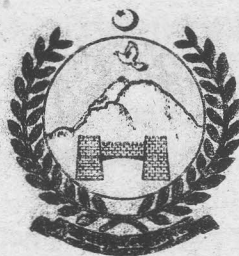


EXTRAORDINARY

GOVERNMENT



REGISTERED NO. PIII

GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 20TH JANUARY, 2014.

PROVINCIAL ASSEMBLY SECRETARIAT,  
KHYBER PAKHTUNKHWA

### NOTIFICATION

Dated Peshawar, the 20th January, 2014.

No.PA/ Khyber Pakhtunkhwa/Bills/2014/2039.— The Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 13<sup>th</sup> January, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 17<sup>th</sup> January, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

### THE KHYBER PAKHTUNKHWA PROMOTION, PROTECTION AND ENFORCEMENT OF HUMAN RIGHTS ACT, 2014

(KHYBER PAKHTUNKHWA ACT NO. III OF 2014)

*(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 20<sup>th</sup> January, 2014).*

### AN ACT

*to provide for the promotion, protection and enforcement of human rights in the Province of the Khyber Pakhtunkhwa*

**Preamble.**--- WHEREAS it is expedient to provide for the promotion, protection and enforcement of human rights as provided for in the Constitution of the Islamic Republic of Pakistan and the various International Conventions, Treaties, Covenants and Agreements to which Pakistan is a State Party or shall become a State Party and for matters ancillary thereto or connected therewith;

It is hereby enacted as follows:

**CHAPTER-I**  
**PRELIMINARY**

**1. Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

**2. Definitions.**---In this Act, unless there is anything repugnant in the subject or context,--

- (a) **"Agency"** means a Department, Commission or Office of Government or a statutory corporation or other institution established or controlled by Government, private institutions and organizations, but does not include the Supreme Court, the High Court and Courts working under the supervision and control of the High Court, and the Provincial Assembly of the Khyber Pakhtunkhwa and its Secretariat;
- (b) **"aggrieved person"** means a person whose human rights are adversely affected;
- (c) **"child"** means a person under the age of 18 years;
- (d) **"Director"** means the Director of Human Rights, Directorate;
- (e) **"Directorate"** means the Khyber Pakhtunkhwa Directorate of Human Rights established by the Government;
- (f) **"Government"** means the Government of the Khyber Pakhtunkhwa;
- (g) **"Non-Governmental Organization"** means and includes any private agency or body working voluntarily for the welfare of the person or community;
- (h) **"prescribed"** means prescribed by rules;
- (i) **"Province"** means the Province of the Khyber Pakhtunkhwa;
- (j) **"regional office"** means regional office of the Directorate established or to be established by Government; and
- (k) **"rules"** mean rules made under this Act.

**CHAPTER-II**  
**ESTABLISHMENT OF THE KHYBER PAKHTUNKHWA**  
**DIRECTORATE OF HUMAN RIGHTS**

3. **Directorate of Human Rights established by Government.**---(1) Notwithstanding anything contained in any other law for the time being in force, on commencement of this Act, the Directorate of Human Rights, established by Government, shall conduct inquiry into, and investigation of, human rights violations in the Province and shall provide adequate relief as deem appropriate for redressal of the grievances of the aggrieved persons.

(2) The Directorate shall be headed by the Director Human Rights, who shall be assisted by such number of officers and members of the staff as may be determined to be appointed by Government from time to time for the performance and discharge of functions under this Act.

(3) Subject to the provisions of this Act, the Director shall perform his functions and discharge his duties under the general supervision and control of the Government.

(4) Subject to the provisions of this Act and of such orders, as may from time to time be issued by Government in this behalf, the officers and members of the staff shall perform their functions and discharge their duties under the general supervision and control of the Director.

(5) The officers and members of the staff mentioned in sub-section (2) shall be civil servants within the meanings of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

4. **Regional office.**--- Government may establish a district office in each district or entrust to any officer of Government working in the district to perform such functions as may be entrusted to him by notification under this Act.

