

# PAKISTAN ADMINISTRATION

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## **Preface**

Pakistan Administration, a Journal of the (former) Pakistan Administrative Staff College, was last published in December 2002. After a lapse of seventeen years we are resuming its publication with the required modification of the sub-title to reflect the name of the successor school of PASC, i.e., NSPP.

The credit for resumption of this publication goes entirely to Mr. Azmat Ali Ranjha, current Rector of NSPP. It was his initiative to provide a forum for publication of research work undertaken by participants (student officers) of various courses of NSPP, and indeed by the faculty members. The selection included in this issue consists of six research papers by participants of 25<sup>th</sup> Senior Management Course and four case studies basically written by participants of 109<sup>th</sup> National Management Course, and modified for publication by faculty advisors. These cover six thematic areas; namely Culture and State Relations, Gender Studies and Mainstreaming, Economy & International Trade, IT Application, HRM, and Internal Security.

This is our first issue after seventeen years. Our ambition is to achieve, in the shortest possible time, that level of scholarship which earns the journal Higher Education Commission ranking.

**Shahid Rahim  
Sheikh**

Executive Editor

## **Editor's note**

It is with great excitement that National Institute of Public Policy (NIPP) rejuvenates the Pakistan Administration Journal after it discontinued in 2002. NIPP is the premier think tank of Government of Pakistan under the auspices of National School of Public Policy, which is dedicated to multidisciplinary research on public policy, focused on governance, government and public service issues.

This edition of Pakistan Administration broadly covers six thematic conglomerations which include Culture and State Relations, Gender Studies and Mainstreaming, Economy and International Trade, IT Application, Human Resource Management and Internal Security. These thematic clusters pertain to challenges of governance faced by a diverse, pluralistic and heterogeneous socio-political fabric of Pakistan. Our featured articles primarily explore the question of public policy and governance from the perspectives of public policy practitioners and provide valuable insights into the nature and understanding of policy problems and solutions from the point of view of actual practitioners and implementors of policy. There has long been a need for tapping into the immense resource of knowledge and insights in the public sector generated by practitioners in the form of systematic and well researched papers, applying tool kits of concepts and methods to study real existing problems of policy. Oftentimes in policy research, path breaking ideas are generated with the intersection of theory and practice, and it is this knowledge creation and academic energy that we endeavor to explore through inviting papers for Pakistan Administration Journal. With the unique access to data and evidence, insider knowledge and understanding of lessons learnt and policy issues, accrued by public servants in their professional careers, this journal is an attempt to congregate and consolidate these research articles and contribute to the scholarship of public policy research in Pakistan. Given the wide ranging and complex socio-political and economic challenges faced by contemporary Pakistan it is imperative to ensure a more responsive system of governance that is inclusive and effective for all marginalized groups.

Under the theme of Culture and State Relations, the paper entitled 'Kerry-Lugar bill and aftermath: An analysis from the lens of culture' inquires an important aspect of cross-cultural diplomacy and explains the rhetoric and narrative of 'do more' and 'recognise more' of American and Pakistani cultural ways

of conducting diplomacy. The authors present cultural logics and levels of differentiations in kinship systems as conceptual framework to explain Pak-US relationship in the light of the episode of Kerry-Lugar bill, and its aftermath.

Three contributions have been included in this issue that highlight the theme of gender studies and mainstreaming. My paper entitled 'Role of Existing Legal and Institutional Framework to Combat Sexual Harassment Against Women in Mitigating Gender Inequality at Workplace' analyzes the existing legal and institutional frameworks to address and control sexual harassment at workplace. The study examines the scope and effectiveness of these laws in mitigating gender inequality at workplace and recommends that the legal scope should be made inclusive and comprehensive to cover all persons, in any space (public or private) and any kind of situation of sexual harassment. The paper on 'Sufficiency of Rights of Trans-Genders in Pakistan in the Existing Legal Corpus and Framework for their Enforcement: A Critical Appraisal, Issues and Future Policies Suggestions' is an in-depth analysis of situation of transgender community in Pakistan and how existing legal regimes and its implementation can be made more inclusive. Similarly, the study titled 'Engaging with Transgenders in Sargodha Division through Technical Training and Literacy Classes - An Attempt at Mainstreaming of a Disadvantageous Group' focuses on transgender community in Sargodha to present the results of a specific social sector intervention to address larger issues of social exclusion of a disadvantaged group.

Under the theme of Economy and International Trade, two papers have been included in this issue i.e. 'Role and Performance of Input-Output Coefficient Organization in the Light of International Experience and Way Forward with Reference to Industrial Competitiveness' and 'Effectiveness of Commercial Diplomacy for Export Promotion'. Given Pakistan financial challenges both papers offer roadmaps and way forward in Industrial Competitiveness and Export Promotion.

The use of technology for improving governance and service delivery has made remarkable development in Pakistan and the papers selected for this edition provide evidence of effective use of technology in addressing policy problems. The study on 'ICT and Future of Work: Implications for Economy and Society with Special Reference to Policing' focuses on the effectiveness of ICT in improving

policing. On the other hand, the paper on ‘Change Management in Higher Education Department (HED) Punjab’ presents a relevant and important intervention in the public sector, of creating and managing large size data bases for better service delivery and HR management. Important lessons can be drawn from the study that can be applied to similar situations in the public sector.

Under the theme of Human Resource Management, a paper on FBR Human Resource Management Policy: Issues and Challenges, Suggested Policy Intervention to Increase Productivity’ have been included in this issue as it focuses on Human Resource Management (HRM) as an effective strategy to enhance the productivity and performance of an organization. The paper analyzes and examines HR related issues and challenges hampering Federal Board of Revenue’s productivity and suggests HR interventions to boost its performance.

Pakistan is facing immense internal security challenges and the paper on ‘Pakistan State’s Strategy to Curb and Counter Hate Speech: An Appraisal, Analysis and Way Forward’ examines hate speech as one of the most sensitive and critical issues within the realm of radicalization and extremism. The paper studies the effectiveness of our counter terrorism strategy and efforts to curb terrorism and identifies institutional fault lines in our efforts to control hate speech.

We are delighted to publish this issue of Pakistan Administration and are committed to its continuity and contribution to policy research debate and scholarship in Pakistan. We would like to acknowledge the articles contributed by the authors selected for this issue and encourage all serving and retired public servants to share their research articles and papers with us for future editions of Pakistan Administration Journal, which will be published biannually. We hope you enjoy reading this Winter issue 2019 and we would encourage you to share your constructive feedback and comments to help build a stronger and robust research community at National School of Public Policy.

Dr. Aneela Salman

Director (Publications)/ NIPP Senior Editor

# Kerry-Lugar Bill and Aftermath: An Analysis from the Lens of Culture

(Ameer Khurram Rathore, Muhammad Jamil Afaqi)<sup>1</sup>

## Introduction

Pak-American relationship and its problematics are usually looked at through the lens of *realpolitik*. Analysts tend to describe this relationship as need-based and transactional (Sutter 2014). Both countries would come close to pursue contiguous interests in different phases of history, however, with the passage of time mutual cooperation faced challenges either from divergence of interests or direct mistrust about each other's intentions (Ibid).

Analysis presented in this paper focuses on cultural divergence between the two societies as a factor in complicating their bilateral relationship. It argues that with a better understanding of underlying cultural logics of the two societies, the two states can work toward a more *stable* relationship within the same set of geo-political and geo-strategic realities. To develop our analysis, we focus on a particular *strip* in Pak-American relationship namely Kerry-Lugar Bill as an effort by the two sides to engage with each other at a deeper level by developing ties between the two societies<sup>2</sup>. The attempt faced serious challenges which, in our view, contrary to usual common-sense perception, did not stem as much from a mismatch of priorities on ground, as they did from inability of the two sides to approach each other on the correct cultural footing. These cultural differences, we argue, translated into gaps of understanding leading to adoption of incompatible positions by the policy makers of the two sides. Such positions, held and maintained reflexively, harden into an exchange between the rhetoric of *power* and rhetoric of *honor* characterizing the responses and counter responses of American and Pakistani officials. Using the case study method, we clarify how the underlying cultural logics play out on the surface through front-end positions adopted by the policy makers of the two sides. Our analytical framework is informed by approaches of symbolic anthropology (Schneider 1994, Geertz 2002, Leach 2010) treating culture as a system of symbols.<sup>3</sup>

The discussion sets out with a brief review of literature on cross-cultural comparisons followed by a conceptual lay out of the analysis. In the next part we give the main case narration. The final section presents a deciphering of the case events from the lens of our analytical framework concluding at a set of postulates enunciating *culture* as a perspective for interpreting diplomatic events in a typical



trail of events in Pak-American relationship.

The essence of this analysis is *interpretive*. We are not proposing a universal theory of inter-state relations but rather a contingency model referring specially to Pak-American ties. With further research, it may be extended as an approach to study patterns of Pakistan's relations with other nations.

### **Literature Review**

Since our research deals with cross cultural interaction we present here just a broad review of the literature dilating on this theme directly. Of particular note here are three lines of reasoning: a) Geert Hofstede's (1991) work, in which organizations located in different cultures are classified into cultural archetypes on the basis of their scores on five dimensions, b) Ronald Inglehart's (2005) variable-based analyses of cultural zones through the *World Value Survey* and, c) Samuel Huntington's (2000) descriptions of broad regional or civilizational cultures. Hofstede's (1991) analysis studied societal cultures of 40 countries in the light of a four-dimension model including parameters of power distance, uncertainty avoidance, individualism, masculinity, and time horizon to crystallize their main values. Ronald Inglehart and Welzel Christian (2005) view social change in modern societies as a directional movement towards human development. Different waves of World Value Surveys, being conducted since 1981, provide empirical backing for his analysis. Martin Gannon (2001) another name in this so-called *dimensional* tradition proposed to study cultures through their dominant metaphors. In line with that, he studied cultures of 24 societies under five categories including authority ranking, equality matching, market pricing, and cleft national and torn national cultures. T. Hall's study of communication patterns of a society highlights four bases for cultural comparison, which are context, space, time and information flow. On the basis of these four dimensions, he classifies cultures into high-context and low-context cultures. Building upon his earlier idea of mono and polychronic cultures, he refines this categorization in terms of significance of context in course of communication in a particular culture. Thus, the high context societies are conservative with a lot of nonverbal and informal communication packaged with formal statements. Awareness of norms and values of such a culture is crucial to interpret signals correctly. In low context cultures, there are written contracts, formal communications and objectively stated codes of behavior.

Lineage of most of the above discussions of culture can be arguably traced to a 1961 study by Kluckhohn and Strodtbeck who postulated six dimensions describing

the dominant cultural orientation of a society, including assumptions about the nature of people, relationship between person and nature, relationship between people, primary mode of activity in a society, conception of space in a society, and dominant temporal orientation, future, past, and present.

A problem with all these formulations, however, is that they regard culture mostly as a good or bad partner of modernity- highlighting stories of success or failure amongst the organizations, societies and nations and tracing the causes in a set of sociocultural indicators. Issues such as how human actors actually engage organizational or national goals at the level of their individual realities are not adequately tackled by them. Because of this, they do not inform us much about the nuts and bolts of the cultural processes which impact social action-the actual threads through which institutions and cultures engage each other. Culture in such studies appears as a set of universal behaviors which can be measured on a scale of indices. Residing our analysis in one or more of these dimensional approaches will inevitably lead us to the oft-trodden path of comparing the two societies on the scale of modernization achieved by them. This, we argue, is a circular kind of reasoning in which we end up proving the obvious i.e. that a more modern and powerful culture can dictate its terms on a weaker one. The line followed in this analysis, as will be explained in the next sanction, is to treat culture as an independent realm having bearing on social action but not necessarily a direct causal explanation of social action. Our argument will therefore proceed on the basis of statements of *cultural facts* rather than statements of *common sense*. The difference is important to highlight because the two orientations may lead to two very different conclusions.

### **Analytical Framework**

Our conceptual framework draws mainly on the ideas of David Schneider (1976), an American Cultural Anthropologist and Edmund Leach (1982), a British Social Anthropologist. We adopt Schneider's definition of culture as a "system of symbols" and Leach's formulation of relationship as equations of relative "indebtedness". The common symbol chosen by us for examining and comparing respective positions of the two cultures is *kinship*. How the American and Pakistani cultures engage with *kinship* as a system of symbols, in our view, shapes their general conceptualization of *relationship* which in turn explains their respective ways of conducting an inter-state relationship.

Schneider considers kinship systems in the modern western societies as "clearly and sharply distinguished from all other kinds of social institutions and

relationships” (Ibid, vii). He names them as “highly differentiated” systems. This, he argues, is in sharp contrast with societies where “a large number of different kinds of institutions are organized and built as parts of the kinship system itself” (ibid). As a symbol the associated domain of meanings of kinship is focused on “biogenetic” providing a scheme to map out *relations in blood* and *law* (ibid, p 23).

Using Schneider’s categorization, we have developed a comparison between two hypothetical cultures treating kinship in a highly differentiated system and, alternatively as an over-arching canopy subsuming other systems (e.g. property, politics, religion).

**Table 1: Comparative ways of symbolizing kinship in the two cultures**

Cultures	Level of Differentiation of Kinship	Modes of symbolization	Institutional Manifestation
Culture ‘A’	High- “We” relationship confined to family.	Biogenetic	Family
Culture ‘B’	Low- “We” relationship extended to members of the caste, or village	Charisma	Political Parties, Business, Spiritual leadership
		Status	Caste and profession determine status in social hierarchy
		Vocation	Caste based allocation of trades and consequent division of labor.
		Protection	Ethic of brotherhood ( <i>Barathari</i> ), caste networks operate as social safety networks

From the above it may be argued that social actors operating in these two different cultural traditions will *interpret* the notion of *relationship* differently. How does this difference of interpretation affect the grammar of relationships on ground? We pursue this question with the help of a theoretical premise provided by Edmond Leach. British Social Anthropologist Edmond Leach’s formulation of relationship as “who gives what to whom” provides a useful model to understand these mechanics.

Edmond Leach (1982) extends discussion of kinship to general social roles and thereby tries to provide a broader understanding of how interactions among persons

are perceived as *relationships*- furthermore, how these relational mechanisms iterate horizontally and vertically to provide a social architecture for society at large and the movement of calculus of power in these relationships.

Leach develops an analogue between beginning of a relationship and flowing of an electric current from a point of high potential difference to a point of low potential difference. The resulting interaction materializes in the form of *indebtedness* resulting from interaction between persons of asymmetric proficiency and status. He sees most societal roles as “dyadic” constructions with such asymmetric partnerships e.g. father- son, teacher-student, doctor-patient (ibid). None of these roles can be imagined without its counterpart. That implies a “behavioral reciprocity” between these dyadic components (ibid, 151). The essence of relationship is *reciprocity* which actualizes through a gift-giving behavior translating into a shifting calculus of indebtedness among the two sides to the relationship. Given the usual time gap between gift-giving and receiving return gift, the reciprocity involved is often delayed<sup>4</sup>. Leach highlights “delayed reciprocity” as a mechanism for perpetuating relationships.

Leach captures his understanding of relationship formation through the following schema:

State of indebtedness	=	Social relationship
Payment of debt	=	Manifestation of relationship
Nature of payment	=	Nature of relationship
Reciprocal equal payments	=	Equality of status
Asymmetrical payments=	Inequality of status: Power flow from higher to lower (ibid, 154-159).	

Integrating Leach’s premise into our basic framework provided by Schneider we develop following set of postulates to help steer our analysis:

In a highly differentiated system of kinship, the capacity to extend non-monetary gifts unfolding in a chain of delayed reciprocity will be low. Resultantly, the span of relationships and the tenure of obligations entailed may be short and the possibility of emerging new relationships comparatively higher.

Scope for delayed reciprocity will be greater in a system of kinship with a low level of differentiation. With kinship performing a number of functions in such systems (e.g. protection, allocation of status and vocation), the potential for convertibility of one type of gift into another will be high i.e. relative “A” extending support to

“B” in a family dispute may later expect reciprocation from “B” to find a job for his grown-up son. Because of this convertibility factor the nature and size of reciprocity (return gift) will be determined by need of the person to whom reciprocity is owed rather than any fixed monetary regime. Because of availability of this flexibility, “A” will like to *prolong* the relationship until there is a situation of need when the reciprocity-deposit held by him may be realized at an optimum value- in-between, a give and take of interim nature (mostly monetary) may continue to sustain the relationship but such monetary gifts will not be considered a substitute for the non- monetary favor originally extended.

Above two postulates help us to develop an important point about the *concept of honor* involved in the handling of relationships in the two cultures. In a culture where the horizon of relationships is relatively shorter and flexibility is available to convert a non-monetary gift into a monetary return, a transactional sense and vocabulary may get associated with the concept of relationship. Hence explicit references to an insufficient reciprocity received against a gift may not be considered offensive.

This is markedly different from a culture where relationships based in non-monetary gifts and delayed reciprocity have a longer time span. To sustain and catalyze such long-term processes and the complex cognitive game involved it is important to enclose it in a regulatory loop and that regulatory loop is provided by the concept of *honor*. Honor as a cultural construct is the sense of legitimate social pride a person is entitled to within the cultural codes of the society. Inability to discharge social obligations gives rise to a contestation about the requisites of an honorable conduct. Parties to a relationship will thus try to craft their narratives (with regard to insufficient reciprocity) in a language of honor- trying to prove their conduct as honorable and the counterpart’s position as arrogant, conceited and domineering. Hence, the gift giver cannot explicitly refer to a gift as a lever in the public domain because that will be considered dishonorable i.e. trying to mix a sacred obligation rooted in a blood relationship dischargeable in terms of money which is a sign of worldliness.

Following matrix captures the above postulates in a juxtaposition:

**Table 2: Linking kinship with the mechanics of conducting a relationship**

		Orientation toward Relationship			
	Level of Differentiation	Character of Gift Exchange	Liquidity of Gift	Reciprocity Sought	Obligations Accepted
<b>Culture 'A'</b>	High- "We" relationship confined to family.	-Monetary -Non monetary	"High"-- Conversion of non-monetary into momentary gift quite possible and acceptable	Immediate/Short term	-Strictly contractual
<b>Culture 'B'</b>	Low- "We" relationship extended to members of the caste, village or both	Non-monetary	"Low"-Attempt at repaying a non-monetary favor through declared monetary gift considered an insult	Delayed	-Broad-family and kinship codes

## **Narration of the Case**

### **Prologue**

In September 2009, while our principles were in a one-on-one meeting, we<sup>5</sup> sat in a small room in the White House, waiting for the meeting to end. With me was a generally agreeable officer of the US National Security Advisor's office. We were discussing the reaction of the people of Pakistan towards an aid package arranged under the Obama administration popularly called Kerry-Lugar Bill.<sup>6</sup>

My interlocutor was shocked at the overwhelmingly harsh reaction of the Pakistani people to the aid package. The quandary was: in the times of acute financial difficulties of its own<sup>7</sup>, the US had provided a substantial amount of aid to Pakistani people, but, as a result, it did not stem but rather fostered negative feelings about the US in Pakistan.

I tried to capture the Pakistani mindset: how they felt historically betrayed by the US, and the allegorical relevance of a love-hate relationship. His response was matter-of-fact: "why do people in Pakistan think in emotional terms; betrayal, love, hate, these are emotions. They have nothing to do with International Relations (IR); which is a game of national interest." I understood what he meant. I was familiar with the notion of Realism<sup>8</sup>; and appreciated the significance of its fundamental attitude.

Apparently, however, at that time 180 million people in Pakistan, with half below the age of 25, did not see US-Pakistan relations through the glass of Realism. Relationship with the US had turned into an emotional issue in Pakistan. There had been umpteen angry public processions against the Kerry-Lugar Bill; and many of the opinion pages in the national newspapers were spewing anti-Americanism.

### **The Kerry-Lugar-Berman Bill**

The announcement of the KLB was made by President Obama during the Summit meeting of the Friends of Democratic Pakistan in New York; where President Zardari, along with the Foreign Minister, had gone to attend the United Nations General Assembly Session. When the Bill was announced, a general feeling of accomplishment pervaded the delegation. Everyone was elated over an apparent achievement of the government; with absolutely no sense of the public reaction that would emerge later. The Foreign Minister went on media, applauding the US' initiative<sup>9</sup>. Happily we slept that day; and moved to California the next day, where the Foreign Minister was scheduled to attend some events.

We were in our hotel in Los Angeles when the news of the growing public

resentment against the KLB started pouring in. The Foreign Minister, who had wholeheartedly defended the KLB only a day earlier, asked me to have another reading of the Bill and brief him on the latest. I went through the text yet again.

### **The Fire-Fighting**

The next day, while we were still in Los Angeles trying to internally synthesize the situation, Foreign Minister received a call from the Prime Minister immediately summoning him back to Islamabad. During the course of our long flight, we kept on refining the arguments in the media strategy that was agreed by the Foreign Minister. By the time we reached back, however, the situation in Pakistan had taken another turn. President Zardari was insistent on defending the KLB in its present form, whatsoever.

Prime Minister, realizing the sensitivity of the issue, played a conciliatory role. The day we reached back from the US - October 10, 2009 – a high level meeting featuring top political and military leadership of the country was held in Islamabad wherein it was decided to ask the Obama administration to address Pakistani concerns, “particularly those pertaining to the controversial clauses relating to national security”. A news report, titled “The Presidency Blinks,” noted: “It was also decided to 'try convincing' the majority of the parliamentarians to desist from rejecting the bill outright and, instead, to pass a resolution that would suggest its acceptance provided the controversial clauses were redrafted [by the U.S.] in a satisfactory manner”.

While I had barely unpacked after our arrival, and was planning to beat the jet-lag with a timely sleep, I received a call from the Foreign Minister; telling me to book tickets on the next available flight to Washington D.C., which proved to be only a few hours away. In less than twelve hours of our arrival back to Islamabad, we were again destined for the US.

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We arrived in the US capital in the morning; and, the Foreign Minister had his first meeting with Richard Holbrooke only a few hours after his arrival. During the meeting, the delicacy of the situation was impressed upon Holbrooke; and the need to work out some system that would stem the tide of public anger in Pakistan. Holbrooke, who was himself under immense pressure because of the situation, agreed to the need of a solution. From meeting Holbrooke in our hotel, the Foreign Minister went to see Senator Kerry at his office in the Capitol Hill. The meeting was long, as Kerry was meticulous in inquiring about various aspects of the issue. He, however, was also convinced that the situation needs rectification.



In the afternoon, the Foreign Minister had meetings with the US National Security Adviser James Jones and Congressman Howard Berman, Chairman of the House Foreign Affairs Committee. After the Senate meeting, the Foreign Minister and Senator Kerry told reporters that Congressman Berman will join them for yet another meeting the next day. The agreed idea was that the two US legislators and the Pakistani Foreign Minister will work on a joint statement, which will address all issues relating to the Kerry-Lugar-Berman bill. "All interpretations and misinterpretations will be addressed," said Kerry. "The statement will make it very clear that the bill does not violate our sovereignty or seeks to micro-manage our affairs," the Foreign Minister said.

The 'Joint Explanatory Statement' that was unveiled, and attached to the Enhanced Partnership with Pakistan Act of 2009 - and signed by the four at the insistence of the Foreign Minister to facilitate visual communication back home - made clear that there is no intent to, and nothing in the Kerry-Lugar Act in any way suggests that there should be any US role in micromanaging internal Pakistani affairs, including the promotion of Pakistani military officers or the internal operations of the Pakistani military. The explanatory note also diluted the requirement that needed Pakistan to interrogate any Pakistani national involved in nuclear proliferation and to allow US officials access to such a person.

Senator John Kerry and Congressman Howard Berman read out part of the statement inside Capitol Hill, standing beside Foreign Minister Shah Mahmood Qureshi. "This document today is I think a historic document, a step forward in our relationship," the Foreign Minister told a joint news conference with Senator Kerry and Congressman Berman. "I am going back to Pakistan to tell my parliament and conclude the debate on the note that our relationship can move forward, we will deepen it and we will strengthen it," he proclaimed.

Our journey back home started the same evening. During our travel and the lay-over at the Dubai Airport for a few hours, the Foreign Minister kept preparing points for his speech in front of the Parliament. As we reached back, the Foreign Minister went to the National Assembly within an hour. He made an hour-long impassioned plea, extensively quoting from the explanatory statement he secured from the two houses of the US Congress, to reject charges from opposition parties that the new American law's conditionalities would compromise Pakistan's sovereignty. After the concluding statements by the Foreign Minister, the session was prorogued.

## **The Finale**

Despite these efforts, the situation was far from ideal for the US policy makers. In October 2009, Senator John Kerry was in Pakistan, his body language was of total exhaustion indicating his disappointment during his Islamabad visit where he was having ‘so much difficulty in trying to give away 7.5 billion dollar aid.’ Although he was careful not to express his distress after meeting Pakistani politicians and military leaders, a frustrated Kerry ended up saying: “Take it or leave it; we should not play to cheap galleries here. If you don’t want the money, say so. We’re not forcing you to take it. We are giving to Pakistan about 7.5 billion dollars aid and also listening its complaints; we can spend this amount in California where it is badly needed.”

Amid all this mayhem, US Secretary of State Hillary Clinton also visited Pakistan to allay the fears over Kerry-Lugar legislation. She met with both the government and opposition parties. But the focus of her visit was to talk to the people of Pakistan. She confessed that the US made a mistake by abandoning strategic partnership with Pakistan after the Soviet defeat in Afghanistan, thereby contributing to Pakistan’s current terrorist quagmire. She assured Pakistanis that the US was not pursuing yet another traditional state-to-state or government-to-government relationship guided by short-term, real-politick ambitions; rather, for the first time in the history of its relations with Islamabad, Washington was truly interested in long-term strategic ties, whose primary focus would be on strengthening people-to-people relations between the two countries.

Hillary announced over \$243 million US civilian aid, which will be in addition to \$7.5 billion under the Kerry-Lugar-Berman Act, to help improve Pakistan’s energy generation and efficiency, raise the level of its higher education and meet some other urgent socio-economic needs. The charm offensive, though impressive, was too little too late for the future of the KLB.

The bad-blood created by the KLB episode heralded a downward slide in bilateral relations between Pakistan and the US. The Salala massacre, Osama bin Laden episode, Memogate, etc, that followed took the relations towards ever new nadirs. The KLB, on the other hand, floundered. The accountal of receipts and payments on the Pakistani and US sides did not reconcile. US claimed that over \$4.681 billion was paid against the total obligation of \$7.5 billion under the Kerry-Lugar-Berman bill till 2016. It was also reported in the Pakistani Press that the ”caretaker Finance Minister, Dr Shamshad Akhtar, in a meeting conveyed to US Principal Deputy Assistant Secretary of State for South and Central Asia, Alice G Wells, that

America should disburse the \$2 billion pending money under KLB since July 2015". The dispute still goes on.

### **“Who Gives What to Whom?” Analysis of the Case**

There are two main puzzles in the above case narrative:

1. Use of inflammatory language and, from Pakistani viewpoint, dictatorial conditionalities in the text of the Legislation at a time when the Obama Administration actually wanted to reach out to Pakistani society and democracy?
2. Sudden upsurge of public ire in Pakistan on a legislation that proposed to give assistance worth 7.5 billion dollars to their country which was cash starved and was desperately looking for avenues to finance its development?

In the light of our analytical framework we take up analysis of the two puzzles:

#### **Language of KLB**

The Bill's language is crafted in an assertive symbolism. Why it was considered necessary when the Obama Administration was actually trying to reach out to Pakistan's society and democracy? Our analytical framework provides following insights:

- a) America is a highly differentiated culture where kinship or obligations of relationship are primarily confined to blood relations.
- b) Rational bent of American society structures a relationship in a contract-like fashion based on a clear understanding of rights and obligations of the parties involved. Reciprocity sought in a relationship has a character of a *quid pro quo*.
- c) Nature of exchanges in the relational universe are mostly based on monetary and short term non-monetary gifts. A non-monetary favor if extended has a liquid character and can be *encashed* or converted into a measurable alternative in a short span of time and the parties won't mind that.
- d) Capacity to extend open ended non-monetary gifts unfolding in a chain of delayed reciprocity is low in this society. Resultantly, the span of relationships and the tenure of obligations entailed will be short. *Returns* likely to be collected from an investment have to be in sight.

When such a rationality-based culture contemplates to give an amount of USD 7.5 billion to a country which is socially and culturally quite remote from it-seeking a quid pro quo is no surprise. And not only that, it may also have the expectation from the recipient country to recognize demanding of such a quid pro quo as a legitimate act. Hence the expression of amazement and frustration from the American officials ranging from the White House Official to Senator Kerry on Pakistani public's reaction to insertion of a few clauses in KLB. Why do Pakistanis consider it offensive rather than feeling thankful? - they seem to ask. And that takes us to our second question.

### **Inexplicable Reaction in Pakistani Public on a Beneficial Legislation**

Starting from the same premise i.e. a culture's way of engaging with the notion of relationship, we start unraveling Pakistani public's loud reaction to a legislation which was going to bring so much money into their country.

- a) Pakistan as a state and society is balanced on two different cultural axes. The state is rational-legal while the society is embedded in traditions based in kinship values
- b) Kinship performs a number of functions (e.g. protection, allocation of status, charisma and vocation) in Pakistani society
- c) The universe of "We" relationships encompasses the whole spectrum of proximities whether based on blood or geographical contiguity (caste or village). *Gift* giving and taking may operate across this entire universe. The tenure of relationships is long and delayed reciprocity plays an important role in perpetuating these relationships. Concept of honor regulates the overall structure of relationships.
- d) More precious gifts are usually of non-monetary nature in the form of standing by someone in an hour of need and these are considered non-convertible into cash.
- e) While give and take of interim nature (monetary contributions at marriages for instance) may continue to sustain warmth in a relationship, its ultimate settlement will be in terms of a non-monetary gift of commensurate worth. An overt attempt by a party to a relationship to dispose of a reciprocal obligation entailing a non-monetary gift through cash is considered in bad taste and almost an insult.

In a relatively plain language, a common Pakistani, thinking within the codes of his culture, will find it difficult to mentally handle overt references to money

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provided to his country as a substitute of the sacrifices rendered by his people. Because, in his culture, a non-monetary gift as a matter of principle, cannot be converted into cash. It has to be repaid through, trust, recognition and a needed act of reciprocation in non-monetary terms. In the Pakistani undifferentiated sense of kinship, a relative becomes a co-sharer in the resources and charisma of the other relative and also a bona fide trustee of his confidence.

### **To their Respective Cultural Telescopes**

As the above analysis indicates the two sides seem to have two opposite conceptions of *relationship* as a cultural construct. Without engaging with the substrata of cultural concerns of the other side the Americans and Pakistani spokesmen keep emphasizing the legitimacy of their symbolic constructions.

Following matrix synthesizes these positions of the two cultures:

**Table 3: From kinship to Inter-state relationship**

	Orientation toward Kinship		Orientation toward Inter-state Relationship			
Culture	Level of Differentiation	Symbolic Depictions	Nature of Payment	Nature of Relationship	Mode of Perpetuation of Relationship	Nature of Emerging Rhetoric
America	High- “We” relationship confined to family.	-Biogenetic	Monetary	Asymmetrical: Pakistan not doing enough to protect US interests in Afghanistan. Onus of “indebtedness” on Pakistan	“Do More”	Power
Pakistan	Low- “We” relationship extended to members of the caste, or village	-Protection -Authority, Status, Charisma	Non-monetary	Asymmetrical: Pakistan’s sacrifice in terms of loss of life and damage to economy is far greater than the amount of assistance or acknowledgment received.	“Recognize More”	Honor

Here it may be in order to discuss exclusively the connotations of “Do More” as a cultural construct. As discussed earlier, Pakistan is a socially stratified culture. In a social structure largely influenced by caste hierarchy landed gentry enjoys a higher and privileged status compared to artisan and working classes. Mainstream culture of rural Pakistan regards artisans and working classes distinct from nobility. Artisans work and the nobility supervises and administers. Working classes are considered inferior in rank- those who take orders. “Do More” in that sense invokes a feeling of being treated as an inferior in a relational hierarchy. While in the American slang it may be a candid way of communicating to the other party to honor its part of the deal, for the Pakistanis the expression has a note of contempt.

### **Post KLB Events**

Positions adopted by the two sides in the post KLB events further strengthen our hypothesis about different and incompatible ways of engaging with the notion of relationship by the two cultures playing major part in further diverging their political positions. In support of our<sup>18</sup>

argument we present below an analysis of two major incidents in the aftermath of KLB namely Abbottabad raid on Usama Bin Laden’s compound and shelling at Salala check post. Using our conceptual framework based on levels of differentiation in kinship systems and constructing of relationships on the analogy of debt we explain the inward-looking attitude displayed by the two cultures without taking regard to other side’s concerns:

### **Abbottabad Incident**

“Al Qaeda leader Osama bin Laden was shot dead deep inside Pakistan in a night-time helicopter raid by US covert forces, ending a decade-long manhunt for the mastermind of the September 11 attacks. “Justice has been done,” President Barack Obama declared in a dramatic televised address late Sunday, sparking raucous celebrations across the United States, after an operation that officials said lasted less than 40 minutes.” (Express Tribune, May. 3, 2011).

**Table 4: Aftermath of Abbottabad Raid, From Lens of Cultural Differences**

Abbottabad Raid							
Pre-incident Context				Post-incident Posturing			
Opposing Views of Asymmetry in Hitherto Relationship		Perception of other side		Opposing Demands		Choice of Rhetoric	
America	Pakistan	America	Pakistan	America	Pakistan	America	Pakistan
Our money	Our sacrifices	They are doing “double talk”	Always asking to “do more”	As agents/allies you need to explain	As ‘kin’ you owe an explanation	<b>Power/toughness</b> President Obama watched the operation from White House.	<b>Honor</b> -Scrambling for face saving. -Could not give its initial reaction for many hours

**Attack on Salala Check Post**

“The Salala incident of 26 November 2011 has caused unprecedented damage to Pakistan-United States bilateral ties and impinged upon their cooperation in the war on terror. The closure of NATO supplies that have gone through Pakistan had seriously undermined such cooperative efforts. On the other hand, NATO supplies stoppage by Pakistan has caused huge uproar in already troubled Pak-US relations. Pakistan exercised its own legitimate security concerns. The Army did not want to re-open supplies until the U.S. offered an apology to Pakistan for killing of its 24 soldiers” Malik, A. R. (2012).



**Table 5: Aftermath of Salala – A Cultural Analysis**

Salala Check Post Attack							
Pre-incident Context				Post-incident Posturing			
Opposing Views of Asymmetry in Hitherto Relationship		Perception of other side		Choice of Rhetoric		Opposing Demands	
America	Pakistan	America	Pakistan	America	Pakistan	America	Pakistan
Our Money	Our Sacrifice	They are doing “double talk”	Always asking to “Do More”	<u><b>Power</b></u> -Collateral damage. -Attempt to craft the issue in monetary terms. Talk of comparative expenses in case of adopting an alternative route for NATO supplies.	<u><b>Honor</b></u> -We were betrayed by our ‘Kin’ - Pakistan was not enhancing Octroi charges for NATO supplies to Afghanistan	-Take it easy. -We did not do it intentionally. -Why should we apologize?	Apology due from you

In the above analysis, again, we see the diplomacy of the two countries taking to their respective cultural ends of the telescope. Americans demanding “Do More” and Pakistan “reiterating “Recognize More”. Both perceiving themselves in an asymmetrical relationship in which their place is at the higher level of potential difference placing the other party in a state of indebtedness. Both think that the reciprocation from other side only partially repaid their investment/sacrifice and therefore the relationship continues but it is a relationship conducted amidst dissatisfaction on both sides. America as a highly differentiated culture failed to appreciate Pakistan’s cultural view of a relationship as a comprehensive package of obligations conducted mostly through non-monetary exchanges - while monetary exchanges though playing an important role in maintaining the relationship were not to be talked openly and were never to be depicted as a substitute for non-monetary obligations, because that meant like *dishonoring* the other party.

## **Conclusion**

In the above analysis, we tried to argue along a thin line setting apart explanations based in culture as distinct from other commonsense explanations located in realpolitik logics to account for problematics in the hitherto Pak-American relations. We have tried to establish the premise that there are no binding inherent constraint hindering Pakistani- American relationship from outgrowing a transactional mode and attaining a substantive character. KLB, by its multi-dimensional approach, was an important attempt by the two *states* to develop a broad-based, long-term relationship. However, adoption of this arduous route demanded a deeper understanding of the cultural structures of the two societies. Misunderstandings based in a lack of cultural knowledge constitute a binding constraint here. *Culture* therefore, in our analysis, comes out as the main explanatory variable rather than the size of the two states and their status as main and peripheral state<sup>10</sup>.

It needs to be underlined here that it was Pakistani *society* not the state that voiced protest against KLB. Trivializing such reactions as “emotional” (constructed as an opposite to “realistic”) doesn’t take forward our understanding about the puzzle. Resorting to judgment rather than untangling a complication indicates a tendency toward intellectual laxity. What sounds emotional to one party is actually formulation of a response or reaction by the other society amidst its *cultural reality*. As for the question, why should a donor country try to learn about the culture of a recipient state and vice versa- the answer is -to obtain maximum *value for money* in the form of greater trust between the two societies.

Two major narratives coming out of this case narration, representing concerns of the two sides, may be summed up as: a) Our Money b) Our Sovereignty. The key words “money” and “sovereignty” have considerable cultural legitimacy in their respective traditions - namely American and Pakistani. Practically the viewpoints of the two sides materialize in the form of binaries: a) *Our* money, *your* sovereignty b) *Our* sovereignty, *your* money. The former half in the two expressions represents the dominant concern of each side the latter an attempt to deemphasize the concern of the other side.

An American citizen has a deep cultural involvement with symbols such as democracy, people, tax payers’ money, no free lunch, you scratch my back and scratch yours. Hence the Bill’s language is crafted in an assertive symbolism. To get it through the House where representatives have to justify their voting for a Bill through a correct moral and political rhetoric KLB was dressed up in an instructive

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and sometimes intrusive language placing the onus of fulfilling of a number of obligations to qualify for assistance on Pakistan. From the Obama Administration's viewpoint, it was mere bark than bite which was necessary to pilot the Bill through the House. Requirements of different certifications to receive each installment of assistance enshrined in the Bill could in their view be neutralized through Presidential waivers as had been the case in the past with Symington and Pressler Amendments. For the American policy makers therefore the reaction of Pakistani public was enigmatic.

Pakistan as a *state* and a *culture* has two very different voices. As a country its weak economic indicators, tough security environment and internal challenges of stability call for a dispassionate and calculated approach in inter-state relations. However, as a culture it is embedded in a deep tradition of *honour*. Any event, process or argument, constructed as an insult to this sense of honor may allow evocation of a flamboyant reaction from the man in street. Disinclination to give due regard to this cultural aspect resulted in a surprise for both the US and Pakistani policy makers when the legislation launched in a celebratory mood at Friends of Pakistan meeting was received with a negative reaction in Pakistan.

## Endnotes

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<sup>1</sup>Based on a case narration “The Impact of Culture on Kerry Lugar Bill” by Ameer Khurram Rathore, an officer of Foreign Service of Pakistan in 109<sup>th</sup> National Management Course (NMC 109).

<sup>2</sup> Erving Goffman in “Frame Analysis” defines “strip” as an “arbitrary slice or cut from the stream of ongoing activity, including here sequences of happenings, real or fictive, as seen from the perspective of those subjectively involved in sustaining an interest in them.” See Goffman (1986).

<sup>3</sup> Edmond Leach a Social Anthropologist is not formally categorized as a symbolic anthropologist but the way we make use of his ideas in this analysis necessitates for us to include him in the same domain. Further his declared way of doing anthropology more in the way of Levi Strauss rather than Redcliffe Brown lends support to our claim.

<sup>4</sup> The formulation of “delayed reciprocity” basically comes from French anthropologist Levi Strauss’s writings. However, Leach gave it a wider connotation by applying it to economic and other transactions (Leach 1982, 149-175).

<sup>5</sup> The author is a member of the Foreign Service of Pakistan; and served as the Director of the office of the Foreign Minister of Pakistan, 2009-2011.

<sup>6</sup> The US Senate in Sept 2009 unanimously passed the Kerry-Lugar-Berman bill, which tripled non-military aid to Pakistan to \$1.5 billion per annum for five years, pledging America's long-term commitment to its key ally against extremism. US President Barack Obama in this regard made the announcement during his address to a meeting of the Friends of Democratic Pakistan at the UN headquarters in New York, Sept 2009.

<sup>7</sup> As a consequence of the financial crisis of 2008/9.

<sup>8</sup> Realism: is the dominant theory of International Relations (IR). Power is crucial to Realist Lexicon and has traditionally been defined narrowly in military strategic terms. Yet irrespective of how much power a state may possess, the core national interest of all states must be survival. Like the pursuit of power, the promotion of the national interest is, according to Realists, an iron law of necessity. P.87. *Realism, Tim Dunne, Brian C. Schmidt, The Globalisation of World Politics.*

<sup>9</sup><https://www.youtube.com/watch?v=sW64sDG6QxI>

<sup>10</sup> Just to remind the reader we employ the concept of culture in the Schneiderian sense as a “system of symbols” rather than just an assortment of values and artefacts.

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# **Role of Existing Legal and Institutional Framework to Combat Sexual Harassment against Women in Mitigating Gender Inequality at the Workplace**

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## **Introduction**

Sexual harassment and lack of safety are one of the major and serious hurdles to women's labor participation in Pakistan, whereby a large number of women are unable to work or are not permitted to work by their families due to looming risk, threat or fear of sexual harassment at the workplace<sup>1</sup>. The Federal government enacted the Protection against Harassment of Women at the Workplace Act, 2010. This special law is in line with the constitutional rights of women and Pakistan's international commitments to provide a safe environment for women to be productive in their work. Nevertheless, the present legal and institutional framework in Pakistan has certain gaps and operational impediments that make it difficult for this Act to be fully effective in ensuring safety of all women in any kind of workplace and mitigate gender inequality. The study analyzed the data of female labor force participation in Pakistan, cases registered and decided in the office of Federal Ombudsman and Punjab Ombudsperson, and also gathered survey data and interviews of women working in the public and private sector.

Overall this study appreciates the intention behind this special law i.e. to protect women against sexual harassment at the workplace, however the issue of sexual harassment is not limited to women only, as men, transgenders and people of any gender identity can be made a victim of sexual harassment at their workplace, be it public or private space. It is recommended that the law needs to be made more comprehensive and inclusive to protect all citizens of Pakistan against sexual harassment at the workplace, which would create an enabling environment for women and other vulnerable groups to join the labor market and contribute to economic development of the country.

Pakistan's current female labor force participation (FLFP) remains the lowest in Asia and also globally<sup>2</sup>. Facing numerous socio-cultural and economic barriers, women in Pakistan continue to be excluded from formal workplace due to safety and security concerns. It is the responsibility of the state to protect the fundamental right of dignity of a person as guaranteed by the Constitution of Pakistan, 1973<sup>3</sup>.

## **Statement of the Problem**

The purpose of this paper is to examine the effectiveness, extent and scope of the present legal and institutional framework to create and nurture a safe and enabling workplace environment for women in Pakistan, that ensures their constitutional right of work with dignity that is free from any fear, abuse, harassment and intimidation. This paper will investigate how and to what extent the existing legal and institutional framework are strengthening and contributing to efforts of gender equality at the workplace. The impact of these arrangements would be measured by the number of complaints received, decisions made and convictions executed by the office of Federal and Provincial Ombudsperson offices created for this purpose, and to find linkages of these results to the broader efforts to combat gender inequality at the workplace and whether this arrangement is having a positive influence on female labor force participation rates in Pakistan. The author also intends to do a content analysis of the legislation and propose certain amendments to make the legal framework more effective to protect all citizens of Pakistan from sexual harassment at workplace.

## **Significance and Scope of The Study**

The Protection against Harassment of Women at the Workplace Act, 2010 is an important legislation to ensure safety and security of working women, however it is a recent development and institutional arrangements are still in nascent stage of establishing offices and setting up office infrastructures especially in Sindh, Khyber Pakhtunkhwa and Baluchistan therefore on contacting the respective offices limited or no data was available on complaints received, accepted and decided. To investigate this issue in a meaningful manner, this paper focused on the legal and institutional framework implemented to protect women against sexual harassment in the Federal Government and the Punjab Government.

## **Literature Review**

This section offers a theoretical overview of the concept of gender equality, sexual harassment and examining the definition and previous studies on incidence of sexual harassment in the workplace and how they inform my analysis of data on sexual harassment in the Pakistani context.

**Gender equality:** In the first place it is important to distinguish between sex and gender, whereby sex is assigned at birth and is based on biological status, and gender on the other hand is a social construct based on social interactions. Gender is a



relational concept that determines roles, behaviors and expectations between women and men. It demonstrates itself in the hierarchical power relations that exist between women and men and is a product of how institutions are organized and reconstituted. UN Women defines gender equality as equal opportunities and rights for women and men, girls and boys, regardless of their biological status. It is a human rights issue and a fundamental indicator of people centered sustainable development<sup>4</sup>. Above all gender identity of a person can differ from social norms and cultural expectations<sup>5</sup>, and person from any gender identity can be subjected to sexual harassment<sup>6</sup>.

Under the Sustainable Development Goal (SDG) -5, in order to achieve gender equality, all women and girls must have equal opportunities and rights and a life free of discrimination and violence<sup>7</sup>. According to the 'Global Gender Gap Index 2018'<sup>8</sup> Pakistan is second worst country in the world in terms of gender parity and stands at 148, and its ranked 146<sup>th</sup> in economic participation and opportunity.

**Sexual Harassment:** Sexual harassment of working women is widely prevalent in almost all societies in varying degrees, yet it is poorly understood and systematically ignored. Sexual harassment is basically a form of sexual discrimination. Although it is a pervasive social problem, there is no consensus or universally agreed definition of sexual harassment. A large body of research incorporates certain similar components, like unwelcome or/and unwanted behavior that is hostile, offensive, insulting, humiliating and intimidating<sup>9</sup>. It is important to understand the essence of the word 'unwelcome' which is not synonymous to 'involuntary'. The victim and / or complainant may appear to give consent to, seem to agree to or even actively participate to an offensive and indecent act. Nonetheless sexual behavior or conduct is unwelcome whenever the person subjected to it considers it unwelcome and unacceptable<sup>10</sup>. The perception, feeling and impact on the aggrieved has more weightage as opposed to the 'intent' of the perpetrator to define sexual harassment.

MacKinnon (1979)<sup>11</sup> in her seminal work '*Sexual Harassment of Working Women*' was the first legal scholar to establish the connection between sexual discrimination and sexual harassment. She argued that sex discrimination forces women into low paying jobs and sexual harassment ensures it stays that way. According to Petrocelli, and Repa (1998) sexual harassment is fundamentally a manifestation of power relations, and women are generally more vulnerable to sexual harassment than men as they lack power and confidence. Due to socially constructed gendered cultural norms, roles, responsibilities and relationship between men and women, women tend to suffer in silence. Petrocelli, and Repa (1998) further argue the relationship between men and women have a considerable amount of violence for instance data indicates that one out of ten women in the US are raped or sexually assaulted during

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their lives, while half have experienced some sort of battering or incident of domestic violence.

Gender based violence and discrimination against women and girls in Pakistan is widespread and persistent in both public and private spheres of the society, including domestic violence, honor killing, acid attack, rape, kidnapping and abduction, forced marriage, child marriage; economic abuse and violence include violence and discrimination in inheritance laws; sexual violence include public stripping, forced sexual photography, trafficking and forced prostitution, incest, eve teasing and sexual harassment at work. Although there are laws and regulations to curb these heinous practices, the enforcement and implementation of these laws is poor and unsatisfactory<sup>12</sup> According to Pakistan Demographic and Health Survey (PDHS), 2017-18<sup>13</sup> one in every five women in Pakistan is subject to some sort of physical violence. In addition, cases of sexual harassment in Pakistan are not even reported or registered due to cultural taboos and social stigma.

Faludi (2006)<sup>14</sup> argues that male hostility to women in the workforce is linked to notions of masculinity and man's role as the primary bread winner or provider of his family. Men see women's economic empowerment and equality as a threat to their traditional role and sexual harassment becomes a tool of punishing women and reasserting masculine power. There is evidence that sexual harassment against women is enabled and practiced more in male dominated workplaces, workplaces that protect 'High Value employees' (mostly men), have seniors or leaders with unquestioned authority and workplaces with rigid gender stereotypes<sup>15</sup>. This gendered power imbalance in the workplace, facilitates and tacitly permits behaviour and incidence of sexual harassment. The issue of sexual harassment is not limited or restricted to only women, men and people of mixed gender identity can be victimized as well. Sexual harassment creates an environment of tension, oppression, fear, intimidation, threat and repression for the victim and she /he often feel lack of worth and self-esteem and frequently blames herself/himself. Sexual Harassment has several negative and detrimental effects on the victims' mental and physical health.

The recent global #MeToo movement has shown impact in Pakistan and enhanced the awareness and raised visibility around the issue, obliging many employers to re-examine their internal policies and procedures<sup>16</sup>.

## **Methodology**

For my study, I have a mixed method approach using both qualitative (interview and survey) and quantitative (data analysis using statistical software) techniques. For the

analysis descriptive statistics were used.

As a primary data source, I carried out interviews of the officers in the Ombudsperson office and other relevant staff, and members of civil society organizations working on this issue. I also conducted a short survey of 20 respondents selected from the target populations i.e. women working in the public and private sector to gauge their awareness and understanding of the law and their personal experience of working in these sectors respectively. The survey captured data from a limited pool of respondents due to paucity of time. For robust analysis I triangulated this data and information with secondary data sources based on the reported and registered sexual harassment complaints, decisions and actions taken and how they were disposed of. Analysis of this data provided insights about the effectiveness of this act and whether corresponding institutional arrangement is effective in curbing the menace of sexual harassment in the Pakistan context.

