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**42nd Session of the Working Group on the Universal Periodic Review (URP)**

**UN Human Rights Council**

**PAKISTAN**

**Joint submission prepared by:**

**HRCP – Human Rights Commission of Pakistan**

*and*

**FIDH – International Federation for Human Rights**

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The **Human Rights Commission of Pakistan (HRCP)** is a non-political, not-for-profit organisation committed to realising the entire ambit of human rights for all persons in the country, using the framework provided by the Constitution of Pakistan as well as international human rights instruments, to some of which Pakistan is a state party.

The **International Federation for Human Rights (FIDH)** is an international human rights NGO that unites 192 member organisations from 117 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

## **Introduction**

1. This submission focuses on violations of the rights to freedom of expression, assembly, and association; and Pakistan's national human rights institutions (NHRIs). The submission focuses on legal developments and cases that have occurred since the country's third Universal Periodic Review (UPR) in November 2017.
2. During Pakistan's UPR in 2017, the government received 289 recommendations, of which it accepted 168, "noted" (i.e. did not accept) 117, and rejected four.
3. The government accepted three of the six recommendations that called for the protection of human rights defenders and for investigations into attacks - including enforced disappearances - against them.
4. The government accepted four of the seven recommendations that called for the adoption of measures to protect journalists and to combat impunity for attacks against them. The government did not accept all 14 recommendations that called for the repeal or amendment of blasphemy laws. A recommendation that called on the government to take steps to protect freedom of expression online was also not accepted.
5. One recommendation was "noted" regarding the right to freedom of peaceful assembly in the larger context of protecting freedom of religion or belief, expression, association, and peaceful assembly by decriminalising the blasphemy laws.
6. The government accepted 20 of the 21 recommendations it received regarding NHRIs, and "noted" one.
7. Many of the recommendations accepted by the government of Pakistan have not been implemented or have only been partially implemented. In some instances, the situation has worsened since Pakistan's third UPR cycle.

## **Freedom of expression**

8. Violations of the right to freedom of opinion and expression in Pakistan have become more prevalent since Pakistan's third UPR. The space for holding and expressing opinions and for accessing information has shrunk visibly. This is evident from the forms of abuse and violence that have routinely put the security of journalists, human rights defenders, and the public at risk.
9. While the right to freedom of expression is protected under Article 19 of Pakistan's Constitution, its exercise continues to be subject to "reasonable restrictions imposed by law." These restrictions pertain to national security, respect for religion, relations with other countries, public order, decency, contempt of court, and incitement to violence. Since the third UPR, the government has taken no steps to ensure that these restrictions, which are overly broad and prone to abuse, are in line with the country's international human rights obligations.
10. In November 2021, Parliament passed the Protection of Journalists and Media Professionals Bill 2021. The adoption of this law was widely welcomed as a positive step, especially its provision for establishing an independent commission to protect journalists and media professionals. However, the law also contains vague provisions the enforcement of which could result in censorship and intimidation. For instance, Section 6 unnecessarily re-

emphasises the “good-faith” obligation of journalists regarding defamation and hate speech, which is already prescribed in several other laws. This section puts the onus of establishing good faith in reporting on journalists, who otherwise follow a voluntary code of ethics. As a result, Section 6 imposes a vague and difficult-to-prove requirement on journalists. This allows the government to interpret the “good faith” arbitrarily and to resort to criminal prosecution if journalists are deemed to not meet this requirement.

11. The impact of Pakistan’s blasphemy laws on freedom of expression has become increasingly evident as more cases have been filed against members of the Shia Muslim and the Ahmadiyya communities, including in connection with alleged “blasphemous” WhatsApp messages. In some cases, spates of mob violence have followed such allegations. Additionally, the arbitrary application of other laws has been used to muzzle dissenting voices. Such laws include: the Fourth Schedule of the Anti-Terrorism Act 1997, which has been especially invoked in the Gilgit-Baltistan region; the law against sedition under Section 124-A of the PPC, which has been frequently used against political opponents and activists; and the Official Secrets Act 1923, which has been used against human rights defenders, such as activist Idris Khattak [See below, *paragraph 24*].
12. Other forms of censorship have increased, with numerous media professionals, writers, artists, and academics resorting to self-censorship.
13. Access to information has been denied mostly on the basis of “reasonable restrictions” specified in the Constitution of Pakistan or by specific laws, such as the Official Secrets Act 1923.
14. In January 2020, a Punjab Assembly committee decided to ban three books, claiming they contained blasphemous content,<sup>1</sup> although the same books were available in the rest of Pakistan. In June 2020, a member of the Punjab Assembly proposed an amendment to an existing law whereby a provincial body, the Muttahida Ulema Board of Punjab,<sup>2</sup> would be required to approve all content related to Islam in many school textbooks.<sup>3</sup> Consequently, 100 textbooks taught in various private schools were banned.

