Steinhilber who visited NCHR office along with a delegation of German diplomats in Thursday.

Speaking on the occasion, Chairman NCHR expressed his views on long-term relationship between.

Pakistan and Germany since 1958. He said that creation of NCHR is no less than a miracle.

Arfa Hanjra, Member Singh NCHR presented the overall picture of NCHR and briefly described the mandate, functions and progress report of the commission. She also discussed the challenges faced by the commission which are financial constraints and low aptitude of departments regarding the anonymity of the commission.

She said that the commission has dealt with total 265 cases of human rights violations since May 2015. "Among the total number, 225 cases are in initial stages, 15 are in hearing, and decision has been taken in 18 cases," she said. She said that Commission's representatives have participated in 66 national and international conferences and seminars to raise awareness on human rights issues in Pakistan.

In this and the German State Secretary of the Foreign Office Stephan Steinhilber observed the creation of commission, and assured his intentions to support the Commission. He also praised the vital civil society of Pakistan.



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Khalid Iqbal  
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In news mentioning here that the state-run utility stores of twin cities of Rawalpindi and Islamabad are allegedly in top of the list in selling sub-standard food items to public but authorities concerned are not taking this issue seriously. Despite several complaints lodged by consumers, the higher authorities have failed to stop sale of substandard food items.

## Govt urged to send Quetta lawyers abroad for higher studies

By Our Staff  
Correspondent

QUETTA: The Chairman of the National Commission on Human Rights, retired Justice Ali Nawaz Chohan, has advised the Balochistan government to send junior lawyers to foreign educational institutions for higher education, including LL.M., in order to fill the vacuum that emerged after the Aug 8 Quetta carnage.

In a meeting with Balochistan Chief Secretary Saifullah Charrak on Wednesday, he offered his condolences over the death of lawyers and journalists in the suicide bombing at the Civil Hospital, Quetta.

Scores of senior and junior lawyers, including office-bearers of the Balochistan Bar Association and Bar Council, lost their lives in the tragic incident.

Justice Chohan said that Balochistan had suffered a big loss that created a big vacuum in the lawyer community, adding that the government should take steps to fill this vacuum.

‘The provincial government has established an endowment fund for the victims of Aug 8 incident,’ the chief secretary said, affirming that junior lawyers would be sent abroad for higher education.

## Quetta hospital bombing Rights panel urges 'merciless inquiry'

6 MOHAMMAD RAFAT  
QUETTA

A national human rights panel has called for a 'merciless inquiry' into last month's deadly bombing at a state-run hospital in Quetta, calling it a reflective failure of intelligence, security and law enforcement agencies, and other government departments.

"Our departments responsible for the security to the life and property of public are not showing seriousness in studying patients repeatedly used by terrorists. Those responsible for failure in the Quetta attack shall be exposed," the National Commission on Human Rights (NCHR) said on Tuesday as it offered to conduct an inquiry into the incident.

Over 70 people - mostly lawyers and including two media persons - were killed when a suicide bomber struck inside the emergency of Quetta's Sandeman Provincial Hospital where a fatally wounded senior lawyer was brought on August 8. The bombing and shooting were coordinated as terrorists had

### 'Merciless inquiry'

QUETTA BOMBING: PAKISTANI mounted similar attacks in the past.

"There should be an immediate and thorough inquiry into the Quetta bombing to unearth the fact behind the failure of the intelligence and security agencies and of the healthcare system as a whole and paramedics at the Sandeman Hospital could not provide emergency medical aid to the victims," NCHR Chairman, Justice (Retd) Ali Nawaz Chohan told journalists at Quetta Press Club where he was flanked by NCHR Member for Balochistan Faris Ahsani and NCHR Balochistan Coordinator Ameer Jan Jamali.

The NCHR was established in May 2015 through an act of parliament. The commission's powers include investigating human rights violations, taking suo moto as petitioners, visiting detention centres to ascertain the legality of the detention of detainees and suggesting amendments to the country's constitutional and legal framework on human rights.

