

Challenges to the NCHR's Effectiveness in Pakistan and Recommendations for its Institutional Strengthening

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Abstract: *The National Commission for Human Rights (NCHR) is the body established by the NCHR Act 2012 for the promotion and protection of the right to life, which is guaranteed by Article 9 of the Constitution. But legal, institutional and political issues greatly limit the Commission's effectiveness. This article critically assesses the mandate of the NCHR, its limitations in functioning and its inability to provide justice in cases of disappearances, extra-judicial killings and custodial deaths. It points to the main challenges, such as interference with appointments, the lack of access for armed forces and intelligence agencies to Section 14 investigation, the lack of enforcement mechanisms, systematic underfunding, and the lack of cooperation with judiciary and law enforcement agencies. The article also looks at the loss of public faith and the Commission's lack of provision for meaningful victim support. It ends with detailed suggestions for reform, such as the expansion of mandates, enforcement powers, independence of operations, greater public interaction, and institutional development to make the NCHR an effective human rights defender.*

Keywords: NCHR; Pakistan; Right to Life; Institutional Reforms.

Introduction

The right to life is a constitutional right in Pakistan as provided under Article 9 of the constitution that no person shall be deprived of life or liberty except in accordance with the law but Pakistan has time and again and in a very brutal manner violated this right in the form of extra judicial killings, enforced disappearances and other acts of state terrorism (Ijaz et al., 2023). These problems have been aggravated by lack of accountability, ineffectiveness of the mechanisms for the enforcement of the law and a weak judicial system in cases where state officials are implicated (Ahmed, 2020). Local and international human rights organizations have documented several incidences where the right to life has been violated and the violators were never brought to book. The Human Rights Commission of Pakistan (HRCP) and Amnesty International have also reported cases of enforced disappearances particularly in Balochistan and the erstwhile Federally Administered Tribal Areas (FATA) (Cheema & Yousaf, 2020). These disappearances are usually associated with persons considered to be in a position to oppose state policies, civil society activists, journalists among others and this raises a lot of

questions on the state's adherence to the protection of human rights and the upholding of the rule of law.

The state has been accused of not doing enough to address these problems and this has been regarded as a violation of the domestic and international law. The Constitution of Pakistan also in Article 9 gives the state the power to protect the right to life and the Pakistan is also a signatory to the International Covenant on Civil and Political Rights (ICCPR) which also include the right to life (The Constitution of the Islamic Republic of Pakistan, 1973, Article 9). But due to poor political will and some powerful security agencies, there is high level of impunity where the right to life is often violated without consequence. The creation of the NCHR under the NCHR Act 2012 was supposed to improve human rights in Pakistan including the right to life (The National Commission for Human Rights Act, 2012). However, the NCHR has been hampered by structural problems, lack of adequate funding, and a limited mandate, particularly in cases involving the armed forces and intelligence agencies (Chaudary, 2023). Such questions arise as to whether the NCHR can perform the watchdog role in a situation where the right to life is violated, which underlines the need for reforms to make the institution fit the Constitution of Pakistan and the international standards of human rights.

Significance of the NCHR: The role of the NCHR in promoting and protecting human rights, particularly the right to life.

The NCHR was established under the National Commission for Human Rights Act, 2012, as an independent statutory body for the protection and promotion of human rights in Pakistan (Khosro & Kousar, 2022). The organization has several important tasks, one of which is the protection of the right to life in accordance with Article 9 of the Constitution of Pakistan (The Constitution of the Islamic Republic of Pakistan, 1973, Article 9). However, as much as the NCHR was designed to be one of the key institutions that would protect human rights, especially the right to life, the extent to which it has been able to deliver on this mandate is a matter of significant criticism. The importance of NCHR is that it has a wide range of tasks, which include researching human rights abuses, examining laws, providing recommendations on human rights responsibilities of the government, and promoting human rights (Reif, 2025). More specifically, the NCHR may initiate suo moto actions or act in response to petitions in relation to violations of the right to life, as exemplified by its action in relation to enforced disappearances, extrajudicial killings, and custodial deaths. However, these broad powers have been restricted by structural vulnerabilities and political aspects to a great extent, altering the NCHR.