#### ***Threats against journalists***

15. Media freedom has regressed since Pakistan’s third UPR. The Pakistan Electronic Media Regulatory Authority (PEMRA) has overstepped its mandate by trying to control the digital media industry - which lies outside its purview - and by exercising its licensing power and content regulation, including the enforcement of absurd standards of decency and morality.<sup>4</sup>
16. Certain topics have been widely considered as politically sensitive by the media sector, including: the military’s role in the affairs of the state; the role of security and intelligence agencies; the Pashtun Tahafuz Movement (PTM); the Ahmadiyya community; the China-Pakistan Economic Corridor; and certain human rights violations, such as enforced disappearances and custodial torture. A trend of censoring and self-censoring newspaper articles that attempted to report on these subjects has emerged. Likewise, television talk show hosts who raised such issues have been fired. Advertisement revenues have been used as bait for favourable coverage of the government, leading to the closure of media houses or offices. Moreover, media personnel were laid off after they provided coverage critical of the government or state authorities or touched upon sensitive issues.

17. The authorities have continued to use the Pakistan Electronic Crimes Act (PECA) 2016 against journalists. On 18 February 2022, Section 20 of the PECA was amended via a presidential ordinance. Accordingly, the maximum penalty for criminal defamation was increased from three to five years' imprisonment. Further, the definition of the term "person" in section 2(xxva) was introduced to include public institutions as "persons" who enjoy protection from defamation. On 8 April 2022, both the ordinance and Section 20 of the original Act were struck down by the Islamabad High Court as unconstitutional. However, Section 20 remains in force in other provincial jurisdictions.
18. In 2021, the government proposed the Pakistan Media Development Authority (PMDA) Ordinance, which aimed at setting up a central regulatory authority for all media. The PMDA would have the power to impose sanctions on media entities for violations of government regulations. It also proposed to set up media complaints councils, whose decisions could only be appealed in media tribunals headed by high court judges who would have the power to impose jail sentences of up to three years and heavy fines. In addition, the Ordinance gave the PMDA the power to seize equipment and seal media outlets without notice or prior judicial authorisation or oversight.<sup>5</sup> The PMDA Ordinance was heavily criticised by journalists and human rights organisations. Ultimately, plans to institute the PMDA were rolled back when a new government took office in April 2022.
19. From mid-2020 onwards, several high-profile journalists were targeted and physically attacked, seemingly to make examples out of them. In all these cases, authorities failed to identify those responsible for the attacks.
20. In July 2020, journalist Matiullah Jan was abducted from Islamabad in broad daylight. He was returned 12 hours later after intense pressure from national and international media erupted.
21. In April 2021, journalist and former PEMRA chairman Absar Alam was shot and injured by an unidentified man while walking in a park near his home in Islamabad. Prior to this incident, Alam had tweeted about the alleged involvement of the military and intelligence agencies in political activities.
22. In May 2021, reporter Asad Ali Toor was attacked by unidentified armed men in his home in Islamabad. In 2020, Toor had been accused of defaming the military, although the court had acquitted him of all charges after the police could not provide sufficient evidence. Journalists who commented on the attack were subsequently targeted: television talk show host Hamid Mir was taken off air by his network's management for about 10 months. An application was filed with a court in Gujranwala, central Punjab, to open a case of treason against Mir and television journalist Asma Shirazi for having spoken in favour of Toor. The application was dropped by the court after a few hearings. Shirazi was also the victim of online abuse after writing a column critical of the government's performance for *BBC Urdu* in October 2021.
23. The harassment of women journalists, especially on online platforms, has become cause for serious concern. About 75% of women journalists responding to a survey conducted by the International Centre for Journalists (ICFJ) and the United Nations Educational Scientific and Cultural Organisation (UNESCO) in 2021 said they had experienced online violence in connection with their work.<sup>6</sup>

### ***Threats against HRDs***

24. Human rights defenders' freedom of expression has come increasingly under threat, as the case of Idris Khattak illustrates. Khattak was abducted in November 2019 and disappeared for about eight months. During this period, state agencies refused to acknowledge that he was in their custody. In June 2020, the Ministry of Defence admitted to having him arrested and detained on charges of violating the Official Secrets Act 1923. The case against him related to an incident that had occurred in 2009, when Khattak faced proceedings under the Pakistan Army Act 1952. On 5 December 2021, a military court sentenced him to 14 years in prison with hard labour.

