

EFFECTIVE FUNCTIONING OF STANDING COMMITTEES ON HUMAN RIGHTS IN PUNJAB AND KHYBER PAKHTUNKHWA PROVINCES¹

EXECUTIVE SUMMARY

As democratic institutions in Pakistan going through relative consolidation, there is a growing focus on improving the functioning of the parliament and the parliamentary bodies. Though there are a number of parliamentary, executive, judiciary and other independent mechanisms for the protection and promotion of human rights in the country, Standing Committees are of prime importance. However, due to capacity, structural and operational impediments, these Standing Committees have not been fully functional.

This study assesses the Standing Committee on Human Rights and Minority Affairs of Punjab Assembly and the Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly against a selected international framework to highlight the challenges to their effective functioning and provides the following key recommendations:

- The Provincial Assemblies of Punjab and Khyber Pakhtunkhwa may consider introducing amendments in the existing rules to provide to scrutinize each piece of legislation against Pakistan's domestic and international human rights obligations and commitments. This will ensure that each legislation embodies the spirit of protection and promotion of human rights in the country.

- In addition to the Standing Committee on Human Rights in Minority Affairs of Punjab Assembly and the Standing Committee on Law, Parliamentary Affairs and Human Rights of KP Assembly, other relevant Standing Committees should also be consulted when reviewing or passing legislation to deal with any aspects of human rights.

- The role of committees on human rights in both Punjab and KP is very limited. It is therefore important that existing rules dealing with the committees' role in general and human rights committees in particular be amended to define their role as prime body to provide parliamentary scrutiny of human rights related legislation and oversight of implementation of human rights related obligations within the province.

- To ensure committees are able to operate independently, their mandate should include taking *Suo Moto* (by their own initiative) notices of human rights violations in line with standing committees of National Assembly and Senate. They should have freedom to convene meetings and bring debates to the house on issues of human rights.

- In line with provisions 135-A of Balochistan Assembly's Rules of Procedure, the Secretary of a department should be required to provide full briefing to the relevant Standing Committee once its formed.

¹This paper is drafted by Niaz Ahmed, Parliamentary Strengthening Expert with inputs from DRI Pakistan Country Director Javed Ahmed Malik and DRI Pakistan Senior Human Rights and Advocacy Expert Muhammad Rafique.

- Legislative scrutiny should be one of the major functions of the committees on human rights in Punjab and KP. This should be changed in the rules to make it mandatory that any legislation dealing with human rights issues should be referred to these committees.
- Provincial assemblies' role in compliance of international human rights obligations must be defined more clearly.
- The oversight function of the committees shall include scrutiny of government policy generally for human rights compatibility. Monitoring the adequacy of the provincial system for the protection of human rights is also listed as one of the functions of the committees.
- Professionalization of working of the committee should be part long term aspiration for these committees.
- While members of Punjab and KP Assemblies are engaged in different parliamentary strengthening projects being run by national and international organizations, there is need for structured training and capacity building programs for members of the human rights standing committees of Punjab and KP and their relevant staff.
- Existing training and capacity building programs being run by national and international organizations should be reviewed for their effectiveness and relevance for standing committees on human rights. Greater ownership of these programs by the provincial assemblies can go a long way in improving their effectiveness.
- There is need to strengthen the institution of “Committee of Chairs” where all committees share information with each other and learn from each other.

INTRODUCTION

There is a growing international consensus that protection and promotion of human rights is an essential role of the parliament which is mainly responsible for three functions namely legislation, representation and oversight.² After the successful democratic transition in the 2008 general elections, many efforts were undertaken to develop national and provincial human rights architecture in the country. Currently, Pakistan has an elaborate structure dealing with protection and promotion of human rights which includes parliamentary bodies on human rights,

executive branch (ministries), National Human Rights Institutions (NHRIs) and judicial mechanisms of judiciary such as Human Rights Cells of Supreme Court of Pakistan and High Courts of the provinces. At the federal level, there is a Ministry of Human Rights (MoHRs). There are two corresponding Standing Committees on Human Rights, one each in National Assembly and Senate of Pakistan. At provincial level, protection and promotion of human rights is one of the major functions of a ministry and corresponding standing committee of that Provincial Assembly (with an exception of Balochistan). In Punjab, human rights fall under Ministry of Human Rights and Minority Affairs while in Khyber Pakhtunkhwa and Sindh, human rights fall under the domain of Ministry of Law, Parliamentary Affairs and Human Rights. In Balochistan, human rights are part of Social Welfare, Special Education, Non-formal, Literacy and Human Rights Department, Balochistan. Each provincial department or ministry has a corresponding Standing Committee of that Provincial Assembly.

