

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A
BILL

to provide for the establishment of Pakistan Minorities Rights Commission

WHEREAS it is expedient to establish a Commission for protection of rights of the minorities and provide for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement:- (1) This Act may be called the Pakistan Minorities Rights Commission Act, 2016.

(2) It extends to the whole of the Pakistan.

(3) It shall come into force at once.

2. Definitions:- In this Act, unless anything repugnant, in the subject of the context:

"Chairperson" means chairperson of the Pakistan Minorities Rights Commission and includes any other member for the time being acting as chairperson.

"Commission" means Pakistan Minorities Rights Commission constituted under Section 3 of this Act.

"Government" means the Government of the Pakistan.

"Member" means member of the Commission.

"Minority" for the purposes of this Act, means a community notified as such by the Federal Government.

"Prescribed" means prescribed by rules made under this Act.

"Public Servant" means a public servant defined under section 21 of the Pakistan Penal Code (Act XLV of 1860).

"Secretary" means the Secretary of the Commission and includes any person for the time being performing the duties of the Secretary.

Chapter -II

THE PAKISTAN MINORITIES RIGHTS COMMISSION:

3. Constitution of the Commission:- (1) As soon as may be after the commencement of this Act, the Pakistan Government shall constitute a Commission to be known as the Pakistan Minorities Rights Commission to exercise the powers conferred on, and to perform the function assigned to it under this Act.

(2) Composition of the Commission.-

The Commission shall consist of:-

(a) a Chairperson, having demonstrated knowledge of, or practical experience in the matters of rights of minorities in particular and human rights in general. The Chairperson shall belong to the minority communities with at least 1 years of experience;

(b) eleven members nominated by the Government from amongst person of eminence, ability and integrity and having a demonstrate knowledge of, or 07 years practical experience in the matters of rights of minorities in particular and human rights in general:

Provided that 6 members including the Chairperson shall be from amongst the minority communities;

Provided further that out of total membership of the Commission, at least 33% percent of the Commission shall be women members, one youth, one lawyer and two activists from Civil Society. The Commission should compose of all ethnic and religious groups from minority communities.

4. Appointment of Chairperson and Members.- (1) The Government shall, through public notice, invite suggestions for suitable persons for appointment as Chairperson and Members of the Commission and, after proper scrutiny, shall appoint the chairperson and Members.

(2) Subject to section 3, a member shall not be less than 35 years age.

5. Term of office and conditions of service of Chairperson and Members:- (1) The Chairperson and every member shall hold office for a term of four years from the date of assuming office.

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

(3) The Chairperson or as the case may be, a member may, by writing under his hand resign from his office at any time.

(4) The Chairperson and a Member shall address his resignation to the Government and the Chairperson respectively.

(5) A vacancy caused under sub section (3) or otherwise shall be filled by fresh nomination.

(6) The salaries and allowances payable to and other terms and conditions of service of, the Chairperson and Members shall be such, as may be prescribed by the Government in consultation with the Commission.

(7) The Chairperson shall be full time employee of the Government Pakistan and members shall perform their duties on honorary basis.

(8) The Commission shall have its Headquarter in Islamabad, and may, in future, establish regional offices at divisional and district levels in all the provinces of the Pakistan.

6. Acting Chairperson:- At any time when the Chairperson is absent and unable to perform the duties of his office for any reason, or in the event of vacancy in Members of the Commission by reason of his death, resignation or otherwise, the Members of the Commission shall elect an Acting Chairperson from amongst themselves until the incumbent Chairperson resumes his office, or as the case may be, until the appointment of a new Chairperson to fill such vacancy which shall not exceed sixty days.

7. Officers and other employees of the Commission:- The Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

8. Removal of Chairperson and Members:- The Chairperson and members may be removed from office on the grounds and in the manner provided in Article 209 of the Constitution of the Islamic Republic of Pakistan.

