

# [TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

## A

### BILL

*to establish the National Commission for Minority Rights;*

**WHEREAS** it is expedient to make the National Commission for the rights of Minority for the purposes hereinafter appearing;

**1. Short Title, Extent and Commencement.** - (1) This Act may be called "the National Commission for Minority Rights Act, 2015".

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) "Commission" means National Commission for Minority Rights constituted under section 3 of this act;
- (b) "Chairperson" means a person as appointed under section 4 of this act, and includes acting chairperson appointed under section 8 of this act;
- (c) "Member" means a person selected by the Federal Government under section 5 of this act;
- (d) "Minority" refers to any religious community as defined in Article 260(3)(b) of the Constitution of Pakistan;
- (e) "Secretary" means a person appointed under section 10 of this act;
- (f) "Government" means the Federal Government; and
- (g) "Public Servant" means a person defined under Section 32 of Pakistan Penal Code (Act XLV of 1860).

## Chapter II

### The National Commission for Minority Rights

**3. Establishment of the Commission.** - (1) The Government shall constitute a National Commission for Minority Rights (NCMR), to exercise the powers conferred upon, and functions assigned in this Act.

- (2) The Commission shall consist of-
  - (a) Chairperson and ten members nominated by the Federal Government;
  - (b) Chairperson, shall be a member of a minority community, having demonstrable knowledge with experience of working on issues related to religious minorities for not less than fifteen years and is committed to the cause of religious minorities;
  - (c) Two members each from the Punjab and Sindh Provinces, and one each from Balochistan, Khyber Pakhtunkhwa, Azad Jammu and Kashmir, Gilgit-Baltistan, Federally Administered Tribal Areas, and Islamabad Capital Territory shall possess experience not less than five years of working on issues related to religious minorities;
  - (d) In addition to the Chairperson and members, there shall be a Secretary who shall not have the rights to vote;
  - (e) *Ex-officio* members representing the Ministries of Law, Finance, Foreign

Affairs, Interior, Federal Education and Professional Training, Interfaith Harmony and Religious Affairs, Revenue and any other Ministry related with the subject of religious minorities, not below BPS-20, and who shall not have the right to vote;

(f) Chairperson of the National Human Rights Commission; and

(g) Chairperson of the National Commission on the Status of Women.

(3) A member appointed under paragraph (c) of sub-section (2), shall be not less than thirty years of age, with a minimum working experience of five years on issues related to minority communities.

(4) Headquarter of the Commission shall be in Islamabad.

(5) The Commission shall be a body having perpetual succession and a common seal with power, among other, to acquire, hold and dispose of any property and shall sue and be used by the said name.

**4. Appointment of Chairperson.** - (1) The Government through a public notice shall invite suggestions for suitable persons for the appointment of the Chairperson and, after proper scrutiny, shall submit a list of those persons to the Prime Minister and the Leader of the Opposition in the National Assembly.

(2) The Prime Minister in consultation with the Leader of the Opposition shall forward three names for the Chairperson to the Parliamentary Committee of the National Assembly for hearing and confirmation of any person from the proposed names:

Provided that in case there is no consensus between the Prime Minister and the Leader of the Opposition, each shall forward separate list of three people each to the Parliamentary Committee.

(3) The Parliamentary Committee shall be constituted by the Speaker of the National Assembly and shall comprise 50 (fifty) percent members from the treasury benches and 50 (fifty) percent from the opposition parties, based on their strength in the Majlis-e-Shoora (Parliament), to be nominated by the respective Parliamentary Leaders:

Provided that the total strength of the Parliamentary Committee shall not exceed twelve members out of which one-third shall be from the Senate;

Provided further that half of these nominated persons shall belong to minority communities.

(4) The Parliamentary Committee shall regulate its own procedure for nominating the Chairman:

(5) The Parliamentary Committee shall forward the name of the nominee confirmed to the Prime Minister, who shall appoint the Chairperson accordingly.

(6) The Chairperson shall be thirty-five years or above.

**5. Appointment of Members.** - (1) The *ex-officio* members shall be appointed by the Prime Minister.

(2) The other members shall be selected from amongst the names recommended under section 4 and with consultation of the Chairperson.

(3) Two members from the Punjab, two members from Sindh, one member from Khyber Pakhtunkhwa, one member from Balochistan, one from ICT, one from FATA, one from Azad Jammu and Kashmir and one from Gilgit-Baltistan shall be chosen.

(4) Half of the members of the commission shall be women.

(5) Two of the members shall be from the Christian community, one from the caste Hindu community, one from the Dalit community, one from the Sikh community,

one from the Parsi or any other minority and four from the Muslim majority, meeting the selection criteria.

(6) A vacancy of a member shall be filled as provided in sub-section (1) within thirty days of the occurrence of the vacancy.

