



Shadow Report of
The Islamic Republic of Pakistan
on Rights of the Persons with Disabilities under Article 35 of the
UNCRPD

Jointly Submitted by

Potohar Mental Health Association (PMHA)
H# 133 A, Street 3C, Ghouri Town Phase 5,
Islamabad

and

Human Right Commission of Pakistan (HRCP)
107 Shakir Ali Ln, Tipu Block Garden Town, Lahore, Punjab



INTRODUCTION

This alternative report has been prepared by the Human Rights Commission of Pakistan (HRCP) and Potohar Mental Health Association (PMHA), outlining our main concerns ahead of review of Pakistan's initial report during the session of United Nations Committee on the Rights of Persons with Disabilities (hereinafter, "the Committee").

Report's primary research was conducted by PMHA, which included focus group discussions with persons living with disabilities (most of whom were also associated with a disabled persons' organization 'DPO') and key informant interviews of related public sector officials and politicians. HRCP conducted secondary research, comprising news articles' reviews, relevant laws, local and international organizations/NGOs' reports and the annual State of Human Rights Report published by HRCP from 2011–2020.

This report examines domestic, legal and institutional framework, focusing on recent measures taken by government for compliance to international obligations. This report seeks direction from rudimentary principles enshrined in Article 3 of the Convention to analyze whether state's legislative and administrative efforts have manifested and operationalized the Convention. While celebrating recent increase in state's efforts to legislate, institutionalize and implement rights of persons with disabilities (PWDs), our recommendations highlight areas of improvement for persons with disabilities in Pakistan.

Observations shed light on structural problems PWDs face, requiring a sincere and thorough effort from government, going beyond passing ambitious laws and setting up committees. The report recapitulates the conclusion repeatedly shared by host of stakeholders i.e. lack of implementation by government, coupled with social and cultural marginalization – these pervasively obstruct persons with disabilities from enjoying their due rights, enshrined by the Convention and the Constitution of Pakistan. The report draws focus on compounded exclusion and disability experiences by vulnerable groups such as women and children with disabilities. Additionally, it notes that other vulnerable sub-groups i.e. transgenders, prisoners and refugees with disabilities aren't covered in the special legislations.

I. Articles 1 – 4 Purpose, Definition, General Principles and General Obligations:

The Convention, encapsulating rights-based 'social-model' of disability, envisages disability as an evolving concept, resulting from interaction between person having impairments coupled with attitudinal and environmental barriers, hindering their effective participation in society on an equal basis.¹ This conception marks a shift from disability's medical-model that conceives disability as a fixed, binary incidence. Purpose of the Convention is to protect and ensure full and equal enjoyment of human rights by PWDs. Article 3 further elucidates aims of Convention in the form of 'general principles', including respect for inherent dignity, individual autonomy and independence; non-discrimination; effective participation and inclusion in society; equality of opportunity; accessibility; respect for differences and acceptance of persons with disabilities.

In Pakistan, although the recent legislations on the rights of PWDs, have improved the definition of disability to align with the Convention's; the laws contain elements that undermine its objective. For example, the provincial statutes applicable in Baluchistan, Sindh and Islamabad, contain a caveat on the right to equality of PWDs, allowing a person's disability as grounds restraining or restricting them from

¹ Article 1 of the Convention, read with provision (e) of the Preamble.



enjoying their rights where “*there is a reasonable cause that not to restrict such person may cause him harm or letting him perform something which may be out of his physical or mental capacity*”.²

Furthermore, the aforementioned statutes, mostly codify and collate the rights of PWDs which already existed (for example the right to education, equality, right to own property etc.); whereas, most of the rights or legal obligations on the government specifically dealing with the situation of PWDs (such as access to public infrastructure, reserved seats in public transportation, job or education quota) previously existed as special laws or policies for example the 1981 Ordinance or Special Citizen’s Act 2006 etc. This reflects a lack of implementation and protection of rights of PWDs, raising serious doubts about the efficacy of new laws.

Recommendations:

- Respective governments ensure legally codified rights of PWDS being enforced in letter and spirit; violations effectively curbed.
- Entities created under primary provincial laws encouraged to devise specific and actionable timelines for achievement of goals and obligations set in the laws.

