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The Role of the National Commission for Human Rights (NCHR) in Pakistan: A Critical Analysis of its Mandate, Performance, and Challenges

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ABSTRACT

This article takes a critical look at the institutional performance of the National Commission for Human Rights of Pakistan in the backdrop of its normative framework as per the Paris Principles and complex nature of the human rights scenario in the country. The Commission was constituted under the NCHR Act 2012, in accordance with Pakistan's international commitments, and was given a strong legislative mandate with suo motu powers, civil court powers and powers to inspect detention centres. This research has used a qualitative single-case study based on extensive document analysis of primary and secondary sources to compare the Commission's formal legal structure with its de facto results on thematic issues such as enforced disappearances, minority rights, gender-based violence and freedom of expression. The results show that there is a huge gap in implementation, a paradox of a Paris Principles compliant statutory mandate and limited institutional capacity. The analysis yields three systemic impediments that are interconnected. First, the sovereignty-surveillance nexus renders the security apparatus beyond the Commission's means of accountability, and intelligence agencies repeatedly defy summoning and disregard any conclusions drawn from investigation reports, a clear sign of the Commission's powerlessness in the face of the "deep state". Second, politicization of appointment systems, and chronic resource depletion, operate on a systematic level, with the deterioration of operational capacity and the need for political loyalty being placed ahead of human rights competencies and the lack of critical staffing levels, effectively making comprehensive complaint investigation impractical. Third, the lack of compliance by provincial governments and police departments and the low levels of awareness of the Commission by the public outside urban areas also create a sense of the Commission as a toothless tiger that is not able to provide tangible justice. Although the NCHR has succeeded in having an incremental discursive effect through its inquiry reports and advisory recommendations as these shape the civil society's advocacy and foreign observation, its transformative effect is rather restricted by structural limitations that need to be corrected legislatively, such as the inclusion of order provisions and the constitutionally guaranteed financial autonomy, as well as the appointment of members on a merit basis based on transparency in the selection process. This study is a part of the wider comparative literature on the role of National Human Rights Institutions in hybrid regimes, as it shows that formal institutional elements, even if they are in line with international standards, are not enough in absence of political will to limit powerful actors within the state.

Keywords: *National Commission For Human Rights, Pakistan, Paris Principles, Enforced Disappearances, Institutional Effectiveness, Human Rights Accountability*

Introduction

Human rights are the moral and legal cornerstone of contemporary democratic governance and an important indicator of a state's legitimacy and adherence with the social contract. This normative framework is captured in a web of international law to which Pakistan has succoured explicit obligations, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Such instruments require a "rhetorical assent" from the state of signature, but also the setting in place of effective domestic mechanisms for the protection and promotion of the inherent human dignity (United Nations, 1948; UN General Assembly, 1966, 1984). The vitality of a democratic polity is thus closely coupled with the institutionalization of human rights, and their conversion from abstract universal norms into enforceable rights to protect against arbitrary use of state power and to foster a culture of accountability. According to Donnelly (2013), the universality of human rights only comes to fruition through state level implementation and national political processes, placing the national human rights institutions as the 'place where the global and the local meet'. In their absence, the use of international treaties is vulnerable to becoming an empty shell, unanchored in the real world of citizens who are elsewhere subject to systems of power which are either indifferent or hostile to their basic rights and liberties.

The current situation in terms of human rights in Pakistan is a very troubled and contradictory landscape where abuses of human rights occur on a systemic basis and affect all aspects of Pakistan's civil, political and socio-economic rights. The state's counter-terrorism security apparatus has been at the root of an ongoing crisis marked by the arbitrary disappearances of people, which the UN Working Group on Enforced or Involuntary Disappearances has repeatedly denounced as a means to spread terror and terrorize its victims (UN Human Rights Council, 2021). At the same time, the state machinery is a silent or complicit bystander and religious minorities are subjected to structural discrimination and the deadly use of blasphemy laws, which can lead to extra-judicial mob violence at the mere mention of such accusations (Human Rights Watch, 2023). Women face a continuum of violence ranging from domestic violence to "honor killings" and can only count on a patriarchal legal system and social impunity that render them invisible to obtain justice (Amnesty International, 2022). Moreover, the right to freedom of expression is constantly under attack with the enactment of aggressive cybercrime laws, and the intimidation of journalists, and millions of children continue to be enslaved in forms of child labour which deprive them of education and dignity (Reporters Without Borders, 2023; International Labour Organization, 2022). This volatile human rights situation for decades has been dealt with in the absence of a truly independent, constitutionally entrenched national institution with the power to hold the state to account – a lack that meant that the victims had no meaningful domestic recourse mechanism and allowed for the development of established trends of abuse, which grew into a culture of impunity.