I gathered data from the Ombudsperson's office both at the Federal and the Punjab level, where there is time series data available since the promulgation of the respective laws. However, the data about complainants is strictly confidential so departments were unable to share that with the author. For analysis this study relies secondary data sources like departmental data, reports, websites, and articles. The author also carried out a content analysis of the legislation and proposed certain amendments.

Keeping the sensitivity of the issue in mind, all survey and interview data have been kept confidential and anonymous. Names in interviews have been kept confidential unless prior explicit permission to reproduce name is sought.

### **Strengths of the study:**

The study contributes to the scholarship and understanding of sexual harassment and the importance of legal and institutional arrangements to address sexual harassment for all persons.

### **Limitations of the study:**

Due to paucity of time the sample size for survey and interviews was small. Also, the scope of the paper is limited to the existing legal and institutional framework in Pakistan and could not discuss the broader social, economic, political and cultural aspects of Pakistani society that have a direct or indirect impact on the issue of sexual harassment.

## **Organization of the Paper**

The first section of the paper gives the overview of female labor force participation and sexual harassment in the workplace in Pakistan. Section two elaborates on the legal and institutional framework against sexual harassment at the workplace in Pakistan. Section three presents the analysis and results of the data collected from Ombudsperson office both in the Federal Government and Punjab, the analysis of the survey and interviews of women working in the public and private sector. The last part of the paper presents the conclusion with recommendations for future policy.

## **Section 1**

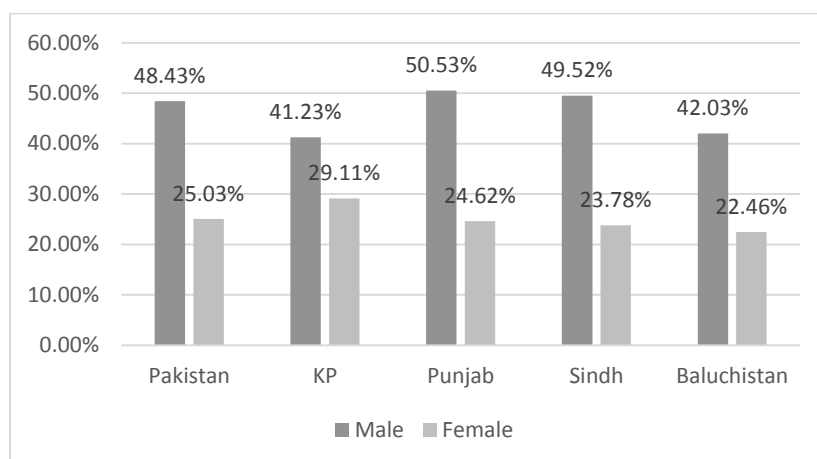
### **Sexual Harassment at Workplace in Pakistan**

The focus of this study is sexual harassment at workplace in Pakistan and before deliberating on the issue, it is important to look at the statistics of labor force participation rates of women in Pakistan.

### **Female Labor Force Participation in Pakistan**

The labor force participation rates in Pakistan for males is 48.43% and for females it is 25.03% (2017-18). In KP it is 41.23% for males and 29.11% for females, in Punjab it is 50.53% for males and 24.62% for females, in Sindh it is 49.52% for males and 23.78% for females, Baluchistan is 42.03% males and 22.46% females<sup>17</sup>. In spite of the regional, cultural and socio- economic variations in the four provinces, women lag behind men in labor markets.

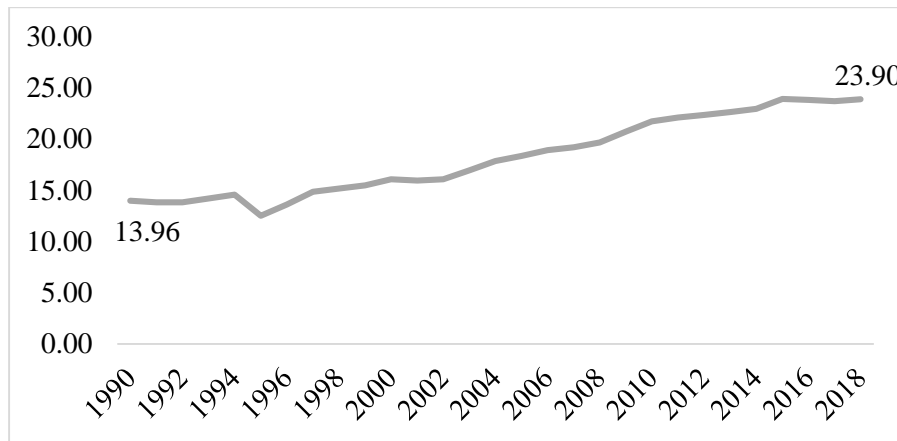
**Figure 1: Province wise Labor Force Participation Rates in Pakistan 2017-18**



**Source:** Pakistan Bureau of Statistics (PBS), Labor Force Participation Rates (2017-18)

According to World Bank data (2019) more women are joining workforce in Pakistan, snailing up gradually from 14% in 1990 to 24% in 2018.

**Figure 2: Trends in Female Labor Force Participation Rate in Pakistan since 1990-2018**



**Source:** World Bank Data, 2019.

However, this increase fails to bridge the gap between male and female labor participation as ratio of female to male force participation rate was 29.34% in 2018<sup>18</sup>.

Contributing factors for increase in female labor force include rise in female literacy that has increased from 61.25% in 2008 to 65.55 in 2014. Decrease in early marriage for women i.e. the mean age of marriage has risen from 16 (in 1961) to 22.8 (in 2007), and in 1988 the fertility rates halved providing impetus for larger number of women to join the formal workforce. Mobility of women has increased, women who can visit markets alone has increased by 12 percent in the past five years<sup>19</sup>. Studies show that late marriages and fewer children promote women joining the workforce.

### **Magnitude of Sexual Harassment in Pakistan**

In Pakistan, sexual harassment cases are often reported in the print and electronic media and despite enactment of special harassment laws such cases remain under reported<sup>20</sup>. In Pakistan, the movement against sexual harassment was initiated by Human Rights activist Dr. Fouzia Saeed and 10 other brave women who filed a joint complaint against constant sexual harassment in United Nations Development Programme, Pakistan. The day they filed the complaint (i.e. 22 December 1997) is commemorated as a National Day for Working Women in Pakistan. All these women had been for many years harassed by Tarik Khan's phone calls, obscene gestures and sexual jokes. Dr. Saeed's book "Working with Sharks" offered an insider's view of

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the institutional harassment practiced by UN officials to protect the perpetrator and crush the victims and their complaint<sup>21</sup>. The law on sexual harassment at workplace was steered through a 10-year gestation by Dr. Saeed, the first Pakistani woman to publically complain against sexual harassment<sup>22</sup>. PIA pilot Captain Rifar Haye became the first woman to file a formal complaint under the Act of 2010<sup>23</sup>.

Dr Fouzia's initiative triggered a powerful social movement for women's protection and NGOs like Mehrgarh<sup>24</sup> and Aasha<sup>25</sup> started lobbying and advocating rights of women against sexual harassment. In 2002, the civil society came up with an agreed upon code of conduct against sexual harassment, which was actively adopted by more than 300 organizations in not for profit and private sector as well<sup>26</sup>.

## **Section 2**

### **Legal and Institutional Framework to Protect Against Sexual Harassment in the Workplace**

Presently there are two legislations that protect against sexual harassment in Pakistan, Pakistan Penal Code 1860 (through the Criminal Law Amendment, Act of 2010) and a special law called The Protection Against Harassment of Women at the Workplace Act, 2010. The Protection Against Harassment Act was originally promulgated in March 2010. The Act No XIV of 2013, dated 20th March was subsequently promulgated to make institutional reforms of Federal Ombudsman at Federal level and the ancillary matters.

### **Legal Arrangement to Protect Against Sexual Harassment in Pakistan**

The Protection against Harassment of Women at the Workplace Act, 2010 was enacted by the Federal Government in light of different international conventions under the International Labor Organization, Convention on the Elimination of all Forms of Discrimination Against Women as well as the Beijing Convention 1995, and Pakistan has ratified all these conventions. Furthermore, Sustainable Development Goal no 5<sup>27</sup> specially relates to gender equality and empowerment of women and girls with a focus of ending violence against women. The Protection against Harassment of Women at the Workplace Act, 2010 was later adopted by the Punjab Government vide Punjab Protection against Harassment of Women at the Workplace Act, 2013, and other provinces followed suit, like Baluchistan in 2016, KP in 2017 and Sindh in 2018. All provinces have also appointed an Ombudsperson, with Khyber Pakhtunkhwa being most recent, where an Ombudsperson was appointed in January 2019<sup>28</sup>.

The Protection against Harassment of Women at the Workplace Act, 2010 defines “harassment” under Section 2(h) as “any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitude, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment<sup>29</sup>”.

On the other hand Pakistan Penal Code 1860 defines “harassment” under Section 509 as “Insulting modesty or causing sexual harassment” i.e. whoever “intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman”; and in addition to this “conducts sexual advances, or demands sexual favors or uses verbal or non-verbal communication or physical conduct of a sexual nature which intends to annoy, insult, intimidate or threaten the other person or commits such acts at the premises of workplace, or makes submission to such conduct either explicitly or implicitly a term or condition of an individual's employment, or makes submission to or rejection of such conduct by an individual a basis for employment decision affecting such individual, or retaliates because of rejection of such behavior, or conducts such behavior with the intention of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; shall be punished with imprisonment which may extend to three years or with fine up to five hundred thousand rupees or with both<sup>30</sup>”.

It is observed that PPC provides for a relatively more comprehensive and extensive definition of sexual harassment that captures even exhibiting any object as part of harassment, unlike the Protection against Harassment Act 2010, that is limited to verbal, written and physical conduct. PPC however, restricts the definition to modesty of women, that excludes men and transgender and fails to define modesty.

Under section 2 (n) of the Protection against Harassment Act 2010, workplace is defined as ‘the place of work or the premises where an organization<sup>31</sup> or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office’. Whereas Pakistan Penal Code (PPC) 1860 (through the Criminal Law, Amendment Act of 2010), has a broader definition of workplace to include public place and informal sector which is not covered by Protection against Harassment Act 2010. Under

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Section 509 PPC it is elaborated that: “Explanation-1 Such behavior might occur in public place, including, but not limited to, markets, public transport, streets or parks, or it might occur in private places including, but not limited to work places, private gatherings, or homes. Explanation-2 Workplace means, the place of work or the premises where an organization or employer operates, this may be a specific building, factory, open area or a larger geographical area where the activities of the organization are carried out. Sexual advances may occur after working hours and outside workplace. It is the access that a perpetrator has to the person being harassed by virtue of a job situation or job-related functions and activities”. The explanations elaborated in the PPC amendment of 2010, highlight the restrictive and limited scope of the special law i.e. Protection against Harassment Act 2010.

The Protection against Harassment Act 2010 makes it mandatory for every organization to adopt a code of conduct and embed them in the organizational HR policies. Within one month after the Act was signed by the President, every employer is required by law to set up a three-member committee to address the sexual harassment complaints and inform all his/her employees of the new policy. Under section 3 of the Act 2010, a three-member inquiry committee would be constituted of whom at least one is a woman, one is a senior manager and the third member is a senior representative of the employees. Any man or woman can file a complaint to Ombudsperson’s under section 8 of the above-mentioned act, and can register it with the Registrar, post it or submit it online via [www.fospah.gov.pk](http://www.fospah.gov.pk) in English or Urdu. The complainant is required to have a comprehensive statement containing all facts, along with an affidavit and all relevant evidence and a list of witnesses with their National Identity Cards, addresses and contact numbers. Under section 6 of the Act, any party feeling aggrieved by the decision of the inquiry committee can file an appeal with the Federal Ombudsman Secretariat for Protection Against Harassment of Women at Workplace (FOSAH) within 30 days of the decision.

The employer of the organization is responsible to ensure implementation of Act of 2010 and incorporate the code of conduct of this act at the workplace and form inquiry committee. The management is also required to display the code of conduct in a conspicuous place in the organization. In case of non-compliance a fine of twenty -five thousand rupees or more can be imposed on the employer.

Another key point is that during the deliberations in the National Assembly there was tremendous resistance and criticism to exclude the word ‘sexual’ from the title, due to cultural sensitivities in Pakistan<sup>32</sup>. This attitude by the legislators reflects the



cultural barriers, lack of acceptance and taboo associated with the use of the word 'sexual' in our society even while addressing a social evil that hurts human rights of individuals especially women. It also highlights the nature and extent of challenges that civil society and human rights advocates working on this issue face while advocating for women and human rights. Proper definition and identification of an issue is the first and most fundamental step in effectively addressing it.

### **Institutional Arrangement to Protect against Sexual Harassment in Pakistan**

Institutional Arrangement is the fundamental key for the success of any project. Institutional arrangement is the agreed upon allotment of responsibilities among the institutions or agencies and such arrangements must be aligned with the legal framework to produce desired results. The UNDP defines Institutional Arrangement as "the policies, practices and systems that allow for effective functioning of an organization or group. These may include 'hard' rules such as laws or the terms of a contract, or 'soft' rules like codes of conduct or generally accepted values<sup>33</sup>".

Accordingly, institutional arrangement is understood as a cooperative structure that clearly lays out the responsibilities and set of goals to be accomplished by each institution. It is a set of both formal and informal collaborative structures that help institutions fulfil their responsibilities to achieve their targets. It is a set of linkages between the agencies and departments that form part of the network aimed at achieving coherent results and reduce redundancy. Institutional arrangement significantly affects the outcome for which such arrangements have been put in place.

The institutional arrangement regarding sexual harassment laws in Pakistan is set up on parallel lines both at the Federal and Provincial Level. It is led by the Federal Ombudsperson at the Federal and by Provincial Ombudspersons at the Province levels. According to the Federal Ombudsman Secretariat for Protection Against Harassment of Women at Workplace (FOSPAH) Annual Report 2019, the objective of FOSPAH is to create and foster a safe working environment that is free from any harassment, abuse, intimidation and discrimination to allow workers the right to work with dignity and encourage higher productivity by providing a comfortable workplace environment<sup>34</sup>.

The office of the Ombudsperson Punjab<sup>35</sup> was established in 2013, to hear cases of harassment of employees working in any position or level in the public or private sector. It has quasi-judicial functions and the office of the Ombudsperson is a grievance redressal forum for the original complaints under the law and also hears

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appeals against cases decided by the inquiry committees constituted by the organizations. Only complaints that strictly fall within the definition of ‘harassment’ and ‘workplace’ under the Protection Against Harassment of Women at the Workplace Act, Punjab (March 2013). The website of office of Ombudsperson Punjab categorically lists down cases where the Office of the Ombudsperson would not intervene i.e. private matters, service/administrative grievances, domestic violence, harassment by non-employee/ private person, harassment but not at workplace (defined in the law), cybercrimes (facebook, whatsapp, twitter, etc. by private person), students’ affairs<sup>36</sup>. Further, the Office of the Federal Ombudsperson offers an option of online application in addition to complaints submitted in person and by post, but Office of the Punjab Ombudsperson only offers written applications<sup>37</sup>.

There is an administrative lacuna in the set up in Punjab, as the Ombudsperson is appointed by the Women Development Department, but the administrative control has been shifted to the Services and General Administration Department. Women Development Department with the primary agenda of protecting and advancing women’s rights is cut off from the Ombudsperson office, which effects the efficacy of both the organizations. There is lack of information sharing and coordination between the two offices<sup>38</sup>. Furthermore, there are some institutional and jurisdictional overlaps in the working on Federal and Provincial Jurisdictions as people are still unsure where to register complaint and the two offices have lack of clarity about legal jurisdiction and often, Federal Ombudsperson adjudicates on Provincial jurisdiction cases.

Presently this legislation is under scrutiny in the Supreme Court in a suo motu case questioning the overlapping jurisdiction between Federal and provincial laws against the backdrop of 18th Amendment. The constitutional question is whether Federal law should prevail to honor international commitments or provinces should enact their own respective laws. The Supreme Court is of the view that there has to be clarity about the jurisdiction so that complainants know which forum to approach<sup>39</sup>. Under Protection against Harassment Act 2010, all institutions (public, private and semi- government) are bound by law to form a three-member inquiry committee consisting of a senior member, a woman member and a representative of the employees, to inquire the sexual harassment complaints and take necessary action against accused. If harassment is proved the committee has the authority to impose fine, demote, dismiss from employment, order early retirement against the suspected employee.

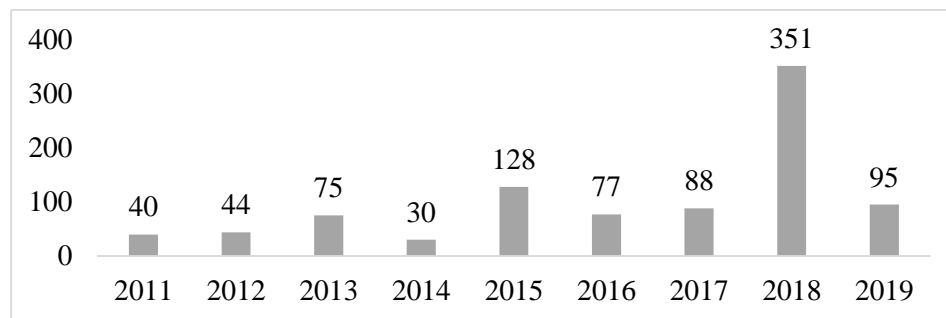
Yet in spite of nine years after implementation of the harassment law, results of a monitoring report show that over 90% of organizations have failed to formulate such a committee; a somber reflection of the lack of seriousness of organizations to protect and support women at the workplace against harassment<sup>40</sup>. Absence of such a committee and an appropriate legal forum tends to discourage victims to lodge a formal complaint. Many complaints are reported in the media or taken notice of directly by the court. Like the case of alleged sexual harassment by Head of Department of a student is one such example where the case was registered after footage of the incident went viral on social media<sup>41</sup> and other cases like Syeda Sadia former hockey player who alleged being assaulted by her head coach but was not supported by the Pakistan Hockey Federation<sup>42</sup> and Haleema Rafiq's suicide after being accused of false allegations, without any proper investigations<sup>43</sup>, speak volumes about the apathy and poor implementations of the anti-harassment laws in Pakistan. With poor institutional arrangement, a significant number of potential complaints go unreported and many victims continue to suffer in silence.

### Section 3

#### Analysis and Challenges of the Issue

Data from the Federal Ombudsperson Secretariat shows that the total number of cases registered at the Federal Ombudsperson Secretariat from year 2011 to March 2019 was 928. With the most cases registered in 2018 i.e. 351.

**Figure 3:** Total Number of Cases Registered in Federal Ombudsperson Secretariat



**Source:** FOSAH, *Annual Report*, March 2018-2019.

The provincial breakup of the data shows that over the last seven years since the promulgation of this Act, 81% of the cases come from Punjab and Federal area and rest of the provinces i.e., Sindh, KPK and Baluchistan and area of FATA overall registered 19% of the cases. A probable reason for this can be lesser distance and accessibility to the Federal Ombudsperson Secretariat both for populations in the

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Capital area and Punjab province. Other provinces (except KP) would have longer distance, making accessibility an issue. There could also be social and cultural reasons behind low number of cases from other provinces.

**Table 1:** Total Number of Cases Registered in Federal Ombudsperson's Office (Province wise)

Year	Total no of Cases	Region					
		Federal	Punjab	Sindh	KPK	Balochistan	FATA
2011	40	16	9	8	7	0	0
2012	44	14	16	3	9	1	1
2013	75	28	30	8	4	5	0
2014	30	12	8	6	3	1	0
2015	128	47	56	15	6	3	1
2016	77	31	32	10	3	1	0
2017	88	31	36	18	3	0	0
2018	351	125	183	26	16	1	0
<b>Total</b>	<b>833</b>	<b>304</b>	<b>370</b>	<b>94</b>	<b>51</b>	<b>12</b>	<b>2</b>
%		36.49%	44.42%	11.28%	6.12%	1.44%	0.24%

**Source:** FOSAH, *Annual Report*, March 2018 - 2019.

The overall cases registered under the Protection against Harassment of Women at the Workplace Act, 2010 in the Federal Ombudsperson's office are 420 from March 2018 to March 2019. Number of decided cases are 366 and pending cases are 54. With only one legal consultant the office of Federal Ombudsperson has a good disposal rate.

**Table 2:** Status of Cases Registered in the Federal Ombudsperson's Office (2018-19)

Total Cases Registered	Disposed of Cases	Pending Cases
420	366	54

Source: FOSAH, *Annual Report*, March 2018-2019.

Looking at the gender disaggregated data of cases registered, a large number of complaints are filed by women i.e. 252 and there are complaints from men too i.e. 168 which highlights the fact that even though the title of the Act mentions women ‘Protection against Harassment of Women at the Workplace Act, 2010’ men are also aware that they can file a complaint under the act as section 2 (e) an complainant means a woman or man who has made a complaint to the Ombudsman or Inquiry Committee on being aggrieved by an act of harassment<sup>44</sup>. So far, the cases are against the opposite gender and there is no case where complainant and accused are from the same sex. It is important to be aware that the social and cultural taboos associated with same sex sexual harassment are more intense, so reporting of such incidents would be even more difficult.

**Table 3:** Gender Wise Cases in the Federal Ombudsperson’s Office (2018-19)

Total	Female	Male
420	252	168

Source: FOSAH, *Annual Report*, March 2018-2019.

Most of the registered cases in the Federal Ombudsman Secretariat are registered from the public sector than the private sector. The sectoral experience is further investigated in the short survey and interviews conducted of women working in the public and private sector in the next section.

**Table 4:** Sector wise bifurcation in the Federal Ombudsperson’s office

Total	Public	Private
420	278	142

Source: FOSAH, *Annual Report*, March 2018-2019.

Punjab Ombudsperson’s Office: With regard to the Punjab Ombudsperson’s office, the number of complaints received are a total of 1628, and the ones accepted for hearing is 143, which is only 8.78%. The volume of complaints received is high in spite of clear instructions on the website that complaints not strictly in accordance

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with the definition of harassment at the workplace in the Harassment Act would not be entertained by the Punjab Ombudsperson's office. Without debating the reasons for refusal, the number of complaints received is an indicator of harassment or discrimination cases that probably need a proper forum for redressal and also indicates a public perception that the office of the ombudsperson can provide some sort of relief in this issue. It would be beneficial to analyze the nature of the 1485 complaints not accepted by the Office of the Ombudsperson Punjab, and propose amendments to the present law to include these if they are sexual harassment cases presently uncovered by the law. Out of 143 complaints, public sector complaints are 135 and 08 are from private organizations.

**Table 5:** Total Cases and Status in the Punjab Ombudsperson Office till 2018

Total Complaints Received: 1628				
Total Relevant Complaints of Harassment Admitted for Hearing: 143				
Decided Complaints of Harassment: 109				
Penalty Imposed	Exonerated	Withdrawn by Complainants	Filed Due to Different Reasons	Under Process (At Different Stages)
51	18	31	9	34

**Source:** Office of Ombudsperson Punjab, May 2019

The higher courts suspend many orders passed by the Federal Ombudsperson office, essentially stalling the process of implementation of the orders. Furthermore, the various departments are eager to get stay orders as they support the accused and do not want defamation of the department with a sexual harassment case. Recently the Federal Ombudsperson office issued orders against officers in Benazir Income Support Program and in another case against officer in Ministry of Commerce Islamabad, but in both cases the departments got restraining orders against Federal Ombudsperson's order<sup>45</sup>. In his interview, the legal consultant, Mr Rahman also mentioned that the law tends to be exploited in certain cases where for instance a transfer made on administrative grounds can be complained against under the ambit of this law. The law is at times invoked to influence or pressurize the employer or supervisor by aggrieved complainant where reasons might not be sexual harassment.

With regard to Pakistan Penal Code, the cases registered under section 509 in Punjab were 78 in 2017, 93 in 2018 and 15 till April 2019<sup>46</sup> which are not standalone harassment or sexual harassment cases and section 509 is one of the other sections invoked, unlike the complaints registered under the Act 2010 which are only sexual harassment ones.

### **Data Analysis of the Survey and Telephonic Interviews**

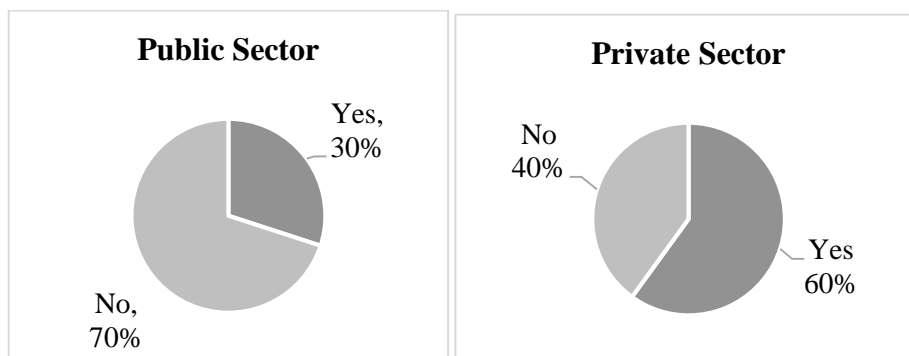
A short survey and telephonic interviews were conducted with 20 respondents i.e. women working in the public and private sector to gauge an understanding about the experience of sexual harassment in the two sectors and the level of awareness women

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have about the protection provided to them under the law. The target population for the survey was all women, in the private sector the average age of respondents was 26.4 years and in the public sector it was 33.5 years.

The survey and interview results show that women in the private sector tend to be more vulnerable to sexual harassment as compared to their public sector counterparts. The results show that 60% of the women in the private sector experienced some form of sexual harassment, compared to 30% in the public sector.

**Figure 4: Sexual Harassment at Workplace (Public and Private Sector)**

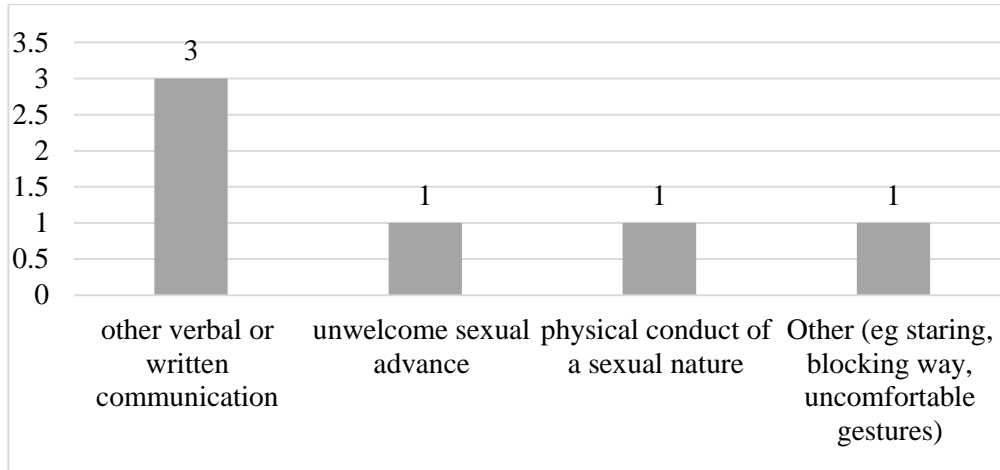


**Source:** Survey by Author, May 2019

As per the survey results, out of 6 responses of type of sexual harassment in the private sector, 3 were of verbal and written communications, and one each of unwelcome sexual advance, physical conduct of a sexual nature and others (like staring and uncomfortable gestures).



**Figure 5:** Type of Harassment of Women in the Private Sector

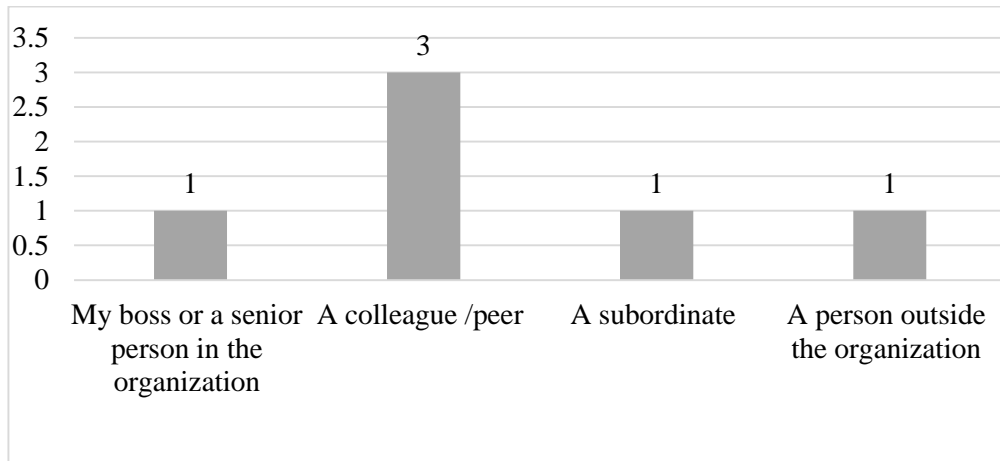


**Source:** Survey by Author, May 2019.

As per the survey results, out of 3 responses of experiencing sexual harassment in the public sector, two were about sitting long hours, sexually inappropriate content on the office computer and there was one about verbal and written communications.

As per the survey results, out of 6 responses of who sexually harassed you, in the private sector, three women mentioned it was a colleague/ peer, and rest of the women said it was a boss, subordinate and a person outside the organization but had influence over the respondent's performance.

**Figure 6:** Who Harassed the Women in the Private Sector



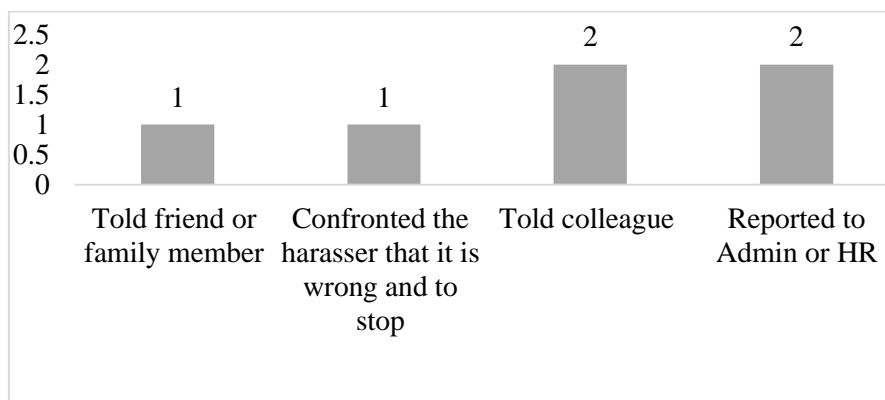
**Source:** Survey by Author, May 2019.

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In the public sector survey, for the three incidents mentioned the perpetrator was a senior, a colleague and an unknown person inside the office.

In the private sector survey, out of 6 women who experienced sexual harassment, two of them told a colleague, two of them reported to admin /HR department, one told her family/ friend and one confronted the harasser about the sexual harassment

**Figure 7:** How the Women in the Private Sector Responded to Harassment



**Source:** Survey by Author, May 2019.

Whereas in the 3 cases of sexual harassment in public sector survey, the woman had a timely transfer, another told it to her boss who took action against the perpetrator, and one did not know who it was so kept quiet. She said that *“I found inappropriate material on my office computer and used to get calls from different numbers for friendship requests and to meet. I think it was someone from the office but I did not know who it is. I was transferred and fortunately it stopped”*.

Furthermore, the relative difference in public and private sector, with regard to the incidence and degree of sexual harassment is reflected is also in the interview of two women working in the private and public sector who faced closely similar experiences and how they responded to it. A woman working in a private IT firm mentioned in an interview that

*“It was my first job and my boss kept door locked during our meetings saying we should not be disturbed during meetings, and one day he while I was leaving his office he came behind and tried to help unlock the door, but was actually trying to get in close contact with me. I felt very uncomfortable and I was new so couldn't report it to the HR department. I was just an intern and he was quite senior in the office<sup>47</sup>”*.

In the interviews a similar situation was mentioned by a female employee in the public sector where she mentioned that

*“A senior made me sit long hours in his office on the pretext of official work, but I felt very uncomfortable and there was gossip in the office. I tried to avoid going to his office and one day he even tried to hold my hand. I had to tell him to stop this behavior or I would report it to the CS (Chief Secretary).<sup>48</sup>”*

In both the samples for private and public sector, all women were aware of the Protection Against Harassment of Women at the Work Place Act, 2010, but were reluctant to use it to report. They were however less aware of the section 509 PPC both in the public and private sector.

### **Challenges**

The government has shown tremendous progress by amending the Pakistan Penal Code, section 509 and by putting in place special legislation to protect women against harassment at work, but the real test lies when the rubber hits the road. This paper examines whether this legal and institutional arrangement is effective and sufficient to support gender equality at the workplace. Whereby poor implementation and lack of institutional coordination can be a critical impediment for these laws to be effective. Before the implementation hurdles are discussed it is important to deliberate on the law itself to understand its scope and utility.

The Section 509, PPC criminalizes sexual harassment in both public and private places, including workplace, home and even street, vastly expanding its scope and making it more comprehensive. Nonetheless the number of registered cases under section 509 is only 171 (2017-18)<sup>49</sup> neutralizing its legal effectiveness to provide protection to women in all places and situations. Nonetheless the general corruption and insensitivity in the law enforcing agencies, overall patriarchal social attitudes and women internalized sexual oppression and its acceptance as the norm, are serious impediments to women registering a complainant and obtaining justice through this section.

In the Pakistani context where women (and people of any other gender identity) are in a rather vulnerable position in both public and private spaces, like households in case of domestic workers, the law should be extended to both places and even educational institutes where there is a large population of female students. Under the Protection against Harassment of Women at the Workplace Act, 2010, the employer in section 2 (g) and organization in section 2 (l) do not cover private spaces like household where home-based workers and domestic workers might be working. Punjab Ombudsperson office has so far been resistant to include student sexual

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harassment under this law<sup>50</sup>.

The scope of the law requires revision as the incidents of sexual harassment are not limited to just workplace. A recent survey of women in Karachi traveling by public transport regularly, 85% of working women said they had been harassed while traveling in the past year (ADB 2014)<sup>51</sup>. This kind of harassment even though outside the definition of workplace under the law, has a direct and highly disturbing effects on working women and continuation of their work.

According to UK's law sexual harassment "is unwanted behaviour of a sexual nature which violates your dignity, makes you feel intimidated, degraded or humiliated and creates a hostile or offensive environment. You don't need to have previously objected to someone's behavior for it to be considered unwanted<sup>52</sup>". In the context of Pakistan, it would be beneficial to provide for a more comprehensive and clearly explained definition of harassment that concisely stipulates what constitutes sexual harassment. The definition of harassment would include, but not be limited to, incidents of unwanted or uninvited touching, sexual jokes and verbal remarks of a sexual nature directed towards the victim or in her/his presence, sexual gestures or exposure of private parts, lustful staring, messages of sexual nature sent via emails or social media, display of sexual images in presence of the person, asking for sexual favors and sexual coercion with the intention to promise enhanced career or threats of adverse impact, sexual assault and rape. In fact, it should be the complainant who determines whether a certain behavior or gesture is sexually offending or intimidating to her/him. The present definition of harassment appears to be comprehensive but fails to clearly include certain behavior that can be sexual in nature but hard to interpret and criminalize under section 2 (h) of the law for instance lustful staring or displaying images in the presence of the person that belittles, humiliates or causes embarrassment or a threat that is indirectly communicated to the complainant for the purpose of sexual intimidation or harassment<sup>53</sup>.

Furthermore, the law is titled "Protection against Harassment of Women at the Workplace Act, 2010" but harassment is narrowly defined. Harassment is far wider, more complex phenomenon yet indelibly linked to sexual harassment. The epistemology of harassment essentially emanates from discrimination theory whereby the essential power imbalance in individuals leads to placing one in a more vulnerable position and thus more exposed to harassment that can easily degenerate to sexual harassment. The law should empower the complainant to define sexual harassment based on how she/he felt rather than what accuser intended. Being explicit

in the definition would leave less room for the law being misinterpreted by employees and provide firmer ground for the complainant to express the nature of the sexual harassment. The law does not provide for the feelings of the complainant which is an important determinant of sexual harassment.

The law has various gaps and lacunae that jeopardize its efficacy to cover any possible incident of sexual harassment in the workplace. The title of the law specifies “Protection against Harassment of Women at the Workplace Act, 2010” but under the law a complainant can be a woman or a man. However, under section 4, sub section 1, clause (a) and (b) the law assumes that the accused is a man. The language on the law should be gender neutral to make it more inclusive and capable of addressing a situation where the complainant and accused are of same gender or transgender.

The definition of complainant under section 2(e) means only a woman and man, it should be amended to ‘person’ to be more inclusive of transgenders and people who do not agree with a binary gender identification. Similarly the definition of employee under section 2 (f) means ‘a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an intern or an apprentice’ and employees employed on ad hoc basis, working on voluntary basis, are home based, domestic workers of any age, employed for housework; hired directly or through an agent for remuneration whether cash or kind; temporary, part time or full time basis. It should also include students and vocational trainees.

The legal and institutional arrangement to protect against harassment does not take into account the pressures that the complainants face. They often find it difficult to explain and express detailed accounts of harassment especially sexual ones. Witnesses of the case are also under immense pressure and are insecure about their job to testify against the powerful boss or colleague. Once complaint is lodged, copy is sent to the accused, which exposes the complainant to ridicule, social condemnation and social retaliation. Even though law has provision for protection of complainant during the inquiry proceedings, the complainants often feel more threatened and vulnerable and the organizations are unable to ensure safety and dignity of the complainant<sup>54</sup>.

Organizations simply notify an inquiry committee without any serious commitment to protect women. Generally, there is lack of trust on the inquiry committee to inquire in an objective and just manner as the members are from the organizations and are would be inquiring the matter concerning their colleagues. There is no laid out procedural mechanism for the Inquiry Committee and powers of civil court are not extended to the Inquiry committee like they are to the Ombudsperson. This

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procedural lacuna jeopardizes the tenets of fair trial and announcing a judicious decision and speaking order but rather it is based on the whims of the presiding officer. If fine is imposed by the Ombudsperson's office there is no mechanism present for fine collection. If code of conduct is not displayed especially in the private sector, no one would stick their neck out to complain about it. If the accused fails to appear and does not attend proceedings, there is no mechanism or procedure laid out in the law to compel him/her to appear. Accused generally try to buy time by lodging appeal to the Governor and even going to the extent of devising a stay order from the court, which renders this special law impotent to provide any relief to the complainant<sup>55</sup>.

Above all, the Protection against Harassment of Women at the Workplace Act, 2010 is a special law but it is often treated as common law. The judicial courts routinely issue stay orders during proceedings, which negates the very purpose of deploying a special law.

### **Conclusion**

Overall the workplace laws promulgated in Pakistan to protect against harassment are less effective as they fail to address gender inequality and power imbalance issues in workplaces that the vulnerable party, in most cases women, experience. The issue of gender inequality is far deeper and more complex than just harassment, including gender pay gap, access to education and employment, gendered employment opportunities, disadvantage and discrimination due to reproductive care responsibilities and prevalent culture of gender violence, physical, verbal and psychological. Pakistan female labor force participation and gender gaps are still crawling low, much below our commitments for Sustainable Development Goals (SDGs).

The existing legal framework has limited scope and effectiveness, and fails to include all persons, spaces and situations. Even though legal framework is available the implementation is quite weak. Concerted efforts are required to overcome the identified barriers both in the legal and institutional framework, and broader socio-cultural issues and support women and all other vulnerable groups to work with dignity in a safe and enabling environment.

### **Recommendations**

It is recommended that the law must be amended to make the definitions of harassment, workplace and complainant more comprehensive and inclusive for

persons with any gender identity, working in public or private space including households in any kind of employment arrangement, law must also extend to public spaces like transport, and educational and training institutes.

The law should mention ombudsperson rather than ombudsman. It is interesting that the office of Federal Ombudsman for the protection of women against harassment has a female Ombudsperson but continues to be referred to as Ombudsman<sup>56</sup>.

Overall the law must hold employers responsible to provide a safe working environment for all employees, be it men or women. They must ensure to formulate and implement a well thought out sexual harassment policy based on the Protection against Harassment of Women at the Workplace Act, 2010, and practice zero tolerance policy that cover the prevention, prohibition and redressal. There must be robust systems and policies in place, with clear code of conduct and definitions of what is appropriate and inappropriate behavior at the workplace and not leave room for misinterpretation and subjective judgement, which only benefits the aggressor and places the victim at a disadvantage.

Workplace policies against sexual harassment, redressal systems and work culture must encourage and ensure fair power relations between men, women and people of any other gender identity to promote gender equality and gender justice, whereby perpetrators of sexual harassment are quickly identified, and proper redressal of complainants takes place without.

Sexual harassment creates a hostile environment so high priority must be given to prevention of such incidents. In order to bring about a meaningful and dynamic change in the workplace, the focus of creating awareness about this issue should not be restricted to only women, but men must be equally and actively involved and sensitized about the issue and the current legal frameworks. All employees need to be aware and practice the norms of consent, equal respect and gender equality in private and public lives. As an employer or employee, each individual at the workplace must be aware and clear of what sexual harassment is and what action needs to be taken to stop sexual harassment at workplace.

There must be a witness protection clause in the law whereby any harassment or intimidation of the witnesses or the aggrieved is met with severe disciplinary action under the law. There must be defined procedural mechanism for the Inquiry Committee, and they must have powers of civil court.

As part of the organization's sexual harassment policy, all employees (especially women and other vulnerable groups) should be encouraged to talk to someone they trust and not suffer by being quiet or stoic about sexual harassment. In most cases,

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the victim fails to recognize sexual harassment behavior and tend to treat it as immaterial, routine and accept it as a standard norm.

Special awareness workshops on sexual harassment must be conducted in all workplaces. Employees must also be trained to discern such acts and behavior and to keep track of any written record of any incident of sexual harassment. There should not be any time limit to when a complaint is filed after an incident happened. Many complainants fail to prove their cases because they don't have proper record or evidence to support their case. It is important to keep a journal with dates about any verbal exchange or offensive acts and copies of written material. A well-prepared case would have a high probability for justice. Also, to keep a record of their good performance as the first line of attack by the accused would be to undermine the victim's performance at work.

The Ombudsperson office both at the Federal and Provincial level must have a structured mechanism to monitor and collect data, on display of code of conduct, constitution of inquiry committees, number of complaints made to the inquiry committee and the status of such complaints. Partnerships may be built with public and private umbrella organizations that regulate registration, certification or budgets of any kind of workplace to try to cover all kinds of organization within the database.

Worker's organizations and trade unions can play a pivotal role in preventing and addressing sexual harassment at workplace by promoting awareness about the nature and seriousness of the issue, by providing workshops and disseminating information about the issue and providing counseling and legal assistance to file a formal complaint and follow up with filed cases. Also training the committees formed to handle such cases about efficient complaint resolution and fair redressal.



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# **SUFFICIENCY OF RIGHTS OF TRANS-GENDERS IN PAKISTAN IN THE EXISTING LEGAL CORPUS AND FRAMEWORK FOR THEIR ENFORCEMENT; A CRITICAL APPRAISAL, ISSUES AND FUTURE POLICY SUGGESTIONS**

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## **Introduction**

Gender identity is perhaps the most important aspect which determines the psycho-social behavior of humans. A gender identity crisis not only leads to problematic social life, but also lowers the self-esteem of an individual which may potentially lead to his socio-economic and political alienation. Normalcy is conformity to prevalent norms of the majority. The binary gender definitions serve the purpose of the dominant majority and hence, the third gender, the transgender and the gender queer, do not fit in the binary gender mainstream. The struggle for mainstreaming the transgender persons<sup>i</sup> is an on-going phenomenon around the world. However, their full-fledged acceptance into the gender codes still remains to be achieved.

Efforts for mainstreaming the transgender persons in Pakistan have shown some progress in recent years through judicial decisions and legislative instruments. However, despite fundamental guarantees protected under the constitution of the Islamic Republic of Pakistan which prohibits discrimination on the basis of gender, special laws had to be enacted to call for affirmative actions by the Government. This alludes to misplaced state priorities regarding affairs of the transgender community. Moreover, it also shows that the societal will as represented in the constitution, is perhaps, no more than a theoretical aspiration because the transgender persons are heavily grieved by how society treats them in the real life.

If we look at history of the transgender community in the sub-continent, it is observed that transgender persons known by the term *Khwaja Sara* held a special recognition in the society during the Mughal period when they were employed as guardians of the *Zanan Khana*<sup>ii</sup> in palaces. Moreover, they were also respected by the society, for superstitious as well as religious reasons, for it was generally believed that their prayers would not be turned down, since they were devoid of committing basic sins. Furthermore, it used to be a regular tradition all across the sub-continent at the birth of a child where *Khwaja Saras* used to celebrate by dancing to welcome the newborn. In fact, people used to reward them in cash or kind that used to be the

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main source of their livelihood. Although it was not their social mainstreaming in the strict sense of the term, however, the societal response towards transgender persons was probably more receptive and their life was proportionately less stigmatized as it appears today.

Without getting into the detailed historical analysis of the topic, which is not the focus of this paper, it may be appropriate to mention that over the passage of time, the socio-economic and political role of transgender community in the sub-continent changed drastically. A major stimulus to it was the passage of the Criminal Tribes Act, 1871 during the British era which placed the transgender communities in the category of criminal tribes, thereby, alienating them socially. It remained in force till 1947 after which, it was repealed by the respective legislatures<sup>iii</sup>. Simultaneously, the gradual rise of the middle class and technological innovations made over time brought in alternatives to entertainment and other social roles which used to be traditionally taken up by the transgender persons. This led to minimizing their economic prospects and given their already clichéd social status of an anomalous existence, they started resorting to earn their livelihoods by means of beggary, selling sex and becoming drug peddlers. It is in this context that the transgender communities in Pakistan have been raising their voices to seek their mainstreaming through provision of socio-economic and political rights, by the state authorities and the acceptance of their identity, by the society at large, as equal citizens of the state.

### **Statement of the Problem**

Rights of transgender persons in Pakistan are generally provided by way of implication under the constitution, re-affirmed in some decisions of the superior Courts and are more specifically granted through the legislative instrument called The Transgender Persons (protection of rights) Act, 2018<sup>iv</sup>. In addition to the general cognizance of rights available under the major criminal and civil codes of Pakistan, the Act also provides for enforcement mechanisms through the offices of the Federal Ombudsman, National Commission on Status of Women(NCSW) and National Commission on Human Rights(NCHR). However, by spreading these responsibilities of enforcement of rights across too many institutions, its effectiveness is compromised. This state of affairs has given rise to multitude of social, political and economic problems for this marginalized segment of the Pakistani society. The purpose of this study is to find out as to whether the rights available to transgender persons in the legal corpus of Pakistan are sufficient and to what extent do the enforcement authorities respond to carry out their implementation.

## **Significance and Scope of Study**

The importance of this study lies in the fact that this longstanding subject matter was taken up by the Supreme Court of Pakistan in 2009 and decisions were made on some of the important aspects of the case.<sup>v</sup> Additionally, the Pakistani Parliament passed a law in 2018 relating to rights of transgender persons.<sup>vi</sup> Both of these instruments stressed upon the need for affirmative actions for protecting rights of transgender persons and also enumerated the enforcement mechanisms. The grant of rights and their enforcement mechanisms are required to be tested for their sufficiency and effectiveness of implementation because there are differing claims made by the government and the community with regard to potency of such steps. Therefore, it is desirable to carry out the situation analysis in order to determine the veracity of such claims and bring out the factual position. There is also a need to identify gaps and propose solutions to carry this process forward. This is required to be done through an evidence based approach.

In addition to all the fundamental rights available to transgender persons under the constitution of Pakistan, the Act specifically re-affirms nine rights to them which include right to inherit, right to education, right to employment, right to vote, right to hold public office, right to health, right to assembly, right of access to public places, right to property and right to assembly. However, for the purpose of this study, we shall restrict ourselves to five basic rights of transgender persons which include right to inherit, right to education, right to health, right to employment and right to vote. The recognition of identity of transgender persons shall be a cross-cutting and overlapping theme when we discuss these five basic rights.

## **Review of the Literature**

Beginning in the 1980s and 1990s, a new social movement developed around the concept of transgender<sup>vii</sup>. Such movements began around the world in the last two decades or so primarily asking for transgender rights by the state authorities for their inclusion into the mainstream societal fiber. Their marginalization in Pakistan is a hard fact which continues till date. The transformation of the Pakistani society, in the last few decades, has curtailed opportunities for Khawaja Saras to practice traditional occupations, and has increased their dependence on prostitution and beggary<sup>viii</sup>.

The apathy of transgender persons in Pakistan is represented in a study conducted by LEAD Pakistan which finds that the physical and/or psychological state Khawaja Saras' in Pakistan put up with leads to a disproportionate amount of homelessness, unemployment, low income and other financial disadvantages<sup>ix</sup>.

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Another research finds that interventions aimed at increasing social inclusion, reducing gender based discrimination, violence and physical abuse and facilitating access to quality medical care should be considered as part of a comprehensive approach for preventing risk behavior in trans populations<sup>x</sup>. A study conducted by the USAID in collaboration with Aurat Foundation – a Pakistani CSO, concludes that where NGOs can provide a good kick-start to realize the rights of transgender people, it is eventually the State's responsibility to help the community and protect its rights<sup>xi</sup>.

The literature on the subject of rights for transgender persons offers repeated recommendations to alleviate their sufferings. Perhaps due to these consistent advocacy efforts, it was made possible in Pakistan to legislate upon the issue and provide for an enactment in 2018 which not only enlists the rights of transgender persons but also provides for mechanisms to enforce them.