### **Recommendations**

25. Amend laws that are inconsistent with international human rights law and standards, namely: the Anti-Terrorism Act 1997; Section 124-A of the Pakistan Penal Code (sedition); and the Official Secrets Act 1923.
26. Amend Article 19 of the Constitution of Pakistan to ensure its compliance with the relevant provisions of international human rights law on the right to freedom of expression.
27. Amend the Protection of Journalists and Media Professionals Act 2021, to bring it in line with international human rights standards, including by repealing Section 6, and ensure that the Act is properly enforced to end impunity for attacks against the media, both online and offline.
28. Facilitate public access to information and ensure the right to information processes creates a conducive environment for academic and artistic freedom.
29. Repeal Section 153-A of the PPC and replace it with a provision that clearly defines and regulates hate speech in line with relevant international human rights standards.

### **Freedom of assembly**

30. The right to freedom of peaceful assembly is enshrined in Article 16 of Pakistan's Constitution. British colonial-era laws, such as the PPC and the Criminal Procedure Code (CrPC), contain numerous provisions that violate the right to freedom of assembly. Key examples include provisions that: allow for the arrest of assembly participants who are deemed seditious (PPC 123-A, 123-B and 124-A); impose collective responsibility on all assembly participants for the violent acts of some or just one individual (PPC 146 and 149); impose a blanket ban on assemblies (CrPC Section 144); and allow the use of force to disperse assemblies without specifying what amount of force can be lawfully used in a given situation or establishing protocols to that effect (CrPC 128, 129 and 130).
31. There also exists a wide range of laws that place restrictions on the right to freedom of peaceful assembly, such as: the Maintenance of Public Order (MPO) Ordinance; the Police Order (PO); the Anti-Terrorism Act (ATA); the Sound Systems (Regulations) Act; the Pakistan Telecommunication Act (PTA); the Prevention of Anti-National Activities Act (PANAA); the Actions (in Aid of Civil Power) Regulations (AACPR); the Official Secrets Act; the Prevention of Electronic Crimes Act (PECA); and provincial anti-vagrancy laws.<sup>7</sup>
32. In 2017, the Punjab Civil Administration Act (PCAA) was enacted to set up a civil administration system in the province. However, Section 16(1) of the act states that no public meeting,

gathering, or assembly can take place without the prior approval of the district's Deputy Commissioner'. Similarly, in 2020 the Khyber Pakhtunkhwa Civil Administration (Public Service Delivery and Good Governance) Act (KPCAA) was passed. Section 14 requires that prior approval for a gathering be granted by the district's Deputy Commissioner.

33. In 2018 the draconian Frontier Crimes Regulations (FCRs) were repealed. The FCRs did not guarantee individuals and communities falling under their jurisdiction the right to freedom of peaceful assembly. Consequently, assemblies were not legally sanctioned, and its participants' right to freedom of peaceful assembly was not protected. However, in 2019 the Actions in Aid of Civil Power Regulations (AACPRs) were instituted in Khyber Pakhtunkhwa Province. Section 9 provides an authority with the power to detain those who: 1) obstruct actions in aid of civil power; 2) strengthen the miscreant's ability to resist security forces if not restrained; 3) cause a threat to Pakistan's security; or 4) commit any offence under the regulations. Such extraordinary powers of preventive detention or "internment" accorded to law enforcement agencies could infringe on the right to liberty and the right to freedom of peaceful assembly.
34. In 2020, two similar laws - the Punjab Infectious Diseases (Prevention and Control) Act and the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act - were enacted. While these laws were invoked only in cases of an actual or potential pandemic, it must be noted that they empower the authorities to restrict and control the movement of people, which could lead to abuses.
35. In 2020, the Khyber Pakhtunkhwa Vagrancy Restraint Act was promulgated. This act is largely similar to other provincial anti-vagrancy laws, which criminalise the socio-economic condition of being a "vagrant" and penalise destitution and cultural marginalisation. This act also grants law enforcement agencies the far-reaching authority to arrest and detain individuals without warrant on mere suspicion of vagrancy. The act authorises law enforcement agencies to arrest and detain poverty-stricken individuals from public spaces, especially people that may exhibit homelessness (such as nomadic groups and refugees) or those who are forced to rely on alms for sustenance.
36. During Pakistan's third UPR cycle, authorities have regularly committed human rights violations against those who exercised the right to freedom of peaceful assembly. The most frequent violation was the unnecessary and disproportionate use of force against peaceful assembly participants. According to an HRCP report<sup>8</sup> and HRCP's media monitoring for 2021, the use of force in the policing of assemblies resulted in at least 36 people being killed and 1,179 injured between 2018 and 2021. Even when law enforcement agencies used less-lethal weapons to disperse assemblies, their actions were often unpredictable, and the use of batons and teargas was often a knee-jerk reaction rather than an act of compliance with set protocols, procedures, and standards.<sup>9</sup>
37. Since the third UPR of Pakistan, mass arrests and detentions of assembly participants have been common, with at least 3,412 arrests and detentions taking place between 2018 and 2020.<sup>10</sup> In 2021, at least 1,270 participants were arrested or detained.<sup>11</sup> While some arrests were prompted by assemblies that had turned violent, in many cases the arrests appeared unjustified and unnecessary, particularly when scores of peaceful participants were detained at the same time. The use of preventive detention against organisers or potential participants of assemblies has become another trend. This first became apparent in 2014 and has since developed into a concerning trend during the current period under review.

