

DISABILITY LAWS IN PAKISTAN: A CRITICAL & CONTEXTUAL STUDY

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ABSTRACT

Completing its 75 years of independence, come August 2022, the state of Pakistan is yet to guarantee absolute rights to its disabled citizens. Pakistan's populace contains approximately 31 million **disabled persons**, and despite being great in number, the resolve seems lacking. This paper takes on a challenge to understand the laws of disability in **Pakistan** by examining its political bet using the 18th amendment to the constitution of 1973. It caters to the oversight of state organs in carrying out and administering required disability regulations. It explores the obliviousness of mental disability in legislation by legislative bodies, the endorsement or lack thereof of the higher judiciary for **disability laws**, and finally, it draws out suggestions to reproduce effective laws in Pakistan on the veil that covers atrocities against the disabled persons of Pakistan. For an overarching picture, the paper dives deeper into the dissonance of disability laws in Pakistan from the **UN Convention** it seeks to ratify and the bifurcation between **mental and physical disability laws**.

CHAPTER I – INTRODUCTION

Roosevelt and the United States

Morgan Freeman once said, “attacking people with disabilities is the lowest display of power I can think of.”ⁱ It was not until 1921 that United States President Franklin D. Roosevelt's hidden paralytic illness came to the forefront as an issue that he decided to hide from the rest of the world not to be seen as weak. The social stigma of disability was then

understood in the more significant part of America.ⁱⁱ It was only in January 2001 when the Roosevelt Memorial in Washington added a wheelchair to the statue of Roosevelt on deep concerns of disability-rights advocates.ⁱⁱⁱ The question one should seek to answer is what constitutes a disability and why is its historical context ridden with stigma.

The civil rights movement that began in the 1960s in the United States (“US”) also carried an element of disability-rights advocates.^{iv} For thirty years from that point, no legislation came to the forefront in the US. Rather than providing disability rights, a more catered approach has always been to offer sympathy.^v The extent to which persons with disabilities (“PWD”) are victimized is incomparable to the level of actual support they receive against injustices committed against them. Finally, in 1990, the US passed the American Disability Act (“ADA”), which intended to remove disability barriers in places of employment, etc. However, one concern that exists to date is that “deep-rooted assumptions and stereotypical biases were not instantly transformed with the stroke of a pen.”^{vi}

While that explains the short history of disability laws in the United States, the journey of Pakistan is both far from complete and much more complex. More than so, it is relatively recent in nature. But before exploring Pakistan’s journey of legislation on disability, it is essential to contextualize the conditions of PWD in Pakistan.

Conditions of PWD in Pakistan

In 2014, Pakistan’s population of PWD totaled “5.035 million,” with an annual growth of PWD being “2.65% per annum,”^{vii} standing 0.62% more than Pakistan’s annual growth of population. In 2017, the 6th Population and Housing Census were conducted, wherein the percentage of PWD had gone “below 0.48%”^{viii}. The Supreme Court of Pakistan expressed its concerns over the ignorance of the Pakistan Bureau of Statistics in not including PWD in the census for menial reasons and hence, inaccurately depicting the population of PWD in Pakistan^{ix}.

The 1998 Census, being the 5th Population and Housing Census, accounted for PWD being “2.38% of the entire population.”^x The purpose of presenting such numbers here is to argue that PWD conditions in Pakistan are essentially deteriorating. It would not be an entirely inaccurate conclusion that the PWD Community (“Community”) is on the brink of marginalization, if not already marginalized.

In terms of employment, the community faces extreme marginalization despite a quota in place in respective provinces of Pakistan for their employment. Sindh and Balochistan place the PWD quota for employment at “5%”^{xi}, whereas Punjab and Khyber Pakhtunkhwa (“KPK”) set the PWD quota for employment at “3%”^{xii}. Regardless of which, the lack of employment opportunities for the community leads to an annual loss of “4.9 - 6.35%”^{xiii} of Pakistan’s Gross Domestic Product.

The problem, however, is much more profound. Employment as a stage of life is much later in the chain. To reach the stage of employment, the early stages of life need to be non-discriminatory in nature. For example, education, health, and social well-being. In all of this, Pakistan as a country does not excel.

CHAPTER II - DEFINITIONS

United States and the UNCRPD

The ADA defined disability as “an individual having a physical or mental impairment that substantially limits his one or more major life activities”^{xiv} under Section 35. The types of disability are further categorized in the act. Globally, the definition of disability, however, varies. The World Health Organization (“WHO”), a body of the United Nations (“UN”), defines disability as “Any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being”^{xv}. In contrast, impairment is defined as “any loss or abnormality of a psychological, physiological, or anatomical structure or function.”^{xvi}

The leading piece of legislation on PWD is the United Nations Convention on Rights of Persons with Disabilities (“UNCRPD”), which defines disability as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”^{xvii} However, because disability is an ever-evolving concept, one with multiple dimensions and multiple diseases classified as a disability, “there is no single definition of disability.”^{xviii} In a world of liberal fluidity, a further crime one can commit against an already

oppressed group – PWD – is to classify them further into categories, boxing them into numbers making them prone to excessive oppression and dismissal.

United Kingdom, Australia, and India

A lack of consensus over the definition of disability globally leads to many problems. The way disability is defined in a particular jurisdiction lays out the extent of protection available to someone with a said disability under the local law. Experts often quote that it is vital to recognize the diversity within disabilities.^{xix} Essentially, this must be done by defining disability very broadly.

For the purposes of the legislation, reasonable distinctions can be made for better realization of the legislation's intent. For instance, while respecting the diversity within disability, definitions could distinguish between different forms of it based on the dependence on a third person. It would be pertinent to view some examples of how the term disability has been defined. It is important to note that this does not include any medical definitions of the term but rather how it is seen in the legal sphere.

India's Rights of Persons with Disabilities Act, 2016 ("RPD 2016") provides a definition of PWD that is perhaps the one with the widest scope, though it is simply a replication of the one given by the UNCRPD. However, it is worth mentioning that the RPD 2016 creates a classification for 'persons with disability having high support needs.' Such an effort signals how reasonable distinctions can be made within the legislation so as to allow the state to set up institutions and authorities to provide for specifically those so defined, with their requisite level of care and support.^{xx}

The Equality Act, 2010 of the United Kingdom ("Equality Act") takes a similar approach to India i.e., following the UNCRPD. Though the section is not replicated, a similar essence is preserved as the legislation defines a person to have a disability if they have a long-term, substantial physical or mental impairment which inhibits their ability to carry out everyday activities. However, this definition is slightly narrower than that of India and the UNCRPD as it excludes intellectual and sensory impairment.^{xxi}

The Disability Discrimination Act 1992 of Australia (“DDA 1992”) takes a different approach. It lists out a great number of conditions that might qualify as a disability, such as ‘total or partial loss of a person's bodily or mental functions’ or ‘a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions, or judgment or that results in disturbed behavior’. While the DDA 1992 does make things quite specific, something that ought to be seen as a disability would require legislative approval before any protections are granted though they may be urgently needed.^{xxii}

It is important to note that the DDA 1992 predates the UNCRPD, which is perhaps why the approach taken is much different. A stark difference is also the fact that while the Equality Act and RPD 2016 define when a ‘person’ is said to have a disability, the American and Australian Acts define a ‘disability’. While this may appear to not be a significant difference, depending on the way it is structured, this could envision quite different protection regimes. India and the UK’s adoption of the UNCRPD definition shows that it is the current prevailing legal definition of disability/PWD.

