

FIRST REPORT ON THE MARGINALISED SEGMENTS

From:

**The Office of the National
Commission for Human Rights**

Message from the Chairman, National Commission for Human Rights

This Report is being submitted to the Special Committee on the Marginalised Segments of the society on its asking.

It is my privilege to submit an overview on the subject “Marginalised Segments” of the society with special emphasis on the rights of the “Transgender Persons” to the Hon Special Committee.

The matter requires further research and reports more argumentation as more facts which remain shrouded because of our ethos will unfold for this purpose we are having access to the marginalised members of the society, more specifically the transgender. And to know more about due agonies.

I wish to felicitate the Hon chairman and members of the committee for taking interest on the subject which was long due.

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

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INTRODUCTION

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.¹ 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.

The marginalized segments includes 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
5. Religious minorities
6. Internally displaced persons (IDPs)

¹ Sustainable Development Goals/challenges-to-equality-of-citizenship

RIGHTS UNDER THE CONSTITUTION, 1973

Pakistan was created as a separate federal country in 1947 on the basis of protecting the rights of Muslim minorities and the rights of federating units in the United India. The founder of Pakistan, Mohammad Ali Jinnah, in his speech during the inaugural session of the Constituent Assembly of Pakistan presented his vision where the equality of all citizens was emphasised. Jinnah stated: “You are free; you are free to go to your temples, you are free to go to your mosques or any place of worship in this state of Pakistan.” This statement provides a complete framework of protecting the rights of all citizens of Pakistan without any discrimination of religion and race.

The Constitution of Pakistan contains provisions related to equality of citizens (Article 25), Non-discrimination in respect of access to public places (Article 26), Non-discrimination in services (Article 27), Full participation of women in national life (Article 34), Protection of minorities (Article 36) and Promotion of social and economic well-being of the people (Article 38). The Constitution of Pakistan clearly stipulates that adequate provisions shall be made for all the citizens of Pakistan to enjoy their constitutional rights. Therein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality.

However, there is a dire need to strengthen the existing legal and institutional framework at federal and provincial levels to protect rights of marginalized groups of the society in context of the 18th Amendment. It is high time that meaningful reforms and concrete steps were taken to improve the conditions of the marginalised segments in Pakistan through recognising their historic contributions in the creation of Pakistan, recalling the pledge of ‘equality based citizenship’ made by the founding father of Pakistan, Mohammad Ali Jinnah, and realising the need for political and electoral reforms to ensure effective and expanded participation of the citizens of Pakistan equally.

WOMEN

The status of women in Pakistan is not homogenous because of the interconnection of gender with other forms of exclusion in the society. There is considerable diversity in the status of women across classes, regions, and the rural/urban divide due to uneven socioeconomic development and the impact of tribal, feudal, and capitalist social formations on women's lives. However, women's situation vis-à-vis men is one of systemic subordination, determined by the forces of patriarchy across classes, regions, and the rural/urban divide.

Some of the Issues faced by the women in Pakistan are listed below:

1. Honor Killing
2. Domestic Violence
3. Dowry Abuse
4. Sexual Harassment
5. Acid Throwing
6. Trafficking
7. Child Marriage

During the Post-Colonial Era Several legislative measures have taken place to uprise the status of women in Pakistan and to guard their Constitutional Rights. The first legislature of Pakistan had two women representative, Jahanara Shahnawaz, who had been elected to the All-India Muslim League Council in 1937; and Shaista Ikramullah from the Suharwardy family of East Pakistan. Under the leadership of Jahanara Shahnawaz finally the Muslim Personal law of Shariat (1948) became effective recognizing women's right to inherit property. In 1949 Prime Minister's wife, Ra'ana Liaquat Ali formed the All- Pakistan Women's Association (APWA). The Muslim Family Laws Ordinance (MFLO) of 1961, which gave women a few rights with regard to marriage, the custody of children, divorce and registration of marriages and divorces, was passed as a result of APWA's efforts.

The 1973 Constitution gave more rights to women than in the past. Article 25 (2) said there would be no discrimination based on sex alone. Article 27 of fundamental stated that there would be no discrimination on the basis of race, religion, caste or sex for appointment in the service of Pakistan. Article 32 of the Basic Principles of State Policy guaranteed reservation of seats for

women, and article 35 stipulated that the state shall protect marriage, family and mother and child. Later Article 228 was amended to accept the principle of at least one woman member on the proposed Council on Islamic Ideology. In 1981, the Women Action Forum (WAF) was formed, and it became the face of the women's movement in Pakistan. Sindhiani Tehreek in Sindh challenged some of the ancient customs such as *Karo Kari* (murder in the name of honor), and *Haq Bakhswana* (marriage to the Qura'an) to retain family property.