38. In numerous cases, assemblies were immediately followed by the filing of criminal charges against participants. In many instances, charges were filed against peaceful demonstrators and were seemingly initiated as a result of ulterior motives, including for political reasons. Between 2018 and 2021, at least 2,440 such charges were filed against assembly participants.<sup>12</sup> Most of the charges filed fell under Sections 147 (punishment for rioting), 148 (rioting armed with deadly weapon), and 149 (every member of unlawful assembly guilty of offence committed in prosecution of common object) of the PPC. In recent years, there has been an increase in the use of PPC 123-A (condemnation of the creation of Pakistan) and 124-A (sedition), particularly against assemblies conducted by ethno-nationalist groups. From 2010 to 2017, only a single case involving these two provisions were registered against 35 activists of Jeay Sindh Qaumi Mahaz, a Sindh separatist group. Between 2018 and 2020, however, at least eight cases involving an unknown number of defendants were registered under these provisions, and nearly all of them against Pashtun Tahafuz Movement (PTM) workers and supporters.
39. Blanket bans on assemblies under Section 144 of the CrPC were frequently imposed by the authorities, who regularly cited the “prevailing security situation” to justify the restrictions. In certain cases, such orders were issued just ahead of planned protests. This suggests that Section 144 was used specifically to clamp down on assemblies that authorities deemed unfavourable.
40. Authorities strictly regulated assemblies organised by members of the Shia Muslim community, leading to certain curbs being imposed on some occasions. For instance, each year from 2017 to 2020, during the holy month of Muharram, bans were imposed under Section 144 of the CrPC on assemblies of five or more persons that had not received prior permission. In some cases, the district administrations also passed orders to ban the entry of certain religious scholars (including Shia clerics). The right to freedom of peaceful assembly remained denied for Ahmadi individuals, due to Pakistan’s blasphemy laws. Not a single public assembly held by Ahmadi individuals was reported during the third UPR cycle.
41. In various instances, assemblies appeared to have been restricted solely due to the controversial nature of their content or message, especially those that echoed separatist sentiments, criticised the judiciary, or discussed sensitive subjects.
42. Due to the highly sensitive subject matter of certain assemblies, the media refrained from covering those events in acts of self-censorship. From 2018 on, the PTM staged assemblies across Pakistan to highlight the marginalisation of members of the Pashtun community. However, virtually none of their demonstrations was covered by mainstream media outlets.
43. At times, various laws and regulations were invoked to limit the right to freedom of movement, which in turn resulted in the infringement on the right to freedom of peaceful assembly. Post-2018, HRCP noted a sudden and marked increase in the frequency with which governments exercised these powers. For example, in October 2020, a day before the Pakistan Democratic Movement (PDM) staged its third major public assembly of the year in Quetta, PTM leader and parliamentarian Mohsin Dawar was stopped at Quetta Airport and taken into custody by security officials, who informed him that his entry into Quetta had been banned by the local district administration. In November 2020, families of missing persons began a march from Karachi to Islamabad, but were stopped from crossing into Punjab by dozens of police vans in Ghotki, in Sindh on 30 December.



## **Recommendations**

44. Redefine the term “unlawful assembly” in Section 141 of the PPC on clearer grounds so that what constitutes an unlawful assembly is narrowly demarcated.
45. Make permissible restrictions on peaceful assemblies, including public order, contingent on their necessity and proportionality in accordance with international law.
46. Repeal the principle of collective responsibility of assembly participants as contained in Sections 146 and 149 of the PPC.
47. Repeal laws that allow for preventive detention of organisers or potential participants of assemblies, such as Section 3 of the Maintenance of Public Order (MPO) Ordinance, Section 11EEEE of the Anti-Terrorism Act (ATA) and Section 9 of the Actions (in Aid of Civil Power) Regulations (AACPR).
48. Amend Sections 123-A, 123-B, and 124-A of the PPC to ensure they are consistent with the permissible restrictions and meet the strict tests of necessity and proportionality under international law.
49. Amend Chapter IX of the CrPC to provide stringent guidelines governing the use of force in the policing of public assemblies, in accordance with relevant international standards-
50. Amend Section 120 of the PO to limit the discretion available to public functionaries to impose restrictions on public assemblies, including by setting time limits for the granting or denial of a licence to organise assemblies, and by making restrictions regarding time, place and, venue of assemblies consistent with relevant international standards.
51. Repeal Section 144 of the CrPC to limit the excessive powers vested in provincial governments regarding bans on assemblies.
52. Amend or repeal Sections 153-B, 298-B, and 298-C of the PPC to ensure that restrictions on the exercise of the right to freedom of peaceful assembly comply with the non-discrimination principle in accordance with international law.
53. Commit to closing down “internment” centres and revoking the arbitrary powers of arrest and detention available to state agencies under the Khyber Pakhtunkhwa Action (in Aid of Civil Powers) Ordinance 2019.