II. Article 31 - Statistics and Data Collection:

Lack of accurate, comprehensive and updated data on disability in Pakistan is a fundamental problem where this shortfall undercuts other efforts made by the state, including allocation of budget. Consequently, government continues to operate without an understanding of or corresponding evidence about disability’s fundamental aspects. Section pertaining Article 31 in the Initial Report is silent on measures the government has taken or intends to take to fill this gap³. Recent stream of litigation before the Supreme Court and High Courts of Pakistan, challenging the omission from the government to include PWDs in the latest population census, showcases government’s lack of seriousness.

In 2017, when the government began the latest population census (the last one being the 1998 census), a public-interest petition was filed before the Lahore High Court (LHC)⁴ stating that the census’ form didn’t include the provision to count PWDs. It sought the court’s intervention on grounds that non-inclusion in population census is tantamount to violation of fundamental rights of PWDs. When questioned by the Court, the representative of Pakistan Bureau of Statistics (PBS) explained the omission due to lack of space on the census form and human resources, other resource constraints arising from reprinting the consensus forms and training the enumerators etc. On 15th March, 2017, the LHC, in its order, relied on the fundamental rights guaranteed in the Constitution of Pakistan and Convention, directing the government and PBS to include section(s) pertaining to disability in the census form. The Court aptly endorsed the comments by the UN General Assembly regarding ‘Monitoring and Evaluation of Disability-Inclusive Development’, noting “*The lack of data and information on disability and the situation of persons with disabilities at the national level contributes to the invisibility of persons with disabilities in official*

² Sub-section 3 of Section 3 of The Baluchistan Persons with Disabilities Act, 2017; Sub-section 4 of Section 3 of Sindh Empowerment of Persons with Disabilities Act, 2018; Sub-section 3 of Section 3 of The ICT Rights of Persons with Disability Act, 2020;

³ Paragraph 207 of the Initial Report

⁴ Writ Petition no. 7122/2017 Shafique ur Rehman vs. Federation of Pakistan and others.



statistics, presenting an obstacle to achieving development planning and implementation that is inclusive of persons with disabilities.”⁵

On 16th March 2017, Supreme Court (SC) reiterated the LHC’s order⁶. Petition’s final decision further directed PBS to periodically collect and update information regarding PWDs and upload it on their website⁷.

According to the 2017 census, PWDs comprise 0.48% of the total population, amounting to less than a million out of 207.7 million people⁸. According to 1998 consensus, there were 3.3 million PWDs, 2.54% of the population. Thus, the unexplainable fall in number of PWDs questions the census’ veracity⁹.

According to HRCP’s report, the UNFPA’s monitoring mission for the census, observed that enumerators rarely asked questions related to disability.¹⁰ Moreover, the disability’s categorization in the census forms utilizes politically incorrect labels such as ‘deaf and mute,’ ‘crippled’ and ‘insane’¹¹ despite prohibition issued by SC in its celebrated order dated 24 October 2019¹².

Lack of facilitation by NADRA

Difficulties faced by PWDs in securing Special National Identity Cards (SNIC) from NADRA further undermine their legal recognition and visibility. Only 371,883 PWDs are registered with NADRA, therefore, having access to services based on citizenship. ¹³ According to HRCP’s Annual Report 2020, lack of computerized CNICs resulted in denial of aid and cash grants by government to vulnerable groups, including PWDs. The Chief Operating Officer of NADRA, Brig. Khalid Latif Khan, in his interview for the instant report, informed that as of December 2021, 443,830 PWDs are registered with NADRA, out of those 401,775 have SCNIC with a logo indicating government’s recognition of disability’s nature. He elaborated there are four types of disabilities with corresponding logos, making it difficult for NADRA to ascribe logos to applicants based on this policy/system. Therefore, more than 4,000 persons currently have logo-less SCNICs.