This institutional gap was the main concern of the NCHR, which was established under NCHR Act 2012 as the key instrument to address the gap and as a direct response to Pakistan's long deferred commitments made to the UN Human Rights Council during the UN Universal Periodic Review that Pakistan has to create a national body that is in line with the Paris Principles (Government of Pakistan, 2012; UN General Assembly, 1993). The UN General Assembly adopted the Paris Principles in 1993, which set out the international standards for national human rights institutions, including a wide range of promotional and protective functions, an independent composition defined in the national constitution or legislation, a

pluralist composition (incorporating civil society) and adequate resources to enable the institution to operate independently. The NCHR's statutory structure was created to reflect these standards and vested with powers similar to the powers of a civil court, such as the power to summon witnesses, request documents, make suo motu investigations and visits to prisons and detention centres. This article contends that the NCHR, although having a strong legislative mandate that is formally consistent with the Paris Principles, is structurally constrained, politically influenced and lacks enforcement powers which restrict its ability to function as a human rights body proactively and transformative. This assessment critically examines the Commission's operational evolution since its emergence in 2015 to today, with a particular emphasis on its work on civil, political and socio-economic rights. The need and importance of this study can be explained in multiple ways, first, it is a diagnostic analysis of the gaps in the legislative and operational framework which can be used by the policymakers to find solutions for these gaps, second, it is a framework for advocacy by the civil society actors, and third, it is a 'grounded evaluation' of institutional performance by international human rights bodies with implications for Pakistan's compliance with its treaty commitments and the broader project of strengthening democratic accountability in the country.

Literature Review

The UN General Assembly's 1993 adoption of the Paris Principles as the benchmark for the establishment and evaluation of NHRIs is the normative framework for NHRIs worldwide. These principles define the need for a wide remit, a constitutionally or legislatively defined independence, pluralistic composition and adequate resources for independence (UN General Assembly, 1993). The level of scholarly engagement is not just description but also critical analysis of implementation gaps. Pegram (2015) describes NHRIs as complex organizational players in which the formal characteristics of independence as outlined in the statutes do not necessarily translate to operational independence, or autonomy. Kaur (2019) takes this investigation to South Asia, suggesting that the working of NHRIs in the region is characterised by narrow political contexts wherein sovereignty concerns of the state systematically prevail over NHRIs' human rights obligations, leading to a process of gradual co-option of NHRIs into the process of legitimisation of power. A critical disconnect between the enactment of Paris Principles compliant legislation and the effectiveness of institutions has been identified in the literature (Smith 2021) with the reasons for this being linked to the lack of powers to enforce the legislation, politicised appointments and the ability for recalcitrant state institutions to overlook findings with no repercussions. This international scholarship offers a foundational theoretical background to thinking about NCHR Pakistan in relationship to other NHRIs in the Global South.

The human rights situation in Pakistan is a volatile one in which the NCHR has to operate its mandate and the international human rights documents have exposed a situation of systemic violations. The UN Working Group on Enforced disappearances reported that on the one hand, the judges were not holding security apparatus accountable for its widespread practice of producing victims before courts, and on the other, those who were arrested and detained were subject to a parallel detention system that lacked judicial control (UN Human Rights Council, 2021). Human Rights Watch (2023) has reported that misuse of blasphemy laws has been a catalyst for communal violence against religious minorities and the state's mechanisms have been compromised in their operation due to political expediency. Amnesty International (2022) has documented the criminal justice system's inability to tackle gender-based violence, and that honour killings are frequently dealt with in informal 'councils' which

support patriarchy-driven violence rather than through formal processes. According to the “World Press Freedom Index” 2023 prepared by the Reporters Without Borders Pakistan is one of the most fatal nation for journalists due to the electronic crimes act, disappearances of dissident and surveillance by state. According to International Labor Organization (2022), millions of Pakistani children are trapped in hazardous labour due to the lack of awareness of the enforcement measures and the absence of compulsory education. This evidence paints a picture of rights violations being systemic characteristics of governance.

