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## HUMAN RIGHTS GOVERNANCE IN PAKISTAN: LEGAL AND INSTITUTIONAL PERSPECTIVES

**Atta UI Mustafa**

Lecturer, Department of Law, Faculty of Shariah and Law, International Islamic University, Islamabad.

E-mail: [a.ulmustafa@iiu.edu.pk](mailto:a.ulmustafa@iiu.edu.pk)

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## ABSTRACT

Human rights governance in Pakistan is a complex interplay of legal frameworks, institutional mechanisms, and socio-political dynamics. Several UN Committees have pointed out that despite constitutional guarantees, there are still gaps in the enforcement of human rights and the conformity of national laws with international treaties. This article will analyze Pakistan's Human Rights Governance from legal and institutional perspectives. It discusses strengths and challenges of several laws and institutions. At the end, it offers recommendations to strengthen Pakistan's human rights governance to fulfill its constitutional and international obligations.

**Keywords:** Human rights, governance, legal perspective, institutional perspective, constitution, judiciary, legislature, executive.

### Introduction

Since its independence in 1947, Pakistan's commitment to human rights has fluctuated due to political instability, military interventions, and evolving judicial interpretations. (Farrah Zia, 2022) The Constitution of 1956 enshrined fundamental rights; however, these protections were significantly weakened under successive military regimes. The Constitution was abrogated in 1958, and the new Constitution of 1962 initially excluded justiciable fundamental rights, instead referring them to guiding principles for legislation. It was not until early 1964 that fundamental rights were reinstated, although with notable exceptions: they did not apply to the military, defense forces, or law enforcement agencies (as in the 1956 Constitution); laws enacted after the imposition of Martial Law could not be invalidated on the grounds of conflicting with fundamental rights; and these rights remained inapplicable to tribal areas. The 1973 Constitution restored democratic values and human rights protections, with subsequent amendments particularly the 18th Amendment to the Constitution, 1973.

The 18<sup>th</sup> Amendment to the Constitution of Pakistan 1973 was a landmark development in the country's human rights framework. The Constitution (Eighteenth Amendment) Act, 2010 amended 102 Articles of the Constitution 1973. It increased the number of fundamental rights in the Constitution by inserting the right to a fair trial (Article 10A), right to information (Article 19A) and right to education (Article 25A). Most importantly, the 18<sup>th</sup> Amendment transformed center-province relations from a heavily centralized to a decentralized Federation with more provincial autonomy (The Constitution of Pakistan, 1973, Chapter V (Article 141-159)). Consequently, the subject of human rights, child rights and women rights in terms of legislative and administrative competences have been devolved to the provinces. The Federal Government therefore can now legislate on human rights related issues only in relation to federal territories. Thus, after devolution of powers pursuant to

18<sup>th</sup> Constitutional Amendment, provincial governments, provincial parliaments and provincial judiciary are responsible in their respective spheres to protect, respect and fulfill human rights. Hence, several provincial laws and provincial institutions are playing pivotal role in the domestic protection of human rights in Pakistan.

However, this may not dissolve the federal government's obligations and responsibilities. The Constitution, 1973 entrusted the federal government tasks related to the compliance of international human rights treaties. According to Entry No. 32 read with Entry No. 59 of the Federal Legislative List in the Fourth Schedule of the Constitution 1973, the subject of international treaties, conventions, agreements, international arbitration and related matters are within the domain of Federal Government. Additionally, legislative competence in relation to criminal law, procedure and evidence, lies concurrently with the Federal Parliament and Provincial Assemblies under Article 142 of the Constitution 1973. Therefore, the Federal Government retains some structures including national institutions to comply with international and regional reporting obligations and coordinate with provinces on compliance of international human rights obligations.

The Constitution 1973 is a supreme law of the land which guarantees several fundamental rights and personal freedoms (The Constitution of Pakistan, 1973, Chapter III (Article 8-28)). In addition, there is an existing framework of national and provincial laws. According to Pakistan's State Report to the Universal Periodic Review (UPR), there are approximately 400 laws which have a direct bearing, and 800 laws indirectly deal with the basic human rights enshrined in the Constitution and international instruments (General Assembly and Human Rights Council, 2022, para. 8).

### **Legal Framework**

The legal and institutional framework of Pakistan for the promotion and protection of human rights is rooted in the Constitution 1973. Chapter I of Part II of the Constitution 1973 lays down the basic foundations for fundamental rights and freedoms of its citizens, without discrimination with emphasis on the rights of women, children and minorities. (The Constitution of Pakistan, 1973, Articles 8-28) It states from the very outset that any laws inconsistent with fundamental rights would be void (The Constitution of Pakistan, 1973, Article 8). Therefore, all federal and provincial laws on promotion and protection of human rights must be aligned with the Constitutional provisions on fundamental rights.

The Constitution 1973 contains a fairly comprehensive list of civil, political, economic, social and cultural rights. These include the right to security of person (Art. 9); right to clean and healthy environment (Art. 9A); 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); equality before law (art. 25), etc.