Pakistan

As this paper will go on to discuss, there are several different provincial legislations governing the protections afforded to PWD in Pakistan. However, the most recent and prominent legislation is the Islamabad Capital Territory Rights of Persons with Disability Act, 2020 (“ICT Act”). The ICT Act defines disability as a long-term physical, mental, intellectual, developmental, or sensory disorder or impairment that inhibits the affected person from equal and effective participation in daily activities. Like the RPD 2016 and the Equality Act, the ICT Act, replicates the UNCRPD definition. The ICT Act, however, defines disability and not PWD.^{xxiii} While defining PWD instead of disability would have been a better approach, -as the Act is meant to create provisions for those with a disability- with regards to the aims of the Act it falls in line with the purpose sought to be achieved by the UNCRPD.

We shall dive deeper into the current laws of disability in Pakistan; however, it is essential that we first look at the evolution of legislation on disability in Pakistan.

CHAPTER III - EVOLUTION OF LEGISLATION

1981: The Disabled Persons' (Employment and Rehabilitation) Ordinance

In 1981, the UN declared the year 1981 as a year for Disabled Persons. The UN called for a plan of action concerning PWD and their equal treatment in rehabilitation and employment terms.^{xxiv} In the same year, the President of Pakistan, Zia-ul-Haq, promulgated the Disabled Persons' (Employment and Rehabilitation) Ordinance ("1981 Ordinance").

However, the 1981 Ordinance does fall short in many of its instances. Firstly, the 1981 Ordinance defines a disabled person as "a person who, on account of injury, disease or congenital deformity, is handicapped for undertaking any gainful profession or employment in order to earn his livelihood, and includes a person who is blind, deaf, physically handicapped or mentally retarded." The definition of a disabled person is insensitive to those who suffer mental disability by labeling them as mentally retarded. It is also insufficient by an oversight of other methods and mechanisms of physical disability.

Nevertheless, a counterargument has been made that the 1981 Ordinance was accurate with its definition of a disabled person by including 'mentally retarded', so long as it was in consonance with its parallel law of mental disablement, i.e., The Lunacy Act 1912. The Lunacy Act 1912 was aimed to consolidate the laws relating to lunacy. Hence, it was in accordance with the general perception of mental disability then, and hence, with the definition of a disabled person in the 1981 Ordinance.

There were a few important things that the 1981 Ordinance promulgated—starting with the establishment of a ministry of social welfare and special education ("MSWSE"), which provided special education to PWD - as defined in the 1981 ordinance. Secondly, a national council for rehabilitation of disabled persons ("NCRDP") was created to ensure policy enhancement in PWD rehabilitation - as defined in the 1981 ordinance. Provincial councils were introduced in the same mandate to help implement the NCRDP. Thirdly, registration for disabled persons in a disabled person registration certificate was introduced. Finally, the 1981 ordinance initiated the idea of a 1% special quota for PWD employment - as defined in the 1981 ordinance - in government offices. Later, this quota was raised to 2% after the 1998 Population and Housing Census. In the 1981 Ordinance, to ensure that the employment quota

was maintained, Section 11 imposed a fine of PKR 1000 on any establishment that failed to employ PWD.

It is necessary to critique some of these initiatives taken by the 1981 Ordinance. Firstly, the MSWSE initiating special education for PWD is not providing the PWD with positive rights in terms of education but instead a possible cause for further marginalization of PWD from society. While it can be acknowledged that a mentally disabled person with Autism may need special care, the special care mustn't be provided in a separate school altogether. The marginalization of PWD is one of the most significant factors for the marginalization of PWD, itself.

Secondly, the 1981 Ordinance creates a Rehabilitation Fund under Section 17 for the rehabilitation, vocational training, education, etc., for PWD. However, there is no stable source of income provided by the ordinance for the rehabilitation fund itself. The Fund may include money that an establishment has to pay if they do not employ a PWD - which is termed in a broad language and not stricto sensu. The Fund may also include any money which the federal or provincial government may invest or any private donor. However, subclauses 1(b) and 1(c) of Section 17 include the word 'if any'. Hence, there is no obligation on the government - federal or provincial - to provide money in the rehabilitation fund - but rather a choice that they may or may not exercise.

The 1981 ordinance, all in all, even though a first effort towards creating a law for the allegedly destitute PWD is a praiseworthy effort, it falls short on many grounds. Two of which have already been discussed here.

2002: National Policy for Persons with Disabilities

Under the adoption of the Millennium Development Goals by the UN in the year 2000, "the high-level intergovernmental meeting to conclude the Asian and Pacific Decade, held at Otsu, Shiga, Japan, October 2002, adopted the Biwako Millennium Framework ("BMF") for action towards an inclusive, barrier-free and rights-based society for persons with disabilities in Asia and the Pacific."^{xxv}

Post the adoption of the BMF, Pakistan in 2002 formed the National Policy for Persons with Disabilities (“2002 Policy”). The 2002 Policy came into being after the strenuous efforts of Non-governmental Organizations in Pakistan, Federal and Provincial ministries on Education, Health, Labor, etc., and the “task force of disability created in 2000 - helmed by Justice (Rtd.) Aamer Reza.”^{xxxvi}

The 2002 Policy conveniently added some figures from the 1998 Census on Housing and Population but failed to mention mental disability and categorized “43.33%” as unidentified disability out of the “2.49% population” classifying as PWD. This, in turn also shows the inadequacy of the census board. However, the 2002 policy does intend to implement some measures. Especially those mentioned in the BMF. Some of which are worthy of mention.

Firstly, the 2002 Plan under point ‘I’ talks about funding. It states that “Rs. 6282.280 million” has been allocated by the planning commission for the 10-year development of PWD in their rehabilitation, training, and employment, which would sum to around 628 million per annum for the rehabilitation of PWD. This is commendable for not providing loose mechanisms, as seen in the 1981 ordinance.