9. Procedure to be regulated by the Commission:- (1) The Commission shall regulate its own procedure.

(2) All orders and decisions of the Commission shall be authenticated by the Secretary.

(3) The decision of the Commission shall be taken by the majority of its members present and in case of equality of votes, the chairperson shall have casting vote.

CHAPTER III

FUNCTIONS OF THE COMMISSION

10. Functions of the Commission.- The Commission shall perform all or any of the following functions, namely.-

- (1) examine the policy, programmes and other measures taken by the Government on issues relating to equality of minorities, empowerment, protection, political participation, representation, education, assess implementation and make suitable recommendations to the concerned authorities;
- (2) review all laws, rules and regulations affecting the status and rights of minorities and suggest repeal, amendment or new legislation essential to eliminate discrimination;
- (3) safeguard and promote the interest and welfare of minorities and achieve equality before law in accordance with the Constitution and obligations under international covenants and commitments in consultation with the Foreign Affairs Division;
- (4) sponsor, steer, encourage research to generate information, analysis and studies and maintain a database relating to minorities and minority issues to provide knowledge and awareness for national policy and strategic action for empowerment and welfare of minorities;
- (5) make periodical or special reports to the Government on matters relating to issues faced by minorities;
- (6) undertake projects, research or programmes to raise the status of minorities in Pakistan which may include but not be limited to literacy, awareness, increased interaction, highlighting heroes of the minority community, eliminating hate material and speech etc.
- (7) develop and maintain interaction and dialogue with non-governmental organizations, experts and individuals in society and an active association with similar commissions and institutions in other countries for collaboration and action to achieve equality of minorities at all levels;
- (8) mobilize grants from domestic and international, including multi and bilateral agencies for meeting any of its obligations or performing its functions in consultation with the Finance and Interior Division;
- (9) facilitate and monitor implementation of international instruments and obligations affecting minorities to which Pakistan is a signatory;
- (10) coordinate or liaison with national minority rights commission over matters relating to international instruments
- (11) seek and receive information, data and documents from any Pakistan source or entity in the course of performance of its functions;
- (12) look into specific complaints of violations of the rights of minorities;
- (13) call for information or report from the Pakistan Government, civil society organizations and autonomous or concerned bodies; and in this regard the Commission shall have the powers vested in a civil court under the Code of Civil Procedure 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents;
- (14) may in accordance with relevant laws and rules and prior permission of the Government concerned inspect any jail, sub-jail or other places of custody where persons of minorities are kept to make appropriate recommendations to the authorities concerned;

- (15) may act for advocacy, lobbying, coalition building, networking and as a catalyst for promotion of cause of minorities to facilitate their participation in all spheres of life including legal, economic, social and political environment;
- (16) liaise with any other such Commissions in other Countries in consultation with Foreign Affairs Division;
- (17) monitor the mechanism and institutional procedure for redressal of violation of the rights of minorities; and
- (18) may perform any other function which may be assigned to it by the Federal Government.

CHAPTER IV

INQUIRIES AND INVESTIGATIONS

11. Inquiries into Complaints:- The Commission, while inquiring into the complaints of violation of Human Rights of persons belonging to minorities in the country, may call for information or report from Government within such time as may be specified by it:

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 basis.

12. 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 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 commission for the examination of witnesses or documents;
- (f) any other matter which may be prescribed; and
- (g) statement recorded by the Commission shall have status of Section 164 CRPC.

(2) The Commission shall have power to inquire 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 required meaning of Section 176 and 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 Section 175, 178, 179, 180 and 228 of the Penal Code 1860 (Act XLV of 1860). If the offence is committed in the view 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 the 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 relevant Code of Criminal Procedure 1898 (Act V of 1898).

(4) Every proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of relevant provision and Section.

(5) The Commission shall be deemed to be a court for the purposes of Section and provision of relevant section 195 of the Code of Criminal Procedure 1898 (Act V of 1898).

13. 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 subject of a complaint, utilize the services of any concerned officer of any department.