Chapter II of Part II of the Constitution 1973 on the other hand, focuses on the “Principles of Policy” and includes many human rights principles. For example, the State shall discourage parochial, racial, tribal sectarian and provincial prejudices among its citizens.(The Constituion of Pakistan, 1973, Article 33) It would ensure full participation of women in national life and take appropriate measures in this regard.(The Constituion of Pakistan, 1973, Article 34) It further mandates the State to safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services,(The Constituion of Pakistan, 1973, Article 35) and seeks the State to promote social justice and eradication of social evils(The Constituion of Pakistan, 1973, Article 37). Social justice here clearly refers to promote carefully the educational and economic interests of marginalized classes or areas, provide free and compulsory secondary education as well as make technical and professional education available to all on the basis of merit.(The Constituion of Pakistan, 1973, Article 37,38) It further seeks to ensure inexpensive and expeditious justice; provision of safe, secure and suitable working conditions especially for women and children etc. thus, ensuring optimum provision of access to enjoyment of public and private lives for the people of Pakistan.(The Constituion of Pakistan, 1973, Article 37)

Despite Pakistan’s constitutional guarantees, certain internationally recognized human rights are not fully incorporated into national law. International human rights bodies have expressed their concerns about gaps in Pakistan’s domestic incorporation of international human rights. For instance, the Human Rights Committee while reviewing Pakistan’s compliance with the International Covenant on Civil and Political Rights (ICCPR), observed that the country’s legal framework does not enshrine all Covenant rights. Similarly, the Committee on Economic, Social, and Cultural Rights (CESCR) expressed concerns that socio-economic rights are treated as policy guidelines rather than enforceable legal rights. The CESCR observed the following;

*“The Committee is concerned that Covenant rights have not been fully incorporated into the domestic legal order and, in particular, that the Constitution of the State party does not recognize economic, social and cultural rights as fundamental rights that are justiciable, but recognizes them only as policy guidelines.”*

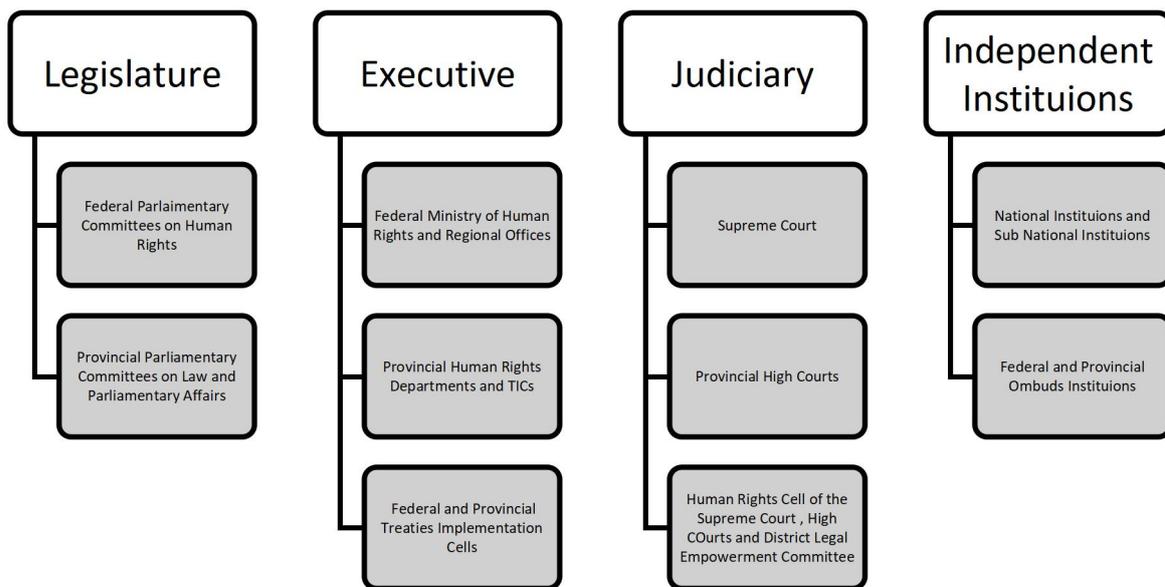
Although the preamble and Principles of Policy of the Constitution 1973 refer to socio-economic rights, they remain non-justiciable. However, Pakistani courts have played important role in safeguarding these rights by expanding the definition of ‘right to life’ under Article 9 of the Constitution of Pakistan. For instance, while the right to health is not explicitly recognized as a

fundamental right, the Supreme Court has interpreted it as an integral component of the right to life. Similarly, the right to water and sanitation is not explicitly mentioned in the Constitution 1973 despite the fact that these are internationally recognized fundamental rights.