Secondly, under point ‘E’ of the 2002 Plan, the idea of awareness is introduced. A constant striking problem within the realm of disability is the lack of awareness on the ends of the public and the government. Point E ensures that all media is used to initiate a higher public awareness regarding disabilities and their types. Again, this is commendable because the 1981 ordinance deals with disabilities in its method but does not initiate education to the public about the misunderstood subject.

Finally, one of the most promising things issued by the 2002 policy is the idea of self-employment. Under point C(vii), the policy initiates that instead of just imposing upon the establishments to employ PWD, self-employment shall be formed for such persons where “agencies like Bait-ul-Maal, Central Zakat Administration, etc., shall be associated to provide financial support through micro-credit schemes.”

One could raise an argument to the donors of self-employment where the institutions of Zakat providing for such would mean that PWD is prone to be equated to persons suffering from destitution. Yet, the 2002 policy does far more than the 1981 ordinance does.

2006: National Plan of Action

Following the 2002 Policy, it took the Federal government four years to institute another plan for the proper implementation of the 2002 Policy. The government designed the National Plan of Action 2006 (“2006 Plan”) to implement the 2002 policy. “The National Plan of Action (NPA) responds to the approved National Policy for Persons with Disabilities 2002 and is based on the findings of the situation analysis conducted between March to May 2004.”^{xxvii}

The only commendable aspect of the 2006 Plan was its initiation of assigning responsibilities to specific ministries and providing timelines for completing such tasks. For example, Goal 2.7 of the 2006 Plan initiating “Award punishment to un-qualified and qualified Health Practitioners whose negligence leads to disability”^{xxviii} was awarded to the Directorate General of Special Education (DGSE), Ministry of Health (MOH), and Provincial Health Departments to be implemented July 2006 onwards. Hence, every goal was ascribed to a department and a timeline, which would ease monitoring and implementation.

However, 2006 Plan neither lists nor details any punishment or consequences for any department that fails to achieve the said goal within the set timeline. Even more so, the process and mechanism of monitoring and implementation of the 2006 Plan has not been provided.

Post-2006

Post-2006, no such plan was created for disabled persons, nor was any law framed until the devolution of federal powers in the 18th Amendment in 2010. However, there have been specific measures taken by the government of Pakistan in between the said timeline - such as in 2009, the Government of Pakistan allowed “for 50% concession in air, rail and road fare for persons with disabilities on the basis of special Computerized National Identity Card (CNIC) being issued to the PWD which carries universal disability logo.”^{xxix}

In 2010, the government of Pakistan allowed the “import of duty-free cars for personal use of disabled persons, to overcome the disability, subject to fulfillment of criteria and conditions laid down in the policy.”^{xxx} All such was followed by the aftermath of the 18th

Amendment to the Constitution of Pakistan, which is now discussed in detail in the next section.

CHAPTER IV - PWD LAWS OF PAKISTAN

Precursor

Before delving into the provincial laws of PWD in Pakistan, it is important to highlight that Pakistan – as a state – has always differentiated between physical and mental disability. To the extent of their rights, treatment, and protection. To achieve such bifurcation, the state has always had separate laws governing both physical and mental disability. The conditions of such polarization in mental and physical disability legislation have worsened after the 18th amendment. For the purposes of this chapter, we shall be looking at provincial laws on physical disability – or so of what appears to be laws of physical disability. We shall then dive deeper into the problem of mental disability in the next chapter.

18th Amendment

As a federal republic, Pakistan has legislative bodies at the federal and provincial levels. Until 2010, the legislative ability of the provinces was narrow in nature as they did not have sole authority to legislate over any subject matter. The only subjects that provinces could then legislate upon were those in the concurrent list, which contained the list of subjects that were in the domain of both the Provincial and Federal Legislatures. Despite both being able to legislate upon it, in case of any inconsistency, Article 143 of the Constitution stated that federal law would prevail.

In 2010, the 18th Amendment to the Constitution of Pakistan, 1973 ('18th Amendment') was enacted, which sought to improve the existing federal system of the country. The concurrent legislative list was eradicated. Currently, the fourth schedule to the Constitution contains the federal legislative list, which encompasses the subjects which the national parliament can legislate upon, and all subjects not mentioned therein fall within the provincial

domain. The national parliament is also responsible for legislating upon matters not mentioned within the federal list, but these apply only to the extent of the Islamabad Capital Territory.^{xxx}

The Pre-18th Amendment Concurrent list contained “Mental illness and mental retardation, including places for the reception or treatment of the mentally ill and mentally retarded”. The governing legislation was the pre-partition Lunacy Act of 1912 (“1912 Act”), but in 2001, the Federal Government promulgated the Mental Health Ordinance of 2001. Physical disability was not mentioned in the concurrent list, it fell solely into the federal government’s domain. In this regard, the 1981 Ordinance was introduced – which has already been discussed in detail.

Following the 18th Amendment, which resulted in the erasure of these matters from the federal legislative list, provinces were empowered to introduce their legislations on these subjects as they both now fall within the provincial domain. While most provinces have replaced the 1981 Ordinance with their own legislation, the province of Punjab continues to retain the same with some minor amendments. For the purposes of this paper, the acts of all four provinces and the Islamabad Capital Territory will be evaluated.

Punjab

The oldest legislation on the matter, currently still in effect, is the 1981 Ordinance. The 1981 Ordinance was promulgated when physical disability was solely within the legislative domain of the central government. However, it was carried on after the 18th Amendment until the provincial governments promulgated their laws. Punjab remains the sole province that continues to use this legislation, renaming it the ‘Punjab Disabled Persons (Employment and Rehabilitation) Ordinance of 2015. Although a bill presented to the Punjab Assembly last year is said to have a great likelihood to become law, the delay in its enactment leaves Punjab with the 1981 Ordinance.

The 1981 Ordinance is quite simple. It describes disability as a physical or mental ‘handicap’ that inhibits a person’s ability to earn a livelihood. The protections it provides are also limited to this aspect of disability. It sets up a provincial council tasked with carrying out the acts to further the legislation’s purpose. The Council is empowered to make policies for the

adequate enforcement of the 1981 Ordinance, evaluate the effectiveness of its policies, provide support, medical assistance, and training to disabled people and collect and utilize the fund established under Section 17 of the 1981 Ordinance. The Ordinance does not create many provisions for any specific actions to be taken for the welfare of the disabled. It only requires that all disabled persons seeking employment must be registered with the council. An assessment is to be made of the extent of the person's functional disability, and they are to be subsequently given employment.

Suppose it is found that someone is disabled to the extent that they cannot engage in any employment that would earn them a livelihood. In that case, they are to be made part of the council's rehabilitative activities. The council also holds power to restrict aid of a person in terms of employment or rehabilitative measures if that person leaves a job they were entitled to under this act without any valid reason. Despite the bare minimum the act purports to do, the Government of Punjab is still empowered under Section 18 of the Ordinance to exempt any establishment or groups of establishments from the application of any or all the provisions of the Ordinance.^{xxxii}

While this legislation seems to be lacking in many respects, most parts of the country have enacted more recent and somewhat improved legislations to this respect.