Chohan called for stern departmental action against doctors and paramedics who were reluctant to report to duty in the state-run hospitals of the province. "As the chairman of NCHR, I recommend that the Balochistan government suspend or transfer the doctors who refuse to leave

Quetta and report to duty elsewhere in the province," he said.

He stressed the need to ascertain why the intelligence and security agencies could not prevent the Quetta suicide bombing. "It is need of the hour to ensure capacity building and improve performance of the intelligence agencies, security forces and law enforcement agencies to avert any such incident in future," he said.

Chohan urged the intelligence and security agencies to study the pattern of suicide and terrorist attacks to halt such incidents in future. "The Sandeman Hospital bombing was identical to a deadly attack on the Shia Hazara community," he added.

On April 16, 2010 gunmen shot dead a bank manager belonging to the Hazara community, and when his body was taken to the Emergency Department of the Sandeman Hospital, a suicide bomber managed to get in and detonate the charge, killing nearly a dozen people.

Chohan recommended that the government send junior lawyers of Quetta to foreign countries for 12M degrees in order to fill the gap caused by the death of 60 lawyers in the August 8 bombing. He said the government should also give the same compensation and facilities to the heirs of the two media persons killed in the attack.

## **NCHR Chairman meets CS Balochistan**

QUETTA: Chairman, National Commission on Human Rights (NCHR), Justice (retd) Ali Nawaz Chohan recommended to Chief Secretary Balochistan, Saifullah Chattha that the provincial government send junior lawyers abroad to get higher education to fill the vacuum emerged after killing of senior lawyers in civil hospital suicide bombing. He came at Chief Secretary Office at Civil Secretariat Quetta to offer his con-

dolence over the death of lawyers and journalists killed in civil hospital suicide attack on August 08. The Chief Secretary told him that Quetta carnage made the entire nation grieved and sad. "The provincial government has established an endowment fund for the victims of August 8 incident," he said. He agreed to Justice (retd) Chohan that junior lawyers would be sent abroad for higher education. APP



QUETTA: Chairman of National Commission Human Rights Justice (R) Ali Nawaz Chohan meets with Chief Secretary Balochistan Saifu Ullah Chattha.



# EU asked to continue Pakistan's GSP+ status

By Kalbe Ali

ISLAMABAD: The National Commission for Human Rights (NCHR) has asked the European Union (EU) to continue the GSP+ status for Pakistan after first review in January next year as the scheme has been significantly contributing to the revival of country's economy as well as serving as an international instrument for improvement in human rights situation in the country.

In a statement released here on Tuesday, NCHR Chairman retired Justice Ali Nawaz Chowhan made the request to the EU during his recent weeklong visit to Germany.

NCHR has been established around six months back with the aim to assisting the government in fulfilling its international obligations, particularly in reporting to treaty bodies, more accurately and regularly.

"We are a new body and with very limited resources but we have made significant progress and are constantly monitoring human rights situation in the country," Justice Chowhan told German officials.

During his official visit to Germany Mr Chowhan was accompanied by Zulfiqar Shah, Team Leader of Democracy Reporting International.

Compliance to 27 UN conventions are attached to GSP+ conditionality and Pakistan has already started putting in place institutional mechanisms. But, the government maintains that more time is needed for change.

The EU granted GSP plus status to Pakistan in January last year, allowing duty-free access to Pakistani products in European markets.

GSP + scheme, currently granted to 13 developing countries, is a trade preference scheme described as 'Special Incentive

Arrangement for Sustainable Development and Good Governance'.

As a result of economic benefits of GSP +, Pakistan's exports to EU rose by 21 per cent in the first year of the scheme, but the GSP Plus mechanism also bounds Pakistan to introduce more democratic and human rights reforms.

