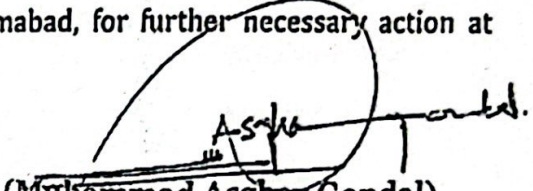


SENATE SECRETARIAT

Subject: - **APPROVED MINUTES OF MEETING OF THE STANDING COMMITTEE
ON HUMAN RIGHTS.**

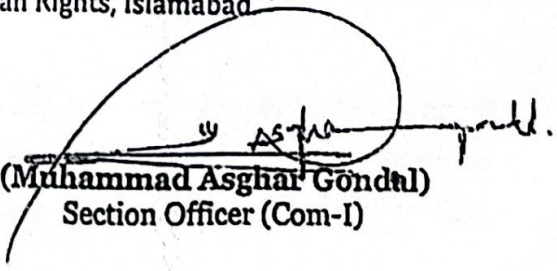
Kindly find enclosed a copy of approved minutes of meeting of the Senate Standing Committee on Human Rights held on 29th December, 2023, at 11:00 a.m. in Committee Room No.01, Parliament House, Islamabad, for further necessary action at your end.


(Muhammad Asghar Gondal)
Section Officer (Com-I)
Tele No. 9211016

1. The Secretary, Ministry of Human Rights, Islamabad.
 2. The Chairperson, National Commission for Human Rights, Islamabad.
 3. The Chairperson, National Commission on the Status of Women, Islamabad.
 4. The Chairperson, National Commission on the Rights of Child, Islamabad.
- Senate Secretariat's u.o. No.F.10 (1)/2021-24/C-I, Dated: 01-02-2024.

Copy for information and necessary action to:-

- i. The Joint Secretary (Committees)/Secretary Committee, Senate Standing Committee on Human Rights, Islamabad.
- ✓ ii. The Director Staff to Chairman, Senate Standing Committee on Human Rights, Islamabad.
- iii. The Section Officer (Council), Ministry of Human Rights, Islamabad


(Muhammad Asghar Gondal)
Section Officer (Com-I)

SENATE SECRETARIAT

MINUTES OF THE MEETING OF SENATE STANDING COMMITTEE ON HUMAN RIGHTS HELD ON 29th DECEMBER, 2023

A meeting of the Senate Standing Committee on Human Rights was held under the Chairmanship of Senator Walid Iqbal on 29th December, 2023 at 11.00 a.m. in Committee Room No. 1, Parliament House, Islamabad, with the following in attendance:

1. Senator Walid Iqbal	Chairman
2. Senator Prof. Dr. Mehr Taj Roghani	Member/Mover
3. Senator Mushahid Hussain Sayed	Member
4. Senator Dr. Mohammad Humayun Mohinand	Member
5. Senator Syed Waqar Mehdi	Member
6. Senator Kamran Michael	Member

2. The list of participants of the meeting is attached at Annexure-A.

3. The agenda before the Committee was as under:-

- (i) Briefing by the Secretary Ministry of Human Rights and Chairperson of the National Commission for Human Rights on the issue of public executions as addressed in existing statutory enactments, the Constitution of the Islamic Republic of Pakistan, and Judicial Decisions of our Superior Courts, along with data, empirical evidence, and other research findings, if any, from Pakistan and across the world, explaining whether such executions serve as an effective deterrent against heinous crimes or have adverse effects upon society and fundamental rights.
- (ii) Briefing by the Secretary Ministry of Human Rights on the nature, scope and content of the UN-approved "Bangkok Rules", and presentation by the Chairperson of the National Commission on the Status of Women on the state of their implementation across Pakistan as a matter of practice.
- (iii) Consideration of "The National Commission on the Rights of Child (Amendment) Bill, 2023" introduced by Senator Dr. Zarqa Suharwardy Taimur, in the Senate sitting held on 20th February, 2023.
- (iv) Any other matter with permission of the Chair.