### **Methodology**

The study adopts analytical descriptive methodology to evaluate the situation of rights guaranteed to transgender persons and the enforcement mechanisms available to correspond to their implementation. Data has been gathered from a mix of primary and secondary sources. In the primary sources, structured interviews with the relevant officials in the government and the NGOs have been conducted. In order to gauge the impact of the laws governing the rights of transgender persons and their enforcement mechanisms, a community survey was undertaken. The sample size of 100 transgender persons residing in Lahore was selected and approached to respond to questionnaire designed in Urdu language, keeping in view the literacy constraints of respondents. Due to time constraints and difficulties of access, enumerators were also engaged to gather the data through the survey questionnaire.

The secondary sources in the form of books on this particular subjects were hard to find by, however, research journal articles, newspaper reports, online literature, NGOs studies and focused group discussions have been consulted. The Transgender Persons (Protection of Rights) Act 2018 is the legal document which forms the primal reference node for analysis carried out in this study.

### **Organization of the paper**

This paper is divided into three sections. The first section holds a detailed evaluation of all rights which are currently available to the transgender persons in Pakistan under the existing legal framework with the objective to test their sufficiency. In the second section, the effectiveness of enforcement mechanisms available under the



existing laws for rights of the transgender persons in Pakistan has been gauged. The third section contains an in-depth analysis of the situation for transgender persons in Pakistan by correlating the extent of sufficiency of laws with the potency of enforcement mechanisms with the aim to find out the severity of the problem. This has enabled to identify some gaps, between the theory and practice. The paper concludes by listing the major findings on the subject and then presenting few policy options in the form of practicable set of recommendations which may either invite immediate policy rectifications for the socio-economic and political mainstreaming of transgender persons in Pakistan or may become basis for further research on this topic.

## **Section I: Legal & Policy Framework in Pakistan**

Rights of Transgender persons in Pakistan are principally guaranteed under the 1973 Constitution of the Islamic Republic of Pakistan which does not allow any discrimination on the basis of gender alone. However, the social fabric of Pakistani society primarily supports the binary gender codes in all walks of life. The TG persons continue to remain a marginalized segment of the society who face complete isolation which is reflected in the negligible enforcement of their socio-political or economic rights.

### **Constitutional Petition 43 of 2009**

Since the general provisions of fundamental rights which are given under the Pakistani constitution could only be re-affirmed or enforced through the Court, therefore, first and the most profound Court judgement which specifically pronounced rights of TG persons in Pakistan was given by its Supreme Court in 2011 in the Constitutional Petition No.43 of 2009 titled *Dr. Aslam Khaki vs SSP (Operations) Rawalpindi*.<sup>xii</sup> This judgment was emphatic because it provided the legal recognition to TG persons who are commonly known as eunuchs in Pakistan. It recognized their need for separate identity as the third gender and directed the National Database and Registration Authority (NADRA), Pakistan, for registering them with their separate identity beyond the gender binary. The Supreme Court of Pakistan also recognized their marginalization and called upon the concerned authorities in the Federal and all Provincial Governments to take necessary measures, on priority basis, to address issues of transgender persons related to their socio-political and economic rights. It also directed to provide mechanisms for the welfare of TG persons with the objective to mainstream them into the society.

Though the judgment was declaratory in nature, however, it specifically decided upon two fundamental points of law. Firstly, it provided for the separate recognition

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of transgender identity by the State authorities. Secondly, it specifically granted the transgender persons, the right to inherit their legal share in both movable and immovable properties and called upon the concerned State functionaries to ensure its enforcement by taking proactive measures, in this regard.

**The Transgender Persons (Protection of Rights) Act, 2018**

As discussed above that the Supreme Court judgment in Constitutional Petition 43 of 2009 called upon the State authorities to take steps for protection of rights and welfare of transgender persons, therefore, with that pretext, Pakistan's Parliament legislated upon these matters and passed a Bill which became an Act of the Parliament on 18<sup>th</sup> May, 2018 after receiving the assent of the President of Pakistan and was extraordinarily published in The Gazette of Pakistan on May 24, 2018<sup>xiii</sup>. This enactment marked the successful culmination of a decade old struggle which had started with the filing of the Constitutional Petition No.43 of 2009 in the Supreme Court of Pakistan. The Government of Pakistan took an affirmative action by acknowledging the marginalization of transgender community and specifically providing for their rights and welfare matters through this Act.

The Transgender Persons (Protection of Rights) Act, 2018; which shall be referred to as 'The Act' in subsequent discussion, contains 7 chapters and 21 sections. In Chapter I of the Act, the following terms have been defined to restrict the scope of its application.

**Gender Expression:** According to Section 2(e) of the Act; gender expression refers to a person's presentation of his gender identity and the one that is perceived by others<sup>xiv</sup>.

**Gender Identity:** According to Section 2(f) of the Act; gender identity means a person's innermost and individual sense of self as a male, female or a blend of both or neither that can correspond or not to the sex assigned at birth<sup>xv</sup>.

**Transgender Person:** According to Section 2(n) of the Act; a transgender person is a person who is:

Intersex (khusra) with mixture of male and female genital features or congenital ambiguities; or

Eunuch assigned male at birth, but undergoes genital excision or castration; or

A transgender man, transgender woman, Khawaja Sara or any person whose gender identity or gender expression differs from the social norms and cultural expectations

based on sex they were assigned at the time of their birth<sup>xvi</sup>.

These definitions given under the Act are exhaustively comprehensive and cover nearly all categories of transgender identities. The Act contains rights of transgender persons under Chapters II, III and V<sup>xvii</sup>. The second chapter is solely confined to emphasize upon the right to recognition of identity of transgender persons<sup>xviii</sup>. The third chapter enlists certain prohibitions against discrimination towards TG persons<sup>xix</sup>. Under Chapter V of the Act, protections for transgender persons for right to inherit, right to education, right to employment, right to vote, right to hold public office, right to health, right to access public offices and right to property have been provided<sup>xx</sup>. Moreover, Section 16 of the Act re-affirms the unequivocal availability of any of the fundamental rights given under the Part II of Chapter I of the Constitution of the Islamic Republic of Pakistan, to transgender persons<sup>xxi</sup>. However, this paper is limited to focus on the following five categories of rights of transgender persons and analyze provisions of the Act related to them.

#### Right to identity

Marginalization of transgender persons is considered to have been rooted in the persistent denial of the most fundamental right of gender identity. Although the Pakistani Constitution prohibited any discrimination on the basis of gender alone, however, for transgender persons, the essential issue had been the absence of an alternative gender identity in a gender binary society. Realizing the need to address this issue, the Act has laid down greater emphasis on the recognition of identity of transgender persons by providing it as a right under a dedicated Chapter. It is due to the fact that the right to identity is the founding right from which all other rights flow out.

Section 3 of the Act grants the right to a transgender person to be recognized as per his or her self-perceived gender identity<sup>xxii</sup>. It is important to note that the right to recognition of identity as a transgender person is restricted to the *self-perceived gender identity* and does not include the *gender expression* which is based on perception by others. Moreover, the Act also guarantees the protection to identity of transgender persons against harassment under Section 5 whereby, harassment of transgender persons both within and outside the home, based on their sex, gender identity and gender expressions has been prohibited<sup>xxiii</sup>.

#### Right to education

Lack of access to education arising out of the societal neglect and social stigmas has inhibited the mainstreaming of transgender community in Pakistan. Since, the transgender persons in Pakistan have customarily been living in their own

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communities under the guardianship of their *Gurus*<sup>xxiv</sup> as they are usually abandoned by their parents at tender ages, therefore, the constitutional rights to education guaranteed under Article 25A of the Constitution of the Islamic Republic of Pakistan for free and compulsory education required re-affirmation under the Act vis-à-vis the transgender persons especially after the legal recognition to transgender identity by the Supreme Court of Pakistan in Constitutional Petition 43 of 2009. In that context, the Act, under Section 8, prohibits any discrimination against transgender persons in acquiring admission in any educational institutions, public or private, subject to fulfillment of the prescribed requirements<sup>xxv</sup>. Additionally, under the same section of the Act, prohibitions against discrimination have been imposed on any opportunities for sports, recreation, leisure activities and any other positive externalities associated with the education, on the basis of person's sex, gender identity and expression. Under Section 4 of the Act, it has also been prohibited to discriminate against a transgender person and deny, discontinue of, or treat him or her unfairly in educational institutions and services thereof<sup>xxvi</sup>.

#### Right to employment

According to a study conducted by the LEAD Pakistan, social discrimination in employment is one of the main factors of involvement of the transgender persons in sex work. Unfortunate but inevitable entrapment of many Khawaja Saras in prostitution reinforces the stigmatization of the whole community as outcasts. Abandoned by the family, unable to obtain proper documentation, education and employment, many transgender children take up sex work in order to survive in an unfriendly environment.<sup>xxvii</sup> In that contextual framework, the Act under Section 9, builds upon the right to employment guaranteed under Article 18 of the Constitution of the Islamic Republic of Pakistan by re-affirming the non-discrimination against any transgender person relating to matters connected with the employment including, but not limited to, recruitment, promotion, appointment, transfer and other incidental issues.<sup>xxviii</sup> It also protects the adoption of any lawful profession or occupation and conduct of any lawful trade or business by the transgender persons. Moreover, under Section 4 of the Act, safeguards have been provided for discrimination against transgender persons in denial of access to any opportunities of employment or any unfair treatment in government or private establishments, organizations, institutions, departments and centers.<sup>xxix</sup>

#### Right to health

On the night of 22<sup>nd</sup> May 2016, Alesha was taken to Lady Reading Hospital in a critical condition with six gunshot wounds. The hospital administration however

failed to provide her with urgent medical care, as it could not decide whether to send her to a male or female ward.<sup>xxx</sup> The incident of Alesha's murder, a transgender from Peshawar, reflects the apathy of the right of health to Khawaja Saras even when they approached the health facilities under life-threatening conditions during emergencies. In order to respond to the need of equal access to healthcare facilities, the Act, under Section 4(d) prohibits the denial or discontinuation of, or unfair treatment in, healthcare services.<sup>xxxi</sup> Moreover, Section 12 of the Act categorically calls upon the Government to review medical curriculum and improve research for doctors and nursing staff to address specific health issues of transgender persons in cooperation with the PMDC, facilitate access of transgender persons by providing them a safe and enabling environment in hospitals and ensure transgender persons access to all necessary medical and psychological gender corrective treatment.<sup>xxxii</sup>

#### **Right to inheritance & property**

One of the key themes dealt by the Supreme Court of Pakistan while hearing the Constitutional Petition No.43 of 2009 was its decision on the grant of inheritance rights to transgender persons under the relevant laws and calling for the Government of Pakistan to undertake proactive measures to ensure that.<sup>xxxiii</sup> In continuation to that, the Act, under Section 7, has re-affirmed the right to inherit the due share in property by transgender persons under the law of inheritance as per the gender declared on their Computerized National Identity Card(CNIC).<sup>xxxiv</sup> The same section of the Act also lays down the procedure for determination of their share.

The Act, under Section 15, also affirms the non-discriminatory right of transgender persons to purchase, sell, rent or lease property, household or tenancy. These property rights, coupled with the right to education and right to employment are basically meant to collectively scale up the socio-economic security of Khawaja Saras.

#### **Supreme Court of Pakistan's Conference on the draft welfare policy of Transgender Persons-August 2018**

Building upon its verdict in the Constitutional Petition No.43 of 2009, the Supreme Court of Pakistan has acted as a watchdog of transgender rights. The then Chief Justice of Pakistan, Mr. Justice Mian Saqib Nisar, took up issues of transgender rights in the Human Rights Case No.32005-P of 2018 and followed through on the registration of transgender persons by NADRA and provision of CNICs to them, as the trans associations had approached the apex court and reported of procedural hurdles. The Provincial Governments through their Chief Secretaries were directed by the apex court to facilitate NADRA in registration of transgender persons.<sup>xxxv</sup>

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Once the registration procedures were streamlined through collective efforts of provincial governments and NADRA, then the Supreme Court directed the Federal and all provincial governments to come up with the policy recommendations in shape of a Draft Policy for welfare of transgender persons. The draft welfare policy drew upon rights guaranteed to transgender persons under the Constitution of Pakistan and the Act of 2018. In August 2018, a detailed document known as the draft welfare policy for transgender persons, prepared by the Punjab Social Protection Authority(PSPA) was presented in a seminar organized by the Law and Justice Commission of Pakistan(LJCP) and the session was chaired by the then Chief Justice of Pakistan. It was attended by senior representatives from the Federal Government, all provincial governments, transgender associations and NGOs working for transgender rights in Pakistan. The conference resolved for priority consideration of the draft welfare policy for transgender persons by the Federal Government, all provincial governments and its early adoption by seeking approvals from the respective forums.<sup>xxxvi</sup>

## **Section-II: Enforcement Mechanisms**

The enforcement mechanisms for rights granted to transgender persons under the legal corpus of Pakistan are provided specifically under the Transgender Persons (Protection of Rights) Act, 2018. Since the higher courts in Pakistan are empowered under the Writ Jurisdiction to enforce all fundamental and basic human rights guaranteed under the Constitution, therefore, the ultimate enforcement of transgender rights remains vested in the High Courts and the Supreme Court of Pakistan. However, judgments of the higher courts and provisions of the Act of 2018 have repeatedly called for the Government functionaries to take affirmative actions for safeguarding rights of transgender persons. This has led to evolution of some other enforcement channels on the executive side, as derivatives from the court judgments and by way of implication of the legislative provisions on the subject. For the purpose of this study, it may be appropriate to discuss these enforcement mechanisms under two categories. Firstly, those institutions which have been specifically tasked to perform functions of enforcement of rights of transgender persons under the Act; and secondly, all other enforcement channels which have emerged as derivatives from the Court judgments, the Act of 2018 and other policy directions of the Federal or any of the Provincial Governments. While looking into the domain of provincial governments, we shall only restrict ourselves to the province of Punjab as the referral point for the scope of this study.

### **The Transgender Persons (Protection of Rights) Act, 2018**

In Chapter VI titled Enforcement Mechanism, under Section 18 of the Transgender Persons (Protection of Rights) Act, 2018, it has been provided that, “ *In addition to the remedies available under the Constitution or the Pakistan Penal Code 1860 (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898) or the Code of Civil Procedure 1908 (Act V of 1908), the aggrieved transgender persons shall have a right to move a complaint to the Federal Ombudsman, National Commission for Status of Women and National Commission of Human Rights (NHCR) if any of the rights guaranteed herein are denied to him*”.

If we breakdown different parts of Section 18 of the Act, it is clear that three specific enforcement institutions have been designated therein and any other constitutional, criminal or civil remedies as are available to all citizens of Pakistan under respective laws, the transgender persons are also equally entitled to them, as well. Although provisions of Section 18 of the Act are widespread, however, it may be appropriate to briefly see as to what are these institutions which have been specifically mentioned as designated enforcement bodies for safeguarding rights of transgender persons.

### **Federal Ombudsman**

According to the Presidential Order No.1 of 1983, the institution of Federal Ombudsman is mandated to diagnose, investigate, redress and rectify the injustice done to any person from maladministration of an agency of the Federal Government which includes a Ministry, Division, Department, Commission or office of the Federal Government or statutory body, corporation or other institution established or controlled by the Federal Government but does not include the Supreme Court, the Supreme Judicial Council, the Federal Shariat Court or a High Court.<sup>xxxvii</sup>

Although the Act of 2018 has specifically mentioned the office of Federal Ombudsman as one of the three enforcement bodies for safeguarding rights of transgender persons, however, this institution does not have any dedicated institutional setup to deal with grievances of transgender persons.

### **National Commission on Status of Women**

A permanent National Commission on Status of Women(NCSW) was established through a Presidential Ordinance in 2000. Subsequently, The National Commission on Status of Women Act was passed in 2012. The role of NCSW is to promote social, economic, political and legal rights of women as provided in the Constitution of Pakistan and in accordance with international declarations, conventions, treaties, covenants and agreements relating to women.<sup>xxxviii</sup>

Although the Act of 2018 has provided for the role of NCSW to act as the

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enforcement body for rights of transgender persons, however, there is no institutional arrangement available in the Commission to assume that role.

### **National Commission for Human Rights**

The National Commission for Human Rights (NCHR) was created through an act of the Parliament in 2012. The role and functions of the NCHR are given herein asunder:

The primary functions and powers of the NCHR include, among others, to conduct investigations into allegations of human rights abuse(s), either on petitions filed by individuals or institutions, or through suo-moto action; review existing and proposed legislation in relation to human rights principles; carry out research and advise on policy matters pertaining to the situation of human rights in Pakistan; contribute to national human rights awareness-raising and advocacy initiatives in the country; review and report on the Government's implementation and monitoring of the state of human rights; make technical recommendations and follow up on the implementation of treaty obligations and develop a national plan of action for the promotion, protection and fulfillment of human rights in Pakistan.<sup>xxix</sup>

NCHR published an interim report in January 2017, on mainstreaming of the transgender persons and safeguarding their rights by calling for the need to bring in a comprehensive legislation.<sup>xl</sup> Similarly, another report published by the NCHR, on the marginalized segments of Pakistani society also finds special mention of the alienation of transgender community.<sup>xli</sup>

### **Other Enforcement Mechanisms**

In addition to the enforcement bodies specifically designated under Section 18 of the Act of 2018; the higher courts in Pakistan continue to safeguard the enforceability of fundamental rights under their Writ Jurisdictions. Moreover, since the Supreme Court judgment in Dr. Aslam Khaki vs SSP Operations case and subsequent developments such as the passage of the Act in 2018 and repeated directives from higher courts on the subject; there is an increasing tendency on the executive side for mainstreaming the transgender community by either activating the already available enforcement mechanisms or evolving new ones. Some of these are mentioned herein asunder.

#### **Federal Ministry of Human Rights**

According to the Second Schedule attached to the Federal Government of Pakistan, Rules of Business, 1973 (As amended up to 12<sup>th</sup> June 2017), the Human Rights



Division is entrusted the task of enforcement of human rights laws and policies, as well as, mandated to deal with all gender related issues.<sup>xlii</sup> Moreover, the Ministry of Human Rights (MoHR) also administers the NCHR and the NCSW, which are two enforcement bodies specifically provided under the Section 18 of the Act of 2018. In these capacities, the MoHR is the key responsible ministry at the federal level, for issues related to enforcement of rights of transgender persons in Pakistan.

#### **Social Welfare & Bait ul Maal Department Punjab**

The Social Welfare & Bait ul Maal Department in the province of Punjab has been declared as the focal department by the Provincial Government for dealing with issues related to transgender persons in the province. Although there exists a separate Provincial Department for Human Rights and Minority Affairs in Punjab, however, due to issues of departmental capacities and outreach in districts and given the blanket mandate assigned to the Social Welfare and Bait ul Maal Department for eradication of social evils and ensuring social protection under the Second Schedule attached to the Punjab Government Rules of Business 2011, the enforcement of rights of transgender persons is primarily coordinated by the SW&BM Department under executive directions of the Provincial Government.<sup>xliii</sup>

#### **Provincial Monitoring Committee**

After the Supreme Court took cognizance of issues related to rights of transgender persons in June 2018, the Government of Punjab constituted a Provincial Monitoring Committee(PMC) headed by the Chief Secretary and comprising of all stakeholders, as the apex forum, to supervise affairs of transgender rights in the province by monitoring the performance of District Committees and collectively troubleshooting any problems which arise vis-à-vis matters related to transgender persons in the province.<sup>xliv</sup>

#### **District Committees**

In all 36 Districts of the province of Punjab, the Provincial Monitoring Committee constituted the District Implementation Committees(DICs) headed by the Deputy Commissioner of each District and comprising of all relevant stakeholders from that district with the objective to initially facilitate the process for registration of transgender persons with the NADRA for issuance of CNICs to them.<sup>xlv</sup> However, these DICs have also been mandated to deal with any issues related to transgender community of the district vis-à-vis enforcing their lawful rights, under the overall guidance and directions of the Provincial Monitoring Committee.<sup>xlvi</sup>

### **Section III: Analysis-Tests of Sufficiency & Effectiveness**

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While having discussed rights granted to transgender persons in the legal corpus of Pakistan and having identified various mechanisms available to enforce them, we shall now test the sufficiency of these rights and effectiveness of the enforcement mechanisms in this part of the paper.

In order to determine the sufficiency parameter of rights, we shall make a comparison of scope of these rights with the international best practices through special reference to rights available to transgender persons in Argentina and the neighboring state of India. Whereas, reliance has been placed on results of the primary stakeholders' survey solely conducted for the purpose of this study, interviews held with relevant officials and the responsiveness of enforcement forums with the objective to gauge the effectiveness dimensions.

### **Sufficiency of Rights**

For the purpose of this study, the term sufficiency of rights means the adequacy of rights or the minimum acceptable threshold of rights. The issue of transgender rights continues to be advocated around the world. Though the general protections are available under constitutional guarantees of fundamental rights in majority of countries. However, there are still not many countries who have legally recognized these rights either through specific legislative instruments or other special policy measures. All those countries who have acknowledged these rights and have affirmed them either through special legislations or dedicated policy documents, have thus, taken the initial step. These legislative instruments and policies need to be assessed for sufficiency in order to determine as to whether these laws and policies provide for adequate protections to transgender persons for their socio-economic and political mainstreaming.

Pakistan is one of about two dozen countries around the globe which have, so far, legislated upon issues of transgender rights and have successfully brought in special enactments through their Legislatures. The Transgender Persons (Protection of Rights) Bill, 2018 was passed by the Pakistani Parliament and it became an Act after it was assented by the President of Pakistan on 24<sup>th</sup> May 2018.<sup>xlvi</sup> Although this Act specifically provides for categories of social, economic and political rights of transgender persons, however, keeping in view any unforeseen limitations of the scope of these rights, it also re-affirms all the constitutional guarantees which are generally available to all citizens of Pakistan under the Constitution.

#### **Scope of Transgender Rights in Pakistan**

The scope of transgender rights usually begins with their legal recognition of identity

and expands to other social, economic and political rights. The sufficiency of transgender rights thus needs to cover all these aspects. Since the transgender persons are predominantly a marginalized community which suffers from historical societal neglect, therefore, grant of their rights is to be considered adequate only when they enable removal of any barriers to opportunity with the aim to achieve substantial equality rather than formal equality, which is perhaps the objective of the general constitutional guarantees of fundamental rights. In other words, the substantial equality is characterized upon principles of equity instead of equality. Therefore, prohibitions against all kinds of discriminations, affirmation of fundamental rights and grant of any special rights are essential parameters of a legal and policy framework which strives to attain the threshold of sufficiency of rights. Based on these touchstones, we shall now evaluate rights granted to transgender persons in Pakistani legal corpus in order to find out as to what extent these essential components of sufficiency of rights are available therein.

#### Recognition of Identity

The Transgender Persons (Protection of Rights) Act, 2018 in Pakistan defines the terms *gender identity* and *gender expression* distinctively and provides for legal recognition of transgender identity on the basis of gender identity which is self-perceived and self-determined. This is an exalted recognition of identity provided legally through the Act without any bureaucratic or medical pre-conditions attached to it. In this regard, it is the most liberal and almost ideal form of legal recognition of identity which has been granted under the Act. It may also be noted that the Act contains the right of recognition of identity of transgender persons as a self-contained and distinct chapter, in order to overemphasize its significance in the context of transgender rights.

#### Social Rights

The transgender persons in Pakistan have been granted some substantive social rights under the Act of 2018. These include prohibition against harassment (for which a comprehensive definition is contained in the Act), right to education, right to health and right of access to public places, places of entertainment and places intended for religious purpose.

#### Economic Rights

The Transgender Persons (Protection of Rights) Act, 2018 also provides for certain economic rights to transgender persons in Pakistan. These include the right to inherit, right to employment and right to property. Aimed at the economic mainstreaming of transgender community, the Act also prohibits to forcibly engage transgender

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persons in beggary and whosoever does so, is to be punished for committing an offence under the Act. Since abandonment of transgender persons by their families at early ages due to social stigmas attached to it in the Pakistani society, it was perhaps deemed necessary to specifically provide for their legal entitlement to inherit their share in the family properties under the relevant laws of inheritance in Pakistan. The Act does not only grant the right to transgender persons to inherit their share in the family property, but also contains an elaborate share determination formula on the basis of their legal gender identity. The Act has basically codified declarations of the Supreme Court of Pakistan made in the Constitutional Petition No.43 of 2009 in *Dr. Aslam Khaki vs SSP (Operations) Rawalpindi*.<sup>xlviii</sup>

#### Political Rights

The right to legal recognition of identity is incomplete if it is not complemented by providing opportunities for representation and assuring that the voices of a recognized identity matter in the statecraft and societal affairs. With that basic premise, the Act of 2018 in Pakistan has also granted political rights to transgender persons. These include right to vote, right to assembly and right to hold public office.

#### Guarantee of Fundamental Rights

In addition to protecting the legal recognition of identity, social economic and political rights of transgender persons in Pakistan, the Act of 2018 also re-affirms the guarantee to transgender persons of all fundamental rights contained in Part II of Chapter I of the Constitution. It also duty-bounds the Government to ensure prohibition of all kinds of discriminations on the basis of sex, gender identity or gender expression in protecting the fundamental rights of transgender persons unequivocally. The emphasis made under the Act on constitutional guarantees of fundamental rights reflects that the scope of rights is not specifically restricted to only those which are given in the Act, but generally covers the applicability of all constitutional guarantees.

#### International Comparison-Argentina and India

It may also be appropriate to draw international comparison between the transgender rights available under the Pakistani legal and policy framework and the international scenario.

##### Argentina

Amongst the list of countries which have protected transgender rights through special legislations, Argentina leads the world as having bestowed the legal

recognition of transgender identity through first of its kind legislation passed in 2012 which is considered to be the most progressive law on the subject.<sup>xlix</sup>

The Argentinian Gender Identity Law(GIL) provides for legal recognition of identity of transgender persons on the basis of both the gender identity as well as gender expression<sup>l</sup>. The GIL protects all rights of such persons according to their legal entitlements accruing to them either before the modification of their gender or afterwards. It also provides for modification of gender identity by minors with their consent obtained through parents or legal representatives.

## **India**

In India, the Transgender Persons (Protection of Rights) Bill was introduced in 2016, which was passed by the Lok Sabha in December 2018.<sup>li</sup> The same is now pending before the Rajya Sabha for approval. However, the trans associations and rights activists have criticized the Bill in its present form due to the fact that the Bill provides for legal recognition to transgender identity, after the District Magistrate approves the case, on the basis of input obtained from a District Screening Committee to be constituted for the purpose of such determination.<sup>lii</sup> The critics to the Indian Bill maintain that such provisions inviting bureaucratic and medical checks are barriers to the self-determination of the gender and the Rajya Sabha must amend these effects.<sup>liii</sup> The Indian Bill does have a distinctive provision for establishment of National Council for Transgender Persons as a dedicated body for protection and enforcement of rights of transgender persons.<sup>liv</sup>

After reviewing the international context of transgender rights in Argentina, where such laws exist in the most progressive form and in India, where the Bill granting transgender rights is being heavily criticized for its regressive nature even before its final legislative approval, it may be essentially correct to declare the Pakistani law as one of the progressive laws on the subject. Accordingly, the Act of 2018 in Pakistan along with the judicial declarations on the subject and other policy instruments, sufficiently provide for protection of transgender rights. Pakistan, being an Islamic country, has never advocated the western parameters of rights movements of LGBTs. However, Pakistan is definitely amongst those very few countries in the world which have sufficiently assured the legal guarantees for rights of transgender persons in an affirmative way, through a special legislation on the subject, which can obviously be further improved upon in future, if there arises any need for doing so.

## **Effectiveness of Enforcement Mechanisms**

In order to determine the effectiveness of enforcement mechanisms provided under the Transgender Persons (Protection of Rights) Act, 2018 and other derivative

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instruments under the legal and policy framework of Pakistan, we shall look at three things. Firstly, results obtained through a community survey carried out for the purpose of this study have been evaluated. Secondly, issues highlighted during interviews held with officials of stakeholder departments/organizations which have marred the effectiveness of enforcement of transgender rights have been critically examined to bring out their contextual relevance. Thirdly, the performance reports of enforcement bodies which have been specifically designated under the Act of 2018 have been examined to test their responsiveness to transgender rights in Pakistan. The overall picture which emerges from the cumulative assessment of these three parameters gives us a fair understanding of the effectiveness of the enforcement mechanisms available in Pakistan for transgender rights.

#### Community Survey

A community survey with a sample size of 100 was conducted in Lahore to determine as to the existing status of the social indicators for the transgender community and to what extent are they aware of mechanisms provided to them under the Act of 2018 for enforcement of their rights. Although it is difficult to expect such quick translation of any impacts of the Act which was passed less than a year ago, however, results of this community survey definitely provide an indication as to whether the enforcement mechanisms given under the Act are really correctly identified or there is a need to provide alternative options. Moreover, since the higher courts in Pakistan were the sole and ultimate recourse for safeguarding rights of transgender persons prior to introduction of the Act in 2018, therefore, the survey also produces some interesting results regarding this aspect.

The survey questionnaire is placed at *Appendix 1*, which was formulated in Urdu Language due to the literacy constraints of the community. Results obtained through the survey were then translated into English Language and have been tabulated in two parts which are respectively reflected in *Figure 1* and *Figure 2*.

#### Findings of the Survey

According to data contained in Figure 1, out of the total of one hundred transgender persons living in Lahore, who participated in the survey, 47% fell in the age bracket between 18 to 40 years, followed by 32% who were aged between 40 to 60 years. More than 80% of them have acquired the CNICs as transgender persons on self-determined gender identity basis, which reflects positively on the enforcement of the right of legal identity. Two out of total one hundred participants were legally minors and hence the CNIC parameter did not relate to them. 73% of the transgender persons

who were surveyed had never been to any school and declared themselves as illiterates. Only 2% were satisfied with the treatment response that they get at public sector health facilities, whereas, 13% recorded their satisfaction on the same parameters regarding the private sector health facilities.

88% were into sex-work, beggary and dancing for earning their livelihoods. 24% positively acknowledged efforts being made by the Government for their rights and other issues.

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**Figure 1**

COMMUNITY SURVEY-PART 1*																															
Age Bracket		CNIC as TG	Literacy				Health Facilities Response Satisfaction			Employment				Govt. Efforts Satisfaction	Income	Police Behavior	Responsible for Miseries of TGs				Inheritance of Property Share										
	No. of Respondents		≤No. illiterate	≤Primary	≤Middle	≤Post-grad	Govt.	Private		Govt.	Private	Self-employed	Others	Govt. Workers		Domestic	Business	Yes	No	≤15000PKR	>15000PKR	Good	Fair	Bad	Govt.	Society	Govt. & Society	Police	Parents of TGs	Govt. Share	Did Not Get Share
18 Y	2	0		1	1		0	2	1	1		1	0	0	1	1	1	1	2	0	0	2		1		1	0	0	0	2	
18 to 40 Y	47	35	29	8	4	3	0	47	6	41	17	18	7	5	13	34	28	19	3	44	3	5	33	2	4	6	25	16			
40 to 60 Y	32	28	26	4	2	0	0	32	2	30	21	4	4	3	7	25	22	10	1	31	4	2	26	0	0	2	23	7			
Above 60 Y	19	17	18	1	0	0	0	2	17	4	13	16	0	0	3	3	16	17	2	1	18	1	3	12	1	2	3	14	2		
Sample Size = 100																															
*Survey conducted for research purposes in Lahore: by Sajid Zafar Durr, Participant of 25 Senior Management Course, SMW, National Management College, Lahore from 2 <sup>nd</sup> April to 20 <sup>th</sup> April, 2019.																															

Source: Community Survey conducted by the Author, April 2019

71% earned less than PKR 15000 per month from occupations that they have adopted. 95% reported bad behavior of police officials towards the transgender persons. 82% held the government and society collectively responsible for miseries of transgender persons. 27% reported that the issue of inherited property did not relate to them, whereas, 15% of the remaining participants reported that they had gotten their inherited share in family property. Overall, these results reflect that except for the legal recognition of gender identity, the enforcement paradigm in all other areas is very weak which has translated into poor social indicators for the transgender community in Pakistan. Moreover, we may also deduce that the enforcement of socio-economic rights of transgender persons is ineffective, which continues to marginalize them in the society.

The community survey questionnaire also contained two questions which were asked with the objective to ascertain the familiarity of respondents with the enforcement bodies provided under the Act of 2018 and their preferred recourse to government organizations in case of any community issues.



Figure 2

<b>COMMUNITY SURVEY-PART 2*</b>		
<b>SURVEY QUESTIONS</b>		
<b>Q: Have you heard of the following offices/ departments/organizations/facilities?</b>		<b>No. of Respondents saying 'yes' out of 100</b>
1	Federal Ombudsman	3
2	National Commission for Human Rights	2
3	National Commission on Status of Women	2
4	Office of the Deputy Commissioner	37
5	SHO of Police Station	69
6	Social Welfare Department	44
7	Akhuwat	12
8	Office of the Union Council	17
9	Aurat Foundation	3
10	Punjab University	57
11	Fatima Memorial Hospital	6
12	Services Hospital	33
<b>Q: Which Government Office do you contact for any of your community's issue?</b>		<b>Recorded Responses</b>
	Courts	47
	NGOs	28
	Social Welfare/DC Office/SHO	18
	Did Not Respond	07

\*Survey conducted for research purposes in Lahore, by Sajid Zafar Dali, Participant of 25 Senior Management Course, SMIT, National Management College, Lahore from 2<sup>nd</sup> April to 20<sup>th</sup> April, 2019.

Source: Community Survey conducted by the Author, April 2019

According to the data contained in Figure 2, only 3% of total 100 respondents showed some familiarity with the office of Federal Ombudsman, 2% each had heard names of the National Commission for Human Rights and the National Commission on Status of Women; whereas, predominantly most of respondents were more familiar with the local offices such as the Station House Officer (SHO) of local police station (69%), Social Welfare Department (44%) and the office of the Deputy Commissioner of the District (33%). Likewise, 57% of all respondents had heard the name of Punjab University and 33% of the Services Hospital, both situated in Lahore. From the community survey, it has also transpired that majority of all respondents numbering 93, as 7 transgender persons did not respond; recourse to Courts is the priority of 51% as first point of contact in case of any community issues followed by 30% taking them to the NGOs and only 19% cumulatively preferred to contact either of the government offices of social welfare, the Deputy Commissioner and the SHO of local police station. These results signify that distinctions among the executive, the judiciary and even the non-government organizations are not clearly understood by the community, however, notwithstanding that, the government offices generally lack confidence of the community.

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Point of View of Stakeholder Officials

According to Director of Social Welfare, Punjab, out of a total of 6709 persons recorded as transgender in the province of Punjab according to the Census of 2017, the Social Welfare Department Punjab has registered 3185 transgender persons with their field offices up till April 2019 and 2407 of them have been issued the CNICs by the NADRA authorities. The process of issuance of identity cards to transgender persons was accelerated after the passage of Act of 2018 and the Supreme Court of Pakistan's directions in the subject matter. According to the field surveys carried out by the Social Welfare Department and keeping in view the Census 2017 figures on their population in the province, the total number of transgender persons eligible for holding the CNICs is around 4000 as the remaining population out of 6709 is below the age of 18 years. However, the task of identification is constrained by social environment in which the identity is not generally disclosed due to social stigmas attached with it. Moreover, some of the transgender persons prefer not to get themselves registered with the NADRA as transgender persons and continue to carry their dominant gender binary. She also informed that a comprehensive system of registration as per the self-identified gender is in place in the province of Punjab which is being led by the NADRA and being proactively facilitated by the Social Welfare Department and its field formations through the District Implementation Committees and under the regular supervision of the Provincial Monitoring Committee headed by the Chief Secretary of the Province.<sup>lv</sup>

The Specialized Healthcare and Medical Education Department Punjab has designated separate wards for transgender persons in all the tertiary hospitals of Punjab since September 2018, particularly for the infectious diseases.<sup>lvi</sup> It was done in pursuance to provisions of the Act of 2018 and Supreme Court directions. However, in addition to such immediate interventions, the government is also working on to come up with a comprehensive plan for ensuring right of health to transgender persons, as affirmed under the Act of 2018.<sup>lvii</sup>

In Lahore District, there have been neither any cases processed nor refused, relating to the inheritance of property, by transgender persons, during years 2018-19.<sup>lviii</sup> The Additional District Collector of Lahore informed that the revenue department is fully aware of provisions of the Act of 2018 and all its functionaries have been trained on how to determine the share under the Act.<sup>lix</sup> However, he emphasized upon the need for its proactive processing in collaboration with other stakeholder departments who had the specific data of transgender persons belonging to district Lahore.

The Schools Education Department of Punjab has not yet taken any noticeable

measures in pursuance to specific provisions under the Act of 2018 relating to the right to education for transgender persons. However, the department is conscious of special needs of transgender persons in their access to education and is working out different proposals in collaboration with the Social Welfare Department as how to cater them in the most suitable manner.<sup>lx</sup>

#### Performance of Enforcement Bodies given under the Act of 2018

The National Commission for Human Rights (NCHR) in Pakistan has a robust complaints redressal mechanism which provides for filing of complaints against any human rights violations and the NCHR is also legally enabled to take suo-moto actions. The Commission was established in 2012 and since its inception, it has so far, dealt with 19 cases of human rights violations relating to transgender persons.<sup>lxi</sup> It has been observed that there is no special or exclusive mechanism provided in the Commission for addressing complaints filed by transgender persons and these are handled in routine, along with the other complaints.

The office of Federal Ombudsman in Pakistan (Wafaqi Mohtasib Secretariat-WMS) appointed a Commissioner for Transgender and Children, in January 2018.<sup>lxii</sup> Though the office of Commissioner acts as the focal point in the WMS for transgender issues and has been giving its policy input in the subject matter, however, it has been observed that it is not enabled to carry out the enforcement of transgender rights as entrusted to the office of Federal Ombudsman, under the Act of 2018.

Although the National Commission on Status of Women has also been designated as one of the enforcement mechanisms under the Act of 2018; however, except some advocacy work undertaken by the Commission on transgender rights bill as a part of Senate Committee in 2017, it does not have any enabling systems in place to enforce rights of transgender persons.

#### **Conclusion**

From the analysis of legal provisions of transgender rights in Pakistan and their assessment carried out in the international context, we can safely draw conclusions that the legal corpus of Pakistan, not only sufficiently, rather very affirmatively, through a special legislation, covers all the essential aspects of transgender rights. The entire legal framework in Pakistan offers some of the most progressive legal guarantees available to the transgender community around the world. Instead of getting into controversies of LGBT movements and their demands which go contrary to the religious narrative and attract penalties under the criminal laws of the country, Pakistani law has solidified its grounds on basis of historical evidence of transgender

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rights in Islam on principles of social equity. This has led to legal provisions for not only the identity of transgender persons but also an elaborate procedure for determination of their share in the inheritance of family properties.

Although the sufficiency of rights of transgender persons in Pakistan leads us to believe that theoretical foundations of the subject are correctly laid, however, these have not translated into enforceable rights as yet. Such gaps have occurred due to complete ineffectiveness of enforcement mechanisms provided under the Act of 2018. It is observed that neither the National Commission for Human Rights nor the office of Federal Ombudsman and the National Commission on Status of Women have designed any enforcement tools specifically for transgender persons to which they can take recourse for enforcement of their rights. The absence of devising any proactive methods to ensure rights of transgender persons is further necessitated, all the more, because hardly any members of the transgender community have shown any familiarity with these organizations, as depicted in results obtained through a community survey conducted in Lahore. Perhaps, it is one of those flawed provisions of the Act of 2018, in which, these bodies have been wrongly declared as enforcement channels merely on presumptions of their complaint management responsibilities in case of violations of rights. It is to be understood that the enforcement of rights is a proactive exercise and redressing general violations is ordinarily reactive. Therefore, these organizations are not essentially designed as enforcement or implementing agencies.

The situation analysis of enforcement of transgender rights in the province of Punjab through its executive arrangements in the shape of high-level cum multi-departmental monitoring committees at provincial level and district implementation committees are hopeful signs that the subject issue is finally getting its due recognition in the Government domain. However, these institutional designs are still ad hoc arrangements which may not yield any positive outcomes until and unless some permanent body is set up to achieve objectives of the Act of 2018 for mainstreaming the transgender community.

### **Recommendations**

Based on our positive findings on the sufficiency of rights of transgender persons but ineffective mechanisms available for their enforcement under the legal corpus of Pakistan, following recommendations are made to fill in gaps identified through this study which may lead to bringing about improvements in the existing situation. These may also provide timely course-correction on the subject as the Act of 2018

is still in its nascent stages.

Chapter VI, Section 18 of the Transgender Persons (Protection of Rights) Act, 2018 which enlists the enforcement mechanisms may be suitably amended. There is a need to either provide for a National Transgender Council such as the one given in the Transgender Persons (Protection of Rights) Bill, 2016 of India or identify more potent government agencies such as the provincial departments of the Social Welfare and designate them as the statutory-bound enforcement agencies for rights of transgender persons in Pakistan. Federal Ministry of Human Rights in Pakistan has an Administrative Tribunal for the Disadvantaged Persons, as one of its attached arms. One of the policy options could be to declare the transgender persons as disadvantaged persons under the respective laws and the Tribunal may be activated to function as the prime body for enforcement of their rights under the Act of 2018.

The Government needs to frame and notify rules to carry out purposes of the Transgender Persons (Protection of Rights) Act, 2018 as mandated under Section 20 of the same Act. While doing so, it may provide for a well-knit institutional design for enforcement of rights of the transgender community in Pakistan.

There is a definite requirement to sensitize stakeholder departments at Federal, Provincial and District levels, particularly the Health, Education and the Land Revenue departments so that they must assume roles assigned to them under the Act of 2018 relating to the right to education, health and inheritance of transgender persons in Pakistan, in a more proactive fashion.

All the stakeholder departments need to be pressed upon to proactively reach out to the transgender communities. Being historically a marginalized segment, their familiarity and access to public facilities is compromised due to persistent collective neglect of the society.

Transgender sensitive advocacy campaigns and trainings need to be imparted to officials of those departments who have direct or indirect responsibilities of enforcing transgender rights. Such trainings may be designed to highlight the peculiar physical, psychological and other social needs of transgender persons so that officials handling their matters are equipped with the right attitudes to win confidence of the community.

Since decades of alienation will take some time to be addressed, therefore, the Government of Pakistan is required to introduce social protection schemes exclusively for transgender persons, as a stop-gap arrangement, in order to alleviate their sufferings, at least till such time that their socio-economic rights become effectively enforceable.

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## Endnotes

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- <sup>i</sup>The Oxford Dictionary meaning of transgender is denoting or relating to a person whose sense of personal identity and gender does not correspond with birth sex
- <sup>ii</sup>Zanan Khana is the term in Urdu language used locally to describe the living place reserved for females in a household.
- <sup>iii</sup>Asad Ullah Khan, “Gendered Justice: Constitutions, Trans-genders and Equality”, *LUMS Law Journal* 3, no.1 (2016): 70.
- <sup>iv</sup>The Transgender Persons (Protection of Rights) Act, 2018 was passed by the Parliament of Pakistan and later received the assent of the President of Pakistan on May 18, 2018 and was notified in the Gazette of Pakistan on May 24, 2018 as Act XIII of 2018. In this paper, it has been interchangeably referred to as either ‘the Act’ or ‘the Act of 2018’.
- <sup>v</sup>*Dr. Muhammad Aslam Khaki v S.S.P. (Operations) Rawalpindi*, PLD 2013 SC 188.
- <sup>vi</sup>The National Assembly Secretariat, *The Gazette of Pakistan (Extra)*, Act XIII of 2018, (Islamabad: Printing Corporation of Pakistan, 2018).
- <sup>vii</sup>Jami K Taylor et.al., *The Remarkable Rise of Transgender Rights* (Ann Arbor: University of Michigan Press, 2018), 4.
- <sup>viii</sup>Compendium of Human Rights Case Studies, “The Third Sex-On the Fringes of Society”, LEAD Pakistan, [http://www.lead.org.pk/hr/attachments/Compendium/01\\_Civil\\_Political\\_Rights/The\\_Third\\_Sex.pdf](http://www.lead.org.pk/hr/attachments/Compendium/01_Civil_Political_Rights/The_Third_Sex.pdf) (accessed 25 March, 2019)
- <sup>ix</sup>*Ibid*
- <sup>x</sup>Hassan Bin Usman Shah et.al., “Challenges faced by marginalized communities such as transgenders in Pakistan”, *Pan African Medical Journal* (June 2018), <http://www.panafrican-med-journal.com/content/article/30/96/full/> (accessed 02 April 2019).
- <sup>xi</sup>Gender Equity Program, “Silent No More - Transgender Community in Pakistan”, Aurat Foundation, <http://af.org.pk/gep/images/GEP%20Gender%20Studies/Transgender%20Community%20in%20Pakistan.pdf> (accessed 02 April, 2019)
- <sup>xii</sup>*Ibid*.
- <sup>xiii</sup>*Ibid*.
- <sup>xiv</sup>*Ibid*, 274.
- <sup>xv</sup>*Ibid*.
- <sup>xvi</sup>*Ibid*, 275.
- <sup>xvii</sup>*Ibid*.
- <sup>xviii</sup>*Ibid*, 275-276.
- <sup>xix</sup>*Ibid*, 276.
- <sup>xx</sup>*Ibid*, 277-281.
- <sup>xxi</sup>*Ibid*, 281.
- <sup>xxii</sup>*Ibid*, 275.
- <sup>xxiii</sup>*Ibid*, 277.

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<sup>xxiv</sup>Transgender persons in Pakistan live in different family like communities under the guardianship of a senior known as *Guru*. The *Guru* is commonly identified as the social guardian of his family members known as *Chelaz*.

<sup>xxv</sup>*Ibid*, 278-279.

<sup>xxvi</sup>*Ibid*, 276.

<sup>xxvii</sup>*Ibid*.

<sup>xxviii</sup>*Ibid*, 279.

<sup>xxix</sup>*Ibid*, 276.

<sup>xxx</sup>Kamran Saddique et.al, “Transgender Issues in Pakistani Community”, *European Academic Research*, iv, no.10, (January 2017): 9054.

<sup>xxxi</sup>*Ibid*, 276.

<sup>xxxii</sup>*Ibid*, 280.

<sup>xxxiii</sup>*Ibid*.

<sup>xxxiv</sup>*Ibid*, 277-278.

<sup>xxxv</sup>Supreme Court of Pakistan, “In the matter regarding issuance of CNIC to transgender”, *HRC No.32005-P of 2018*, (Islamabad: 2018).

<sup>xxxvi</sup>Law and Justice Commission of Pakistan, “Press Release Dated 09.08.2018”, [http://ljcp.gov.pk/nljcp/assets/dist/news\\_pdf/8ace7-press-release-of-transgender-seminar-9-8-2018.pdf](http://ljcp.gov.pk/nljcp/assets/dist/news_pdf/8ace7-press-release-of-transgender-seminar-9-8-2018.pdf) (accessed 24 April, 2019).

<sup>xxxvii</sup>Wafaqi Mohtasib (Ombudsman)’s Secretariat, under “Legal Framework”, <http://www.mohtasib.gov.pk/images/pdfs/presidential-order-1983.pdf> (accessed 24 April, 2019).

<sup>xxxviii</sup>National Commission on the Status of Women, under “Functions”, <http://www.ncsw.gov.pk/about-us/functions> (accessed 24 April, 2019)

<sup>xxxix</sup>National Commission for Human Rights Pakistan, under “Who We Are”, <https://nchr.gov.pk/who-we-are/> (accessed 24 April, 2019)

<sup>xl</sup>National Commission for Human Rights Pakistan, under “Interim Report on Transgender”, <https://nchr.gov.pk/2018/06/08/interim-report-on-transgender/> (accessed 25 April, 2019).

<sup>xli</sup>National Commission for Human Rights Pakistan, under “Report on Marginalized Segments”, <https://nchr.gov.pk/2019/01/24/report-on-marginalized-segments/> (accessed 25 April, 2019).

<sup>xlii</sup>Cabinet Secretariat, “Rules of Business 1973 (As Amended up to 12 June 2017)”, <http://www.cabinet.gov.pk/cabinet/userfiles1/file/%5BROB%20amended%2012th%20June,%202017.pdf> (accessed 27 April, 2019).

<sup>xliii</sup>Director Social Welfare Punjab Ms. Zaib un Nisa, interview by author, Lahore, 12 April, 2019.

<sup>xliv</sup>Services and General Administration Department Punjab, “Notification Number 1228/2018, Dated 21 June 2018”, (Lahore:2018).

<sup>xlvi</sup>Services and General Administration Department Punjab, “Notification Number 1227/2018, Dated 21 June 2018”, (Lahore:2018).

<sup>xlvi</sup>Director Social Welfare Punjab, *interview by author*.

<sup>xlvi</sup>*Ibid*.

<sup>xlvi</sup>*Ibid*.



<sup>xlix</sup>Ines Aristegui et.al, “Impact of the Gender Identity Law in Argentinean transgender women”, *International Journal of Transgenderism* (April 2017), <https://www.tandfonline.com/doi/full/10.1080/15532739.2017.1314796?scroll=top&needAccess=true> (accessed 20 April, 2019).

<sup>l</sup>Transgender Europe (TGEU), under “Argentina Gender Identity Law”, <https://tgeu.org/argentina-gender-identity-law/> (accessed 20 April, 2019)

<sup>li</sup>PRS Legislative Research, “The Transgender Persons (Protection of Rights) Bill, 2016: Comparison of the 2016 Bill with 2018 amendments”, [https://www.prsindia.org/sites/default/files/bill\\_files/Note%20on%20Amendment%20-%20Transgender%20Bill%20-For%20Upload.pdf](https://www.prsindia.org/sites/default/files/bill_files/Note%20on%20Amendment%20-%20Transgender%20Bill%20-For%20Upload.pdf) (accessed 22 April, 2019).

<sup>lii</sup>*Ibid.*

<sup>liii</sup>International Commission of Jurists (ICJ), “India: parliament must revise problematic transgender persons (protection of rights) bill, 2018”, <https://www.icj.org/india-parliament-must-reverse-problematic-transgender-persons-protection-of-rights-bill-2018/> (accessed 22 April, 2019).