This briefing paper examines the existing capacity, structural and impediments in effective functioning of the Standing Committee on Human Rights and Minority Affairs of Punjab Assembly and Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly. The paper also offers a set of recommendations for effective functioning of these committees to discharge their mandate of promoting and protecting human rights.

Part-I of the paper provides a brief assessment of the existing capacity, structural and operational impediments of the relevant Standing Committees, while Part-II of the paper provides key recommendations on improving committees' role in promotion and protection of human rights in general and improving the functioning of these Standing Committees in the light of the assessment in particular.

METHODOLOGY

This paper is prepared through desk research about selected international best practices for effective functioning of parliamentary committees for promotion and protection of human rights, application of selected framework to assess the existing capacities, structural and operation impediments to the committees and devise recommendations according to the selected framework. The framework used and customized for this study is a joint publication of Westminster Foundation of Democracy

²Brian Chang and Graeme Ramshaw, “Strengthening Parliamentary Capacity for the Protection and Realisation of Human Rights”, WFD

(WFD) and Oxford University Press. A summarized version of seven elements against which the committees have been assessed and recommendation provided are these:

1. Parliaments should have adequate internal structures to enable them to fulfil their responsibility to protect and realise human rights.
2. Parliaments should have specialised human rights committees to adhere the following principles:
 - ✓ Are established by parliament
 - ✓ Have remits that are broadly defined
 - ✓ Are independent and plural in nature
 - ✓ Have powers that enable it to carry out its work effectively
 - ✓ Be supported by specialised staff with expertise in human rights law and policy
3. The principal function of the specialised parliamentary human rights committee should be to inform parliamentary debate about human rights issues.
4. The specialised parliamentary human rights committee should adopt appropriate working methods.
5. Parliaments and their parliamentary human rights committee should develop and maintain consistent and effective working relationships with a range of key interlocutors.
6. Parliaments should provide appropriate training and research services on human rights to all members and staff.
7. Parliaments should develop a methodology to assess their effectiveness in the protection and realisation of human rights.

Key informant interviews (KIIs) were also conducted with selected members and officials of the two assemblies. A list of the people met for this study is provided in annexes. For the sake of brevity and confidentiality, individual attributions are not provided to any findings or recommendations.

PART-I- ASSESSMENT OF THE STANDING COMMITTEES

A summary of the assessment is provided below, while a detailed version for each province is outlined in the table given below:

- The existing parliamentary structures of Punjab and Khyber Pakhtunkhwa are not sufficient to ensure rigorous, regular and systematic monitoring of the government's performance in securing the rights and freedoms recognized in constitution of Pakistan, relevant provincial and national laws and international obligations.

- The Standing Committee on Human Rights and Minority Affairs in Punjab Assembly and Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly are established as part of the rules of the assemblies. However, their independence is limited. Committees of both provinces are dependent on the referral of business to them by the assembly. They cannot convene meetings on their own. No dedicated staff is allocated to these committees to undertake any of their tasks including independent research.

- There are no requirements for the committees to meet any specified frequency in the rules of either assembly.

- Due to limited powers and mandate in the rules, the Standing Committees are not able to conduct any legislative scrutiny until it is referred to the committee by the Speaker.

- The committee due to their limited powers and mandate do not have any schedule of meetings, methods and tools. Civil society interaction of the committee is limited to invitations by international and national organizations to participate in their activities. These activities are welcomed by individual members but are not part of any formal structures of the assembly.

- The role and mandate of the committees does not require them to develop and maintain consistent and effective relationships with range of key interlocutors.

- No formal mechanism for training of members of the committees or individual members is available. The members training is limited to orientation which is provided in collaboration with Pakistan Institute for Parliamentary Services (PIPS) and/or other national and international projects soon after the elections.

A more detailed assessment is provided in below table against each of the seven practices.