Balochistan

The first effort to be made by a province on its own in this regard was the Balochistan Persons with Disabilities Act, 2017 ('Balochistan Act'). The Balochistan Act defines disability precisely as provided for in the UNCRPD. The Balochistan Act affirmatively introduces that PWD is to be treated as equals under the law and must not be discriminated against in any aspect of life. It also provides that it is a responsibility upon the state to ensure their effective inclusion into society.

For the first time in Pakistani law, the Balochistan Act provides PWD ease of access to all 'public and private buildings, places, hospitals, public transport, streets, and roads. It states that old buildings should be adequately equipped, and new buildings and vehicles should conform to these requirements. Further, a duty is placed upon the government to protect PWD from abuse, violence, or exploitation because such occurrences would be 'deemed to have more

gravity than in the case of a person without disabilities.’ It also provides adequate legal aid for such victims at public expense.

The Balochistan Act creates specific provisions for PWD in gaining an education. It says that no institute shall discriminate against PWD for admission. It also lays down that a five percent quota ought to be in place for PWD and that they are given a fee relaxation. It is important to note that the Balochistan Act does not discriminate between private and state-owned facilities in this regard. It also states that adequate measures must be taken to ensure accessibility in these institutions, especially where hostels are concerned. The Balochistan Act envisions that the government must also set up specific facilities to train teachers to educate people with various disabilities.

As opposed to the three percent employment quota set up by the 1981 Ordinance, the Balochistan Act provides for a five percent quota for government establishments but none for privately owned ones. Instead, it states that they will be encouraged to employ PWD using government incentives. Like the 1981 Ordinance, establishments not employing PWD in the required manner are obligated to pay into the Fund established under the Balochistan Act.

The Balochistan Act further envisions concessions for medical treatment and that the government ought to take initiatives to support rehabilitation and research initiatives for PWD. Additionally, it makes provisions for PWD in the form of the right to live independently, the right to accommodation, the right to family, the right to political participation and freedom of expression and information, access to justice, and the right to own property.

Like the 1981 Ordinance, the Balochistan Act also sets up a provincial council. The council’s functions are almost identical to those laid out in the 1981 Ordinance. The Balochistan Act also sets up a fund which is the same as the Fund in the 1981 Ordinance, but the sources of finance for the fund are mainly in the form of grants. The Balochistan Act also requires the council to create awareness regarding PWDs and their rights. It also sets up Special Disability Courts to hear matters ‘under this law or other laws in which one or more parties are Persons with Disabilities’.

While very few aspects of the Balochistan Act do remain highly similar to the 1981 Ordinance it repeals, it remains a significant improvement in many aspects, clearly listing out the rights and responsibilities owed by the state to PWD. ^{xxxiii}

Sindh

The Balochistan Act was followed by the Sindh Empowerment of ‘Persons with Disabilities’ Act, 2018 (‘Sindh Act’). The Sindh Act is very similar to the Balochistan Act in all respects. It takes a similar approach, listing out the protections to be afforded to PWD. The only additional provisions are with regards to providing limited guardianship to a person to take legally binding decisions on behalf of a PWD who may be unable to do so^{xxxiv}. The significance of this provision is that guardianship is generally thought to be needed in the case of persons with mental disabilities, and while all of the Disability Laws in Pakistan are meant to apply to people with both physical and mental disabilities, this is the only provision which specifically provides for those with a mental disability. This debate shall be elaborated upon in later sections of this paper. Further, the Sindh Act also makes provisions for offenses, such as a contravention of the act by a company or a person taking fraudulent advantage of facilities meant for PWD. Essentially, the Sindh Act is very similar to Balochistan Act.^{xxxv}

Islamabad Capital Territory

The latest legislation is the ICT Rights of Persons with Disability Act of 2020 (‘ICT Act’), almost entirely resembling the Balochistan Act. The great resemblance between these Acts is most likely owed to the fact that they were passed following Pakistan’s ratification of the UNCRPD. In their preambles, the Sindh Act and ICT Act expressly mention that the Acts aim to put in place a framework called for by the UNCRPD.

KPK

The last remaining Act is the Khyber Pakhtunkhwa Rights, Rehabilitation, Accessibility and Empowerment of People with Disabilities Act 2018^{xxxvi} (‘KPK Act’). Despite KPK’s attempt at its novel legislation, it is still very similar to the 1981 Ordinance in most respects. While it has made slight logistical changes to the 1981 Ordinance, such as setting up a District Disability Board under the Provincial Council, there are no substantive or

fundamental changes; for instance, the Board is still only required to carry out tasks that the Council under the 1981 Ordinance was doing. The one significant difference between the KPK Act from the 1981 Ordinance is that the definition of disability is the same one used by the ICT Act, Sindh Act and Balochistan Act. In every other respect the KPK Act does not seem to cover much ground in comparison with the other legislations enacted during the same time.

CHAPTER V - MENTAL DISABILITY

The problem

The laws on Persons with disability have all been set in their definition of disability to define disability as both physical and mental. Yet, do not distinguish them, constricting them to being the same in nature. While states outside Pakistan have far progressed in identifying the difference between them and treating both separately, Pakistan still struggles to find its balance. The president of Pakistan in the year 2001, Pervez Musharraf, promulgated the Mental Health Ordinance, establishing the Federal Mental Health Authority.

However, the purpose and scope of the said ordinance was limited in nature to cater to persons who are to be examined for mental disability and how they shall be treated compared to what rights shall be afforded to them. For example, the preamble to the Mental Health Ordinance 2001 (“2001 Ordinance”) states, *“to consolidate and amend the law relating to the treatment and care of mentally disordered persons, to make better provisions for their care, treatment, management of properties and affairs and to provide for matters connected therewith or incidental thereto and to encourage community care of such mentally disordered persons and further to provide for the promotion of mental health and prevention of mental disorder.”*^{xxxvii}

The only interest the 2001 Ordinance ascribes to is the interest in the treatment, care, detention, and properties of persons with mental disabilities. When the preamble of the 2001 Ordinance is compared to that of India’s Mental Health Act of 2017 (“2017 India Act”), it states, *“To provide for mental healthcare and services for persons with mental illness and to*

protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto.”^{xxxviii}

The preamble to the 2017 India Act is open-ended and allows for various rights relating to mental health care. On the other hand, the 2001 Ordinance of Pakistan has a limited preamble in nature. The one inference that can be drawn is that the 2001 Ordinance of Pakistan focuses on ‘mentally disordered persons.’ Whereas the 2017 India Act focuses on ‘mental health,’ and by nature, ‘mentally disordered persons’ are a subset of that topic, including various others.