<sup>liv</sup>*Ibid.*

<sup>lv</sup>Director Social Welfare Punjab, *interview by author*.

<sup>lvi</sup>Specialized Healthcare and Medical Education Department Punjab, “Notification No.SO(PHP)9-163/2011(P) dated 14 September, 2018”, (Lahore: 2018).

<sup>lvii</sup>Special Secretary of Specialized Healthcare and Medical Education Department Punjab Mr. Muzaffar Sial, *interview by author*, Lahore, 30 April, 2019.

<sup>lviii</sup>Additional District Collector (Revenue) of Lahore Mr. Muhammad Awais, *interview by author*, Lahore, 28 April, 2019.

<sup>lix</sup>Additional District Collector (Revenue) of Lahore, *interview by author*.

<sup>lx</sup>Special Secretary of Schools Education Department Punjab Mr. Muhammad Jehanzeb, *interview by author*, Lahore, 15 April, 2019.

<sup>lxi</sup>Director General of Ministry of Human Rights Mr. Muhammad Hassan Mangi, electronic communication by author, Islamabad, 2 May, 2019.

<sup>lxii</sup>Director General of Wafaqi Mohtasib Secretariat Mr. Moeenuddin Ahmed Siddiqui, electronic communication by author, 3 May, 2019, Islamabad.

# ENGAGING WITH TRANS-GENDERS IN PAKISTAN IN THE EXISTING LEGAL CORPUS AND FRAMEWORK FOR THEIR ENFORCEMENT; A CRITICAL APPRAISAL, ISSUES AND FUTURE POLICY SUGGESTIONS

*Nadeem Mehboob/Farhan Aziz Khawaja*

## Introduction

“Gender is an anchor and once people decide what you are they interpret everything you do in light of that”.<sup>(1)</sup> While, sex is the biological component, gender is the psychological and social component. However, there are certain conditions in which the biological aspects are in contradiction with the social and psychological aspects of gender. These conditions override the biology in determining gender identity and influencing gender role.<sup>(2)</sup> In West, the term transgender is used for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. In Pakistan, the terminology transgender is interchangeably used with khawajasaras and eunich. The word transgender or khawajasara in Pakistan is commonly used to refer to intersex persons, individuals born with a reproductive or sexual anatomy that doesn't fit the binary categories, male or female. **Khawajasara** is an umbrella term used for those men who are transgender, eunuch, transvestites, hermaphrodites or intersexed, bisexuals or homosexuals with feminine behaviour.<sup>(3)</sup>

loosely defined as third gender, and neither man nor woman, but containing characteristics of both; an intersexed/impotent man, who undergoes emasculation in which all parts of the genitals are removed; physically healthy man who may or may not have castration but wear female clothes,<sup>(4)</sup> and behave like women. Lack of any scientific study conducted on this group generates a lot of fallacies about khawajasara. People hold stereotypic beliefs that God has blessed them with powers in their blessings and curses being born with sexual deformity.<sup>(5)</sup> People do fear this belief and often get exploited by khawajasara in hoarding money and other favours. Deviant behaviours and ambivalent appearance make others apprehensive and annoyed in interacting with khawajasara, therefore, lead towards negative attitude towards them.<sup>(6)</sup> In some cultures people believe that they are blessed with some divine power. Since ages, transgenders or khawajasara in Pakistan lived on margins of society. The social response towards transgenders is very discriminatory and

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prejudiced. With most of the population still following centuries old tradition, khawajasara's find themselves in a very unique situation. They cannot go out and work like other men of the community; mainly due to the fear of being ridiculed and sexually harassed. They also cannot sit home and do household chores like women, because their families see them as men and expect them to support them financially. As a majority of khawajasara today live alone or with their own kind, they find themselves antagonized by the community at general.<sup>(7)</sup> Owing to poverty and the struggle of sustenance, this cohort has no other option but to turn to commercial sex work for a living. The main reason being, that our community fails to define a role for them; a clear proof of this fact is that since the independence of Pakistan in 1947, they had not been allowed to have National Identity Registration according to their gender identification. It has only been a few years since the Supreme Court ordered the relevant authorities to register khawajasara as Pakistani citizens with a right to vote.<sup>(8)</sup> For many khawajasara school is the first stage in the public arena in which personal insecurity is experienced. Verbal harassment, physical abuse and sexual abuse at school were occurrences mentioned by transgender.<sup>(9)</sup>

The transgender and described being beaten at school by teachers and classmates and also being sexually and verbally harassed. They are victims of deprivation and rejection and have long languished on the economic front and thus living in isolated communities in improvised conditions. The Constitution of Islamic Republic of Pakistan guarantees equality of citizens with no discrimination on the basis of sex (Article 25) and also promotes social and economic well-being of the people irrespective of sex, caste, creed or race (Article 38). As per these Articles, transgenders have the same rights and privileges like any other citizens of Pakistan, however, the ground reality is quite the opposite. Recently, National Assembly of Pakistan passed the Transgender Persons (Protection of Rights) Act, 2018. It's a basic anti-discrimination legislation that sets the base for further civil rights work regarding transgender community in Pakistan. The Bill prohibits discrimination against transgenders and addresses fundamental rights including: right to education, employment, health, inheritance, assembly, public office, property and vote. Punjab Social Protection Authority (PSPA), recently drafted and published a policy for the protection and rights of transgender persons. The vision of the policy is to create a society where persons of every gender have equal social status, opportunities for socio-economic inclusion and mutual respect for one another. The main objective of the policy is betterment of the transgender persons in multiple dimensions on the basis of equity, resilience, opportunity, gender equity and social inclusion.<sup>(10)</sup> Despite

these provisions and certain measures taken by the Government as well as attention given by the Supreme Court on issues such as issuance of identity cards, etc. the situation on the ground has not changed much.

### **Social Exclusion and Transgenders**

The current dismal condition of transgenders in Pakistan could be attributed, among other things, to social exclusion which they face in all spheres of life. “Social exclusion is an accumulation of confluent processes with successive ruptures arising from the heart of economy, politics and society; gradually distances and places persons, groups, communities and territories in positions of inferiority in relation to center powers, resources and prevailing values”.<sup>(11)</sup> Beall & Piron proposed a method and a condition that averts individuals or groups from full involvement in socio-cultural, political and economic life and from declaring their rights.<sup>(12)</sup> It derives from exclusionary connection based on supremacy. Thus, the excluder eliminates social dealings denying right to use the possessions and services, infringing citizenship privileges to particular individual and groups. Silver suggests three standards—solidarity, monopoly and specialization, which are trapped in the socio-cultural, political and economic perspectives. These standards were in perspectives of republican, moderate, and democratic societies.<sup>(13)</sup>

The Social Exclusion Knowledge Network (SEKN) model suggests that social exclusion is driven from extreme power dynamics and work in four interrelated and relational proportions (e.g. socio-cultural, economic and politics) at different levels (e.g. individuals, groups, households, communities, countries, and the world as a whole).<sup>(14)</sup> Social aspects of exclusion refer to limited or no access to social, educational, legal and health services, resulting from ruptured social protection and social cohesion, such as kinship, family, neighborhood, and the community. Political features of exclusion refer to lack of citizens’ rights, voter rights, including limited access to organizations, constitutions, legislations, and decision-making in policy. The concept of social exclusion is increasingly being recognized as an important aspect of understanding poverty and deprivation in society that requires a public policy response. Amartya Sen described it very aptly that, “No concept of poverty can be satisfactory if it does not take adequate note of the disadvantages that arise from being excluded from shared opportunities enjoyed by others.....focusing on social exclusion can substantially help in the causal as well as constitutive analyses of poverty and deprivation. The perspective of social exclusion does offer useful insights for diagnostics and policy”<sup>(15)</sup>

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**Problem Statement/Research Question**

The purpose of this study is to examine that if public services and enabling environment would be provided to a neglected segment of the society (i.e. transgenders in this case) who did not have easy access to public facilities because of social and cultural taboos; will they become productive members of a society. This research study further find out that how innovative and need-based remedial measures will be undertaken to overcome both administrative and socio-cultural obstacles to mainstream the disadvantaged group.

A descriptive case study method is used to answer the following research question:

**Would provision of enabling environment to transgenders make them amenable to the opportunities offered for mainstreaming?**

**Case Study**

The objective of this study is to examine and detect the supposition that provision of enabling environment to transgenders make them amenable to the opportunities offered for mainstreaming and looks at a local initiative. Mr. Nadeem Mahbub assumed charge of Commissioner Sargodha in 2016. He shared that he used to be involved in social work during his University days and had special empathy with the disadvantaged groups. The new posting provided him an opportunity to support this socially excluded community at the Divisional level. As Commissioner of a Division, he had the authority to take steps on his own whereby some window of opportunity could be opened for transgenders.

After due deliberations and several meetings with stakeholders, Commissioner Sargodha initiated a program titled “Teesra Rukh” as a first step to support local transgenders by offering them exclusive public services. Initially, the exercise was carried out in the districts of Sargodha and Khushab to reach out and support transgenders to become productive members of society through provision of basic education and skills development. The main aim of the project was to bring the transgenders into mainstream preferably through imparting basic education and technical training. Initially, the commissioner conducted an exercise to obtain basic statistics regarding: (a) population of transgender; (b) identification of the localities where they were living; (c) ascertain their economic conditions and sources of income. The situational analysis revealed that the highest number of known transgenders was in Sargodha city which numbered around 300/350 while a couple of hundred transgenders were residing in Sillanwali (a tehsil of Sargodha) and in

Joharabad, District Khushab. They earned their living through performing at functions (singing/dancing), sex work and begging. Their health condition was generally poor and they particularly suffered from skin ailments. Since they lived in isolation, they rarely went to regular doctors and relied upon local quacks. Further, no government department had any specific program for their welfare. During this exercise, when these transgenders were informed about the proposed intervention, they showed interest in acquiring basic education, technical skills as well as provision of health services. A local notable and philanthropist showed interest in the project and was involved in the process. After due deliberations with stakeholders and keeping in view the available resources, it was decided to keep the program limited to Sargodha and Khushab districts and start provision of basic education and skills development. In addition, basic health services might be extended, which would also help in creating goodwill in the community.

Literacy and Non-formal Basic Education department was selected to impart basic education to transgender considering their past initiatives on both Adult Literacy classes (ALC) for older people and Non-formal basic education schools for out of school children. It was decided that the classes would be held in rented place near the settlements of transgenders since local community is not expected to provide space. The second facet of the project was to provide technical and skills education to transgenders and TEVTA (Technical Education and Vocational Training Authority), which was the premier technical training institution in Punjab was selected to design a custom-made program for transgenders. With respect to selection of the technical courses for transgenders, an informal session was arranged with the representatives of transgenders about their inclination towards specific courses. The target community requested for beautician and tailoring courses, however, they wanted these courses to be no longer than 3 months duration and that too in the afternoon. TEVTA finalized the standard course duration of 6 months and a stipend of Rs. 1000 per month per transgender. Commissioner Sargodha directed District Health Authorities and MS DHQ hospital for establishment of special medical camps for transgenders at all the three designated cities once the classes start. The medical camps would have a Medical Officer, Skin specialist and free medicines. In response to the demand by the transgenders, it was also decided to prepare special health cards which would allow easy / fast track access to health facilities in DHQ Hospital. A doctor was specially assigned and notified in the DHQ Hospital Sargodha to treat the transgender community in addition to his regular duties.

Once the project design was finalized, the project went into implementation phase a

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number of challenges surfaced as soon as the project commenced such as renting of classroom, recruitment of teachers, and beneficiaries' reluctance for enrolment and motivation of team members. With challenges and obstacles on every step of the way, the team members became frustrated and dealing with a taboo topic made them uncomfortable at times. The team leader motivated his team and told them to ignore any odd remarks as they were pioneers of a noble task and could make a difference for this community. After overcoming the obstacles of hiring, recruiting and motivating, the other difficulty was turnout for beneficiaries' enrolment was abysmally low. It was revealed that all important decisions were taken by the Guru and if the relevant Guru was on board and some kind of incentive or stipend was given to them to facilitate the process, transgenders who were interested in taking courses would easily join. Accordingly, a stipend of Rs. 6000 per month was fixed for the concerned Gurus (for the course period) and resultantly the enrollment improved. Once the technical trainings went underway, some of the participants started demanding that they might be given loans after they complete their course. They wanted to start their own businesses for which they needed funds. After some effort, Akhuwat, a NGO, agreed to provide loans to those transgenders: (a) who would complete the course; (b) pass the TEVTA standard test (required for certification); and (c) put up a business proposal with two guarantors. This was a considerable achievement for the project and gave confidence to the participants of the course that they now had an option to earn their living through the skills acquired.

## **Results and Findings**

A total of ninety-four (94) transgenders attended adult literacy classes out of which 75 completed the course and passed the requisite test. While seventy-eight (78) transgenders undertook skills training and seventy-three (73) passed out who were awarded certificates. The intervention also showcased that the government agencies, at least the one chosen for this project, could be flexible and innovative enough to serve the socially excluded segment of the society. A simple and implementable model had been developed which could easily be replicated at the provincial level.

A total of seventy-three transgenders completed the skills development course and passed the exam. Through these training sessions transgenders acquired skills in the fields of tailoring and beautician. Some of them took the initiative and started their own businesses and one of them was given opportunity in the Cattle Market Management Company, Sargodha. Following are a few success stories:

Sr. No	Transgender Name	Transgender Nick Name	Course Completion Trade	Current Shop or Business Address
1	Bhola	Bhooli	Three Months stitching TEVTA Course	Bhola Stated stitching work jointly with Javed (Jedo) and Noor (Noori) at her own drawing room.
2	Javed	Jedo	Three Months stitching TEVTA Course	
3	Noor	Noori	Three Months stitching TEVTA Course	
4	Kamran	Kami	Three Months stitching TEVTA Course	Attached with Rangoli Boutique Sargodha
5	Qamar Abbass	Moona Leza	Three Months stitching TEVTA Course	Punjab Beauty Parlor Satellite Town Chowk Sargodha
6	Ali	Alena	Three Months Stitching Course	Clerk at Cattle Market Management Company

The following transgenders got Qarz-e-Hasna (Rs.50,000/-) from Akhuwat and started their own work / business.

Sr. No	Transgender Name	Transgender Nick Name	Course Completion Trade	Current Shop or Business Address
1	Saqib Ali	Bhameeri	Three Months	The Transgender



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			TEVTA Course	got raw material of Rs.50000/- at Rehman Plaza Garments Shop
2	Abu Hurera	Qatrina Kethi	Three Months TEVTA Course	The Transgender has started boutique work on order in his/her own house.  (From Qarz-e- Hasna Amount)

The project received considerable publicity in the local press. The certificate distribution ceremony received wide coverage in local press since Commissioner was the chief guest. Some of the electronic news channels covered the event and even BBC news item highlighted the project. A documentary (available on YouTube) was also made on the project which covered various activities and recorded the views of the target community. The certificate distribution ceremony also conveyed a message to the transgender community that they are important and also deserve recognition and respect. During the early phase of the project, people considered the issues of the transgenders as a taboo subject and were not comfortable to discuss about the subject. By the time the project concluded, it was encouraging to see people start commencing debate on the issue. Without discussing this subject, it would not be possible to take further steps towards mainstreaming of transgenders. Moreover, it may be mentioned that at the later stage, the program details were shared with the team of Punjab Social Protection Authority who was formulating the Transgenders Persons Welfare Policy and it appears to have indirectly influenced as they have adopted some components of the intervention in the policy.

Due to non-existence of a separate unit/institution for welfare of transgenders and in

### **Reflections of a Transgender**

Saqib Ali is one of the transgenders from Sargodha who received technical training and on the basis of his certified training, he received interest free loan of Rs 50,000 from Akhuwat. He started business by opening a tailoring shop from the loan and is currently doing well. Saqib is 35 years old and comes from a lower middle-class family and after graduation, he tried to get a job and tried to live a normal life but was not successful. Disheartened and dejected, he went to join the local community of transgenders. He started singing and dancing and also got involved in sex trade. Encouraged by his Guru Aleena, who himself was not comfortable in living the promiscuous lifestyle, he joined the technical training course. After successfully completing the course, he availed the loan offered by Akhuwat and bought raw material to make and sell clothes. While his Guru was given a job by the Divisional Administration in the Cattle Market Management Company Sargodha. Both of them left their previous life and turned a new page in their lives and they feel happy and satisfied.

an absence of a champion or coordinator to take forward the initiative, the project could not sustain itself once the Commissioner was posted out from Sargodha. The failure of upscaling could partially be explained by the traditional inertia at government level to undertake a project which did not fit a standard pattern. Despite notification of a doctor at DHQ Hospital specifically for transgenders and provision of special health cards (which they themselves requested), the health facility provided at DHQ hospital was not frequently used by the transgenders and they were still comfortable in going to local quacks. This basically showed that until there was non-threatening environment for transgenders, they would avoid using public facilities where they had to interact with the general public. The immediate objective of the intervention was to provide social services through public sector organizations and provide a window of opportunity for local transgenders. Mainstreaming was expected to come at second stage which did not happen. The intervention also showed that despite the provision of few social services, many of the transgender saw no benefit in getting education; few of the graduated trainee went to start their own businesses; and even fewer accessed public health service delivery outlet despite easy access. This indicated that they were not comfortable in the current socio-cultural environment confirming what social exclusion theory postulates i.e. inclusion requires an all-encompassing response.

## **Conclusion**

The research study has revealed that provision of enabling environment to transgenders is necessary but not a sufficient condition for mainstreaming and overall mainstreaming of this disadvantageous group requires a more holistic approach. The deprivations faced by transgenders are multifarious and complex and requires a larger policy response keeping in view the cultural, social and political aspects. Deliberating and talking about the issues faced by the transgender community is important and is a first step towards overcoming socio-cultural taboos and mainstreaming effort. The problems and challenges confronted by the transgenders need to be looked through the framework of social exclusion, and the policy response need to be tailored accordingly. The mainstreaming of transgender community requires full commitment of government. Before devising any welfare programme it is necessary to hold extensive consultative sessions with transgenders community and their respective leaders/Gurus to identify the areas of their interests and comfort. The programme should be kept flexible and need based given that they have a peculiar lifestyle and duration of any welfare program must be of five years or more for making it more effective and successful. They face harassment and disrespect in their everyday life and if they are given respect, they would be more amenable to the opportunities offered.

However, in order to take forward such initiatives on a sustainable manner, a dedicated institution is required at the provincial / national level with political backing which could champion the cause of transgender in a holistic manner over a period of time. It would be an arduous task but is necessary to undertake if we envision a society where transgenders are accepted as equal member of the society.

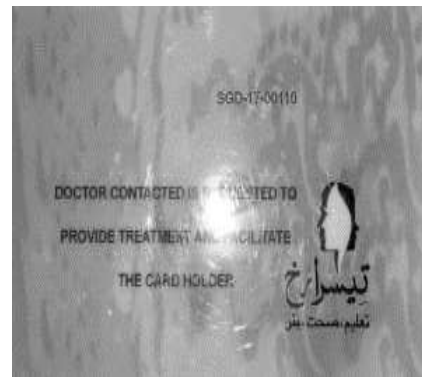
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## Annexure A



## **Annexure B**

### **Observations of a Teacher**

Mr. Mohsin Azeem, a student of sixth semester of B.Sc. Information Technology (IT), University of Sargodha, taught the adult literacy classes for Transgender in Sargodha city. He recalled that he was approached by Mr. Sanaullah from the Literacy Department for the task. Since he had earlier worked with the Literacy department, he accepted the challenge. He took this job since he felt that transgenders also deserved a break and must be provided the opportunity. He had done some social work earlier as well and took the assignment as a challenge. He further recalled that teaching transgenders was not easy and found the behaviour of transgenders disconcerting but he persisted and understood that the situation demanded special handling and patience. The Literacy department's officials were very supportive and regularly visited the classes to support him. Mohsin further recollected that he shared his experience of teaching with his close friends and immediate family member but never revealed it to his relatives or class fellows as he felt that they would ridicule him.

Speaking about the response of transgenders in the class, he said that most of them took interest and studied seriously. He used slides and computers as tools to keep the transgenders interested in the course and he also taught them teachings of Islam. The refreshments provided by the Literacy department were appreciated by the transgenders and they felt that they are being treated respectfully.

Mohsin observed that the location of the classroom could have been better, however, he understood the constraints faced by the administration in this respect. Overall, he thought it was a good initiative which contributed towards the welfare of transgenders.

## **Endnotes**

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<sup>2</sup> Ibid

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<sup>14</sup> Jennie Popay et al. "Understanding and tracking social exclusion: final report to the WHO Commission on Social Determinants of Health. Lancaster: Social Exclusion Knowledge Network" (2008): 207.

<sup>15</sup> Amartya Sen. "Social Exclusion: Concept, Application and Scrutiny", (2000) <https://www.adb.org/sites/default/files/publication/29778/social-exclusion.pdf> , 44, 47 (accessed 13 July, 2019)



# **ROLE & PERFORMANCE OF INPUT-OUTPUT COEFFICIENT ORGANIZATION IN THE LIGHT OF INTERNATIONAL EXPERIENCE AND WAY FORWARD WITH REFERENCE TO INDUSTRIAL COMPETITIVENESS.**

*Ayesha Niaz (PCS)*

## **Introduction**

### **Introduction to Research Idea**

Input-Output Tables (IOTs) help to describe the purchase and sale relationships between the consumers and producers in an economy (OECD, 2019). The IOT, defined simply, shows how the output of one industrial sector becomes the input of another, depicting thereby the degree of dependence of each sector in an economy on another, on the basis of product and industry classifications (Gretton, 2013)<sup>1</sup>. In fact, the input-output model is part of the national accounts of most developed countries along with Supply Use Tables (SUTs) which are often used to calculate a country's GDP (United Nations, 2018). The SUTs describe how products (goods and services) enter an economy (either through imports or through domestic production) (the Supply Table), and the various ways in which these products are then used (household final consumption, intermediate consumption by industries for manufacturing of other products, government final consumption, exports, gross capital formation etc.) (the Use Table). They play an important role in providing a mechanism for the compilation of a single comprehensive GDP estimate comprising of all parts of production, expenditure and income (United Nations, 2018). Increasingly now, SUTs provide the base for derivation of IOTs.

<sup>1</sup> Input output analysis is a kind of economic analysis developed by the 20<sup>th</sup> century Russian born US economist Wassily W. Leontief, that measures the interdependence of an economy's productive sectors through observing the product of each industry both as a good used for final consumption as well as an input in the production process for the manufacture of other goods.

<sup>2</sup> The ratio of a change in national income to the change in government spending that causes it.

<sup>3</sup> the ratio of deposits to reserves in the banking system.

IOTs are often used for the calculation of output, employment and income

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multipliers on the basis of industrial interdependence relating specifically to the provision and usage of products. They help summarise both the explicit and the implied effects on employment and economic activity across all industries within an economy resulting from an adjustment in a specific industry's final output. Consequently, (unlike SUTs), IOTs have a strong micro focus, clearly differentiating them from other economic multipliers, i.e. fiscal multipliers<sup>2</sup> or money multipliers<sup>3</sup> which focus on macroeconomic and monetary relationships respectively (Gretton, 2013).

Globally, measurement of value addition at different stages of production contributes towards better policy making in various fields, including taxation, import substitution etc. Better policies require better evidence and data. In fact, although IOTs have been in evidence for some time now, it was only in the first decade of the twenty first century that there was a surge in reliance on input output coefficients for experiential analysis to inform a broad range of policy issues (Wixted, Yamano & Webb, 2006).

Gretton (2013), however, points out that IOTs and their multipliers have some limitations which need to be considered when carrying out an IOT analysis. For instance, they may not recognize the following: 2

- Resource-related limitations: the employment of inputs such as capital or labour by a certain industrial activity is at the expense of its employment elsewhere;
- Relative changes in production technology or prices resulting in a change in the combination of inputs employed in production; and
- how policy interventions that impact, for instance, tariffs on imports (input goods), support to industry, industrial competitiveness, workforce participation etc. affect price and other variables.

To overcome the above-mentioned constraints of IO Multipliers, Gretton (2013) suggests a slightly different approach, also based on input-output data: Computable General Equilibrium (CGE) modelling, more flexible than the traditional and static input-output model and, therefore, increasingly employed for simulating economic impacts. It provides a framework that makes allowances for economic interdependencies and the major role played by relative prices on economic activity. Nevertheless, effective use of CGE models for assessment of the contribution of industrial activity to economy is still dependent upon updated and authentic input-output tables (Gretton, 2013). With increasing globalisation, and resultant frequent economic change, it is imperative that IOTs are regularly updated to enhance their

relevance for policy making.

As per international best practices, input-output coefficients (IOCs) are used to develop policies focused on enhancing industrial competitiveness. Many countries, thus, make policy interventions based on these coefficients. In most countries, national statistical organizations/institutions are responsible for compilation of National Accounts data, including both SUTs and IOTs, although, in some countries, these functions may be shared between the national statistical institutions/organizations and national central banks.

Furthermore, international organizations such as the Organization for Economic Cooperation (OECD) and World Trade Organization (WTO) have produced “a new global data base on trade in value added” to trace distribution of value added along Global Value Chains (GVCs) (Xing, 2016, p.2). This is often enabled through international IOTs (IIOTs) which help trace the origins of inputs for goods and services as well as their use between countries and industries and can be used to assess “trade flows between both upstream and downstream partners of GVCs” (Xing, 2016, p.3). IIOTs are essentially derived from national IOTs, approximated bilateral trade coefficients and national accounts.

In Pakistan’s case, IOCs have been developed by various authorities including the Directorate General of Input Output Coefficient Organization-Customs (DGIOCO-Customs) and the Pakistan Bureau of Statistics (PBS). PBS developed three inter-industry IOTs (for the years 1984-85, 1989-90 and 1990-91). The last official IOT was developed by PBS for 1990-91 relying on the 1993 System of National Accounts<sup>4</sup> (SNAs) (Zeeshan & Nasir, 2019).

<sup>4</sup> An accounting framework used to both compile and report a country’s economic statistics for economic evaluation followed by policy decisions. <sup>3</sup>

The DGIOCO-Customs was notified as a Directorate General in 2013. Recently, the Directorate General of Input Output Coefficient Organization-Inland Revenue has also been notified in this regard. The DGIOCO is responsible only for preparing/verifying input-output ratios and wastages that are industry and commodity specific in order to bring some uniformity to the exemptions regime for the industrial sector.

## **Scope**

The aim of this research is to explore the significance of IOTs in evidence-based decision-making and to identify the institutional gaps in this regard in Pakistan. This paper reviews the development of IOCs by the above-mentioned organizations in

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Pakistan and analyses the global role of IOT development in enhancing industrial competitiveness. It compares Pakistan's IOT development, usage and experience against international best practices, thereby identifying the gaps that need to be addressed to achieve the desired goals. On the basis of the gaps identified, the best way forward has been suggested and possible policy recommendations have been suggested. Research questions that have been explored in this piece of work are:

- i. Which organizations in Pakistan are producing IOTs?
- ii. Whether these tables are being used for economic analysis and enhancing industrial competitiveness?
- iii. What is the gap when compared with the international experience of input output organizations?
- iv. How can this gap be reduced and what is the way forward?

Due to time constraints, however, best practice experiences of only a limited number of countries/organizations were drawn upon including Singapore, Australia, Brazil and Greece. Furthermore, this study is non-technical in nature, focusing not so much on the formulation of input output tables themselves as on their significance for planning and policy formulation, especially with regard to industrial competitiveness.

### **Literature Review**

Most of the local research available on the subject is technical in nature, limited to the formulation of IOTs and coefficients, and not so much focused on an analysis of how they can feed policy. Saleem, Mahmood et Al (1983) formulated Input Output IO tables for the year 1975-76 in their research report for Pakistan Institute of Development Economics (PIDE). Recently, Zeeshan & Nasir (2019) constructed the IO table for 2010-11 on the basis of the 2008 SNAs, employing the industry-by-industry approach and using the data to analyse backwards<sup>5</sup> and forward linkages<sup>6</sup> of various industrial sectors. Wixted, Yamano and Webb discuss the applications of OECD's harmonised international tables in some detail (2006) while Xing (2016) points out the importance of new ways of measuring trade in value added along the

<sup>5</sup> Linkage of an industry with its suppliers.

<sup>6</sup> Linkage of an industry with its customers/clients. 4

Global Value Chain (GVC), including IOTs. Sonis and Hewings (2007, p.2) explain how the "innovation spread" of emerging new technologies and consequent

reorganization of economic processes has contributed to a change in the direct input coefficients and altered input output dynamics. A report by Gretton (2013) on the Australian Government Productivity Commission's website discusses the benefits and limitations of IOTs in terms of enhancing future use of this tool for economic analysis. It is evident from the foregoing, therefore, that no research has so far been carried out on the role and performance of input output organizations in Pakistan as compared to international best practices, with particular focus on their role in influencing policy-making for industrial competitiveness. This area is, therefore, what the subject study shall focus upon.

## **Methodology**

### **Research Strategy**

The study adopted a qualitative research approach utilizing primary sources collected through unstructured interviews of various relevant stakeholders from PBS and the DGIOCO as well as secondary data sources. Secondary data sources were collected in the following ways: searching for relevant literature online, including books, articles, working papers etc. and browsing literature available in libraries.

### **Data Sources**

The main sources of data included online publications of local and international organizations like Pakistan Institute of Development Economics (PIDE), OECD and Asian Development Bank (ADB) and their official websites as well as the official websites of PBS and Federal Board of Revenue (FBR). Physical books, reports and articles on the use of input-output coefficients for policy making were also consulted from local libraries. Senior officers posted at the DGIOCO-Customs, Karachi and Lahore, as well as relevant officials at PBS were interviewed to get their perspectives on the subject. Thus, data was collected from diverse sources for analysis and the drawing of conclusions.

## **Findings and Discussion**

### **Organizations Producing Input-Output Coefficients in Pakistan**

#### **Directorate General of Input Output Coefficient Organization-Customs (DGIOCO-Customs)**

The DGIOCO-Customs was established under Section 3DDD of the Customs Act, 1969 and notified through Customs Rules, 2001 vide SRO 450(I)/2001 dated 18-06-2001, for the purpose of bringing uniformity to the process of Customs exemptions (FBR, 2019). The following Customs departments/functions were, therefore merged

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to form the subject Directorate General: 5

- ☐ Duty Suspension and Audit Office (DSAO)
- ☐ No Duty No Drawback
- ☐ Survey and Rebate

The various Directorates of IOCO were notified vide SRO 646(I)/2008 dated 24.05.2018. They were divided region-wise: Central (Punjab excluding Rawalpindi Division); North ((ICT and Rawalpindi Division, Khyber Pakhtunkhwa and Gilgit Baltistan); South (Sindh and Balochistan) and Headquarters (Karachi). The scope of DGIOCO extends to the export sector with the aim of boosting exports by reducing cost of doing business and enhancing ease of doing business. The organization also aims at providing support to local industry by enhancing import substitution and promoting industrialization.

As far as exports are concerned, the Organization determines input-output ratios and wastages for various export exemption regimes including the Duty and Tax Remission for Exports (DTRE), Manufacturing Bonds, Duty Drawback, Export Oriented Units (Home Textile, Textile, Leather, Garments and Chemicals) and finally, Small and Medium enterprises (SMEs). The relevant SROs are SRO 450(I)/2001 dated 18.06.2001 and 327(I)/2008 dated 29.03.2008 (FBR, 2019).

With regard to local industry, the organization is responsible for calculation of annual quantitative entitlement of inputs/ raw materials, including packing material for the pharmaceutical industry, assembly of cellular mobile phone in SKD/ CKD, assembly of LED Lights, multiply paper aseptic food packaging etc. under SRO 450(I)/2001 dated 18.06.2001, 5th schedule to the Customs Act, 1969 and 565(I)/2006 dated 05.06.2006 (FBR, 2019).

Additional Collector, Directorate of IOCO-Central, Lahore, revealed, however, that the organization is severely constrained due to absence of technically trained sector specialists and limited human resource (Qasmi, 2019). Customs officials (appraisers and inspector-level officers) carry out the work of surveying production processes and calculating wastages and input-output ratios. They lack the technical know-how for this job and the limited workforce available (the IOCO organization is not perceived as a prime posting for Customs officers) makes it difficult to carry out regular surveys for updating purposes, including the mandatory annual review of input output ratios required under the Duty Drawback scheme. As per international best practices followed in East Asia (China, Korea and Taiwan), the task of

tabulating input output coefficients needs to be carried out by qualified engineers, completely distinct from Customs, with Customs focusing entirely on the implementation of drawbacks and exemptions on the basis of the preformulated and published ratios (Harrold, Jayawickrama & Bhattasali, 1996).

Another impediment faced by the organization is the fact that much of the industrial and export-oriented sector in Pakistan, especially in the areas of Sialkot and Gujranwala, comprises of cottage industry (Qasmi, 2019). Their records are not streamlined and they require training and awareness with regard to correctly filling in their input-output and wastage declarations. 6

It is clear, however, that the input output ratios determined by DGIOCO-Customs are entirely specific to manufacturers cum exporters and manufacturers cum importers and are an integral part of the exemptions regime for export-oriented industries and local manufacturers. For instance, the organization will verify the actual quantity of input goods used and wastage incurred for the manufacture of one unit of output goods of a specific industry. DGIOCO's focus and scope, therefore, does not extend to determining industrial interdependencies in the economy. It is quite limited, as emphasised by Additional Director, Directorate of IOCO-South, Karachi (Mohammad, 2019), and the ratios determined by the organization play no part in macroeconomic policy-formulation especially for enhancing industrial competitiveness. It is in fact the IOTs compiled by the Pakistan Bureau of Statistics as part of the National Accounts series that reflect the industrial interconnections in the economy and can be used for macroeconomic policy-making.

### **Pakistan Bureau of Statistics (PBS)**

PBS is the official agency in Pakistan responsible for the timely collection, compilation and dissemination of statistical data to policy makers, planners and researchers. It publishes a number of reports on various socio-economic subjects.

In 1992-93, a pilot IOT for 1984-85 was produced by the then Federal Bureau of Statistics (FBS) under a Dutch government funded project INAS in sync with SNA 1993. This was followed by a second IOT for the year 1989-90 comprising of a detailed data-set generated by three surveys: ISSMI Large and Small, Agriculture Input-Output Survey (AIOS) and Household Income and Expenditure Survey (HIES) carried out specifically for the purpose. It was published in December, 1996 and was also prepared under the INAS Project (Federal Bureau of Statistics, 2001). The IOT 1990-91 (published in 2001) was developed independently by the National Accounts Wing of FBS, again in line with SNA 93, but with enhanced coverage and relatively better database (Federal Bureau of Statistics, 2001). It included the

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following calculations:

- ☐ Supply Table/matrix commodity by Industry
- ☐ Use Table/matrix commodity by Industry
- ☐ Symmetrical Input-Output Table Industry by Industry
- ☐ Direct requirement coefficient matrix Industry by Industry
- ☐ Total requirement coefficient matrix Industry by Industry

Unfortunately, IOT 1990-91 was the last IOT to be prepared by PBS which represents a sad state of affairs (Zeeshan & Nasir, 2019). Even when these tables were prepared and published, they were not used by the government for economic policy making, as per feedback from Director National Accounts/Prices, PBS (Rehman, 2019). Several IOTs had also been compiled by individual researchers/research institutes prior to the first official exercise by PBS for the year 1984-85: in 1965 by Rasul for the year 1954; Ahmad in 1964 for the year 1959-60; Norbye in 1985 for 1960; Rasul again in 1966 and Pakistan Planning Commission in 1965 for the year 1975-76 and PIDE (1985) for 1975-76 (Zeeshan & Nasir, 2019). These too were mostly 7

academic exercises which were not really used for informed policy formulation by the government.

In April, 2008, the United Nations Statistical Commission recommended adoption of the 2008 SNA in order to bring the National Accounting framework in line with fresh developments in the economy, particularly as SNA 2008 catered for structural changes in the economy as well as technological advancements in methodology. All countries were expected to update their SUTs and IOs accordingly. However, as pointed out by Director National Accounts/Prices, PBS, Pakistan could not do the needful due to both financial and technical constraints of PBS (Rehman, 2019). In 2014, the Asian Development Bank (ADB) launched Regional Capacity Development Technical Assistance (RCDTA) 8838 for the updating and construction of SUTs for selected developing member economies. Nineteen countries participated in the said Programme, including Pakistan with the objective of implementing the 2008 SNA recommendations through the standard compilation of SUTs. Pakistan prepared SUTs for the year 2010-2011 (despite lack of complete data sets for that year), the results showing that 89% of total supply was from domestic sources, with only 9% share of imports, reflecting that Pakistan's total domestic output was sourced from industrial goods and services (Asian



Development Bank, 2017). During the Programme, technical assistance was provided by ADB through workshops and both direct and online expert support for compilation of data and production of tables. Although, PBS faced limitations of qualified human resource and lack of reliable data on the informal economy during the programme, PBS also benefitted from ADB's technical assistance to the extent that it is now ready to undertake the elaborate exercise of rebasing of National Accounts base from 2005-2006 to 2015-2016 as well as compiling SUTs for 2015-16 (Rehman, 2019). In fact, detailed surveys are presently going on in this regard.

Nevertheless, the fact remains that after construction of SUTs based on 2008 SNA, PBS was supposed to construct IOTs based on 2008 SNA as well but so far, this task has not been initiated (Zeeshan & Nasir, 2019). It is essential, therefore, that updated IOTs based on the 2008 SNA be compiled for effective policy decisions.

PBS, however, faces several issues and challenges in this regard. Firstly, of course, a large chunk of Pakistan's economy continues to be undocumented and part of the informal sector. Consequently, reliable data is not available since many small manufacturers are neither registered with the Securities and Exchange Commission of Pakistan (SECP) nor filing quarterly financial reports. Thus, it becomes next to impossible to compile accurate data for the formulation of input output tables.

Furthermore, there is general lack of commitment in this regard at the highest levels. To make matters more difficult, PBS has now been brought under the Planning Ministry which is likely to dent public perceptions of its impartiality (Rehman, 2019). One of PBS's tasks is to evaluate the planning of the government, and independent evaluation is likely to be compromised once it is a part of the Planning Ministry itself.

PBS also faces structural issues that adversely impact the motivation and morale of its employees. Prior to 2011, it existed as the Federal Bureau of Statistics (FBS) headed by a 8

Director General of BS-21, usually one of the officers who had risen from the ranks of PBS itself and had the necessary institutional memory and technical experience. Post 2011, however, the Pakistan Bureau of Statistics came into being after merger of FBS, Population Census Organization (PCO) and the Agriculture Census Organization (ACO). Consequently, the organization was completely restructured and capacity for work was compromised as no rules and regulations were formulated for promotion etc. Prior to 2011, there was a clear line of promotion right up to BS-21 for PBS employees. However, post 2011, BS-21 posts were abolished and replaced instead with MP1 and 2 positions (Chief Statistician and 5 members) for

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which any qualified individual from outside could also apply. PBS employees could compete for the said posts only after resignation from government service. As a result, the post of Chief Statistician has been vacant for the past two years while the organization has never had five functional members at one time. The crucial post of Member (National Accounts) has been vacant for the past three years despite having been repeatedly advertised (Rehman, 2019). The main flaw in the new system is that PBS is a purely technical organization where practical hands-on experience is an asset. However, members are now not being recruited through the system, which impacts the performance and in turn, the output of the organization according to Director PSLM & Sample Design, PBS (Awan, 2019).

Performance of PBS officials is not only impacted by limited opportunities for promotion to the highest levels but also by the low rates of remuneration they receive, which is not at par with their technical knowledge and expertise. As pointed out by both Rehman (2019) and Awan (2019), PBS has been losing many young PHDs due to dearth of research-oriented activities, lack of motivation, slow promotions and low salaries.

Furthermore, according to Director, National Accounts/Prices, after merger of FBS, PCO and ACO to form PBS, focus was shifted entirely to the census survey, which was previously the purview of the Population Census Organization, and all resources of the erstwhile FBS and ACO were also used for the Census (Rehman, 2019). Therefore, the work done up until then by the FBS suffered. For instance, the census of manufacturing industries that was carried out regularly every five years up until the merger, ceased entirely after report for 2005-2006 was released. The PSLM and Labour Reports both could not be prepared in routine (Awan, 2019).

Another problem is the perception industry has about the industrial and other surveys conducted by PBS for preparation of national accounts and IOTs and SUTs. Due to lack of awareness about PBS's actual role, industry is reluctant to fill out the said forms for fear that they might be used to impose higher taxes on them. They, thus, tend to club the PBS survey teams with tax officials and as a result, response from the industrial sector to these surveys is generally quite poor (Rehman, 2019).

Furthermore, PBS presently has 32 Regional and Field Offices spread across the country including an office in AJK and another in GB. PBS has trained staff of statistical assistants (male and female) in BPS-16 responsible for collection of primary data through various surveys designed by PBS HQ. Regional offices are headed by a Chief Statistical Officer (CSO) BPS-18 with a staff of two to three Statistical Officers (SOs) in BPS-17, and are equipped with vehicles and motorcycles

for monitoring of field staff. However, presently, paper-based data

collection prevails in PBS (except for price data). CSOs and SOs are responsible for credible data collection from the field and they physically visit the field staff to ensure this. Unfortunately, it is impossible for them to monitor each and every enumerator in the field (Rehman, 2019). Since, field staff is allowed TA/DA for field activities in addition to regular salary, there have been cases of abuse of the system when field enumerators are away from office ostensibly for field duties for up to 30 days in order to claim TA/DA allowed to them as per rules.

Finally, there is the issue of limited accountability. Presently, the PBS is operating in a state of limbo. No one at the helm of the government is actually asking about the reports and surveys being conducted or not conducted by PBS (Rehman, 2019). Since the subject is extremely technical, there is limited understanding of the data generated and consequently, it is not used for planning or policy formulation as it is in the developed world. According to Rehman (2019), even the weekly reports pertaining to prices that are regularly compiled and forwarded to the PM Office are not actually used for any policy making, often because there is no one in the PM office who has the requisite technical understanding to interpret statistical reports for policy formulation.

Thus, in view of the above, it emerges that PBS is facing a host of issues that hinder its main function of working on SUTs and IOTs. Even when it was producing the said tables, however, these were seldom utilized for effective policymaking or the allocation of resources by the government as is the norm in the developed world.

### **International Experience**

World over, national statistical institutions/organizations are responsible for the preparation of National Accounts and IOTs. In India, for instance, the Indian Statistical Institute (ISI) prepared IOTs from the late 1950s up to early 1970s, followed by the Central Statistical Organization (CSOrg.) from 1978 onwards, later renamed Central Statistical Office (CSO). The organization has been preparing IOTs at regular intervals of four to six years since IOTs are very much part of the planning process in India (Hiroshi & Hajime, 2009).

In most advanced economies, IOTs are often used to study industrial interdependence in an economy through simulating the economic effects of expenditure either on the output of one or more industries or on a group of specific goods and services. Through these simulations it is possible to understand direct, indirect and induced impacts on GDP including the industries that would benefit the most, how many jobs would be created and assessments of subsidies and indirect

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taxes etc.

As per the Scottish Government website (2019), IOTs generate a comprehensive snapshot of the movement of goods and services in an economy during a particular year, thereby describing the interconnections between consumers and producers and reflecting industrial dependencies. Consequently, most large-scale models of the Scottish economy are based on IOTs – in fact, these accounting tables are regularly used by the government and analysts, including academicians, for detailed study of the Scottish economy and for simulating the impact of 10

various possible economic events. IOTs help model the whole economy and measure complex industrial flows of goods and services on the basis of updated data received from a variety of sources including business surveys and UK National Accounts. National IOTs are, therefore, usually collated some years following the year to which they actually relate (Scottish Government, 2019).

Australia is another good example of a country where IOTs have been used to model the economic effects of an industry on the total output of the country and its importance vis a vis other industries. For example, the Australian Government's Department of Resources, Energy and Tourism (RET) carried out an IO analysis to study the broad contribution of the tourism sector to Australia's economy (Gretton, 2013).

The Australian Bureau of Statistics' IOTs were used and total output multiplier of tourism was estimated at 1.91. It emerged, thus, that for a single dollar earned directly by tourism in the Australian economy, there was value addition of a further 91 cents to other sections of the economy. Tourism's total multiplier (1.91) was, thus, larger than other major industries including retail trade (1.80), mining (1.67) and education and training (1.38) (RET [2011] as cited by Gretton [2013]). This meant that more investment in the tourism sector was likely to make it more competitive and boost economic development much more than investment in other industries.

The same method was used in another case when the tourism total employment multiplier was estimated at 11.4 while the indirect employment multiplier value was 4.04. On the basis of this multiplier, it emerged that an increase of one per cent of tourism direct consumption expenditure of \$80 billion (\$0.8 billion) generated output beyond tourism of \$0.7 billion (in nominal terms) and increase in employment beyond tourism of 2,800 persons (RET [2011] as cited by Gretton [2013]).

Furthermore, an article by Senator Kim Carr (as cited by Gretton [2013]) also used

IOTs to reflect the significance of Australia's motor vehicle manufacturing industry to the economy. On the basis of standard international employment multipliers, the report observed that the motor vehicle manufacturing industry was directly responsible for the wages of 46,000 Australians while simultaneously contributing indirectly to those of at least 200,000 in related manufacturing and service industries. Furthermore, the industry took \$1.3 billion in locally manufactured iron and steel, \$157 million in chemicals and \$444 million in polymer products. It also derived business of around \$2 billion for local wholesale trade and \$1.6 billion worth of professional, scientific and technical services.

Through this analysis, Senator Carr argued that the due to the importance and contribution of the motor vehicle manufacturing industry, the government should keep supporting it to enable its continued competitiveness (Carr [2012] as cited by Gretton [2013]).

Similarly, the National Disability Services, Australia, on the basis of an IOT model, observed to a Productivity Commission inquiry, that were only 4 per cent of the people on the Disability Support Pension employed within the community services sector (a comparatively low-paid 11

sector with limited flow-on effects), the economic impact would amount to about \$5 billion dollars. However, were these same people employed across all industrial sectors (according to the workforce percentage working in each major industry sector), the economic impact (both consumption and industrial effects) could be as great as \$25 billion. (Productivity Commission Disability Care and Support Report No. 54 [2011] as cited by Gretton [2013]).

Singapore too uses IOTs to analyze not only value addition within an industry but also dependence of industry on domestic intermediate inputs vs imported intermediate inputs. According to a Department of Statistics Singapore Report, in 2014, Financial and Other services added the highest value to total output (Department of Statistics Singapore, 2019). The study revealed further that for the same year, the Construction sector was most dependent on domestic intermediate inputs whereas transport & storage and utilities sectors had the highest dependence on imported intermediate inputs. It emerged, therefore, that the utilities industry had the highest forward linkage, reflecting the importance of its services to all other domestic industries. Similarly, the construction industry has the highest backward linkages, reflecting its importance for all other domestic industries (Department of Statistics Singapore, 2019).

Input output analysis conducted on the Greek economy on the basis of calculation of

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output and employment multipliers and given the economy's underlying structures, indicated the possible role to be played by certain significant sectors including agriculture, tourism, health services, transport and construction, when formulating the country's growth policies. Results suggested further that improvement of education services and research & development might significantly boost output and employment, thereby promoting knowledge spill overs and innovation practices considered to be important for the production of intermediate and final value-added goods and services of higher quality. This is so because these sectors reflected significant induced effects, suggesting thereby that any improvements/structural changes in these sectors would impact a large range of activities in the Greek economy. For instance, education and research and development could improve the quality and value added of goods and services, thereby enhancing the country's competitiveness. (Athanassiou, Tsekeris & Tsouma, 2014).

An OECD simulation study employing the CGE method on the effect of trade liberalization in Brazil revealed how tariff reductions would affect the economy, consequently enhancing the competitiveness of Brazil's export industry (Arujo & Flaig, 2016). Simulation results based on three policy scenarios (reducing import tariffs on intermediate goods, decreasing existing local content requirements, zero-rating exports in indirect taxes) showed that Brazil's combined exports would likely increase by about 20% with a boost in exports in most sectors barring oil and gas, particularly in the manufacturing sectors. Thus, exports of items like leather products, motor vehicles, electronic and transport equipment, machinery and non-ferrous metals could rise to between 40% and 60%. It was further deduced that removing trade barriers would enable greater assimilation of the Brazilian economy in Global Value Chains (GVCs)

The study also revealed that while maximum gains in aggregate exports would result from removing tariffs on imports of intermediate goods and zero-rating of exports in indirect taxes, 12

the relative impact of all three policies on trade, employment and production would be sector specific (Arujo & Flaig, 2016).

According to results, lower trade barriers would clearly impact the efficiency of the economy, enabling the manufacturing sector to employ a greater share of foreign intermediate goods in production. This would in turn lower the prices of final goods, thereby improving the export competitiveness of Brazilian products and profiting Brazilian households. Furthermore, capital costs would fall and investment would surge, consequently supporting further increase of production (Arujo & Flaig, 2016).

It was further reinforced that trade liberalization would improve employment since lowering the afore-mentioned trade barriers would likely contribute around 1 and half million jobs to the economy. Significantly, creation of jobs was higher for relatively lower skilled occupations, thereby accruing more benefits for lower income groups.

Trade liberalization would also impact demand for labour at the sector level, based mostly on the specific policy shock. In the textile and gas sectors, for instance, job loss was higher than 5%. Although, zero-rating exports reallocated resources away from the gas sector, it reduced job losses in all other sectors where jobs would otherwise be lost following decrease in import tariffs and lower content requirements (LCRs).