In addition, there are several laws that promotes and protect human rights. These include Islamabad Capital Territory Child Protection Act, 2018; the Juvenile Justice System Act 2018; the Transgender Persons Act 2018; the Prevention of Trafficking in Persons Act 2018; Zainab Alert, Response and Recovery Act 2020; ICT Rights of Persons with Disabilities Act 2020; Islamabad Capital Territory Senior Citizens Act 2020; Legal Aid & Justice Authority Act 2020; ICT Rights of Persons with Disabilities Act 2020; the Protection of Journalists and Media Professionals Act 2021; the Criminal Laws (Amendment) Act 2021; Anti Rape (Trial and Investigation) Act 2021; and the Protection Against Harassment of Women at the Workplace (Amendment) Act 2022.

**Institutional Framework**

Laws alone are not sufficient for promotion and protection of human rights effectively. They must be supported by necessary institutions, services and adequate finances. The State of Pakistan, being the duty bearer and primary subject of international human rights treaties, is obliged to establish or strengthen institutions and provide positive assistance or services necessary for implementation of human rights law. Provincial institutions and governments are more significant in implementation of human rights after devolution of powers in Pakistan. However, the Federal government also has some institutions which relate to treaty obligations, reporting and follow-up.



**Legislature**

The legislature or parliaments play an important role in promotion

and protection of human rights due to their functioning in enacting laws, conducting oversight, ratifying treaties, allocating budgets, and hearing public grievances (Brian Chang, 2018, p. 9). Through law making and ratification of treaties related functions, parliaments can ensure that national laws are aligned with international human rights obligations. Through oversight functions, parliaments hold the executive accountable for their performance in implementing human rights laws. Parliament's budgetary role ensures that human rights remain priority in allocation of annual budgets. The United Nations General Assembly's report on 'Interaction between the United Nations, national parliaments and the Inter-Parliamentary Union' reaffirms the central role that parliaments play in advancing human rights. The report observed that an estimated 60-70% of Universal Periodic Review recommendations require parliaments either to pass laws, or ratify international human rights instruments, or oversee government actions.(United Nations General Assembly, 2016, para. 24)

Pakistan has a federal bicameral Majlis-e-Shoora (Parliament). It is composed of the President, the National Assembly which is a lower chamber, and the Senate which is an upper house(PILDAT, n.d.). Pakistan's Parliament has a well-established committee system that conducts oversight to ensure predictability and transparency in the work of ministries, regulatory bodies and public sector enterprises.(Sidra Akram & Dr. Muhammad Azhar, 2021) The Parliament of Pakistan has specialized committees on human rights. The National Assembly has a Standing Committees on Human Rights (Ministry of Human Rights, n.d.-a) while the Senate has a Functional Committee on Human Rights (Ministry of Human Rights, n.d.-b). These committees are operating under Rules of Procedure and Conduct of Business in the National Assembly 2007 and the Rule of Procedure and Conduct of Business in the Senate 2012 respectively. These committees can examine bills related to human rights, propose amendments to the bills, exercise oversight, monitor human rights situation in the country, hear complaints on rights violations, and examine expenditures, administration, delegated legislation, public petitions and policies of the Ministry concerned i.e. MoHR and its associated public bodies.

After devolution of powers, provincial parliaments and their relevant committees share the responsibility to protect and respect human rights along with executive in their respective provinces. All provincial parliaments in Pakistan have standing committees on law and parliamentary affairs which deal with human rights subjects as well as committees addressing specific issues like gender and minority affairs.

Additionally, there are specialized federal parliamentary committees on child rights. The National Assembly has a child rights caucus (National Assembly, 2025a) while the Senate had a

specialized child protection committee (The Senate of Pakistan, 2021). Furthermore, there are women parliamentary caucuses in Pakistan. (National Assembly, 2025b)

However, these committees are facing several challenges. (Alamzeb & Jhanzeb Khan Orackzai, 2023, pp. 71-73) The lack of accountability and transparency, political bipartisan of members, incompetent staff, meager resources, inadequate selection process, government interference, inconsistency in meetings, limited public participation etc. weakens their performance and effective implementation of their mandates particularly their critical role in accountability and oversight of government which impact overall human rights situation.(Ghumman, 2013)

### **Executive**

Governments are another important stakeholder in national human rights protection systems. The Constitution 1973 has obliged the government to take necessary steps to promote and protect fundamental rights and principles of policy. These obligations are further firmed by ratified international human rights conventions and treaties. In Pakistan, the Ministry of Human Rights (MoHR) is a focal division of the government to deal with matters related to human rights.

### **The Ministry of Human Rights**

The Ministry of Human Rights (MoHR) is mandated with a variety of functions including promotion and protection of human rights, complaint handling, awareness and advocacy, harmonization of laws, ratification of treaties, periodic reporting and national compliance of international human rights conventions and treaties, welfare and development of children, administration of the National Commission on the status of Women Act 2012, administration of the National Commission for Human Rights Act 2012 and administration of the National Commission for Child Welfare and Development.(Ministry of Human Rights, 2025, p. 6)

MoHR has five wings, five statutory bodies and four regional offices located at provincial headquarters (Karachi, Lahore, Quetta and Peshawar) which carry out number of protection and promotion activities including awareness raising sessions, seminars and other activities in collaboration with provincial line departments and non-governmental organizations.(Ministry of Human Rights, 2025, pp. 7-8)

During 2023-2024, the MoHR undertook several legislative, policy, and institutional initiatives to strengthen human rights protection in Pakistan. It contributed in enactment of the Torture and Custodial Death (Prevention and Punishment) Act, 2022, and the development of rules for its implementation, ensuring accountability for custodial abuses. The MoHR also advanced the implementation of the Juvenile Justice System Act, 2018, by coordinating with provincial stakeholders for improved juvenile rehabilitation and legal aid services.