(2) For the purposes of investigation into any matter which is the subject of a complaint, any officer or agency whose services are utilized 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;
- (c) requisition any public record or copy thereof from any office.

(3) The provisions of Section 12 of this Act shall apply in relation to any statement made by a person before any officer or agency whose services are requisitioned under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

14. Steps after inquiry.- (1) The Commission may take any of the following amongst other steps upon the completion of an inquiry held under this Act, namely:-

- (a) Where the inquiry discloses, the Commission of violation of Human Rights of any person belonging to minorities or negligence in the prevention of such violation by a public servant, it may recommend to the Federal Government or Authority for the initiation of proceedings for prosecution or such other action as the commission may deem fit against the concerned person or persons;
- (b) Recommend to the Federal Government or authority for grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
- (c) Provide a copy of the inquiry report to complainant or his legal representative;
- (d) The Commission shall send a copy of its inquiry report together with its recommendations to the Federal Government or 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;
- (e) The Commission shall publish its inquiry report together with its recommendations and the reply of the Government or authority thereto.

15. Commission to preserve identity.- Where the Commission considers it necessary to the identity of a person who has:

- (a) made a complaint; or
- (b) furnished or proposed to furnish information; or
- (c) produce or proposed to produce a document; or
- (d) given or proposed to give evidence; or
- (e) made or proposed to make a submission, to the Commission or to a person for on behalf of the Commission, to protect the security of employment, the privacy or any human right of a person, the Commission may give direction prohibiting the disclosure of the identity of the person.

CHAPTER – V
HUMAN RIGHTS COURTS.

16. Human Rights Courts.- For the purpose of speedy trial of offences arising out of violation of human rights of the religious minorities, the Pakistan Government may, in consultation with the Chief Justice of High Court, by notification in the official gazette, specify a court of sessions to be the Human Rights Court for the district to try such offences:

Provided that nothing in this section shall apply if,

- (a) A court of Sessions is already specified as a special Court; or
- (b) A Special Court is already constituted for such offences under any other law for the time being in force.

17. Special Prosecutors.- The Government, on the advice of the Commission shall, by notification in the official gazette, appoint an advocate from the list prepared by the Commission who has been practicing as advocates for not less than five years, and must have qualification to be the special prosecutor for the purposes of conducting cases in that court.

CHAPTER – VI
FINANCE, ACCOUNTS AND AUDIT

18. Budget and Grant by the Government.- (1) The Commission shall prepare every year a budget estimate of its income and expenditure for the financial year and shall forward it to Federal Government.

(2) The Federal Government shall, after due appropriation made by the National Assembly of Pakistan in this behalf, pay to the Commission by way of grant such sums of money as are adequate for carrying out the purpose of this Act.

(3) The Commission may spend such sums out of the grants as it think fit for performing its functions under this Act.

(4) The Commission shall have full authority to accept donations, grants from individuals, NGOs and all other donor agencies in intimation to Finance Division;

Provided that an International grant or donation will be received in consultation with the Finance and Interior Divisions.

19. Accounts and Audit.- (1) The accounts of the income and expenditure of the commission shall be kept in accordance with the rules framed by the Commission.

(2) The Commission shall prepare an annual statement of accounts in the prescribed form.

(3) The account of the Commission shall be audited annually by the auditors appointed by the government.

(4) The auditors shall have the access to all the accounts and financial records of the Commission.

(5) The Commission shall send a copy of the annual statement of accounts together with a copy of the audit report to the Government to be published in the prescribed manner.

20. Power to obtain finances and receive grants.- The Commission may obtain financial grants from Government organizations in a transparent manner and shall have rights to receive funds from others international and national organization. Commission shall make financial records for internal and external audits.