**CHAPTER-III**  
**POWERS AND FUNCTIONS OF THE DIRECTORATE**  
**OF HUMAN RIGHTS**

5. **Functions of the Directorate.**--- (1) The Directorate, under the general supervision and control of Government, shall exercise and perform all or any of the following powers and functions, namely:

- (a) reviews of human rights situation in the Province;
- (b) to promote, protect and enforce human rights in the Province;
- (c) inquires, suo moto or a petition presented to it by a victim or any person on his behalf into the complaints of--
  - (i) any incident of violation of human rights or abatement thereof; or

- (ii) negligence in the prevention of such violation, by a public servant;
- (d) requires any person to furnish information on such points or matters as in the opinion of Directorate may be useful for or relevant to the subject matter of any inspection or inquiry;
- (e) recommends to Government for immediate measures including actions to be taken against the persons involved in violation of human rights;
- (f) formulates, implement and regularly update policies with a view to protect human rights;
- (g) assists in any proceedings involving any allegation of violation of human rights pending before a Court;
- (h) co-ordinate activities of the Government Departments, in respect of human rights;
- (i) initiatives for harmonization of legislation, regulations and practices with the international human rights covenants and agreements to which Pakistan is a party and monitoring their implementation;
- (j) obtains information, documents and reports on complaints and allegations of human rights violations, from Government Departments and other agencies;
- (k) reviews the human rights safeguards provided by or under the Constitution of the Islamic Republic of Pakistan or in any other law for the time being in force for the protection of human rights and recommend adoption of new legislation, the amendment of the existing laws and the adoption or amendment of administrative measures for their effective implementation;
- (l) reviews the factors, including, acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (m) representation of Province in international bodies, organizations and conference relating to human rights in consultation and in conjunction with Foreign Affairs Division;
- (n) developing and conducting information programmes to foster public awareness of human rights, laws and remedies available against the abuse of human rights;
- (o) studies treaties, other International Instruments on human rights and reports submitted by the Government of Pakistan on them including the comments thereon, to make recommendation for their effective implementation;

- (p) undertakes and promote research in the field of human rights and maintain database on the complaints on violence of human rights and development of human rights norms;
- (q) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publication, media, seminars and other available means;
- (r) develops a provincial plan of action for the promotion and protection of human rights;
- (s) formulating programmes of teaching of human rights at educational institutions;
- (t) provision of facilities for professional and technical training at home and abroad relating to human rights issues; and
- (u) such other functions as it may consider necessary for the promotion and protection of human rights:

Provided that the Directorate shall not have any jurisdiction to investigate or inquire into any matter which--

- (i) is sub-judice before a Court of competent jurisdiction or judicial tribunal on the date of the receipt of a complaint, reference or motion by him; or
- (ii) relates to the external affairs of Pakistan or the relations or the dealing of Pakistan with any Foreign State or Government; or
- (iii) relates to or is connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.

(2) Subject to the provisions of this Act and in addition to and not in derogation of any other law for the time being in force, the Directorate shall take all necessary steps to preserve and promote the welfare of women and children and for this purpose can take such action as it may deem appropriate.

**6. Powers and Functions of the Director.**---(1) For carrying out the purposes of this Act, the Director shall take such actions as he may deem appropriate.

- (2) Without the generality of the foregoing functions, the Director shall be responsible to--
  - (a) general supervision, control and administration of the officials and staff;
  - (b) the maintenance and safety of the record of the Directorate;
  - (c) correspond on behalf of the Directorate;

- (d) visit any jail or any institution or place under the control of Government, where convicts or other under trial prisoners or other persons lodged or detained for the purpose of ascertaining whether the provisions of the jail manual and other applicable laws relating to the inmates are being complied with;
- (e) submit annual report to Government about the progress of the Directorate;
- (f) initiate proposals for legislation, for the protection of human rights;
- (g) enter and search any premises for the purpose of making any inspection or inquiry or where, he has reason to believe that any article, books of accounts, or other documents relating to the subject-matter of inspection or inquiry may be found, and may--
  - (i) search such premises and inspect any article, book of accounts or other documents including electronic devices record; or
  - (ii) take extracts or copies of such books of accounts, documents and electronic devices; or
  - (iii) seize or seal such articles, books of accounts, documents and electronic devices; or
  - (iv) make an inventory of such articles, books of accounts, documents and electronic devices found in such premises.