Additionally, the MoHR launched the National Action Plan on Business and Human Rights to align corporate practices with international human rights standards. Furthermore, the Ministry played a pivotal role in drafting Pakistan's periodic reports for UN treaty bodies, including the Committee on the Rights of the Child and the Universal Periodic Review (UPR), reaffirming the country's commitment to global human rights obligations. (Ministry of Human Rights, 2025)

The MoHR strengthened the National Commission for Human Rights (NCHR) through capacity-building initiatives and expanded the operation of human rights helplines for legal assistance and complaint redressal. Public awareness campaigns on gender-based violence, child protection, and disability rights were conducted nationwide. Furthermore, the Ministry actively collaborated with civil society organizations and international partners to enhance Pakistan's human rights landscape. (Ministry of Human Rights, 2025)

Despite the progress, the MoHR faced challenges, including limited financial and human resources, weak inter-department and inter-agency coordination, and gaps in implementing key human rights laws which hampered its performance. Additionally, limited jurisdiction after devolution of powers, bureaucratic delays, political hurdles, and inadequate enforcement mechanisms further impacted the progress. Furthermore, delays in fulfilling international commitments and limited public awareness of human rights laws impacted the Ministry's effectiveness. These challenges highlighted the need for stronger institutional capacity, better coordination, and increased financial investment to enhance human rights protection in Pakistan.

### **Provincial Human Rights Departments**

At provincial levels, human rights are implemented through provincial human rights institutions which are often part of law and parliamentary affairs departments. In the province of Khyber Pakhtunkhwa, there is a Directorate of Human Rights. (Government of Khyber Pakhtunkhwa, 2025) The province Punjab has the Human Rights & Minorities Affairs Department (Government of Punjab, 2025) while the province of Sindh also has a Law, Parliamentary Affairs and Human Rights department (Government of Sindh, 2025). Lastly, the province of Balochistan has a human rights wing in Inter-Provincial Coordination Department. (Government of Balochistan, 2025)

These provincial departments are implementing and coordinating human rights in accordance with the Constitution of 1973 and ratified international human rights conventions and treaties. However, they are struggling with weak coordination, inadequate capacities and capabilities, lack of skilled staff and limited resources.

### **Treaty Implementation Cell**

In 2014, Treaty Implementation Cell (TIC) was established at federal level to coordinate Pakistan's reporting obligations and to

guide the federating units for better adherence to the international conventions and commitments.(Ministry of Human Rights, 2022, p. 10) TIC is an inter-provincial and inter-ministerial institution to report and oversee the compliance of requirement related to the European Union’s Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) for Pakistan. TIC is housed at the Ministry of Commerce and chaired by the Attorney General for Pakistan. Provincial TICs were also established for better coordination, effective monitoring and improved compliance of international human rights conventions and treaties in the provinces. As the GSP+ monitoring includes ratification and effective implementation of core human rights treaties, hence federal and provincial TICs are valuable additions to the national human rights protection system in Pakistan. The European Union appreciated the working of TICs however it highlighted their capacity issues in the following manner.

“The federal and provincial Treaty Implementation Cells (TICs) established in 2015 by the Government of Pakistan constitute a dedicated institutional framework to oversee and report on GSP+ implementation across the country. The provinces of Punjab and Sindh have established permanent structures with dedicated resources, while other TICs continue to lack capacity.” (European Commission, 2023, p. 4)

### **Judiciary**

The institutional mechanism for protection of fundamental rights includes an independent judiciary. The Pakistan judiciary has vast powers for protection of fundamental rights. Courts can review legislation and executive actions on the touchstone of fundamental rights.

### **The Supreme Court and Provincial High Courts**

The Supreme Court can be petitioned directly under Article 184 (3), if an enforcement of ‘Fundamental Rights’ as enshrined in the Constitution 1973 is required in a public interest. It can even take *suo moto* action against any fundamental rights infringements. The Supreme Court has taken *suo moto* actions and played a pivotal role in enforcing fundamental rights through public interest litigation and judicial activism in Pakistan.(Nasir Aslam Zahid, 2019) Similarly, Article 199 empowers High Courts to give directives to any person or authority to enforce any fundamental right by exercising their vested writ jurisdiction.