Benazir Bhutto represented Pakistan at the Fourth World Conference on Women in Beijing in 1995 which led to Pakistan acceding to the CEDAW.

With the rise of neo-liberalism in the 1990s, there was a mushroom growth of NGOs, including those for women's rights such as Aurat Foundation. A large number of donors and NGOs began to talk about gender, showing how patriarchy affects both men and women by constructing the 'masculine' and the 'feminine,' and no project or program was sanctioned unless it had a strong gender component. Gradually, and almost imperceptibly, women began to disappear from the discourse and 'gender' became a euphemism for women. Freeing women was to be done towards a 'free market economy' in which cheap and flexible labor was required. Traditional shackles had to be removed, not for the women themselves, rather to enable them to enter a flexible and exploitable workforce.

In 2003, the National Commission on the Status of Women recommended the repeal of the Hudood laws and also the removal of sections of the Penal Code that carry enabling provisions. In 2006, the Women Protection Act was passed and the crime of rape was taken out of *Hadd* (maximum) punishment and placed in *Taazir*, Pakistan's criminal procedure. In December 2010 the Federal Shariat Court declared the Women's Protection Act of 2006 as being contrary to Islamic injunctions thus expanding its jurisdiction and reinforcing conservative trends.

During the tenure of the PPP-led alliance, with the efforts of the Parliamentary Women's Caucus and the National Assembly Standing Committee on Women, important measures include a law against sexual harassment in the workplace (2010). A law was passed against anti-women practices and ensuring inheritance rights (2011), and an act of parliament created the National Commission on the Status of Women (2012) which is an autonomous body but lacuna persist which affect its functioning. The Anti-Women Practices Law of 2011 addresses the problem of

forced marriages, but implementation of the law remains a historically weak part of the state apparatus.

With the passage of the 18th amendment in 2010, women's issues became a provincial subject and the Ministry of Women's Development at the federal level was devolved to the provinces where Women's Development Departments are now responsible for addressing their concerns. The Federal Human Rights Ministry was made responsible for ensuring that Pakistan's international commitments on women are upheld and the federal government does not shirk responsibility in the name of decentralization. Furthermore, the NCSW would be the watchdog for women's rights at the federal level.

The Women's Caucus in the parliament seems almost dormant. The National Commission on the Status of Women has, however, made recommendations for electoral reforms to the ECP to ensure that women are not prevented from voting, and has commissioned a research to study the impact of Jirga decisions on women and is in the process of recommending a ban on illegal *jirgas*.

The Sindh provincial assembly passed legislation on domestic violence in March 2013. Similarly, the provincial assembly of Balochistan passed the bill on domestic violence in February 2014. However the implementation mechanism in both cases is lacking.

The Punjab Protection of Women Against Violence Bill 2015 defines violence to include domestic violence, sexual violence, psychological and emotional abuse, economic abuse, stalking and cyber crime, as well as abetment of such acts. The bill aims to solve various problems through establishment of 24-hour women-run Violence Against Women Committees which will have all the needed facilities under one roof, such as immediate protection to the aggrieved, FIR lodging, prosecution, medical examination, forensics, post-trauma rehabilitation, and legal assistance. It makes provision for practical hurdles, such as sanctioning alleged perpetrators of violence if they offer resistance to protection officers. An aggrieved woman cannot be forced out of the house. It introduces GPS tracked electronic bracelets-anklets to enforce protection orders.

A 'District Women Protection Committee' will supervise the centers and shelter homes, ensuring that all VAW cases registered in any of the district's police stations are referred to these centers. The District Women Protection Officer will have power to enter any place to rescue the aggrieved with her consent. Although it has been criticized for not criminalizing domestic violence.

Here below is the list of the active legislation protecting the rights of women:

- Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016
- Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016
- National Commission on Status of Women Act, 2012
- The Women in Distress and Detention Fund (Amendment) Act, 2011
- Prevention of Anti-Women Practices (Criminal Law Third Amendment) Act, 2011
- Criminal Law (Amendment Act) (on Sexual Harassment), 2010
- The Protection against Harassment of Women at Workplace Act, 2010
- The Acid Control and Acid Crime Prevention (Criminal Laws Second Amendment) Act, 2010
- Protection of Women (Criminal Laws Amendment) Act, 2006
- The Criminal Law Amendment Act (on Honour crimes), 2004.