**6. Term of Office of Chairperson and of Members.** - (1) A person appointed as the Chairperson or a Member shall hold office for a term of three years from the date he or she enters into office. The term of office may be extended only once.

(2) The Chairperson or a Member may resign from office through a hand written letter addressed to the Prime Minister of the Islamic Republic of Pakistan and on acceptance of such resignation, such vacancy shall be filled within thirty days for the unexpired term of the member.

**7. Removal of Chairperson and members.** - The Chairperson and Members may be removed from office as prescribed in Article 209 of the Constitution of Pakistan:-

(a) after proper inquiry, found guilty of misconduct;

Provided that in the case of the Chairperson, such finding shall be submitted to the Parliamentary Committee for confirmation;

(b) if adjudged an insolvent;

(c) if unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority;

(d) if refuses to act or becomes incapable of acting;

(e) if without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission;

(f) if has, in the opinion of the Federal Government, so abused the position of Chairpersonship, or Member, as to render that person's continuance in office detrimental to the interests of Minorities or the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(g) if has, on conviction of any offence involving moral turpitude been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his/her release.

**8. Acting Chairperson.** - By reason of vacancy in office of Chairperson due to death, illness, resignation or otherwise, the Prime Minister shall appoint a woman from amongst the members of the Commission to act as Chairperson for a period of not exceeding thirty days or until the appointment of a new Chairperson, whichever is earlier.

**9. Terms and conditions as applicable to Chairperson and Members.** - (1) The traveling daily allowance and other allowances payable to and terms and conditions as applicable to members, other than *ex-officio* members, is prescribed as follows:

(a) The Chairperson of the Commission shall be full-time, shall have the status equivalent to a Minister of State of the Federal Government;

(b) The Members of the Commission shall be full-time, shall have the status of basic-pay scale 20;

(c) The salary and allowances payable to and terms and conditions applicable to the Chairperson and members shall be such as prescribed by the Government.

(2) The executive and financial authority and responsibility of the Commission

shall vest in the Chairperson who shall be the overall in-charge of the Commission.

**10. Secretariat of the Commission.** - (1) There shall be a Secretariat of the Commission headed by the Secretary with complement of officers and the support staff as may be prescribed.

(2) The Secretary on the instructions of the Commission will prepare a draft of three year strategic plan, an Annual Work Plan and the Budget.

(3) The Secretary shall be appointed in the manner as may be prescribed.

(4) The appointment and terms and conditions of the employees of the Commission may be prescribed.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

**11. Salaries and allowances to be paid out of grants.** - The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees shall be paid out of the grants.

**12. Vacancies, etc. not to invalidated proceedings of the Commission.**- No act or proceeding of the Commission shall be questioned or shall be invalidated merely on the ground of the existence of any vacancy or defect in the Constitution on the Commission.

**13. Procedure to be regulated by the Commission.** -(1) The Commission shall meet as and when necessary at such time and places as the Chairperson may think fit.

(2) The Commission shall regulate its own procedures.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary on his behalf.

### **Chapter III** **Functions of the Commission**

**14. Functions and Powers of the Commission.** - (1) The Commission shall perform all or any of the following functions, namely;

- (a) evaluate the progress and development of Minorities;
- (b) monitor the working of the safeguards provided in the Constitution of Pakistan and in laws enacted by Parliament;
- (c) make recommendations to effective implementation of safeguards of the protection of the interests of Minorities;
- (d) inquire and investigate into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities;
- (e) cause studies to be undertaken into problems arising out of any discrimination against Minorities and recommend measures for their removal;
- (f) conduct studies, research and analysis on the issues relating to socio-economic and educational development of Minorities;
- (g) suggest appropriate measures with respect to any Minority to be undertaken by the Government;



- (h) make periodical or special reports to the Government on any matter pertaining to Minorities and in particular the difficulties confronted by them;
- (i) any other matter which may be referred to it by the Government; and
- (j) review the existing laws or that may be enacted in future in the best interest of religious minorities and send its recommendations to Parliament.

(2) The Government shall cause the recommendations referred to in clause (c) of sub-section (1) to be laid before Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for the non-acceptance, if any, of such recommendations.

(3) The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of sub-section (1), have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely.

- (a) summoning and enforcing the attendance of any person from any part of Islamic Republic of Pakistan and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence of affidavits;
- (d) requisitioning any public record or copy thereof from any court of office;
- (e) issuing commissions for the examination of witness and documents; and any other matter which may be prescribed.

**15. Appointment of Committees of the Commission.**- (1) The Commission shall constitute an Executive Committee comprising of the Chairperson and three members of the Commission to oversee the practical realization of its decisions and recommendations.