## **Conclusions**

Clearly, good data informs effective policy making and provides a solid basis for opting between competing demands and the subsequent allocation of scarce resources. Internationally, National Statistical Organizations/ institutions are responsible for the compilation of SUTs and IOTs which are then used to inform policy-making by respective governments, particularly with reference to efficient allocation of resources to enhance industrial and export competitiveness. Unfortunately, in Pakistan, PBS faces severe financial, technical and human resource constraints and is consequently not able to take on this important role. Furthermore, there is little interest shown by the government in informed decision making for industrial competitiveness. Thus, it is imperative that PBS be strengthened so it is able to take on the role of compiling and constructing SUTs and IOTs as is done by national statistical organizations regionally and globally.

## **Policy Recommendations**

### **Institutional Reforms in Pakistan Bureau of Statistics**

An essential step forward would be autonomy for PBS on the lines of SECP, State Bank of Pakistan etc. It should preferably be made an independent or semi-independent organization in its own right under a Ministry of Statistics with its own resources and financial and administrative autonomy instead of being an attached department under the Ministry of Finance or Planning. In India, for instance, the Central Statistics Office is part of a separate Ministry, the Ministry of Statistics and Programme Implementation. In Sri Lanka, the Department of 13

Census and Statistics is autonomous. Structural reforms would also be required in order to ensure that PBS employees have better promotion prospects within the

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organization, which would be a morale booster for them. Approval for autonomy for PBS and structural reforms within the organization would be required from the Prime Minister Office and the Cabinet.

### **Strengthening of the Law**

While the General Statistics (Reorganization) Act, 2011 provides for conducting an industrial survey, it is quite weak with regard to enforcement of the said area. The penalties prescribed for failure by industries to fill in the industrial survey are too minor to impact compliance. The Act, therefore, needs strengthening with enhancement of penalties for non-compliance by the industrial sector. PBS may propose changes to strengthen the Act for approval by Parliament.

### **Redesigning of the Questionnaires for Industrial Survey**

The questionnaires used for industrial survey are in English, which becomes an issue since not everyone can understand English, thereby adversely impacting response from the industry. Urdu versions of the questionnaires should also be made available by PBS in order to facilitate better responses. Furthermore, the jargon used in the questionnaires is highly technical and not easy to comprehend by the ordinary respondent. It would be advisable, therefore, that PBS redesign the questionnaires adding Urdu translations of all the questions and ensuring that the queries are in laymen's terms that are easily understood.

### **Proactive Role by PBS**

As discussed earlier, there is widespread lack of awareness amongst the stakeholders (including industry) on PBS' actual role. Consequently, there is a perception amongst the general public that the forms and surveys PBS conducts are in some way connected to tax organizations – hence, the low rate of response to PBS surveys, particularly the industrial surveys. Since these surveys form the backbone for preparation of IOTs and SUTs, it is imperative that PBS play a more proactive role in creating awareness and publicity about its own role and the importance of SUTs and IOTs for the national economy and planning. This would include arranging regular awareness seminars and workshops for all stakeholders, including industry so that industry's erroneous perceptions about industrial surveys are managed.

### **Electronic Solutions & Innovation**

Data collection would become far more effective if it was carried out electronically. Director National Accounts, PBS informed, for instance, that for the first time, price data was being collected electronically by PBS through the use of tablets, which also



allowed the supervisory officers to monitor movement of the field staff in real time. Thus, the same practice may be followed for collection of all data that shall feed the IOTs and SUTs, making the process a little less complex, lowering the margin of error and improving the reliability of the data collected. This would also save on petrol and TA/DA. 14

Furthermore, PBS may maintain only a skeleton staff of Statistical Assistants in BPS 16, and young graduates may instead be hired for each data collection activity through tablets. These young graduates would be more comfortable handling electronic gadgets and may be paid a fixed amount per questionnaire. This would save on salaries paid to regular staff and TA/DA claimed by them as well as petrol.

### **Statistical Awareness and Lack of Accountability**

Presently, due to restricted statistical awareness and lack of interest or appreciation of statistics by policy makers across all tiers of government including at the very top, PBS is not really held accountable with regard to any of the reports and surveys it is unable to conduct due to time constraints. This naturally has an adverse impact on the efficiency of the organization. Furthermore, since the subject is extremely technical, there is limited understanding of the data generated and consequently, it is not used for planning or policy formulation as it is in the developed world.

In order to resolve this issue, statistical wings may be set up in the PM Office, Ministry of Planning as well as Ministry of Finance, manned by technical officers from PBS or statisticians recruited for the purpose from the private sector. These wings could then assist the policy formulation wings of the government by interpreting the data of supply use and input output tables in order to facilitate its use for policy formulation.

(6392 words) 15

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## **Case Study: Effectiveness of Commercial Diplomacy for Export Promotion<sup>1</sup>**

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### **Introduction:**

A trade mission abroad works with the business objective of promoting bilateral trade and investments. Within this broad agenda, enhancing exports to the host country is the foremost priority. In the context of Pakistan, a trade mission, with rare exceptions, comprises of a Civil Servant selected by the Ministry of Commerce (MOC) supported by a Trade Development Officer (hired locally) and a Commercial Assistant (a government official). The general tendency is to locate such missions within Pakistan embassies at national capitals not only for austerity reasons but also to capitalize on synergies with political or other diplomatic initiatives. In addition to their routine budgets trade mission can tap resources from an “Export Management and Development Fund (EMDF)” for new business promotion and market outreach activities with prior approval. Despite these institutional arrangements catering for financial and HR needs, a Commercial Diplomat finds himself in uncharted territory. Prior to his arrival in the host country, his knowledge of the host country and its business dynamics is rudimentary. Post-arrival, he is cognizant of the requirement to familiarize himself with the language and culture of the host country and be up to speed in identifying and seizing upon business opportunities. The expectation is that he will develop an effective network and swiftly develop “social capital” in the host country to attain the twin objectives of export and investment promotion. The Commerce Ministry, wanting to extract value for money from the expensive arrangement of maintaining trade missions abroad, assigns export targets and subject trade missions to periodic performance monitoring.

It is assumed that a trade mission’s promotional efforts are directly linked with trade or export volumes but what transpires on ground (and is reflected in trade figures) is the outcome of a complex interplay of policies, strategies, favorable events and country perceptions. Literature offers no conclusive insights on the extent of contribution of a trade mission’s effort to export growth. Agenda-setting is in the hands of the Commercial Diplomat. The relationship between the Ministry and the trade mission, therefore, poses a ‘principal-agent’ problem, confounded further by the absence of a direct action-to-results chain.

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As part of the requirement of the National Management Course, an officer, Mr. Faiz Ahmed from Pakistan Customs Service developed a case study based on his experience as a Commercial Diplomat in Pakistan's trade mission at Madrid, Spain. The case study traces the performance of the trade mission that set itself an ambitious target of doubling Pakistan's exports to the host country in three years. The story explains a Commercial Diplomat's strategy that led to realization of the target within the stipulated time and offers practical insight for effective working of trade missions. The author of the case study uses the theoretical frameworks of economics (Armington Theory) and management (Freeman's Stakeholder Theory) to analyse the implementation environment and devise a workable strategy. The story he narrates is that of informed planning and careful implementation which brings out desirable skills and attributes of a successful Commercial Diplomat and enables the reader to extract useful lessons for export promotion.

### **Literature Review:**

Despite our stated intentions of becoming an export-oriented economy, Pakistan, over the years, has lost considerable ground in comparison with other Asian economies as measured by the growth trend of exports and the share of goods' and services' exports in GDP. In 1980, Pakistan's goods' and services' exports were 12% of our GDP; in the same year, Turkey's exports were 5% of her GDP. By 2018, Pakistan's exports had contracted in relative terms to 8.5% of GDP while in the case of Turkey, exports touched 29.6% of GDP. Export performance of countries, such as Bangladesh (14.8%), India (19.7%), Indonesia (21%) and Malaysia (69.7%) has also far outmatched that of Pakistan<sup>2</sup>. According to research conducted under the auspices of the State Bank of Pakistan, there has been no substantial change in Pakistan's export destinations in the last decade, despite there being a significant positive effect of globalization<sup>3</sup>.

The Armington Theory offers a standard, well-accepted explanation of trade volumes between two countries based on product differentiation by country of origin<sup>4</sup>. In individual markets, price-affecting measures such as tariffs and subsidies give a fillip to exports in case of commodities where price elasticities are greater than one, however, in case of inelastic products, non-price factors have a greater role in stimulating exports. 'Perceptions about the exporting country' is an example of a non-price factor linked to the importing country. Lingering commercial disputes may have an impact on perceptions and, therefore, on exports of a country, however, it is also acknowledged that a third party facilitator, well-socialised in the culture of the disputants can help quickly reach an amicable solution<sup>5</sup>.

According to Naray, the two key dimensions of factors that shape the nature of commercial diplomacy are organizational (such as arrangements between ministries and trade-promotion organizations, etc.) and individual (education, background and motivation). An important organizational concern is seeking effective arrangements between the Commercial Diplomat's organizational unit and the headquarters<sup>6</sup>. Kostecki and Naray categorise commercial diplomats into three categories based upon their style: he/she can be a "business promoter", "a civil servant" or a "generalist". The "business promoter" takes commercial issues as business concerns, is proactive and focuses on client satisfaction; the "civil servant" sees commercial issues mainly as an integral part of international relations, is reactive, provides a link between business and the ministry and focuses on the satisfaction of the Ministry of Commerce; and the "generalist" perceives commercial issues in a broader diplomatic and political perspective and accordingly cultivates high level contacts<sup>7</sup>.

### **A CASE STUDY OF EXPORT PROMOTION EFFORTS IN SPAIN:**

In 2011, Spain was the 5<sup>th</sup>\* largest economy in the European Union, 4<sup>th</sup>\* largest in the Eurozone and 13<sup>th</sup>\* largest globally. In early 2013, upon arrival in Madrid, Pakistan's new Commercial Counsellor noted that Pakistan's exports to Spain in 2012 had posted a 6% decline from € 402 million to € 379 million in a single year, albeit in the context of an overall decline in export volumes to the European Union. Spain had a number of leading textile chain stores such as Zara, Mango, etc. and textiles accounted for 3% of its GDP<sup>8</sup>. The fact that Spain was a leading textile and garments producer did not imply a lack of export potential for Pakistan. The Commercial Counsellor realized that following the Armington Theory approach, international trade was influenced by demand equations based on market dynamics and that the products in questions could be differentiated products from the same sector. The demand equations linked the aggregate demand in a certain country for the products of another country in terms of income, ease and availability of products, relative price differentials, access to markets and market size. In 2008, Spain was hit by a severe economic and financial crisis and its economy had continued to shrink since then. During 2<sup>nd</sup> quarter of 2013, Spain's GDP shrank by 1.6% as against a contraction by 1.8% in the 1<sup>st</sup> quarter of 2013<sup>9</sup>. Its unemployment rate remained very high, i.e. over 26%<sup>10\*</sup>. Like other crisis-hit countries in the euro zone i.e. Cyprus, Greece and Portugal, the Spanish economy was also suffering from the contagion of bad debts, liquidity crunch, frequent business closures, a high unemployment rate, drastic cuts in wages, a decline in disposable incomes, shrinking demand of consumer goods and a consequent decline in Pakistani exports in Spanish market.

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Starting from such a deep abyss meant that the Spanish economic revival had a potential for stimulating demand for Pakistani products. On the other hand, the Commercial Counselor's supply side analysis revealed that, apart from competitiveness issues, our energy crisis and a persistent spate of terrorism had nurtured a negative perception about Pakistan as an unreliable import source, thereby impeding market entry prospects of Pakistani merchandise.

Digging deeper, the Commercial Counsellor realized that existing institutional frameworks were not being utilized: cooperation agreements signed between Spain and Pakistan including the Agreement on Cultural Cooperation (1962), Air Services Agreement (1972 - renegotiated and re-signed in 2008), Agreement on Reciprocal Promotion and Protection of Investment (1995), Memorandum of Understanding on Financial Cooperation (1995), Protocol on Bilateral Political Consultations (2006), MoU on Tourism Cooperation (2007), MoUs on Culture, Education and Scientific Cooperation (2007), on Strengthening Cooperation in all Sectors for Investment (2007) and Roadmap for Bilateral Political and Economic Relations (2010) had not been followed up. He knew that while most of these agreements were not directly related to exports, activity generated under them could bring Pakistan in news and provide visibility to the country.

Communication between the Commercial Section and the Pakistan's Mission Madrid was minimal and limited only to exigent issues. Each of them was performing its functions in silos. What was even more alarming that, going by the record of the Commercial Section, communication with trade bodies and stakeholders, both within Spain and Pakistan was weak and irregular.

### **Preparing an ambitious Export Promotion Strategy**

The Commercial Counsellor decided to conduct an indepth study of the bilateral economic and trade data and identify demand and supply constraints. His analysis revealed that Pakistan's export to Spain suffered since setting in of a financial and economic recession in 2008. There was a slight recovery in 2011 followed by a decline again in 2012. He believed that since the Spanish economy was entering a recovery phase, implementation of a carefully designed export promotion strategy would benefit from the supporting environment. In his assessment, it was possible to double Pakistan's exports to Spain in three years starting from 2013. But before pursuing a promotion strategy, he realized that he needed to put his own house in order. The Counsellor devised a mechanism of seamless and regular communication with Head of the Mission, Head of the Chancery and the Political Counsellor of the Embassy of Pakistan with the objective of creating a broad-based ownership of

future export marketing initiatives by the trade mission. As a next step, challenges in the Spanish market were analyzed viz-a-viz strengths of the corresponding stakeholders and a consensus on the future course of action was evolved with joint ownership of the export enhancement strategy by the Trade Development Authority of Pakistan (TDAP), Ministry of Commerce and all other internal & external stakeholders.

To overcome information constraints, the Commercial Counsellor started development of a database of exports and exporters. He developed comprehensive lists of various Pakistani products and exporters with their manufacturing processes, raw materials used, details of quality standards being observed, compliance to safety and international protocols and pricing information. The next step was to identify potential importers. Contacts were established with the leading large Spanish companies, small to medium companies & their buying agents, big buying houses & fashion designers, leading Chambers of Commerce & Industries, government institutions namely ACCIO<sup>11</sup>, ICEX<sup>12</sup>, FEDECON<sup>13</sup>, Ministry of Industry, Trade & Tourism and Ministry of External Affairs etc. to obtain corresponding data of the intended export market for making effective inroads.

A three-tiered approach was adopted for doubling Pakistan's exports to Spain in three years period from 2013-15 as an achievable target:

- i. **Short Term Strategy:** This involved mapping of human and financial resources as well as of strategic internal and external stakeholders, their realignment and management for reversing the declining trend of Pakistani exports to Spain in first year i.e. 2013 and achieving a quantum jump in second year i.e. 2014. It focused upon swapping expensive initiatives of previous years (e.g. participation in multiple trade fairs) with relationship building with stakeholders operating in priority sectors and image-building.
- ii. **Medium Term Strategy:** He resolved that the Annual Business Plan would be subjected to yearly evaluations to monitor progress achieved as well as to fill gaps during mid-course corrections to ensure achievement of the goal of doubling of Pakistani exports in the third year i.e. 2015. Simultaneously, avenues of technical collaborations in sectors other than prioritized products would also be explored to improve Pakistan's competitiveness for better exports prospects beyond 2015. Between 2016 and 2017, the focus would be on prioritized Pakistani products in the Spanish market so as to outflank other global competitors such as Bangladesh, Turkey, India, China etc.
- iii. **Long Term Strategy:** This would cover the post-2017 period for which it was aimed

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to achieve sustained growth of broad-based exports from Pakistan vis-à-vis other global competitors and also attracting Spanish investment by utilizing the individual as well as institutional linkages established by that time.

In the short term, the Commercial Section decided to concentrate on five priority products. After a detailed analysis of market demand and competitive advantage, the Commercial Counsellor selected the following product groups: knitted garments, non-knitted/woven garments, bedlinen & bedwear, denim cloth and rice. Another five products i.e. cotton cloth, cotton yarn, artificial and synthetic textile, finished leather and sports goods were placed in the next category. An export promotion and enhancement strategy was devised with a focus on three cornerstones: (i) improving marketing, (ii) ensuring reliable supply and (iii) earning buyers' satisfaction of those ten key export products in the targeted Spanish market.

Concerted marketing efforts were required for establishing business connections between stakeholders in Pakistan and Spain. Language was the first barrier he faced in contacting Spanish firms. The Commercial Counsellor addressed the communication gap by hiring services of a Spanish citizen of British descent as Trade Development Officer (TDO). The new incumbent was immediately assigned the task of responding to trade queries. Each and every trade query about major Pakistani products started to be responded to by qualifying the detailed description with pricing and contact details of prospective Pakistani manufacturers/exporters. A meticulous record was kept of trade queries and follow up was carried out to see whether supply of information had initiated business. Similarly, for each prioritized product, comprehensive lists of renowned Pakistani exporting companies earlier prepared in consultation with TDAP<sup>14</sup>, Pakistan Customs, product specific exporters associations, Chambers of Commerce & Industries, Federal ministries of Commerce, Industries & Textile were made available to the Spanish importers. Correspondingly, lists of top Spanish importing companies and major buying houses of main products of Pakistan's commercial interest were also shared with TDAP, exporters associations and leading Pakistani exporters. Prospective customers were informed about Pakistani products being offered, their prices and availability. As and when required, additional information was also provided to them on priority. To institutionalize this arrangement, a Helpline was setup at the Commercial Section having lists of Frequently Asked Questions (FAQs) as well as details of Resource Persons (RP) within Pakistani chambers and associations.

To deal with the negative perception about Pakistan, the Commercial Counsellor now turned to trade disputes. He was aware of the damage that the voice of one importer facing a failed transaction caused to the country image. Through files, he

found out that a number of Spanish importers had complained against some Pakistani exporters and alleged fraud, dishonoring of the timelines or supply of substandard products. The Counsellor designed a proforma for recording complaints and a Complaint Management System (CMS) was put in place for instant referral of the matter to concerned companies and relevant trade bodies. This was coupled with a monitoring tool that kept liaison with TDAP and ICEX15 for timely resolution of such disputes. Effective resolution and follow up of trade disputes helped in improving traders' confidence in Pakistan as a reliable sourcing country. Where the disputes lingered on, regular contact by the mission signaled concern at the governmental level.

For reversing the declining trend of exports, the Commercial Counsellor wanted to harvest low hanging fruits by concentrating upon the major buying houses who owned chain stores and major retail outlets for sale of imported products. He shortlisted top 15 Buying Houses and looked at their import potential for knitted and non-knitted garments, Bed-linen & Bed-wear, Cotton Cloth, Artificial Silk and Synthetic Textile items, Leather garments, Football and Rice etc. He contacted them regularly and offered to facilitate by sharing details of exporters and their product information and promotional material and after eliciting their interest, offered match making and assistance in initiating business with Pakistan. As part of a robust monitoring and review mechanism, a minimum of eight meetings per month were held with the management of the top nine (9) Buying Houses and top fifteen (15) Spanish Fashion Groups.

The Commercial Counsellor after evaluating feedback received from past experiences, slashed down participation in trade fairs to 2-3 events which were most relevant to the prioritized Pakistani export products. For meaningful marketing, the Commercial Section developed templates and promotional material including bulletins and brochures to be shared with the prospective buyers. Moreover, the Commercial Counsellor convinced TDAP to sponsor only those delegates who were exporters of the top ten prioritized Pakistani products.

Visits of Trade Delegations of Lahore Chamber of Commerce & Industry (LCCI), PCSUMEA16, REAP17 and Faisalabad Chamber of Commerce & Industries (FCCI) were arranged to Spain during 2013 and 2014. Pakistani manufacturers/exporters became aware of the importance of displaying their correct product specifications in eye-catching brochures. Consequently, they launched and shared their web portals, disseminated product reviews and testimonials and upgraded online adverts to showcase their products in an effective and result-oriented manner. In all of these e-marketing efforts, the exporters were guided by the trade mission.



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In 2014, while analyzing the dynamics of Spanish market it transpired to the Commercial Counselor that a sizeable share of Spanish import of consumer items was sourced through local agents who had strong associations in each region. These local agents, on behalf of their principal companies, negotiated buying agreements for importing products like readymade garments, home textile, leather and leather goods, beauty care and surgical instruments etc. Realising their significance, contact details and addresses of different local agents and their product specific associations were consolidated and shared with the Pakistani exporting community for their commercial benefit.

The Commercial Counsellor started the practice of regular on-site meetings and hosted business lunches and dinners in addition to sending gifts and souvenirs on special occasions of Christmas, Easter, etc. The above efforts to reach out to the stakeholders allayed the fears and misperceptions of Spanish entrepreneurs about Pakistan and its business community. Consequently, an increasing number of Spanish businessmen started visiting Pakistan who were duly facilitated by speedy issuance of their business visas through same day verifications from Pakistan.

### **Early signs of success:**

Trade with Pakistan began to appear on the Spanish business horizon. The number of business visas issued for Pakistan during 2nd half of 2013 was a directly measurable variable which depicted a two-fold increase. The Commercial Counsellor's extensive and aggressive export marketing strategy yielded positive dividends and the Trade Mission, Spain sent the largest trade delegation from Eurozone countries to Expo-Pakistan, 2013. By end 2013, the synergized efforts of aligning internal and external stakeholders not only resulted in reversing the declining trend of Pakistan's exports to Spain but also exhibited a positive growth of +12% as compared to the negative growth of -6% during 2012.<sup>18</sup>

### **Tailwind:**

Granting of GSP-Plus status to Pakistan by EU in early 2014 substantially improved Pakistan's competitiveness in EU market as it provided duty free access to Pakistan on 66% of European Union's tariff lines<sup>19</sup>. The stage was set for the year 2014 to record an all-time high increase in Pakistan's exports to Spain by utilizing the extensive linkages forged during 2013 as well as the enhanced market access made available to Pakistani products through grant of GSP- Plus status to Pakistan.

In line with expectations, an increase of +44% in Pakistan's exports to Spain was achieved. Pakistan's export to Spain rose from Euro 425 million for the year 2013 to

Euro 613 million for the year 2014. The Commercial Counsellor's diligent planning and execution of a product and image focused strategy had started to bear fruit.

### **More Aggressive Efforts:**

In the start of 2015, an ACCIO20 Prospection Delegation was organized to Pakistan. The Trade Mission, in coordination with TDAP, organized meetings of ACCIO delegation with FPCCI, LCCI, FCCI, ICCI, and BOI in addition to B2B meetings with potential business partners. The success of the Prospection Delegations visit was immediately capitalized and ACCIO's major trade delegation was organized within four months. The Delegation comprising of 15-20 leading Catalan companies dealing in industry, investment and trade visited Pakistan during September-October, 2015. This visit laid the foundations for sustainable commercial relations between Pakistani companies and their Catalan counterparts. As the next aggressive step, the Trade Mission Madrid, in collaboration with the ICEX, organized a Trade & Investment Seminar in Madrid wherein representatives of 25 top Spanish companies of different sectors participated.

Trade figures of 2015 were truly refreshing for the Commercial Counsellor: exports to Spain exhibited a growth of +21% which was again more than double Pakistan's cumulative growth rate of 10% for EU 28 countries. Eurostat data depicted that during three years period from 2013-2015, Pakistan's exports to Spain had increased from Euro 379 million in year 2012 to Euro 747 million in year 2015 i.e. an export growth of 96.81% over the base year of 2012. During Annual Bilateral Consultations (ABCs) held in early 2016 at Madrid, the Spanish Secretary of State for External Affairs congratulated his Pakistani counterpart as well as Pakistan's Ambassador for Spain on doubling Pakistan's exports to Spain and crossing the milestone of \$ 1 billion.

### **Analysis:**

A trade mission is at the front-end of a number of public and private sector organisations jointly working to promote exports. By nature, it is essentially a "business-government" interface. Ruel and Visser define the work of a trade mission i.e. commercial diplomacy as "an activity conducted by state representatives that is aimed at generating commercial gain in the form of trade and inward investment for the home country by means of business and entrepreneurship promotion and facilitation activities in the host country based on supplying information about export and investment opportunities, keeping contact with key actors and maintaining networks in relevant areas."<sup>21</sup> Developing countries like Pakistan invest considerable resources in setting up and sustaining trade missions. Apart from

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ascertaining performance on the basis of export figures, little is known about what enhances the effectiveness of a Commercial Diplomat. Even though there is scant literature linking trade promotion effort with actual export performance, effective business strategies can capitalize on existing opportunities and positive economic environment. This case study traces results of systematic export promotion efforts of a Commercial Diplomat during a period when two important developments took place: Pakistan was awarded GSP-Plus in 2014 which ensured duty free access to Pakistani exporters in the European Union, and the Spanish economy started its recovery.

The approach of the Commercial Counselor posted at Madrid Spain was akin to that of a “business promoter”. He strategically concentrated on market research, promotion and marketing of five(5) priority products and development of databases in the first stage. An International Trade Centre (ITC) cross-country study, talking about national level strategies, concludes that focusing trade promotion activities on a reduced number of sectors and/or markets yields higher returns than spreading existing and limited resources thinly to cover all sectors and markets<sup>22</sup>. Bridging informational constraints was a much needed requirement that the Commercial Counselor addressed through proactive dissemination and a responsive approach using a Helpline. Parallel to this effort was the work done to reinvigorate communication channels with the main diplomatic mission and stakeholders in Pakistan to create ownership for trade promotion efforts. He invested in development of social capital and networks and resorted to periodic face-to-face meetings rather than sporadic ones on need basis. This was helpful in development a cordial working relationship. In the early part of his tenure, he identified negative perception of Pakistan as one of the key issues discouraging Spanish importers to engage with Pakistani businesses. He sought to address this through a professional approach to commercial dispute resolution. Progressively, his marketing tactics became more ambitious. He engaged business delegations from Pakistan to come to Spain in carefully selected trade fairs for which he not only acted as facilitator but offered active advice for development of promotional material. His most effective strategy was involving local importers’ networks and buying houses and finally arranging a large buyers’ delegation to Pakistan in 2015. The discerning features of the Commercial Diplomat’s operational strategy were: addressing internal weaknesses as a priority; relying on evidence and concentrating efforts in a reduced number of sectors in view of limited resources; adopting a gradual strategy by first arresting decline in exports followed by more aggressive market-capturing efforts; establishing clear communication channels and directly engaging with stakeholders

at home and in the host country; building social capital through regular contacts; and finally, adopting a damage-control approach on trade disputes through regular feedback.

In addition to operational aspects, the case study serves to reveal personal attributes of the Commercial Diplomat as one who was not shy in reaching out to key stakeholders. He understood importance of the “regularity” factor in maintaining the trade mission’s social networks. His motivation in developing the Business Plan and perseverance in following it with frequent mid-course corrections is evident in the narrative. The Commercial Diplomat in this case combined proactive and reactive roles. As a strategic planner, he made use of Freeman’s “stakeholder management” approach which emphasizes managing different groups and relationships in a strategic fashion. His direct relationship with business chambers at home is reflective of the fact that he created their stake in the working of his office thus maximizing the potential of cooperation between the mission and the chambers. It is quite probable that the interest of Spanish businesses was linked with Pakistan’s getting GSP-Plus status and the positive growth in the economy; as an “opportunity seeker” the Commercial Counselor was able to capitalize the opportunity by igniting their latent interest.

### **Conclusion:**

Evidence on what makes an effective commercial diplomat is almost non-existent, partly because of lack of interest by researchers and partly due to the fact that it is almost impossible to construct a counterfactual. Trade performance is the outcome of multifarious variables many of which are beyond the control of individual officers. In case of bilateral trade between Pakistan and Spain between 2013 and 2016, two factors were salutary for our exports: one, exporters faced a conducive market access environment as a result of GSP-Plus concessions and two, the Spanish economy started recovery. Nevertheless, the case study under discussion underlines the importance of implementing a well-thought out Business Plan that resulted in positive trade outcomes. In conceptualising the Business Plan, the Commercial Counselor assumed the proactive role of a “business promoter”. The actions that he undertook included research, planning and agenda-setting with ownership of key stakeholders, identifying and engaging key stakeholders, developing and sustaining business contacts through regular meetings, prioritizing products for extensive promotion, narrowing the choice of trade fairs for participation, hiring local expertise, better management of commercial disputes, arranging business delegations and lastly, keeping the business strategy under constant review for course correction. Personality traits such as motivation, perseverance, a problem-

solving approach and the ability to reach out to stakeholders come out as desirable personal characteristics for a Commercial Diplomat.

### **Recommendations:**

For policy makers in the Ministry of Commerce and trade promotion organizations such as TDAP, the following recommendations derived from the case study and its analysis can be of use:

1. Following the practice of established corporate sector entities and even some national civil services, selection of trade officers needs to take into account the “personality type” of an applicant. A Personality Test will be instrumental in assessing whether a certain applicant is demonstrating behavior that is helpful in achieving responsibilities expected of a Commercial Diplomat. The Ministry of Commerce may identify personality traits of a “business promoter” or seek the help of professional experts to do so, followed by design of a Personality Test for shortlisting purposes.
2. Export Promotion Strategies are usually designed at the capitals however, each country has her own peculiar business culture. This demands that autonomy be given to Commercial Diplomats to propose their own plans developed through a consultative process resulting in ownership by all stakeholders who would then be willing to lend their support to planned activities. Business Plans must take into consideration opportunities in the host country and preparedness of Pakistani exporters.
3. This case study highlights the need for MOC and TDAP to consider factors other than historical trends to fix national export targets. Host country’s salutary economic conditions and new market access offered by concessional trade agreements are examples of two such factors that can accelerate export growth surpassing historical trajectories.
4. Lessons of experience must be shared by Commercial Diplomats; an Experience Sharing Platform can be established where positive and negative experiences are shared. ‘Good Practice Guidelines’ may be developed as a ‘living document’ aligned with TDAP’s overall strategy. The Guidelines, inter alia, may standardize designs of a Trade Mission’s informational products, propose the required frequency with which databases need to be updated, designate TDAP/MOC focal persons for types of trade disputes, advise on preparations for business meetings, etc. Each Commercial Diplomat should also be required to leave detailed Handover Notes for his successor.

5. Ideally, advice on e-marketing and development of promotional material (which is a critical factor in market development) should be offered by TDAP offices in Pakistan. TDAP may consider charging a fees for personalized services.

## **Endnotes**

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<sup>1</sup> The case study discussed in this article was submitted by Mr. Faiz Ahmed (Pakistan Customs Service) as requirement for the 109<sup>th</sup> National Management Course under the title “Doubling of Pakistan’s Exports to Spain Under Challenging Circumstance”. It was supervised by Mr. Farhan Aziz Khawaja and has been reviewed by Sarah Saeed, Directing Staff, National School of Public Policy, Lahore.

<sup>2</sup> World Bank; <https://data.worldbank.org/indicator/NE.EXP.GNFS.ZS?view=chart> accessed 11<sup>th</sup> July, 2019

<sup>3</sup> Mahmood, Asif; Export Performance of Pakistan: A Constant Market Share Analysis; in SBP Research Bulletin, Vol. 11, Number 1, 2015

<sup>4</sup> Jomini, Patrick, Xiao-guang Zhang and Michelle Osbourne; The Armington-Heckscher-Ohlin Model – An Intuitive Explanation; Paper Presented at the 12<sup>th</sup> Annual Conference on Global Economic Analysis, Santiago, Chile 2009

<sup>5</sup> Sagartz, Andrew; Resolution of International Commercial Disputes: Surmounting Barriers of Culture without Going to Court; 13 Ohio St. J. on Disp. Resol. 675 (1997-1998)

<sup>6</sup> Nray, Olivier; Commercial Diplomats in the Context of International Business; The Hague Journal of Diplomacy, Vol 6, Issues 1-2; Jan 2011

<sup>7</sup> Huub Ruel and Robin Visser; Commercial Diplomats as Corporate Entrepreneurs: Explaining Role Behaviour from an Institutional Perspective”; Int. J. Diplomacy and Economy, Vol. 1, No. 1, 2012

<sup>8</sup> <https://www.thelocal.es/20170326/after-crisis-spain-textiles-sector-dons-new-colours>

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

\*. Source: DataComex. Ministry of Industries, Trade & Tourism, Spain

<sup>11</sup> Catalan Agency for Competitiveness

<sup>12</sup> Espana Exportacion & Inversiones (Trade & Investment Authority of Spain)

<sup>13</sup> Spanish Inter-textile Council of the Spanish Federation of Garments Industry

<sup>14</sup> Trade Development Authority Pakistan

<sup>15</sup> Trade and Investment Authority of Spain

<sup>16</sup> Pakistan Cutlery & Stainless Utensils Manufacturers & Exporters Association

<sup>17</sup> Rice Exporters’ Association of Pakistan

<sup>18</sup> Eurostat, Office of the Pakistan’s Trade Minister, Brussels, Embassy of Pakistan, Brussels, Belgium.

<sup>19</sup> European Commission; Interim Evaluation of EU’s GSP Scheme; January, 2017 accessed from

<sup>20</sup> Catalan Agency for Competitiveness

<sup>21</sup> Ruel, H.J.M. and Visser, Robin; Commercial Diplomats as Corporate Entrepreneurs: Explaining Role Behaviour from an Institutional Perspective; accessed from [www.researchgate.net](http://www.researchgate.net) on 15<sup>th</sup> November, 2019

<sup>22</sup> International Trade Centre (ITC) and University of Geneva; Investing in Trade Promotion Generates Revenue (Report); ITC, Geneva; 2016

# **ICT AND FUTURE OF WORK: IMPLICATIONS FOR ECONOMY AND SOCIETY WITH SPECIAL REFERENCE TO POLICING**

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## **INTRODUCTION**

With the advent of Fourth Industrial Revolution<sup>1</sup> each aspect of our life and work is rapidly becoming digitalized and automated. Intelligent systems and appliances are now being used as major tools for strategic planning and decision making across the globe. Information and Communication Technology (ICT) and E-Governance<sup>2</sup> are being introduced in public sector at a fast pace. This is changing the work output and performance efficiency of public sector organizations including police in many ways. Police have globally benefitted from ICT by running systems related to record management, crime investigation, complaint filing and efficient resource allocation over the last few decades. With the integration of Artificial Intelligence<sup>3</sup> in the work sphere of public organizations the whole culture of police work is undergoing a colossal change.

In Pakistan, policing is an important area of governance. Its performance and service delivery has direct impact on socio-economic development of the country. Improvement of law and order and security situation can lead to economic growth and social stability while its deterioration can have equally adverse effects on the economy and society. Since Pakistan has experienced a lethargic e-government growth rate over the last few years due to plethora of political and economic constraints and also due to the deterioration of government institutions (Arfeen & Kamal, 2014), the need to strengthen the tiers of government through ICT and to deliver public services to the key stakeholders has become crucial.

Punjab Police is among the leading organization to have adopted ICT tools and E-Governance within its work culture within the last five years. Several ICT based initiatives were introduced including digitalization of police station record across the Punjab. Launched in March 2017 as a major e-initiative, Electronic First Information Report (E-FIR) has been successfully implemented all over the province. Moreover, the system of filing complaints has also been digitized by creating an online Citizens Complaint Portal (CCP) wherein the citizens can digitally file, track, monitor and



give feedback on their complaints. Currently, several other

<sup>1</sup>**The Fourth Industrial Revolution** is the fourth major industrial era. It is characterized by a fusion of technologies that is blurring the lines between the physical, digital and biological spheres, collectively referred to as cyber-physical systems. (Schwab, 2016)

<sup>2</sup>**E-Governance** is defined as the process of adapting information and communication technology (ICT) tools for digitizing and automating internal operations of government and for facilitating its external interactions i.e. with citizens and agencies (OECD, 2009).

<sup>3</sup>**Oxford Dictionary** defines **Artificial Intelligence (AI)** as the theory and development of computer systems able to perform tasks normally requiring human **intelligence**, such as visual perception, speech recognition, decision-making, and translation between languages.

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online portals, applications and technologies are being used by Punjab Police on regular basis to carry out day to day official business.

While it has been over two years since the introduction of these e-initiatives, it is an appropriate time to assess the impact of transformation of police from conventional methods to the use of ICT tools of work, their adoptability, utility, and impact on service delivery etc. in the Punjab. This is the first study of its kind and the findings of this study can be used for learning in police establishments across Pakistan.

### **Research Scope**

The objectives of the research are to study the initiatives and steps taken to implement E-Governance and ICT in policing and to understand and evaluate the impact of this technological transformation on police work-culture, service delivery and performance efficiency. The study analyzes the transformation of Punjab Police from conventional work methods and tools to ICT and the results of this transformation. Since FIRs and public complaints are directly related to public service delivery, they can have significant socio-economic implications. Therefore, the impact of E-FIR and CCP will be studied and discussed.

This research poses a single research question: What is the impact of the technological transformation on police work-culture, service delivery and performance efficiency? In order to make rich and in-depth analysis the study has been limited to the implementation of E-FIR and CCP in Gujranwala Police during the last five years. This research is directly related to public policy choices where, in the context of ICT implementation, various possible implications need to be studied for better decision-making and to effectively and efficiently respond to the

challenges faced and posed by this technological transformation and opportunities offered by the Fourth Industrial Revolution.

## **LITERATURE REVIEW**

A large amount of literature is available on the subject of ICT and future of work and its implications for society and economy. It reveals that governments are increasingly moving towards E-Government, whether in developed or in developing countries. In developed countries, the implementation of E-Government initiatives aims more and more at effective service delivery to citizens (Mahmood, 2013). The E-Government paradigm emphasizes coordinated network building, external collaboration, and customer services rather than the

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traditional bureaucratic paradigm, which emphasizes standardization, departmentalization, and operational cost-efficiency.

For many developing countries, successful implementation of E-Government programmes is dependent both on national IT plans and e-readiness assessment plans (Ramnarine and Endeley, 2018). The most significant implementation challenge is perhaps security which requires security solutions like encryption, digital signatures, passwords and user names (Alshehri and Drew, 2010).

Frank and Binpe (2013) examined the role of ICT in effective policing by employing cross-sectional survey method for data collection. The results confirmed that ICT and other technologies improve the performance of the police department.

(Storm, 2017) conducted a study in collaboration with RTI International and Police Executive Research Forum. The objective of the study was to examine the types of technology being implemented by U.S. law enforcement agencies (LEAs) and the extent to which strategic development and structural change of organization is attributed to technological advancement. The findings revealed that majority of large agencies in US are taking help of ICT. However, there is a possibility that even if same technology is implemented in different regions, the degree of the sophistication and usage of technology can be divergent. The study further highlighted that agencies in US are somehow adopting technology only in response to factors such as perceived needs, executive staff decisions and community demand instead of implementing it after some strategic planning. (Jackson, Greenfield, Morral, & Hollywood, 2014) analyzed the potential correlation between information

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technology and the performance of police activities. Logic model was employed to empirically analyze the budgetary and productivity effects of IT investments. The findings confirmed that IT system exerts a significant positive impact on law enforcement. The study further suggested that the role of IT is that of a multiplier to increase potential productivity of police department.

Since digitalization and automation of work in Punjab police is a rather contemporary phenomenon in case of Pakistan, few researchers have studied the impact and implications of this transformation in the socio-economic perspective. The absence of appropriate data for research is the major limitation in this regard. (Ellahi & Manavari, 2010) examined the key determinants behind the acceptance of technology and attitude of police officers towards the use of information and communication technology. The results concluded that psychological

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response and organizational reactions of implementing ICT in police department cannot be neglected if we want to improve the performance of police department otherwise, this extraordinary development rate of Information Technology (IT) can make the economies suffer from additional costs. The study further suggested that the police department and IT policy makers should collaborate for better outcomes. (Perito & Parvez, 2013) argued that the effectiveness and efficiency of police department can be enhanced by improving police-public relation. In this regard, the role of media is significant. One such attempt is by broadcasting police activities in the community and also by reporting district and provincial level news on local television channels. The study further suggested that implementation and adoption of innovative technology is assisting to fighting against criminal violence and terrorism and has also made the process of filing complaints quicker and easier.

The review of literature reveals that there is a serious dearth of knowledge on the subject with special reference to policing in the context of Pakistan. It emerges that no research on implementation of E-Governance in City Police Gujranwala has been conducted so far and this is what this study shall focus upon. Thus the study of City Police Gujranwala in this context is unique and new in its orientation and scope.

### **RESEARCH METHODOLOGY**

For this study a mixed methods approach was adopted to explore the feedback from the field. The quantitative method was applied to study the numerical data pertaining to status of implementation of ICT and the changes brought by this change of work

tools vis a vis trends in crime, service delivery indicators, resolution of public complaints, completion of investigations etc. in order to measure objective outcomes of this transformation. Qualitative method was applied to understand and analyse the challenges of this transformation and its socio-economic impact by conducting key informant interviews, raising and focusing on the relevant aspects of the research question, including but not limited to; How ICT is changing the future of police work? How is ICT influencing the perception of transparency? Why many people still resist this transformation? How is this transformation impacting the society?

Both primary and secondary sources were used for this study. Primary sources include interviews and surveys which have been carried out to collect first hand data from general public and police officials. Citizens and police officials selected from each of the ten police sub-divisions in Gujranwala district, including Qila Didar Singh, Noshehra Virkan, Khiali,

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Cantt, Wazirabad, Satellite town, People's Colony, Kotwali, Kamoke and Model Town, were interviewed and surveyed upon. The secondary sources include books, journals, government policy documents, newspaper articles, websites and research papers.

For data collection Probability sampling technique has been used to conduct surveys for quantitative research while Purposive sampling approach was applied to conduct interviews of key stake-holders i.e., clients or users among general public and complainants of E-FIRs in district Gujranwala and police officers using and operating the online portals. The questionnaire was semi-structured into four components: 1) to assess the impact of E-FIR in terms of service delivery and public satisfaction; 2) to assess the impact of E-FIR on Police work culture; 3) to assess the impact of Citizen Complaint Portal in terms of service delivery and public satisfaction and; 4) to assess the impact of Citizen Complaint Portal on police work culture.

The sample of the study comprised of 190 respondents. Equal number of community members and police officers from each sub-division of district Gujranwala were included in the survey. The first category of questionnaire is filled by 45 citizens who have ever interacted with police department within district Gujranwala; the second category is filled by 45 police officers from the target area; the third category is again filled by 50 citizens and the fourth category is filled by 50 police officers. The data gathered through this survey is entered into an SPSS database and then

frequency tables and cross-tabs have been generated to respond to the key question.

Table 1: Composition of Research Sample  
Sr No. Survey Category General Public  
Police Officials

## **FINDINGS AND DISCUSSION**

### **E-Governance in Pakistan**

Pakistan passed its first ever National IT Policy in year 2000. With substantial shifts in technology, National IT policy was replaced by Digital Pakistan Policy in 2017. As per United Nations e-government survey, Pakistan ranked 137th out of 192 countries in 2003, 136th in 2005 and 131st in 2008.<sup>4</sup> In 2010, the ranking fell drastically to 146th. Similarly, in 2012, it further dropped to 156th. In 2016, Pakistan stood at 159th position and as per latest measure, the country's position is 148th as of 2018.

### **E-Governance Initiatives in the Punjab**

The Punjab Government has taken multiple initiatives during last five years and also passed Punjab IT Policy in 2018 to automate governance. The major initiatives include: digitization of all police stations in the province; attendance through biometric verification; deployment of Hospital Management Information System (HMIS) at district and tehsil level headquarters (DHQ and THQ); supervision of field staff and monitoring of health, agriculture, livestock, irrigation, education, irrigation through mobile phones; vaccination coverage from 22 percent to 92 percents; digitization of agricultural land record and use of remote sensing techniques using satellite imagery. Moreover, the policy also ensured the integration of law and order initiatives such as traffic management, video surveillance and safe cities project. The Punjab IT policy 2018 further aims to implement some initiatives in years to come which include: provision of trainings on Internet of Things (IoT), setting up regional offices of PITB across the province and provision of free and easily accessible ICT resources to socially vulnerable people in an inclusive manner.

### **ICT Initiatives in Punjab Police**

Punjab Police has taken the lead in embracing new technologies. During the last five years all the police stations of the Punjab have been equipped with ICT infrastructure and personnel. As a major initiative, electronic registration of FIR (E-FIR) has been

successfully implemented all over the province without exception. All the police station record including daily Station Diary

<sup>4</sup> UN e-government survey in Media. Can be viewed at:

[https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/128-](https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/128-Pakistan)

Pakistan

<sup>5</sup> “Punjab passes its first ever IT policy”, Published in MIT Technology review on May 29, 2018. Can be viewed at:

<http://www.technologyreview.pk/punjab-set-to-pass-its-first-ever-it-policy/>

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and progress on investigations has been digitalized and made available online across the Punjab. Currently, different online portals, applications and technologies are being used by Punjab Police on regular basis to carry out day to day official business including Crime Mapping, Police Station Record Management System<sup>PS</sup>, Pakistan Citizen’s Portal (Prime Minister Delivery Unit), IGP Complaint Cell, Tenants Registration System, Hotel Eye System, Bio Metric Identification Devices, Online Beat Book, E-Gadget, Anti Vehicle Lifting System, Human Resource Management Information System, Driving License Management System, Police Kidmat Markaz, Police Khidmat Counter DHQ, Welfare Eye, Pukaar (15), Criminal Record Management System, Video Conferencing, Online Video Surveillance of Police Stations, Front Desk and E-FIR. The whole system is integrated and is centrally monitored by the Inspector General of Police (IGP) office or Central Police Office, Lahore.<sup>6</sup>

Out of all these tools of E-Governance, E-FIR and Citizen’s Complaint Portal are directly related to the public and service delivery. Therefore, it is most important to study and analyse the performance of these two e-initiatives in detail.

### **Electronic First Information Report (E-FIR)**

The process of investigation against each FIR in terms of recovery and arrest has been a huge challenge in the presence of manually maintained records. Starting from FIR registration to culprit nomination, case proceedings till closures, retrieval of FIR requires a lot of time and work. Before the advent of E-FIR, 25 registers were maintained by each Police Station that comprised of crime reports, case diaries and FIRs etc. However, E-FIR launched in March 2017 under smart policing approach, has transformed the conventional methods into a modernized policing regime by introducing an online registration mechanism where police receives complaints through Short Message System (SMS) and voice calls on a short code (8787).<sup>7</sup>

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Moreover, latest Android-based smart phones are loaded with various applications for recording and documenting crime. This technology has replaced the traditional pocket notebooks and has connected citizens with central command room. Now the life cycle of an FIR, from registration to final closure, has been digitalized making tracking and retrieval of case information much easier and quicker than ever before.

6 Source: Punjab Police Website. Can be viewed at <https://www.punjabpolice.gov.pk/>

7 Dogar, A. "Introducing Smart Policing", Published in MIT Technology Review. To be retrieved at:

<http://www.technologyreview.pk/introducing-smart-policing/>

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The system automatically generates e-copies of FIRs and the reports required at all levels of Punjab Police leadership i.e. from Station House Officers (SHOs) to Inspector General of Police (IGP). Moreover, the process is integrated with other policing online applications. The project is operational in all the 714 police stations across the province.<sup>8</sup> Since its launch 878,000 E-FIRs have been registered in the Punjab which were 311,895 in 2016.<sup>9</sup> This shows the acceptability and adaptability of the program.

Front desks being run by a civilian male and a female officer of Information Technology branch have been established to facilitate the applicants across the Punjab province. Using Complaint Management System (CMS) software, e-tags are issued to the visitors after receiving their complaints which are directly monitored by senior supervisory officers till the issue reaches its logical conclusion. So far 4.2 million complaints have been entertained across the Punjab using this application software<sup>10</sup> and 2.3 Million FIRs have been entered into the system.<sup>11</sup>

The supervisory officers can see status of a particular case and can also obtain other information like case diaries, sureties, names and gender of victims and accused, challan date, next date of hearing, gender of victims etc. All complaints have to be resolved in a stipulated time period by the concerned police staff. The high-ups monitor all the entries made at police station level and analyze the public feedback and ratio of complainants satisfied with police performance in resolving their complaints. Monitoring of complaints ensures that complaints are being cleared in a timely manner and no complaint is disposed of without valid or justified reason by the concerned investigation officers. Complainants can check the status of their

complaints online using particular complaints credentials given to them at the time of entering a complaint. The E-FIR uses a QR code as well which eliminates the fabrication of fake FIRs.

E-FIR is integrated with several other e-policing applications. Sharing of data by different applications ensures that record is integrated and safe from anomalies. Integration of E-FIR with other applications has enormously helped in detection of cases, arrests and recovery of case properties. Status of criminals is recorded permanently in the system software which helps in identification and arrest of accused by generating notifications in different applications like Tenant Registration System, Hotel Eye etc. Reports generation is much easier now and saves

8 PITB official website. Can be viewed at: <https://pitb.gov.pk/efir>

9 PITB official website. Can be viewed at: <https://pitb.gov.pk/efir>

10 PITB official website. Can be viewed at: <https://punjabpolice.gov.pk/psrms>

11 Punjab police, government of Punjab, To be retrieved at: <https://punjabpolice.gov.pk/psrms>

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a lot of time as there is no need to go through the bundle of manual registers for compiling analytical reports.<sup>12</sup>

### **Citizen's Complaint Portal (IGP Complaint Centre-8787)**

One of the initiatives of Punjab Police is the establishment of an integrated IGP Police Complaint Center. Previously the complaints were received through post or in person. Now the public can lodge their complaints through SMS and voice calls on a short code (8787). Moreover, complaints are also received online as well as through emails. Following nature of complaints are entertained at the IGP Complaints Center: non-registration of FIRs, faulty investigations, illegal detentions, arrests of innocent persons, registration of false FIR, slackness in duty and demand of illegal gratification.