CHAPTER VII
MISCELLANEOUS

21. Chairperson, Members and Staff of the Commission to be Public Servants.- The Chairperson, Members and officers authorized by the Commission shall perform functions under this Act, and be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

22. Protection of Action taken in good faith.- No civil, criminal or other legal proceeding shall lie against the Chairperson, members or officers performing functions under this Act or under authority of the Commission, in respect of anything which is done in good faith or intended to be done in pursuance of this Act by or under the authority of the Commission.

23. Power to make rules.- The Commission may, in consultation with the Federal Government and by notification in the official gazette, make rules to carry out the provisions of this Act.

24. Validity of Proceedings.- (1) No act or proceedings of the Commission shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

25. Power to Remove Difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, in consultation with Commission, and by order published in the official gazette, make such provisions not inconsistent with the provisions of this Act, as may be necessary of removing the difficulties:

Provided that no such order shall be made after the expiry of a period of one year from the date of the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The formation of the Pakistan Minority Rights Commission would be a driving force in negating the propaganda of human rights violations of minorities in the Country of Pakistan. It would also reiterate the values of religious harmony, tolerance, respect and peace which were inherent in the creation of Pakistan.

2. In order to provide a platform to look into various grievances of the minority communities and to monitor and suggest the mechanism for accelerating pace of socio-economic development of minority communities and for the promotion and protection of the identity of minorities at Federal level, the setting up of Pakistan Minority Rights Commission is very much essential.

3. The promotion and protection of rights of minorities require particular attention to be paid to issue such as the recognition of minorities existence, efforts to guarantee their rights to non-discrimination and equality, the promotion of their education, nationally and locally, the promotion of their participation in all aspects of public life, inclusion of their concern in development and poverty-reduction processed, disparities in social indicators such as employment, health and housing, the situation of women and the children belonging to minorities.

4. The honorable Chief Justice of Pakistan, Mr. Justice Tasadaq Hussain Jilani authored a landmark judgment concerning the rights of religious minorities. The judgment was delivered on 19-06-2014 (S.M.C No. 1/2014 etc.) was issued in a case taken up by the Supreme Court suo moto after a bombing attack on a Church in Peshawar. In the said judgment dated 19-06-2014, the Supreme Court of Pakistan held and directed as under:

- a. The Federal Government should constitute a task force tasked with developing a strategy of religious tolerance;
- b. Appropriate curricula be developed at school and college levels to promote a culture of religious and social tolerance;

c. The Federal Government should take appropriate steps to ensure that the hate speeches in social media are discouraged and the delinquents are brought to justice under the law;

d. A National Council for minorities' rights be constituted. The function of the said council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the constitution and law. The council should also be mandated to frame policy, recommendations for safeguarding and protecting minorities rights;

e. A special police force be established with professional training to protect the places of worship of the minorities. The Supreme Court of Pakistan also directed that the Federal Government shall ensure the enforcement of relevant policy, directives regarding reservation of quota for minorities in all services;

f. In all cases of violation of any of the rights guaranteed under law or desecration of the places of worship of minorities, the concerned law enforcing agency should promptly take action including the registration of the criminal cases against the delinquents;

g. The office shall open a separate file to be placed before a 3-Member bench to ensure that this judgment is given effect in letter and spirit and the said Bench may also entertain complaints/petitions related to violation of fundamental rights of minorities in the country.

5. In the light of the above judgments of Supreme Court of Pakistan and due to the rising of violation of the rights of the minorities, it is felt that there should be a Minorities Rights Commission for the minorities at Federal and National level.

6. In recognition of the constitutional provisions of Human Rights contained in Article 8 to 28 and the Chapter 2 of the Constitution of Islamic Republic of Pakistan, also recognizing the fact that the international Human Rights instruments especially the international convention on Civil and Cultural Rights to which Pakistan is a State party, and the Human Rights agenda of the elected Government of Pakistan, the said government has assumed its responsibilities to constitute an independent Minority Rights Commission for the protection of the Human Rights of the person belonging to religious minorities of the Pakistan.

7. The Bill Seeks to achieve above-mentioned objectives.

Sd/-

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