Mr. Saleem Mandviwala, Former Deputy Chairman, Senate of Pakistan, stated that NADRA doesn’t recognize disability certificates issued by the provincial authorities and recognizes those issued by the

⁵ Can be found at UN’s website at: < <https://www.un.org/development/desa/disabilities/resources/monitoring-and-evaluation-of-inclusive-development.html>>

⁶ <https://www.dawn.com/news/1320852>; <https://dailytimes.com.pk/22919/pbs-pressed-to-include-transgender-and-disabled-people-in-census-2/>;

⁷ Order dated 14.07.2020 in Constitutional Petition no. 64 of 2013 (and others), titled Dr. Shahnawaz Munami and others vs. Federal Government of Pakistan and others.

⁸ <https://tribune.com.pk/story/1503496/sixth-population-census-people-disabilities-stand-less-1m-pakistan>

⁹ <https://www.dawn.com/news/1511509>

¹⁰ SHR 2018, pg. 227 - 228

¹¹ https://www.pbs.gov.pk/sites/default/files//disability_data_1998.pdf

¹² Supreme Court order dated 24.10.2019 in Civil Petition No. 3107 of 2018 in Sajjad Ali vs. Vice Chancellor through Registrar University of Malakand at Chakdara and others

¹³ https://www.pbs.gov.pk/sites/default/files//disability_data_28252021.pdf



federal authority which hinders PWDs from getting their SCNICs along with facing stigma attached with disability in the country, whereby children with disabilities aren't registered during census by their families.

Many PWDs don't exist officially without the issuance of a CNIC. There is a huge gap between the conservative global estimates of the population of PWDs and PWDs registered as citizens. There is a pressing need for the federal government to improve its census process.

Recommendations:

- Government immediately conducts a comprehensive exercise to gather information, including statistical and research data, on Pakistani PWDs along the parameters laid out in Article 31 of the Convention which could be done through public-private partnership.
- Comply with international best practices in gathering, analysis and projection of data, including the method and questionnaire developed by Washington Group, along with participation of PWDs in data collection and research process.
- Government to ensure PWDs are included in upcoming general population census, based on a more comprehensive definition and parameters of disabilities.
- Effectively train and sensitize field officers tasked with gathering information from PWDs, in their needs and circumstances.
- Conducting surveys at the school-level can serve as an effective measure for early identification of disabilities in children especially in young women/girl child taken out of school as they grow older.¹⁴
- Increase initiatives in obtaining CNICs accessible for PWDs and streamline current loopholes due to new provincial-level frameworks.

III. Article 8 – Awareness-raising:

As the state's Initial Report suggests, the awareness-raising efforts such as workshops and seminars have been sporadic, urban-oriented and directed towards limited audience. Primary research shows that prejudice and discriminatory attitude towards PWDs permeates almost every formal/informal structure of society.

During focus group discussions, participants reported social exclusion rooted in lack of awareness and insensitivity in multiple areas of life, beginning from home with parents, who out of shame, hide their children with disabilities. They withhold educational opportunities, exclude them from gatherings to protect them from social ridicule.

Social ridicule and being treated as a burden are a frequent occurrence for PWDs along with social exclusion, derogatory labels/attitudes while also subjecting them to superstitious practices as noted through focus groups discussions. It was also shared that indignation due to discriminatory language in legal/official documents and absence of debate regarding disability in the parliament and corridors of power is a cause of concern.

¹⁴ This mechanism is stipulated in Section 9 (2)(a) of the Sindh Act. Other laws may be encouraged to adopt such a mechanism.



Mr. Shafique Chaudhry, Executive Director of Parliamentarians Commission for Human Rights stressed the importance of awareness program and the new conception of disability needs proper legislation and its implementation to reach the masses.

In March 2020, the Provincial Minister Punjab for Information and Culture, Fayyazul Hassan, called children with disabilities “a punishment from God for the parents’ wrongdoings.” although apart from backlash from the netizens no formal action was taken against the repugnant statement. State of Pakistan is far from complying with the principles of Convention.