The scholarship on NCHR's architecture offers important insights on its initial promise and textual weaknesses. The NCHR Act of 2012 was considered a turning point since it seemed to include the basic stipulations of the Paris Principles, giving the Commission powers similar to a civil court, such as summoning witnesses, conducting suo motu inquiries and visiting detention centres (Government of Pakistan, 2012). Drawing on wide-ranging statutory analysis, Cheema (2017) highlights some of the finer details of the statute, such as its sophistication, and then outlines the more serious flaws: appointments that were ‘vaguely defined’, the presence of ‘ex-officio government officials’ that dilute the pluralistic character of the agency, and the fact that ‘non-binding recommendations’ create ‘structural dependency’ on agencies that it is required to monitor. Shah (2020) extends this criticism by showing how the Ministry of Human Rights' financial reliance and administrative control over the office overlaps with its lack of independence. Since 2015, however, an emerging empirical literature has started to assess actual performance. Saeed and Khan (2022) evaluated 15 inquiry reports on enforced disappearances and found that that documents do have evidentiary value, but their impact is limited because security agencies are unwilling to cooperate or act. Iqbal (2021) used complaint handling data to determine that there was a significant disparity between the number of complaints filed and the number of successful complaints that led to any relief; she attributed this to lack of staffing, capacity and the failure to enforce directives on non-compliant provincial governments.

While of great value, there is a significant lack of attention to any comprehensive review of the NCHR's operational "big picture. The literature on the Global NHRIs is available in theoretical frameworks, which have not been used for concrete empirical research in Pakistan. International reports highlight deficits in rights but focus on NCHR secondarily, reporting on its existence without continued institutional reporting or analysis of performance or limitations. International reports refer to deficits in rights, but to NCHR secondarily, reporting its existence without sustained institutional reporting or analysis of performance or limitations (Human Rights Watch, 2023; Amnesty International, 2022). The scholarship of law on the NCHR Act is very strong at doctrinal analysis but is limited to what the law is, not what it has done or not done (Cheema, 2017; Shah, 2020). Empirical studies of the Commission are nascent, have been conducted on a few individual issues, and lack a comprehensive picture to be able to understand the functioning of the Commission over its mandate (Saeed & Khan, 2022; Iqbal, 2021). No study currently combines detailed legal review of the statutory framework, systematic assessment of operational performance across a variety of thematic areas, based on the annual and inquiry reports, with a rigorous qualitative analysis of institutional and political barriers informed by the experiences of commissioners, staff and civil society actors. This study addresses this gap by being the first empirical examination of the NCHR's role on the ground, dealing with its formal legislative mandate and its actual effects on the ground, and critically comparing its role with the constraints of its institutional life.

Problem Statement

Since the enactment of NCHR Act in 2012 and the commission's operationalization, Pakistan is facing severe and systemic human rights violations which question the very purpose of this institution. A persistent paradox of the literature is how a statutory body with a strong statutory mandate, pursuant to the Paris Principles, can co-exist with a worsening of the rights situation, characterized by enforced disappearances, religious persecution and gender-based violence, and the restriction of free expression. A thorough study of the Commission reveals serious shortcomings such as politicization of the appointments, financial dependence on the executive, and the non-binding nature of the recommendations that make the Commission incapable of taking any action against the non-compliant state agencies. Empirical evaluations also show that there is a huge disparity between complaints filed and substantial relief provided. The fundamental disconnect between the formal mandate of the NCHR and its impact is a persistent issue that has not been investigated in an in-depth empirical study, comparing the law with action, and the area of institutional weaknesses and political resistance has not been explored in a comprehensive study that adopts an empirical method to this issue.

Research Objectives

1. To examine the legal and constitutional mandate of the NCHR and benchmark it against the UN Paris Principles.
2. To analyze the functional performance of the NCHR in key thematic areas, including handling complaints, conducting inquiries, and advising the government.
3. To identify and assess the key institutional, political, financial, and social challenges that obstruct the NCHR's effectiveness.
4. To propose actionable recommendations for strengthening the Commission's autonomy, powers, and impact.