Among them, the issue of restricted authority of the NCHR, particularly when scrutinizing cases connected with the armed forces and intelligence agencies (Chaudary, 2023). While the NCHR Act does not specify many aspects of the Commission's work, it deliberately limits its powers, which is a serious problem for addressing some of the most severe violations of the right to life that involve state security forces (Chaudary, 2023). This severely hinders the ability of the NCHR as a watchdog, particularly in areas such as Balochistan and the erstwhile FATA where enforced disappearances are rampant. However, the NCHR lacks adequate staffing and is political -- which is a major issue under the Paris Principles for National Human Rights Institutions (Khosro & Kousar, 2022). The Commission suffers from a lack of financial and human resources, which the 2022 Annual Report revealed as a serious resource shortage that

has affected its operation (NCHR, 2022). This underfunding is a clear pointer that there is no political will to support the NCHR hence its poor capacity to protect the right to life effectively.

Challenges to NCHR's Effectiveness

Political Interference

Interference by the political authorities is one of the most rampant issues that the NCHR faces and can be observed by the membership of the Commission, the choice of cases, and the operational autonomy of the institution. The NCHR Act, 2012, on paper offers provisions for the independence of the Commission. But in reality, this independence is often under pressure from the executive branch (The National Commission for Human Rights Act, 2012). In terms of sections 4 and 5 of the NCHR Act, 2012, the government has a large responsibility of appointing the Chairperson and the members of the NCHR. The appointments are made by the President of Pakistan after a recommendation by a parliamentary committee (Senate of Pakistan, 2012). This process, which is supposed to be non-partisan, usually results in the appointment of persons with partisan affiliations rather than persons of professional and judicial competency. Such individuals are appointed to the Commission for political reasons hence undermining the credibility of the Commission and its ability to operate autonomously especially in cases touching on political figures or state organs.

However, political influence does not only end at the appointment of members but also on the working of the NCHR (Khoso & Kousar, 2022). The choice of which cases to take and how to allocate limited resources is to a certain extent political. For instance, cases that are related to political leaders or the state departments are either under reported or handled with a lot of care, and therefore, they either receive poor investigation or a lot of delay. Such a selective approach to human rights issues weakens the NCHR's effectiveness and its function of an independent watchdog.

Political and Institutional Challenges: Analysing Interference, Resource Constraints, and Institutional Limitations

The problem under analysis also reveals that the political and institutional factors negatively affect the efficiency of the National Commission for Human Rights in Pakistan (Reif, 2000). These challenges not only hinder the Commission on the performance of its mandated duties but also erode the confidence of the public on the Commission to defend and promote human rights. This section focuses on the major political and institutional issues that influence the NCHR with a focus on political influence, resource and institutional issues.

Resource Constraints

The following is another weakness that hampers the NCHR in the discharge of its mandate: severe resource challenges which are chronic in nature. It is important that the Commission is adequately funded and supported in order to conduct its investigative, advisory and advocacy role. However, there was an issue of inadequate funding in the NCHR in the past, which affects its working. The NCHR has its budget and according to the NCHR Act Section 24 the budget has to be approved by the federal government (The National Commission for Human Rights Act, 2012, Section 24). This has a financial risk that is vulnerable to political actors to use it to influence the Commission by altering the government funding. The 2022 Annual Report of the NCHR also showed that the organization has been facing a very low budget constraint that

complicates its work. For instance, the Commission to conduct field investigation, public sensitisation and civil society engagement lacks adequate funding. Financial constraints are also a factor in the human resource of the NCHR (NCHR, 2023). The Commission is challenged with a lack of human resources especially qualified human resources to conduct efficient and effective investigation as well as prepare quality reports. Another disadvantage of having no professional staff such as lawyers and human rights activists is that the NCHR is also hampered in its capacity to address human rights issues especially those involving the state.

Institutional Limitations

However, there are institutional challenges that affect the NCHR more than resource constraints or political interference, as will be discussed below. These limitations stem from the legal charter of the Commission and the overall organisational context in which it exists. The NCHR has no enforcement power, which is a major institutional limitation of the organization (Iriani et al., 2022). The NCHR has the mandate to conduct inquiries into human rights abuses and come up with recommendations; however, the organization lacks the mandate to implement its decisions (Iriani et al., 2022). This lack of enforcement capability significantly hinders the effectiveness of the Commission's work because state institutions and other actors can simply disregard its findings. The NCHR is thus more or less relegated to the position of an advisory body and not an enforcement one, which weakens the organisation's capacity to punish the violators and deliver justice to the victims.