Recommendations:

- Devise/implement awareness-campaigns targeting families, communities and politicians on decision-making level.
- Increase mental health awareness for PWDs who face trauma due to stereotyping on macro/micro levels
 - State undertake a large-scale campaign including workshops, seminars, community meetings and reform through education, alleviating discriminatory social attitudes.
- Take immediate measures to increase visibility of PWDs, including projection of their participation and inclusion in various facet of public-private lives, in compliance with the objectives of the Convention.
- Ensure a more Convention-compliant and sensitive coverage of PWDs, enhancing accountability of public office holders and media actors in their attitude/portrayal towards PWDs.
- Celebrate and lend visibility to achievements of PWDs, highlighting their potential, abilities and impression among the masses.
- Conduct awareness-campaigns in mosques, seminaries, churches and temples through media to sensitize communities about disability issues, combating the associated stigma.
- Sensitize/train law enforcement agencies to recognize these disabilities in juvenile convicts and process their cases within the framework of the Convention.
- Implement judgment of the High Court and Supreme Court which prohibits use of derogatory terms to refer to PWDs while scrutinizing public and private sphere.

I. Article 6 and 7 - Women and children with disabilities:

Women with disabilities experience more challenges than their male counterparts, and this discrimination begins right after birth. According to focused group discussions’ participants, male children with disabilities are comparatively easily accepted by parents and society as adults, provided with more opportunities and mobility. They stated that in Pakistan, where girls are generally considered a burden on parents, if the girl is born with disabilities, she is considered an even greater burden or an outright punishment of some sin.¹⁵

Lamenting on the same burden, Ms. Gulshan, a female athlete and resident of KPK said, “I got affected due to land mining in Waziristan. I had become extremely unwell mentally, sitting at home for 9 years. I stopped going to weddings or buying clothes for Eid. My household is good towards me, but the society is not. Now, I have decided to join a sports’ institute”.¹⁶

¹⁵ Ms. Sadaf, Programme and Planning Director, Breaking Barrier Women, Quetta, Balochistan

¹⁶ Ms. Gulshan, Athlete, resident of Waziristan, Khyber Pakhtunkhwa



Women with disabilities face additional exclusion as their birth is often unregistered in state records owing to societal stigma. In Baluchistan, women with disabilities face challenges due to geography and local political system. The disabilities are brushed under the carpet because of the harsh mountainous terrain and tribal system's presence.

There are some welcome initiatives by provincial and federal governments. In 2018, KPK government announced multiple projects to improve disabled children's education. Sindh government has also set up Centre for Rehabilitation and Training Sindh in Karachi; it is considered the largest center in South Asia.¹⁷

Stigma, superstition, ignorance and poverty in society continues to hinder progress towards better visibility and inclusion of children with disabilities, sometimes resulting in fatalities, especially in rural areas.¹⁸

Unfortunately, children with disabilities are accustomed to violence with vulnerability being more pronounced for the girl child. It is alarming that other than women and children with disabilities, laws don't acknowledge compounded vulnerability of transgender persons, senior citizens, prisoners and refugees with disabilities. Only the ICT Act includes transgender with disabilities as a vulnerable group.

In December 2017, LHC, while hearing a public interest petition regarding abuse of children with disabilities, formulated a commission for child rights, for investigating cases of violence against children with disabilities. The court ordered provincial special education secretary to deploy police officers in special children's transportation system, ordering installation of security cameras in schools and buses of children with disabilities after a video showed the Bus Conductor of a Government Special Education Centre in Gujranwala physically abusing children with disabilities.¹⁹

In December 2018, Taxila, two brothers buried their intellectually impaired sister on instructions of a faith healer, to rid them of evil omen. Similarly, two men were sentenced to 20 years imprisonment in Karachi for raping a girl with disability. Moreover, father of a Hindu girl having disability lodged an FIR alleging rape by a boy in Sindh. In another case, a Sikh teenage girl having disability was raped inside an ambulance by two men, in Punjab.²⁰

Applicable law in Sindh, Baluchistan and ICT, recognizes additional vulnerability of women, children and elderly persons with disabilities, where government is prescribed to take 'special measures' ensuring enjoyment of all rights for the aforementioned groups.²¹ No such recognition is found in laws in KPK and Punjab.

Sindh Act, Section 37 prescribes punishments for offences and violence against persons with disabilities. Clause (f) of Section 37 prohibits anyone from performing any medical procedure against women with disabilities, without their express consent, which leads to, or is likely to lead to termination of pregnancy.

¹⁷ SHR 2018

¹⁸ SHR 2018

¹⁹ SHR 2018 pg. 188

²⁰ SHR 2018, pg. 227 - 236

²¹ Section 5 of Sind Act, Section 6 of Baluchistan Act, and Section 6 of ICT Act.