4. The meeting commenced with recitation from the Holy Quran. The Chairman Committee welcomed Committee Members, officials and representatives from the Ministry of Human Rights, National Commission on the Rights of Child (NCRC), National Commission for Human Rights (NCHR) and National Commission on Status of Women (NCSW).

Agenda Item (iii)

5. The Chairman Committee informed the Senators present that the mover of the agenda item (iii) had regretted her inability to attend the meeting due to unavoidable circumstances. Hence, the agenda item was postponed in consultation with all the members of Committee.

Agenda Item (i)

6. The Chairman explained to the Senators present the context of agenda item (i) and informed the Committee that a private member bill was introduced in the Senate, calling for public hangings in heinous capital punishment offences. The subject bill was referred to the Senate Standing Committee on Interior, and after it got passed there, he, as Chairman of the Senate Standing Committee on Human Rights, received a barrage of messages from various quarters, pressing for proper discussion of the matter in the context of human rights, without interfering into the jurisdiction of the other Committee. Thereafter, the Secretary, Ministry of Human Rights briefed the Committee about public hangings and their impact on Pakistan from the national and international perspective. He said that the matter is very sensitive, and presented his brief by discussing legal status of the death penalty in Pakistan. He apprised the Committee that at present there are 33 statutory provisions in Pakistan that impose the death penalty. The underlying offences include but are not limited to murder, blasphemy, rape, mutiny and terrorism etc. The Chairman Committee enquired about a comparison between capital punishment awarded in the USA and in Pakistan. The Secretary, Ministry of Human Rights, informed the Committee that the European Union and United Nation have always desired that Pakistan ought to take steps to reduce the scope of the death penalty and the punishment should be awarded in the crimes where the judicial forums have been approached and the cases are decided till their last stage of prosecution. While talking about public execution, he pointed out that Section 22 of the Anti-Terrorism Act, 1997, provides the manner and place of execution. It reads: "22. *Manner and place of execution of sentence. The Government may specify the manner, mode and place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.*" The Secretary, Ministry of Human Rights, inferred that with the above legal provision, it may be interpreted that public hanging can also be awarded to the criminals if so specified by the concerned Government. He further contested the above legal reference, by saying that the Constitution of Islamic Republic of Pakistan, in its Articles 9 and 14 regarding fundamental rights, safeguards human dignity. He quoted: "Article 9.

Security of person. No person shall be deprived of life or liberty save in accordance with law... and ...Article 14. Inviolability of dignity of man, etc. (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable."

7. The brief also referred to judgments of Superior Courts on the subject. The Secretary, Ministry of Human Rights, explained that the Lahore High Court in its judgment reported as PLD 2019 Lahore 330 (in a petition seeking public hanging of the offenders in the infamous Zainab Case, the case by holding, *"the crime in which the accused has been found to be guilty is barbaric; and while no society should tolerate such a crime, the barbaric act does not have to be visited with a barbaric penalty like public hanging. It is further stated that currently public hangings or public executions are not allowed under any law of Pakistan."* Senator Mushahid Hussain Sayed observed that in 1980, during General Zia-ul-Haq's rule, the last public hanging in Pakistan was carried out in Pakistan in the infamous Pappu murder case. After that, no other such sentence was carried out publicly.