Another institutional limitation is the narrow remit of the NCHR, especially in relation to cases involving the military and intelligence agencies, as provided in Section 14 of the NCHR Act (Senate of Pakistan, 2012). This limitation is especially significant because these institutions are involved in most of the grave human rights abuses in Pakistan, including enforced disappearances and extrajudicial killings. The failure to conduct investigations on these entities not only limits the NCHR's area of operation but also compromises its authority as a broad human rights body. Another source of institutional issues is the NCHR's interaction with other state actors, including the judiciary and the police. The collaboration between the NCHR and such institutions is usually poor, meaning that there are delays, paperwork, and negligence of the Commission's suggestions (Reif, 2000). This divergence weakens the NCHR's capacity to guard human rights in Pakistan even more, making its impact negligible.

Case Studies Illustrating Challenges

Some of the political and institutional challenges that are evident from the case studies include: For instance, the Commission's investigation of the Sahiwal incident, where a family was fired at by the police, highlighted political intervention and inadequate equipment (Dawn, 2019). The case, even after the intervention of the NCHR and public outrage, ended with the acquittal of the officers involved, which clearly shows that the Commission has failed to deliver justice in politically sensitive cases. Similarly, the NCHR has also attempted to work on the cases of enforced disappearance in Baluchistan, but it has no legal authority to investigate the military and intelligence agencies (Ahmed et al., 2021). Domestic and international human rights organizations have criticised the Commission for not fully investigating these cases, stating that the NCHR cannot address some of the worst human rights abuses in the country.

Legal and Structural Limitations: How Legal Constraints Hinder NCHR's Effectiveness

The National Commission for Human Rights (NCHR) was to be an independent institution for the protection of human rights. But it is strongly restrained by legal and structural factors that do not enable to raise key human rights questions in the country.

The only legal restriction is Section 14 of the NCHR Act, which totally bars the Commission from receiving and investigating any petition against armed forces and intelligence agencies (Senate of Pakistan, 2012). This restriction is particularly concerning, bearing in mind that these institutions are part of gross violations of human rights, including enforced disappearances, extrajudicial killings, and torture. Therefore, it cannot investigate these powerful entities; it is highly handicapped, and its mandate is dubious. However, by excluding such vital areas from its jurisdiction, the legal framework in effect emasculates the Commission, and therefore the fight against impunity continues. This exclusion from investigating key state institutions is contrary to international norms such as the Paris Principles that call for a wide and unhampered mandate for the national human rights institutions (Cardenas, 2025). This inability hampers the capacity of the NCHR to be a human rights defender in Pakistan as it cannot investigate such entities.

Besides these legal limitations, the NCHR has the following institutional limitations; in particular, the NCHR has no powers to enforce its recommendations. The NCHR has the right to investigate infringements of human rights and has the right to make suggestion but cannot enforce them. This structural weakness was seen in such occasions as in Sahiwal incident and Naqeebullah Mehsud case where the Commission's recommendations were not implemented and justice was not done (Hussain, 2019). Here the NCHR has no powers and therefore is only an advisory body and cannot contribute in any way to the protection of human rights. The fourth structural problem of the NCHR is that its financial resources are restricted by the federal government of Pakistan under section 24 of the NCHR Act (Senate of Pakistan, 2012). This has led to chronic underfunding and this has limited the Commission's capacity to undertake large scale investigations, sensitisation and coordination with other international bodies. Another threat to the independence of the NCHR is the financial dependence of the organization since it may refrain from criticizing the state or its institutions to avoid losing its financial support.

Hence, it can be claimed that due to legal factors which do not enable the NCHR to conduct investigations into states' strong institutions and structural factors such as lack of police powers and financial autonomy, the organisation is highly ineffective. The following legal and structural changes are necessary to transform the NCHR into a more independent and effective human rights organization. If these changes are not made, then the NCHR will not be able to perform its function as a human rights defender and advocate in Pakistan effectively.

The Role of the Judiciary and Law Enforcement Agencies: Assessing the Relationship with the NCHR and Its Impact on the Right to Life

The judiciary in Pakistan has a major role in the country's human rights protection and especially the right to life (Habib, 2020). Some of the powers of a court are to interpret the Constitution and laws, to provide redress for infringement of rights, and to oversee state organs. Ideally, the judiciary should be a very supportive arm of the NCHR and reinforce the findings and ensure that the recommendations are implemented. However, the cooperation of the NCHR with the judiciary has been rather unstable, particularly in terms of the right to life. On the one

hand, there are cases where the judiciary has supported the NCHR's efforts to address human rights violations. For example, in connection with enforced disappearances, the NCHR has sometimes worked with the judiciary to call for justice. The Supreme Court of Pakistan, particularly in its original jurisdiction under Article 184(3) of the Constitution of Pakistan, has from time to time entertained issues which are brought to the notice of the Court by the NCHR and has passed orders as suggested by the Commission (The Constitution of the Islamic Republic of Pakistan, 1973, Article 184(3)).