### **Human Rights Cell**

Additionally, in line with the powers conferred on the Supreme Court as one of its original jurisdictions under Article 184 (3) of the Constitution 1973, a human rights cell is working in the Supreme Court under the direct supervision of the Chief Justice of Pakistan. The human rights cell was established to provide an expeditious and inexpensive remedy in matters relating to infringements of fundamental rights.(Supreme Court of Pakistan, 2022, pp. 86-88) On complaint or *suo moto* basis, the human rights cell calls for

reports and comments from the concerned authorities under the orders of the Honourable Chief Justice of Pakistan and matters may be disposed of on satisfactory reports. The cases requiring hearing are fixed in Court and are decided thereof. Relief is provided to vulnerable segments of society without going through the traditional protracted litigation process. (Supreme Court of Pakistan, 2019a) The Human Rights Cell at the Supreme Court of Pakistan disposed of 14527 applications during 01.06.2019 to 14.09.2020. (Supreme Court of Pakistan, 2022, p. 84)

The Supreme Court decided several human rights cases, on the basis of public interest litigation or referral from the human rights cell, that includes missing persons, kidnapping, murder, rape, honour killing, vani, child marriages, torture, inhumane treatment, harassment, and acid attacks, amongst other complaints. (Supreme Court of Pakistan, 2019b) Hence, the human rights cell is instrumental in providing expeditious and inexpensive remedy to the citizens without going through traditional protracted litigation processes. At a provincial level, the High Courts also incorporate similar mechanisms which are also operational.

### **The District Judiciary**

At district levels, the District and Sessions Judges play an important role in protecting fundamental rights. District and Session judges have executive and judicial power all over the districts under their jurisdiction. They are empowered to issue directions of the nature of *habeas corpus* under section 491 of Criminal Procedure Code (Cr. P.C). As a Justice of Peace under section 22-A & B of the Cr.P.C., they can entertain complaints and issue appropriate directions to relevant police authorities regarding registration of criminal cases and in respect of neglect, failure or excess committed by the police authorities in relation to their functions and duties. District and Session Judges are also required to monitor detention places to check illegal detention, provide redress to prisoners and protect their rights under section 491 of the Cr.P.C. and the National Judicial Policy 2009. District and Session Judges also act as chairmen of criminal justice committees, district legal empowerment committees and directors of human rights at district levels which are established to address challenges faced in criminal justice system, providing legal aid and protecting fundamental rights at district level. The office of Director of Human Rights needs to be strengthened as it lacks statutory support and is marginalized in view of the recent rulings of superior courts. (*The District Education Officer and 2 others Versus Zahid Mehmood and another (W.P. No.21973 of 2012*), 2017)

### **Independent National Institutions**

In Pakistan, statutory accountability bodies with certain degree of independence are also part of human rights institutional framework. The Federal Ombudsman Office is one of those institutions.

### **Federal Ombudsman of Pakistan**

Chronologically in 1983, the government established an ombuds

institution by law in Pakistan with some independence to check maladministration.(Federal Ombudsman of Pakistan, 2022, pp. 1-2) This marks an era when Pakistani state factually created an independent, self-accountability institution with a quasi-judicial function to investigate, redress and rectify any injustice done to a person through maladministration of a government agency. The institution was formed through the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order No. 1 of 1983). Additionally, it also derives its strength from a constitutional provision under Article 37 (d) of the Principles of Policy enshrined in Chapter 2 of the Constitution 1973 which makes it obligatory on the part of the State to ensure inexpensive and expeditious justice to its citizens. The Federal Legislative List provided in the Constitution 1973 makes a special mention of the Federal Ombudsman.

Establishment of Federal Ombudsman was an important development in national protection and accountability framework in Pakistan. However, the institution lacked legal, administrative independence and adequate powers to enforce its recommendations or orders. These gaps were abridged in 2013 when the government promulgated 'The Federal Ombudsmen Institutional Reforms Act, 2013' which strengthened administrative and financial autonomy of the institution and conferred enforcement powers to the Ombudsmen and the Investigation Officers.(Federal Ombudsman of Pakistan, 2022, p. 1) Additionally, the law conferred on the Ombudsman powers of a Civil Court with respect to grant of temporary injunctions and implementations of the recommendations, orders or decisions. Uniquely, powers to punish for contempt of court under the Contempt of Court Ordinance, 2003, were also given to the Ombudsman. Furthermore, the institution was strengthened to review its decisions which previously did not exist as any decision by the Federal Ombudsmen could earlier be impugned through a representation with the President of Pakistan. Consequently, legal framework of Federal Ombudsman was strengthened allowing greater institutional administrative and financial autonomy which enhanced its effectiveness. The Federal Ombudsman has seventeen (17) regional offices operating in different cities with additional two complaint collection centers.(Federal Ombudsman of Pakistan, 2022, p. 1) During 2022, the Federal Ombudsman received 164,173 complaints of maladministration and disposed of 157,798 complaints which shows a drastic increase as compared with receipt of 110,405 and disposal of 106,823 complaints in 2021.(Federal Ombudsman of Pakistan, 2022, p. 9)

Additionally, Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH) which is an autonomous quasi-judicial statutory body, is also working for the protection of women against harassment at the workplace. Section 7 of the Protection against Harassment of women at the Workplace Act, 2010 (Act No-

IV of 2010) requires governments to appoint an ombudsperson for protection against workplace harassment. While Section 8 of the same provides an option to the complainant either to submit its complaint to the inquiry committee or get it investigated by FOSPAH. In addition to harassment at workplace matters, the Government of Pakistan through the Enforcement of Women's Property Rights Act, 2020 has also given to FOSPAH the authority to handle the cases related to inheritance of women. FOSPAH has three regional offices in Karachi, Peshawar and Lahore. FOSPAH strengthened national human rights framework for protection of women rights in Pakistan. Furthermore, each province has a provincial ombudsman.