8. The Secretary, Ministry of Human Rights, further explained the International commitments/obligations of Pakistan regarding the matter under discussion. He referred to the standing of the UN Human Rights Committee which monitors implementation of International Covenant on Civil and Political Rights (ICCPR), that has ruled against public executions by member States that retain the death penalty. He mentioned that the Committee in its General Comment No. 36 clearly states that *"State parties that have not abolished the death penalty must respect Article 7 of the Covenant, which prohibits certain methods of executions. Failure to respect Article 7 would inevitably render the execution arbitrary in nature and thus also in violation of Article 6."* The aforesaid Committee has already opined that stoning, injection of untested lethal drugs, gas chambers, burning and burying alive and public executions are contrary to Article 7. For similar reasons, other painful and humiliating methods of execution are also unlawful under ICCPR. The UN Human Rights Committee, in its 53rd Session, while conducting Pakistan's 4th Universal Periodic Review, has desired that Pakistan ought to reinstate the moratorium on capital punishment in the country. Besides ICCPR, the European Union while examining the GSP plus status for Pakistan, has strongly recommended abolition of the death penalty. Accordingly, Pakistan had unofficially re-instated its moratorium on the death penalty to secure GSP plus status. In view of the international obligations of Pakistan and the current statutory position, the Ministry of Human Rights was of the view that public executions would hurt Pakistan's reputation internationally. In any event, the Supreme Court of Pakistan (in its judgment reported as 1994 SCMR 1028) had even otherwise declared public executions to be contrary to the inviolability of human dignity as guaranteed by the Constitution of Pakistan, a position that was followed by the Lahore High Court in the infamous Zainab Case as aforesaid. The Committee was also apprised of a decision of the Federal

Shariat Court where the matter of upholding human dignity was endorsed in the light of Quranic teachings.

9. The Committee was informed that there is no empirical evidence in support of the deterrent effect of public hangings. Examples may be taken from the Gulf Countries (Saudi Arabia and Iran) where public executions are regularly carried out. The representative of National Commission on Human Rights explained that Pakistan is a signatory to the Convention against Torture and Cruel and Inhuman Treatment, whereby it has been provided that no one shall be subjected to torture and inhuman and degrading treatment. He also referred to the dicta of Article 14 of the Constitution, which declares human dignity to be inviolable. Similarly, the Supreme Court in its Judgment in, asserted that public hangings, even for the most heinous criminals, violate the right to human dignity as enshrined in Article 14 of the Constitution.

10. The representative of NCHIR informed the Committee that the domestic law of Pakistan, viz. Pakistan Prison Rules, 1978, disallows hangings in public. As per these rules, only twelve persons may witness the execution of a convict in person including the wali or guardian of the victim. He added that Section 22 of Anti-Terrorism Act, 1997, provides administrative discretion of the government that ought to be subordinate to the Constitution as interpreted by our Superior Courts. As to empirical evidence, Iran had been seen executing its criminals publicly in narcotics-related crimes but has now ceased to do so. The Government of Pakistan has also abolished the death penalty in narcotics-related crimes. Hence, the element of deterrence in such execution is not found in any example and NCHIR did not endorse the same.

11. After the conclusion of discussion on the matter, the Senate Standing Committee on Human Rights Resolved, by a majority, that, in view of the fundamental rights guaranteed by the Constitution, as interpreted by Pakistan's Superior Courts, and all of Pakistan applicable laws, any proposed statutory amendments calling for public executions involving any capital punishment be and are hereby opposed, and an appeal is made to the House to reject any such proposed amendments. Two of the Senators present, namely, Dr. Mehr Taj Roghani and Dr. Humayun Muhammad, disagreed, by asserting that the Committee had reached this conclusion hastily without accessing any proper research and information. With that the agenda item was disposed of.

Agenda Item (ii)

12. As far as the brief regarding "Bangkok Rules" was concerned, NCSW representatives informed the Committee that the Chairperson of NCSW was absent due to another important commitment. The Chairman Committee deferred the agenda to the extent of presentation by NCSW. However, the Secretary, Ministry of Human Rights, briefed the Committee about Bangkok Rules and stated that these