In addition to the above, Pakistan is a state-party to the Convention on the Elimination of All Form of Discrimination against Women (Ratification: 1996);

Following institutional mechanism is existed to promote and protect rights of women;

- Ministry of Human Rights
- National Commission on Status of Women
- Punjab Commission on Status of Women
- KPK Commission on Status of Women
- Sindh Commission on Status of Women
- Social Welfare Department, Balochistan
- Human Rights Departments, Punjab, KPK & Sindh.

Independent Commissions need to be strengthen up, so that they can work independently and can monitor the situation of women rights in Pakistan.

CHILDREN

According to the 2012 State of Pakistan's Children report released by Society for the Protection of the Rights of the Child (SPARC), 25 million children are out of school, 12 million are engaged in labour while around 618 newborn babies die every day in the country. No wonder then that SPARC has termed the state of children in Pakistan "dismal" and "deteriorating".²

The Children of Pakistan are victims of child abuse at a very young age, they are discriminated against and they have no protection from society. It is evident that the state of child rights in the country is deplorable and needs serious constructive actions.

We need the government, the public, the civil society and NGOs to come together and do everything possible to rectify the situation. As a former secretary general of the UN, Kofi Annan, once said: "There is no duty more important than ensuring that children's rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace."

Pakistan is a state-party to the Convention on the Rights of the Child and its optional protocol I & II and has carried out following legislations to protect rights of children in Pakistan;

- Criminal Law Amendment Act, 2016
- Prevention and Control of Human Trafficking Rules, 2004
- Prevention and Control of Human Trafficking Ordinance, 2002
- Protection of Breast-Feeding and Child Nutrition Ordinance, 2002
- Prohibition of Smoking and Protection of Non Smokers Health Ordinance, 2002

² The Express Tribune, Child Rights in Pakistan, June 30th, 2013

- Prevention and Control of Human Trafficking Ordinance, 2002
- Juvenile Justice System Ordinance, 2000
- Bonded Labour System (Abolition) Rules, 1995
- Bonded Labour System (Abolition) Act, 1992

Presently, following institutional mechanism is exists to promote and protect rights of Children;

- Ministry of Human Rights
- National Commission on Child Welfare and Development
- Provincial Human Rights Departments
- Child Protection Bearues
- Social Welfare Departments

Unfortunately the Juvenile Justice system in Pakistan is ineffective; Independent National Commission on rights of Children is yet to be formulated. Further some pending Bills for the protection of Child rights including the Juvenile Justice Bill, ICT Child Protection Bill, National Commission on rights of Children Bill are still in line to be passed.

With around 35 per cent of Pakistan's population aged 15 or below, the government must take the issue of child rights seriously. The centre and the provinces need a coordinated policy in this regard, with proper legislation on child rights and making sure that existing laws are fully implemented.³

³ The Express Tribune, Child Rights in Pakistan, June 30th, 2013

DISABLED PERSONS

The "Disabled Persons (Employment and Rehabilitation) Ordinance" was enacted in 1981 as a presidential ordinance. This law was promulgated during the "International Year for Disabled Persons" in 1981 to provide support to the disabled persons in finding employment in government as well as commercial and industrial establishments. A National Policy for Persons with Disabilities was formulated in 2002.

After devolution of the subject of labour in 2011, the provinces of Punjab and Khyber Pakhtunkhwa have adopted the 1981 Ordinance. Sindh has enacted its own law, i.e., The Sindh Differently Able Persons (employment, rehabilitation and welfare) Act, 2014. Government of Pakistan has also ratified 'ILO Convention on Vocational Rehabilitation and Employment of Disabled Persons'. Similarly in the last year, it has also ratified the UN Convention on the Rights of Persons with Disabilities.

According to World Bank and WHO estimates, at least 10% of country's total population is disabled/persons with disabilities (PWDs).

Pakistan is a state-party to Convention on the Rights of Persons with Disabilities; (Ratification: 2011)

Following is the institutional mechanism that exists to promote and protect rights of the Disabled Persons;

- Ministry of Human Rights
- National Council for Rehabilitation of Disabled Persons
- Institute/Departments of Special Education

- Social Welfare Departments

Further there is a need to review the existing laws in context of the Convention.