Nevertheless, such collaborations are not the rule rather the exception to the rule. In fact, the reaction of the judiciary to the findings of the NCHR has been either passive or half-hearted most of the times. The NCHR has been criticised for not being very effective in some of its functions, particularly in the cases that involve powerful state organs such as the military and intelligence services; this is because the courts have been reluctant to take action on the reports of the NCHR (Iriani et al., 2022). This reluctance may be due to the fact that the judiciary operates in a certain political environment where the independence of the judiciary may be subject to political influence. Therefore, the NCHR has a very limited capacity to guarantee the implementation of its recommendations and, thus, it is less effective in defending the right to life.

Security forces mainly the police and intelligence agencies are often accused of human rights abuses in Pakistan, including extrajudicial killings, torture and enforced disappearance (Ahmed, 2020). The NCHR's work also involves examining such violations and suggesting ways of addressing them. But the relationship between NCHR and police is one of mutual suspicion, lack of cooperation and sometimes even hostility. The work of the NCHR involves conducting investigations, and in most cases, the investigations involve the police, but the police never support the investigations. For example, in serious cases such as Sahiwal tragedy and Naqeebullah Mehsud extra judicial killing, the NCHR was not able to get access to the police records and documents (Dawn, 2019). Police forces have been accused of interfering with investigations, responding slowly or giving partial information which has limited the effectiveness of the NCHR in conducting independent investigations. Further, the recommendations of the NCHR for disciplinary measures or change within the police forces are often not followed or only partially complied with. It has no enforcement power as discussed in previous sections, this implies that the NCHR cannot force the law enforcement agencies to adhere to its findings. Such a situation fosters a culture of impunity within these agencies and the violations of the right to life go on unabated.

To elaborate the relation between the NCHR, the judiciary and the law enforcement agencies, one can use case studies. Naqeebullah Mehsud, a young man who was extra-judicially killed in a fake police encounter is one of the cases that make it almost impossible for the NCHR to prosecute the police (Hussain, 2019). However, the legal process against the accused officers was characterised by a lot of delays and the judiciary did not fully endorse the recommendations of the NCHR. The officers were later on set free, this was a clear demonstration of the shortcoming of the NCHR in the fight for justice. Likewise, the NCHR has had difficulties in its efforts to sensitise the judiciary and the police in regard to the cases of enforced disappearances. Despite the fact that the SC has intervened once in a while, there is no judicial backing of the NCHR and the hostile attitude of the LEA have prevented the NCHR from producing tangible results.

Public Perception and Victim Support: Assessing NCHR's Role in Protecting the Right to Life

The position of perception in the National Commission for Human Rights (NCHR) in Pakistan can be said very sensitive. The NCHR was established in order to achieve an aim of promoting human rights and the right to life. But the question of efficiency also raises some doubts of the population, especially in the sphere of doing justice and compensation for victims of violations of human rights (The Constitution of the Islamic Republic of Pakistan, 1973, Article 9). Among the factors that have nurtured such skepticism is the poor performance of the NCHR in the high profile cases of enforced disappearances and extrajudicial killings. The public has a perception that the NCHR is a non-serious organization that cannot force its recommendation since it is bounded by legal instruments. For instance, in Sahiwal incident, the NCHR criticised the killings but could not guarantee the victims justice; thus, the public could not trust the Commission in the protection of the right to life.

The restrictions mentioned above also affect another area of work of the NCHR, which is victim support. The NCHR is also supposed to be the advocate of the victims and where the victims can come and be given an audience. However, the Commission has inadequate resources and more to the point, it does not have the capacity to implement the provisions of the Act (The National Commission for Human Rights Act, 2012). Survivors and kin are left alone because the NCHR's suggestions are rarely implemented by other state bodies. This lack of follow through only serves to compound the fact that the NCHR is viewed as an organisation that cannot address serious human rights violations. The NCHR has also not been very active in the public and this has been seen in the way it has failed to actively engage civil society. While the Commission has tried to sensitise and involve the public in human rights issues, such efforts are unconvincing especially where there is massive violation and invisibility of impacts. To increase the public confidence and to effectively support the victims, the NCHR has to address the organisational and functional weaknesses and ensure protection and remedy for the human rights violations.