(2) The Commission may constitute any other such committee from amongst its members or may refer to them any matter for consideration.

(3) The Commission may designate an expert, possessing a special knowledge, for the committee if deemed necessary. The Executive Committee shall fix an honorarium for the services of the expert from the designated fund established under Section 23.

(4) Committees shall be time bound except the Executive Committee.

**16. Meetings of the Commission.** - (1) A meeting of the Commission shall be held in each quarter of the year or if and when required by the Chairperson at the designated secretariat.

(2) Meetings shall be chaired by the Chairperson or in his notified absence by the Acting Chairperson.

(3) Meeting of the Commission may be conducted in accordance with the prescribed procedures.

(4) All decisions shall be authenticated by the signature of the Chairperson or the Vice-chairperson when appointed in his absence to represent him.

(5) The quorum of a meeting of the Commission shall not be less than half of the total member of the Commission.

(6) Decisions of the Commission shall be passed by simple majority of the total number of the Commission members.

(7) No order or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Commission.

## Chapter IV

## **Inquires and Investigations**

**17. Inquiry into complaints.** - (1) The Commission while enquiring into the complaints of violations of minority rights may call for information or report from the federal government or a provincial government or any other authority or organization, subordinate there to within such time as may be specified by:

Provided that if the information or report is not received within the time stipulated by the Commission it may proceed to inquire into the complaint on its own.

Provided further that in case the complaint relates to areas that are security sensitive the Commission shall obtain a report within 15 days from the federal government and if the report is not received within 30 days the Commission may proceed to inquire into the complaint on its own.

Provided also that if on the receipt of information or a report the Commission is satisfied either that no further inquiry is required or that the required action has been taken the Commission may inform the complainant accordingly.

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

(3) If at any stage of the inquiry the Commission.

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

(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.

**18. Powers relating to inquiries.** - (1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of documents;

(c) receiving evidence on affidavits

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents, and

(f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Section 176 and Section 177 of the Pakistan Penal Code (Act XLV of 1860).

(3) The Commission shall be deemed to be a civil court to the extent that is described in sections 175, 178, 179, 180 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860). If the offence is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a Magistrate having jurisdiction to try the same and

the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under Section 346 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**19. Independence of the Commission.**- (1) The Commission and every member of its staff shall function without political or other bias or interference and shall, under this act expressly otherwise provides, be independent and separate from any government, administrations, or any other functionary or body directly or indirectly representing the interests of any such entity.

(2) If at any stage during the course of proceedings at any meeting of the Commission, it appears that a member has or may have a financial or personal interest which may cause a substantial conflict of interests in the performance of his functions as such, the members shall forthwith and fully disclose the nature of his interest and absent himself from that meeting so as to enable the remaining members to decide whether the member should be precluded from participating in the meeting by reason of that interest. Such a disclosure and the decision taken by the remaining members' shall be entered on the record of the proceedings.

(3) If a member fails to disclose any conflict of interest as required under sub-section (2) and is present at a meeting of the Commission or in any manner participates in the proceedings, such proceedings in relation to the relevant matter shall, as soon as such non-disclosure is discovered, be reviewed and be varied or set aside by the Commission without the participation of the member concerned and such conduct on the part of the member shall be treated as misconduct.

**20. Investigation.** - (1) Notwithstanding anything contained in any other law for the time being in force, the Commission may, for the purpose of conducting an investigation into a matter which is the subject of a complaint, requisition of the services of any officer or investigation agency of the Federal Government or a Provincial Government with their concurrence.

(2) For the purposes of investigating into any matter which is the subject of a complaint, any officer or agency whose services are requisitioned under sub-section (1) shall, under the direction and control of the Commission,-

- (a) Summon and enforce the attendance of any person and examine him;
- (b) Require the discovery and production of any document; and
- (c) Requisite any public record or copy thereof from any office.

(3) The provisions of section 13 shall apply in relation to any statement made by a person before any officer or agency whose services requisitioned under sub-section (1), as they apply in relation to any statement made by a person the course of giving evidence before the Commission.

(4) The officer or agency, whose services are requisitioned under sub-section (1), shall submit a report to the Commission within such period as may be specified.

(5) The Commission shall consider the report submitted to it under sub-section (4) and, after satisfying itself that the procedure prescribed by or under this Act has been duly observed in the investigation, may proceed in accordance with the provisions of Section 16.