The legal mandate of ombuds institutions are limited to 'maladministration' which includes

'a decision, process, recommendation, act of omission or commission which is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bona fide and for valid reasons; or is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or is based on irrelevant grounds; or involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and neglect, inattention, delay, incompetence, inefficiency and ineptitude in the administration or discharge of duties and responsibilities.'(The Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order No. 1 of 1983), 1983, Section 2)

Then how are these institutions relevant to national human rights protection framework in Pakistan? The relevancy of ombud institutions to the national human rights protection system of Pakistan is based upon, firstly, the overlap of human rights issues with maladministration matters. Usually, maladministration in any public agency may lead to denial of fundamental human rights of people and may erode the system of accountability and dispensation of justice. Therefore, ombud institutions which are created to check maladministration may also engage in protection of human rights.

Secondly, ombuds institutions in Pakistan filled the institutional gap as first statutory independent national human rights institutions were created in 2012 with the adoption of the National Commission on Human Rights Act, 2012. Thirdly, these Ombud institutions carried out activities in rights jurisdictions and created structures for protection of human rights and child rights. For example, Federal Ombudsman of Pakistan was acting as a NHRI for children, produced state of child rights reports (UNICEF & Children Complaint Office, 2015) and established National Commission on children as special initiatives.(Wafaqi Mohtasib (Ombudsman), 2025) Similarly, it was engaged in right based legal reform (DAWN, 2017) which goes beyond 'maladministration'

mandate. Lastly, discussion on statutory basis and subsequent reform of the Federal Ombuds institution is also relevant to our study as it could provide guidance for strengthening national human rights institutions in a number of areas which may include legal, administrative and financial independence, complaint handling, enforcement of recommendations or orders etc.

### **National Commission on the Status of Women (NCSW)**

National Commission on Status of Women (NCSW) is the first independent rights institution of Pakistan which was established in 2000. The momentum for legal and policy reform for promotion and protection of women rights created in 1996 when Pakistan's first woman Prime Minister, Late Benazir Bhutto's government ratified Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and established a Commission of inquiry on the Status of Women. The Commission on Inquiry on Status of Women thoroughly examined legal and policy framework for promotion and protection of women rights as well as the enforcement mechanism of these rights. The Commission was headed by Justice (ret'd) Nasir Aslam Zahid which produced an official report to the Parliament in 1997. The Inquiry Commission recommended a permanent Commission; it was to be a fully autonomous government body, with its interaction and linkages with other state organizations. This was to be complemented by an equality ombudsman to process violations of women's rights and oversee the proper implementation of laws and policies for women (Commission on Inquiry for Women 1997:109).

When General Pervez Musharraf assumed power in 1999 in a military *coup d'état*, he passed a presidential ordinance to establish the NCSW in 2000. However, the law fell short of the recommended powers, functions and status by the Commission on Inquiry for Women. Consequently, NCSW was established with limited powers and independence. Shaheen Sardar Ali, who was the first chair of NCSW, described that due to opposition from the Ministry of Women Development which considered proposed NCSW as its competitor and their misunderstanding of complaint handling and investigative powers of NCSW which they suspected was equal to creating a parallel government for women, the cabinet was forced to choose 'between a watered-down version' and accept a Commission with limited powers, or none at all (Ali 2012:56). Despite its birth under a military dictatorship, it was hailed as an important achievement in the struggle for women's rights. Later in March 2012, the NCSW was further strengthened legally by promulgating the National Commission on Status of Women Act, 2012.

NCSW is mandated, firstly, to review laws, policies and practices of the federal government for gender equality and effective promotion and protection of women rights in Pakistan. Secondly, it can assess compliance of international human rights treaties particularly CEDAW and recommend measures for their

effective implementation. It may also recommend federal government to access or ratify any human rights instrument affecting girl or women rights. Thirdly, it can visit any jail or place of detention with prior permission of the government to ascertain condition of women prisoners. Next, it may inquire into women rights complaints and possess powers of a civil court for enforcing the attendance of any person and compelling the production of documents during its proceedings. Furthermore, it can encourage research on women rights and forged collaborations with government and non-government stakeholders to achieve its mandate.