No	Practice	Assessment	
		Punjab	Khyber Pakhtunkhwa
01	Parliaments should have adequate internal structures to enable them to fulfil their responsibilities to protect and realise human rights. These internal parliamentary structures should ensure rigorous, regular and systematic monitoring of the government's performance of its responsibilities to secure the rights and freedoms recognised in national law and in the State's international obligations.	The existing parliamentary structures of Punjab are not sufficient to ensure rigorous, regular and systematic monitoring of the government's performance of responsibilities to secure the rights and freedoms recognized in constitution of Pakistan, relevant provincial and national laws and international obligations. The mechanisms for parliamentary oversight of the executive is not explicitly outlined in the Rules of Procedures. The committees don't have sufficient powers to get fully involved in monitoring of the implementation of fundamental rights enshrined in the constitution as well as in the provincial laws.	The existing parliamentary structures of Khyber Pakhtunkhwa are not sufficient to ensure rigorous, regular and systematic monitoring of the government's performance of responsibilities to secure the rights and freedoms recognized in constitution of Pakistan, relevant provincial and national laws and international obligations. The mechanisms for parliamentary oversight of the executive is not explicitly outlined in the Rules of Procedures. The committees don't have sufficient powers to get fully involved in monitoring of the implementation of fundamental rights enshrined in the constitution as well as in the provincial laws.
02	<p>Parliaments should have specialised human rights committees to adhere the following principles:</p> <ul style="list-style-type: none"> ■ Are established by parliament, and not the executive, with their permanent existence enshrined in Parliament's Standing Orders; ■ Have remits that are broadly defined, concerns human rights in the domestic context, and allows the committee to take into account all relevant sources of human rights standards in both national and international law; ■ Are composed in such a way as to guarantee their independence and pluralism; ■ Have powers that enable it to carry out its work effectively; ■ Be supported by specialised staff with expertise in human rights law and policy, and who are independent from government and NGOs 	<p>The Standing Committee on Human Rights and Minority Affairs in Punjab Assembly is established as part of the Rules of Procedure of Punjab Assembly. However, its independence is limited. The Standing Committee of Punjab is dependent on the referral of business to them by the assembly. They cannot convene meetings on their own.³</p> <p>As per composition of the Standing Committees, each committee of Punjab Assembly shall be comprised of not more than 11 members.⁴ Minister and Parliamentary Secretary of the relevant ministry shall be ex-officio members.</p> <p>The Standing Committee on Human Rights and Minority Affairs in Punjab comprises 10 members.⁵ 7 out of 10 members are women which makes up 70% women. Similarly, 3 out of 10 members belong to the minority communities, which makes up 30% representation of minorities</p>	<p>The Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly is established as part of the Procedure and Conduct of Business Rules 1988, Khyber Pakhtunkhwa Assembly. The role of Standing Committees of Khyber Pakhtunkhwa is also limited to examining of the bills or matters referred to them by the assembly.⁶</p> <p>The Standing Committee on Law, Parliamentary Affairs and Human Rights of KP Assembly comprises of 9 members, three of whom are women. This makes up 33% representation of women on the committee. Similarly, 4 out of 9 members of the committee are from the opposition parties (PML-Q, PML-N, ANP and MMA), which makes up 44% members from the opposition. Both Punjab and KP Committees on human rights represent good examples of being multi-party as well as gender inclusive.</p> <p>In Khyber Pakhtunkhwa, the committees shall comprise of not</p>

³Effective Role in Committee, PILDAT, p 8,

https://pildat.org/wp-content/uploads/2019/11/Effective_Role_in_Committees.pdf?Submit=Download

⁴Rule 149, Rules of Procedure, Punjab Assembly <https://www.pap.gov.pk/en/committees/committee-rules>

⁵The reason for not having all 11 members is not known.

⁶Effective Role in Committee, PILDAT,

p 8, https://pildat.org/wp-content/uploads/2019/11/Effective_Role_in_Committees.pdf?Submit=Download

No	Practice	Assessment	
		Punjab	Khyber Pakhtunkhwa
		<p>on the committee. While significant number of women on the committee is a welcome sign but general view among the members is that women are only given representation on the committees that are considered least important and they are ignored and deprived of representation on the committees which are considered more important. The Standing Committee is chaired by an opposition member from Pakistan Muslim League - N.⁷ The Chairperson is also former Minister for Human Rights. The committee membership is divided 50/50 between treasury (PTI) and opposition (PML-N).</p> <p>No dedicated staff is allocated to this committee to undertake any of its tasks including independent research.</p> <p>The Rules of Procedure of Punjab Assembly have clearly defined timeline for the election of the members and chairs of the committees. The committees of Punjab Assembly are supposed to be formed within 90 days after the election of the Leader of the House following the general elections.⁸ Similarly, the Chairperson of a committee is due to be elected within 30 days after the election of the members of the committee or from the day on which a seat of chairperson has fallen vacant.⁹ In practice these rules are not followed. The Punjab Assembly formed its committees in January 2019, almost five months after the</p>	<p>more than nine members.¹⁰</p> <p>No dedicated staff is allocated to this committee to undertake any of its tasks including independent research.</p> <p>Procedure and Conduct of Business Rules 1988 of Khyber Pakhtunkhwa Assembly do not clearly define any timeline for the election of members of the committees. Similarly, no any timeline is provided for the election of Chairpersons of the Committees. However, Khyber Pakhtunkhwa Assembly was first Provincial Assembly to form its standing committees in November 2018, almost three months after the General Elections.¹¹</p> <p>There are no requirements for the committees to meet any specified frequency in the rules of any assembly. The rules of KP Assembly are not as elaborate as of Punjab Assembly as they permit the Chairman of the Committee to determine date and time of the meeting and in absence of Chairman, the Secretary can convene a meeting.¹²</p>