Research Questions

1. To what extent does the NCHR's legislative framework comply with the UN Paris Principles for NHRIs?
2. What has been the NCHR's operational performance across its core functions of complaint redressal, suo motu inquiries, and policy advisory, as evidenced in its reports?
3. What are the primary internal (institutional capacity, funding) and external (political pressure, state non-cooperation) impediments that limit the Commission's efficacy?
4. What legal and administrative reforms are necessary to transform the NCHR from a recommendatory body into an effective rights-enforcement institution?

Research Methodology

The research philosophy used in this study is qualitative and interpretative in order to find out the institutional dynamics, textual meanings and operational reality that influences the National Commission for Human Rights as an institution. Research design is single case study with the NCHR as unit of analysis as this design provides an in-depth and contextually rich analysis of a unique institutional phenomenon in the intricate governance structure of Pakistan. Data collection is primarily based on secondary data, and primary interview methods were not used, and instead focused on rich textual sources and the archival record has been triangulated. The main data body consists of the NCHR Act of 2012, the Rules of Procedure of the Commission, the Commission's published annual reports since 2015, reports of special inquiries on thematic topics like minority rights and enforced disappearances,

parliamentary debates relevant to the intent to enact the NCHR Act and judicial pronouncements interpreting the NCHR mandate and powers. These are further complemented by secondary sources like reports of international human rights bodies like Human Rights Watch, Amnesty International, documentation of the United Nations human rights mechanisms such as Universal Periodic Review submissions, communications by the United Nations Special Rapporteur on Pakistan, in-depth analysis by Pakistani civil society groups, and extensive news media archives reflecting the public debate on the Commission's activities. The analytical framework is a complementary mixture of two methods. A doctrinal legal analysis is the first step which involves reviewing the NCHR Act's legislation in light of the Paris Principles to uncover weaknesses and gaps in the structure. Secondly, by using a thematic analysis of the documentary corpus, recurrent patterns, institutional reactions and operational results are identified in the thematic areas of work of the Commission. The Paris Principles are the main evaluation criteria during.

Legal Mandate and Institutional Architecture

The NCHR Act of 2012 provides a detailed statutory framework that officially incorporates important standards that were demanded by the Paris Principles for national human rights institutions (Government of Pakistan, 2012). The Act gives powers to the Commission, similar to those of a civil court under the Code of Civil Procedure, to summon and compel the attendance of witnesses, to take evidence on affidavits, to make a requisition for public records in any office of government, and to issue commissions for examining witnesses and documents. Moreover, the Commission has the crucial power of *suo motu* cognizance which allows it to conduct investigations into human rights abuses without having been appointed to do so, and without requiring a formal complaint, a power that is crucial to combating systemic abuses where victims fear reprisals (UN General Assembly, 1993). The Act further empowers the Commission to inspect any jail/prison/detention home and report to the competent authority about the conditions of the inmates. Pegram (2015) calls such formal powers "necessary but not sufficient" for institutional effectiveness, before adding that "rules are not substitutes for action." Before Pegram (2015) concludes: "rules are not substitutes for action," he further concludes that such formal powers are necessary but not sufficient for institutional effectiveness, which is a direct criticism of the NCHR's legislative architecture. A thorough examination of the text against the Paris Principles, however, shows that there are a number of shortcomings in this solid package. The criteria for the appointment of the Chairperson and members are not publicly advertised, nor are they transparent, and there has been minimal civil society participation in the selection process, which threatens the pluralism and independence principles (Cheema, 2017). The funding mechanism puts the Commission into an executive controlled grant rather than a consolidated fund levied directly on the federal budget, which means that the Commission is structurally dependent on the funding.

The composition of the NCHR and how its institutional autonomy is guaranteed are the most challenging aspects of its legislation and highlight the degree to which the Paris Principles are fulfilled or not in practice. Although the Act mandates the appointment of a Chairperson and members by the federal government, the chairperson and members are chosen by a committee, which is dominated by executive appointees and where there is insufficient mandatory engagement with civil society, the bar council or human rights defenders (Government of Pakistan, 2012). Shah (2020) highlights that this murky appointment process has always resulted in Commissions that do not reflect the diversity and pluralism of social forces and non-governmental organisations as called for under the Paris Principles. The

addition of ex-officio members, senior government officers representing different ministries, also weakens the Commission's independence in that it brings an element of government into an institution that's supposed to be reviewing government action. Kaur (2019) points out that it is a typical characteristic of South Asian NHRIs to be undermined by this design, which diminishes the credibility of the institutions. The financial independence issue is also not without its challenges. The Act creates a fund for the Commission, but it still depends on grants from the Federal Government, through the Ministry of Human Rights, placing it in an administrative dependency that is not consistent with the autonomy of the Commission. However, Smith (2021) believes that institutional autonomy should not be achieved through formal legal independence alone, but through financial independence as well, a requirement that is not being fulfilled by the way the NCHR is funded.