## **Freedom of association**

54. Although the right to freedom of association is guaranteed by Article 17 of the Constitution of Pakistan, it is subject to “reasonable restrictions imposed by law” in the interest of the “sovereignty or integrity of Pakistan, public order or morality.”<sup>13</sup>

## ***Restrictions on civil society organisations***

55. During the third UPR cycle, the government continued to impose restrictions on civil society organisations (CSOs), making it more difficult for them to receive foreign funds and “no-objection certificates.”<sup>14</sup> The 2013 Policy for Regulation of Organisations Receiving Foreign Contributions directs Pakistani CSOs to register with the Economic Affairs Division (EAD) before

using funds, services, and goods originating from a foreign country.<sup>15</sup> Although not a legal requirement, CSOs in Punjab, Khyber Pakhtunkhwa, and Balochistan are still instructed to sign a memorandum of understanding (MoU) with the government, stipulating the nature of their work and geographical outreach, without which many banks have refused to open new accounts for them while many donors are reluctant to award them project grants.<sup>16</sup>

56. Similarly, the Policy for Regulation of International Non-government Organisations (INGOs) in Pakistan, issued by the Ministry of Interior in October 2015, has continued to impede the registration and functioning of international human rights groups.<sup>17</sup> The policy directs foreign CSOs to sign an MoU with the government to obtain the legal status required to carry out their activities, receive funds from overseas, and maintain local bank accounts.
57. On 3 October 2018, the Ministry of Interior ordered 18 INGOs—including Action Aid, Plan International, International Alert, and Safer World—to end their operations within 60 days. This followed the ministry’s rejection of their applications for re-registration (required every three years), which were submitted prior to signing an MoU with the government, without offering reasons, in November 2017.<sup>18</sup>
58. In February 2019, the Pakistani government rejected the applications filed by 42 national non-governmental organisations (NGOs) that sought to sign an MoU with the EAD, without providing any justification for the rejection.<sup>19</sup> Consequently, they were unable to receive overseas funds to implement their projects.
59. Increased harassment and investigation by state and non-state actors have made it difficult for local and international NGOs to carry out their work. On 15 December 2020, a complaint was filed by an individual with the Ministry of Interior, accusing a local NGO, the Digital Rights Foundation, of fraud and embezzlement.<sup>20</sup> The accusations were widely circulated on social media and the organisation’s director, Nighat Dad, was vilified by sections of the press. Ms. Dad said that her own security and the organisation’s right to freedom of association were under threat as a result of the accusations.<sup>21</sup>
60. In 2018 and 2019, all four provincial governments introduced legislation regulating “charities”, which resulted in the imposition of compulsory registration requirements on NGOs, most of which were already included as provisions in other existing laws.<sup>22</sup> Many civil society activists feared that the aim of these acts was to curtail freedom of association far beyond what is permissible under the Constitution and international law, especially since this legislation was passed without consultations with the organisations it intends to cover.

### ***Restrictions on trade unions***

61. Trade union membership rates remain very low in Pakistan, estimated at a mere 15.55% of the workforce in the formal sector.<sup>23</sup> Various factors have discouraged the unionisation of labour at all levels, including: barriers to setting up trade unions; the creation of categories of workers prohibited from joining unions; limitations on strikes and methods used to break them up; and the possibility of dismissal. As a result, the space for collective bargaining for decent wages and safe working conditions has remained limited.
62. The provincial Industrial Relations Acts are not applicable in Pakistan’s export-processing zones, thereby depriving an estimated 35,000–40,000 workers<sup>24</sup> of adequate legal protection and, specifically, their right to freedom of association. In 2018, the Sindh, Punjab, and Khyber Pakhtunkhwa provincial governments launched their respective labour policies, which

committed to extending the scope of the provincial Industrial Relations Acts to protect farm workers' right to freedom of association.