⁷All chairs of the committees from opposition have resigned in Punjab Assembly due to disagreement with government on allocation of chairpersonship of Public Accounts Committee. However, resignations have not been accepted and negotiations are underway between government and opposition.

⁸Rule 150 (3) Rules of Procedure, Punjab Assembly https://www.pap.gov.pk/about_assembly/details/en/32

⁹Rule 151 (3) Rules of Procedure, Punjab Assembly https://www.pap.gov.pk/about_assembly/details/en/32

¹⁰Rule 154, Procedure and Conduct of Business Rules 1988, Khyber Pakhtunkhwa Assembly, <https://www.pakp.gov.pk/rules-of-procedure/>

¹¹<https://pildat.org/parliamentary-monitoring1/pildat-comparative-assessment-of-performance-of-provincial-assemblies-during-first-year>

Rule 168 (1), Procedure and Conduct of Business Rules 1988, Khyber Pakhtunkhwa Assembly, <https://www.pakp.gov.pk/rules-of-procedure/>

No	Practice	Assessment	
		Punjab	Khyber Pakhtunkhwa
		<p>general elections,¹³ surpassing the time line provided in its rules. While there is lack of readily available information on when exactly the committees were formed, a notification of the Punjab Assembly indicates that the chairperson of Standing Committee on Human Rights and Minority Affairs was elected on 25th February, 2019, which is six months after the first session of the assembly and election of the Leader of the House.</p> <p>There are no requirements for the committees to meet any specified frequency in the rules of any assembly. The Punjab Assembly provides that the Chairperson of the committee can determine date and time of the sitting in consultation with the Secretary¹⁴ and in absence of Chairman, Secretary can fix date and time. The rules have directed committees to continue its proceedings day to day until completion of business assigned to them. At the same time, rules do not permit any committee to meet twice a month unless permitted by the Speaker.¹⁵</p>	<p>more than nine members.</p> <p>No dedicated staff is allocated to this committee to undertake any of its tasks including independent research.</p> <p>Procedure and Conduct of Business Rules 1988 of Khyber Pakhtunkhwa Assembly do not clearly define any timeline for the election of members of the committees. Similarly, no any timeline is provided for the election of Chairpersons of the Committees. However, Khyber Pakhtunkhwa Assembly was first Provincial Assembly to form its standing committees in November 2018, almost three months after the General Elections.</p> <p>There are no requirements for the committees to meet any specified frequency in the rules of any assembly. The rules of KP Assembly are not as elaborate as of Punjab Assembly as they permit the Chairman of the Committee to determine date and time of the meeting and in absence of Chairman, the Secretary can convene a meeting.</p>
03	<p>The principal function of the specialised parliamentary human rights committee should be to inform parliamentary debate about human rights issues, and may include the following: Legislative scrutiny;</p> <ul style="list-style-type: none"> ■ Scrutiny of executive response to human rights judgements of courts; ■ Scrutiny of compliance with and implementation of 	<p>Due to limited powers and mandate in the rules, the Standing Committee on Human Rights and Minority Affairs of Punjab Assembly cannot conduct any legislative scrutiny until it is referred to the committee by the Speaker.</p> <p>All other functions under this category do not fall within the mandate of the committee.</p>	<p>Due to limited powers and mandate in the rules, the Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly cannot conduct any legislative scrutiny until it is referred to the committee by the Speaker.</p> <p>All other functions under this category do not fall within the mandate of the committee.</p>

¹³<https://pildat.org/parliamentary-monitoring1/pildat-comparative-assessment-of-performance-of-provincial-assemblies-during-first-year>

¹⁴Rule 156, Rules of Procedures, Punjab Assembly, <https://www.pap.gov.pk/en/committees/committee-rules>

¹⁵Rule 156 (3 and 4), Rules of Procedure, Punjab Assembly, <https://www.pap.gov.pk/en/committees/committee-rules>