All complaints are sent to senior ranking officers for due action and in any case they are not marked to an officer below the rank of a Sub Divisional Police officer, who is bound to call the complainant himself within 8 hours and report progress to the IGP Complaints Center. Moreover, these officers have to send their final reports within stipulated timelines. For complaints of Illegal detentions and demand of illegal gratification the replies have to be submitted within 24 hours. Similarly, for complaints of Non-Registration of FIRs and Arrests of innocent persons the replies



have to be submitted within 72 hours, and for rest of the types of complaints the reports are to be submitted within two weeks. Replies received from respective offices are cross checked by the staff at Police Complaints Center by making telephonic calls to the complainants. In case of any ambiguity or the complainant has expressed dissatisfaction regarding the reply, the matter is sent to a senior officer for verification. The complaint is not disposed of till it is either redressed or has proven to be false after verification by a senior officer. So far, 141,521 complaints have been entertained across the Punjab, out of them 136,304 have been disposed of.<sup>13</sup>

### **E-Policing in Gujranwala District: Findings from the Field**

Gujranwala is one of the prominent industrial cities of Pakistan. It is the 5th largest city of the Punjab and 7th amongst the most populous cities of Pakistan with over half a million workers<sup>14</sup>

<sup>12</sup> Finding based on Interview with Data Processing Officer, Gujranwala Police, 2019

<sup>13</sup> Punjab Police Website accessed on 28.12.2019. Date retrievable at [https://www.punjabpolice.gov.pk/igp\\_complaint\\_center\\_8787](https://www.punjabpolice.gov.pk/igp_complaint_center_8787)

<sup>14</sup> Gujranwala's role in national economy. Published in Dawn on Aug 17, 2016  
<https://www.dawn.com/news/206246>

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deployed in different industrial units of the city. Moreover, its share in national production is 9 percent and in revenue, it is 8 percent.<sup>15</sup> This section undertakes an in-depth analysis regarding the role of e-policing in ensuring law and order condition in Gujranwala and its impact on user satisfaction index, public satisfaction index, trends in crime, service delivery indicators, resolution of public complaints and completion of investigations etc. In this backdrop, the present study analyses the impact of E-FIR and Citizens Complaint Portal in terms of service delivery, public satisfaction, police work culture and efficiency in Gujranwala.

### **E-FIR from Complainants' Perspective**

#### **E-FIR vs. Conventional FIR**

To analyze the progress and prospects of E-FIR in Gujranwala, respondents were asked how they find E-FIR better than conventional system, 71.1% of the citizens responded that current E-FIR system is better as it is fast and efficient. 16% of the citizens responded that it is easy now to lodge a complaint and to avail of quick response from police officers. 4.4% of the citizens responded that E-FIR is better as

it does not involve any involvement of reference of third party. Another 4.4% of the citizens responded that E-FIR is better because FIR record can be summarized and retrieved at any point of time.

Figure 1: How E-FIR is better than conventional system (Public Feedback)

Source: Author's own illustration based on primary data analysis

15 Ibid

### **E-FIR and Public Satisfaction**

When it comes to technology, an important question to be addressed is the absorption level of technology. However, in our case, the findings based on primary data collected through survey revealed that 68% of the citizens who have ever interacted with police department had basic computers skills and 32% of the citizens completely lacked computers skills. Yet, none faced any difficulty dealing with online portal. The major reason behind this is the cooperative and well educated front desk staff hired to promote e-policing. In this backdrop, citizens were asked if they are satisfied with the performance of police.

The results shown in table 2 show that 77.8% of the citizens confirmed that the efficiency of police department in Gujranwala has been significantly improved since the augment of ICT in police department. Besides, one of the major indicators of improvement in police efficiency is the reduction in time gap between getting FIR registered and action taken on it by the department. Our findings revealed that 73.3% of the citizens were of the view that the time gap has been substantially reduced. 22.2% of the respondents responded that it has been reduced but there is still room for improvement.

Table 2: Impact of E-Policing on public satisfaction Response Percent

### **Cons of conventional FIR**

When sample population was asked about the problems they faced dealing with conventional FIR system, around 58% of the citizens opined that the previous system was too slow and time consuming, 15.5% of the citizens reported unnecessary delays to be the major barrier and 15.6% of the citizens responded that conventional FIR involved relatively greater opportunity cost of time and money in the form of visiting the police station personally and undergoing various formalities.

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Figure 2: Problems faced by citizens while getting conventional FIR registered

Source: Author's own illustration based on primary data analysis

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### **E-FIR from Police Officers' Perspective**

#### **E-FIR and Police Efficiency**

Our study gave police officers working in different police stations of Gujranwala using these e-applications to evaluate the performance of E-FIR system with the objective to analyze their satisfaction level. 80% of the police officers were of the view that efficiency of the police department has been significantly improved. 15.6% of the officers responded that E-FIR is convenient and easy to access. And 4.4% of the officers responded that it has now become relatively easier to lodge a complaint and to avail of quick response from police officers.

Figure 3: Impact of E-FIR on Police Efficiency (Police Feedback)

Source: Author's own illustration based on primary data analysis

#### **E-FIR & Transparency**

Respondents from both public and police agreed that there is significant improvement in the efficiency and performance of police department. 98% of the police officers responded that digitization of FIR has made the system more transparent. It has made FIR readable not only for complainants but also for higher officials who can directly check the progress of each registered FIR. Moreover, the copies of E-FIR can directly be taken from front desk.

#### **E-FIR & Crime Rate**

E-FIR portal also includes a proclaimed offender credentials section, which has made it very easy to track the offenders, using e-policing tools. Moreover, the status of the criminal remains recorded permanently in the system integrated with several other e-portals of police. This helps in timely identification and arrest of accused using smart applications like Tenant Registration System, Hotel Eye, Criminal Record Management System etc. Police officers were asked if the introduction of E-FIR has impacted the crime rate in their area. 80% of the police officers are of the view that crime rate in the target areas has declined. However, 20% of the officers were of the view that e-policing has not exerted any significant impact on crime rate.

Figure 4: The impact of E-Policing on crime rate (Police Feedback)

Source: Author's own illustration based on primary data analysis

Reduction in crime rate has various socio-economic implications for district Gujranwala as it

is the leading industrial city of the Punjab with huge industrial workforce and

enormous

commercial activity taking major share in national production and revenues. In such an

economically flourishing city, markets take reduction in crime rate as a good news.

In this

regard, 99% of our respondents confirmed that because improvement in law and order situation

resulting from e-policing, confidence level of markets has also been increased.

### **E-FIR & Challenges Faced by Police Department**

The increase in police efficiency and quick responsiveness involves various challenges faced by police.

Around 59% of the police officers have argued that e-policing has made dealing with registered

complaints a time bound procedure for police officers which although ensures timely disposal of

complaints yet at times does not allow them to do justice with the investigations of cases. Slow internet

is also considered one of the major challenge that hampers the connectivity of the police with online

portals thereby compromising efficiency. However, 23% of the officers responded that they find the

system rather useful, 19% of the officers responded that they have not faced any challenge so far. Figure

5 shows the response by police officers when asked if E-FIR has made them deal with challenges.

Figure 5: Challenges faced by police department after the introduction of E-FIR

Source: Author's own illustration based on primary data analysis

### **Citizens Complaint Portal from Complainants' Perspective**

The following table shows the number of complaints that have been received via phone call or SMS using short code "8787" in district Gujranwala. The table below clearly reveals that the complaints of one year are resolved instantly without delaying them to next year.

Table 3: IGP Complaint Cell - Performance of District Gujranwala Year Total

Received Resolved Pending

Source: City Police Office Gujranwala, 2019

### **Citizens Complaint Portal Vs. Conventional System**

Present study has made an attempt to analyze the extent to which citizens as well as police officers are satisfied with this online portal. Our results reveal that 61.5% of the citizens from district Gujranwala declared Citizens Complaint Portal to be better, faster and more efficient system than conventional system. 17.1% of the citizens responded that it is easy now to lodge a complaint without visiting police station and to avail of the quick response from police department. 7.7% of the respondents responded that E-FIR is better because FIR record can be summarized at any point of time which has minimized the risk associated with data misplacement. 3.8% of the complainants responded that E-FIR is better as it does not involve any involvement of reference of third party. Another 3.8% of the respondents responded that CCP has ensured transparency by digitizing the system.

Table 4: Citizen Complaint Portal vs. Conventional system Response Percent

Source: Author's own illustration based on primary data analysis

### **Citizens Complaint Portal and public satisfaction**

Around 60% of the respondents believe that the time gap between lodging a complaint via Citizen Complaint Portal and action taken by police department has been substantially reduced. 25% of the respondents responded that their complaint was addressed within no time. 11.5% of the citizens responded that their complaint was addressed within an hour whereas, around 6% of the citizens claimed to have their complaints addressed within a day.

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Figure 6: Time gap between complaint lodging and action taken

Source: Author's own calculations based on surveyed data

Reduction in time gap between complaint lodging and action taken was found to be one of the major determinants of public satisfaction as 94% of the citizens have expressed that their complaints have been addressed in a way more efficient than conventional methods of complaint addressal. This confirms not only the improvement in police efficiency but also in public satisfaction.

### **Problems faced by citizens before CCP**

As far as the problems that citizens were facing prior to the advent of Citizen

Complaint Portal are concerned, 61.5% of the citizens expressed the apprehension that the department had non-responsive behavior previously. However, they claimed to have observed it changing gradually after the introduction of online portal. 11.1% of the citizens expressed that prior to the online system, they used to suffer from unconditional delays due to the lethargic behavior of Mohararr. The surveyed citizens also admired the cooperation level of front desk officers. Around 6% of the citizens responded that previous system involved greater opportunity cost of time.

Figure 7: Problems faced before Citizens Complaint Portal

Source: Author's own illustration based on primary data analysis

### **CCP from Police Officers' Perspective**

#### **CCP's performance and user satisfaction**

The surveyed police officers were asked to evaluate the impact of digitization of complaints on police efficiency. 74% of the police officers when asked to evaluate the performance of the department expressed that it has improved the responsiveness of the department. 10% of the officers responded that the portal has helped the department to maintain permanent record which is directly monitored directly by senior officers. Moreover, no one fears the chronic misplacement of data now. Another 10% of the officers responded that it is convenient to read and access the complaint through e-tags. 4% of the officers responded that the system has paved path for quick disposal of complaints.

Table 5: Impact of digitization on police efficiency (Police Feedback) Response Percent

Source: Author's own illustration based on primary data analysis

#### **Recommendations for Improvement (Police Feedback):**

The interviewed police officers offered several recommendations for improved functioning of e-policing initiatives. 30% of the challenges ridden officers recommended that grace period should be given observing the progress of IO & there should not be any rapid action against IO. 20% of the respondents responded that high speed internet should be provided as slow internet has tendency to completely paralyze police efficiency. Moreover, the officers also stressed that front desk should be integrated with NADRA system to make the functioning of the system more efficient and reliable. 22% of the respondents recommended that feedback should be gotten from neutral observers instead of parties involved in a criminal or civil activity

otherwise it would result in negative feedback. 12% of the officers recommended that due to work load, sometime it gets difficult to address complaints in stipulated time therefore, complaint addressal hours should be relaxed. 4% of the officers recommended that more initiatives with modern tools should be introduced to enhance the performance of the department such as training of IOs into modern POLCOM system.

Figure 8: Recommendations for improvements (Police feedback)

Source: Author's own illustration based on primary data analysis

### **Conclusions**

E-Governance not only improves the efficacy by reducing the overhead costs but also by minimizing the expected time required for proceedings. The success of e-government depends much on how an economy works and how the information related to the changes within the government body flow to the citizens. E-government is more about transforming government so that it can become more citizen-centric. Information technology is playing a very important role in the life of people all over the world and is changing the life of people and changing the rules of business. E-government has been one such area whereby government is using ICT to provide speedy and efficient services to the public.

The journey of e-policing is not without obstacles. Our research also explored the barriers in the way of this e-transformation. The infrastructural barriers include slow speed and frequent interruptions in the Internet services as well as low quality of hardware being used in for cost saving. Low level of data security is another point of concern for individuals as well as organizations. People can be traced through mobile trackers, their cars and even data from their personal computers can be accessed. Moreover, a great deal of corporate companies sell data and personal information of the citizens to various advertising agencies which leads to low level of public trust on IT based applications. Lack of skilled IT workers also impedes the progress of e-transformation of police. Moreover, cultural resistance, extra-work load and stress of meeting deadlines have also been observed to be operational challenges hampering e-policing. However, it is observed that despite all these challenges Punjab Police is adapting well to the new technologies primarily due to effective policy making, determination and consistent efforts of the provincial government and Punjab Police leadership to implement e-policing.

The introduction of ICT in police framework, especially in the Punjab province, has

immensely affected the police culture of work, effectiveness and efficiency of the department by making citizens able to lodge complaints through email and mobile phones which are directly addressed by relevant authorities. It has not only made lodging of complaint and FIR easier but has also minimized the opportunity cost of time and money associated with it. Punjab Police has opted for a change of work culture by introducing online portals and smart applications in police work saving time and effort, improving response time, enhancing intelligence and analytical capacity of police. The implementation and adoption of innovative technology is assisting to fight against criminal violence, terrorism and has made the process of filing complaints quicker

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and easier. In Gujranwala, not only has it exerted a significant impact on the efficiency of police department but has also causes decline in the crime rate which in turn has increased market level confidence in the district police thereby contributing to making Gujranwala a prominent industrial hub and economically stable district.

### **Policy Recommendations**

The findings and discussion lead this research to recommend the following for the better functioning of the department:

a) E-Policing has brought with it several challenges which can alter the course of the intended change beyond the anticipated or expected outcomes. Thus it is important to introduce a system of periodic review to generate monthly, quarterly, six monthly and yearly reports for the IGP. The police department and IT policy makers should collaborate for better outcomes. Teams of qualified technocrats and police officers should revisit the e-initiatives and suggest practical solutions to the problems observed in the field in order to steer the process of transformation to e-policing.

b) Quality Assurance and Accreditation should be a key area of focus to ensure certified and qualified goods, services, infrastructure and human resource to efficiently manage and evolve the system of e-governance in police. Currently this aspect is not a top priority agenda item on the police list. However, in order to standardize the practices and application of e-policing across the province and to ensure continuity and credibility of e-services targeted towards better service delivery, the government should constitute an accreditation body to certify the standards of E-Governance systems and services. Quality Assurance Unit should be constituted in Central Police Office to monitor the quality of E-Policing processes



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and to steer them towards accreditation.

c) Time economy in addressal of complaints should not be attained at the cost of justice. Therefore, sufficient time should be allowed to the IOs to conduct in depth investigations of cases. Therefore, the disposal deadlines should be flexible and the IOs should be able to find sufficient time with the prior approval of the head of district police. IGP office should notify such changes in the time line SOP to allow flexibility and discretion depending upon the nature and gravity of the case. A grace period should be given observing the progress of Investigation Officers before departmentally proceeding against them for delay in complaint disposal.

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d) Training of police in ICT tools must be given top priority. Large scale training programmes should be introduced in all police schools, police colleges and National Police Academy to equip police officials of all ranks with latest ICT tools and e-policing applications. Proficiency in ICT and e-policing applications should be given more weightage in the appointment and promotions of police officers.

e) The effectiveness and efficiency of police can also be enhanced by improving police-public relation. Broadcasting police activities in the community and reporting district and provincial level news on local television channels can bridge the communication gap between police and public and can raise the level of public awareness regarding e-policing.

## **Change Management in Higher Education Department (HED), Government of the Punjab**

*Nabeel Ahmad Awan, Pakistan Administrative Service (PAS), ex-Secretary Higher Education Department (HED) Government of the Punjab, And*

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### **INTRODUCTION**

The public sector in Pakistan has witnessed waves of reforms since its early days. The nature, magnitude and duration of different reform efforts have changed over time but with passage of time the talk, if not actual action, has become a custom. Today debate about reform is a norm and not exception. The social sector especially education sector has its fair share of reform efforts. It is argued that agenda is increasingly influenced by the international donor organisations, with varying degrees of political ownership. The grandeur of such reforms often overshadows the reforms undertaken at small scale through in-house initiatives. However, one may argue, the process and essentials of change management should be the same for any such endeavor to be successful.

This case is one such example whereby initiative was undertaken by the head of the organization. The case is about Higher Education Department (HED) of the government of the Punjab. The newly appointed Secretary faced a system of arbitrariness in posting and transfers of the lecturers and professors due to availability of skewed information and ‘clerk capture’, as he called it. He wanted to bring merit and transparency in posting and transfers and ultimately in all aspects of Human Resource Management (HRM) by introducing an IT based solution.

The key question is whether the essential factors for effective change management are applicable to small size reform as well?

## **ANALYTICAL FRAMEWORK**

For the purpose of analysis, framework developed by Sergio Fernandez and Hal G. Rainey has been selected<sup>1</sup>. They agree that this area is very well documented as research in abundance has been conducted on various related aspects. They have identified the points of consensus among the researchers related to change management. It is argued that identification of consensus points from the multitude of research conducted on this topic can lead to testable propositions for future researchers.

After considering many models and frameworks, they are able to find clear similarities not only among these models and frameworks but also among the empirical studies supporting them. They conclude that the change leaders and participants should be cognizant of eight (8) factors for effective change implementation:

1. **Ensure the need:** to envision and convince others about the need of change. Dissemination of information among all stakeholders is important.
2. **Provide the plan:** to develop strategy and action plan for implementation of change. Clarity and specific goals are crucial points.
3. **Build Internal Support for Change and Overcome Resistance:** to identify the potential reasons for resistance to change. Methods to overcome resistance may include urgency of cause, compulsion and threats, rewards, persuasion, bargaining, and employee empowerment. The compulsion and threats can be counterproductive too.
4. **Ensure Top-Management Support and Commitment:** Champion of cause for change. A skillful leader can be that champion. Cooperation of political executives. Need for continuity of leadership.
5. **Build external support:** Support of political bosses and key outside stakeholders. Political bosses can be helpful in provision of legal framework and resources, if required. Changes requiring less implementation time and less resources have more chances of success.
6. **Provide resources:** More often than not the change requires additional resources, redeployment of HR and reorganization.

7. **Institutionalize change:** Need to incorporate the change in the office routine and policies. Monitoring the implementation process is important to assess the degree of adoption of change.

8. **Pursue comprehensive change:** implementing systemic change in the sub-systems as well but with a cautious approach. Starting with high visibility element of change may be helpful for later changes.

Finally they caution that process of change is not linear as advocated by some researchers.

### **A Case Study of Change Management in HED, GoPb, while introducing automation of Human Resource Management and Monitoring System**

#### **BACKGROUND**

Higher Education Department (HED) Government of the Punjab (GoPb) deals with all public sector degree colleges, commerce colleges, Boards of Secondary and Intermediate Education, and all 'general' universities in the province of Punjab. There are a total of 560-degree colleges, 160 commerce colleges, 29 and 24 universities in the public and private sector respectively. HED essentially functions as 'government' for these universities and acts as an interface between the Governors (Chancellor), the Chief Minister and Provincial Cabinet (the 'Government') on one hand, and the universities on the other. The public sector colleges are directly under the administrative control of the HED. There are around 21000 teaching posts in the public sector degree colleges in Punjab; and in August 2017 about 18000 lecturers, assistant professors, associate professors and professors were working against these posts. Out of these 18000 officers, about 10000 were female, and the remaining, male teachers. Thirty-six (36) subjects are taught in the public sector colleges in Punjab; and each teaching post in each college of any grade has been assigned a subject. As such, there is no free-floating grade-free and subject-free post in any college at any time. According to the Rules of Business, all colleges in the province are legally situated within HED's attached department, Office of the Director, Public Instruction (Colleges), (DPI (Colleges)), Punjab. This office has a Director Colleges in each Division and a Deputy Director in each district in the province.

The new secretary Higher Education Department (HED), Government of the Punjab

assumed charge in August 2017. When he arrived at his office on his first day, he was quite surprised to see at least three dozen men and women waiting to see him. He found out that about 90% of these were officers of his department, mostly lecturers and assistant professors, and were there to see him regarding their transfer applications. As per official practice, their applications were marked to the concerned Deputy Secretaries for further processing and putting up cases. After the trend continued for many days, he was further intrigued and started to study the posting and transfer system in vogue in the department. He found out that the system was rife with inefficiencies and maladministration, suffering from arbitrary decision-making and ‘clerk capture’. It required a major overhaul.

It was in this backdrop that the new secretary decided to introduce automation to the HR management in the HED generally, and the process of transfers of HED’s officers, particularly.

## **IDENTIFICATION OF ISSUE**

The secretary’s inquiry and examination of the existing transfers & posting system revealed the following facts:

1. The competent authority to transfer BS 17 and 18 officers of the department was the Secretary HED. Chief Minister had delegated power to transfer BS 19 officers in HED to the Secretary; while for BS 20 officers, Chief Minister was the competent authority.
2. Their transfers from any college to any other within the province were centralized in the HED; the Secretary would decide all transfer cases in his competence (i.e. upto BS 19), while he would move a Summary for the Chief Minister in case of BS 20 officers.
3. For a typical transfer from College A to College B, for say, a BS 17 lecturer, she would have to follow the following steps:
  - a. Make an application to the Principal of College A seeking a no objection certificate regarding her requested transfer;
  - b. Make an application to Secretary HED requesting transfer to College B, from College A;

- c. The Secretary would mark the application to the Additional Secretary, who in turn would mark it down to the Deputy Secretary and Section Officer;
  - d. Section Officer would write a letter to the DPI (Colleges), or the concerned Director Colleges or Deputy Director seeking indication of a vacant post of same grade and subject. In certain cases, he would write direct to Principal of B College seeking vacancy position. There was no set criterion to determine or predict whether in a given case, the letter would be written to an office in the field formation or direct to the Principal of College B. It would depend, practically, upon the Section Officer's mood on that particular day, or for that matter, how much he wanted the applicant officer to be facilitated.
  - e. The applicant would take the letter personally, would go around all offices concerned, get the vacancy position and bring the letter back to the Section Officer;
  - f. After the NOC from College A and vacancy position at College B are at hand, the Section Officer would put up the matter for the Secretary's orders whether to transfer the officer or not.
  - g. In case of a clear vacancy, i.e. a vacant post of same grade and subject as the applicant's, the Secretary would mostly allow the transfer;
  - h. Arbitrariness would creep into those cases, where there was no clear post available. In some instances, the request would be denied straightaway, whereas in others, subject or grade, or both, of a vacant post would be changed in order to accommodate an applicant.
4. According to the notified transfer policy of HED, no transfer could be made unless a clear vacant post was available in the destination college; nonetheless, the policy provided exceptions in the shape of wedlock-based and hardship-based transfers. The policy defined relatively clear criteria for cases under the wedlock-based transfers, but was open-ended and allowed subjectivity in cases that 'purportedly' fell in the hardship-based category.

Having understood the process in practice in the HED, the secretary sat down with the Special Secretary, Additional Secretary, DPI and the concerned deputy secretaries. He, with their help, analyzed the existing situation and deduced as follows:

*Change Management in Higher Education Department (HED), Government of the Punjab*

1. In the absence of a streamlined process to receive, process and dispose of transfer applications, no one exactly knew how many officers had requested for their transfer, at any given point of time.
2. In addition to wedlock cases, most request were for transfers to big cities. Additional pull factors towards the cities and larger towns would be better educational facilities for children and potential for extra moneymaking activities like private colleges and tuition.
3. Transfer was not a norm in the HED, and all transfers in HED would be consent and request based.
4. The whole process for a transfer case was found to be suffering from clerk-capture. It was a state of affairs in which clerks and other officials had captured the running of a process inasmuch as it was they who would determine the agenda for their officers, by deciding which cases to put up and when, while having complete control over information regarding pending cases. This capture is complete when the quantum of information is so large that the decision makers and officers cannot even verify the facts presented to them; and when the number of cases (transfer requests, in this case) is so large that the officers cannot keep track of individual cases and insist on their being processed and put up expeditiously.
5. There was no office in HED, which could present real time accurate information regarding who was posted where. Similarly, no one knew how many posts of which subject were vacant in which college. This information would be obtained on case-by-case basis from the principals concerned. No vacancy position was available.
6. The system was not definite and predictable. In certain cases, people would get transferred to the place of their choice without any vacant post available; and others' cases would keep lingering on for months despite there being a vacant post. In certain instances, if a clear vacant post was available, merely putting up a file of a 'choice' candidate by the section's staff before others, would determine who would go where.
7. The whole process, just like the most of the public sector, was 'applicant driven', as the applicant had to follow his case himself. There were complaints and reports of corruption too, at all levels. There were also numerous complaints that

money was extracted from officers as they sought NOCs and vacancy positions from colleges.

8. The process of appointing new appointees on their first posting was equally problematic. The department was expecting some 2000 new appointees from the Public Service Commission during the first half of 2018. In the absence of any consolidated data regarding vacant positions, there was no set formula for their placements. Usually, and historically, the department would rely on proposals by the DPI's office, which in turn, would be based on sketchy information and arbitrary work by the clerical staff.

The secretary also came to know that at least two attempts had been made in the past to prepare a digital database of all human resource in the department; one, in 2004 and two, in 2010. Regrettably, once prepared, these databases were not kept up to date, and despite their being still available, were outdated and obsolete. Upon inquiry, it was reported that when the secretaries got posted away, the emphasis and pressure on the staff to keep punching in all notifications and updates regarding individual officers waned; and therefore, the database started to get outdated.

## **SOLUTION**

The secretary, in consultation with his team, developed the following solutions that he called principles:

- a. The HED needed, as a matter of necessity, a digital database of all of its human resource, particularly the teaching staff;
- b. Arrangements should be in place to ensure that the database is duly and promptly updated. Ideally, it should reflect an exact and accurate picture, in real time and not be dependent on diligence of a computer operator to punch in notifications already issued;
- c. Regarding the transfer requests, a one-stop-shop may be established, which shall be sole point of interaction between the Department and the officers who request a transfer.
- d. A predictable, objective and transparent system for transfers and postings should be put in place to ensure that officers are treated fairly, in order of some merit and in a dignified manner.



e. No recourse be had to any resource outside of HED. No new post should be created and no assistance should be sought from any other department. This was found necessary, at least in the initial stages, to ensure speedy progress.

## **IMPLEMENTATION**

Following steps were taken regards the database of all teaching staff of HED.

a. First of all, the databases prepared in 2004 and 2010 were dug out and examined. In terms of data, they were nearly obsolete. There were technical issues too, since the platforms used for preparation of these databases had since become old; and in 2017, more robust and advanced platforms were available.

b. The secretary, therefore, decided that they should develop a management information system (MIS) ab initio.

c. An interesting debate ensued after this decision. A group of officers in the secretary's team maintained that an exhaustive census should be held and the data regarding all service matters of officers should be included in the new system; and the system should then deal with not only transfers and postings, but also disciplinary proceedings, promotions, annual confidential reports, salary and pension matters etc. The secretary, however, decided that initially, the system should be kept very simple and lean; and insisted that in the first phase, only that data should be collected and punched into the MIS, which was essential to decide and execute transfers and postings. At a later phase, other particulars of officers could be collected and fed into the MIS.

Accordingly, work on two aspects was initiated forthwith concurrently. One, a census of all officers of HED was conducted. For this, a ban on all transfers, charge assumption and relinquishment in pursuance of a transfer order already issued, was imposed. Two different forms were designed; one of these sought seventeen (17) items of factual detail about an individual officer, and the other form was a consolidation cover sheet, to be signed and attested by the Principal of the college. The Principals were given one week to complete these forms and return these to HED through their Deputy Directors and Directors. The latter were instructed strictly to follow the deadlines and ensure accuracy of data.

Two, since the secretary had decided not to rely on other departments or to go for

making a new project formally, local resource within HED was searched. It transpired that the IT Section of BISE Faisalabad had very good human resource, which had developed many a software in-house. The Chairman of the Board was instructed to depute two of his best programmers in HED, Lahore, who were tasked to develop the database and basic structure of the MIS.

With census forms at hand and the MIS ready in about two weeks, arrangements were made for input of data. This was a one-time exercise, which amounted to entry of data in about more than 300,000 fields in the database. Yet again, the secretary resorted to local resource mobilization. A temporary IT center was set up in Government MAO College, Lahore. Thirty desktop computers were borrowed from MAO College's and Islamia College's computer labs. Each of the forty colleges in Lahore was asked to lend one key punch operator for three weeks. The charge of the whole operation was given to one of the Senior Data Analysts working in the SPMU of HED, who was interviewed and selected by the secretary. Additional Secretary (Establishment) of HED was made overall incharge of the 'project'. One of his primary tasks was to iron out any administrative problem as the operation went by.

After the data had been entered, in order to ensure its accuracy, all entries were printed out of the database college-wise, and sent to Deputy Directors across the province to have these verified by the Principals concerned. They were asked to highlight any mistakes, mistypes or missed information. Certificates were called from the Principals and Deputy Directors regarding their personal satisfaction about the data and corrections made.

The corrected printouts were received back in about ten days from all districts, along with signed certificates by the Deputy Directors and Principals of colleges. At the time, there were twenty-two (22) section officers working in the HED. The corrected printouts were divided amongst them equally, and they were directed to personally sit along with the KPO and have all corrections made in the database.

After all the corrections had been effected, under the supervision of Section Officers, another round of sending printouts, and having these vetted by the Deputy Directors and Principals was executed. This showed that the data on HED's MIS was 99% accurate.

In this manner, in about eight weeks from the decision and initiation of work, the

secretary had managed to have a database of all officers and teaching posts of HED, vacant as well as filled, containing all the necessary information required to decide transfer applications. The database could tell, for instance, how many posts are vacant in a particular college or a district; which colleges in the province have vacant posts of lecturer in Psychology, or for that matter, professor in Physics.

### **Setting the System Free from the Need to be Updated**

The next question before the secretary was finding a way to ensure that the database, which at a particular time, accurately reflected the on-ground position of HED's teaching HR, *always* remains updated and accurate. His team suggested that something needed to be done about the old method of sending a copy of transfer notifications and orders to the MIS Operator, who would then punch in the details into the database.

Experience with previous databases told that with time, notifications started to get misplaced, or fatigue set in and the operators just didn't enter the data. It was, therefore, decided that rather than issuing orders and then entering these into the database, let the orders themselves be generated by the MIS. That way, as the MIS would generate a transfer order, it would automatically update itself. In other words, the system would first update its data and would produce a bar-coded system-generated transfer order.

The programmers were roped in and tasked to build this functionality into the MIS, i.e. the system's ability to generate orders and notifications regarding all actions that change the status of posts and/or personnel in the database. Further, the system was also equipped to generate charge relinquishment and assumption reports, as a result of transfer orders generated by the system. Instructions were issued to the field formation to use only the system generated charge report and not the earlier ones that were manually prepared. The Deputy Directors and Principals were issued login and passwords so that they could access the system, generate and print a charge assumption and relinquishment report, in compliance of a transfer order that the system had earlier generated. The secretary got conducted many test runs of the system, which worked well. This measure was aimed at further 'entrenching' the MIS and to force the officers in the HED to use it, and thereby, keeping it updated and accurate in real time.

### **Outside Help Sought ... And the Outcome**

The secretary thought of another way to 'entrench' the MIS into the HED's operations. To ensure that every change in posts in colleges and their incumbents must not escape MIS, he approached Finance Department and requested them to issue instructions to their District Accounts Officers that the Accounts Office must not entertain a request for issuance of Last Pay Certificate (LPC) or 'change' of salary after charge assumption, UNLESS the request is accompanied by HED's MIS-generated charge assumption and relinquishment reports and system-generated transfer / appointment orders. The secretary wrote a letter to Secretary, Finance Department, followed by a personal call on to the Secretary Finance and a couple of meetings with the Special Secretary, Finance Department. The secretary believed that if Finance Department cooperated in this endeavor, the MIS would get very firm grounds to stand on sustainably; since for LPC and salary, people would have to generate charge reports through the system, which would only be possible if the System had earlier generated the transfer orders – thereby ensuring that the MIS stays updated in real time.

Interestingly, after a few weeks, the Finance Department responded *informally* and *unofficially*, and regretted the HED's request. As to reasons for not acceding, FD maintained that they had taken up the matter with District Accounts Officers, and that they had collectively responded that it would not be possible for them to adopt this new system in respect of only one department, and that they could do this only if all departments switched to computer-generated transfer orders and charge reports!!

The secretary, though disappointed by this response, was quite relieved to see that his earlier strategy to develop the MIS by mobilizing all resource from within HED and not seeking cooperation from any other department was in perfect order; and perhaps that was one major reason why he could manage to get things done.

### **Incorporating HRMIS into the Office Work Flows**

While the MIS had been all set, two workstations installed in HED secretariat for operating the system, another question arose as to how to incorporate the MIS in the routine file movement in the HED. Normally, a file is initiated by the Section Officer,

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which then goes on to the Secretary, through the Deputy Secretary and Additional Secretary. After the Secretary has approved a proposal, or given appropriate instruction, the file is marked down the same route until it reaches the section. The Section Officer issues the letter, notification or order accordingly. After the matter was raised by his officers, different options were discussed and detailed instructions regarding the use of MIS were issued by the HED:

1. As a general principle, it should be understood that the recently developed MIS in HED is a database of all officers and all posts in HED at the moment; and as such, any order that causes a change in the state of these officers and posts shall have to be generated by the MIS, so that the database remains current and updated at all times.
2. Report regarding assumption and relinquishment of 'charge' in pursuance of any order issued by the MIS shall also be invariably generated by the MIS system. No report prepared otherwise, even if authenticated by the concerned DDO / authority, shall be considered to be a valid report.
  - a. For this purpose, the MIS Wing of HED shall issue login details for all the DDOs (essentially the Principals of all colleges and the DDOs in field formations) to use MIS to generate charge relinquishment and assumptions reports accordingly.
  - b. It shall be the responsibility, fairly and squarely, of the DDO concerned to comply with this instruction.
3. Within the HED, the following procedure shall be adopted to get the draft orders generated by the MIS:
  - a. Whenever an order referred to in paragraph 2 above is to be issued by a section, the Deputy Secretary concerned shall mark the file down to the MIS Wing rather than the Section Officer concerned. The DS shall clearly direct the MIS to print a draft order and give details of what that order is to contain.
  - b. The MIS Wing, after printing the MIS-generated draft, shall authenticate the draft with its stamp, the embossed seal and initials of the authorized official; place the draft in the file; state so on the Note Sheet and mark the file to the concerned section.
  - c. The MIS Wing, in addition to printing the standard circulation list, shall also

include itself in the circulation so that it can later satisfy itself that the draft it printed has actually been subsequently issued. The MIS Wing, at any given point of time, shall be expected to report as to how many drafts it has generated and out of these, how many have actually been issued by the concerned sections.

d. The concerned Section Officer shall, having received the file along with the draft order, shall sign and issue the order in the usual standard way, according to the Manual of Secretariat Instructions.

e. The Deputy Secretary concerned shall be responsible for the implementation and compliance of these directions.

4. No amount of urgency, administrative expediency, or even the MIS being 'down' or out of order at any point of time shall NOT be an excuse for any DDO in the field formation / colleges or any Deputy Secretary in the HED for not having followed the procedure prescribed in these instructions.

5. In the unusual case of most emergent cases, for instance, where instructions from the Chief Minister's Office or the Chief Secretary require immediate compliance, any departure from the use of MIS system, shall be done only with the prior approval of the Secretary HED.

6. Non-compliance of and/or failure to follow these instructions by any DDO / DS shall amount to misconduct and inefficiency in terms of Punjab Employees Efficiency, Discipline and Accountability Act 2006.

As can be seen, the secretary tried his utmost to cover all conceivable scenarios in which transfer or any kind of orders that could have been a bearing on the distribution of posts and personnel in the HED. The instructions even covered the emergent scenarios where in very exceptional circumstances, some orders have to be issued urgently, maybe during out of office hours and bypassing the normal approval channels.

### **The One Stop Shop**

Regards the one-stop-shop, the secretary tasked the Deputy Secretary Administration to earmark a room on ground floor of HED Secretariat, to be used as a reception room for all applications by officers regarding transfer and other service matters. The room was equipped with two computers. Two lecturers were selected from amongst

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the ones who wanted a posting in Lahore and were tasked to operate the ‘One Window Office’. They started receiving applications while the ban imposed during the ‘census’ was in effect. The applications were duly logged manually on registers, and then their data entered into an MS Excel spreadsheet. By the time, the MIS system was up and about and technical and logistical snags ironed out, the One Window Office had received about 1500 applications for transfers and postings.

After having set up the One Window Office and MIS at hand, the secretary set out to put the system to operation by processing and disposing of all pending transfer applications. He constituted a committee comprising of Additional Secretary, Deputy Secretary and the Section Officer concerned. He tasked them to proceed as follows:

- a. Sort out all requests in order of ‘destination post’;
- b. See if there is a clear vacant post (same grade, same subject) in the destination college; if so, proceed further, and if not, regret the request;
- c. In case there are more than one officer desirous to go on the same post, the one who is senior shall be accommodated, and others regretted.

It is pertinent to note that as the transfer orders for any officer were issued, the system kept itself updating in real time. The committee could therefore decide and dispose of, on merit of seniority, about 1500 applications in three days.

After the initial backlog was cleared, the secretary notified a monthly calendar whereby on the second Monday of every month, all applications received during the last 30 days would be disposed of by the third Monday of the same month.

### **Extending the HRMIS to Fresh Applicants**

Towards the end of first quarter of 2018, Punjab Public Service Commission started to send recommendations for appointment of lecturers and Assistant Professors in various subjects. The PPSC’s recommendations are received grade wise and subject wise; for instance, in a single letter, it would recommend, in order of merit, fifty female lecturers of Chemistry, and so on. Using the MIS, the following system was adopted for the first placement of new appointees.

- a. All the persons recommended for appointment would be called at the same

time at one place; female appointees at the Auditorium of Government College for Women, Cooper Road, and male appointees at the Auditorium of Government Islamia College, Civil Lines.

- b. MIS generated lists of vacant posts from across the province would be projected on a large screen in the auditorium.
- c. The new officers would be made to sit in order of their merit; and one by one, they would be called onto the front to make their choice of station out of the vacant posts available.
- d. After the choice had been made, a system-generated posting order would be printed then and there and handed over to the officer. The system would automatically take that 'taken' post out of the available posts in the list on the projected screen.

Until June 2018, in this manner, HED issued first posting orders for about 1200 fresh appointees, according to merit, in a fair and transparent manner.

## **CHALLENGES**

The above is a simple linear narration of a story. Albeit, the secretary and his team could accomplish what they aimed at in a short period of time, there were many a slips between the cup and the lips; and there were many hurdles that needed to be negotiated and worked around.

1. First, initially, most of the officers, particularly at the operational levels, the field formation and Section Officers and their staff, were convinced that the automation idea either would not work, or would collapse after its operationalization.
2. Initially, people did not take the whole effort seriously, in that the data provided was false and incomplete, perhaps just carelessly. Officers in the field, the Deputy Directors and Principals furnished wrong certificates regarding veracity of data. The secretary had to deal very sternly with the careless ones in the initial stages. At least two Principals and a Deputy Director were directed to leave their posts and report to Department. He ordered initiation of disciplinary proceedings too. Although, in all these cases, their explanations and personal hearings by The secretary and Special



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Secretary HED led to withdrawal of earlier orders in a few weeks, this sent a very clear message that the secretary meant business and that business was serious.

3. After the MIS started working, the Deputy Secretaries and Section Officers found new excuses to bypass the MIS and revert to earlier manual & paper-based system. At times, these excuses would be legitimate and at others, otherwise. For instance, HED had received recommendations for appointment of some 200 lecturers. The system required massive programming to be able to add these officers into the system and then appoint them on vacant posts. It was suggested that while the programming job is finished, HED might use the old procedure of manual processing and postings. The secretary put his foot down, made the programmers work day and night, withstood pressure to appoint the new officers, made them wait for about two weeks, and then got all placements processed and executed through the MIS.
4. After the MIS was operationalized, the devil that notoriously resides in the 'detail' came to life. The system was originally designed to transfer officers from one post to another, and to update its logs in real time. Many new situations and scenarios kept popping up during the first two months. For instance, initially there was no provisioning for keeping data regarding officers getting suspended from service, going on study leave, long leave and medical leave etc. The secretary showed patience, resilience and insistence in that he withstood pressure and kept people waiting until all these scenarios could be programmed into the MIS.

## **THE OUTCOMES**

In broad terms, outcomes of the use of MIS were as expected. It induced efficiency, speed and transparency into the system. A simple transfer application could now be disposed of in about ten minutes, either with regrets, or with a printed transfer order / notification. Officers of HED would not have to run from pillar to post, from colleges out in the districts to offices in DPI Office or HED, since all the information that was required to decide their matter was only a few clicks away. This restored dignity and respect of the officers.

MIS also made the whole system objective and predictable. Any officer could now go to HED or DPI office and check if his desired position is vacant or not. He could find out if his request would bear fruit. This made the whole process very fair and transparent. Further, since at the time of decision, all applications for a particular vied-for post, say in a large college in a large city, could be considered at the same time, it was easy to observe merit, i.e. seniority, in posting the senior most contender to that post. This brought about fairness and equity in the system, which was non-existent before.

In a way, the MIS empowered all the well-meaning and well-intentioned persons; officers as well as officials. Now, there was no dependence on the reports and NOCs by the field formations and colleges any more. It reduced the workload and waiting time for the applicants as well as the ones who ran the system.

Nonetheless, in its own peculiar way, introduction of the MIS had a 'disempowering effect' on all tiers of the department. The secretary, even if he had wanted, could not arbitrarily transfer an officer to a post that was not there; or erratically against a post of another subject or grade. Even if he did so, the system would log his action and this information will remain there for all to see, for all times to come, which could potentially be cited as precedent to put pressure on him and other officers. At lower tiers, the officials could not 'game' the system anymore.

Introduction of MIS brought newer ways of corruption. At least one incident was reported in which someone contacted few applicants for transfer and sought money for facilitation. Although this person was later apprehended through police and got arrested, his modus operandi was pretty simple. Anybody having access to the MIS could now find out in minutes if a particular transfer request is tenable or not; in the former case, he was in a position to blackmail the applicants, having full confidence that their request would ultimately be approved anyway. Previously, since the information regarding posts and vacancies was scattered in different offices, and was not accessible to one office off the cuff, it was difficult to predict beforehand as to the outcomes of particular transfer requests.

In the end, it is pertinent to mention that five months after the secretary had left HED, he was pleased to learn that the HRMIS he developed at HED was still being operated and used heartily; albeit the department had seen two more Secretaries in this short while!

## **LESSONS**

The secretary learnt quite a few lessons during this exercise. Firstly the technology and automation is the key to solving most of the issues with the public sector. This is particularly true of long and tedious processes, involving many steps spanning many offices. Introduction of Information Technology can cut processes short, make decision making transparent and quick while ensuring fairness to the persons concerned.

Secondly, proper communication with ultimate users in the initial stages can be useful in showing to them that the new solutions would be beneficial and convenient for them. That way, their ownership and motivation can bring about innovations smoothly and swiftly. Informing people, whose matters are going to be dealt with by the new solutions and systems, is equally important. In this case, had the secretary disseminated information regarding the MIS and how HED's officers' transfer requests would be handled, it would have helped in many ways. It would have prevented blackmailing of transfer applicants by those who had ready access to the information stored in the MIS.

Thirdly, as discussed above, introduction of technology empowers and disempowers in its own ways. These implications should be carefully studied beforehand and all stakeholders should be brought on board. If this is not done, as these implications unveil in due course, people may start losing interest and ownership of the new systems and applications may wane.

Fourthly, ideally, the staff that had previously been working in offices and running old paper-based manual processes, should be cut down; and put to use elsewhere. This is necessary for making the change permanent and sustainable. The old staff not only causes redundancies, but also generates a temptation to relapse to the older methods. After automation has set in, the old staff should be posted out; and only the skilled staff be retained, or new officials may be posted to manage the old processes in new ways.

Fifthly, although larger endeavours cannot be initiated without formal planning, documentation and going through the processes of PCIs, administrative approval and complicated procurements, it is advisable to identify a low hanging fruit, if at all

it is possible. Thinking big but starting small, and then developing on the smaller achievement, maybe by using formal channels and processes, is more practical and quicker way to induce change and bring about innovation. Had the secretary opted for going for a large database project, by the time he would have got the PC1 approved and funding arranged after obtaining Chief Minister's approval, he would have been transferred out of HED before the completion of recruitment of staff or procurement of equipment (July 2018).

Sixthly, this also shows the importance of reasonably durable incumbency on substantive positions in the public sector. HED somehow had been unfortunate for the last decade or so in having very short stints of its secretaries. The case at hand indicates that in order for a public servant to do something substantive and meaningful, and to take it to its somewhat logical end, he needs a reasonable tenure. The secretary could manage to translate his idea into reality only because he was there. The project would have been forsaken midway, if he were transferred in or before March 2018. After all, for a successor, it is always effortless to keep on using a facility or system that is already there, rather than taking ownership of something that is only under construction.

## **ANALYSIS**

The case presented above is reportedly a success story. It can be analysed in the light of the analytical framework presented earlier. This analysis will provide good insights into the change management process adopted in the case and will help in determining as to what extent the eight factors were employed in the case under discussion.

1. It is clear from the case description that the secretary was able to identify the issue and causes correctly and within very short time after he joined the department. This clear identification of issue helped him throughout the process. Another important factor is the fact that he involved other officers from the department as well in the process. However, after identification of the issue, it is clear that he did not disseminate this information widely. The information was shared internally. Though there is another aspect of this matter. Most probably this issue was a common knowledge. And at least as far as issue was concerned there was perhaps no need to disseminate the information widely.

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2. Clear action plan was developed and specific goals were set. The timelines were also very clear. However, the secretary did not compromise on the quality of information and took more time to get the information right. And here his judgement was accurate as correct information was the crucial element for success.
3. This was a tricky point. Apparently, the secretary employed a mixed approach. He used threats, persuasion and employees empowerment to overcome resistance to change. He used his position of authority to threaten the corrupt elements and bring about compliance. But he also persuaded his immediate subordinates to help him in identification of issue, causes and solution. Then he empowered the field officers including all DDOs. Empowerment of employees is quite important and significant.
4. In this case the secretary was the top civil servant of the department and champion of the change. His skilled leadership was one of the crucial factors for the successful implementation.
5. The secretary did not try to win outside support in general. In one specific case he sought the help of Finance Department but failed. It is not mentioned in the case whether he attempted to obtain the support of political bosses or not. In fact, he was convinced that he should rely on himself and resources of the department to implement the change. His argument regarding long gestation period, in case he sought additional resources, was right. It also proves that changes which require short implementation time and less resources have more chances of success in public sector.
6. It is true that additional resources especially in terms of qualified manpower were required. But he was able to muster up the resources from within the department and had not to rely on external resources. This was another crucial factor for the successful implementation of change. He had to resort to some redeployment of human resource, which proves the argument that some redeployment is not only essential but desired during transformation.
7. Very importantly the secretary was able to institutionalise the change to a great extent. He issued instructions and policies to protect the change. More importantly he amended the business process to make it mandatory that only orders generated by the system were used and no manual orders were issued. By this one

significant change he ensured the integration of automation in office work and flow of files, which would have positive effect on the sustainability as well.

8. His approach was to start small and then go for big change, which worked successfully. If he had gone for comprehensive change from the start, as was advocated by some of his officers, then even the implementation of posting transfers part would have been difficult.

## **CONCLUSION**

The application of analytical framework on this particular case study confirms to a great extent what the research has already shown. That is if the eight essential factors are more or less followed, then chances of success are high. Secondly, it is also important to note that the essential factors are useful irrespective of the size of the change. In this case the change was relatively small though had a profound effect on the working of the department. It gives some peculiar insights in the working of the public sector. It indicates the importance of the chief executive of a public organization as a leader and champion of change. It also highlights the need of institutionalization of change. It showcase an often otherwise neglected area of empowerment of employees and its contribution in the success of the reform. Though this area needs further research to understand the dynamics in the context of public sector of Pakistan. Finally a word about sustainability. It will be premature to assume that the change is permanently institutionalized in the department as hardly one year is passed. However, the indications are good as the system was still running after the change of two secretaries, as reported by the secretary (narrator of the case). It may be useful to study this transformation again in 2-3 years' time.

## **References**

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# **FBR HUMAN RESOURCE MANAGEMENT POLICY: ISSUES AND CHALLENGES, SUGGESTED POLICY INTERVENTIONS TO INCREASE PRODUCTIVITY**

*ABDUL JAWWAD, IRS*

## **INTRODUCTION**

The Federal Board of Revenue (FBR) is the premier revenue collecting agency of the country. The performance of FBR has always remained under the spotlight. In view of the burgeoning budget deficit it has become the center stage of the Government efforts to turn around the economy. Efforts are afoot to increase the productivity of the organization which in turn is measured by parameters like growth in revenue and tax to Gross Domestic Production (GDP) Ratio. Measures to enhance the productivity of FBR more often than not comprise of increasing the tax rates, strengthening enforcement, selecting larger number of cases for audit, broadening of tax base, automating the systems and reinforcing the law. Optimal performance of the FBR depends on many factors. Human Resource Management (HRM) is one such factor which could not grasp the full attention of the policy makers.

### **Statement of the Problem**

Over the years Federal Board of Revenue (FBR) undertook several initiatives including policy and administrative measures to increase productivity. The purpose of this paper is to examine the existing HRM policies, identify the issues and challenges and suggest what interventions can be made to enhance the productivity of the organization.

### **Significance and Scope of the Study**

The scope of the study involves examining the entire value chain of FBR HRM including Job Analysis (JA), Job Specification (JS), Job Description (JD), Personnel Planning (PP), Recruitment & Selection (R&S), Training & Development (T&D), Performance Management & Appraisal (PMA), Employee Engagement, Retention & Career Development, and Compensation. The purpose is to identify the gaps, issues and challenges and thereby identify measures which can lead to an increase in the productivity of

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the organization.

The subject research study is significant as it can help FBR reap dividends by focusing on its HRM policies. The suggested interventions are framed from practitioner's point of view and would therefore suit the genius of this organization. The results of this study can also be applied to various other government departments in general and to other revenue collecting agencies in particular to improve their revenue collecting capacity.