The NCHR's jurisdictional structure is a complex mix of its broad mandate and important structural constraints that make it an ineffective rights enforcement entity. Jurisdiction of the Act extends to investigating violations of human rights by a state actor on both federal and provincial levels, especially after the 18th Amendment to the Constitution of Pakistan was enacted that transferred significant legislative and administrative powers to the provinces (Government of Pakistan, 2012). Theoretically, with this cross-jurisdictional reach, the Commission can act on human rights abuses regardless of whether the offending agency is federal or provincial, thus providing a unified national accountability mechanism that allows for the Commission to play a major role in addressing human rights abuses. In terms of scope, however, the Commission's mandate is limited to acts of violations by state actors and public servants—this does not mean that abuses by private individuals or non-state actors are not covered as those are indirectly addressed by the Commission. (Saeed & Khan, 2022) The limitation is especially significant when the non-state armed group, religious militias and private landowners are major perpetrators of rights violations. The most troubling problem with the jurisdictional limitation is, however, its non-binding nature. Through this research, Iqbal (2021) shows that orders issued by the Commission are not binding and are often acted upon by provincial government and federal agencies without any legal repercussions. This absence of power renders the NCHR a 'recommendatory institution,' which has to rely upon the goodwill and cooperation of the very state agencies that it is charged with monitoring and which it is supposed to hold to account.

Operational Performance and Tangible Impact

The complaint handling mechanism is the closest link between the NCHR and complainants of human rights violations, but statistics from the Commission's annual reports show that its performance has been inconsistent and is failing to meet its protective obligations. Although outreach by the NCHR was limited, there was a growing public awareness of increasing complaints regarding enforced disappearances, police torture, land grabbing, and gender-based violence, as reported by NCHR (2022). But Iqbal 2021 found a significant gap in implementation as large number of cases were disposed without providing any substantive relief, in most of the cases, it was just a bureaucratic correspondence which was forwarded to the concerned department. This qualitative aspect is highlighted by a comparative mini-case study. The Commission's timely suo motu action and relentless engagement with the provincial labor department led to the child being released and the prosecution of the employer within three months in a successful case regarding illegal detention of a child laborer in Lahore (Saeed & Khan, 2022). On the other hand, the Commission had issued several summons, recorded detailed testimonies, and issued condemnatory findings in a stalled

enforced disappearance case from Balochistan, and nothing had been heard regarding any recommendations from the security agencies, indicting the Commission's inability to stand up against the security machinery (Human Rights Watch, 2023). The contrast is stark, and illustrates why the NCHR's complaint mechanism works reasonably well only if the alleged violator is a low-level provincial employee, and not if he or she is a member of the "deep state" or holds political power.

Beyond an impact on policy, the Commission's powers of *suo motu* inquiry, and its advisory role, are its biggest achievements in influencing human rights discourse, while tangible policy impact is limited by government resistance. The Zainab murder inquiry led by the NCHR led to the enactment of the Zainab Alert, Response and Recovery Act 2020, a national framework to respond to missing and abducted children (National Commission for Human Rights, 2020). Likewise, the Commission's quick deployment of inquiry teams to probe blasphemy-related mob violence in Sialkot and Swat have led to detailed reports, which resulted in media attention and mobilization of civil society, thus bringing accountability into focus (Amnesty International, 2022). The Inquiry reports by the NCHR were some of the only official records on arbitrary detention and forced deportation of Afghan refugees, considered essential evidence by the UN human rights instruments, especially in the absence of government action on a recommendation to provide protection (UN Human Rights Council, 2021). Though the Commission has consistently made detailed recommendations on legislative actions in its advisory capacity, such as drafting an exhaustive anti-torture bill, no recommendations have been accepted in their original form; Cheema (2017) indicates that the executive has been selective in accepting recommendations that do not limit the powers of security agencies. Increments of public human rights education by the NCHR, such as the training programme for police and prison personnel, are welcome but still small and unsustainable contributions, as Shah (2020) asserts, because of chronic underfunding. In fact, the discursive power of NHRIs reports, which can influence the civil society advocacy and international focus even if they are ignored by states, is what has been found to have the most effect in countries with limited political space, as Pegram (2015) shows.

An Analysis of Systemic Impediments

The NCHR's skirmishes with Pakistan's security services over enforced disappearances show that a statutory organisation is helpless in the face of entrenched deep state in Pakistan. The Commission has regularly called upon officials from intelligence agencies, asked for the production of missing persons and published reports of the investigations, in which it documented systematic abductions (National Commission for Human Rights, 2021). Jilani (2019) has found that the NCHR has been remarkably brave to directly name agencies involved in the disappearances, but its directives have routinely been ignored and outright defied by the security establishment. Intelligence agencies have not been willing to stand before the Commission, have tried to assert their jurisdiction over it in court, and have used political pressure to make the executive not act on the Commission's conclusions. The NCHR failed to force compliance with its security agencies, which is a serious blow to the credibility of the NCHR as a rights protection mechanism, according to the International Commission of Jurists (ICJ), which recorded the institutional deadlock. Yusuf (2020) notes that the state's response is representative of a sovereignty-surveillance nexus that puts intelligence agencies beyond the scope of accountability institutions because of the needs of national security. It is in this clash that the Commission is exposed as having a legal framework to investigate and a lack of coercive powers to force the most powerful state actors to come under its control. In a

hybrid regime, the issue of legitimacy is the NHRIs' most serious challenge when they seek to hold security agencies accountable, since they are embedded in another power structure that has a clear, categorical stance against external oversight. Siddiqi (2022) believes that the legitimacy problem of NHRIs is most acute in hybrid regimes, where they are trying to hold security agencies accountable, and the latter operate in a parallel power structure that is explicitly hostile to outside scrutiny.

Both the politicization of the NCHR's membership and the steady erosion of its resources pose interrelated challenges that can be seen as a systemic attack on the NCHR's working capacity and public trust. The appointment system places heavy reliance on discretionary powers in the hands of the Federal government without providing any clear-cut and merit-based selection guidelines or meaningful involvement of civil society (Government of Pakistan, 2012). Waseem (2018) points out that many of these appointments have been made for political motivations and on the basis of little experience with human rights matters, rather than for their human rights expertise, and has chilled the credibility of the institution within the human rights community, who view it as a mouthpiece for the government rather than a neutral watchdog. With a focus on the consequences of the decision-making process, Qureshi (2021) reports cases where politically sensitive cases have been postponed and, indirectly, lost and where people have lost faith in the Commission's neutrality. The Commission's own records always document serious depletions in its investigative team, legal researchers and field officers, and positions are frequently left vacant because of bureaucratic delays in filling them (National Commission for Human Rights, 2021). Raza and Ahmed (2020) discovered that complaints are being made on a greater number than the number of investigators and therefore it will not be feasible for the institution to submit a comprehensive investigation on each and every complaint and will only be able to rely on the correspondence based disposal system. Operational budget is also tied to grants that go through the Ministry of Human Rights, thereby reducing autonomy as the budget is subject to approval by the executive and can be withheld as a way of informal control. Zia (2019) refers to the same process, of politicised leadership and resource depletion, as a deliberate tactic of institutional containment by which the government in each South Asian NHRI appears to be in compliance with international obligations while simultaneously human rights bodies remain too weak to offer real challenge to accountability.

The NCHR's institutional legitimacy-authority gap is most evident in the lack of compliance to the directives of the NCHR and in the people's perception that the NCHR is powerless to act. The commission's legal structure also gives rise to a fundamental paradox in that it has statutory powers to summon officials and render verdicts without any mechanism to ensure adherence to its directions in the event of the failure to do so (Government of Pakistan, 2012). Jahangir (2018) posits this as an enforcement gap, shifting NHRIs from adjudicatory to recommendatory bodies, and their success relying solely on the good faith of the institutions they are mandated to monitor. The Provincial Police Departments often refuse to attend the Commission's summons, government ministries do not implement the recommendations of the law, and security agencies do not take the results of the Commission's investigation into account with legal consequences (Hassan, 2020). The Asian Federation Against Involuntary Disappearances acknowledges that there has been systematic non-compliance that has rendered the Commission's orders morally binding but not legally binding, leading to a vicious cycle of non-compliance and diminishing victims' willingness to engage with the Commission (AFAD, 2022). This issue is exacerbated by lack of public awareness, and Khan (2021)