The provision draws an exception through termination of pregnancy on a woman with disability without her consent, in 'severe cases of disabilities', with the medical professional's opinion and consent of the woman's guardian. Thus, the law doesn't only violate inherent dignity of women with disabilities, but also robs them off their bodily agency which constitutes a violation of multiple provisions of the Convention²². Such instances open room for abuse of law and poses serious threat to women with disabilities' reproductive rights and autonomy.

Government's failure to safeguard rights of children with disabilities renders it liable for non-compliance of international obligations not only under the CRPD, but also the Convention on the Rights of the Child (CRC). Article 23 of the CRC, and the General Comment No. 9²³ on the rights of children with disability underscores additional vulnerability of children with disabilities and prompts state to take special measures, meeting their needs. Moreover, in its Concluding Observations on the fifth periodic review of Pakistan in 2016, the CRC Committee urged the government to improve access of disabled children by providing inclusive education, healthcare facilities etc. It also urged the state to discourage families from abandoning their children with disabilities, setting up measures for early detection of disabilities.²⁴

Recommendations:

- Take immediate steps, including allocation of adequate budget, to implement comprehensive provisions in respective laws improving special education's infrastructure.
- Build inclusive education for children with disabilities where capacity-building of school staff is important.

II. Article 24 - Education:

Initial Report reflects that government's efforts have dominantly focused on providing 'special education', which is segregated not only between the children with disabilities and without disabilities, but also persons with differing disabilities. Moreover, the efforts listed in state's report are dated mostly before the ratification of the Convention and are urban-concentrated, particularly the federal capital city. Therefore, provision of this right falls short of the mandate of Article 24 on many fronts. The report doesn't mention performance and results achieved through various institutions and initiatives, presenting an incomplete picture of the right to inclusive education.

Securing admission for PWDS into general educational institutions is half the battle. As reported by focused group discussions' participants, schools are generally reluctant in accommodating students with disabilities. Teachers in these schools are usually ill-equipped/ill-trained to teach these students. A visually-impaired female participant recalled her experience of being assigned a classroom on the second floor. Another social factor hindering quality education for children with disabilities is parents' belief that

²² These provisions include a right to inherent dignity under Article 3 (a), physical integrity under Article 17, freedom for reproductive planning under Article 23 (1)(b), prohibition against degrading treatment under Article 15 (2) etc.

²³ General Comment issued by the Committee on the Rights of the Child, dated 13 November 2007 <<https://www.refworld.org/docid/461b93f72.html>>

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<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsj6w6N%2F47zTb2GZCw8ZJMHB0%2FKlxkcysXmsISop1yo0QfaT1E6yAhOmn1FhkSztV8IkZY%2F0FcydIBPHSpz3tSnn6uT1XIVbgwtgC5kzi77Xw>



investing in children with disabilities education is futile, owing to meagre economic opportunities.

It was also reported that special education schools don't offer the same variety of subjects as in regular schools. They often discouraged children with disabilities from taking challenging subjects like Science.

Experiences and available resources further vary between provinces. Mr. Ghulam Dastagir, Secretary General Baluchistan Pakistan Association for the Blind reported there is no Braille Press, books are usually unavailable, lack of trained staff, usually managed by persons without disabilities who don't understand PWDs' needs. Baluchistan doesn't have a single speech therapist. Focus group discussions' participants informed that special education facilities for children with disabilities exists only up till middle school and Intermediate/FA for students with visual-impairments.

HRCP's annual report 2020 recorded that GB's government had constructed a student hostel for PWDs at the Special Education Complex in Gilgit. However, the National Accountability Bureau (NAB) ran the hostel as an office for several years. Although rights activists have staged protests on many occasions, NAB hasn't paid heed. On 12 November, however, the chief court ordered NAB to vacate the hostel.²⁵

Recommendations:

- Government shifts focus from special education and training-approach towards investment in inclusive education system/culture, ensuring an equitable geographical distribution of educational facilities.
- Braille, and other medium of communication with persons with varying disabilities are offered at more institutions.
- New initiatives rooted in comprehensive needs-assessment of children with disabilities and updated research on international best practices.
- Government undertake stricter measures for monitoring/accountability of ongoing and new initiatives, ensuring promised output and that resources aren't misused.