63. The passage of the Sindh Home-Based Workers Act 2018 and the Khyber Pakhtunkhwa Home-Based Workers (Welfare and Protection) Act 2021 was a positive development, as both laws expressly protect the right of home-based workers to form unions. In April 2022, the Balochistan provincial assembly passed a similar bill, which has yet to be enacted as law. Despite these laws, workers' registration levels remain low across all provinces, thereby preventing them from exercising their right to unionise under the provincial Industrial Relations Acts.
64. On 25 January 2019, the Punjab provincial government passed the Punjab Domestic Workers Act 2019.<sup>25</sup> Although it includes several important labour rights provisions, the law makes no mention of the right to freedom of association. At a practical level, restricted mobility, undefined working hours, and lack of access to public spaces for the purposes of labour organisation, prevent domestic workers—the bulk of whom comprise women and children—from exercising their constitutional right to freedom of association.
65. On 18 July 2019, on the orders of the Balochistan High Court, the provincial labour welfare department in Balochistan cancelled the registration of 62 trade unions - including those of public organisations - under the Balochistan Servant Conduct Rules 1979.<sup>26</sup> This decision was justified on the grounds that government employees should not be classified as “workmen” under the Balochistan Industrial Relations Act 2010. Among the cancelled unions were entities that were formed by the employees of 23 municipal bodies, the National Bank of Pakistan, and various government departments. The decision ignored the existence of trade unions created by employees of government departments in other provinces.

#### ***Restrictions on student unions***

66. Following an organised nationwide movement for the restoration of student unions during 2019-2021,<sup>27</sup> on 2 March 2022, the Sindh provincial government passed the Sindh Students' Union Act 2019. Although the law provides higher education students with mandatory representation in administrative bodies at universities, it vests higher education institutions with the authority to determine the modalities of electing student unions.<sup>28</sup> No other province has enacted similar legislation.

#### **Recommendations**

67. Create an enabling environment for CSOs to operate, by discarding cumbersome documentation and registration requirements, in consultation with CSOs.
68. Where documentation and registration requirements remain obligatory, establish help desks that facilitate compliance by community-level NGOs.
69. Thoroughly and promptly investigate all acts of harassment of CSOs, identify the perpetrators, and hold them accountable under the law.
70. Develop and enact legislation to restore student unions in Punjab, Khyber Pakhtunkhwa, and Balochistan in consultation with student groups.

71. Provide incentives to trade unions to encourage union membership of women in sectors that employ all genders.
72. Provide employers, and, in the case of domestic workers, housing societies, with financial and tax incentives to make the registration of all workers compulsory.
73. Amend the provincial Industrial Relations Acts to progressively expand the categories of workers who are allowed to unionise to cover all types of workers and extend the right to unionise to agricultural workers.
74. Take action to discourage the formation of employer-led pocket unions, which cannot represent workers without a conflict of interest.

### **National human rights institutions (NHRIs)**

75. While significant efforts have been made to ensure the functioning of NHRIs, state interference, delays in appointments of staff, and lack of financial and administrative autonomy have impeded the operations of these bodies.
76. Although Pakistan supported a recommendation that the National Commission on Human Rights (NCHR) be provided adequate resources to function, the biggest hurdle in realising its mandate has been functional and budgetary autonomy.<sup>29</sup>
77. The NCHR remained without a chairperson from 2019 to 2021. Although a new chairperson, Rabiya Javeri Agha, was appointed in 2021, many civil society organisations noted that the lack of urgency in appointments reflected the government's misplaced priorities concerning setting up and supporting NHRIs.
78. In January 2022, under its new leadership, the NCHR announced a four-year strategic plan following a consultation with civil society. This plan focused on collaboration between the NCHR and civil society to protect and promote human rights in the country. This was considered a step towards the implementation of the recommendation concerning collaboration between civil society and relevant human rights stakeholders made to Pakistan at the third UPR.
79. The functioning of another NHRI, the National Commission on the Status of Women (NCSW), has been impeded by administrative and fiscal issues since its inception in 2000. During a meeting with HRCP in May 2022, NCSW's former chairperson Khawar Mumtaz, reflecting on the commission's budgetary concerns, noted that even if the requisite budgets existed, accessing them was difficult unless one had control over the bank accounts—which the state did not readily grant.<sup>30</sup>
80. Another critical issue faced by the national and provincial commissions on the status of women has been the delay in appointments. The process has become highly politicised, leading to long gaps between appointments, during which operations of these bodies came to a halt. The tenure of the chairperson of the Punjab Commission on the Status of Women was terminated in May 2019, just a few months before the end of her term. To date, the commission still remains without a chair. This points to a blatant disregard for the law, which requires the appointment of new chairs within three months from a vacancy arising. Similarly, in the case of the NCSW, with the exception of one instance, although the law clearly mandates that such appointments must be made within 30 days, there has been a consistent gap of one to two years in appointing a chair. Neelofar Bakhtiar was appointed chairperson in July 2021 after a

gap of two years, but the selection process was deemed controversial, when the chair of the session cast a vote against the rules of the selection process.<sup>31</sup>