Yet the NCSW does not enjoy full independence. It has limited financial resources, staff and powers to make interventions on urgent and important issues. Its mandate is limited to the federal territory and federal institutions which limit its national jurisdiction. The Commission was able to make moderate advances in women rights due to its leadership's consistent efforts who worked exceptionally hard to make improvements in the legal and policy frameworks and protection mechanisms for women's rights.

#### **National Commission for Human Rights (NCHR)**

NCHR is the NHRI of Pakistan established by law in 2012 which became operational in May 2015. It is an important mechanism to promote and ensure the implementation of, *inter alia*, the seven core human rights conventions ratified by the State of Pakistan, and fundamental rights as enshrined in the Constitution of Pakistan 1973. The establishment of such a body falls within the commitment made by the State party upon ratification to ensure the implementation of each Convention and advance the universal human rights.

Complying with its international obligations to strengthen national human rights protection system, Pakistani state established a National Commission for Human Rights (NCHR) through the National Commission for Human Rights Act, 2012 (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 Commission is an independent statutory institution which is a central element of a strong national human rights system in Pakistan. It also plays the role of a “bridge” between civil society and the Government, links 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 faced acute financial and organizational constraints. NCHR was severely handicapped due to delay in notifying recruitment and financial rules by the government which prevented NHCR from recruiting its permanent staff or creating its 'NCHR Fund' as required by the law. Similarly, the government allocated meagre budgets in the beginning and provided with limited logistical support to discharge its duties(NCHR, 2017). Its role and independence was denied when it comes to interaction with international human rights system or submission of alternative reports. The Commission sought support of the High Court in order to restrain government from undue interference in the matters of NCHR and protect its independence. The long delay in the appointment of new chairperson and members after completion of first tenure in May 2019 led to reduction of its staff which were serving mostly on temporary arrangement due to non-availability of human resource rules and finances. The recruitment process of chairperson and members of NCHR was also challenged in the superior courts couple of times which indicates that there are gaps in legal framework to ensure merit-based appointment in a transparent manner. Additionally, undemocratic practices and non-transparent governance, and moreover the limited understanding of the role of NHRIs, has posed limitations on the functioning of the NHRIs(DAWN, 2023). Some of these issues have been resolved while others remain intact till today. This may include lack of permanent staff due to non-availability of human resource rules and lack of envisaged financial mechanism in the shape of 'NCHR Fund', limited financial independence, lack of adequate budgets, non-transparent selection process etc.

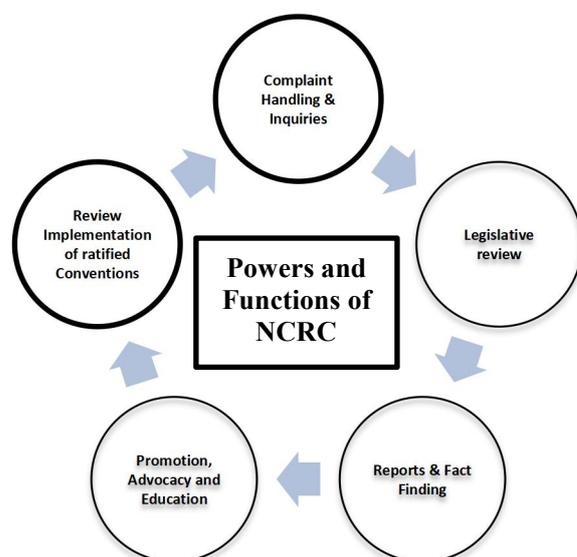
Despite these challenges, NCHR is the most empowered NHRI in Pakistan considering its legal basis, statutory independence, provincial offices, its bipartisan appointment process which involves the treasury and the opposition benches, its direct reporting to the national parliament, etc. The previous and current leaders and membership of NCHR has worked hard to build coordination with the state apparatus. Yet, the NCHR lacks an international accreditation, which explains the limits of its autonomy and influence.

### **National Commission on the Rights of the Child**

NCRC is third NHRI established in Pakistan with the promulgation of National Commission on the Rights of the Child Act, 2018 which

became operational in Feb. 2020 with the appointment of its chairperson and members for a three-year term. It is a specialized institution established for promotion and protection of children’s rights as enshrined in the Constitution of Islamic Republic of Pakistan 1973. Other domestic laws and ratified international human rights conventions including the Convention on the Rights of the Child and its optional protocols. The tenure of first chairperson and members was completed in Feb. 2023 and new chairperson and members were appointed in May 2023.

Primary functions and powers of the NCRC include, among others, to conduct inquiries into allegations of child rights abuse(s); review existing and proposed legislation from child rights perspective; carry out research and advise on policy matters pertaining to the situation of child rights in Pakistan; contribute awareness-raising and advocacy initiatives and suggest measures to follow up on the implementation of concluding observations of the Committee.