I. Article 25 - Health:

Recent provincial laws, in catering to right to health for PWDs, take a more generous approach. Specifically, the identical provisions in law applicable in Baluchistan and ICT, ensure necessary public health service free to PWDs, while also insuring non-discrimination and physical access to healthcare infrastructure.

Sindh law provides the aforementioned health facilities, except free health insurance. Instead, Sindh's law prevents private healthcare insurers from discriminating PWDs, while offering incentives to the insurance companies, offering subsidized rates to PWDs. Sindh Act further declares that government provide free aid and appliances, medicine and diagnostic services to PWDs, falling below a certain income ceiling determined by government.

1981 Ordinance and consequently KPK law that has adopted the 1981 Ordinance, don't address right to health for PWDs. Hence, PWDs have historically availed the government's healthcare initiatives for all or for society's economically-vulnerable segments. Healthcare measures specifically targeting PWDs,

²⁵ SHR 2020 pg. 177



including provision of prosthetics or disability aids like wheelchairs etc. have been at government's discretion and ensued as isolated measures from various government departments or agendas, such as social welfare or poverty alleviation. Therefore, right to PWDs' healthcare hasn't been recognized but manifested as a welfare cause, largely rooted in medical-model and charity model. This phenomenon is also visible in the initial report submitted by the state, demonstrating compliance under Article 25 of the Convention.

In 2019, Peshawar High Court took strict actions in a pending petition seeking federal and provincial governments to implement international convention for provision of free health services. The Court ordered attachment of salary of the KPK Chief Secretary if the order isn't complied as it was delayed for two years due to requisite comments not being filed. The petition called for a panel to formulate policies/guidelines for implementation of PWDs' rights within a predetermined period.²⁶

At institutional level, there is dearth of trained professionals –Focus group discussions' multiple participants reported they had difficulty in communicating their ailment to healthcare provider, as the doctor didn't understand sign language. PWDs depend on family members or friends to act as interpreters when visiting doctors. Others faced prejudicial attitude and lack of due attention/care from healthcare providers. Some reported inaccessibility due to unavailability of tactile walking services in hospitals and wheelchair ramps with steep slopes. Moreover, life-saving drugs aren't braille embossed. Admission and consent forms aren't available in accessible formats. Reportedly, a few special needs institutions attempted to convince parents of girls with disabilities to end their menstrual and reproductive system.

Recommendations:

- Train/deploy primary healthcare personnel such as Lady Health Workers and medical staff at hospitals, detecting hearing, visual and cleft impairments and congenital or genetic disease. Staff to be trained in effectively dealing and communicating with PWDs.
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- Provincial and federal governments follow Sindh's law.²⁷
- Adopt school-based health screening to identify/monitor health problems in children with special needs.

II. Article 27 - Employment:

Right to employment and economic security of PWDs was legislated through 1981 Ordinance. The Ordinance declared 1% quota for PWDs, whereby all establishments with more than 100 employees were to ensure more than 1% of their employees are PWDs. In 1998, the 1% quota was increased to 2% by PM's directive.

²⁶ SHR 2019 pg. 148

²⁷ Section 9 (2)(a) of the Sindh Act prescribes the government to take measures to “ensure that the Authority’ conducts survey of school going children in every three years for identifying children with disabilities, ascertaining their special needs and the extent to which they are being met.”



Subsequently enacted provincial legislatures provided employment quotas for PWDs in public sector institutions, with Sindh and Baluchistan at 5%, ICT and KPK 2% and Punjab 3%. The most significant step contained in the contemporary legislations of Sindh, ICT and Baluchistan, is operationalization of the concept/duty of 'reasonable accommodation', applicable to all employers. All three laws provide the same penalty for non-compliance with the quota, i.e. "payment of wages each month equal to the amount that would have been paid to a person with disability had they been employed".

Sindh law imposes a further obligation on all establishments to notify an equal-opportunity policy detailing measures to comply with legal obligation, maintaining employment quota of PWDs, and registering a copy of such policy with the Authority created under this Act ensuring implementation. All establishments are bound to maintain records of PWDs employed in the prescribed format, which may be inspected by the Authority any time.

Abysmal implementation of PWDs employment rights by government became established when the matter of rights of PWDs was taken up by SCP²⁸. In 2013, members of the disability rights movement filed a constitutional petition before the Supreme Court (SC), seeking enforcement of their fundamental rights²⁹. During the proceedings, Court examined the state of rights of PWDs in various areas, encompassing lack of accurate data, education opportunities, healthcare facilities and job quotas. Thorough examination by SC, unveiled that posts reserved for PWDs were largely lying vacant, or occupied by abled persons who had fraudulently obtained disability certificates.

Final order in this case was passed on 14.07.2020, whereby the Court issued directions to the government, to take specific measures in implementing various legal rights of PWDs. These included rehabilitation, provincial mechanism for grievance redressal, awareness-campaigns, enforcement of Disability Code 2006, concessional transport rates, making railway platforms, toilets at stations, malls, public spaces and parking areas accessible through ramps.

Aforementioned judgment of the SC is regarded as a landmark ruling for the rights of PWDs, the SC and Provincial High Courts have recently played a positive and active role in furthering the cause of PWDs. For example, in the case of *Malik Ubaidullah vs. Government of Pakistan*³⁰ the SC denounced medical-model of disability prevalent in Pakistan, proposing a shift towards rights-based approach coupled with social-model of disability. SC further laid out a clear formula for calculation of job quota by the government and private establishment, ensuring favorable and expansive outcomes for PWDs. SC also upheld an earlier judgment of the LHC which prohibited use of offensive and derogatory terms for PWDs in all official correspondence.

Similarly, the Sindh High Court, in November 2020, directed provincial government to implement 5% employment quota for PWDs. Meanwhile, on November 5, the Sindh Chief Secretary Syed Mumtaz Ali

²⁸ Constitutional Petition No. 64/2013 (and others) Dr. Shahnawaz Munami and others vs. The Federal Government and other

²⁹ Although filed in 2013, the proceedings in the case picked up pace in 2017; various other constitutional petitions on the similar/related subject were filed in the Court and clubbed together into one case by the Court.

³⁰ PLD 2020 SC 299



Shah distributed job offers to 25 visually-impaired persons.³¹

In addition to the court battle, PWDs have strived for implementation of the employment quota through other means. According to HRCP's annual reports, groups of visually-impaired individuals have been protesting for employment quota's yearly enforcement since 2014. Occasionally, the protests have been met with violence from state machinery. In August 2019, a group of visually-impaired individuals gathered in Lahore demanding government to fulfil their pledge of regularizing employment. In response, CM promised that their appointment letter will be issued. The protestors blocked Gujranwala-Sialkot Road in September 2019, when the government and CM failed to issue letters. No heed was paid by the government and protests continued till November³².

In February 2019, GB Alliance of Special Persons held a demonstration against lack of employment opportunities in government department³³. Despite passage of the GB Persons with Disabilities Act 2019, PWDs alleged that employment quota for persons with special needs wasn't implemented across government departments, nor were they accorded opportunities for secondary education.³⁴

In March 2018, LHC issued notice to Punjab government and police for using force against visually-impaired protestors. The protest was a continuation of several demonstrations against Punjab government's failure to provide PWDs with jobs and salaries. According to the petition that initiated the notice, a group of visually-impaired people were marching towards Punjab CM's house where police allegedly baton-charged protesters, leaving several demonstrators 'badly injured'.³⁵ Similar trends have emerged almost yearly since 2014.³⁶ Most importantly, despite existence of the law prescribing quota for employment and containing penalty for non-compliance, there is hardly any instance of imposition of legal penalty, rendering the law meaningless.

A male participant of a focus group discussion for persons with hearing impairment relayed that *"I have applied for many jobs. I receive interview calls but when I appeared, they didn't offer me job on the basis of disability and turn me down for being 'deaf'. They don't acknowledge my abilities and strengths rather they are fixated with my disability. It is no less than heartbreaking"*

Others reported PWDs were usually considered as 'token' hires and weren't treated like other employees. They weren't given serious responsibilities, or allowed to make significant decisions, were overlooked for promotions and rarely offered opportunities for growth. Some reported to have settled for jobs below their qualification/abilities.