No	Practice	Assessment	
		Punjab	Khyber Pakhtunkhwa
	<p>human rights obligations;</p> <ul style="list-style-type: none"> ■ Inquiries into topical human rights issues; ■ Scrutiny of government policy generally for human rights compatibility; ■ Monitoring the adequacy of the national system for the protection of human rights (If resources permit, the specialised parliamentary human rights committee could also perform the following functions: <ul style="list-style-type: none"> ✓Pre-legislative scrutiny ✓Post-legislative scrutiny ✓Scrutiny of secondary legislation 	<p>Due to limited powers and mandate in the rules, the Standing Committee on Human Rights and Minority Affairs of Punjab Assembly cannot conduct any legislative scrutiny until it is referred to the committee by the Speaker.</p> <p>All other functions under this category do not fall within the mandate of the committee.</p>	<p>Due to limited powers and mandate in the rules, the Standing Committee on Law, Parliamentary Affairs and Human Rights of Khyber Pakhtunkhwa Assembly cannot conduct any legislative scrutiny until it is referred to the committee by the Speaker.</p> <p>All other functions under this category do not fall within the mandate of the committee.</p>
04	<p>The specialised parliamentary human rights committee should adopt appropriate working methods, which are published and kept under regular review in the light of practical experience. These working methods should include:</p> <ul style="list-style-type: none"> ■ A priority policy and work programme; ■ Decisions by consensus; ■ Transparency; ■ Civil society input; ■ Regular reporting; ■ Follow up. 	<p>The committee due to its limited powers and mandate does not have any schedule of meetings, methods and tools. Civil society interaction of the committee is limited to invitations by international and national organizations to participate in their activities. These activities are welcomed by individual members but are not part of any formal structures of the assembly.</p>	<p>The committee, due to its limited powers and mandate, does not have any schedule of meetings, methods and tools. Civil society interaction of the committee is limited to invitations by international and national organizations to participate in their activities. These activities are welcomed by individual members but are not part of any formal structures of the assembly.</p>

No	Practice	Assessment	
		Punjab	Khyber Pakhtunkhwa
05	Parliaments and their parliamentary human rights committee should develop and maintain consistent and effective working relationships with a range of key interlocutors. Such relationships should be established and maintained at the level of both members and staff.	The role and mandate of the committee does not require it to develop and maintain consistent and effective relationships with range of key interlocutors including provincial government departments, independent commissions and other stakeholders.	The role and mandate of the committee does not require it to develop and maintain consistent and effective relationships with range of key interlocutors including number of provincial government departments, independent commissions and other stakeholders.
06	Parliaments should provide appropriate training and research services on human rights to all members and staff.	<p>No formal mechanism for training of members of the committee or individual members is available. The members training is limited to orientation which is provided in collaboration with Pakistan Institute for Parliamentary Services (PIPS) and/or other national and international projects soon after the elections. After that training and capacity building is left to international and national organizations which takes place in a random way and not tracked through institutional means.</p> <p>DFID funded Taber Pakistan Project provides training and capacity building opportunities to members of Punjab Assembly. DRI also provides opportunities for training and learning to the members which includes technical briefings for committee members, inter-provincial and inter-parliamentary thematic exchange visits and roundtables on different issues.</p>	<p>No formal mechanism for training of members of the committee or individual members is available. The members' training is limited to orientation which is provided in collaboration with Pakistan Institute for Parliamentary Services (PIPS) and/or other national and international projects soon after the elections. After that training and capacity building is left to international and national organizations which takes place in a random way and not tracked through institutional means.</p> <p>UNDP, SUBAI, Blue Veins, DRI have been providing training on human rights and other issues.</p> <p>KP Assembly has a five-year strategic plan developed with the support of SUBAI Pakistan Project funded by EU. Training of members and staff is included as one of the objectives. UNDP, DRI and other organizations also provide training opportunities to the members. DRI also provides opportunities for training and learning to the members which includes technical briefings for committee members, inter-provincial and inter-parliamentary thematic exchange visits and roundtables on different issues.</p>
07	Parliaments should develop a methodology to assess their effectiveness in the protection and realisation of human rights.	No such methodology exists in Punjab Assembly.	No such methodology exists in Khyber Pakhtunkhwa Assembly.