**21. Steps after inquiry.** - The Commission may take any of the following amongst other, steps upon the completion of an inquiry under this Act, namely-

- (a) Where the inquiry discloses the violation of minority rights or negligence in the prevention of violation of minority rights by a public servant, it may recommended to the government concerned or an authority the initiation



- of proceedings for prosecution or such other action as the Commission may deem fit against the person or persons concerned;
- (b) to recommend to the government concerned or an authority for the grant of such immediate interim relief to the victim of the members of his or her family as the Commission may consider necessary;
  - (c) to provide a copy of the inquiry report to the complainant or his or her representative;
  - (d) the Commission shall send a copy of its inquiry report together with its recommendations to the government or an authority which shall within a period of one month or such further time as the Commission may allow submit its reply indicating the action taken or proposed to be taken to implement the recommendations or reasons why these cannot or should not be implemented; and
  - (e) The Commission shall publish its inquiry report together with its recommendations and reply of the government or the authority concerned thereto made by a person while giving evidence before the Commission shall subject him to or be used against him in any civil or criminal proceeding except prosecution for giving false evidence:

Provided that where:-

- a) It is necessary to inquire into the conduct of any person; or
- (b) The reputation of any person is likely to be prejudicially affected by the inquiry.

It shall give an opportunity to such person of being heard and to produce evidence in his defence if any,

**22. Commission to preserve identity-** Where the Commission considers that the preservation of the identity of a person who has-

- (i) made a complaint, or
- (ii) Furnished or proposes to furnish information; or
- (iii) Produced or proposes to produce a document, or
- (iv) Given or proposes to give evidence; or
- (v) made or proposes to make a submission

to the Commission or to a person acting for or on behalf of the Commission, is necessary to protect the security of employment, the privacy or any human right of the person, the Commission may give directions prohibiting the disclosure of the identity of the person.

## **Chapter V**

### **Financial Provisions**

**23. Funds.** - The Federal Government shall pay to the Commission by way of grants to utilize them for the purposes and performing functions of this Commission.

**24. Accounts and audit.**- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Federal Government in consultation with the Auditor-General of Pakistan.

(2) The accounts of the Commission shall be 'audited by the Auditor-General at such intervals as may be specified by him or her.

(3) The Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights



and privileges and the authority in connections with the audit of Government's accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Federal Government by the Commission and the Federal Government shall cause the audit report to be laid; as soon as may be after it is received, before each House of Majlis-e-Shoora (Parliament).

**25. Financial freedom.** - The Government shall allocate specific amount of money for the Commission in each financial bill of the year and it shall not be necessary for the Commission to take prior approval from the Government to spend such allocated money for the approved and specified purposes.

## **Chapter V Miscellaneous**

**26. Annual Report of the Commission.**- (1) The Commission shall prepare an annual report at the end of each financial year and may at any time prepare special reports on any matter which in its opinion is of particular urgency or importance,

(2) The Annual Report of the Commission shall be laid and discussed in the Parliament.

**27. Assistance to the Commission.** - All Federal executive authorities shall assist the Commission in the performance of its functions.

**28. Indemnity.** - No suit, prosecution or legal proceedings shall lie against the Commission, the Chairperson or any Member, officer, employees, advisors or consultants of the Commission in respect of anything done in good faith or intended to be done under this Act or the Rules made there under or order made, or publication by or under the authority of the Federal Government, a Provincial Government, Commission or any report, paper or proceedings.

**29. Members and officers to be public services.** - Every member of the Commission and every officer appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant with the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1960).

**30. Delegation of power.** - The Commission may subject to such conditions, as it may specify, delegate any of its powers under this Act to the Executive Committee or member and to other such committee formed by the Commission.

**31. Power to make rules.** - The Federal Government in consultation with the Commission and by notification in the official Gazette, make Rules for the purpose of giving effect to the provisions of this Act.

**32. Power to remove difficulties.**- If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may by order published in the official Gazette make such provisions not inconsistent with the provisions of this Act as appears to it, be necessary or expedient for removing the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

## **STATEMENT OF OBJECTS AND REASONS**

Whereas all citizens are equal before law and entitled to equal protection of law according to the Constitution of Pakistan, 1973.

Whereas the State is bound to promote respect of religious diversity and create favourable conditions in which followers of minority religions are enabled to freely practice, express and develop their own culture as it is guaranteed in the Constitution of Pakistan, 1973.

Whereas the Islamic Republic of Pakistan is a state party to various international instruments on human rights, including the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities of the United Nations requires measures for the protection of the existence of religious minorities and their promotion. Whereas it is obligatory for the State to protect, empower and develop underrepresented communities, including religious minorities, to ensure their effective participation in economic, political and public life through various means, including a policy of preferential representation where required.

Whereas the June 19, 2014 judgment of the Supreme Court of Pakistan on religious minorities necessitates the constitution of a statutory body that frame and monitor policy recommendations for the practical realization of constitutional and legal protections and safeguards for religious minorities.

It is, therefore, expedient to set up a National Commission for Minority Rights to achieve the above stated objects.

Sd/-

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Member, National Assembly.