In October 2020, the KPK government admitted that 145,405 PWDs hadn't received the promised official stipend of monthly Rs3,000 for financial years 2016-2019. Social Welfare Minister Hisham Inamullah told KPK Assembly that his ministry hadn't received these funds from finance department in time, receiving

³¹ SHR 2020 pg. 71

³² SHR 2019 pg. 57 - 58

³³ SHR 2019 pg. 263

³⁴ SHR 2020 pg. 177

³⁵ SHR 2018, pg. 144

³⁶ United States Department of State, 2015 Country Reports on Human Rights Practices - Pakistan, 13 April 2016, available at: <https://www.refworld.org/docid/57161227c.html> [accessed 8 February 2022]

only Rs2.97 million in June 2019, making it impossible to disburse them, which then had to be surrendered, also admitting that his department lacked capacity to conduct door-to-door registration of PWDs, especially in the merged tribal districts, data for which was not included.³⁷ Whereas, Baluchistan government started a programme to pay Rs2,000 allowance to PWDs. However, the disbursement of this amount hasn't yet started.³⁸

In March 2019, the SBP provided concessionary loans at an interest rate of only 5% to special persons, improving access to finance for those falling under the SE category. Special persons could avail financing till Rs1.5 million for five-year-period, including six-month grace period.³⁹

Recommendations:

- Government immediately enforce employment quotas for PWDS and improve accountability and penalization for non-compliance.
- Ensure meaningful inclusion of PWDs in the workforce, comprehensive training/sensitization-campaign for all workforces, preventing subtle/informal exclusion and discrimination.
- Government ensure all commercial buildings, especially those housing public/private organizations, are physically-accessible and disability-friendly.

III. Article 29 - Participation in Political and Public Life

Focus group discussions revealed that while all political parties have empowered and facilitated PWDs in their manifestos, they haven't awarded a ticket to candidature to them. However, three PWDs (from Lahore, Rawalpindi and Swat) have contested 2018 provincial elections as independent candidates. It was observed that political campaigns, manifestos and forms for candidature aren't available in alternate/accessible formats, which undermines guarantees of accessibility and participation in political process envisaged in Article 29(a)(i) and the right to information under Article 21. There aren't special quotas for PWDs in mainstream political parties and concessions in manifestos are tokenistic for popular support.

PWDs' participation in electoral and political processes engage them in crucial decision-making processes. Elections Act 2017 stipulates special measures to enhance electoral participation of women, religious minorities, transgender persons and PWDs. Additionally, Rule 18 of the "Representation of the people (Conduct of Election) Rules, 1977" deals with the manner of marking ballot paper if elector is incapacitated. However, during 2018 elections, access to polling stations was challenging for PWDs due to transportation-related issues.

While the Elections Act 2017 allows absentee voting for PWDs, they require SCNIC containing the special physical disability symbol for registration. The report titled 'Inclusion of Persons Living with Disabilities in Electoral Process,' cited a myriad of polling-day barriers, hindering PWDs from voting, including inaccessible polling stations and booths, lack of ballot papers in Braille, no posters for persons with hearing impairments, inaccessible ballot stamping spaces, absence of ramps and inaccessible

³⁷ SHR 2020 pg. 98

³⁸ SHR 2019 pg. 192

³⁹ SHR 2020 pg. 104



doorways.⁴⁰ Furthermore, the focus group discussions revealed that the Free and Fair Election Network (FAFEN) facilitates PWDs in political matters but functions in limited areas.

Recommendations:

- Government ensure entire political voting process is accessible for PWDs, including ensuring polling stations are accessible, the voting process and materials are in disability-friendly format, PWDs are duly registered voters etc.
- Government encourage political parties to adopt disability-friendly and inclusive practices such as awarding tickets to candidates with disabilities, modifying campaigning activities.
- Government encouraged to introduce special measures, fostering political participation of PWDs, including transportation services, incentivizing PWDs to vote, designating chaperones facilitating PWDs.
- Government devise/implement creative community-based support mechanism and structures, enhancing PWDs' participation socially and politically.

⁴⁰ <https://www.dawn.com/news/1448679>