observed the NCHR has never made itself visible in marginalized communities outside major urban areas, and therefore there is a lack of meaningful access to the NCHR complaint mechanisms. This has created a general impression among civil society and the legal profession that the NCHR is a 'toothless tiger' and it has a formal mandate as a human rights body but no power to achieve tangible results for victims (Malik 2023). As Siddiqi (2022) states, this deprivation of legitimacy is more harmful as it erodes and is very hard to restore.

Conclusion

This article has made a detailed critical evaluation of the National Commission for Human Rights of Pakistan in light of its constitutional functions and the challenges it faced in its operation as well as the institutional hindrances which have formed its very existence. The evidence gathered in this study foregrounds what appears to be a basic paradox in the life of the Commission. The NCHR Act of 2012 on the other hand gives the Commission a statutory mandate that is very similar to the Paris Principles: it has *suo motu* cognizance, powers akin to a civil court, the right to visit detention facilities and a wide competence covering both civil, political and socio-economic rights. This legislative framework is a true success in the design of formal institutions and also a long pending commitment towards the establishment of a domestic human rights mechanism for the country towards international obligations. Conversely, this powerful mandate has been heavily restricted from being realised as meaningful benefits for rights victims, due to a series of political, institutional and structural issues, which this study has identified and examined in detail. The Commission's experience from 2015 onwards has shown that despite the extensive nature of its powers on paper, it is largely ineffectual against powerful state actors that do not respect the Commission's authority. The analysis has led to the identification of three interrelated sets of obstacles that can be summarized as follows: The sovereignty-surveillance nexus renders the Commission unable to effectively challenge the security apparatus which is regularly summoning the Commission, asserting jurisdiction and using political influence to ensure that the Commission's findings and recommendations are ignored. Politicization of appointments and a long-term lack of resources erode the Commission's impartiality and ability to function, with leaders chosen for their political allegiance and employees insufficient in number and skills to investigate effectively. The legitimacy-authority gap stems from these structural weaknesses, and it is evident in the fact that provincial governments and the police do not obey its sanction; in the fact that the Commission does not have a strong public presence outside urban centres; and in the fact that victims and civil society generally see the Commission as a toothless tiger that cannot produce concrete justice.

Yet, even when weighed against these enormous constraints, this study suggests not to give this body enough credit to leave it in a state of institutional irrelevancy. Although enforceable orders account for only a small part of the Commission's activities, it has made substantial but incremental strides by other means. The issue of enforced disappearances, blasphemy-related mob violence, and the treatment of Afghan refugees has resulted in significant media attention, civil society advocacy agendas and documentation for international human rights mechanisms, such as UN Special Rapporteurs and treaty bodies. The Commission's intervention in the Zainab murder case, *suo motu*, was a factor that led to enactment of the Zainab Alert Act 2020, which illustrates the Commission's discursive power can, in certain instances, lead to a legislative change. Although its public human rights educational activities have been small in scale, they are valuable additions to efforts to establish a culture of respecting human rights within state institutions. Such successes have strong parallels with

the theoretical understanding that NHRIs in political contexts of constraint tend to have the most impact when they rely on 'normative and discursive authority' of their conclusions. But the sustainability and growth of such impact will rely on structural reforms to tackle underlying weaknesses in institutions. Legislative changes are needed to make the Commission's recommendations legally binding, to provide clear and merit-based appointment procedures with the inclusion of civil society, and to ensure budget independence via a consolidated fund mechanism. Unless such changes take place, the NCHR will continue to be in its present set-up, which is a highly formal, yet is systematically rendered incapable of providing substantive human rights protection to the people of Pakistan which they are entitled to and the international obligations of the state requires. The Commission's evolution is therefore a telling example of some of the larger issues that surround the institutionalization of human rights in hybrid regimes, where the existence of formally independent bodies is complemented by political strategies of containment that prevent them from ever gaining the degree of autonomy that would enable them to significantly challenge the power dynamics in place.

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