81. In 2021, the provincial Balochistan Commission on the Status of Women was finally set up and a chairperson was selected. The law intended to set up the provincial Commission on the Status of Women in Balochistan had been in the pipeline since 2016. However, as with the national commission, all provincial commissions are marred by lack of autonomy.
82. In 2017, the National Commission on the Rights of the Child Bill, which had been pending since 2015, was finally passed into law by the National Assembly.<sup>32</sup> While the Ministry of Human Rights established the National Commission on the Rights of the Child (NCRC) in March 2020, this body remained grossly underfunded. Further, while a chairperson was appointed, the NCRC remains largely ineffective in the absence of rules of procedure. The delays in issuing such rules and an insufficient budget remain a key cause for concern among child rights activists and has led to discontent among NCRC members.<sup>33</sup>
83. In May 2020, the Ministry of Religious Affairs and Interfaith Harmony established a reconstituted National Commission for Minorities. This commission comprises six official members (i.e. current government office holders) and 12 non-official members (i.e. members of civil society, including experts, academics, and religious leaders). While the tenure of the official members is fixed, the tenure of the non-official members is subject to the discretion of the government.<sup>34</sup> However, the government's notification that established the commission had serious flaws. Importantly, the commission has no statutory powers. Another criticism concerns the inclusion of two Muslim members from majority groups. This constitutes an apparent contradiction with the commission's mandate, which is to give minorities the autonomy over issues concerning their rights. The reconstituted commission has remained dysfunctional since its inception, and civil society has deemed it to be not independent from the executive branch, since it is created as a department of the Ministry of Religious Affairs and Interfaith Harmony.<sup>35</sup>
84. Pakistan has not criminalised enforced disappearances and the Commission of Inquiry on Enforced Disappearances, which was established in March 2011, has failed to hold perpetrators accountable.

### **Recommendations**

85. Ensure that appointments of chairpersons and staff to all NHRIs are made in accordance with the Paris Principles.
86. Ensure the NCHR is provided with the necessary financial resources and administrative autonomy to function and that the body can operate independently from the executive branch and without any political interference.
87. Immediately adopt rules of procedure for the NCRC and provide the body with sufficient budget.
88. Set up a National Commission for Minorities as an independent statutory body that is representative of all religious minorities, including the Ahmadiyya community.<sup>36</sup>

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1 Dawn, 'Blasphemous contents' PA body bans three books, a daily, social media accounts, 10 January 2020, <https://www.dawn.com/news/1527428>