The preferential access to EU market is, hence, conditional to Pakistan maintaining ratification and effective implementation of the key international conventions concerning human rights, including civil and political rights, labour rights or environmental protection.

Justice Chowhan said: "The role of newly established NCHR was highlighted in Germany and there was learning from German experience of achieving high degree of human rights."

"The German government is very sympathetic towards Pakistan and wants to see Pakistan build strong human rights protection mechanism," he added.

He said German officials and parliamentarians were concerned over executions after lifting of moratorium on death sentences and establishment of military courts in Pakistan.

"We had to explain that these are temporary measures to deal with extra ordinary terrorism threats that Pakistan has been facing over the past few years," the NCHR chairman said, adding that "as soon as situation become normal we will revert to normal procedures".

Pakistan's first GSP+ review report is ready and will be tabled in the European Parliament early next month.

Establishment of NCHR has already been acknowledged as an encouraging development. However, there are certain areas where the country needs to make significant improvements.

## Pakistan needs public policy and legislation against dowry-related abuses

Islamabad

Gender experts, human rights activists and youth leaders demanded the government to formulate public policy and legislation against dowry related abuses to contribute effectively towards eliminating violence against women and girls in the country.

The demand was voiced at a public policy dialogue entitled "What Pakistan Needs to do to Address Dowry - Related Violence?" organised by a voluntary network Fight Against Dowry Advocacy Network (FADAN) in collaboration with Agehi Resource Center and National Human Rights Commission (NHRC), Pakistan on Tuesday.

The participants suggested the government to announce National Day against Dowry besides adding information related to this evil in the syllabus to create awareness among general public. They agreed that due attention has not been paid so far to this very grave and striking human rights and women rights issue at the policy level and shared social and political determinants of the issues of dowry and related abuses. Some women participants shared the bitter experience of dowry violence in their families.

In her briefing on this issue, founding Chair FADAN and eminent campaigner on dowry related violence Dr Rakshanda Farveen said that while dowry is practiced in the world, dowry-related violence is most prevalent in South Asia, in the nations of India, Pakistan, Sri Lanka and Bangladesh. The most common forms of dowry-related violence are battering, marital rape, acid throwing, wife burning, and other forms of violence. Perpetrators may also use methods of starvation, deprivation of clothing, evictions, and false imprisonment as a method of extortion. They often use violence disguised as suicides or accidents, such as stove or kerosene disasters, to burn or kill women for failing to meet dowry demands.

The main objective of the dialogue was to build consensus on the need of public policy on dowry that could lead to a socially responsible mass media communication and endorsed the need of a strong anti-dowry legislation that should provide a definition for dowry-related violence while clearly separating Bridal gifts and necessary personal items from conventional dowry.

It was suggested that the thrust should be on creating positive supportive structures that will gear the value preference of society towards dowryless marriages. Drafters should define the scope of prohibited acts within a domestic

violence framework, taking into account the dynamics of dowry-related violence. The human rights activist called upon lawmakers to clearly include violence and harassment related to dowry demands in a definition of domestic violence.

Chairman of NHRC Justice (r) Ali Nawaz Chohan, delivered the speech as chief guest while member NHRC Balochistan Fazeela Alyani shared the opening remarks and member NHRC Shafique Chaudhry concluded the session ensuring complete support of the Commission.

Dr. Rakshanda Farveen gave a detailed presentation on dowry related violence. She appreciated the governance action of the Punjab chief minister on enforcing the law against lavish weddings in Punjab, and his strict orders that marriage halls are to be closed by the decreed time while underscoring the marginalisation of dowry related violence in mainstream activism and advocacy and apathy of mainstream media towards the issue of dowry violence.

According to her research and global understanding, dowry is a multi-faceted deep-rooted gender issue with social, economic and health consequences. She pointed out that in Pakistan, in spite of a consensus on disliking the practice, only a few have the courage to disown it.