PART-II- EXISTING WORK ON PARLIAMENTARY REFORMS

With the continuation of democratic process within the last decade, the parliamentary reforms processes have also started to take root in Pakistan. There is increasing debate on the role of parliament and how it can deliver on the promise of democracy. Effective functioning of the parliament and parliamentary procedures is one of the major prerequisites for democracy to deliver. In Pakistan, Senate of Pakistan offers a good example of parliamentary reforms undertaken between the year 2015 and 2018. A number of initiatives were undertaken during this period to make Senate of Pakistan an effective parliamentary forum of the country. National Assembly and Provincial Assemblies have a lot to learn from the developments of this period. Most important reforms

were brought into the area of committee functioning. Amendments in the rules to make it mandatory to examine the budget of departments by the committees biannually and establishment of Council of Chairs were some of the important milestones achieved during this period.¹⁶ The provincial reform processes can learn a lot from the developments of Senate especially with regard to making the functioning of committees effective.

A number of parliamentary strengthening initiatives are underway with the support of national and international civil society organizations. Organizations like Pakistan Institute for Legislative Development and Transparency (PILDAT) and Trust for Democratic Education and Accountability (TDEA) are engaged in monitoring of parliamentary performance and providing regular recommendations for improvements

CASE STUDY: LEGISLATIVE SCRUTINY BY THE UK JOINT COMMITTEE ON HUMAN RIGHTS¹⁷

The JCHR faces the same challenge as other parliamentary human rights committee in systemically scrutinising all draft legislation for compatibility with human rights, given resource and time constraints. To address this challenge, the JCHR has adopted three key practices: a legislative scrutiny prioritisation policy, requesting for detailed human rights memoranda on all draft legislation proposed by the Government, a meeting with the Bill teams.

1. LEGISLATIVE SCRUTINY PRIORITISATION POLICY

In its early days, the JCHR sought to comprehensively scrutinise all Bills, including Private Members Bills for their compatibility with human rights. However, because of its resource constraints, the JCHR decided in 2007 to adopt a legislative scrutiny prioritisation policy, which focuses its resources on the Bills which are likely to raise significant human rights issues, which in practice has led to the committee scrutinising one-third of the Government Bills in any one Parliamentary session. The policy is based on an initial 'preliminary sift' by the JCHR's legal advisers, who examine all the measures announced in the government's annual legislative programme (the Queen's Speech) and advises the committee on which Bills are likely to raise significant human rights issues. JCHR members consider this advice, discuss whether they agree that the issues identified are likely to be sufficiently significant to warrant human rights scrutiny (based on published criteria), or if there are other significant issues not identified by their legal advisers. They then decide, in principle, which issues in which Bills the JCHR should scrutinise. The Committee then issues a call for evidence in relation to those issues, announces its likely legislative scrutiny priorities for the session, and invites submissions in relation to those Bills or other Bills.

2. HUMAN RIGHTS MEMORANDA

The single most important factor which determines the JCHR's effectiveness in legislative scrutiny is the quality of the information that is provided by the Government explaining the reasons for the Government's view that its proposed Bill is compatible with human rights. The JCHR has thus sought to engender a practice of detailed human rights memoranda by Bill teams. This has also had the important consequence of mainstreaming human rights considerations within Government Bill teams, as they are aware that proposed Bills have to pass detailed parliamentary scrutiny of their human rights compatibility, and are more likely to pass judicial scrutiny if the legislative proposal is tested by the courts.

3. MEETINGS WITH BILL TEAMS

During the period following publication of a Bill that has been identified by the JCHR as a priority for legislative scrutiny, there will usually be a meeting between the Bill team and the JCHR's staff, including its legal advisers. The meetings are intended both to facilitate scrutiny by the JCHR and to help the department. They are informal and off the record, but are conducted on the explicit and mutual understanding that there will be formal, on the record correspondence between the chair of the Committee and the minister in due course, and that certain issues may be best left to that correspondence rather than being the subject of discussion or argument at official level.

(For further information, see M Hunt, "The Joint Committee on Human Rights", in A Horne, G Drewry and D Oliver (eds), *Parliaments and the Law* (Hart Publishing, 2014)

¹⁶Decade of Democracy in Pakistan, p. 23, Friedrich Ebert Stiftung

¹⁷This case study is provided with courtesy of Brian Chang and Graeme Ramshaw, "Strengthening Parliamentary Capacity for the Protection and Realisation of Human Rights", WFD

in the functioning of the parliament. During last more than ten years a number of parliamentary strengthening initiatives have been supported by international community as well. USAID funded Pakistan Legislative Strengthening Project (PLSP) was instrumental behind establishment of Pakistan Institute for Parliamentary Services (PIPS) and a number of other parliamentary reform initiatives. European Union Pakistan has funded two cycles of parliamentary strengthening projects between 2012 and 2019 and a third cycle is to be launched soon. United Kingdom (UK) Government is funding a "Consolidating Democracy in Pakistan (CDIP)" project being implemented by DAI and UNDP which has a strong parliamentary strengthening component. German Government is funding human rights and parliamentary initiative of Democracy Reporting International (DRI).