Not just the preambulatory clauses of the Acts, but Pakistan’s methods for determining mental disability are stark to internationally accepted practices. Neither does any disability act in Pakistan mention the existence of a mechanism to determine mental disability nor does the Mental Health Ordinance of 2001 define it. However, the 2017 India Act states, “*Mental illness shall be determined in accordance with such nationally or internationally accepted mental standards (including the latest edition of the International Classification of Disease of the World Health Organization).*”^{xxxix}

Not only does the 2017 India Act do better at providing mental health services in terms of disability and uses internationally accepted methods of determining mental disability, which is something that Pakistan is yet to achieve. The problem is to such extent that in paragraph 37 of the **PLD 2021 Supreme Court 488** Judgement by Justice Manzoor Ali Malik in a 5-member bench, after carefully considering the definitions used in India, in the DSM, ICD, and United Kingdom, stated that “*limited definition of the terms ‘mental disorder’ or ‘mental illness’ should be avoided, and the Provincial Legislatures may, in order to better appreciate the evolving nature of medical science, consider to appropriately amend the relevant provisions of mental health laws to cater for medically recognized mental and behavioral disorders as notified by WHO through its latest edition of ICD.*”^{xl}

While the 2021 Judgment^{xli} discussed here is mentioned in detail later, we must understand the scope of Pakistan’s mental health and mental disability laws.

Mental Health Ordinance 2001 and the Lunacy Act of 1912

Like its other laws, such as the Penal Code, Pakistan had adopted **The Lunacy Act of 1912**^{xlii} (“1912 Act”) as a colonial heritage. The law was in force in Pakistan from 1947 to its repeal in 2001. For 54 years, the idea and concept of Mental Health did not exist as much,

precisely because the act, for one, was called the “Lunacy” Act. Words like lunatic, asylums, and criminal lunatics have been in practice in Pakistan for as long as one can remember. The Musharraf era brought about some change in the legal landscape of Mental Health Laws by introducing the 2001 Ordinance, which repealed the 1912 Act.

Even though it would not be unreasonable to expect that there would be a change in the law after 54 years, given the fact that Pakistan signed the United Nations Declaration for Human Rights [UDHR] back in 1948 and ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2011, such expectation is not met with results.

The 2001 Ordinance does not do much except change a couple of words here and there for global acceptance, i.e., a “criminal lunatic” is now a “mentally disordered prisoner.” Some authorities were established for mentally ill persons, but the law’s prospects mostly remained the same.

It has been 20 years since the law has been in place, yet, there has been no significant improvement in the law. In a world where mental health and issues are a rising discussion with funds being established to raise awareness and counter the same, the situation in Pakistan, especially legal landscape-wise, seems woeful.

While that stands true, the preamble mentioned above of the 2001 Ordinance is positively different from that of the 1912 Act, which was to “**consolidate and amend the law relating to lunacy.**”^{xliii} The positive manner in which the preamble introduces the 2001 Ordinance does give hope to the reader. The 2001 Act lives up to the preamble’s expectations; the problem is that the preamble draws minimal expectations when more can and should be made from the same.

Section 2 of the 2001 Ordinance deals with definitions of the words used within the act, out of which subsections m and n are significant. Section (m) defines a mental disorder as a “**mental illness, including mental impairment, severe personality disorder, severe mental impairment and any other disorder or disability of mind.**”^{xliv} It does not define anything in essence except provides us with three categories of mental disorders: mental impairment, severe mental impairment, and severe personality disorder. The three are defined in Section 2(m) as:

- a. **Mental Impairment** - a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.
- b. **Severe Mental Impairment** - a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned
- c. **Severe Personality Disorder** - a persistent disorder or disability of mind (including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.^{xlvi}

If one notices, the definitions of mental impairment and severe mental impairment are almost the same, except the word ‘significant impairment’ in mental impairment has been substituted with ‘severe impairment’ in severe mental impairment. However, what constitutes severe impairment versus that significant impairment has neither been provided in the 2001 Ordinance nor discussed in any judgment of any Court of competent jurisdiction in the country.

Section 2(n) further goes on to define a mentally disordered prisoner as “**a person, who is a prisoner for whose detention in or removal to a psychiatric facility or other place of safety, an order has been made in accordance with the provisions of ...**”^{xlvi} Various laws have been given in definition, which allows for a prisoner to be removed from or put in a psychiatric facility or another place of safety for being a criminal but not of sound mind enough to be put in jail through harsh conditions.

2001 Ordinance’s effort in defining these terms such as mental disorder and mentally disordered prisoner are a big positive jump from the 1912 Act, which did not even include the word mental disorder but the words ‘lunatic’, defined as a person of an unsound mind or an idiot, and ‘criminal lunatic,’ defined as a person whose detention in or removal from an asylums order has been made in specific provisions. A positive to come out of the 2001 Act is also the replacement of the word and definition of asylum as “**asylum or mental hospital for lunatics established or licensed by any Provincial Government**”^{xlvi} in the 1912 Act to the word Psychiatric Facility defined as a “**hospital, institute, ward, clinic, nursing home, day-care institution, half-way house, whether in public or private sector involved in the care of**

mentally disordered persons”^{xlvi} in the 2001 Ordinance. However, the definitions in the 2001 Ordinance are yet far from perfect.

If, all in all, read through the 2001 Ordinance, one must understand that most of its provisions are to entertain any person who may be put through trial in a court of law, be it civil or criminal. Persons with mental disability (“PMD”) are not expressly provided rights in the act - as afforded to them under the constitution - such as the right to no discrimination, property, etc. However, provisions have been made for the safe-keeping of their property. In particular, out of the 61 sections of the 2001 Ordinance^{xlix}, only 3-4 sections are dedicated to the rights of PMD.

Section 7 of the 2001 Ordinance^l discusses the care in the community for a mentally disordered prisoner, presenting that community based mental health care centers shall be established to provide mentally disordered persons, their families, and others with care, guidance, education, rehabilitation, and aftercare and preventative measures and other support services on an informal basis. Section 49 of the 2001 Ordinance^{li} declares that the psychiatrist shall assess any person who has attempted suicide and, if found to be suffering from a mental disorder, shall be treated appropriately under provisions of this Ordinance. Section 50 creates confidentiality of the patient and their identity not to be disclosed to the public through press or media unless the person chooses to do so themselves. Whereas Section 51 creates the concept of informed consent

On a plain reading, these sections do not provide positive rights but provide solutions to the problems that may exist due to the ‘societally understood nature of PMD.’ On what can be proper rights for PMD, one may look at the 2017 India Act.

Chapter V of the 2017 India Act is entirely dedicated to 11 sections for the rights of persons with mental disorders including; the right to access mental healthcare, the Right to community living, the Right to protection from cruel, inhuman, and degrading treatment, Right to equality and non-discrimination, Right to Information, Right to Confidentiality, Right on the release of information in respect of mental illness, Right to access medical records, Right to personal contacts and communication, Right to legal aid and Right to make complaints about deficiencies in service.

Provincial Laws on Mental Disability

While considering the provincial laws on mental disability, one must keep in mind the discussion on the devolution of powers via the 18th Amendment. Hence, as with other disability acts, mental disability also became a provincial subject for legislation. Therefore, we shall look at what changes have been made to the provincial laws since the legislation of the 18th Amendment.

With respect to KPK, the 2001 Ordinance has been copied from the first word to its last, with minor changes made such as changes from ‘Government’ to ‘Province of Khyber Pakhtunkhwa’ and ‘Mental Health Authority’ to ‘Khyber Pakhtunkhwa Mental Health Authority’ under the Khyber Pakhtunkhwa Mental Health Act, 2017. A similar effort has been made in the Punjab Mental Health Act, 2014, Sindh Mental Health Act, 2013 and the Balochistan Mental Health Act, 2019.

The maximum effort put in by legislative bodies is to replace the words Federal with respective province names. To legalize and regulate such rules, the provincial assembly of Sindh has gone to the extent of creating the Sindh Mental Health Rules, 2014. The purpose of such rules is to regulate and license the Sindh Mental Health Authority and psychiatric facilities that shall be run under the Sindh Mental Health Act, 2014. Sindh progresses within the act by recognizing diseases like “autism, attention deficit hyperactivity disorders, dyslexia, dyspraxia, Tourette, Down, Rett, and other syndromes and neurological disorders.”^{lii}

While one must condemn the bare minimum effort of the provincial governments in enacting the laws on mental disability, it is also essential to understand one of the nature and purpose of the 2001 Ordinance and its provincial successors - which is to consolidate laws on civil and criminal liability of PMD. The acts are in detail, descriptive of the conditions and treatment of PMD in psychiatric facilities or otherwise - as well as - the treatment of PMD in prisons, etc.,

However, the legislation still falls short. What may or may not be classified as a mental disorder is a big question mark in the face of these acts. The ICD still not being an applicable method of diagnosis in Pakistan leaves little room for PMD to be waived from such civil and criminal liability. Hence, in fact, the superior courts of Pakistan have interfered and proceeded

to discuss what may or may not be classified as a disease and what preventive measures can be taken to handle the laws on Mental Disability in Pakistan.

CHAPTER VI - JUDICIAL ADVOCACY

Physical Disability

Judicial Pronouncements have been of great significance in furthering the rights of disabled persons. As the Post 18th Amendment Acts are recent (all have been passed within the last five years), the precedents discussed are centered more around the 1981 Ordinance.

PLD 2017 Lahore High Court 1 [Hafiz Junaid v. Government]

The petitioner, in this case (“Hafiz Junaid Case”), was challenging a recruitment policy enacted by the School Education Department of the Government of Punjab. The petitioner was a blind man who had applied for a teaching position with the department. He was adequately qualified and applied under the 3% quota he was entitled to under the 1981 Ordinance. It then came up that the recruitment policy barred blind persons from applying. As blind persons are covered under the definition of disability given in the 1981 Ordinance, the petitioner challenged the recruitment policy claiming that it violated his fundamental right to equal protection under the law.

The Government argued that for various reasons, all of which were a result of his blindness, the petitioner could not be considered for the job. Justice Mansoor Ali Shah (‘Justice Shah’), in his judgment, evaluates at length the UNCRPD, which Pakistan had ratified a few years before the case. He analyzes that disability is not simply a medical condition but a reflection of the ‘interaction between features of a person's body and the society in which he or she lives.’

Justice Shah refers to the UNCRPD and the legal framework for disability rights it lays out. He also evaluates the position of disabled persons worldwide and then specifically in the Pakistani context. He takes the idea of reasonable accommodation from the convention, which is essentially an adjustment to allow disabled persons to interact on equal footing with society

in general. Justice Shah further evaluates how assistive technology and devices fall within the definition of reasonable accommodation. He also speaks of the right to life, dignity, and equal protection under the Constitution of Pakistan and how the policy fails to abide by these standards.

He further remarks that disability should not hinder a person's interactions and opportunities, especially when the state's mandate is to provide reasonable accommodations. Justice Shah allowed the petition, setting aside the challenged part of the policy and stating that terms such as 'mentally retarded' and 'crippled' should no longer refer to physical and mental disabilities.

PLD 2018 Lahore 300 [Barrister Asfandiyar Khan v. Government of Pakistan]

In this case ("Asfandiyar Case"), a petition came before the Lahore High Court seeking that terms such as 'mentally retarded' and 'physically handicapped' be struck out from the 1981 Ordinance. Once again, Justice Shah delved into the UNCRPD, the Constitution of Pakistan 1973, and foreign jurisdictions to determine the current position of law. He mainly focused on the right to life and dignity under Pakistan's Constitution. He ruled in favor of the petitioners and ordered that the terms 'disabled,' 'mentally retarded' and 'physically handicapped' be struck off from the 2001 Ordinance, somewhat reinstating his position from the Hafiz Junaid Case.

2020 SCMR 1713 [Dr. Shahnawaz Munami v. Government]

In the foregoing case ("Munami Case"), members of the Disability Movement in Pakistan filed a petition that disabled persons within the country were being denied Fundamental rights promised to them under the Constitution. The petitioners argued that despite Pakistan's ratification of the UNCRPD, no adequate steps had been taken to implement or enforce it within Pakistan. The Court evaluated that the 1981 Ordinance, the 2002 Policy, and 2006 Plan to implement the Policy failed to produce encouraging results.

The court, without going into any analysis as such, gives a large number of directions such as; notices to PTV to raise awareness about the rights of disabled persons, that laws relating to disabled persons are to be employed in letter and spirit, and the installation of ramps, etc. in multiple public spaces to provide accessibility for physically disabled persons. The court also ordered NADRA and the Bureau of Statistics to publish and update statistics regarding persons with disabilities and upload them on their websites.

Summation

The issues identified above are primarily borne out of the fact that the UNCRPD has not adequately been incorporated into domestic legislation. Of the contentions raised, most have already been adequately addressed by the ICT Act, Sindh Act, and the Balochistan Act. All the mentioned judgments have come up under the 1981 Ordinance, which, while being in force in Punjab only, is still applicable to a significant chunk of the country's populace. While Justice Shah's judgments seem to be exercising judicial restraint in this regard, allowing for the legislative and executive to realize their responsibilities, the Munami case seems to roll forward, and rather than issuing a direction to the Punjab Government to revisit the 1981 Ordinance, issues multiple orders itself, which hardly seems to be the practical choice to make. The case law all appears to point towards the need for updated legislation on the issues of disabled persons.

Mental Disability

Precursor

Case Law on the 2001 Ordinance is very instructive regarding the role of the legislation and how courts are supposed to act more inquisitively than in an adversarial nature for any proceedings under the 2001 Ordinance.

In the Shazia Naheed Case^{liii}, the Lahore High Court stated the foremost duty and consideration of the Court of Protection is the protection of the rights of the mentally disordered

person. While the Ordinance provides for a more comprehensive framework, most of these questions are raised whenever a guardian is appointed over a person and their property. In such cases specifically, the Court often borrows principles from the law developed around the Guardian and Wards Act 1890. Essentially, the principle extrapolated here is the best interest standard, i.e., the best interest of the mentally disordered person(patient) ought to be the primary consideration.

While the 2001 Ordinance does advise against the appointment of the mentally disordered person's heirs as managers over their property, relatives are also the ones who are relied upon to report a need for a guardian/manager. While the provision that such a guardian will be paid out of the patient's property does suggest that this person would be an outsider, there is no mechanism envisioned for where such a person would come from.

For instance, the UK's Mental Health Act of 1983 provides for a guardian to be nominated by/ from the Local Social Services Authority^{liv}. No such provision is laid out in the 2001 Ordinance. One significant procedural barrier has also been the requirement of the Advocate General's consent before filing for the appointment of a guardian. Currently, conflicting views exist, with Justice Ayesha Malik reasoning for this to be a strict procedural requirement^{lv} and Justice Shahid Karim more recently arguing that such procedural matters should not hinder the legislation's purposes^{lvi}.

PLD 2021 Supreme Court 488 [Safia Bano v. The State]

Certain substantive provisions have also been questioned, apart from the many procedural issues given rise to under the 2001 Ordinance. The Safia Bano case is the most recent and instrumental judgment. While a question on the criminal liability of the mentally unwell gave rise to the petitions, the court considered various foreign statutes, case laws, and international health standards to evaluate the position of Pakistan's mental health framework.

An important question raised was the definition of mental impairment and whether something like 'schizophrenia' would be included. The court highlights Indian jurisprudence to state that temporary disorders of this nature are generally not to be considered severe. However,

the extent of the impairment is to be looked into in every case. The 2017 India Act also generally surpasses the 2001 Ordinance as it draws on particular distinctions between the mentally ill. The court also discusses that under the 2017 India Act, someone being mentally ill does not necessarily mean freedom from criminal liability or that they need a guardian to be appointed over them. The Act requires specific medical examinations for either of those provisions to apply. The court also discusses the UNCRPD and International Classification of Diseases (“ICD”) published by the World Health Organization (“WHO”) and, in doing so, criticizes how Pakistan’s definitions of mental disability are lacking. However, all these considerations regarding foreign statutes and international classification only led to the court order that the terms ‘lunatic’, ‘insane,’ and ‘unsound mind’ should be removed from all legislation. The courts in Pakistan seem to worry more about this sort of thing than actual substantive provisions.

While the judgment is critical as it highlighted significant issues with the 2001 Ordinance and analyzed important international sources of law, it did not aid in substantially improving or reforming the law. While there has been progression on the criminal law side, the same cannot be said regarding the judgment’s role in developing mental health jurisprudence.

CHAPTER VII - RECOMMENDATIONS & CONCLUSION

Consonance with UNCRPD

The UNCRPD provides perhaps the most effective legislative framework that should be adopted within domestic legislation. This claim is justified because three out of five administrative units in the country have adopted it as such. The entire matter of issues within legislation can be rectified with Punjab and KPK adopting the UNCRPD framework. KPK only abides by it to the extent of the definition, and Punjab does not cater to its provisions.

The failure of the 18th Amendment

In the aftermath of the 18th Amendment, many issues came up regarding the viability of numerous legislative matters and how the federal and provincial governments were legislating upon the same matter differently. While giving the provinces a certain amount of autonomy is part and parcel of a federal system, there needs to be some consonance regarding the applicability of these laws. While the Council of Common Interests^{lvii} exists, issues such as disability laws are outside its purview. Since both mental and physical disability laws are also within the applicability of ratified treaties, there needs to be some standardization of the legislations enacted across the five administrative regions. While this may appear to defeat the purpose of a federal system, the idea is not to take away a province's autonomy rather to ensure that matters within their domain of powers abide by the obligations placed upon the state. To some extent, one may even argue that it is a failure of the 18th Amendment that vastly different legislation on the same matter exists in the same country, solely owing to the inability of a legislature to keep up with the demands of society.

Implementation of Judicial Orders

While the judicial orders themselves fail to address all issues within the legislative framework adequately, most pronouncements have generally called for adopting limited aspects of the UNCRPD. Even then, the legislature and executive have failed to meet those orders of the court. Poor Justice Shah has been attempting to remove outdated and offensive terms from legislation for the past five years, during which time he got elevated to the Supreme Court, yet still, no action has been taken on the matter. The issue boils down to the Punjab and KPK legislatures enacting new legislation incorporating the UNCRPD.

Dissonance between Physical and Mental Disability Legislation

The 2001 Ordinance discusses the treatment of PMD, but the PWD Acts in any province -except Sindh- do not rectify to provide PMD rights as guaranteed to Persons with Physical Disability. Even in the case of the Sindh Act, the only provision specifically applicable to PMD is Section 20, which provides for the appointment of a guardian empowered to take legally

binding decisions. Mentioning mental disability in the definition of PWD Acts is not enough; the legislation needs to go beyond in ensuring that all rights (employment, rehabilitation, and all other afforded in the constitution) to the Persons with Physical Disability are also afforded to PMD. It is acknowledged that the 2001 Ordinance was created to cater to prison rights and other treatment measures for PMD. However, the existence of the 2001 Ordinance in dissonance with PWD Acts of respective provinces ensures that the PMD is discriminated against. The 2001 Ordinance needs to be amended solely to add all such rights of PMD in itself, or the respective PWD Acts be amended to add mental disability rights protection.

The role of the Executive

Despite an overwhelming effort to concentrate the 2002 and 2006 policies on the rehabilitation and livelihood of PWD in Pakistan, the executive has failed to execute such policies, which needs to change as a matter of implementation. The Executive is a major organ of the trichotomy in Pakistan, and without its work, any policy or legislation would see failure at grass root levels. Even though the Executive has framed the policies in the past, minimal action has ensured their lack of implementation. Provided the limited financial status of the Executive, it is recommended that the state of Pakistan start collaborating with United Nations Bodies, corporate businesses conducting Corporate Social Responsibility, and International and National Non-governmental Organisations to ensure that policies such as that of 2002 and 2006 are put to implementation. This has proven effective in collaborating with the bodies mentioned above to ensure the success of projects focused on marginalized communities, such as the rehabilitation of transgender persons in Pakistan. Hence, the same is recommended to the Executive with regard to PWD.

Conclusion

Conclusively, one thing is for sure. The disability laws in Pakistan are far from perfect - not only in the sense of their dissonance amongst each other (mental and physical) - but also in implementing such disability legislation by the executive body of the State. The superior

courts in Pakistan have made an active effort to give recommendations to the legislature and the executive, such as ensuring that the ICD is incorporated into the Mental disability laws of Pakistan - yet the action of the other state apparatuses seems bleak. However, recently enacted legislations do appear promising in this regard, especially in their adoption of the UNCRPD, though the situation in Punjab is still of significant concern. Charting the way forward, it is incumbent on the state to streamline the legal framework and ensure compatibility amongst the various legislative regimes governing persons with disabilities. Only in realizing the extent of its responsibility towards these segments of the population will the state of Pakistan be able to guarantee absolute rights to persons with disabilities. Persons with disabilities hold the right of citizenship in Pakistan as much as anyone else does. The aforementioned recommendations must be followed so Pakistan can effectively alter the veil of atrocities that covers the marginalization of persons with disabilities. It is what one can only hope that at Pakistan's 100th anniversary, this paper will be found in Pakistan's archival history rather than current affairs.

ENDNOTES

ⁱ Morgan Freeman, 'A Quote By Morgan Freeman' (Goodreads.com)

ⁱⁱ Frieda, Doris Zames and Fleischer, 'The Disability Rights Movement : From Charity To Confrontation' (Internet Archive, 2001)

ⁱⁱⁱ Meghan Mutchler, 'Roosevelt's Disability An Issue At Memorial' (Nytimes.com)

^{iv} Cheryl Guidry Tyiska, 'Working With Victims Of Crime With Disabilities' (Office of Victims of Crime: Archive)

^v *ibid*

^{vi} 'A Brief History Of The Disability Rights Movement' (Anti-Defamation League)

^{vii} Kausar Waqar, 'Disability : Situation In Pakistan' (*Itacec.org*, 2014)

^{viii} 'Disabled Constitute Just 0.48 Per Cent Of Total Population (2017) | Pakistan Today'

^{ix} Haseeb Bhatti, 'SC Orders Govt To Count Disabled People In Ongoing Census' (*DAWN.COM*, 2017)

^x 'Disabled Constitute Just 0.48 Per Cent Of Total Population (2017) | Pakistan Today'

^{xi} 'Moving From The Margins | Mainstreaming Young Persons With Disabilities In Pakistan' (*British Council*, 2019)

^{xii} 'Moving From The Margins | Mainstreaming Young Persons With Disabilities In Pakistan' (*British Council*, 2019)

^{xiii} 'Moving From The Margins | Mainstreaming Young Persons With Disabilities In Pakistan' (*British Council*, 2019)

- xiv 'Disability' (LII / Legal Information Institute, 1990)
- xv Rachel Cohon, 'Disability: I. Ethical And Societal Perspectives | Encyclopedia.Com' (Encyclopedia.com)
- xvi *ibid*
- xvii 'Convention On The Rights Of Persons With Disabilities (CRPD) | United Nations Enable' (Un.org)
- xviii Sophie Mitra, 'The Capability Approach And Disability' (2006) 16 Journal of Disability Policy Studies.
- xix "What Is Disability?" (*Disability & Philanthropy Forum* March 22, 2022)
- xx Rights of Persons with Disabilities Act, 2016 (India)
- xxi Equality Act, 2010 (United Kingdom)
- xxii Disability Discrimination Act 1992 (Australia)
- xxiii ICT Rights of Persons with Disability Act, 2020 (Islamabad)
- xxiv <https://humanrights.gov.au/twentytories/timeline.html>
- xxv 'UN Enable - Promoting The Rights Of Persons With Disabilities - Contribution Byescap' (*Un.org*, 2004)
- xxvi 'National Policy For Persons With Disabilities' (*Pspmr.org*, 2002)
- xxvii 'National Plan Of Action 2006 To Implement 2002 Policy' (*Un.org*, 2006)
- xxviii 'National Plan Of Action 2006 To Implement 2002 Policy' (*Un.org*, 2006)
- xxix 'Disability And Social Protection In Pakistan' (*OHCHR*)
- xxx 'GOVT ALLOWS IMPORT OF CARS TO DISABLED PERSONS' (*Fbr.gov.pk*, 2010)
- xxxi Constitution (Eighteenth Amendment) Act of 2010
- xxxii Disabled Persons (Employment and Rehabilitation) Ordinance of 1981
- xxxiii Balochistan Persons with Disabilities Act of 2017
- xxxiv Section 20, Sindh Persons with Disabilities' Act, 2018
- xxxv Sindh Empowerment of 'Persons with Disabilities' Act of 2018
- xxxvi Khyber Pakhtunkhwa Rights, Rehabilitation, Accessibility and Empowerment of People with Disabilities Act of 2018
- xxxvii Mental Health Ordinance, Pakistan, 2001
- xxxviii Mental Health Act, India, 2017
- xxxix Mental Health Act, India, 2017
- xl Safia Bano v. The State [PLD 2021 Supreme Court 488]
- xli Safia Bano v. The State [PLD 2021 Supreme Court 488]
- xlvi Lunacy Act, Pakistan, 1912
- xlvi Lunacy Act, Pakistan, 1912
- xlii Mental Health Ordinance, Pakistan, 2001
- xlii Mental Health Ordinance, Pakistan, 2001
- xlii Mental Health Ordinance, Pakistan, 2001
- xlii Lunacy Act, Pakistan, 1912
- xliii Mental Health Ordinance, Pakistan, 2001
- xliii Mental Health Ordinance, Pakistan, 2001
- xliii Mental Health Ordinance, Pakistan, 2001
- l Mental Health Ordinance, Pakistan, 2001
- li Mental Health Ordinance, Pakistan, 2001
- lii Yasir Habib Khan, 'Pakistan Struggles With Mainstreaming Persons With Disabilities | Special Report | Theneews.Com.Pk' (*Theneews.com.pk*, 2019)

^{liii} Shazia Naheed v. Public at Large, PLD 2015 Lahore 268

^{liv} Mental Health Act, United Kingdom, 1983

^{lv} Ahsin Arshad v Advocate General Punjab, PLD 2018 Lahore 9

^{lvi} Writ Petition No. 28055/2021, Lahore High Court, Pakistan

^{lvii} The Constitution of Pakistan 1973, Article 153