President Rawalpindi Bar Association Saleman Shiekh said that the legislation such as "Bridal Dowry Act 1965" provides protection against this evil but the issue is that of its implementation.

Member Islamabad Bar Association Shoaib Shabeen said that media can play an important role in spreading awareness on this issue. He said that all expenses related to marriages are correlated with dowry. He said that dowry is basically an issue of middle class.

Manazza Yaqub from International Islamic University stressed to educate and aware girls as most of the time, they also pressurize their parents for expensive dowry items. Dr Riffat Haq from Allama Iqbal Open University urged for comprehensive research on this issue at all levels.

The participants criticized media for spreading the culture of expensive marriages through morning shows. Rabeeza Hadi from Aurat Foundation urged PEMRA to take action against all such programs.

## Senate body for mechanism to stop misuse of blasphemy laws

Our correspondent

ISLAMABAD: The Senate Functional Committee on Human Rights Tuesday shared consensus on evolving mechanism to stop misuse of the blasphemy laws.

The panel decided to hold a series of meetings and invite representatives from the civil society and other segments, including religious scholars, legal experts and the Council of Islamic Ideology to firm up recommendations on the matter.

The committee met here at the Parliament House under its Chairperson Senator Nusrat Jaleel of MQM, who said what the panel wanted was to look for ways and means to stop misuse of the law, without having touched it what to talk of bringing any amendment to it.

She noted that the commit-

tee was of the view that no innocent person should be punished under this law and added as compared to the non-Muslims, the Muslims had been victims of the trend.

PPP's Farhatullah Babar also underlined the need for halting misuse of the law. He said positive and comprehensive proposals could be floated in this connection.

The ruling PML-N's Senator Nisar Muhammad cautioned that blasphemy law was not an ordinary legislation and there was a need to deal with the matter with utmost care and proposed having consultations with religious scholars as well as looking into such laws in other Islamic countries.

Mir Kabir of the National Party said he had reservations over the misuse of the law but said some could even think of amending it.

Senator Jamina Akid of PTI claimed that some 80 per cent innocent were punished under the law, because of its misuse.

The National Commission on Human Rights Chairman, Justice (R) Ali Nawaz Chohan, informed the committee that they had furnished recommendations on the subject under which any case under this law must not be pushed by a police officer less than the rank of SSP and district and sessions judge should hear the case.

He explained the recommendations also included that on filing a false case, a criminal case should be filed against that person and until and unless the offence was under this law was not proved, the case should be declared null and void. Moreover, he said for such cases, training of police officers and judges should be made mandatory. The Holy Prophet,

he pointed out, had pardoned many, therefore, the aspect of repentance should be kept in view and if someone denied having committed blasphemy, the element of apprehension should also be kept in mind.

On this, the Secretary of the Ministry of Human Rights, Nadeem Ashraf, noted that there was an air of fear and no lawyer was ready to defend an accused under the law and even judges feared on taking up such cases. Farhatullah Babar said he had reservations over the Council of Islamic Ideology and hence did not wish having guidelines from this platform on the subject, which always added to temperature instead of showing a ray of light.

Senator Sitara Aftab of ANP and PPP's Sehail Kamran called for taking decisions only after having done consultations with all the stakeholders.



■ NCHR chief Justice (r) Ali Nawaz Chohan submits report on proposed amendments; most senators favour procedural changes

During the meeting, National Commission for Human Rights (NCHR) Chairman Justice (r) A.K. Noor-ul-Haqq submitted a report of the commission on

Most of the senators, including Farhatullah Bahar, Kabir Ahmed, Nisar Muhammad, Samina Ahsid, Barrister Saif, Sehail Kamran and Sitara Ayaz, favoured

Meanwhile, the panel expressed its concern over the absence of Balochistan Police Inspector general and provincial interior secretary in the meeting and

On this, the commission directed the Ministry of Human Rights to immediately release funds to the NCHR for the payments of salaries to its employees.