TRANSGENDER

In Pakistan, transgender people (also referred to as 'Khawaja Sira') are offered the least amount of respect or rights in our society and culture. They are bullied, tormented, insulted and harassed. Massive rejections are often faced by transgender people in almost all parts of Pakistan. Sadly, the rejection of the transgender people starts from their own family. Around 84 percent of transgender men and women in Punjab have faced hostility and abuse from their family members, especially men identifying as women. The 'gurus' (transgender community head) who take on the role of guardians, offer protection to the trans-children who are shunned by their families and become part of the transgender community.

Illiteracy amongst the transgender people leads them to being marginalized and vulnerable in the society. Although, the transgender people are discriminated at every level starting from their homes, the inability and deprivation of the rights of education and health facilities is a great concern for this community as it limits their chances to live a better life.

There are no official figures on the number of transgender people living in Pakistan but advocacy group 'Trans Action' estimates that there are at least 500,000 in the country with a population of 190 million.

Rejection by the family and society, discrimination, violence, harassment, lack of employment opportunities, limited health and education facilities and legal protection as well as poverty and stigmatization are the major problems the transgender people face in Pakistan. Police often doesn't entertain the complaints of transwomen, and often-a-times harass them at their birthdays and dance events. No research, or data, is present on the prevalence of mental illnesses or psychological trauma in the transgender community of Pakistan.

Recently, many tragic incidents have occurred to the transgender people which necessitate resolutions and legislation to protect their rights.

A case in point is that of the 23 year old Alisha Ulibari, a coordinator for Trans Action Alliance, Khyber Pakhtunkhwa. It is reported that Alisha was shot five times by her boyfriend and died 3 days after the incident took place in May 2016 in the Lady Reading Hospital in Peshawar. “She was neglected by doctors and medical professionals who taunted her, rather than treated her, and that three hours passed before Alisha went into surgery after arriving at the hospital. As she lay bleeding, the hospital's health workers crowded around her, making jokes and ridiculing her” stated her friend Paro.

It is pertinent to mention that the medical staff failed to give her the medical attention necessary to save her life because the hospital staff was indecisive as to whether to put her in a male or female ward, after protest by fellow transgenders, Alisha was shifted to the female ward.

Another incident came to notice after the graphic video clip was spread where a Transgender ‘was brutally injured, harassed and tortured by a man. The man was beating the Transgender with his leather belt and placed his shoes on the victim’s face making her unable to use force against him and defend herself. After this incident another transgender named Jolie, primary witness of the incident, explained how the transgender people were being victimized by different groups in Punjab while the police, aware of their actions and localities, failed to act. She also lamented that the police, apart from making arrests due the media outrage, would not take any significant action that could actually contribute to the protection of the community, adding that even animals have some rights in Pakistan, while they were offered no support or protection by the government.

Transgender people are down casted by the society and are treated as if it’s a fault to be one. There are a few success stories who are educated and now working human rights activist but most of the Transgender people even if educated are not offered jobs or are forced to leave due to immoral behaviour of people. The trans-children are bullied by fellow students. They are taunted and abused for who they are.

The Hon. Lahore High Court recently issued the order to the government that the transgender community will be counted in the 2017 census. In 2012, the Hon. Supreme Court declared equal

rights for transgender citizens, including the right to inherit property and assets, preceded a year earlier by the right to vote.

In *Dr. Mohammad Aslam Khaki & another vs. Senior Superintendent of Police (Operation Rawalpindi & others (PLD 2013 SC 188)*, the Hon. Supreme Court of Pakistan ruled that the government must take proactive steps to protect transsexuals from harassment and discrimination and directed them to issue ID cards to the community, yet no legislation has been passed in this regard.

There is a need for all-inclusive special legislation to protect their rights. NCHR has conducted a study on the issue and produced an interim report. NCHR suggests that a comprehensive bill should be introduced. The proposed bill may achieve following objectives:

- (a) It should define transgender persons;
- (b) It should prohibit discrimination against transgender person;
- (c) It should confer right upon transgender person to be recognized as such, and a right to self-perceived gender identity;
- (d) It should provide for issuance of certificate of identity to transgender persons;
- (e) It should provide effective mechanism for inclusive education;
- (f) It should provide that no establishment shall discriminate against transgender person in matters relating to employment, recruitment, promotion and other related issues;
- (g) It should provide for security of residence;
- (h) It should provide grievance redressal mechanism in each establishment;
- (i) It should establish a National Authority for Transgender persons;
- (j) It should contain punishments for contraventions of the provisions of the proposed Bill.