### **Review of Literature**

Human Resource (HR) Strategy means a system of HR practices designed to achieve best employee performance so as to increase their productivity and thereby helping the organization achieve its ultimate goals.<sup>1</sup> The effectiveness of public sector organizations depends on HRM policies and practices.<sup>2</sup> The biggest challenge in the public sector organizations is absence of HR department and lack of understating of HR functions.<sup>3</sup>

The fundamental building block of HRM value chain is JA which provide JDs and JSs. These are required in all steps of HRM value chain starting from R&S, training, appraisement and compensation.<sup>4</sup> The flawed R&S in the public sector organizations is due to poor job analysis and this in turn effects the performance of the institution.<sup>5</sup> The recruiting efforts must focus on finding individuals whose skill set match with the organization's strategy and a good fit with their values and work ethics.<sup>6</sup> Training gives the new and the current employees the skills, knowledge and ability that they need to do their job effectively.<sup>7</sup> In terms of its effect on productivity training ranks higher than feedback and appraisal and just below goal setting.<sup>8</sup> Performance Appraisal (PA) is the process of evaluating how well an employee is performing in his job, reinforcing good performance and devising a plan for improvement in case of unsatisfactory performance.<sup>9</sup> Organizations in which performance management systems are directly linked with reward system provide very strong incentives to the employees to work diligently towards achieving organizational objectives.<sup>10</sup> Companies should create a compensation plan which help the organization achieve its strategic



objectives by producing employee behaviors which are aligned with the organization's strategic aims.<sup>11</sup> The compensation package should be designed not only to attract, retain and motivate the competent employees but also it should seem fair to employees.<sup>12</sup> The pay for performance plans strengthen performance and reward relationship but it is essential that the employees believe that the performances are being fairly and accurately measured. <sup>13</sup> Engaged and motivated employees work hard to achieve their goals.<sup>14</sup> The performance of an employee in an organization depends on two factors; his ability and his willingness to do the job, the latter is related to motivation.<sup>15</sup> Apart from compensation career management plays a significant role in engaging and retaining the employees.<sup>16</sup>

The 2008 Report of the National Commission for Government Reforms (NCR 2008) mentions that attraction, retention and motivation of civil servants can be facilitated by following a more holistic approach towards entire HR value chain in which recruitment, training, performance management, compensation & benefits, career progression and retirement are all linked together and provide positive reinforcement<sup>17</sup>.

While there is plenty of research available in HRM both in private and public sector organizations much of it is grounded in the dynamics of the developed economies. There is no denial to the fact that challenges of a developing economy are altogether different from developed economies and public sector dynamics are different from private sector. Currently there is no research available which identifies the issues and challenges with respect to FBR HRM policies or which suggest HRM interventions with a view to enhance productivity of FBR.

## **Method**

To identify the issues and challenges associated with HRM policies reliance was placed on primary data. This included interviews with the key officers across a broad spectrum so that HRM policies can be analyzed from as many different perspectives as possible. The interviews were semi structured so as to give latitude to the respondents to discuss freely whatever came to their mind. This way they shared their inner most thoughts on the subject without being steered around by a guided set of structured questions. In light of the

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discussions a survey questionnaire was developed.

The questionnaire was designed to measure the prioritization of the various factors of HR value chain. The factors were also rated in order to determine their relative role by assigning weights to them. Qualitative aspect was added to questionnaire by seeking input of the respondents on HR related issues & challenges and suggested policy interventions which could increase FBR productivity. The survey was based on random sampling (Sample size  $N > 30$  to be statistically valid) of 50 employees of the organization, across various ranks to ensure that it was representative of the total population. Pilot testing of the questionnaire was done to remove the errors before a full scale survey was under taken.

### **Organization of the Paper**

The first section briefly discusses the objectives, roles and functions of FBR. It then analyses existing HRM practices in terms of issues, challenges and their impact on productivity. The second section incorporates an analysis and interpretation of the data gathered through survey. It prioritizes various HR practices which can help increase productivity. The third section discusses suggested policy interventions.

## **SECTION I**

### **Organizational Background**

FBR is the top revenue collecting agency of the country. The organization is divided in to two wings; Customs which deal with all external taxes (import & export) and Inland Revenue which deal with all domestic taxes Income Tax, Sales Tax and Federal Excise constituting around 90% of all the taxes collected by FBR.<sup>18</sup> The organization has a country wide presence with 21,129 employees of which 1700 are officers (IRS 1220, PCS 471) and remaining is staff.<sup>19</sup> The organization underwent massive reforms during the period 2004 to 2010 introducing many HR, administrative, legal, policy and technology based reforms.<sup>20</sup>

It is disquieting to note that despite all the reforms, the revenue collection

which is the overarching indicator of the organization's performance has hardly shown any significant improvement. The tax to GDP ratio from 2000 to 2018 has been hovering around 9 to 11%.<sup>21</sup>

### **FBR HRM Policy: Issues & Challenges**

There is complete disconnect between HR policies and FBR strategy.<sup>22</sup> It is essential to analyze the existing HRM policies and practices so as to identify the gaps, weaknesses, issues, challenges and their impact on productivity. An accurate diagnosis of the current weaknesses would help develop policy interventions to increase productivity.

### **Job Analysis**

The JA is a comprehensive review of all jobs of an organization which result into JDs, JSs, WA and WP. A comprehensive JA of all jobs has never been done in FBR.<sup>23</sup> However JDs exists for all significant positions in FBR.<sup>24</sup> The same were developed way back in 2006-2007.<sup>25</sup> The JSs have not been developed in FBR while JDs are not provided to the Federal Public Service Commission (FPSC) for recruitment of the officers<sup>26</sup>. Absence of these two important ingredients in the recruitment process means that the right person cannot be selected for the right job.<sup>27</sup> This mismatch has a direct negative bearing on the productivity of FBR.<sup>28</sup>

Unlike the private sector organizations where the PA instruments are designed on the basis of JDs; JDs in FBR have no such utility. Inaccurate and subjective measurement of performance in turn has negative repercussions for reward, accountability, promotions and hence productivity.<sup>29</sup>

In effective organizations the salary level is also designed on a differential basis based on the level of education, experience, skill set, decision making, degree of responsibility and complexity of the job all derived from JA.<sup>30</sup> Absence of JA results in internal and external inequity in salary which leads to demotivation which in turn effects productivity.<sup>31</sup>

WA is very essential to deploy resources where they are needed the most, to reduce redundancy & underutilization and to have a rational workload which is important for increasing productivity.<sup>32</sup> Currently there is overload of information, data and work in the field.<sup>33</sup> When JDs were developed in 2006-

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2007, an associated exercise of WP was also undertaken based on WA.<sup>34</sup> It was decided that 10% to 20% of the Income Tax and sales Tax cases would be selected for audit.<sup>35</sup> The number of cases assigned to inspectors and auditors was fixed at 150 and 50 per year for income tax & sales tax respectively.<sup>36</sup> This determined the required strength of inspectors and auditors. Thereafter officer to operational staff was determined in ratio of 1:2.5.<sup>37</sup>

Over the years the complexity and the size of the cases has increased manifold.<sup>38</sup> Due to extraordinary pressures for revenue generation there has been an abnormal increase in the number of cases being selected for audit.<sup>39</sup> There has been many new enactments focusing on new avenues for taxation.<sup>40</sup> This has resulted in abnormal workload pressures in certain jurisdictions which affects quality and hence productivity of FBR.<sup>41</sup> On the other hand there are jurisdictions where officers and staff are underutilized.  
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In addition the merger of sales tax in Inland Revenue Service has resulted in a dichotomy. In sales tax cases the auditor is the workhorse who produces the initial audit report under his signatures as per his JD.<sup>43</sup> In income tax cases no such duty is assigned to the inspector who is unofficially producing draft show cause notices for the officers but without any signatures and responsibility.<sup>44</sup> This lack of responsibility affects quality and hence productivity.<sup>45</sup> Thus the JA, JD, JS along with WA & WP need to be carried out afresh and thereafter on a continuous basis to accommodate future changes.

### **Recruitment & Selection**

After determining what the job entails the next step is recruitment. At present recruitment in FBR at officer level, Basic Pay Scale (BPS) 17 takes place through Central Superior Services (CSS) examination which is designed, conducted and controlled by Federal Public Service Commission (FPSC). Recruitment in BPS 16 also takes place through FPSC. Recruitment in BPS 1 to 15 is administered by FBR; a test is conducted through third parties like

National Testing Services followed by an interview (In case of BPS 1 to 4 only interviews are conducted).

As discussed earlier no JDs and JSs are shared with FPSC. The FPSC currently holds a common exam for multiple occupational groups followed by psychological assessment and an interview. The nature and working of the different occupational groups are very diverse. The result is that FPSC is selecting the officers, according to a general criteria, whose qualifications, skill set, personality traits, competencies, attitudes and behaviors do not align with the requirements of FBR.<sup>46</sup> The result is a pool of officers who are working in a mismatched environment<sup>47</sup>. The nature of work in FBR is highly specialized, technical and complex.<sup>48</sup> It requires expertise in tax laws, accountancy, allied acts, industry practices, case laws etc.<sup>49</sup> Recruitment is an issue which needs to be improved as the new officers are incompetent and inefficient.<sup>50</sup> This directly affects productivity of FBR<sup>51</sup>. Further it places heavy reliance on induction level Specialized Training Programme (STP) to make up for the deficiencies.<sup>52</sup>

As against this the recent recruitment of auditors and inspectors with prescribed educational backgrounds coupled with induction level training has produced very promising results in the field<sup>53</sup>. It has been observed that officers who do not have inclination towards laborious and technical tax work or who do not have firm grip on accounts they start relying more and more on the spade work done by the inspectors, who do not have any such responsibility officially prescribed in their JD<sup>54</sup>. This affects the quality of assessments and opens avenues for corruption both of which compromise the revenue of FBR.<sup>55</sup>

Another downside of the current recruitment process is that FPSC is not attracting the right pool of quality candidates as is mentioned in the FPSC report.<sup>56</sup> This in turn too takes a toll on FBR productivity.<sup>57</sup>

### **Training & Development**

The current system of training comprise of induction training as well as in-service training. The officers undergo a 6 month Common Training Programme at Civil Services Academy which impart training in general management and then they receive 6 month STP at Directorate of Training &

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Research (DoT). Compulsory management training is provided at middle and senior level positions at National School of Public Policy (NSPP) and the same has been linked to promotion. The DoT administers one of the best STP and has excellent training facilities at Lahore yet it has some shortcomings.<sup>58</sup> It has limited training infrastructure available at Karachi and Rawalpindi.<sup>59</sup> There is no permanent faculty available<sup>60</sup>. The instructors are arranged as visiting faculty or the officers posted at DoT generally perform administrative duties as well as the role of an instructor.<sup>61</sup> Resultantly the instructional duties cannot be carried out with full zeal and focus<sup>62</sup>. The quality of training varies with change in faculty as well as in administration.<sup>63</sup> The placement at the institute is considered as laid back posting.<sup>64</sup> With no special incentives DoT fails to attract the best of the talent with certain exceptions which are few and far between.<sup>65</sup>

Training modules for induction as well as in-service training are designed based on TNA which is conducted formally and informally in the field.<sup>66</sup> However, while designing the training modules, JDs of different filed positions are not formally taken into account<sup>67</sup>. The variety of the modules offered are very limited. Recently capacity building courses were designed on burning legal issues in consultation with the field formations which had an immediate and significant revenue impact.<sup>68</sup> Corruption in FBR is a known fact, the same takes place at cost of revenue. The training does not address this malaise through any training module.<sup>69</sup> Generally the officers are weak in the areas of audit and sales tax.<sup>70</sup> This area needs special focus as it is difficult for the officers to develop expertise simultaneously in sales tax and income tax.<sup>71</sup>

Another issue is that the supervisory officers are not inclined to release their officers and staff on account of operational exigencies which result in limited exposure to training.<sup>72</sup> A significant shortcoming of T&D is that DoT does not maintain a complete training profile of every officer whereby step by step development of the officer can be planned.<sup>73</sup> On one hand the PERs are not shared with DoT for reasons of confidentiality and on the other no efforts are made to interact with the supervisory officers to pinpoint the areas of

weakness of an individual officer which need improvement.<sup>74</sup> Further the officers are also not offered any opportunity to avail training in the areas of their choice where they feel that there is room for improvement.<sup>75</sup> Another failing in the area of T&D is that no formal impact evaluation study is carried out except for a formal feedback from the trainees or informal feedback from the field formations.<sup>76</sup> DoT is also a research institute but it has failed till date to come up with some quality research.<sup>77</sup>

Foreign trainings are also available to the officers of FBR. However it is observed that courses opted for are at variance with the nature of the job being done.<sup>78</sup> In cases where training was acquired in related field unfortunately the services of the officers were not utilized to that effect.<sup>79</sup> It goes without saying that all these gaps have a cumulative negative effect on productivity of FBR.

### **Performance Management and Appraisal**

The next step in HRM value chain is Performance Appraisal & Management (PAM). This essentially involves a three step process starting with setting the goals, objectives or targets, measuring the actual performance of the employee against the targets and providing the employee with necessary feedback either to make up for the deficiencies or to reinforce his behavior so that the desirable performance continues.

The first area of investigation was to explore whether the goals and targets are being effectively set and whether there are Key Performance Indicators (KPIs) to measure the same. The goal and target setting in FBR is top down which is inflated at every level of the hierarchy.<sup>80</sup> Being top down no sense of ownership is displayed by the unit officers.<sup>81</sup> The overstretched and unachievable targets evoke an indifferent attitude on the part of officers right from the beginning.<sup>82</sup> The associated KPIs are also unrealistically high.<sup>83</sup> The Monthly Performance Report (MPR) has many important KPIs and in fact measures the performance of the officers on monthly basis.<sup>84</sup> The data however is reported at an aggregate level whereas the supervisory officers need disaggregated data, which is prepared separately, to conduct the meetings.<sup>85</sup> Consequently MPRs have become process centric and are of little utility in monitoring and evaluating the officer.<sup>86</sup> The Performance

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Evaluation (PE) of the officers/staff becomes legally due after the end of financial year. Practically it is carried out as per the convenience of the employee being reported upon or the reporting officer.<sup>87</sup> In many cases the PERs / ACRs remain pending for considerable time.<sup>88</sup>

The design of ACR is archaic, generic and subjective in nature which is out of step with modern performance management tools.<sup>89</sup> The current ACR is used by all the occupational groups and not specifically designed for FBR jobs.<sup>90</sup> The sanctity and utility of the ACRs is questionable.<sup>91</sup> The ACRs are sometimes used as a tool to force obedience and compliance from the subordinates.<sup>92</sup> The quantitative portion of the ACR is initiated by the officer being evaluated. There is no standard pattern and often the figures are manipulated as the ACRs are submitted to the supervisory officers after considerable time delay.<sup>93</sup> Further the ACRs are written magnanimously with more than 80% officers getting an excellent or outstanding ACR<sup>94</sup>. Many a times ACR is written in presence of the officer despite the fact that it is called Annual Confidential Report.<sup>95</sup>

The existing PERs are neither utilized for providing any feedback to the employees nor are they used for T&D of the employees.<sup>96</sup> PERs play a key role in promotion of the officers.<sup>97</sup> A faulty PE mechanism fails to differentiate between the outstanding, average and poor performers and leads to promotion of inefficient officers which takes its toll in the shape of revenue loss.<sup>98</sup> In due course of time it dissuades the star performers to work hard as they are convinced that even nonperformance can earn them promotions and rewards.<sup>99</sup> Further the star performers get overloaded due to underperformance of average officers.<sup>100</sup> PE is the base on which the superstructure of positive and negative incentives is based.<sup>101</sup> Absence of a clear objective criteria has led to a poor accountability mechanism which is one of the major reasons affecting the productivity of FBR.<sup>102</sup> It would not be out of place to mention that lack of accountability is also one of the major reasons for all pervasive corruption in FBR<sup>103</sup>. Needless to say that every penny of corruption is made at cost of substantial revenue forgone.



## **Compensation**

Although FBR employees receive a Performance Based Allowance (PBA), it has failed to create any impact on productivity of the organization.<sup>104</sup> This is because PBA has not been linked with performance rather it is being administered across the board.<sup>105</sup> Initially when it was introduced it did have an impact on minimizing the corruption as reflected by the Transparency International reports.<sup>106</sup> This effect on minimizing the corruption was gradually lost as the increased monetary benefit was eroded by inflation.<sup>107</sup> The widening gap between the market based salary and the FBR salary package has created an external inequity in compensation package which has a direct correlation to need based corruption.<sup>108</sup>

The widening gap between the comparative pay packages offered by the government and the corporate sector has become the single most important constraint on the recruitment efforts of the government.<sup>109</sup> The NCR 2008 study reveals that at the Federal Government level, 85 percent of the salary and wage bill goes to the government staff in BPS 1-16, who are well paid as compared to their counterparts in private sector and only 15 percent goes to the officers in BPS 17 and above, who are under paid as compared to counterparts in private sector.

Currently the officers in FBR who are highly qualified and are at senior positions are underpaid as compared to those working in the private sector.<sup>110</sup> The FBR officers also feel the inequity in the salary package when compared to other occupational groups like Pakistan Administrative Services and Police Services of Pakistan in terms of facilities like housing, car, driver and petrol; the monetized value of which is more than what they get as performance allowance.<sup>111</sup>

With respect to salary there also exists an internal inequity as the workload in the core functional areas of audit and enforcement is manifold as against the areas of support functions.<sup>112</sup> Similarly the level of expertise, complexity of cases and responsibility is much higher in LTUs followed by CRTOs and then RTOs.<sup>113</sup>

The rent seeking activities are found both at the levels of officers and staff and it is believed that it is largely due to low salaries.<sup>114</sup> There appeared to

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be a broad consensus that salaries should be increased but the same be linked to performance.<sup>115</sup> An alternate opinion was that existing performance allowance be discontinued in case of non-performers.<sup>116</sup>

Absence of a performance based market competitive salary, feeling of internal and external inequity is cause of demotivated and disengaged workforce. This affects productivity and also leads to loss of revenue through corruption.

**Employee Engagement, Retention and Career Management**

An organization makes a lot of investment in terms of time and resources in R&S, T&D and appraising its employees.<sup>117</sup> The employees over the years have acquired lot of knowledge and skills about the operations of an organization and constitute the knowledge capital of the organization. In order to drive maximum out of employees it is important to systematically keep them engaged, develop their careers and to retain them.

Currently no career management policy is being practiced in the field.<sup>118</sup> The officers do not have a well-defined career path in terms of postings, transfers and training development schedule.<sup>119</sup> Promotion of the officers from 17 to 18, 18 to 19 and so on create an immediate expertise gap in the field for which there is no succession planning.<sup>120</sup> Job rotation is very important in FBR especially after the restructuring of the organization on structural basis so that the officers are step by step groomed through in core functional areas as well as important support functional areas.<sup>121</sup> Unfortunately the officers and staff are not regularly rotated among different functional areas which leads to a tunnel vision.<sup>122</sup> This creates problems at senior management positions due to lack of exposure to different functional areas which indirectly affects productivity of FBR.<sup>123</sup> In addition to above almost permanent postings of staff in various units is one of the major reasons of corruption.<sup>124</sup>

Personal connections play an important role in getting choice postings. <sup>125</sup> Appointment to so called lucrative postings using connections promotes corruption.<sup>126</sup> Generally the officers are accommodated at home stations however at times the officers are posted out of their home stations either as a

policy decision, or on nonperformance or as a punishment posting on receipt of some complaint.<sup>127</sup> It is pertinent to mention that at many stations the officers may or may not get transit accommodations.<sup>128</sup> In either case mostly families are not shifted which lead to a double establishment expenditure for the officer.<sup>129</sup> All this leads to a highly demotivated workforce with a direct impact on their output.<sup>130</sup>

As far as the promotions are concerned the same is governed through Civil Servants Act 1973 and Rules framed there under. The promotion for BPS 17-19 is seniority cum fitness based and for BPS 20-22 it is combination of seniority cum fitness and selection on merit. The merit is determined through the collective wisdom of the members of the Central Selection Board (CSB) including their personal knowledge about the officers and the intelligence based reports (not mentioned in the promotion policy)<sup>131</sup>. More often than not the discretion exercised is arbitrary and lacks transparency which leads to pitched legal battles that on one hand drain the energy and resources of the senior officers and demotivate them at the other.<sup>132</sup> The stay granted by the courts block the entire promotion chain which further demotivates the officers down the line.<sup>133</sup> This in turn impacts the productivity of officers and hence FBR.<sup>134</sup>

The PERs as discussed above are highly subjective and overrated. Thus by and large in promotion the rule of seniority reigns supreme.<sup>135</sup> The officers know that whether they work or not they would glide through the system and get promotion when it becomes due.<sup>136</sup> This inherent right to automatic promotion breeds complacency.<sup>137</sup> There is no incentive to work hard.<sup>138</sup> This is in direct contrast to private sector organizations where promotion is linked to hard work, competition and performance.<sup>139</sup> This time bound, seniority cum fitness based promotion is one of the hurdles to attract high quality young talent who are motivated to join private sector organizations which offer fast track career prospects.<sup>140</sup>

There exists general despondency in the staff positions of inspectors and auditors, who are important working tools, because they have limited opportunities for career progression.<sup>141</sup> They also feel that they are stuck doing the same work years after years without any job enrichment or job rotation although in many cases due to allied monetary gains they prefer to

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stay where they are or move only to greener pastures.<sup>142</sup> There exists a feeling that the recent policies has generated excessive workload which is difficult to handle with existing human resources.<sup>143\</sup>

There is no concept of employee welfare.<sup>144</sup> A significant area of concern is that there exists an overall feeling of demotivation and a sense of apathy towards the job.<sup>145</sup> This is cumulative outcome of low salaries as compared to private sector (in case of officers), lack of perquisites, poor office environment, excessive workload & tedious nature of work with focus on quantity (the compromise on quality often lead to loss of revenue and audit paras) along with firefighting and shifting priorities, feeling of non-ownership from the department, dispensation of multiple charges which is also in violation of principles of functional structure, a firm belief that opportunities for recognition of hard and quality work are limited, slow career progression, top down management and lack of transparency and meritocracy.<sup>146</sup> The demotivation results in disengagement from job which affects productivity of FBR.<sup>147</sup>

## **SECTION II**

### **Prioritization and Relative Weight of Various HR Factors**

In order to further enrich the research with practitioner's point of view a quantitative survey was carried out with officers of FBR in which they were asked to prioritize a list of HR related factors which can help increase productivity. These factors were also rated on a scale of 1 to 10 where "0" means that a certain factor is not important at all, "1" means that the factor is least important and "10" means that the factor is most important. The responses were evaluated and the results have been tabulated as under:

**Table-1**

<b>Sr. #</b>	<b>Factor</b>	<b>Relative Weight</b>
1	An increased salary tied to performance e.g. Reward system based on %age of recovery of demand created	11.24
2	Realistic setting of goals, targets & KPIs	10.13
3	Motivated workforce	9.80
4	Training & Development related to new inductees (STP) as well as field issues like industry specific audit techniques, Case laws, Issue detection from Balance sheet and Profit & loss statement	8.41
5	Good offices, neat & clean environment, adequate logistics	8.15
6	Provision of benefits like car, petrol, flat / house, medical in shape of panel hospitals	8.01
7	Availability of competent work staff ( more than one inspector & auditors shall be placed at disposal of filed officers depending on workload)	7.31
8	Rational/Balanced Work load distribution	6.65
9	Integrity management: Strict action (punishment including dismissal from service) against corruption by supervisory officers as well as Integrity Management Cell of Board including secret vigilance system	5.58
10	A well-defined Job description	4.54
11	Objective ACR correctly measuring performance (derived from strong & effective monitoring as well as digitally linked with MPR) & shared with employees	4.09
12	Fast tracked Promotion Policy based on performance rather than Seniority cum Fitness	4.01

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13	Strict accountability based on performance (derived from strong & effective monitoring as well as digitally linked with MPR)	3.19
14	Instead of general recruitment by FPSC, FBR specific recruitment with focus on relevant educational background like accounts, finance, law, commerce etc. & relevant abilities & personality traits	2.49
15	Career development: including job rotation amongst various functional divisions and posting/transfers in LTU, Corporate RTO & RTO based on performance	2.23
16	Participatory management culture, open to debate with two way communication,	1.79
17	Succession Planning (Grooming/training/developing officer for next post)	1.25
18	Increase in salary not tied to performance	0.76
19	Forecasting personnel needs : filling vacant positions timely	0.36
	<b>Total</b>	<b>100.00</b>

As per the above results the top five factors together have a Relative Weight (RW) of 47.73 and belong to areas of salary & compensation, performance management, training & development and employee engagement & motivation. The next five factors have a composite RW of 32.09 and fall in the categories of salary & compensation, job analysis and performance management. The remaining RW of 20.18 is distributed amongst 10 factors.

The most significant factor in improving the productivity of FBR is increase in salary tied to performance with a RW of 11.24. This is logical in the sense that revenue work is considered to be extremely demanding and laborious on one hand and on the other there is a perceived sense of external inequity in salary against the private sector employees & other occupational groups like

PAS & PSP as well as internal inequity in salary in terms of increased work load in different functional areas. This along with lack of robust performance management and appraisal system which does not differentiate the performer vis a vis the underperformer places pay for performance as the most significant extrinsic motivator to increase productivity of FBR.

The second most significant factor which can affect productivity of FBR, with a RW of 10.13, is realistic setting of goals, targets and KPIs. This is indicative of the fact that the current setting of goals, targets and corresponding KPIs is not realistic a fact which was also confirmed during the interviews.

The third in the ranking is motivated workforce. The RW it earned is 9.80. As discussed in the previous section the interviews highlighted that FBR workforce is demotivated and withdrawn from work for a variety of factors which takes a direct toll on productivity of the organization.

With a RW of 8.41 T&D has been recognized as the fourth vital factor which is helpful in increasing the productivity of FBR. The set of the interviews conducted also revealed that training courses designed on burning issues in consultation with the field formations had an immediate and significant revenue impact.

Good offices, neat and clean environment and adequate logistics are important ingredients of motivation. These have been identified as the fifth most significant factor with a RW of 8.15. The reforms introduced from 2005 to 2010 introduced work stations with open sitting environment which was strongly resented by the officers. Though there is a gradual reversion to old style offices many officers believe that the decorum of the offices is not commensurate with their bureaucratic profile and they feel shy to invite their friends to their workplace. Given the fact that many officers join civil services due to social fall out of the job such symbols of power are of considerable importance.

The sixth factor of benefits and services with a RW of 8.01 is to be interpreted in terms of overall compensation package which is considered lower than the private sector which results in demotivation and hence lower productivity. The medical facility of government hospitals is pathetic. There is shortage of vehicles and whatever few are available are in poor and shabby conditions.

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Similarly government accommodation is limited and the house requisition amount in lieu of accommodation is not sufficient to hire a decent living space.

Availability of competent work staff and rational work load distribution have been scored at seventh & eight with RW of 7.31 and 6.65 respectively. The two factors are closely related and affect the quality of work which has a direct bearing on revenue generation.

Despite the fact that corruption is earned at the cost of revenue, integrity management has been given a low priority at ninth position with RW of 5.58. There can be many reasons for this including that corruption is accepted as a norm, that corruption is relatively more relevant among staff as compared to officers (survey was conducted with officers) or there might be a bias in answering this option due to conflict of interest. This aspect needs further investigation.

A well-defined job description should have been ranked theoretically high. It seems that due to the fact that this is a backend factor which does not surface directly in day to day affairs of the officers it has been ranked at tenth position with RW of 4.54.

An objective ACR, correctly measuring performance and shared with employees has been relegated to eleventh position with RW of 4.09. The survey results are at variance with the findings of the interview which accord it a high priority. Conflict of interests might be an explanation however further research is recommended for reaching a correct conclusion.

Fast track promotion has been recognized as twelfth factor with a RW of 4.01. The relatively lower placement of this factor as compared to other factors is probably on account of the fact that the expected dividend to the employees on this count would take some years to materialize as compared to the affect of other factors which are more immediate in nature.

Strict accountability based on performance is sine qua non for increasing the productivity of any organization and the same surfaced as an important factor during the interviews. However it has found thirteenth position with RW of



3.19. This again alludes towards conflict of interest as no one likes to be held accountable for his or her own deeds.

The contribution of FBR specific recruitment towards productivity has been scored fourteenth with RW of 2.49. During the interviews the idea was generally favored however exceptions were suggested in case of engineers & doctors as they have been observed to be good performers.<sup>148</sup> Participatory management culture and succession planning have been ranked sixteenth and seventeenth with RW of 1.79 and 1.25 respectively. Keeping in view the fact that across the board increase in salary has no effect on performance it has been allocated eighteenth position with RW of 0.76. Forecasting of personnel needs ended up last with RW of 0.36.

### **SECTION III**

#### **Conclusion**

The HRM is a concept where the HR policies and practices across the entire HR value chain are designed, framed and implemented so that they are aligned with the overall strategy of the organization so as to help it achieve its aims and objectives. Viewed in this perspective, many gaps have been identified in FBR's HRM policies and practices. The JDs, WA and WP in FBR are outdated, whereas JSs are not available. The R&S process is beyond the control of FBR and is carried out without any JD and JS. There is a mismatch in the competencies, behaviors, skill sets, qualifications and personality traits of the employees who are selected versus what is required for suitably working in FBR environment. Outdated WA results in poor workload distribution, WP and personnel planning. This leads to HR shortages which result in assignment of additional charges which affect productivity. The T&D has shortcomings of its own in terms of faculty, resources and variety of modules. The target setting is top down, KPIs were developed more than a decade ago and both are unrealistic. The organization has an archaic, subjective and generalized performance management system. The accountability mechanism is very weak. The salary and benefits structure is out of step with market trends which fails to attract quality HR. The compensation system promotes internal and external inequities which demotivates the employees and promotes corruption. No efforts are made for

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employee engagement. There is no concept of employee career management and development. In promotion system by and large seniority reigns supreme. All these issues if addressed can have a significant impact on increasing the productivity of the organization.

**Suggested Policy Interventions to Increase Productivity**

In order to bring meaningful reform in HRM, to increase productivity, the entire value chain of FBR needs to be addressed in a holistic manner. This is because output of any one area of HRM is dependent on input from many others. A piecemeal approach would not produce the desired results. Nonetheless the HRM factors which have scored high on the priority list with high RW should be focused more.

The JA with its associated components of JDs, JSs, WA and WP need to be carried out afresh. The WA be done keeping in view the total number of cases assigned to a jurisdiction, number of cases which are actively pursued in terms of enforcement or legal related activities, number of cases selected for audit, the revenue potential of the cases (Pareto's Rule) and the complexity and size of cases. The new WA should be compared to what actually constitute a manageable workload vis a vis the available HR. This will lead to redefining the jurisdictions and redeploying optimal number of HR in different functional areas as per the work load. For example in heavy jurisdictions the officers be given more subordinate staff like inspectors and auditors under their supervision which would help achieve a rational workload balance and will have a direct impact on productivity. WA and WP will also help in forecasting the personnel needs at all levels and therefore would address the HR shortages which again would have a direct impact on revenue. The inputs provided from JA are also used in T&D, in fixing compensation, designing performance appraisal and succession planning.

The generalists recruited through FPSC are irrelevant to organizational needs. It is high time that FBR should manage its own recruitment process. The JDs and JSs play an important role in R&S as well as in the internal placement of the employees by establishing criteria for selecting right person for the right

job. The nature of services in FBR are high technical in nature. However for the time being the JDs and JSs be shared with FPSC and special hiring processes be followed for FBR. R&S be aligned with the specific requirements detailed in JDs and JSs thus defining special eligibility criteria for FBR including relevant education background, experience in relevant fields and passing of compulsory papers in relevant subjects like finance, accounting, law etc. The selection process has to be tailor made. The written tests, interviews and personality based tests shall gauge the verbal, quantitative and critical reasoning skills and shall take into account the knowledge, skills, aptitude and other personality traits required to do increasingly complex and specialized jobs throughout the career. Further there is dire need to broaden the recruitment pool in order to attract best of the candidates. For this FBR needs to attend job fairs in top of the line universities and need to adopt dynamic marketing strategy through attractive advertisements on print and social media.

The T&D can be improved by strengthening the institution of DoT. This can be done by improving the infrastructure at outposts of Karachi and Rawalpindi and by acquiring permanent administration and faculty members in DoT with use of field officers as adjunct faculty. The training courses be designed and modified on the basis of inputs from TNA, JDs, performance appraisal and impact evaluation studies. Special trainings be offered for career development, succession planning (aligned with the training profile of every officer) and in areas where officers feel they are deficient. Special trainings need to be arranged for audit and sales tax. Training modules like Industry Specific Audit Techniques, International Accounting Standards, Transfer Pricing, Negotiations Skills, Cross Matching with Provincial Tax Returns, Cases Laws, Alternate Dispute Resolution, etc. need to be developed as they would have a direct impact on revenue generation. More trainings need to be conducted in the areas of audit and sales tax. Modules on management skills, and motivation would help develop engaged employees while an integrity management module (in induction training) would help sensitize the officers against corruption which would have an indirect impact on revenue generation. Attendance of trainings be made compulsory and failure to attend shall be made part of new PER. Foreign training be only allowed in related fields and postings of officers be made accordingly so as

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to utilize their expertise. The DoT also being a research institute needs to develop policy paper or evidenced based revenue mobilization suggestions which can help increase productivity of FBR.

The goals, targets and KPIs should be SMART<sup>149</sup> and set through a consultative process between the officers and the supervisors so as to create a sense of ownership. These should be fed into IT based monitoring & evaluation systems and be reviewed on monthly and quarterly basis. Keeping in view the technical nature of work an FBR specific PER need to be designed which should be predominantly objective and quantitative in format with some room for subjective evaluation for personality profile of officers. The PER be filled progressively on quarterly basis with targets and KPIs be directly picked from the system. The quarterly review should be done after a consultative meeting with the officer, in presence of an HR representative, and feedback be shared with him for taking corrective measures. Reservations of the officer being reported upon should also be recorded. Rewards & incentives, T&D and system of accountability be strictly linked to PERs thereby putting an end to discretion and arbitrariness. The process of PER be initiated via system and non-completion of same by the supervisory officer should be reflected in his/her PER along with suspension of all logins to various IT based applications of FBR.

As per the survey, market competitive salary package linked with performance would have biggest impact on FBR revenues. It would also help attract quality HR should FBR go for its independent recruitment. However design of the performance linked salary package should also take into account WA so that the salary level is reflective of excessive workload, level of expertise, complexity of cases and amount of responsibility. Needless to state that this system would only deliver if it is accompanied with a transparent and objective performance appraisal system complemented with strict accountability. This needs to be further supported with merit based selection to key positions on basis of multiple criteria like achievements of revenue targets, sustainability of decisions in higher courts, number of trainings completed and career profile. Such a compensation package would help

remove internal and external inequities and raise motivation level of the employees. Performance based increase in salary would be helpful in decreasing corruption. However corruption need to be dealt with strict accountability coupled with stern penal measures which is the only effective antidote to greed based corruption.

Although fast tracked promotion policy based on performance has been prioritized at a lower rank it is proposed that instead of being introduced wholesale it should be offered as an optional choice particularly to the new entrants, as is practiced by many multinational companies. It will not only work as a tool to enhance productivity but also overcome the hurdle in attracting talented young professionals who are more inclined to join private sector organizations due to opportunities for rapid career progression. In the seniority cum fitness rule for promotion the later needs to be measured in light of the new PER as discussed above. Deferring promotions on intelligence based report need to be discouraged unless the same is confronted to the officer and he/she is given the opportunity to defend himself/herself. This will help reduced demotivation in senior ranks. More opportunities for promotions need to be created for key staff like inspectors and auditors by reducing the time span for promotions, introducing new levels within same pay scale with more enriched jobs at successive levels. Again this need to be tied with the new PER. The HRM needs to put in place a career management policy whereby the officers are ensured a diversified career path with opportunities to develop new skill sets and competencies which are mutually beneficial to officers and the organization. Officers and staff be posted according to a transparent and merit based policy with a guaranteed tenure of 2 to 3 years save exceptions in case of unsatisfactory performance as reflected through quarterly PEs. Apart from above referred steps employees can be engaged and motivated by promoting a culture which recognizes hard work and quality. Promoting welfare schemes and benefits like interest free house and car loans, better medical facilities, etc. make the employees feel more affiliated towards their organization which in turn is helpful in keeping them motivated and engaged.

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<sup>149</sup> SMART: Specific, Measureable, Achievable, Relevant, Time bound

# **PAKISTAN STATE’S STRATEGY TO CURB & COUNTER HATE SPEECH: AN APPRAISAL, ANALYSIS AND WAY FORWARD**

*Capt. Muhammad Zafar Iqbal (R) (Pakistan Administrative Service)*

## **Introduction**

“Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that.” – Martin Luther King, Jr. So, Words have power, be careful how we use them”<sup>1</sup>.

Over the past few decades, clergy has played an important but at places quasi-negative role in influencing the behavior pattern of a large group of people. Their influences have at places induced extremism into certain segments of the society. In addition, a self-styled bigoted religious outburst has polluted the minds of the half-educated people. Their emotional oration and sentimental style of delivery tends to affect the minds of many. Whereas, their sermons may be having an emblem of logics but their hate filled vocabulary adequately supported by bigoted religious thoughts tends to pollute the minds of simple people who trust their stature within the religious norms.

Hate speech is not just an action, it’s a cultural phenomenon deeply rooted in social prejudices that flourishes through individuals and groups, who share their expressions without logically reflecting on them. In Pakistan, hate speech has become a means of leveling personal disputes by insinuating misconceptions mostly through sermons, literature, publications, and electronic, print and social media.

Hate speakers push societies and states towards devastation. The last century is stained with several marks of genocides – Holocaust, for instance – a process hastened by hate speeches. The menace of global terrorism is often attributed to hate speech and radicalization, among other factors. According to several studies on post 9/11 terrorism, hate speech mostly produces hate crime, which is often precursor to terrorism.

There is a reason why it is so, especially in the context of Pakistan. Terrorism is graduated upon the hate crimes of right-wing forces, indicating a build-up of anti-minority sentiments. It is thus absolutely urgent for a country like Pakistan to

constrict the flow of terrorist ideologies. This can be achieved by breaking the fountainhead – the hate speech/extremist material. The fifth point of NAP rightly calls for countering hate speech and extremism material.

### **Statement of the Problem**

The right of freedom of speech is enshrined in article 19 of “The Constitution of Pakistan 1973” and reaffirmed in various decisions of the superior courts. But unfortunately, misconstruing this freedom, a wide spread phenomenon of hate speech in almost all strata of the society has emerged as an acute menace. Surprisingly, various laws like PPC, Maintenance of Public Order 1960, Anti-Terrorism Act 1997, The Protection of Pakistan Act 2014 and Pakistan Electronic Media Regulatory Authority Ordinance 2002 are in place to curb this tendency, yet no visible amelioration is in sight. This state of affairs has given rise to multitude of social, political, religious and economic problems for all walks of life in Pakistan. The purpose of this study is to find out as to whether the existing legal and institutional framework is sufficient to curb the increasing tendency of hate speech and to what extent do the enforcement authorities have been successful in implementing these laws for the greater good of society and the state.

### **Scope of the Study**

The scope of this study is to examine the need for a comprehensive narrative on curbing hate speech. The growing trend of hate speech along with its different dimensions is leading to increasing phenomenon of extremism in our society; it has brought forth the need for a joint coordinated response by all legislative and law enforcement agencies. We will also carry out analysis of the issues and will identify the fault lines which are impediment in curbing the menace of hate speech. As the provincial progress of the hate speech crimes is compiled by NACTA at federal level, therefore, this analysis will be carried out at two levels, at federal level (provincial achievements) in general and Punjab in particular. The province of Punjab has been selected for the case study as it has demonstrated much better performance as far as the enforcement of laws regarding hate speech is concerned. This two-fold analysis will help in understanding the state's strategy in a better way and finding fault lines in the implementation mechanism. In the backdrop of the critical analysis, the paper shall put forth recommendations for the rectification of

the core issues afflicting the resolve of putting up a collective effort in fighting hate speech and extremism in Pakistan.

### **Literature Review**

In order to understand the dynamics of hate speech and extremism, and efforts aimed at addressing this malaise, literature that was used in this study comprised of books, academic journals and research papers. A Publication by “Association of Women for Awareness and Motivation centre for Social Justice” on the topic “Analysis of Laws and Policy Dealing with Hate Speech; Combating Hate Speech beyond Administrative Measure” has incisively highlighted fault lines in existing state strategy stating that “the incomplete devolution of power and an institutional overlap to provinces poses a danger in performance. Marvi Sarmad criticizes on legal provisions in her book “Hate Speech & Restricted Speech: Striking a Balance” stating that “From the human rights perspective, it is not always advisable to have watertight provisions of law in the name of hate speech, which the state may invoke to limit citizens’ right to free expression”. There is a dire need to implement recommendations suggested in a Book: “Reconstruction of the national narrative & counter violent extremism model for Pakistan” are totally agreed. It states “Efforts are required for restructuring a non-discriminatory religious thought. Proper public education and guidance are required on sensitive religious issues, so that terrorists justifying their activities by invoking wrong interpretations lose appeal among people”,

### **Research Methodology**

The research is based upon information collected mainly through primary and secondary sources. Various research methods including, descriptive, logical and analytical have been used. The Government publications and data, research work by experts, interviews with experts and newspapers and magazine articles and reports published by multilateral agencies have been consulted in the preparation of the paper. It has helped in understanding the issue of hate speech and the revitalization and creation of strategy in Pakistan so as to aggressively and effectively combat this menace.

### **Organization of the Paper**

The Individual Research Paper titled “Pakistan State’s Strategy to Curb & Counter Hate Speech: An Appraisal, Analysis and way Forward”, comprises of three

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sections. The first section deals with Hate Speech as a phenomenon, dimensions of this phenomenon, factors responsible and its impacts on society. The second section deals with the study of existing legal framework, and agencies working against hate speech in Pakistan. The third section deals with critical analysis of state's strategy to curb hate speech. Finally, the study draws certain conclusion and puts forth a number of recommendations followed by bibliography.

## **Section 1**

### **Understanding Hate Speech and its Impact**

#### **Definition of Hate Speech**

According to "Raphael Cohen-Almagor" Hate speech is defined as "a bias, motivated, hostile, abusive, threatening, malicious speech or writing aimed at a group and a person because of some other actual or perceived innate characteristics"<sup>2</sup>. Hate speech is more or less defined as any speech that attacks a person or group on the basis of attributes such as gender, ethnic, origin, religion, race, disability, sexual orientation etc<sup>3</sup>.

Any form of communication that denigrates or belittles a person or a group based upon characteristics such as race, ethnicity, disability, class, religion, gender identity and income etc. falls in the category of hate speech<sup>4</sup>. It can further be widened to include not only speech but conduct, gesture, writing and other display of communication that may trigger violence or is detrimental to the freedom, interest, life and property of an individual, group or society as a whole. The International Covenant on Civil and Political Rights defines hate speech as "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence"<sup>5</sup>.

#### **Different dimensions of Hate Speech**

There are multifaceted dimensions of hate speech and it is presented in many forms. Its exhibition may be in the form of words, gestures, passing comments, wall chalking, banners, billboards etc. Similarly, Hate Speech covers a wider scope, ranging from a nation to religion, culture, ideology, state and narrowing down from an organization to political party, leader, community, sect, gender and person.

## **Causes of Hate Speech and its Genesis**

Nothing is born without genesis; in the same way simmering hate speech trends in our society has multifold causes. Pakistan was demanded and established in the name of ideology “Two-Nation Theory”. The Pakistan movement was all about the fear and hatred of Hindus in the hearts of Muslims, leading towards creation of Pakistan as a separate state. This might be the root cause of intolerance for other religious minorities in Pakistan society, giving birth to unending hatred and hyper-religiosity in our nation. Rigid religious minds have hatred for all religions and exhibit their hate in the form of speech, wall chalking, fatwas, forced conversion of religions, and mental & physical torture. Misinterpretation of Islamic teachings and distance from Islamic injunctions inculcate hate in Muslims for Non-Muslims. Thus, hatred doesn’t confine to Non-Muslims only but also within different sects of Muslims. The major sects having hatred for one another are Shia, Sunni, Barelvi, Deobandi, Qadiani, Ismaili etc. Sunni considers Shia Infidel and vice versa<sup>6</sup>. For instance, Shiites are considered worse than Jews and Mongols, which gives a clear insight of the religious intolerance<sup>7</sup>.

The other major cause of hate in our society is ethnicity. The sense of superiority over any other segments of society based on cast, color, creed or language, injects ethnicity resulting into fragmentation of society into many groups. These groups assume themselves more respectable than others and developing hatred for rest of ethnic based strata.

The deep-rooted hatred seed has turned into a poisonous tree due to deterioration and absence of precious social values in our society. The pearls of tolerance, forbearance, sense of co-existence, mutual harmony and compatibility have gone disappeared from the string of strong society of Pakistan. The waning of these social values has resulted into phenomenon of hatred in our society. This is evident from numerous examples of cyber bullying and in real life too. People have no respect for the opposite opinion, killing others merely on the difference of opinion only.

## **Freedom of Speech versus Hate Speech**

The Constitution of Pakistan guarantees freedom of speech; however, it is not an absolute or unlimited right but has been subjected to reasonable restrictions imposed by law. It provides a number of speeches as exceptions to the freedom in

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the ensuing words:

*“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence”<sup>8</sup>.*

Freedom of speech v hate speech has always been a controversial discourse all over the world. No legislature, court or a society has come up with a sustainable common standard. A number of scholars agree that “freedom of speech and protection from the harm of hate speech are two core values that are frequently in opposition”<sup>9</sup>.

There are two schools of thought; Absolutists and Restrictionists, both advanced a number of arguments for or against freedom of speech<sup>10</sup>. The proponents of absolute free speech argue that the society is a best judge to assess its value. A ruthless scrutiny will perish irrational ideas. Moreover, hate speech is a mean to find the end of truth; truth is hard to emerge in absence of such speech with no other alternative. Secondly, it assures peaceful expression of difference and hostilities, which is foundation of modern democracies. Moreover, its protection eliminates chances of resort to violence. Thirdly, disregarding the consequences, it is contended that restrictions are opposed to free speech as it is not only an end to achieve truth but it is an itself virtue of a liberal society as a rule<sup>11</sup>. Lastly, the absolutists articulate that it provides an opportunity of a peaceful exchange of ideas; it is not a right only but a duty in a democratic society. It also provides an opportunity to know about other fellow humans. The answer is not its banning, but vigilance and more speech in face of hate speech<sup>12</sup>.

Contrary to the absolutists, the scholars who favor restrictions on free speech or ban on it forward an argument that democracies are vulnerable to danger of hate speech like emergence of Nazi Germany which was an outcome of “too much freedom”<sup>13</sup>. The second ground cited in favor of ban relates to the dignity of the minority groups. The restrictions provide confidence to the members of a minority group who are historically suppressed. The perception of equality enables them to



live their lives in calm, grow their businesses and raise their families in peace<sup>14</sup>.

### **Extremism and Hate Speech**

Hate and extremism are directly related to each other. The outcome of hate speech is Extremism. Hateful mind induces many extreme actions which are always in form of battery and assault. In recent era, it is seen that newspapers are filled with such examples of extremism based on hate crime. This hate-based extremism phenomenon has engulfed almost every segment of society. Current history of Pakistan is brimful of soul-stirring incidents of extremism. The hateful behavior of one segment of society for others has been displaying in an uglier and inhuman way by taking law in their hands; may it be hatred against any sect, minority, social practice or government policies. This extreme behavioral pattern speaks volume about hate in populace of our society. Recently, extremism in Pakistan is bolder and fiercer than ever, its tentacles spread from Waziristan to Parachinar to Swat to Buner and even Islamabad and Karachi are not safe anymore. It has already left a deep impact on the civil society as well as democratic, social and economic development of the country.

### **Role of Madaris**

The term Madrasa is used to refer to a range of schools, starting from primary schools to Islamic universities. Policy discussions on Madrassa reforms are however, most often focused on Islamic schools at primary and secondary level. Madrassahs in Pakistan are identified with their doctrinal orientation whether Deobandi, Bareilvi, Ahl-e- Hadith or Shia, and even on political ideology, establishing their own federation (Wafaq), and sometimes associating with the mainstream religious political parties. Wafaq, representing the affiliated madrassas, prescribes the curriculum, conducts examinations and issues diplomas.

The curriculum of madaris in Pakistan is broadly divided into two categories, the 'transmitted sciences' (*uloom-e-naqlia*) and the 'rational sciences' (*uloom-e-aqlia*). The former includes Qur'anic sciences, *Hadith* sciences, jurisprudence (*fiqh*), while the later include logic, philosophy, ethics, Arabic literature, grammar, rhetoric, astronomy, mathematics, etc. The expertise in 'rational sciences' is also deemed necessary to gain proficiency in disciplines like rhetoric and disputation which are normally taught at madaris. As a matter of fact, 'rationalism' or 'ancient sciences' (Greek logic and philosophy) is used as a tool to counter the arguments

of Rationalists. The religious text taught in madaris is medieval and has produced highly dogmatised and indoctrinated graduates, who tend to form a world view that sees society through the lens of sectarian faith. The 'other' is then a non-believer, even if he professes the same religion but belongs to different sect<sup>15</sup>. Madaris need to be prepared to give an independent opinion over issues and problems in areas of modern life in the light of Qur'an and *Hadith*, the two basic sources of jurisprudence. This is what is termed as *ijtihad*. Nayyar has aptly described madrassa education as 'frozen in time'<sup>16</sup>.

In addition, the influence of moallams or teachers in these Madaris, in promoting or strengthening the feelings of discrimination, deprivation, rejection and hatred amongst the students is an unfortunate but undeniable truth. Since moallams or religious teachers often belong to the lower echelons of the society and brought up in less conducive or favorable environment, they carry with them revulsion and contempt of the past. Madaris are mostly funded by foreign states like Saudi Arabia and Iran, therefore, these states influence madaris to advance teachings of their respective sectarian belief. These radical and antagonistic teachings inculcate hatred for other sects, thus, madaris become hatchery of hatred.