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The committee will hear suggestions from its members on how best to

**Background:**

He said such false claims undermined the credibility of both the army and the farmers.



## Experts call for functional human rights commission

By A Reporter

ISLAMABAD: Speakers at a dialogue highlighted multiple challenges to human rights due to counterterrorism, and demanded an independent and resourceful human rights commission.

The experts were speaking at a dialogue on the role of national human rights institutions, organised by the National

Commission for Human Rights (NCHR), Asia Pacific Forum (APF) and Democracy Reporting International (DRI).

They noted that several human rights violations have largely been accepted by society as countermeasures to terrorism.

Some of these violations, they agreed, have been welcomed by many segments of society, such as the establishment of military courts, the resumption of the death penalty and the imposition of other stringent measures.

At the same time, some speakers said that the movements of ordinary citizens have been curtailed due to the fear of terror attacks. Women's rights have suffered and the nation has faced the violation of its economic rights.

Addressing the dialogue, Federal Minister for Human Rights Zahid Hamid said: "Terrorism has exposed multidimensional human rights challenges in Pakistan, and the government is striving to root out terrorism."

He said that the estab-

lishment of an independent human rights institution shows the governments' commitment to protect citizens' rights in Pakistan, particularly the rights of women, children and minorities.

He noted that the government would continue to support making the National Commission for Human Rights (NCHR) a functional body.

NCHR chairperson Ali Nawaz Chaudhry said the creation of Pakistan was based on human rights and that they were therefore important. He called for making the body operational.

"Currently, NCHR is getting strength internationally from UN human rights mechanisms, APF, German human rights institutions and locally, from the civil society," Mr Chaudhry said.

NCHR was established six months ago, to assist the government in fulfilling its international obligations, particularly in reporting to treaty bodies regularly and with more accuracy.

"We are a new body with very limited resources, but we have made significant progress and are constantly monitoring the human rights situation in the country," Mr Chaudhry said.

Speakers said Pakistan should learn from Germany's example of upholding human rights. German ambassador Ina

Leppa termed the establishment of NCHR a landmark development for Pakistan.

"It demonstrates Pakistan's commitment to ensure compliance on international human rights obligations," she said. "The institution is required to be provided with resources, develop an action plan and build relationships with stakeholders, including civil society."

DRI team leader Zaheer Shab lauded the partnership of NCHR with APF, which is an autonomous network of 22 human rights institutions in the Asia Pacific region.

Mr Shab said the partnership would help strengthen NCHR's foundations, but emphasised that the body should be made operational as soon as possible.

He said the country needs strong institutional mechanisms for the promotion of human rights and to improve the security situation, rather than compromising on citizens' rights.

Zafarullah Khan of the Centre for Civic Education said that Pakistan's first ever committee for the fundamental rights of citizens and minorities was constituted on August 12, 1947, and was headed by Muhammad Ali Jinnah.

He said a functioning and independent NCHR is expected to change the culture of the denial of rights in Pakistan.

## HR commission rejects ministry's report over Mina tragedy

By Ibrahim Anwar

ISLAMABAD: The National Commission for Human Rights (NCHR) has rejected a report of the religious affairs ministry about the stampede that took place in Mina, Saudi Arabia, last year during Hajj and which claimed lives of hundreds of pilgrims.

An official of the commission said it had sought a report from the ministry following receipt of public complaints that it had failed to take timely measures because of which pilgrims and their families had to suffer hardship.

He said the ministry's director general for Hajj and its joint secretary for Hajj responded to the complaints by saying the first incident of its kind had turned out to be an eye-opener for them. In future the ministry would make proper arrangements to deal effectively with such incidents.

The NCHR official said the representatives of the ministry claimed that they did not have the record of four Pakistanis who died during the stampede because the deceased had been working in Saudi Arabia.