In addition to the above, the general recommendations made by NCHR are as follows:

- Allocate budget for the welfare of transgender people.

- The government shall direct the Police department to minimize unnecessary raids and illegal detention, show compassionate behavior, and register the FIRs reported by trans-community. The civil society including NGO's should conduct sensitization sessions with police officials in order to mainstream respect and rights of the Transgender people.
- Ensure that any attack on the Transgender people whether by government officials or by any individual or group, are promptly investigated, and that, where strong evidence is found, those responsible are prosecuted, tried and duly punished under law.
- Introduce protection policy for human rights defenders who are supporting transgender human rights as they are equally under threat
- The government may take necessary measures to secure full and effective participation and inclusion of the transgender in the society.
- Programmes may be initiated to provide social support and awareness amongst the society in relation to the Transgender people. The government and civil society shall step up, and run awareness-raising campaigns.
- Enlightening the society with the help of media (print, electronic and social), local leaders, schools teachers and religious persons will be of essential help. The government must take some transgender-specific initiatives to increase their acceptance in society.
- The integration and sensitizing the society must start from the schools by educating the children of primary schools and teaching them how the transgender people are 'one of us'.
- Educate police and other law enforcement agencies regarding the arbitrariness of arrest, violence and detention of the Transgender people.
- Train and bring awareness for judges, court personnel, prosecutors, lawyers and others regarding international human rights standards and principles of equality and non-discrimination, including in relation to the transgender people.
- Train law enforcement personnel and judges in gender-sensitive approaches to addressing violations related to sexual orientation and gender identity.

- Reasonable steps must be taken to identify victims of torture and cruel, inhuman or degrading treatment or punishment, perpetrated on the Transgender people and offer appropriate remedies including redress and reparation and, where appropriate, medical and psychological support.
- Transgender people must be given access to strengthen their contacts various stakeholders of the society including legislators, policy makers, government departments, NGOs, INGO's, bar associations, private sector employers, local governments, political parties, religious authorities and media.

RELIGIOUS MINORITIES

Pakistan's early history reveals an effective pattern of representation of citizens of other faiths in the Constituent Assemblies and ministries as 15 of the 69 members of Pakistan's first Constituent Assembly (1947-54) were citizens of other faiths. This trend of representation of minorities did not carry forward in subsequent years. The creation of Bangladesh greatly reduced the proportion of citizens of other faiths, as less than five percent of West Pakistan's population was non-Muslim. Eventually, the separate electorate was introduced during the regime of General Zia-ul-Haq, effectively limiting the representation of non-Muslims in National Assembly to their reserved seats.

The separate electorate system was finally abolished in favour of a joint electorate system during General Pervez Musharraf's rule in 2002. The issue of reserved seats for minorities has been a bone of contention during recent years as the National Assembly has failed to pass several iterations of this bill despite an increase in the general seats in 2002.

The Constitution of Pakistan clearly stipulates that adequate provisions shall be made for the minorities to freely profess and practise their religions. It further states that adequate provisions shall be made to safeguard the legitimate interests of minorities and backward and depressed classes. In addition, Articles 20, 21, 22, 25, 26, 27, 28 and 36 of the Constitution of Pakistan guarantee equal citizenship and protection of rights of minorities.

In Pakistan, various steps have been undertaken for protection of minorities including abolishment of separate electorate, reservation of separate seats in the legislative bodies both at

provincial and central levels (four seats in Senate, 10 seats in National Assembly), allocation of five percent of quota, celebration of August 11 as the Minorities Day and establishment of the Federal Ministry of National Harmony in 2011. However, the bulk of these steps appears to be superficial in letter and in spirit. The five percent quota for minorities has so far not been successfully implemented. According to the Annual Statistical Bulletin of Federal Government Employees 2012-2013, statistics on the overall employment (BPS 1-22) of citizens of other faiths by the federal government reveal a slightly decreasing trend — from 2.56 percent to 2.32 percent — between the years 2011 and 2013. Similarly, the Federal Ministry for National Harmony, which is clubbed with the Ministry of Religious Affairs, fails to implement any significant legislation.⁴

According to the Charter of Demands developed by the Centre for Civic Education Pakistan — a reputed research and development organization after an extensive countrywide consultative process, the challenges to equality of citizenship can be effectively addressed through a series of steps: a review of the constitutional and legal instruments that put religious minorities in a disadvantageous position and vulnerable situations; adoption of ‘inclusive culture’ by political parties at the federal, provincial and local levels; increase in the number of reserved seats in the National Assembly of Pakistan and all provincial assemblies corresponding to the increase in their population; democratization of the system of party lists for reserved seats and making it more transparent and inclusive to accommodate the genuine concerns of religious minorities; undertaking affirmative actions to support and facilitate religious minorities to directly contest constituencies in the elections for local, provincial and federal level democratic institutions; celebration of August 11 as the day of ‘Equality of Citizenship’ instead of the Day of Minorities as officially designated in 2009; and taking concrete steps to ensure strict adherence to job quotas reserved for religious minorities.