Rules are basically the outcome of Mandela Rules that were framed in 1955. The Mandela Rules were framed for the treatment of prisoners. Overall twenty-five 25 Rules in this regard were passed by the UN Council, providing twenty seven broad areas therein. The Bangkok Rules are divided into four parts. Those four categories include; Rules of General Application, the Rules applicable to the special categories of women, non-custodial measures, research, planning and public awareness. The Rules of General Applications deal with non-dissemination, admission of allocation of personal hygiene, healthcare, searches of women prisoners, disciplinary measures, and juvenile female prisoners. He elaborated that Rules 40 to 56 deal with special categories of women, which include prison classification, women with dependent children, foreign nationals, minorities and indigenous people. The third category of these Rules deals with non-custodial measures, in Rules 57 to 66, which stipulate that women prisoners should not be separated from their families. These Rules also prescribe provisions regarding parole and custodial measures. Furthermore, Rules 67 to 70 deal with public awareness. He informed the Committee that the Bangkok Rules are the first international guidelines dealing with the women prisoners and non-custodial measures to be taken for women. However, the Rules are not binding and thus soft in nature. A Committee on the subject of women prisoners was constituted, after an order passed by the Islamabad High Court, to conduct necessary prison reforms. After that brief, the Committee directed NCSW and the Ministry of Human Rights to collect and present before the Committee in its next meeting data covering the previous three years, 2021 to 2023, regarding the number of women prisoners across Pakistan, disaggregated by under-trial and convicted prisoners, by nature of offences, and of women convicts on death row.

Any other agenda item:-

13. The Chairman Committee informed the Senators present that the Secretary Committee had received a letter from NCHIR requesting inclusion of Baloch protestors' ill-treatment by the Islamabad Police, violation of their human rights, and the issue of enforced disappearances as an agenda item in the instant meeting of the Senate Standing Committee on Human Rights. The Chairman Committee informed the Committee that the letter states "On 27th December 2023, a team of NCHIR led by Secretary, NCHIR visited the Press Club, Islamabad, to know the grievances of the aggrieved protestors of missing persons under the leadership of Dr. Maharang Baloch. The team observed the gravity of the situation of human rights violations in Balochistan. In view of the gravity of the situation, the NCHIR suggests that the matter may be discussed in the forthcoming meeting of the Standing Committee on Human Rights and the organizers of the protest may also be invited in the meeting for obtaining their point of view, which can reduce the unrest, anger and difficulties of the protestors."

14. The Chairman Committee informed that the Senate Secretariat tried to engage the concerned protest leaders regarding the proposed agenda to fulfill the related codal formalities. However, the protest leaders responded by saying that they were busy in some other meeting at the stated time, and declined the request to attend the Senate Standing Committee meeting. Senator Mushahid Hussain Sayed commended NCHIR's efforts and concern regarding the Baloch protestors. He informed that he himself had visited the camp with Senator Mushtaq Ahmed, where he was told by Dr. Maharang Baloch that they were protesting relation to missing persons and the extra judicial killing of Baloch Maula Bukhs. However, they were told that the administration of ICT had treated them badly. He further added that he had already worked with an Enquiry Commission for missing persons in Balochistan that was formed by order of the Islamabad High Court.

15. Due to non-availability of the concerned protest leaders regarding this specially raised agenda item, the Committee unanimously decided that a formal request to meet the protestors ought to be put up for approval of the Chairman Senate. On the other hand, Senator Mushahid Hussain Sayed recommended that Committee members could meet the protestors informally as well. With that, the Chairman Committee disposed of the agenda item.

Recommendations/Decision:-

16. After detailed deliberations, the Committee made the following recommendations:


Agenda Item (ii)

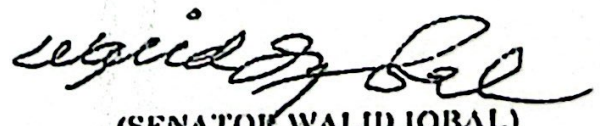
The Committee directed NCSW and the Ministry of Human Rights to collect and present before the Committee in its next meeting data covering the previous three years, 2021 to 2023, regarding the number of women prisoners across Pakistan, disaggregated by under-trial and convicted prisoners, by nature of offences, and of women convicts on death row.

Any other agenda item

The Committee unanimously decided that a formal request to meet with Baloch protestors at the Islamabad Press Club ought to be put up for approval from the Chairman Senate.

17. The meeting ended with a vote of thanks to and from the Chair.


(FARHANDA NASIR)
Secretary Committee


(SENATOR WALID IQBAL)
Chairman Standing Committee on
Human Rights