According to an official

statement, the bench of the commission comprises Justice Ali Nawaz Chaudhry, who is its chairman, and Chaudhry Muhammad Ishaq, Dr Yashya Ahmed and Ishaq Masud Nas.

The officials informed the bench that the Saudi government was investigating the matter and the government of Pakistan was preparing recommendations to be handed over to Saudi Arabia.

The commission was informed that a comprehensive strategy was being formulated to address emergency situations and ensure safety and protection of Pakistani pilgrims.

The NCHR termed the ministry's report "insufficient" and directed the joint secretary and other officials to appear before it for further clarifications.

It also instructed the ministry to submit agreements signed with the Saudi government on Hajj, details of residential and transportation facilities provided to the pilgrims, data about Khuddams (Hajj) and the procedure for selection of trainers.

### Daily-wage teachers

The commission also heard a case about daily-

wage teachers of Islamabad and directed officials of the Federal Directorate of Education (FDE), the Capital Administration Development Division (CADD) and the AGPR to appear before it during the next hearing.

It was informed that Rs140 million had been released and salaries of teachers would be paid soon and daily-wage teachers would be regularised in light of a judgement of the Islamabad High Court.

The commission expressed dismay over slow progress over a number of issues and assured the teachers that their problems would be addressed soon.

The daily-wage teachers have not been paid for over six months. Funds were released in installments but still did not receive their salary.

Talking to Dawn, the NCHR official said the commission had sought a reply from the departments concerned on an application of daily-wage teachers.

"The CADD and FDE informed the commission that steps are being taken to regularise the daily-wage staff," he added.

## SUB-OFFICES (REGIONAL OFFICES)

The NCHR understands the importance of pluralistic representation, and equal access for all citizens. Keeping in line with this theme, the NCHR established Provincial Branches in 2016. All Provincial Branches are equally representative of the NCHR and work carried out by them is reflective of the whole. All Branches are working diligently to promote and protect human rights all across Pakistan.

The following are addresses and contact details for the offices:

### Head Office

**Address: 5th Floor Evacuee Trust Complex, Agha Khan Road, Islamabad**

**Phone no. 051-9216771; 9216772**

**Dr. Begum Jan**  
(Member FATA)

#### Federally Administered Tribal Areas (FATA)

**Address: First Floor, Benevolent Fund Building, Saddar Road, Peshawar**

**Phone no. 091-9211473**

**Ms. Fazila Aliani**  
(Member Balochistan)

#### Balochistan

**Address: Office No 404/174-B, Lane 8, Jinnah Town Quetta**

**Phone no. 051-5595511**

**Ch. Muhammad Shafique**  
(Member ICT)

#### Islamabad Capital Territory (ICT)

**Address: 5th Floor Evacuee Trust Complex, Agha Khan Road, Islamabad**

**Phone no. 051-9244266**

**Dr. Yahya Ahmed**  
(Member KP)

#### Khyber Pakhtunkhwa (KP)

**Address: First Floor, Benevolent Fund Building, Saddar Road, Peshawar**

**Phone no. 091-9211472**

**Ishaq Masih Naz**  
(Member Minorities)

#### Minorities

**Address: Chamber no. 11, 3<sup>rd</sup> Floor, Al-Qadar Center, 1 Mazang Road, Lahore**

**Phone no. 042-99332116; 99332117; 99332118**

**Kishwar Shaheen Awan**  
(Member Punjab)

#### Punjab

**Address: 23-D/1, FCC, Syed Muratib Ali Road, Gulberg-IV, Lahore**

**Phone no. 042-99332116; 99332117; 99332118**

**Anis Haroon**  
(Member Sindh)

#### Sindh

**Address: State Life Building No. 3, Ground Floor Dr. Ziauddin Ahmed Road, Karachi**

**Phone no. 021-99201638; 99201639; 99201640**



**“Rise above sectional interests and private ambitions... Pass from matter to spirit. Matter is diversity; spirit is light, life and unity.”**

Allama Iqbal