### **Politics and Hate Speech**

Political agendas cannot be ignored while talking about the causes of hate speech. Hate speech and politics are strongly intertwined. Hate speech is very common in political parties particularly in general election campaigns. One political leader is seen bullying and alleging other political leader for own political agendas. It has become a trend and routine matter to see politicians from different parties abusing and yelling on each other in TV talk shows.

Hate speech during election period is more harmful, due to an enabling situation, when enmity ordinarily touches its height. Religion, race, caste and color issues are artificially raised to score better at a poll. A Code of Conduct at each election is issued in consultation with political parties and their candidates which help a lot to control and contain it. However, confusion about the definition of a candidate makes it impossible to apply the provisions of hate speech.

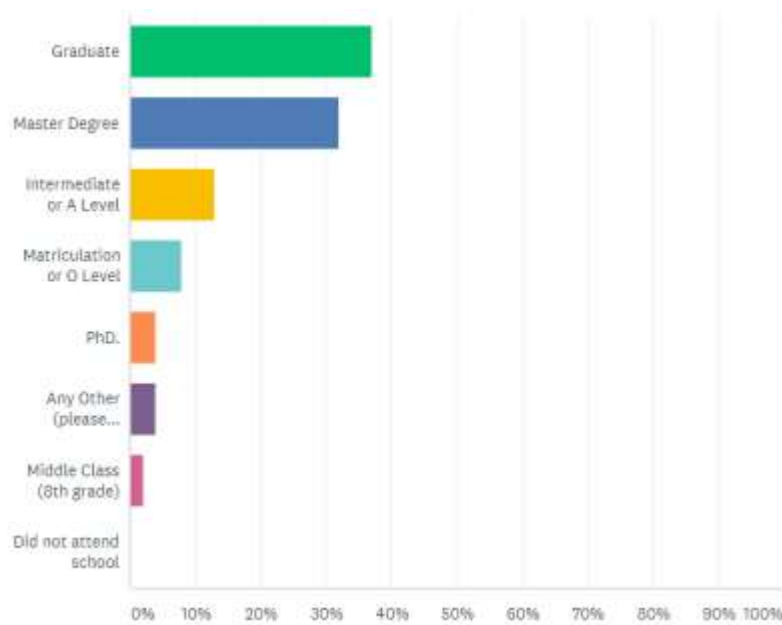
### **Hate Speech and Social Media**

Social media has enormous place in our life today. It is a cheap, convenient and

readily available platform which can easily be used to display hate speech. This same potential of social media provides medium, where people can express their ideas and give their opinion freely. However, the most negative aspect of this discourse is hitting an individual, group or society by their hate filled offensive words, which is now a grave concern in many of the countries including Pakistan<sup>17</sup>. Social media has turned into the greatest frenzy of contemporary world which impacts the life and thoughts of the people in a phenomenal way. The statistics reflect that Facebook is the most commonly used medium, there are approximately 2.37 Billion Monthly Active Users of Facebook globally<sup>18</sup>. Internet usage follows the same trend in Pakistan as out of 45 Million internet users, Facebook usage stands at 88%, twitter 4.4% and You Tube at 2.1%<sup>19</sup>. This large number of internet users suggests that it is the most convenient and widely used platform which if misused, sows the seeds of hatred at micro (individual), meso (group) and macro (societal) level.

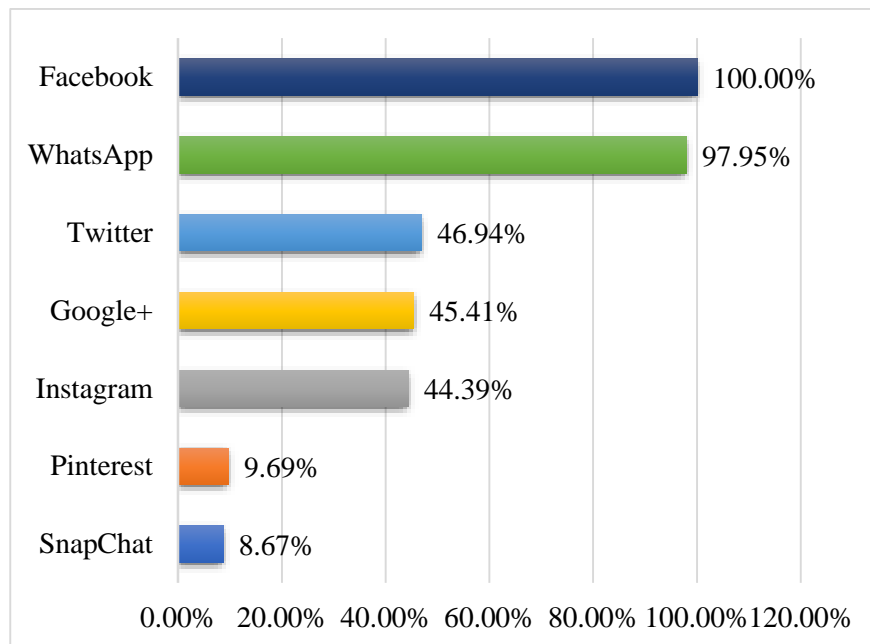
To examine hate culture phenomenon on social media, a survey was conducted with a sample size of 200 internet users having diverse educational background and of different ages. The survey used for this paper contained four questions, the results are enumerated as under: -

**Q 1: What is the highest level of education you have completed?**

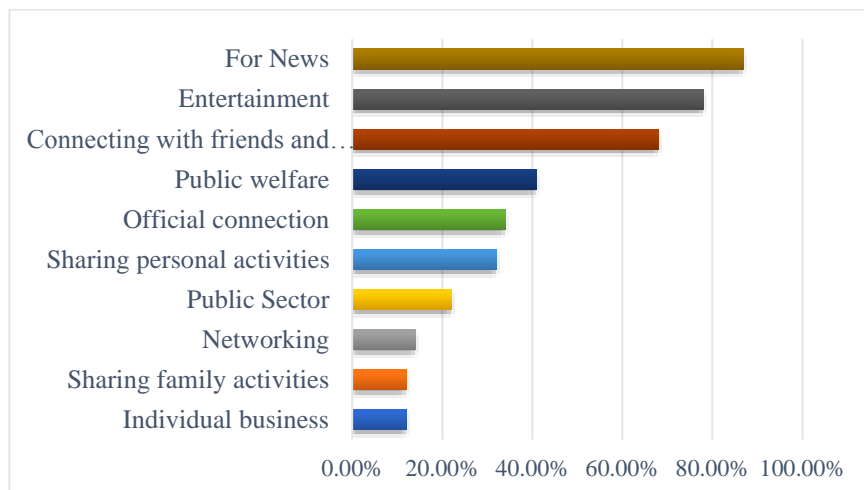


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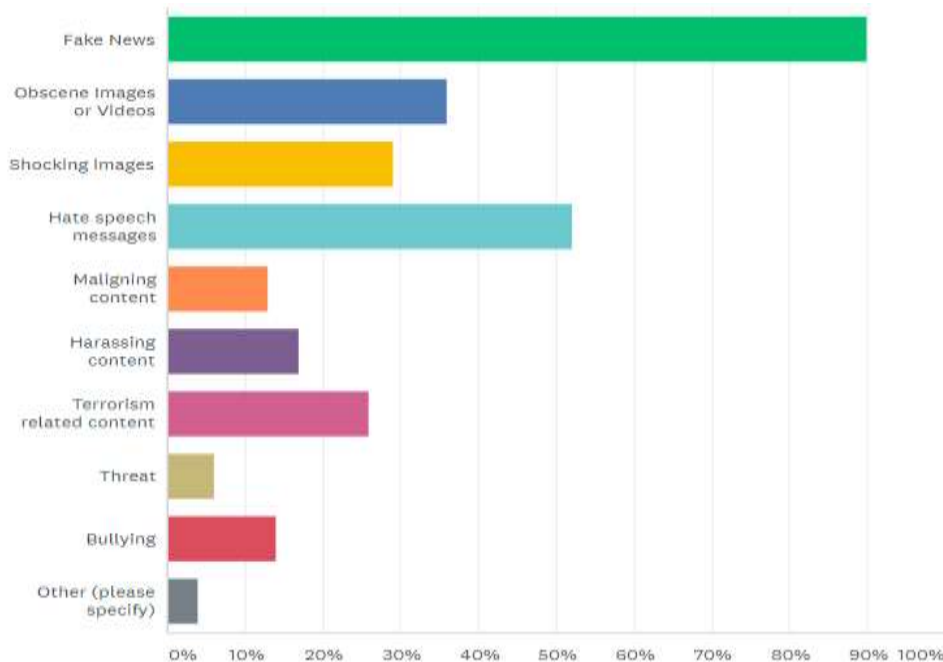
**Q 2: During the last six months, which of the following social networks have you used? (Please select all that apply)**



**Q 3: For what purposes do you use social media? (Select all that apply)**



**Q 4: What kind of objectionable content you have seen on social media during the last six months? (You can select more than one option which applies).**



The result of the survey illustrates that after fake news (90%), hate speech messages and bullying (68%) are the most commonly found substance on social media, which indicates that this medium is impacting the lives, behavior, mindset and social fiber of the society negatively. The gravity of situation increases in Pakistan as 42% of the population is illiterate and 30% of the people are living below poverty line which makes it easy to fell prey to the bigoted ideas of the perpetrators<sup>20</sup>. Unemployed youth is the most vulnerable segment of the society to be affected by such radical thoughts and extremist propagations.

### **Impacts of Hate Speech on Society**

Every element has its own shadow, the first and foremost impact of hate speech is division of society into many fragments. Hate speech can be used to play one fraction of society against the other, which in the long term make them fight each

other and either party blames the other side over what is wrong. The effect is that sanity leaves the place and the real issues are not recognized. In this situation, anyone with an agenda can influence both parties towards their goals.

The menace of terrorism is often attributed to hate speech and radicalization, among other factors. Hate speech mostly produces hate crime which is a precursor to terrorism. Hate speech casts its impacts at three levels. First level is hate-related crimes. These crimes include derogatory remarks, abusive language and sometime hate is expressed in the form of battery as well. Second level impact of hate speech is radicalization and extremism. In this level, hate monger minds tend toward incitement, hostility and intolerance and try to impose their ideas and beliefs on the people they hate. Third level is dangerous and ultimate impact of hate which includes a group or society causing violence and terrorism. The history behind terrorism in Pakistan, inter alia, can be associated to the unchecked publication and expression of hate and extremist ideas. These ideas gave birth to religious extremism in 1980s. The trend of uncontrolled expression of ideas, including publication of thoughts and sentiments which clearly reflected and promoted sectarianism, intolerance, religious extremism, and hatred for other groups continued well into the 21<sup>st</sup> century.

Hate speech also causes psychological harm, just as hate-motivated violence causes physical harm. Verbal abuse can render workplace, educational or other environments unbearable. Further, it has serious ramifications on the mental health of victim, which may result in dire consequences of self-harm, losing their confidence and affecting their pride and dignity.<sup>21</sup>

It also poses challenges to peace, security and stability of the society and gives rise to societal stratification, restlessness and anarchy, leading toward decline and poor human development. In nutshell, hate speech promotes division and mutual hostility, that is inefficient and dangerous within the end of the day, resulting in murder, riots, and ultimately violent extremism<sup>22</sup>.

## **Section 2**

### **Existing Legal Framework to Curb Hate Speech and its Effectiveness**

#### **Existing Legal Framework**

### **Constitutional Provisions**

Article Nineteen of Constitution of Pakistan 1973 deals with the liberty of speech and within the same article it prohibits from hate speech. It states that each subject shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any affordable restrictions obligatory by law within the interest of the glory of Islam or the integrity, security or defense of Pakistan or any half thereof, friendly relations with foreign States, public order, decency or morality, or in regard to contempt of court, commission of or incitement to an offence. It is evident from this text that the constitution provides freedom of speech however doesn't permit expressing opinion which may cause any threat or danger to the holiness of Islam, internal security, public order and social peace.

### **Criminal Laws and Hate Speech**

Pakistan Penal Code (PPC) quite rigorously covers those offences that may be distinguished as "Hate Speech". Section 153-A (a), criminalizes anyone who "by words, either spoken or written, or by signs, or by visible illustrations or otherwise, promotes or incites or tries to promote and incite dissonance, enmity, hatred or ill-will between different religious, racial, language, castes or communities."<sup>23</sup>

Similarly, Section 153-A (b), punishes anyone "commits, or incites the other person to commit, any act that is prejudices to the upkeep of harmony between completely different non secular, racial, language or regional teams or castes or communities or any cluster of persons acknowledgeable per se on any ground whatever and that disturbs or is probably going to disturb public tranquility."<sup>24</sup>

Further Section 295 of criminal code states that, injuring or defiling place of worship, with intent to insult the faith of any category may be a punishable offence giving penalization for 2 years imprisonment or fine or each.

Section 295 A, additionally deals with same offence of deliberate and malicious acts supposed to outrage non secular feelings of any category by insulting its faith or non-secular beliefs provides most penalization for 10 years of imprisonment or fine or each.<sup>25</sup>

Section 296 highlights troubling non secular assembly and offers most penalization for annual imprisonment or with fine, or both. Section 297 intrusive on burial places, etc. provides most penalization of 1-year imprisonment, or with fine, or

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both. So as to safeguard non secular feelings, Section 298, provides penalization of 1-year imprisonment or with fine or each to those uttering words, etc., with deliberate intent to wound non secular feelings.<sup>26</sup>

**Blasphemy Laws**

These sections of the PPC are distinct within the world, as well as the Muslim majority countries. Any disrespect towards holy personage of any faith could fall in outraging non secular sentiments of a religious cluster which is covered by the laws mentioned below:

**PPC Section 295-B:** Defiling, etc. of copy of Holy Qur'an. Whoever will fully defiles damages or desecrates a replica of the Holy Qur'an or of associate degree extract there from or uses it in any derogative manner or for any unlawful purpose shall be punishable with imprisonment for all times.<sup>27</sup>

**PPC Section 295-C:** Use of derogative remarks, etc. in respect of the Holy Prophet. Whoever by words, either spoken or written, or by visible illustration, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet (peace be upon him) shall be chastened with death, or imprisonment for all times, and shall even be at risk of a fine. Death or imprisonment for all times, and shall even be at risk of a fine.<sup>28</sup>

**PPC Section 298-A:** Use of derogative remarks, etc., in respect of holy personages. Whoever by words, either spoken or written, or by visible representation, or by any imputation, insinuation or insinuation, directly or indirectly, defiles the sacred name of any better half (Umm ul Mumineen), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulaf-e-Raashideen) or companions (Sahaaba) of the Holy Prophet (peace be upon him) shall be chastened with imprisonment of either description for a term extendable to three years, or with fine, or with both.<sup>29</sup>

**PPC Section 298-B:** Misuse of epithets, descriptions and titles, etc. reserved for certain holy personages or places. (1) Any person of the Qadiani group or the Lahori Group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation.<sup>30</sup>



**PPC Section 298-C:** Any person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith. Any person of the Qadiani group or Lahori group (who call themselves ‘Ahmadis’ or by another name), who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representation, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.<sup>31</sup>

#### **Other Relevant Laws**

**a) Maintenance of Public Order Ordinance 1960:** This law also prohibits any acts prejudicial to public safety or maintenance of public order penalizing the person who commits this offence with maximum punishment for three years, or fine or both.

**b) Anti-Terrorism Act, 1997:** This act deals with hate speech by giving its definition and other hate related offences. Hate speech means hatred against a group of persons defined by reference to religion, religious sect, religious persuasion, or religious belief; (a) Acts intended to stir hatred as threatening, abusive or insulting words or behavior; or (b) displaying, publishing or distributing any written material which is threatening, abusive or insulting; or (c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting; or (d) possessing written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another. This offence is punishable with seven years rigorous imprisonment or with fine, or with both.<sup>32</sup>

**c) The Protection of Pakistan Act 2014:** This act also declares all offences against ethnic, religious and political groups or minorities including offenses based on discrimination, hatred, creed and race punishable with maximum imprisonment for ten years, with fine and confiscation of property.<sup>33</sup> Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002 stipulates:

- PEMRA ensure that Licensees (media outlets), besides other things will ensure that all programs and advertisements do not contain or, encourage violence, terrorism racial, ethnic or religious discrimination, sectarianism, extremism,

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militancy, hatred those who violate shall be awarded with maximum punishment for three years imprisonment and 10 million fine for licensee; Four years imprisonment and five for person without license.<sup>34</sup>

- Pakistan Telecommunication Authority (PTA) is responsible for regulating the internet use. It deals with unauthorized transmits through a telecommunication system or service which he (licensee) knows or has reason to believe to be false, fabricated, indecent or obscene or commits mischief.<sup>35</sup>

**d) Prevention of Electronic Crimes Act 2016:** Section 11 of this act deals with online hatred. It states that whoever prepares or disseminates information through any information system or device, that advances interfaith, sectarian or racial hatred shall be punished with imprisonment for seven years, or fine or both.<sup>36</sup>

### **State's Strategy to Curb Hate Speech**

#### **Pakistan Protection Ordinance 2013**

Pakistan enunciated the Pakistan Protection Ordinance (PPO) in 2013. However, some questions arose over the nature and scope of this ordinance, yet the main feature of PPO was to provide protection to the society of Pakistan which is already fighting a war against growing extremism leading to terrorism. The ordinance gives armed forces and law enforcement agencies the authority to exercise "all the powers of a police officer." which is not a complete solution to the problems of Pakistan but in short run, it may help to stabilize the society.<sup>37</sup>

#### **NACTA**

NACTA was established in 2009 but its act was passed in 2013 with the view to create a coordinating body against terrorism and extremism in country. NACTA was mandated to receive collate and share intelligence, it was also tasked to coordinate and prepare counter terrorism and counter extremism strategies. Initially, NACTA could not be made effective due to budget constraints, capacity issues and lack of political backing. It is only recently that the government has made attempts to operationalize it by providing necessary staff, infrastructure and budget. However, the issue regarding placement of NACTA under MOI or under the Prime Minister Office also remains a contentious issue<sup>38</sup>. As per NISP, a Joint Intelligence Directorate (JID) was to be established under NACTA which would

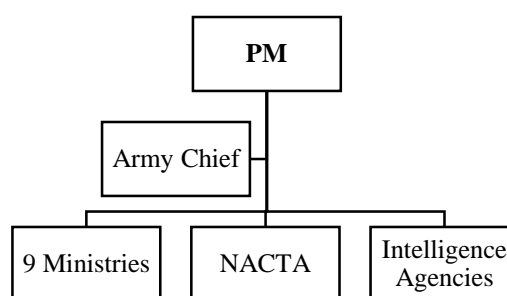
serve as one point stop for all intelligence gathering and coordination. However, JID is only partially functional primarily because the military intelligence agencies are reluctant to share sensitive information on the civil side<sup>39</sup>

a) **CHAUKAS App by NACTA:** NACTA also launched an Android-IOS app CHAUKAS for public to report hate speech and extremist content online and offline. The data and information gathered would then be shared by police, FIA and other law enforcement agencies and regulatory authorities in Pakistan. Unfortunately, it wasn't successful.<sup>40</sup>

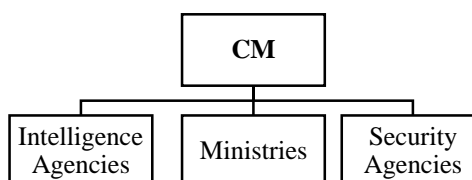
b) **National Internal Security Policy:** The National Internal Security Policy (NISP) was formulated in 2014 with the objective to establish writ of the state. The NISP 2014 was based upon "*principles of mutual inclusiveness and integration of all national efforts*" and included three elements viz. Dialogue (with all stakeholders, Deterrence (Capacity building of Police/CTDs/CAFs) and Isolation (Terrorist Organizations)<sup>41</sup>. The policy foresaw establishment of the Directorate of Internal Security (DIS) under NACTA, in a bid to integrate "all grids of tactical, operational, and strategic intelligence, civil and military, under one roof". The policy envisioned a broad and effective role of NACTA established in 2009, which is still ineffective. As NACTA being central platform would *inter alia* be responsible for development of narratives for CT and CVE (Counter Violent Extremism). The intelligence collation, collection and timely transmission to the blunt end of LEAs would be done through a Joint Intelligence Directorate in NACTA. All 33 agencies would be represented in this Directorate. The Policy also meted out a detailed implementation plan of 56 points. NISP elicited a basic weakness in envisioning its implementation and weak political consensus. The policy had a broad spectrum in nature. Its kinetic components moved fast, however, progress on soft policy areas was excruciatingly slow. Terrorism being its primary focus, the policy largely skipped extremism while executing it. It neither assigned responsibilities for implementation to relevant entities nor jotted down timelines for completion. Although NACTA was assigned important roles, the requisite factors (political ownership and resources) to pursue those goals were missing<sup>42</sup>. Consequently, after December 24, 2014, NISP was replaced by the NAP. The later captured most of points delineated in NISP.

### **National Action Plan (NAP)**

The NAP was devised in the aftermath of atrocious attack on APS Peshawar on December 16, 2014. NAP suggests 20 actions to counter terrorism and extremism in the country, which were drafted in haste within a short span of three days. In order to implement NAP, a three-tiered structure comprised of Federal Apex Committee, NACTA and Provincial Apex Committees. Holding Ministry of Interior solely responsible for its implementation would not suffice. Therefore, an institutional arrangement can be linked in figure1. At provincial level, the apex committees were constituted as shown in figure 2<sup>43</sup>.



**Figure-1**



**Figure-2**

**a) NAP Points Dealing with Hate Speech:** The National Action Plan (NAP) consists of twenty points and some of the important points relating to this study are as follows:

- Point five of NAP directly relates to curbing hate speech and extremist material.
- Point number nine calls for dealing with religious persecution effectively.
- Point ten deals with registration of Madaris and their regulation.
- Point number fourteen is about taking stern actions against those who abuse social media for advancing their bigoted thoughts.
- Point eighteen deals with curbing the elements which are responsible for sectarian terrorism.

- Point number twenty stresses the need for revamping the existing criminal justice system to effectively deal with the menace of hate speech in general and violent extremism in particular<sup>44</sup>.

All six points mentioned above are related with hate speech, its communication and glorification, which can be termed as the maiden implicit state's strategy to curb hate speech and other related crimes associated with this phenomenon. Point number five directly deals with curbing this menace, however, other four points enumerated above are the indirect measures to hit the drivers of hatred.

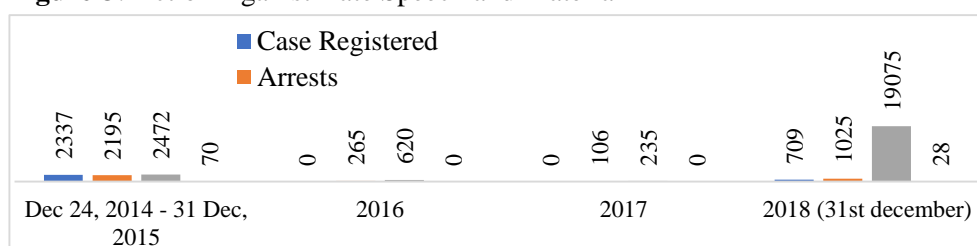
**b) NAP Expert Group on Hate Speech:** Initially, the implementation and coordination of NAP was envisaged through creation of committees, which lacked the basic framework under which they were to ensure the envisaged implementation. Realizing the deficiencies in the said committees, the federal government has now constituted high powered expert groups for development of action plan with timelines, implementing partners and resource indication. A separate expert group has been formulated under Ministry of Information and Broadcasting for ensuring the implementation and coordination regarding hate speech and other related aspects<sup>45</sup>.

#### **Progress on Crimes Related to Hate Speech**

Efforts for comprehensive counter-extremism did not bear fruit until the implementation of NAP 2014 was undertaken. The government strategy of combating hate speech material involved two-pronged strategy. First was regulating the public order and second checking systematically dissemination of hate material. As a result of this strategy, there was a visible improvement in actions against this menace. Year wise cumulative data of all the provinces about legal actions against hate speech and misuse of loudspeaker are given in the following graph and tables:

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**Figure-3: Action Against Hate Speech and Material**



**Source:** “Annual Counter Terrorism & Extremism Policy Review 2018”, NACTA, Islamabad.

**Table-1: Misuse of Loudspeaker**

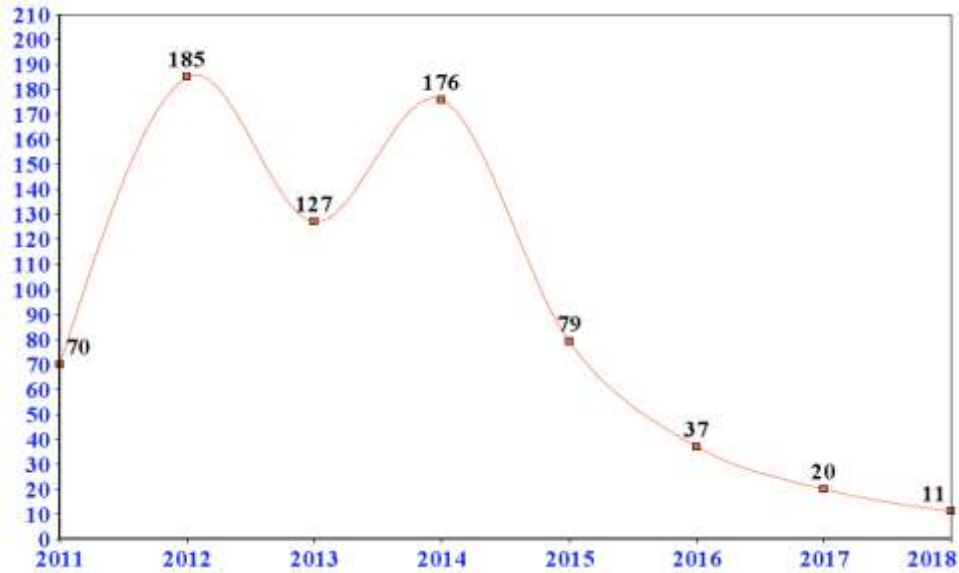
Years	2015	2016	2017	2018	Total
Case Registered	9164	6315	3419	1351	20249
Arrested	9240	6658	3643	1403	20944
Equipment confiscated	2596	1791	3299	1414	9100

**Source:** “Annual Counter Terrorism & Extremism Policy Review 2018”, NACTA, Islamabad.

The data given in above graph and table shows that there has been a steady decline in the incidents of hate crime and misuse of loudspeaker till 2017. However, in 2018 the cases against hate speech saw an increase from year 2017, after the government decision to amend Sound System Act under the pressure of TLYRA. Four loudspeakers were allowed by the government on the demand of above said religious party, retrieving from its previous decision of allowing only one speaker. Although, government put a serious crackdown on the said party in 2018, but for the intervening time, it gave an impression that government had gone soft towards religious parties which impacted the implementation apparatus adversely<sup>46</sup>.

Out of 3052 cases regarding hate speech, 1720 have been decided in which 436 have been convicted (conviction rate 25%). Similarly, out of 20249 cases of violation of loudspeaker, 11727 have been decided in which 6591 have been convicted (56%)<sup>47</sup>. Although, the conviction rate in hate related cases is not encouraging but yet, the actions taken have resulted in marked decline in the incidents of sectarian violence across the country, which is manifested by the following graph regarding trend of sectarian violence in Pakistan.

**Figure-4:** Sectarian Violence in Pakistan



Source: “Annual Counter Terrorism & Extremism Policy Review 2018”, NACTA, Islamabad.

**Table-2: Summary of Progress and Analysis of NAP Points Related to Curbing of Hate Speech**

NAP Point	Progress	Analysis
5	<b>Countering hate speech and extremist material</b>	
	Hate Material : Cases: 3052 Arrests: 3591 Cases Decided: 1720 Conviction: 436(25%) Misuse of Loudspeakers Cases: 20,249	Existing mechanism focuses on enforcement only, with no attention to soft component, Counter narrative not yet developed  Low conviction rate due to absence of judicial reforms in our criminal justice system  Lop sided State strategy – Amendment on Pressure of TLYRA in Sound

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<b>NAP Point</b>	<b>Progress</b>	<b>Analysis</b>
	<p>Arrests:20,944</p> <p>Cases Decided:11727</p> <p>Conviction: 6512(56%)</p> <p>Equipment Confiscated: 22049<sup>48</sup></p>	<p>System Act, allowing four speakers</p> <p>Intolerance to diversity and divergent opinion not being addressed, Implementation of Loud Speaker Act is impressive, resulted in decline in the incidents of sectarian violence</p> <p><b>LOW IMPACT</b></p>
<b>9</b>	<b>Taking effective steps against religious persecution</b>	
	<p>Little or no Progress to bring down the religious persecution of minorities</p> <p>Minorities feels vulnerable</p> <p>Widespread persecution by the extremist elements is yet to be addressed</p> <p>Isolated efforts with limited results</p>	<p>There exists no precise definition of religious persecution</p> <p>Seven terrorist attack on minorities worship places since 2015</p> <p>Prevalent laws don't address the menace of intolerance and extremism</p> <p>Required judicial as well as religious reforms</p> <p><b>NO IMPACT</b></p>
<b>10</b>	<b>Registration and regulation of Madaris</b>	
	<p>Overall registration of Madaris 90%</p> <p>Geo-tagging Punjab and ICT 100%, Sindh 80%,</p>	<p>Registration of Madaris is a mean and not the end goal.</p> <p>Reforms in curriculum are direly needed.</p>



<b>NAP Point</b>	<b>Progress</b>	<b>Analysis</b>
	<p>KPK 75 %, Baluchistan 60% and FATA 85%</p> <p>Suspect Madaris closed (Punjab: 2, Sindh: 167, KPK: 13), Unregistered Madaris closed (Sindh: 72), Foreign Funded Madaris: 190 (Punjab: 147, Sindh: 06, KPK, 07, Baluchistan: 30), Security audit by all provinces in process, Punjab and ICT completed, ICT established and activated Panic Button Alert System.<sup>49</sup></p>	<p>Bangladesh model of Madaris reforms needs to be replicated</p> <p>Police unwilling/reluctant to register/process cases against teachers and administrators of the institutions that have proven linkages with terrorist activities e.g. Maulana Abdul Aziz of Lal Masjid, etc.</p> <p>As per the statement of the Minister of State for Religious Affairs, the government has not been able to forge consensus of stakeholders on modalities of registration of Madaris</p> <p>Failure to register main Madaris in KP and Baluchistan belonging to JUI(F).</p> <p>Modern curriculum required for De-radicalization.</p> <p><b>LOW IMPACT</b></p>
<b>14</b>	<b>Measures against abuse of internet and Social Media for terrorism</b>	
	<p>The Formation of CTIU and Cyber Crime Wing in FIA</p> <p>1060 URLs and 3192 social media pages blocked</p> <p>E-portal for automatic lodging of complaints</p>	<p>Current Laws insufficient to deal with the threat</p> <p>This is challenging and an ongoing struggle where new technology and platforms require constant monitoring and blockage; low capacity of government agencies to deal with cyber-crime.</p>

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<b>NAP Point</b>	<b>Progress</b>	<b>Analysis</b>
	regarding misuse of internet facility and fanning militancy/extremism /sectarianism through social media has been developed and launched by PTA.	The government needs to be sensitive to websites that have educational value e.g. the case of YouTube after building consensus of the concerned stakeholders.  <b>MEDIUM IMPACT</b>
<b>18</b>	<b>Dealing firmly with sectarian terrorism</b>	
	National narrative being developed to address sectarianism  Nose-dive decrease in the incidents of sectarian related violence  Database of sectarian elements being prepared  Active surveillance of hardcore elements	Amongst other reasons, the sectarian issue will keep pestering unless foreign funding of sectarian groups countries is dealt with firmly  Absence of counter narrative strategy  Success limited to kinetic portion  Implementation of Non kinetic portion to mitigate their support from masses  <b>LOW IMPACT</b>
<b>20</b>	<b>Revamping and reforming the criminal justice system</b>	
	Amendments in Federal Laws proposed by Ministry of Law and Justice Division are in process  Punjab, KPK and AJK	Across the board, implementation of Laws without prejudice to different sects and religious denominations is required  'Certainty and not the severity of punishment deters crime.' Investigation

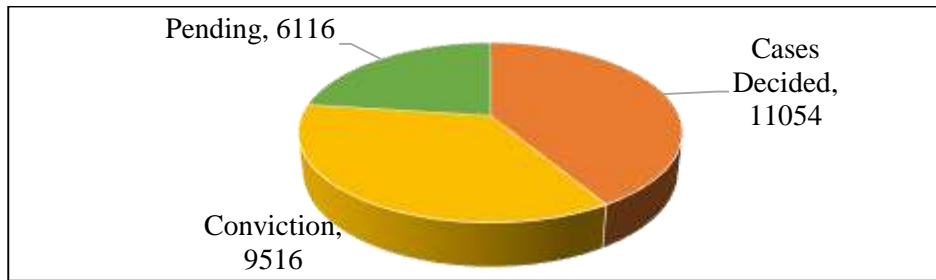
NAP Point	Progress	Analysis
	<p>have enacted laws covering misuse of loudspeakers, hate speech, illegal weapons, MPO, etc.</p> <p>Baluchistan Sindh and AJK have adopted Punjab Laws</p> <p>Kinetic success bouncing back</p> <p>Low conviction</p>	<p>and prosecution are still lax.</p> <p>Meagre progress</p> <p>Coherency missing</p> <p>No reforms in investigation and prosecution</p> <p>If courts are working, we will not lose (Winston Churchill WW II)</p> <p><b>NO IMPACT</b></p>

### Implementation Status of Countering Hate Speech in Punjab

Like other provinces, implementation of the laws regarding hate speech and hate material in Punjab is spearheaded by CTD with the active support of Police. Bifurcation of cases is a grey area as no formal document exists which ascertain the domain of both LEAs<sup>50</sup>. However, strict enforcement of Sound Systems and Wall Chalking Acts was ensured, which is being discussed in the subsequent paragraphs. With regard to action against hate literature and extremism, 219 books recommended by MUB were banned, 4384 pamphlets, 3956 magazines, 377 books and 1600 CDs were confiscated by CTD. Geo tagging of all 13,832 Madaris has been completed (100%) and 64,320 mosques 3670 worship places and 4209 NGOs have also been geo-tagged. Now all madaris are fully accessible for search by the CTD.<sup>51</sup>

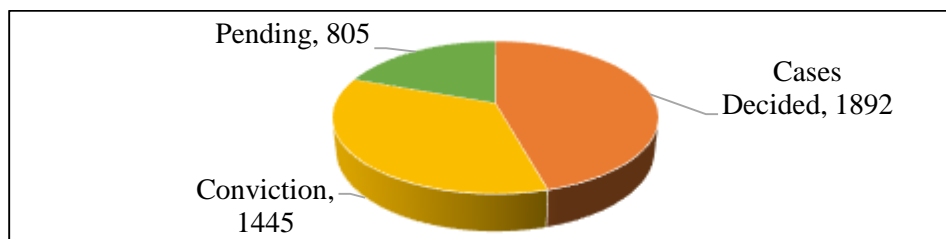
Home department Punjab is the focal agency for coordinating the implementation status of NAP including hate crimes. Implementation status of various laws regulating the hate speech and conviction rate is graphically illustrated as follows:<sup>52</sup>

**Figure-5: Sound System Regulation Act (Conviction rate 86%)**



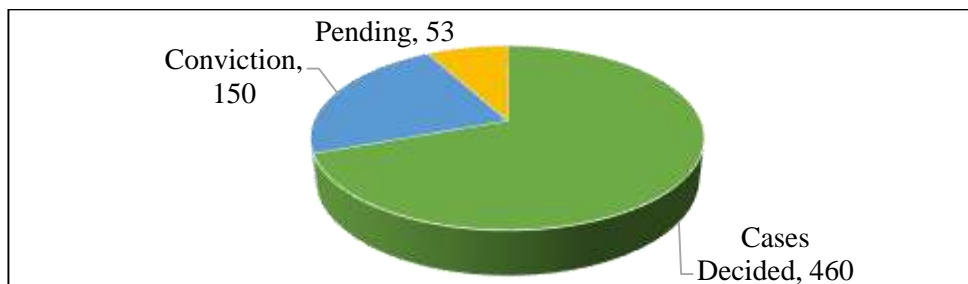
**Source:** Rai Tahir, Addl. IG, CTD, Punjab, Lahore, interview by the author interviewed on 22 April, 2019.

**Figure-6: Material on Wall Act (Conviction rate 76%)**



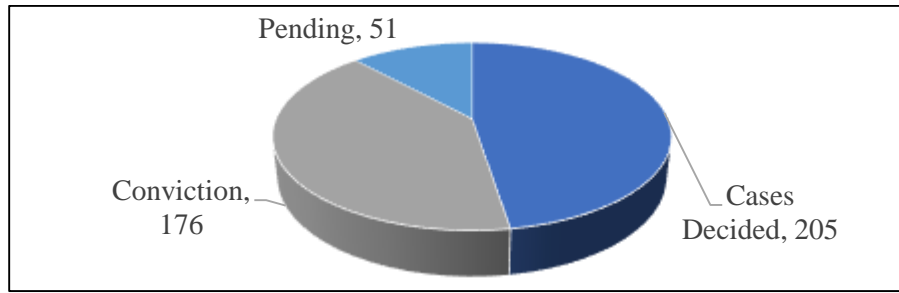
**Source:** Rai Tahir, Addl. IG, CTD, Punjab, Lahore, interview by the author interviewed on 22 April, 2019.

**Figure-7: Hate Material Sec-9, 11W-ATA (Conviction rate 33%)**



**Source:** Rai Tahir, Addl. IG, CTD, Punjab, Lahore, interview by the author interviewed on 22 April, 2019

**Figure-8: Hate Material under PPC (Conviction rate 29%)**



**Source:** Rai Tahir, Addl. IG, CTD, Punjab, Lahore, interview by the author interviewed on 22 April, 2019.

The above given graphical illustrations show that conviction rate of Sound System and Wall Chalking Act is satisfactory with 86% and 76% respectively. However, the conviction rate of Hate Material Sec-9, 11W-ATA (33%) and Hate Material under PPC (29%) shows poor performance in these areas. This low conviction rate is mainly because of poor investigation, ignorance of laws on the part of investigation officers, non-availability of public/private witnesses, registration of faulty FIRS with incomplete/ incorrect facts, weak prosecution due to lack of legal direction to the local police/CTD and burden of cases on the trial courts.

Punjab has shown good progress on kinetic part of the issue only, however, the non-kinetic component which addresses the root cause of the problem like revamping of criminal justice system for the improvement in investigation and prosecution, madrassah reforms and introduction of modern curriculum, absence of soft interventions for promoting tolerance, interfaith harmony and promotion of sense of coexistence is still a missing link.

### Section 3

#### Issues and Challenges/Analysis

There was no state strategy to curb hate speech and hate related crimes before National Action Plan 2015, though, there were laws and enforcement. Since it has never been a focus area, therefore, the implementation mechanism was also complacent. However, after the inclusion of hate speech related crimes in NAP, at least there was a direction to follow for curbing this menace. The analysis carried out in the preceding paragraphs, identify the following fault lines and gaps in the existing state strategy to curb and counter hate speech.

### **Inefficiency of Existing Laws**

Apparently, language in some of the laws is vague and open to misinterpretation and abuse, for instance, the language injuring or wounding feelings leaves a lot of room for interpretation. There is also inconsistency in meaning of hate speech in different laws dealing with hate speech. For instance, though Maintenance of Public Law Ordinance 1960 carries sweeping administrative power, used frequently to impose house arrest (preventive detentions), travel ban, prevent public gathering on the pretext of hate speech and apprehension of law and order situation, the law does not define hate speech clearly. It merely relies on enormously broad characterization of acts “prejudicial to public safety or maintenance of public order. “In sum, different laws dealing with hate speech were introduced in different times in Pakistan serving specific purposes. Each new law carried heavier penalties than earlier laws and became more focused on religiously motivated hate material. The meaning of hate speech under different laws (offenses) ranges between promoting enmity, issuing threats, incitement to violence and propagating religious intolerance. There is a slow progress towards the actions to check the reemergence of proscribed organizations in new names. Therefore, apart from their compatibility with democratic rule and civil liberties, these laws embody a symptomatic treatment of the issues.

### **Weak Provincial Ownership and Political Consensus**

Implementation of NAP at provincial level is often marred with issues of ownership. In retrospect since the inception of NAP, the provinces had governments by different political parties. Similarly, law and order is primarily a provincial subject. In the ambience of emerging political imbroglio, the provinces take it as a federal assignment in their purist and keep NAP as less prioritized in financing and other strategies. Political parties too, apprehend that it may be used as political tool<sup>53</sup>.

### **Non-Kinetic Component Still a Missing Link**

Before NAP, the kinetic part to curb Hate Speech was there in one form or the other but non-kinetic part was altogether a neglected area. After NAP, we have shown satisfactory performance in the enforcement of laws which has been able to create an impact by a sharp decline in the hate related crimes. However, the root

cause of the issue has still not been addressed, the non-kinetic part to deal with the root cause was included in NAP but, its implementation reflects a very slow progress. We have been successful in dealing with the militancy but not been able to address the causes that breed the militants.

### **Counter-Narrative not Yet Developed**

It is unfortunate that we have not been able to develop a counter-narrative against the hate mongers even after lapse of four years. Our opponent has a clear narrative, that is life according to principles of Islam “as interpreted by them”, which pollutes the minds, specially of our youth and results into hatred, violence and extremism against the other religions and sects.

### **Flawed Implementation and Coordination Mechanism**

Initially, the implementation and coordination of NAP was envisaged through creation of 16 sub committees, for which notification was issued on December 26, 2014. It is interesting to note that the notification of all 16 sub committees was issued on the same day without assigning them any terms of reference or the frame work under which they had to work. It seems that the required deliberation was not carried out to develop an effective implementation and coordination mechanism, which also reflects the visible lack of political ownership and commitment.

### **The Plight of NACTA**

NACTA was established in 2009 but its act was passed in 2013 with the view to create a coordinating body against terrorism and extremism in country. Initially, NACTA could not be made effective due to budget constraints, capacity issues and lack of political backing. It is only recently that the government has made attempts to operationalize it by providing necessary staff, infrastructure and budget. However, the issue regarding placement of NACTA under MOI or under the Prime Minister Office also remains a contentious issue<sup>54</sup>.

### **Lack of Coordination Between Federal and Provincial Tiers**

Policy making and coordination of the strategy is at federal level, whereas the implementation and enforcement is at provincial level. There exists lack of coordination between the federal and provincial governments and within the different implementing agencies also.

### **Religio-Political Resistance**

There has always been resistance on part of religio-political parties to facilitate Madaris reforms. They see it as an attempt by the government to encroach upon their turf. However, only very recently, Wafaq ul Madaris reluctantly agreed to participate in registration drive as well as to adopt modern curriculum including four contemporary subjects English, Pak Studies, Science and Math<sup>55</sup>.

### **Disjointed Efforts at Judicial Reforms**

The efforts at judicial reforms remained disjointed. The military courts set up after the 21st Constitutional amendment were supposed to be a short-term transitory measure during which judicial reforms were to be carried out. NACTA endeavored to formulate strategy for revamping of criminal judicial system but effort was scuttled due to parallel exercise in Law and Justice Division. Immediate judicial reforms are required to address the weak areas of prosecution and investigation. Moreover, burden of cases on the trial courts must also be addressed in the reforms.

### **Conclusion**

To conclude with, it can be said that hate culture is irrefutable reality of this modernized global village by which every nook and corner of the planet is affected badly. Pakistan milieu is highly susceptible for simmering hate phenomenon which is comparatively a recent product. This story is not too old when Masjid and Mandir (Mosque & Temple) would be found in the same street of Pakistan. But today, agonizingly, these are gone stories due to stratification of society into several segments based on self-styled bigotry, that gave rise to many social, political, religious and ethnic groups surfaced from hatred for others. Hate and hate related crimes were the least focused subject a few decades ago. It gained focus of state in 90s when it was addressed in Anti-Terrorism Act 1997. Later on, particularly after Peshawar APS terrorist incident, PPO, NAP, NACTA and many other laws addressed hate related crimes extensively and state devised strategy to curb hate speech at every level. These laws and agencies, however, did not succeed in curbing root cause of hate related crimes.

Besides this, all efforts by the state to counter hate speech and hate related crime were done with hard power like devising stringent laws with strict implementation



and establishment of dedicated departments but soft power which is smart but highly effective way is ignored to address this menace. There are two broad approaches to deal with hate speech and extremist content: the restrictive approach which ban hate speech and punishes hate related crimes, and the non-restrictive approach which aims to educate the recipients to shun and reject hateful propaganda. This power deals with the culture of enacting counter narrative, changing mindsets of the miscreants and mainly addressing root causes which perpetrate hatred in our social fabric.

It is safe to conclude that although a lot has to be done in various tiers in combating hate speech and extremism, however, the momentum is still there and we are seeing effects. As discussed above a way forward is more than possible, it is a necessity, and as long as there is a will to make things better, we have a good chance in eradicating this menace from our society for good and that will be the day when we will be in line with developed nations. In terms of financial, cultural, social and humanitarian values we will thrive as a nation above all.

**“Our greatest glory is in never falling, but in rising every time we fall.”**  
**Confucius.**

### **Way Forward**

The moment of truth that came with realizing the magnitude of extremism on December 16, 2014, can be turned into an opportunity of reconstruction of Pakistan. Following policy measures are recommended to bridge the abovementioned gaps and fault lines.

1. The role of State, indubitably, is of paramount importance. State is the key role player in uprooting hate speech from Pakistan. Hate mongers and extremists are staunch followers of their own narrative which is based on implementation of their self-styled interpretation of Islam. It is very disturbing to note that no counter-narrative has been formulated to counterfoil their bigoted narrative. It is therefore, high time that state should devise a counter-narrative, consistent with the ideology of Pakistan. It is proposed that a committee should be made consisting of all the stakeholders which include political representatives from all provinces, persons from intelligent agencies, armed forces, LEAs, religious leaders, heads of all sects, social activists, media persons, professors, research analysts and bureaucrats. This committee should submit their policy recommendations to the Federal Apex

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Committee. Counter-narrative must be finalized by CCI to draw a broad based consensus and comprehensive implementation mechanism.

2. Policy making and coordination of provincial performance is done at federal level. However, after 18<sup>th</sup> amendment same is being done by respective provincial governments, because of which there are issues of coordination and implementation. It is therefore, proposed that in order to have coherent, integrated, and uniform response, an effective coordination mechanism be evolved between federal and provincial tiers, through a broad-based consultative process involving all stakeholders.

3. For effective dissemination of National Peace Narrative, it is proposed that a Centre of Excellence should be set up under NACTA bringing scholars, CE experts, researchers, media experts, content writers, and IT experts under one roof for the purpose of disseminating peace messages through every institution of state and society. We need a national counter-extremism program to launch in all walks of life.

4. All departments which are already established like NACTA, CTD and Police, to counter hate speech need to be overhauled. There is dire need for the capacity building of the staff, their training and refresher courses, specially in the field of analysis, investigations and prosecution.

5. The curriculum of all public, private and religious Madaris and educational institutions must be revamped. A compulsory subject of “citizenship” and “civic education” along with ethics and Islamic teachings should be added in the curriculum. There must be an emphasis on the teaching and practicing of true injunctions and social values of Islam like Tolerance, forbearance, patience, generosity, non-aggression, and above all inter-faith harmony. To change the curriculum, a committee made comprising of religious leaders, heads of all sects, educational experts, and research analysts should be constituted. This amended curriculum be sent to National Assembly for passage after debate. Then, the same be implemented through Higher Education Commission across the board in all public, private schools and religious madaris.

6. The concept of “Soft Power” should be introduced on emergency basis to extirpate deep roots of hate culture in our society. By this concept, hate mongering

mind set is changed by addressing those root causes which give birth to hate. Social institutions, media of all kind, NGOs, political and religious leaders and scholars should put their high headed efforts to promote a culture of peace and tranquility with rational and logical debates. Federal and provincial information ministries to spearhead this important initiative by taking all stakeholders on board and formulate their implementation proposals for the consideration of Federal Apex Committee.

Cyberspace is regulated under PECA 2016, which focuses more on comparatively mundane violations instead of denying space to hate and extremist material. Countries like United States, work in conjunction with academia, IT experts, specialists and other such stakeholders to develop better security systems and knowledge. Security infrastructure needs to be developed, improved and implemented, which includes the use of firewalls, encryption and intrusion detection systems. Research and developments need to be encouraged along with awareness and digital security trainings. It is proposed that a comprehensive cyber security policy may be formulated, and a National Cyber Security Center may be established focusing on the cyber security by Ministry of Information and Technology, while keeping in view the existing weak links of regulating social media.

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<sup>50</sup> Rai Tahir, Addl. IG, CTD, Punjab, Lahore, interview by the author interviewed on 22 April, 2019.

<sup>51</sup> Punjab Police, "CTD, Punjab", <https://www.punjabpolice.gov.pk/ctd> (accessed April 2, 2019).

<sup>52</sup> Zahoor Ahmed, AS IS, Home Department Punjab, interviewed on April 2, 2019.

<sup>53</sup> Zulfiqar Ahmed, “Military courts: Rabbani says revival of sunset clause to contradict government’s claim”, *Business Recorder*, 12 January 2017, <https://fp.brecorder.com/2017/01/20170112122567/> (accessed 23 May, 2019).

<sup>54</sup> Imran Mukhtar, “Transfers, Postings Turn NACTA into a Dormant Entity”, *The Nation*, 17 July 2011, <https://nation.com.pk/17-Jul-2011/transfers-postings-turn-nacta-into-a-dormant-entity> (accessed on 23 May, 2019).

<sup>55</sup> The Nation, “Madaris ready to cooperate on registration, regulation”, 16 May 2019, <https://nation.com.pk/16-May-2019/madaris-ready-to-cooperate-on-registration-regulation?show=preview> (accessed 23 May, 2019).