Recommendations for Strengthening the NCHR

In order to meet the challenges mentioned above, the following recommendations can be proposed in order to enhance the effectiveness of the NCHR in the protection of the right to life and the improvement of the organization as a whole, as a national human rights institution.

Expand the NCHR's Mandate

The most pressing change required is the broadening of the NCHR's remit to incorporate an investigation of human rights abuses perpetrated by the military and intelligence services. This would entail repeal of some of the provisions in Section 14 of the NCHR Act that currently place the restrictions (Senate of Pakistan, 2012). Enabling the NCHR to investigate all rights abuses by anybody is crucial if the commission is to operate as a general human rights monitoring body.

Enhance Enforcement Powers

However, the NCHR lacks the authority to enforce its recommendations and therefore its role is rather limited (Khoso & Kousar, 2022). To this end, the NCHR Act should be changed so as to provide the Commission with the power to compel compliance with its recommendations or

to forward cases to the judiciary with binding recommendations. This would enhance the capacity of the NCHR in the fight against human rights violators and guarantee that the law takes its course where violations have taken place.

Ensure Operational Independence

Therefore, there is a necessity to make changes in the selection procedure of the Commission to ensure the NCHR's independence. The process should be more open and less political (Iriani et al., 2022). That is why one of the possible solutions could be the creation of the independent selection committee including representatives from civil society, academia and international human rights organizations along with the government representatives. Also, the financial resources of the NCHR should be secured through a block grant in the national budget, which will minimise the financial vulnerability of the NCHR to political influence.

Strengthen Public Engagement and Outreach

The NCHR should step up its public relations so as to increase its popularity among the general population. This includes increasing its operations in rural and conflict areas, enhancing civil society organizations' engagement, and undertaking more human rights awareness. Setting up regional offices and improving the complaint processing systems to make them more open to the public would also be useful.

Improve Collaboration with the Judiciary and Law Enforcement

The NCHR should therefore try to enhance its cooperation with the judiciary and the police (Ul Mustafa, 2017). This can involve, for instance, regular contact, joint organisation of conferences and training sessions on human rights, and having official communication and cooperation. Building on these would help in ensuring that the NCHR recommendations are accorded a hearing and that its efforts of protecting the rights of the people are supported by other organs of the state.

Increase Resources and Capacity Building

The NCHR for it to perform its functions effectively needs enough resources. This also requires physical assets for instance funds to help in supporting the human assets in form of trained personnel in human rights law, investigation and advocacy. The Commission should also design and implement capacity building programmes that would help the Commission to build the capacity of its staff in handling various human rights issues.

Therefore, it can be concluded that the NCHR has a huge potential to play a positive role in the protection of human rights in Pakistan, but at the same time the organization has a number of legal and structural issues at the moment. The mentioned challenges can be addressed only through specific changes to increase the capacity of the NCHR to accomplish its activities and to protect human rights, especially the right to life, in Pakistan.

Conclusion

This article has critically analyzed the National Commission for Human Rights (NCHR) in Pakistan, its statutory functions as provided in the National Commission for Human Rights (NCHR) Act 2012, and its role in safeguarding the right to life as enshrined in the Constitution of Pakistan. The analysis highlights a significant disconnect between the Commission's mission aspirations and the actual context in which it operates, as a constrained, under-resourced,

politically fragile institution. The NCHR faces many problems. The independence of the Act and its credibility are compromised by political interference in its appointments under Sections 4 and 5. The Commission is expressly prohibited from studying and reporting on the armed forces and intelligence agencies, the very institutions that are accused of enforced disappearances, extrajudicial killings, and torture under Section 14 of the Act. The absence of enforcement powers further places the NCHR in the position of an advisory body, whose recommendations are often ignored, as seen in the Sahiwal and Naqeebullah Mehsud cases. These deficiencies are exacerbated by chronic underfunding, inadequate human resources, and a lack of cooperation with the judiciary and law enforcement agencies. The net result is that public confidence is eroded and the Commission is seen as incapable of delivering justice. Despite these obstacles, the NCHR has a lot of potential. The need for transformation goes beyond just changing Section 14, and encompasses comprehensive reform, including: increasing resources and strengthening capacity building; ensuring operational independence by adopting clear appointments and financial independence; improving collaboration with state institutions; strengthening public involvement; and increasing the scope of Section 14. If these changes are not implemented, Pakistan will continue to miss out on its constitutional and international responsibilities under the ICCPR and will continue to be a symbolic institution of the NCHR. The right to life is an inalienable right. It is time for reform.

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