Through these projects, a number of improvements have been introduced at provincial and national level. Reform of the functioning of the committees and improvements in rules and procedures have been on top of the agenda of these projects. However, due to political polarization in each province, these initiatives have not translated into increased political will and ownership by the political parties and assembly members. Ongoing tensions between government and opposition benches in Punjab and Sindh have almost paralyzed the functioning of the committees in these provinces where opposition has either boycotted or resigned from the committees.

It is important that continuation of democratic process transforms into healthy political competition among different political parties so that the elections are also contested based on policies, performance and parliamentary processes. For the effective functioning of parliament, it is important that the Standing Committees are made effective with sufficient tools at their disposal to perform their mandate of legislative scrutiny and oversight of the executive.

PART-III-RECOMMENDATIONS FOR STRENGTHENING HUMAN RIGHTS COMMITTEES OF PUNJAB AND KHYBER PAKHTUNKHWA

Following recommendations are based on the seven practices against which committees have been assessed. The recommendations are provided in order to underline the importance of human rights committees as well as improve their functioning.

1. Parliaments should have adequate internal structures to enable them to fulfil their responsibility to protect and realise human rights.
 - While it's a good practice that there are dedicated committees to deal with human rights issues, as per

international best practices, it is important that "each parliamentary committee should consistently take into consideration human rights and assess the impact of bills and other proposed legal norms on the enjoyment of human rights by population".¹⁸ The Provincial Assemblies of Punjab and Khyber Pakhtunkhwa may consider introducing amendments in the existing rules to scrutinize each piece of legislation against Pakistan's domestic as well as international human rights obligations and commitments. This will ensure that each legislation embodies the spirit of protection and promotion of human rights in the country.

- In addition to the Standing Committee on Human Rights in Minority Affairs of Punjab Assembly and the Standing Committee on Law, Parliamentary Affairs and Human Rights of KP Assembly, other relevant Standing Committees should also be taken on board when reviewing or passing legislation to deal with any aspects of human rights. Some international best practices have also highlighted role of informal cross-party forums in promotion and protection of human rights within the parliaments, such as women parliamentary caucuses, minority caucuses etc.

2. Strengthened structures of specialised committees on human rights:

- The role of committees on human rights in both Punjab and KP is very limited. There is strong possibility that both these committees will complete their five-year tenure without taking up any business or issuing any report. It is therefore important that existing rules dealing with the committees' role in general and human rights committees in particular be amended to define their role as prime body to provide parliamentary scrutiny of human rights related legislation and oversight of implementation of human rights related obligations within the province.

- To ensure committees are able to operate independently, their mandate should include taking Suo Moto notices of human rights violations in line with standing committees of National Assembly and Senate. They should have freedom to convene meetings, bring debates to the house on issues of human rights.

- As per current rules, both standing committees of Punjab and KP are not able to carry out their work effectively. There is a possibility that both these committees will complete their tenure without leaving any legacy of submitting and publishing any reports or providing any meaningful input to the assembly for promotion and protection of human rights. To avoid this situation and to make the committees more effective, fundamental changes in their role and mandate are required so that they can take proactive measures to ensure protection and promotion of human rights.

¹⁸Human Rights-Handbook for Parliamentarians, IPU and OHCHR, 2016

- Once the role of standing committees on human rights is expanded and their scope is broadened, their requirements for staff and expertise will also grow and assemblies should provide these resources accordingly.

- In line with provisions 135-A of Balochistan Assembly's Rules of Procedure, the Secretary of a department should be required to provide full briefing to the relevant Standing Committee once it formed. This briefing should include details of budget, ongoing projects, legislative gaps and other priority areas of that department. This will provide a very good starting point to the committee for starting its work soon after it formed.¹⁹

To be fully effective, a parliamentary human rights body should:

- Have a broad human rights mandate, encompassing legislative and oversight functions;
- Be competent to scrutinize bills and other acts as to their compatibility with the State's national and international human rights obligations;
- Be competent to deal with any human rights issue it deems important, take legislative and other initiatives in the area of human rights and address human rights problems and concerns referred to it by third parties;
- Be competent to advise other parliamentary bodies on human rights issues;
- Have the power to request information, question witnesses and carry out onsite missions.