During first tenure (Feb 2020 to Feb 2023), NCRC was able to handle 336 complaints on violation of child rights, reviewed several laws and policies affecting child rights and extended its support to governments for child rights legislative reform notably Sindh Child Protection Authority (Amendment) Act which was passed by the Sindh Assembly, actively engaged in promotion activities and produced research based policy briefs to support government on elimination of child marriages, child domestic labour, street connected children in Pakistan, forced labour and child online protection etc. NCRC engaged with the Parliamentary committees on Human Rights constantly however it was not smooth. Parliamentarians were not satisfied with the performance while the government appreciated it considering the challenges which NCRC faced during formation phase. The Chairperson NCRC faced a privileged motion which was brought forward by members of child rights caucus of the National Assembly which contributed

to rejection of extension in the tenure of first chairperson and members. On the other hand, it is said that privileged proceedings were politically motivated to prevent extension of incumbent chairperson and members. The founding law was amended through the National Commission on the Rights of the Child (Amendment) Act, 2022 which further tightened the grip of the Prime Minister and division concerned (i.e. Ministry of Human Rights) over NCRC undermining independence and autonomy of the institution. The Commission is duty bound to follow directions of the Prime Minister and comply with instructions of the Ministry of Human Rights on exchange of information and other returns. The founding law is deficient in providing a clear, transparent process of appointment for chairperson and members hence this important matter was left to the discretion of government which was misused in recent appointments as vacancies were neither advertised publicly nor any transparent process was adopted. Consequently, some appointed members were unknown in child rights sector while others were either affiliated with political parties or refused to join. In addition, NCRC was also facing challenges in the process of appointment of secretary and staff due to continuing budgetary & financial constraints and delays in finalizing rules. It is suffering from weak administrative and financial autonomy with overlapping mandates in multi NHRIs organizational landscape in Pakistan. These challenges are affecting its effectiveness and independence.

#### **Other Federal and Provincial Institutions**

In addition to aforementioned independent institutions, the State of Pakistan established ten human rights commissions (two at Federal level and 08 at Provincial levels) mandated to promote and protect different facets of universal human rights which includes but not limited to women rights, children rights, minority rights and general human rights. These commissions includes; (i) Commission for Protection of Journalist and Media Persons, (ii) Commission on Rights of Minorities, (iii) Punjab Commission on Status of Women, (iv) Sindh Commission on Status of Women, (v) Sindh Human Rights Commission, (vi) Sindh Commission on Rights of Minorities, (vii) KPK Commission on Status of Women, (viii) KP Child Protection and Welfare Commission, (ix) Sindh Child Protection Authority, (x) Balochistan Child Protection Commission. Majority of these institutions have quasi-judicial powers and are mandated to review laws, policies and practices, engage in promotion activities, conduct research and to act as an independent watchdog for promotion and protection of children rights, women rights and human rights generally.

#### **Challenges and Gaps**

Pakistan has a strong legal framework, but enforcement remains weak. Political will is lacking. Resources are limited. Bureaucratic delays obstruct implementation. Institutions often have overlapping mandates. Coordination between federal and provincial bodies is poor. The 18th Amendment devolved powers,

but no effective mechanism ensures intergovernmental cooperation on human rights.

Independent human rights institutions face several challenges. Their independence is weak and funding is inadequate which limit their autonomy and impact. Provincial enforcement is uneven due to capacity and resource gaps. Reporting to UN treaty bodies is often late. Follow-up on recommendations is minimal. These gaps weaken Pakistan's compliance with its constitutional and international human rights obligations.

### **Way Forward**

Pakistan must align its domestic laws with international human rights standards. Legal frameworks need regular review and reform. Institutions require more funding, skilled staff, and technical support. Both federal and provincial bodies must build their capacity. Transparent appointments and financial autonomy will strengthen NHRIs. Independence is essential for their credibility and effectiveness.

Coordination between federal and provincial institutions must improve. Clear structures should guide collaborative efforts and enforcement. Human rights courts should be made operational and effective. Judicial oversight must become more proactive. Pakistan should submit timely reports to UN bodies. Follow-up on treaty body recommendations must be systematic and consistent. These steps will help close the gap between commitments and practice.

### **Conclusion**

The framework for human rights governance in Pakistan is a paradoxical combination of progressive constitutional provisions and enduring gaps in implementation. Although the 1973 Constitution, especially after the 18th Amendment, offers a strong basis for provincial autonomy and fundamental rights, there is still a clear gap between the legal guarantees and actual conditions on the ground. Pakistan's failure to fully integrate treaty obligations into domestic law, particularly with regard to socio-economic rights and protections for vulnerable groups, has been brought to the attention of international human rights bodies on numerous occasions. *Suo moto* powers and the judiciary's activist posture have brought about some relief, but structural problems like institutional fragmentation, political meddling, and resource shortages still impede significant advancement. Structural issues continue to undermine the institutional framework for protecting human rights, including NCHR, NCSW, NCRC and provincial mechanisms. Judicial reforms should ensure consistent enforcement of rights, while civil society and media must be empowered to hold the state accountable. Ultimately, sustainable progress requires not only legislative and institutional developments but also a broader cultural shift toward rights-based governance. By addressing these challenges, Pakistan can move closer to fulfilling its constitutional obligations and international

commitments, ensuring equitable protection for all its citizens.

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