It is high time that meaningful reforms and concrete steps were taken in furtherance to Article 36 enshrined in the 1973 Constitution to improve the conditions of religious minorities in Pakistan through recognizing their historic contributions in the creation of Pakistan, remembering the unsung heroes of freedom struggle hailing from religious minorities, recalling the pledge of ‘equality based citizenship’ made by the founding father of Pakistan, Mohammad Ali Jinnah, and

⁴ The Daily Times, Challenges to equality of citizenship, Jinnah stated: “You are free; you are free to go to your temples, you are free to go to your mosques or any place of worship in this state of Pakistan”

realizing the need for political and electoral reforms to ensure effective and expanded participation of religious minorities. The creation of independent National body for rights of Minorities may prove to be a positive step for the minorities in Pakistan.

INTERNALLY DISPLACED PERSONS

In Pakistan, the law dealing with both natural and manmade disasters is the National Disaster Management Act (NDMA) enacted in Dec 2010. This law does not define “displacement” or “displaced persons”. According to the FATA Disaster Management Authority (FDMA), 87,778 North Waziristan families have been registered and verified as displaced.⁵

Poor strategy and coordination has left relief operations in the stagnations and a large number of IDPs without assistance. Many IDPs possess “dual-addresses.” These individuals live in North Waziristan and work in urban parts of the country. Identification documents are often compiled using their working address, for ease of employment. This practice has left many unable to register themselves as an IDP or to access to rations and cash transfers. Instead of implementing mechanisms to resolve this discrepancy, the FDMA has denied assistance to these people.

Following the Constitution (Eighteenth Amendment) Act, 2010, it is recommended that Provincial governments may be guided to make amendment in laws to clearly define IDPs, their rights and responsibilities to be carried out by the respective governments and authorities.

Proactive measures must be taken to prevent displacement from occurring in the first place, mainly by early identification of threats, anticipation and close and continued assessment and monitoring of risks and adoption of appropriate responses. Provisions must be made for individuals who face additional vulnerabilities, on account of their age, gender, religious belief, health conditions and physical and mental disabilities. Such a template must identify the minimum entitlements relevant to the internally displaced that must be reflected in domestic laws

⁵ <http://www.fdma.gov.pk/component/content/article/4-news-a-events/151-tdps-statistics>

and policies. All policies with regard to any phase of displacement must be rights-centric, respecting human rights and, where applicable, humanitarian law. Implementation and coordination of aid and assistance needs to be as localised as possible to ease administration and improve efficiency.⁶

Furthermore, the federal government should also review its existing legal framework to cover FATA in this regard. Ministry of SAFRON may be asked to brief in detail.

THE ROLE OF NCHR

NCHR has four statutory roles i.e. Complaints redressal, investigation, review of legal framework and advocacy & awareness.

NCHR is entertaining complaints from members of marginalized groups for their redressal.

Sr. No	Description	No. of complaints
1.	women	33
2.	Children	05
3.	Transgender	03
4.	Minorities	18
5.	Disabled Persons	03
6.	Total Complaints entertained	512
7.	Total Suo-moto taken	89

NCHR has investigated serious violation of human rights related to marginalized groups and produced following fact-finding reports;

- Kasur Child Abuse Report;
- Tharparker Investigation on recurring death of children
- Investigating recent Incident of Minority in District Chakwal

⁶ Internal Displacement in Pakistan: Contemporary Challenges, Human Rights Commission Pakistan.

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

RECOMMENDATIONS

NCHR recommends following measures to this august special committee:

- i. To initiate dialogue with concerned ministries and departments to identify their roles and responsibilities to protect marginalized groups in Pakistan.
- ii. To initiate dialogue towards development of integrated and all-inclusive framework for the protection of rights of vulnerable and marginalized groups.
- iii. To expedite pending bills related to marginalized groups& make recommendations for effective implementation of existing laws