(Human Rights-Handbook for Parliamentarians, p,112)

3. The principal function of the specialised parliamentary human rights committee should be to inform parliamentary debate about human rights issues:

- As per this practice, legislative scrutiny should be one of the major functions of the committees on human rights in Punjab and KP. Currently legislative scrutiny by these committees can only be conducted when it is referred to them by the house. This should be changed in the rules to make it mandatory that any legislation dealing with human rights issues should be referred to these committees.

- Once oversight function of these committees is expanded, their role will also involve scrutiny of executive and its response to human rights violations. The international best practice indicates that the scrutiny of executive response to human rights judgements of courts should also be part of mandate of these committees. While this may only be possible in

longer term, it is good to keep the debate alive about this.

- Pakistan's architecture for human rights does not explicitly define provincial assemblies' role in scrutiny of compliance with and implementation of international human rights obligations however, after 18th Constitutional Amendment, many human rights subjects are now legislated upon by the provincial assemblies. Therefore, provincial assemblies' role in compliance of international human rights obligations must be defined more clearly.

- As suggested above, the human rights standing committees should be granted powers to take Suo Moto actions on human rights issues in the province. This will lead the committees to conduct topical inquiries on the lines of mandate provided to other human rights institutions. This will be a major step forward as this will give the committees a status equal to those of other National Human Rights Institutes (NHRIs) of the country.

- The oversight function of the committees shall include scrutiny of government policies to ensure human rights compatibility. This will enable the committees to examine the projects, budgets, implementation and execution of policies and look after the whole human rights scenario in a systemic way.

- Monitoring the adequacy of the provincial system for the protection of human rights is also listed as one of the functions of the committees. However, this is dependent on availability of resources. If these functions are to be performed by these committees, they will also be able to conduct pre-legislative as well as post-legislative scrutiny. This can also be dealt with in the longer term.

4. The specialised parliamentary human rights committee should adopt appropriate working methods, which are published and kept under regular review in the light of practical experience.

- In absence of clearly defined role, mandate and function of the committee, they cannot be expected to perform their functions in a professional way. However, professionalization of working of the committee should be part long term aspiration for these committees. Currently, within their mandate, the committees cannot be expected to have a clearly define work plans, schedule of meetings, professional ways of running the meetings, seeking civil society inputs on their policy debates, general and publish reports, follow up etc. However, these are all essential requirements which needs to be met if the committees are expected to discharge their functions meaningfully.

¹⁹Interview on 14 November 2019 with one of the senior officials of Punjab Assembly.

5. Parliaments and their parliamentary human rights committee should develop and maintain consistent and effective working relationships with a range of key interlocutors.

■ Key interlocutors for members and staff of human rights standing committees of Punjab and KP include relevant government departments, independent commissions such as Child Rights Commissions, Commissions on Status of Women, national level NHRIs and civil society institutions. In the context of limited powers and operating space for standing committees due to their current situation, it is even more important that the committees should develop and maintain relationships with these interlocutors because they will help these committees broaden their understanding of human rights situation, structures and mechanisms. Interactions at national, inter-provincial and local level can be key tools for keeping these committees relevant to the debates on human rights. These can be peer-learning platforms which can give them ideas on how to effectively use their current mandate and keep up trying for making their role more effective.

6. Parliaments should provide appropriate training and research services on human rights to all members and staff.

■ While members of Punjab and KP Assemblies are engaged in different parliamentary strengthening projects being run by national and international organizations. There are no any structured training and capacity building programs being offered by the assemblies themselves. PIPS is mandated to provide training to members and staff of provincial assemblies along with National Assembly and Senate but the provincial assemblies don't take full advantage of the services offered by PIPS.

■ There is need for structured training and capacity building programs for members of the human rights standing committees of Punjab and KP and their relevant staff. These need to be well structured around full spectrum of human rights knowledge that is required for effective functioning of these committees.

■ Existing training and capacity building programs being run by national and international organizations should be reviewed for their effectiveness and relevance for standing committees on human rights. Greater ownership of these programs by the provincial assemblies themselves can go a long way in improving their effectiveness.

■ Members in both of the assemblies were keen to get training on oversight function and legislative scrutiny.

7. Parliaments should develop a methodology to assess their effectiveness in the protection and realisation of human rights.

■ This will be a useful suggestion in the long term. Within current situation of the committees there are no established methodologies in any of Pakistan's assemblies that help assess the effectiveness of the standing committees.

■ There is need to strengthen the institution of "Committee of Chairs" where all committees share information with each other and learn from each other.

■ There is need for interprovincial forums and exchanges of human rights related committees so that they can discuss their relevant provincial updates and exchange expertise and experience with each other.

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