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- 2 The Muttahida Ulema Board was constituted in 1997 by the then-Chief Minister of Punjab with the purported aim of enabling religious scholars to identify hate material in religious literature and promote religious harmony. Supposedly an honorary body, its members have enjoyed many perks and privileges. In January 2018, the then-Law Minister Rana Sanaullah authorised the board to help the government in preparing academic textbooks alongside overseeing religious texts.
  - 3 Dawn, *New law enacted: No Islamic material to be published in textbooks without ulema board approval*, 10 June 2020, <https://www.dawn.com/news/1562471/>
  - 4 In October 2021, PEMRA issued a notification that directed television channels not to air content showing “hugs/caress scenes/extramarital relations, vulgar/bold dressing, bed scenes and intimacy of married couple” which, the notification continued, were “being glamourised in utter disregard to Islamic teachings and culture of Pakistani society.” See: Dawn, *Pemra asks TV channels not to air objectionable content*, 24 October 2021, <https://www.dawn.com/news/1653684>
  - 5 For more details, see: HRCP, *State of Human Rights in 2021, 2022*, pp. 7–8, <https://hrctp-web.org/hrctpweb/wp-content/uploads/2020/09/2022-State-of-human-rights-in-2021.pdf>
  - 6 UNESCO, *Online Violence Against Women Journalists: A Global Snapshot of Incidence and Impacts*, 2020.
  - 7 For details on how each of these legal provisions impact the right to freedom of peaceful assembly, see: HRCP, *Freedom of Peaceful Assembly in Pakistan: A Legislative Review*, 2022, <https://hrctp-web.org/hrctpweb/wp-content/uploads/2020/09/2022-Freedom-of-peaceful-assembly-in-Pakistan.pdf>
  - 8 *Ibid*, p. 99.
  - 9 *Ibid*, p. 100.
  - 10 *Ibid*, p. 101.
  - 11 HRCP’s media monitoring of assemblies that took place during 2021
  - 12 *Ibid*, p. 103.
  - 13 Available at: [https://na.gov.pk/uploads/documents/1333523681\\_951.pdf](https://na.gov.pk/uploads/documents/1333523681_951.pdf)
  - 14 A no-objection certificate is a document issued by the Pakistan government authorising a programme or project.
  - 15 Available at: [https://www.icnl.org/wp-content/uploads/Pakistan\\_policy.pdf](https://www.icnl.org/wp-content/uploads/Pakistan_policy.pdf)
  - 16 In February 2022, the Sindh High Court struck this down on the grounds that it was issued without lawful authority and that the federal government had taken no steps to give the policy legislative cover. However, the court order does not apply to the other provinces.
  - 17 International Center for Not-for-Profit Law, *Comments on the Policy for Regulation of International Non-governmental Organisations (INGOs) in Pakistan*, December 2015, [https://www.icnl.org/wp-content/uploads/our-work\\_ICNL\\_Analysis\\_Pakistan-INGO-Policy.pdf](https://www.icnl.org/wp-content/uploads/our-work_ICNL_Analysis_Pakistan-INGO-Policy.pdf)
  - 18 Dawn, *Govt under international pressure after asking 18 INGOs to wind up operations in Pakistan*, 9 October 2018, <https://www.dawn.com/news/1437893>
  - 19 Express Tribune, *Govt refuses to register 42 NGOs*, 16 February 2019, <https://tribune.com.pk/story/1911633/govt-refuses-register-42-ngos>
  - 20 SOCH Fact Check, *Interior Ministry complaint alleging Nighat Dad’s misuse of Digital Rights Foundation funds is misleading*, 7 January 2021, <https://www.sochfactcheck.com/interior-ministry-complaint-alleging-nighat-dads-misuse-of-digital-rights-foundation-funds-is-misleading/>
  - 21 <https://twitter.com/hrctp87/status/1341012694082727937v>
  - 22 These include the Punjab Charities Act 2018, the Sindh Charities Registration and Regulation Act 2019, the Khyber Pakhtunkhwa Charities Act 2019, and the Balochistan Charities (Registration, Regulation and Facilitation) Act 2019.
  - 23 ILO, *A Profile of Trade Unionism and Industrial Relations in Pakistan*, 2018, [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms\\_626921.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_626921.pdf)
  - 24 Ministry of Industries and Production, *Year Book 2017–2018*, 2019, <https://moip.gov.pk/userfiles1/file/Year%20Book%202017-2018.pdf>
  - 25 Available at: <http://punjablaws.gov.pk/laws/2724.html>
  - 26 Dawn, *Registration of 62 trade unions cancelled in Balochistan*, 19 July 2019, <https://www.dawn.com/news/1494962>
  - 27 Student unions were banned in 1984 by the military government then in power. The ban was lifted in 1989 by the civilian government, but in 1993, the Supreme Court of Pakistan imposed a blanket ban on political activities by students on campuses.
  - 28 Dawn, *Governor signs bill to revive student unions in Sindh*, 3 March 2022, <https://www.dawn.com/news/1677996>.
  - 29 In an interview with HRCP, Justice (Retired) Ali Nawaz Chauhan, former chairperson of the NCHR, reflected on the issue of budget allotments and remarked that, during his tenure, the NCHR had had an inadequate budget that was controlled by the human rights ministry. He alleged that the NCHR has had to struggle for autonomy from the state and there has been pushback in the form of suppressing the commission’s UPR reports and downplaying its reports on torture, freedom of expression, terrorism, and the rights of vulnerable groups.
  - 30 In an interview with HRCP, former NCSW chairperson Khawar Mumtaz said that, at a meeting with the chair of the Khyber Pakhtunkhwa Commission on the Status of Women in 2022, she was told that the biggest challenge to the functioning of the Commission was the government itself. Inordinate delays in approving the NCSW Service and Financial Rules have impeded appointments of subject staff and requisite administrative staff. The Khyber Pakhtunkhwa and Sindh commissions lack autonomy as the chairperson is not the principal accounting officer. Indeed,

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the autonomy of all provincial commissions on the status of women is undermined by women's development departments' prior vetting of all financial matters and research outputs.

- 31 Dawn, *Meeting to appoint NCSW chief marred by controversy*, 16 June 2021, <https://www.dawn.com/news/1629579/meeting-to-appoint-ncsw-chief-marred-by-controversy>
- 32 The objective of this law was to ensure the implementation of the United Nations Convention on the Rights of the Child (UNCRC) ratified by Pakistan in 1990, and its optional protocol on sale of children, child prostitution and child pornography which was also ratified six years ago in 2011
- 33 The News, *Govt asked to develop, approve rules of business for action on child rights*, 14 January 2022, <https://www.thenews.com.pk/print/925137-govt-asked-to-develop-approve-rules-of-business-for-action-on-child-rights>
- 34 The official Notification issued by the Federal Government constituting the National Commission for Minorities and laying out its membership and terms of reference can be found at the following link: [https://mora.gov.pk/SiteImage/Misc/files/20211203\\_List\\_of\\_NCM\\_Members.pdf](https://mora.gov.pk/SiteImage/Misc/files/20211203_List_of_NCM_Members.pdf)
- 35 The flaws in the constitution and terms of reference of the National Commission of Minorities has been expressed by the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief in a letter available at the following link: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25453>
- 36 The Ahmadiyya community does not consider itself a 'religious minority' and was therefore reluctant to be part of the existing commission on religious minorities on these grounds. However, it will be important to find a way to ensure that the community's concerns are represented fairly if an autonomous, statutory commission is eventually formed.