(3) All searches made under clause (g) of sub-section (2) shall be carried out mutatis mutandis, in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

**7. Registration of Non-Governmental Organizations.**---Non-Governmental Organizations, working in the field of human rights protection, shall be registered with the Directorate with such fee as may be prescribed and shall provide complete annual record of their functions and activities to the Directorate, in the manners as may be prescribed.

**8. Advisory Committee.**---Government may, by notification in the official Gazette, constitute an Advisory Committee consisting of Human Rights Activist, Civil Society Organizations, religious opinion makers, members of Bar Council/ Associations, members of Local Councils and such other representatives of Government as may be concerned with the functions of the Directorate for such a period as may be determined:

Provided that the members of the Advisory Committee shall perform such functions in an honorary capacity or otherwise to assist the Directorate in the areas of competence and expertise.

**9. Delegation of powers.**--- The Director may delegate any of his power to any other officer of the Directorate as he may deem necessary.

**CHAPTER -IV**  
**INQUIRES AND INVESTIGATIONS**

**10. Inquiry and complaints.**--- (1) The Directorate while inquiring the complaints of violation of human rights may call for information or report from any Agency or other Authority or Organization of Government within such time as may be specified by it:

Provided that if the information or report is not received within the times stipulated by the Directorate, it may proceed to inquire into the complaint on its own:

Provided further that if on receipt of information or report, the Directorate is satisfied, that no further enquiry is required or that required actions has been initiated or taken by the concerned Agency, it may not proceed with the complaint and inform the complainant accordingly.

(2) Without prejudice to anything contained in sub-section (1), if the Directorate consider it necessary, having regard to the nature of the complaint, it may initiate an inquiry.

(3) If at any stage of the inquiry, the Directorate—

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

(4) Government in the prescribed manner shall provide for the powers and functions of the officers and staff of the Directorate in relation to the conduct of inquires and investigations.

(5) On completion of the inquiry/ investigation, the Director or any other officer authorized by the Director may file, under relevant law, a complaint in a Court of competent jurisdiction; or before the competent authority as the case may be.

(6) Every relevant Agency, organization or authority shall be bound to assist the Directorate and provide the requisite information as deem necessary for investigation and inquiry in the human rights violation.

**CHAPTER-V**  
**JURISDICTION AND INDEMNITY**

**11. Reference by the Government.**--- (1) Government may, refer any matter, report or complaint for inquiry and independent recommendations to the Directorate.

(2) Notwithstanding any thing contained in the provision of section 10, as soon as the report or complaint in respect of human rights violation is received under sub-section (1), the Director shall promptly proceed to investigate any such matter, report or complaint and submit his findings or opinion within a reasonable time.

**12. Informal resolution of disputes.**--- (1) Notwithstanding anything contained in this Act, the Director and a member of the staff shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.

(2) The Director may with the approval of Government, appoint for purpose of liaison, counselors, whether honorary or otherwise, at local level on such terms and conditions by notification, as may be prescribed.

**13. Power to make rules.**--- Government may, make rules for carrying out the purposes of this Act.

**14. Act to override other laws.**--- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

**15. Removal of difficulties.**--- If any difficulty arises in giving effect to any provision of this Act, Government may make such order within six months, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing such difficulty.

**16. Repeal.**--- The Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Ordinance, 2013 (Khyber Pakhtunkhwa Ord. IX of 2013) is hereby repealed.

BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

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(AMANULLAH)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa