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# DISCUSSION PAPER

Sindh's Human Rights Institutions and Paris  
Principles: Do Common Grounds Matter?

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## Acronyms

CrPC	Code of Civil Procedure
FIR	First Information Report
HRI	Human Rights Institutions
KP	Khyber Pakhtunkhwa
NGO	Non-governmental organizations
NHRI	National Human Rights Institution
PPC	Pakistan Penal Code
SCHA	Sindh Child Protection Authority
SCPAA	Sindh Child Protection Authority Act
SCSW	Sindh Commission on the Status of Women
SCSWA	Sindh Commission on the Status of Women Act
SHRC	Sindh Human Rights Commission
SOP	Standard Operating Procedures
SPHRA	Sindh Protection of Human Rights Act
UN	United Nations

## Executive Summary

Over the last decade, particularly after the 18th Constitutional Amendment in 2010, Sindh has created a significant number of human rights institutions including the Sindh Child Protection Authority, the Sindh Human Rights Commission (SHRC), and the Sindh Commission on the Status of Women (SCSW). This is a landmark Amendment that enables the provincial assemblies to introduce statutory bodies including human rights institutions (HRIs). This discussion paper contextualizes and adopts the Paris Principles of 1993 as a yardstick to assess whether the founding laws of these three human rights institutions (HRIs) of Sindh have been given independent status to play their due role in improving the conditions of human rights. Besides the comparative analysis of the legal text of the laws, the paper examines the ground realities as to what degree these institutions have been effective in preventing human rights abuses.

**Key Findings:** An independent feature of the HRI is its ability to investigate complaints, which is comparable to a civil court hearing a case under the Code of Civil Procedure, 1908 (Act V of 1908). The SCPA and the SHRC have powers to take Suo moto actions. But only the SHRC could initiate the proceedings, in which no other court can intervene. However, such authority is not given to the SCSW and the SCPA. (1) This research found that compared to the SCPA and the SHRC, the SCSW has weak mandates and limited powers in its founding law. (2) The civil bureaucracy retains primacy in the appointments and dismissals of the chairperson/Director General and members of the SHRC and the SCPA. (3) Only, the SCSW's chairperson and members are appointed through the parliamentary process, yet their removal is mandated by bureaucrats. (4) This bureaucratic primacy implies that the founding laws operate under constraints and do not guarantee independence and autonomy to these institutions. Thus, HRIs cannot monitor human rights, conduct investigations, or comply with the Paris Principles and other international human rights accords. (5) The SCPA, the SPHR, and the SCSW do not entirely satisfy the requirements of the Paris Principles for HRIs. The founding laws of the three HRIs lack uniformity of power, functions, and independence. Therefore, this research recommends that it will only be appropriate to amend the Sindh Child Protection Authority Act, the Sindh Protection of Human Rights Act, and the Sindh Commission on the Status of Women Act so that these conform with the Paris Principles.

## Introduction

Pakistan is the fifth most populous country in the world. It has an estimated 242 million people in four provinces (Balochistan, Khyber Pakhtunkhwa (KP), Punjab, and Sindh) and additional federal regions.<sup>1,2</sup> Quasi-judicial human rights institutions (HRIs) just recently began to defend the rights of citizens guaranteed by both the Pakistani Constitution and international treaties. The passage of the 18th Constitutional Amendment (2010), led to the removal of the Concurrent List and empowered the legislative capacity of the provincial legislatures, on human rights. Taking a cue from this the federal legislator created the National Commission on Human Rights in 2012. *Among the four provinces, Sindh appears to have taken the lead and created a few human rights institutions with thematic and group-specific mandates. These are the Sindh Child Protection Authority (SCPA), established under the Sindh Child Protection Authority Act (SCPAA), 2011, the Sindh Human Rights Commission (SHRC), established in 2013 under the Sindh Protection of Human Rights Act (SPHRA), 2011, and the Sindh Commission on the Status of Women (SCSW), established under the Sindh Commission on the Status of Women Act (SCSWA), 2015. In 2016, the SCPAA's Rules of Business (the Sindh Child Protection Authority Rules of 2016) were framed. The Authority after its establishment had constituted three child protection institutions in Karachi, Sukkur, and Hyderabad. The SHRC instituted its first regional office in 2021 in Sukkur. The Sindh Commission on the Status of Women Act, 2015 (SCSWA) authorized the establishment of the Sindh Commission on the Status of Women (SCSW).*

Sindh is the second-largest province of Pakistan and has 47.85 million residents. The three provincial HRIs—the SCPA, the SHRC, and the SCSW—are significant since they have broad responsibilities for both civil and political rights as well as social, economic, and cultural rights. The SCPAA, the SPHRA, and the SCSWA are founding laws (sometimes referred to as organic laws) that give the HRIs directives. The three HRIs must take special measures to assert their authority and safeguard residents from abuse, exploitation, and violation given the size of the population and the scale of human rights violations.

**Objectives:** This discussion paper has four broad objectives. First, it evaluates the extent to which these three institutions have contributed to fulfilling the requirements set down in their founding legislation. Second, it brings to attention that research on HRIs, with an emphasis on their useful characteristics, is expanding outside Sindh and Paki-

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<sup>1</sup> I am thankful to Professor Dr Saeed Shafqat, Director CPPG, for his comments on an earlier draft, which helped me to improve the paper. I also want to thank Mr Iqbal Detho, Chairperson Sindh Human Rights Commission, for his feedback and suggestions. Any error of facts interpretations are the responsibility of the author.

<sup>2</sup> CIA. "Pakistan". <https://www.cia.gov/the-world-factbook/countries/pakistan/#people-and-society>.

<sup>3</sup> Government of Pakistan. "Economic Survey of Pakistan 2019-20". [https://www.finance.gov.pk/survey/chapter\\_20/12\\_Population\\_Labour\\_Force\\_and\\_Employment.pdf](https://www.finance.gov.pk/survey/chapter_20/12_Population_Labour_Force_and_Employment.pdf).

stan.<sup>3,4</sup> Third, it determines whether the existence of such HRIs has led to a reduction in egregious human rights violations or not. Moreover, this paper will also throw light on the future directions of these HRIs (the SCPA, the SHRC, and the SCSW) and the path of action by looking at the founding legislation<sup>5</sup> (i.e., the SCPAA, the SPHRA, and the SCSWA) and the functions of the HRIs in dealing with contemporary human rights issues. Fourth, a distinguishing feature of this discussion paper is to critically evaluate the SCPAA, SPHRA, and SCSWA considering the Paris Principles so that it becomes easier to guarantee Sindh's protection of human rights. It also explores whether fundamental components of the Paris Principles might strengthen and empower the SCPA, the SHRC, and the SCSW so that they can defend and advance human rights in Sindh.

Globally, several scholars have focused on assessing differences in HRIs in view of their founding laws.<sup>6,7,8</sup> However, a subtle yardstick to evaluate and gauge differences in HRIs and their independence to protect individuals' human rights is provided by the Paris Principles, which were endorsed by the UN General Assembly in 1993 and are being used as an analytical framework within and outside the academia.<sup>9,10</sup> It offers a deft criterion for evaluating and measuring the independence of various institutions.<sup>11</sup> The independent status, mandate, structure, power, composition, and methods of operations of the national or regional human rights institutions and mechanisms are endorsed by this international broad framework.

## Contextualizing Paris Principles and Sindh's HRIs

As stated above this study evaluates the three Sindh HRIs' founding statutes as well as their functions and effectiveness in defending citizens' human rights using the Paris Principles as an analytical framework. A comprehensive framework for the "status, structure, mandate, composition, power and methods of operation of the major domestic human rights mechanism" was approved by the UN General Assembly on Human Rights

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<sup>3</sup> Cardenas, Sonia. "National human rights institutions and state compliance." In *Human Rights, State Compliance, and Social Change*, ed. Ryan Goodman and Thomas Pegram. New York: Cambridge University Press. (2012).

<sup>4</sup> Welch, Ryan M. "National Human Rights Institutions: Domestic Implementation of International Human Rights Law." *Journal of Human Rights* 16(1):96–116. (2017).<sup>5</sup> Takata, Hinako. "How are the Paris Principles on NHRIs Interpreted? Towards a Clear, Transparent, and Consistent Interpretative Framework." *Nordic Journal of Human Rights* (2022): 1-21.

<sup>5</sup> Takata, Hinako. "How are the Paris Principles on NHRIs Interpreted? Towards a Clear, Transparent, and Consistent Interpretative Framework." *Nordic Journal of Human Rights* (2022): 1-21.

<sup>6</sup> Haglund, Jillienne, and Ryan M. Welch. "From Litigation to Rights: The Case of the European Court of Human Rights." *International Studies Quarterly* 65, no. 1 (2021): 210-222.

<sup>7</sup> Welch, Ryan M. "National Human Rights Institutions: Domestic Implementation of International Human Rights Law." *Journal of Human Rights* 16(1):96–116. (2017).

<sup>8</sup> Welch, Ryan M., Jacqueline HR DeMeritt, and Courtenay R. Conrad. "Conceptualizing and Measuring Institutional Variation in National Human Rights Institutions (NHRIs)." *Journal of Conflict Resolution* 65, no. 5 (2020): 1010-1033.

<sup>9</sup> Khoso, Abdullah., & Umbreen Kousar (2022). The Founding Law of Pakistan's National Commission on the Rights of the Child: Legal Challenges, Bureaucratic Barriers, and Vague Opportunities. In Lux, Agnes Etl (eds.). *The Roles of Independent Children's Rights Institutions in Advancing Human Rights of Children* (Vol. 28, pp. 131-150). Emerald Publishing Limited Bingley.

<sup>10</sup> Khoso, Abdullah., & Vivien Yew. Promotion and protection of the rights of Orang Asli in Peninsular Malaysia: A study of the Suhakam. *Geografia*, 11(13). (2015).

<sup>11</sup> Sidoti, Chris. "Have national human rights institutions reached their use-by date?." *Human Rights Defender* 30, no. 1 (2021): 9-11.

in 1993.<sup>12</sup> Guidelines for the function, governance, and role of HRIs are provided by the Paris Principles. HRIs are governed and regulated by the founding legislation.<sup>13</sup> In the founding laws, an HRI must have the power, independence, and freedom to look into any government-approved abuses of human rights, keep tabs on the state of the field, and take steps to advance and defend such rights.<sup>14, 15</sup> Article 2 of the Paris Principles requires nations to establish HRIs as legal or statutory bodies under their constitutional or legislative provisions. The standards that HRIs must adhere to are the basic principles outlined in the Paris Principles. These principles include independence, plurality, a broad mandate, broad functions, sufficient powers, sufficient resources, cooperative effort, and international participation under three different themes.<sup>16</sup> As a result of the impact each of these criteria has on the others, it follows that the absence of any one of them—for instance, a lack of funding—could prevent the HRIs human rights institutions from carrying out their mandate.<sup>17</sup>

Given the Paris Principles, the States must create HRIs as official, independent, and legitimate domestic institutions to defend and advance human rights. These are required to keep an eye on human rights problems, advise the government, take complaints, investigate them, and address them, as well as conduct human rights education and interact with the global human rights community.<sup>18</sup> In light of the Paris Principles, what is lacking from the SCPAA, SPHRA, and SCSWA to guarantee Sindh's protection of human rights, I am going to explore.

But before moving further, I also want to add that the three HRIs (i.e., the SCPA, the SHRC, and the SCSW) are responsible to monitor the implementation of the laws enacted by the government. In some contexts, they are given mandates to protect the rights of specific groups and in other stances, they are provided with powers to monitor and oversee the performance of various departments responsible to implement the laws. The major laws passed by Sindh include:

- the Sindh Tenancy Act of 1955
- the Sindh Protection of Human Rights Act of 2011
- the Domestic Violence (Prevention and Protection) Act of 2013

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<sup>12</sup> A Manual on National Human Rights Institutions, Asia-Pacific Forum, 2015 (updated in 2018), [https://apf-prod.s3.amazonaws.com/media/resource\\_file/Manual\\_on\\_NHRIs\\_Oct\\_2018.pdf?AWSAccessKeyId=AKIA57J6V557ISASX34R&Signature=cTIVrJH%2FWDIa1rw pXdeGuyo49pM%3D&Expires=1637739555](https://apf-prod.s3.amazonaws.com/media/resource_file/Manual_on_NHRIs_Oct_2018.pdf?AWSAccessKeyId=AKIA57J6V557ISASX34R&Signature=cTIVrJH%2FWDIa1rw pXdeGuyo49pM%3D&Expires=1637739555)

<sup>13</sup> The Danish Institute for Human Rights. "NHRIs' Independence and Accountability: The Eight Arab-European Human Rights Dialogue". (2013). [http://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/PDF-Dateien/Sonstiges/NHRIs\\_Independence\\_and\\_Accountability.pdf](http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDF-Dateien/Sonstiges/NHRIs_Independence_and_Accountability.pdf).

<sup>14</sup> Ibid.

<sup>15</sup> Takata, Hinako. "How are the Paris Principles on NHRIs Interpreted? Towards a Clear, Transparent, and Consistent Interpretative Framework." *Nordic Journal of Human Rights* (2022): 1-21.

<sup>16</sup> Welch, Ryan M., Jacqueline HR DeMeritt, and Courtenay R. Conrad. "Conceptualizing and Measuring Institutional Variation in National Human Rights Institutions (NHRIs)." *Journal of Conflict Resolution* 65, no. 5 (2021): 1010-1033.

<sup>17</sup> Asia Pacific Forum. "Paris Principles" <https://www.asiapacificforum.net/support/what-are-nhris/paris-principles/>

<sup>18</sup> Escarcena, Sebastian Lopez. "Paris Principles and National Human Rights Institutions in Latin America." *Rev. Derecho del Estado* 52 (2022): 67.



- the Sindh Child Marriage Restraint Act of 2013
- the Senior Citizens Welfare Act of 2014
- the Sindh Bonded Labor System (Abolition) Act of 2015
- the Sindh Prohibition of Employment of Children Act of 2017
- the Sindh Hindu Marriage (Amendment) Act of 2018
- the Sindh Empowerment of Persons with Disabilities Act of 2018 and
- the Sindh Home-Based Workers Act of 2019.

However, the formulation of the legal framework does not necessarily synch with the ground realities. We will probe those realities in the context of the Paris Principles but let me explain the methods I used to analyze the three laws.

## Methods

This discussion paper examines the legal text of the SCPAA, the SPHRA, and the SC-SWA considering eight major themes or concepts of the Paris Principles (see Table 2). Additionally, it contrasts and compares the three statutes (the SCPAA, the SPHRA, and the SCSWA) (see Table 1). To understand how and why the three founding statutes in the same province are different and similar even though they all share the same objective of advancing and defending human rights, the three laws are being compared (in their given demographic fields). The researcher also conducted a desk review to understand more about the state of Sindh’s human rights and the distinct protective roles played by three HRIs in accordance with their respective mandates and themes.

## Comparison of three HRI’s Key Findings:

Table 1: Comparison of Sindh’s three human rights institutions’ founding laws

Provisions	The Sindh Child Protection Authority Act, 2011	The Sindh Human Rights Act, 2011	The Sindh Commission on the Status of Women Act, 2015	Uniformity in three laws: Yes or No
Headed by	-The Minister-in-charge of the Social Welfare Department shall be the Chairperson of the Authority -Director General (any gender)	-The Chairperson: A retired judge (any gender).	-The Chairperson shall not be less than 55 years of age with experience of 15 years (only women).	No

Number of members including Chairperson/DG	-11	-08	-21	No
Appointed by	-The government / civil bureaucrats	-The government / civil bureaucrats	-The parliamentary committee	No
Chairperson reporting to	-Not given	-Not given	-Chief Minister	No
Main thematic area of concern	-Child protection	-Human rights	-Women rights	Yes: Thematic mandates
Vague (undisclosed areas)	-Refugee children are not mentioned (however, this should have been a child rights authority with the inclusive mandate of all aspects of child rights)	-Refugees	-Refugees	Yes: These are uniform in a negative sense because the three have the same problem
Power to remove chairperson/DG and members	- Bureaucrats	-Same	-Same	Yes: but in a negative sense
Chairperson, members and staff are public servants?	-Yes: Under section 21 of Pakistan Penal Code of 1860	-Same	-Same	Yes
Rules	-The Authority may, with the approval of the Government	-Government may make rules	-Government shall in consultation with the Commission	No

Jurisdiction of courts	-Not mentioned	-No court shall have the power to hear any proceeding or make any orders with respect to anything done or intended to be done under this Law.	-Not mentioned	No
Visiting jails	-Vague: To set minimum standards for all other institutions relating to the children including juvenile jails and ensuring monitoring of those standards	-Yes: Visit, under intimation to the Government, any jail or institution under the control of the government.	-Yes: Examine any prison, jail, or other detention facilities where women and girls are housed.	No
Suo moto powers	-Yes: To investigate or cause investigation, on its own or upon a complaint	-Yes: With or without complaints from anybody	-No: Seek and receive information, data and documents from any Provincial or Federal sources or entity	No
Annual reports	-Yes: The Authority shall prepare an annual report of its activities	-Not mentioned	-Yes: To be submitted to the Chief Minister; to be discussed in the assembly	No
Funds	-The Fund	The SHRC fund; Can also generate its income by bonafide means	-The Fund	Yes

Financial control	-The Secretary Social Welfare Department shall be the principal Accounting Officer of the Authority in respect of the expenditure incurred against budget grants or grants made to the Fund	-Not clearly mentioned	-Be administered and controlled by the Commission	No
Expansion of the institution	-Appointment of Advisors and child protection officers; set up child protection units and child protection management information system	-Appoint the number of officers and employees required to carry out the provisions of this law.	-There shall be a Secretariat of the Commission headed by the Secretary with a complement of officers and support staff as may be prescribed	Yes: Given the context and structure
Assistance to the Commission	-By all government executive authorities in the performance of its functions	-Not mentioned	-By all government executive authorities in the performance of its functions.	No

The following section examines three HRIs' founding laws - the SCPAA, the SPHRA, and the SCSWA- in accordance with the eight Paris Principles criteria (themes).

### *Guaranteeing Independence from the Influence*

The freedom of the HRIs from governmental, non-governmental, or other stakeholder control and influence is referred to as independence. The founding laws, mandates, formulation of policies and programs, as well as the availability of sufficient funding to carry out their goals, all seem to guarantee the independence of HRIs. HRI should be established in a transparent, inclusive, and consultative manner and must have independent-thinking, self-governing members.<sup>19,20</sup>

The above-stated tall claim is not substantiated by the reality of Sindh's two HRIs. As

the non-parliamentary process is used to appoint the chairperson and members of the SCPA and SHRC. The appointments take place based on political-party-based affiliation and support. The chairperson of the SCPA must be the Minister of the Social Welfare Department. The Minister is invariably a political representative from the ruling political party of the province. In conformity with the law, the HRIs like SCPA should be headed by non-political/partisan individuals.<sup>21</sup> The appointment of members from amongst the bureaucracy and then by the bureaucracy compromises the impartiality, objectivity, and independence of these institutions.<sup>22</sup>

On the other hand, the SCSW's chairperson and members are chosen by a parliamentary procedure that also includes the opposition leader, this makes it a transparent and more autonomous selection process than the SCPA and the SHRC. Furthermore, the SHRC and the SCWA's mandates come from the provincial government, which makes the rules; it does not, however, have absolute authority to set its regulations, which impinges upon policy independence. While the SCPA has been given the authority to create its own rules, however, these must first be accepted by the provincial government.

In her message in the 2019–2020 annual report, the Chairperson of the SHRC showed skepticism about the founding legislation's jurisdiction and authority.<sup>23</sup> The SHRC was simply a symbolic and consultative institution. She stated that there was no assurance that the government ministries would accept the SHRC's recommendations, which are often the result of extensive inquiry, research, and consultations. Nor the SHRC had the legal power to retaliate against people or institutions which refused to abide by its recommendations.

## *Resources and Cooperative Work*

The term “resources” refers to institutional capability, sufficient financing, staffing, infrastructure, and staffing levels for HRIs to carry out their duties. The SCSW, SCPA, and SHRC appear to lack significant human and financial resources given the infrastructure and lack of a proactive role. Despite the passage of several years, these institutions still only have a limited amount of access, operations, and functions in other Sindhi areas.

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<sup>19</sup> Haász, Veronika. “The role of national human rights institutions in the implementation of the UN Guiding Principles.” *Human Rights Review* 14, no. 3 (2013): 165-187.

<sup>20</sup> Lacatus, Corina. “Explaining institutional strength: the case of national human rights institutions in Europe and its Neighbourhood.” *Journal of European Public Policy* 26, 11 (2019): 1657-1677.

<sup>21</sup> Brodie, Meg. “Uncomfortable truths: Protecting the independence of national human rights institutions to inquire.” *UNSWLJ* 38 (2015): 1215.

<sup>22</sup> Khoso, Abdullah, and Umbreen Kousar. “The Founding Law of Pakistan’s National Commission on the Rights of the Child: Legal Challenges, Bureaucratic Barriers, and Vague Opportunities.” In Lux, Agnes, Brian Grin and Lovetta E Bass, eds *The Roles of Independent Children’s Rights Institutions in Advancing Human Rights of Children*, vol. 28, pp. 131-150. Emerald Publishing Limited, Bingley 2022.

<sup>23</sup> Sindh Human Rights Commission. “Annual Report 2019-2020”. (2020). <https://www.shrc.org.pk/annual-reports/SHRC-Annual-Report-2019-2020.pdf>

The three NHRIs are significantly dependent on NGOs to carry out their tasks because they lack sufficient funds, infrastructure, human resources, physical space, and financial independence. It is pertinent to note that Sindh is a large province and that these institutions have not been able to extend their structures at the district and tehsil levels due to inadequate budgetary allocations. Only the SHRC speaks out on issues related to law enforcement agencies, such as the problem of forced disappearance, in addition to advocating for funding to expand the SHRC's work so that more people may access it.

Cooperative work refers to the NHRIs' collaboration and coordination with other State agencies, NGOs, and civil society organizations to effectively carry out their mandates. The head of the SHRC stated on several occasions, including in the organization's annual report, that while Sindh's three HRIs can work with civil organizations, they have trouble getting the support of the officers in the departments or line agencies of the provincial government.<sup>24</sup> The line agencies' collaboration is essential for the HRIs to be able to protect vulnerable populations.

### *Powers to Intervene in Human Rights Abuses and Other Matters*

Given its mandate, an NHRI can conduct inquiries and investigations, gather data and documents, work with NGOs and government organizations, and publish reports, findings, and recommendations. The SHRC and the SCPA have Suo moto powers while the SCSW does not. The SCSW, however, does not have civil court authority and is not regarded as a quasi-judicial body. Instead, it is engaged by the government-controlled appropriate provincial ministries.

The SCPAA was revised in 2021 to expand its scope and mandate for the protection of children in the province.<sup>25</sup> Following the most recent changes, police will have no justification for neglecting to file reports on events involving children who suffer from various types of violence. Any law enforcement agency or the police must file the first information report (FIR) after receiving a complaint from a person or a representative of a child protection authority. The failure or non-registration of an FIR by the police shall be punished under the new statute.<sup>26</sup> The revised statute also grants the SCPA access to civil courts. By using its authority as a civil court under the Code of Civil Procedure (CrPC), 1908, it could issue a summon, require the presence of necessary officers, demand the presentation of pertinent papers, and check on the status. They will face prosecution in accordance with pertinent or applicable legislation in the event of non-compliance or subpar performance.<sup>27</sup>

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<sup>24</sup> Ibid.

<sup>25</sup> The Sindh Child Protection Authority (Amendment) Act <http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.XI%20of%202021.pdf>

<sup>26</sup> Hafiz, Tunio. "Sindh Assembly empowers child protection agency". (2021). <https://tribune.com.pk/story/2296402/sindh-assembly-empowers-child-protection-agency>

<sup>27</sup> The Sindh Child Protection Authority Act of 2011. <http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.XI%20of%202021.pdf>

The SHRC is permitted to visit detention facilities, with a provision that it must give advance notice to the relevant authorities. However, the SCSW is fully authorized to inspect any detention institution housing women and girls and to provide the authorities without prior information to the concerned quarters. The SCPA is required to visit prisons and other detention centers, but the officers have to take prior permission. The question is, why is there a discernment of powers among HRIs in visiting detention centers? It perhaps shows the lack of legal wisdom or inapt approach towards the specific HRIs; this area also requires a thorough investigation.

### *Pluralistic Structure*

Pluralism also guarantees the independence of the HRIs. The NHRI can promote and defend human rights in large part to pluralism.<sup>28</sup> It suggests that many social factors (from civil society) ought to be included in an HRI. Both men and women from the government and NGOs are members of the SCPAA. The SPHRA includes both male and female members from the government, NGOs, and religious minorities, but it does not speak for labor unions or groups that support peasant rights. The SCSWA also includes men and women from the government, NGOs, academics, and religious minorities, but it excludes members from trade unions, peasant groups, and organizations that support children's rights; no girl child is a member. It demonstrates that these HRIs, namely the SCPA, SHRC, and SCSW, lack a suitable pluralistic structure, which would undoubtedly affect their ability to safeguard citizens in general and particularly, the vulnerable groups. It is worth noting that none of its members are children, and there is no representation of children with impairments. To guarantee that children participate, and that child protection laws and procedures are followed, children must be included.<sup>29</sup>

### *Broad Mandate and Functions*

The broad mandate of NHRIs requires that these three HRIs support and uphold every human right acknowledged by international human rights laws. Citizens' human rights are to be promoted and safeguarded by the SCPA, the SHRC, and the SCSW. The extent to which the founding legislation of these HRIs fully abides by international human rights treaties like the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Convention against Torture, however, has yet to be determined (a few to mention). Evaluating Sindh's HRIs' compliance with international human rights treaties is outside our scope. However, these HRIs continue to advocate for the implementation of international treaties and urge the governments to do so by reforming existing laws and raising awareness about these among the public and government officials.

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<sup>28</sup> Smith, Anne. "The unique position of national human rights institutions: a mixed blessing?." *Human Rights Quarterly* (2006): 904-946.

<sup>29</sup> Byrne, Bronagh, and Laura Lundy. "Children's Rights and Policy-Making: a 6 P framework." *The International Journal of Human Rights* (2019).

The general duties of HRIs include advising, monitoring, taking complaints, disseminating human rights information, and carrying out other tasks specified by the establishing laws. The founding legislation of the three institutions in Sindh does specify these functions. Except for the SHRC, they may receive complaints, but they lacked the authority of a civil court and cannot take *Suo moto* actions or hold proceedings. These HRIs are not quasi-judicial. Thus, according to the Paris Principles, their capabilities are severely constrained.

The SCPA, the SHRC, and the SCSW mostly carry out circumscribed tasks, demonstrating that as per Paris Principles, their autonomy or independence is constricted. When complaints are made to these HRIs, they just refer them for redressal to other authorities. It is up to other authorities whether to entertain such complaints or not. As a result, these HRIs are unable to adequately address the human rights violations that workers and peasants have experienced involving children, and women. Ironically, people in general are unaware of the existence of these institutions, and those who are aware of them are confused about their purpose and ability to solve problems. However, an option open to victims is to gather information from the pertinent office (such as the Ministry of Justice or the police) and then report the incident to the relevant agency (such as the police or the judiciary) for action.

It is worth noting that when COVID-19 surfaced, the provincial departments and authorities were quick to adopt Standard Operating Procedures (SOPs) to stop the spread of COVID-19. Unfortunately, Sindh's HRIs lacked the necessary resources to ensure that underserved people were safeguarded during the COVID-19 outbreak. It is equally heart-wrenching to note that none of the HRI participated in establishing SOPs in the light of the ideals and principles of human rights. Also, these HRIs did not assert improving the SOPs as per their given thematic mandates. For instance, young prisoners housed in isolation or quarantine units in jails are vulnerable to abuse. However, the SCPA did not offer or make specific rules on how minors should be handled in detention facilities under human rights norms. Strict SOPs may have harmed women, prisoners, and children's human rights, specially girls'. HRIs ought to play an active role in defending the rights of these vulnerable populations, but they do not.

### ***International Engagement***

The ability of HRIs to support regional and global human rights authorities and procedures by exchanging their knowledge and expertise are referred to as international involvement. It is required of the SCPA, SHRC, and SCSW to publish reports. These organizations, however, are not allowed to submit reports to any UN human rights systems or bodies. They support the federal government, which oversees providing reports to the UN and ILO monitoring bodies, upon request. The SCPA, SHRC, and SCSW do not have the power to directly, independently, and without concern for retaliation report cases to



foreign monitoring organizations (for more comparative discussion, see Tables 1 and 2).

Table 2: (Sindh’s Three Human Rights Institutions’ founding laws in the Context of Paris Principles)

<b>Paris Principles</b>	<b>The Sindh Child Protection Authority Act, 2011</b>	<b>The Sindh Human Rights Act, 2011</b>	<b>The Sindh Commission on the Status of Women Act, 2015</b>
Independence from the influence	-Partial: It is constituted under the statutory law -Appointment and removal through the executive bureaucratic process	-Appointment and removal through the parliamentary process -More organizational powers and functions -Yet, it cannot intervene in the state matters such as enforced disappearance	It is constituted under the statutory law
Powers to intervene in human rights abuses and other matters	-Partial powers to intervene in all matters of child rights abuses	-Full powers to intervene; yet, practically not possible	-Partial powers to intervene in all matters of women's rights abuses
Pluralistic structure	-Partial: not representative of all segments of civil society, especially children’s leaders	-Partial: not representation of segments of civil society	-Partial: not representation of segments of civil society
Broad mandate and functions	-Partial: powers to take Suo-moto; or intervene in human rights abuses	-Yes: powers to intervene and take Suo moto action; clearly defined in the law	-Partial: No powers to take Suo-moto; or intervene in human rights abuses
Resources and co-operative work	-Yes: Predetermined budget published in the budget book	-Partial: budget is allocated by the government	-Partial: budget is allocated by the bureaucratic
International engagement	-It has a mandate but being a sub-national body cannot directly report to any international agency	-Same	-Same

## Discussion: Three HRIs' Promises and Performance?

To highlight the significance of HRIs in defending the rights of various groups in the province, a cursory overview of the condition of human rights in Sindh is provided with the purpose to look at the practical role of HRIs to address a variety of challenges and to establish restraint for law enforcement authorities as well as offenders.

Due to their limited mandates and authority, three HRIs are restrained to act as the post office, which demonstrates their lack of independence. The SHRC's statements reinforce that perception, whereas it has been conferred with more powers as compared to the SCPA and the SCSW. When complaints are received from the grieved parties or victims of the HRIs, these are referred to other authorities for the appropriate actions. But after referring the complaints with due recommendations by the HRIs, there is no legal power or mandate to assert or force the relevant authorities (such as the police, labor department) to implement the relevant recommendations. The SHRC received 1,700 complaints of human rights violations in the province between June 2016 and June 2021. The cases are properly investigated, and suggestions are submitted to the appropriate authorities (Sindh Human Rights Commission, 2020).<sup>30</sup> Yet, action upon the SHRC's recommendations remains limited.

According to textual analysis of the founding laws, the SHRC and the SCPA have the authority to conduct their independent investigations regardless of whether the complainant contacts them or not. The SCWS, on the other hand, lacks authority and is only able to collect information when a victim or a victim's representative files a complaint. However, in practice, the SHRC and the SCPA remain mute on issues that significantly impact human rights, such as in November 2021, *the sitting Member Provincial Assembly of Sindh (MPA) Awais Jokhio allegedly murdered Nazim Jokhiyo in Thatta*,<sup>31</sup> and another sitting MPA Ganhwer Khan Isran had allegedly murdered a poor young woman Fahmeeda Sial in broad daylight in the Khairpur district.<sup>32</sup> Both MPAs were members of Sindh's ruling Pakistan Peoples Party Parliamentarian (PPPP) government. Sadly, in both cases, the major provincial human rights organizations (the SHRC and the SCSW) remained mute. Until the public's pressure increased through the media, the police did not assist the relatives of the victims in filing the FIRs. The families of both victims have consistently accused the police of injustice and protecting the powerful. The SCPA may have contributed to the protection of the deceased's children. It is disappointing that the three HRIs could not muster strength to help the deceased's families. Both accused were powerful members of Sindh's current PPPP government.

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<sup>30</sup> Sindh Human Rights Commission. "The Sindh Human Rights Commission. Annual Report 2019-2020". (2020) <https://shrc.org.pk/annual-reports/SHRC-Annual-Report-2019-2020.pdf>

<sup>31</sup> Dawn. "Jokhio murder case: PPP MPA remanded in police custody for three days". 2021. <https://www.dawn.com/news/1656136>

<sup>32</sup> Express Tribune. "PTI to fight case of Fehmida Sial". 2021. <https://tribune.com.pk/story/2328550/pti-to-fight-case-of-fehmida-sial>

They have a significant impact on the local governmental apparatus, especially the police, who are regarded as the guardians of the legal or criminal justice systems. Here, the duties of the SCPA, the SHRC, and the SCSW in these circumstances become more important.

Forced disappearances are a troubling issue in Sindh. Family members of the disappeared persons allege that law enforcement authorities had taken their loved ones against their will.<sup>33</sup> The SCSW and the SCPA may also take a stance on this problem because a missing person leaves behind a wife and children who suffer financially, socially, and psychologically.<sup>34</sup> In September 2019, the SHRC Chairperson raised her voice and suggested prosecuting the missing people in court rather than keeping them in secret places. Except for this lip service, the SHRC, however, chose not to pursue the cases of missing people and support their families.

There is the potential role and added value of HRIs in the larger development environment, particularly in influencing development processes, with detailed case studies in areas including involvement in developing poverty reduction strategies, decentralization programs, policy, and budget monitoring.<sup>35</sup> However, there is no discernible role of the three HRIs in such policy matters. In Sindh, the population's growing economic poverty is the primary obstacle. Over 35% of people in the province are considered to be poor.<sup>36</sup> According to a 2016 analysis of the Multidimensional Poverty Index (MPI), Sindh has an MPI of 0.231, a high incidence of poverty of 43%, and a high intensity of 53.5%.<sup>37</sup> The huge proportion of the rural poor in the province who have extremely tiny holdings or are landless is the most important segment of the poor. These HRIs' role in land reform is also negligible- the civil society and its members have also not been vigorous in calling for land reforms.

Similarly, the Government of Sindh appointed chairpersons and members of three HRIs hardly raise their voice in ameliorating the miseries of peasants and rural workers who are often trapped in debt bonded by landlords sitting in the Sindh Assembly and National Assembly of Pakistan and part of the ruling government. In Sindh, sharecroppers account for over 60% of all peasants.<sup>38</sup> According to the Labor Force Survey 2018, men in agriculture earned Rs 11,806 per month, while women earned Rs 6,007 per month.<sup>39</sup>

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<sup>33</sup> The Express Tribune, "86% cases involving missing, disappeared person resolved, claims Sindh govt". <https://tribune.com.pk/story/1899970/86-missing-disappeared-person-cases-resolved-claims-sindh-govt>

<sup>34</sup> Medina, Eden, and Ilan Sanberg Wiener. "Science and Harm in Human Rights Cases: Preventing the Revictimization of Families of the Disappeared." *Yale L&J* 125 (2015): 331.

<sup>35</sup> UNDP and OHCHR. "UNDP and OHCHR Toolkit for collaboration with national human rights institutions." (2010). <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>

<sup>36</sup> Government of Sindh. "Sindh Agriculture Policy 2018-2030". <http://extwprlegs1.fao.org/docs/pdf/pak191432.pdf>

<sup>37</sup> Khoso, Abdullah. & Akram Ali Khaskheli. "The State of Peasants' Rights in Sindh in 2020." (2021)

<sup>38</sup> Government of Sindh. Sindh Agriculture Policy 2018-2030. <http://extwprlegs1.fao.org/docs/pdf/pak191432.pdf>

<sup>39</sup> Labour Force Survey 2017-2018. "Average Monthly Wages of Employees by Major Industry Divisions" [http://www.pbs.gov.pk/sites/default/files/Labour%20Force/publications/lfs2017\\_18/Annual%20Report%20of%20LFS%202017-18.pdf](http://www.pbs.gov.pk/sites/default/files/Labour%20Force/publications/lfs2017_18/Annual%20Report%20of%20LFS%202017-18.pdf)

With this pitiful wage, a worker, male or female, cannot provide a monthly living for their family. The Global Slavery Index 2018 estimates that 3.18 million people in Pakistan are now enslaved. Out of 167 nations, Pakistan comes up at number eight on the index. It is disturbing to note that bonded labor is extensively used in agriculture, fishing, construction, the carpet industry, and household tasks. The great majority of these bonded workers reside in Sindh.<sup>40</sup> Numerous bonded laborers, including women and children, are freed from the landowners' control every year. Only when a member of the family of bonded workers escapes and makes a court application may these people be released. The police are to retrieve the imprisoned family members, according to local courts. After the release, no charges are brought, and no one is detained. Three HRIs could have played an effective role to get the District Vigilance Committees notified and functional in all districts of Sindh as prescribed in the Sindh Bonded Labor System Abolition Act of 2015, but that remains an unaccomplished task.

The SCPA's role is missing in not only protecting children from slavery and bondage in rural areas but also contribute little in saving children from dying due to malnutrition and hunger in the Tharparkar region of Sindh. Poor health is made worse in rural regions by poverty and economic vulnerability. Sindh is the province with the largest proportion of stunted children (under the age of five), with 61.1% of children there, according to the Pakistan Demographic and Health Survey (2017–18). Lack of nutrition leads to stunting since it lowers children's immunity.<sup>41</sup> In Sindh, serious iron deficiency or low hemoglobin levels in children are common (anemia). All three HRIs role is negligible to address the issue of around 6 million out-of-school children in Sindh. Eight million children were enrolled in educational institutions in Sindh, however, only 42% of them were female. A high percentage of Sindh's girl's schools are found devoid of essential facilities including boundary walls, restrooms, and running water. For girls' education, only 19% of Sindh's budget was allocated. Girls made up 53% of the 6.4 million children in Sindh who were not in school.<sup>42</sup> In 2013, 2016, and 2020, 583, 987, and 861 child sexual abuse cases were reported in the province respectively. It is shameful and alarming that from 2002 to 2019, 635 children were sexually molested by police officials at police stations or housing under police control.<sup>43</sup> Why these three HRIs are not serving as an effective deterrent to abusers, particularly law enforcement? This needs careful review and further research.

In 2021, in Sindh, 885 instances of child abuse cases were reported, including 455 instances of sexual assault, 139 incidents of kidnapping, 245 instances of children going missing, and 47 instances of child marriage.<sup>44</sup> In 2021, 80 child marriage cases were registered in Pakistan and Sindh accounted for 59%. Furthermore, Khairpur, Sukkur,

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<sup>40</sup> Khoso, Abdullah. & Akram Ali Khaskheli. *The State of Peasants' Rights in Sindh in 2020*. (2021).

<sup>41</sup> Inam, Moniza. "Health: Sindh's hunger games". (2019). <https://www.dawn.com/news/1465748>

<sup>42</sup> Khoso, Abdullah., Umrani, U. & Akram Ali Khaskheli. "The Political Economy of Education of Sindh in 2020." (2021). <https://hariwelfare.org/wp-content/uploads/2021/06/The-Political-Economy-of-Education-in-Sindh-2020.pdf>

<sup>43</sup> Sahil. "Cruel Numbers 2021: A compilation of statistics on child sexual abuse cases in Pakistan." Islamabad. 2022.

<sup>44</sup> The Express Tribune. Violence against children on the rise in Sindh. (2022). <https://tribune.com.pk/story/2387207/violence-against-children-on-the-rise-in-sindh>

Larkana, Hyderabad, Dadu, Ghotki, and Nusheroferoz were all in Sindh-- Pakistan's 10 most vulnerable abduction areas.<sup>45</sup> These cases demonstrate that child protection remains a low priority both with the government and the three HRIs – specifically the SCPA. The cases of *Karo Kari* have not been reduced. In 2020 and 2021, 113 and 126 cases of *Karo Kari* (honor killings) were respectively reported in Sindh.<sup>46</sup> One of the primary tasks of the SHRC and the SCSW has been to prevent such cases and provide support to victims.

From the above analysis, it is evident that these HRIs were not adequately prepared to protect and safeguard the underserved groups or at least could have highlighted their problems at different forums. Departments and provincial authorities had issued or announced Standard Operating Procedures (SOPs) (or stringent measures) to stop the spread of COVID-19. However, none of the HRIs participated in the SOPs or was present on the ground to guarantee that their target population received the best care possible. Children who are kept in isolation or quarantine wards, for instance, run the danger of suffering abuse. On the other hand, the SCPA, the SHRC, and the SCSW have not offered or made any specific recommendations for how to treat women and children in accordance with human rights norms. Officials in prisons and other institutions of care were unfamiliar with the protocols that would enable them to consider human rights concepts while conducting business inside their walls.

It is unfortunate and sad that during COVID-19, the three HRIs remained dependent on NGOs/INGOs and UN agencies to carry out their tasks as they lacked adequate funds, infrastructure, human resources, physical space, and financial independence. These HRIs also could not show vigor and vitality to take initiative and help the poor, marginalized, and underserved against the human rights violators.

This research has found that overall, the SCPA, the SHRC, and the SCSW have weak mandates and powers in their foundational laws. Therefore, it is worrisome that HRIs would not be able to monitor human rights, conduct investigations, or carry out other obligations under the Paris Principles and other human rights treaty obligations.

In their present form, these HRIs are small self-governing organizations. As noted above, the founding laws of the SCPA, SHRC, and SCSW are weak and are likely to remain ineffective. The creation of three HRIs by the Sindh Provincial Assembly is a heroic effort in launching progressive and futuristic human rights laws. These must be strengthened so that the three HRIs are institutionalized into effective rights protection organizations.

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<sup>45</sup> Sahil. Cruel Numbers 2021. Islamabad: Sahil. (2022).

<sup>46</sup> Sindh Police. "Crime states all cities" [https://www.sindhpolice.gov.pk/announcements/crime\\_stat\\_all\\_cities.html](https://www.sindhpolice.gov.pk/announcements/crime_stat_all_cities.html)

## Conclusion

The SPHRA, SCSWA, and SCPAA are all significant pieces of law. The three laws seek to establish independent bodies that are in charge of carrying out their provisions and guaranteeing accountability while defending and advancing the rights of less powerful communities. Additionally, these laws allow for the development of several independent mechanisms to address issues related to women's rights, human rights, and child protection. These primarily aim to establish a framework for the legal prevention and treatment of different types of exploitation, abuse, and discrimination against women, children, and other vulnerable populations.

The SCPAA aspires to create a child protection system in the province with an emphasis on child protection. It specifies the responsibilities and duties of the Sindh Child Protection Authority and allows for its creation. In the province, the SPHRA seeks to uphold and advance human rights. It creates the Sindh Human Rights Commission and explains its duties, which include promoting human rights education and looking into cases of human rights breaches. The SCSWA works to advance women empowerment and gender equality in the province. It creates the Sindh Commission on the Status of Women and describes its duties, which include advising the government on policies and initiatives pertaining to women rights as well as conducting research and advocating for problems that impact women. The SCPAA and SPHRA both create independent organizations with the authority to look into and respond to violations of children and human rights, respectively. On the other hand, the SCSWA creates a body that serves largely as an advisory one.

The absence of effective implementation and enforcement measures remains a key weakness of these laws. Although these laws call for the creation of independent institutions to monitor their application, additional funding and capacity-building are required to ensure that these bodies can carry out their duties in an efficient manner. The absence of coordination and cooperation among the different bodies created by these regulations is another gap. To ensure that these organizations' activities are complementary and supplement each other, coordination and communication must be improved.

This research has found that compared to the SCPA and the SHRC, the SCSW has weak mandates and limited powers in its founding law. The key independent feature of the HRI is its ability to investigate complaints, which is comparable to a civil court hearing a case under the Code of Civil Procedure, 1908 (Act V of 1908). The SCPA and the SHRC have powers to take *Suo moto* actions. But only the SHRC could initiate the proceedings, in which no other court can intervene. However, such authority is not given to the SCSW and the SCPA. The appointments of the chairperson/Director General and members of the SHRC and the SCPA are done through civil bureaucrats, whereas the removal of these officials in all these HRIs is also done by bureaucrats. Only, the SCSW's chairperson and members are appointed through the parliamentary process, yet their removal

falls under the jurisdiction of bureaucracy. Such limitations imply that if the founding laws do not guarantee independence and autonomy to these institutions, HRIs cannot monitor human rights, conduct investigations, or comply with the Paris Principles and other international human rights accords. The SCPA, the SPHR, and the SCSW do not adequately satisfy the requirements of the Paris Principles for HRIs. It is necessary to reform and amend these laws to enable them to successfully carry out their mandates in view of universal human rights.

In terms of their reach and application, the laws also contain some restrictions. For instance, the SCPAA does not address other matters pertaining to child welfare and primarily concentrates on child protection. Similar to the SPHRA, the SCSWA focuses primarily on the rights of particular groups while ignoring other crucial human rights issues. Access to justice for victims of human rights breaches, particularly for those who are marginalized or underprivileged, also has to be stressed more. By introducing clauses that guarantee victims have access to legal aid and support, the laws could be reinforced. Although these laws represent significant advancements in Sindh's efforts to safeguard and advance the rights of disadvantaged people, there are still areas that require improvement. This can be accomplished by investing in the mechanisms for implementation and enforcement, coordinating and cooperating with pertinent organisations, and raising public awareness of these laws and how they protect citizens rights.

To conclude, the founding laws of the three HRIs lack uniformity of power, functions, and independence. It will only be appropriate to amend the Sindh Child Protection Authority Act, the Sindh Protection of Human Rights Act, and the Sindh Commission on the Status of Women Act so that these conform with the Paris Principles.

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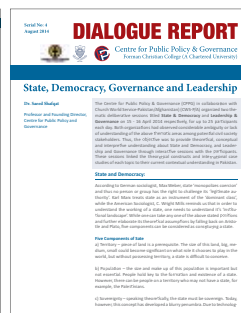
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