

Stereo. HCJDA 38
JUDGMENT SHEET
LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Writ Petition No. 10511/2020

Human Rights Commission of Pakistan and another
Vs.
Government of the Punjab and others

JUDGMENT

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| Dates of hearing: | December 5, 7, 11, 13, 14, 18, 19, 20, 21 and 22, 2023 |
| For the Petitioner: | Ms. Hina Jillani, Advocate, with Ms. Sabahat Riaz, Advocate. |
| For Respondents No.1 to 7: | Mr. Muhammad Mumtaz, Child Protection Officer (Legal), Ms. Samra Yar Muhammad, Child Protection Officer (Legal), Ms. Hira Hussain, Legal Assistant Child Protection & Welfare Bureau and Syed Fawad Hussain, Deputy Secretary (Law) CMIT. |
| For Respondent No.8: | Ms. Khalida Parveen, Additional Advocate General, and Mr. Sittar Sahil, Assistant Advocate General, with Zahoor Hussain, Secretary, Department of Social Welfare and Bait-ul-Maal. |
| For Respondent No.9: | Mr. Irshad Waheed, Director-General Punjab Women Protection Authority and Ms. Muneeza Manzoor Butt, District Women Protection Officer. |
| For Respondent No.10: | Ms. Mehak Naeem, Member, Punjab National Commission on the Rights of Child. |
| <i>Amici curiae</i> | Barrister Khadija Yasmin Bokhari and Mr. Usama Khawar, Advocate. |
| Research assistance: | Mr. Asim Murtaza Cheema, Research Officer, LHCRC. |

Tariq Saleem Sheikh, J. – This is a consolidated judgment for Writ Petition Nos. 10511/2020, 78009/2019, 73369/2019, and 75529/2019 as a common thread weaves through them.

Background of the cases

2. The national print and electronic media have sporadically reported incidents of abuse involving young girls in various *Dar-ul-Amans* (shelter homes) across Punjab. In November 2019, Ms. Afshan Latif, a former

Superintendent of Kashana (Lahore), a shelter for destitute and orphaned girls established by the Government of Punjab and managed by the Department of Social Welfare and Bait-ul-Maal (the “**Social Welfare Department**”), came in public and made horrifying statements about Kashana’s state of affairs. She *inter alia* alleged that the girls residing there were sexually abused and subjected to forced marriages in violation of the law and their fundamental rights. The Kashana Scandal, as it came to be called, received extensive media coverage and prompted numerous complaints about other children’s homes and orphanages. The public outcry led to an investigation by the Chief Minister’s Inspection Team (**CMIT**) into Ms. Latif’s allegations. The CMIT has submitted a copy of its report dated 15.10.2019 with its para-wise comments in this Court. The CMIT found that Ms. Afshan Latif’s allegations were false and recommended disciplinary proceedings against her under the PEEDA Act 2006 for inefficiency and misconduct. Ms. Afshan has challenged those proceedings in Writ Petition No.76827/2019, which is currently pending. However, the CMIT made the following observations regarding Kashna’s functioning/operations:

- “i) It appears that the Department of Social Welfare and Bait-ul-Maal Punjab has not issued proper SOPs regarding the functioning of Kashana. However, CMIT has received some self-prepared SOPs from Kashana Rawalpindi which were neither approved nor notified by the Department. However, according to the website of the Social Welfare and Bait-ul-Maal Department, the eligibility criteria for enrollment in the home for destitute girls (Kashana) is that the applicant should be of age 10 to 16, orphan or destitute girls, girls with single parents or at least with guardian are given preference of admission and applicant should be medically fit. The application form duly verified by the Chairman of the Local Zakat Committee or referred to by some gazetted officer is accepted. CMIT has observed that most inmates have families and homes and hail from Lahore. Some inmates were from Kasur and Sahiwal. As such, no homeless inmates were found at the time of visit. The Administrative Department has not framed a uniform and standard policy to accommodate only those inmates who fulfill the requirements.
- ii) There is no proper periodical inspection regime which is required for the check and balance system. Such a loose administration can create room for malpractices and corruption. The hierarchical structure, like the Divisional Director and Deputy Director, has no control over Kashana, Lahore.
- iii) ...
- iv) No rules, regulations or policy is available with the Superintendent administering the affairs of Kashana. There is no uniform criterion for admission and relieving of inmate girls. So much so that the admission form does not provide any preconditions for admission of inmates. Moreover, there is no system for students to follow up in terms of their education and health. Copies of students enrolled in

different schools are not properly checked. Further, no I.T., technical, or vocational training is being imparted to the inmates.

- v) Similarly, CMIT observed no nutritional, emotional, or psychological care to inculcate social and moral values in Kashana. Regarding medical aid, the Superintendent claimed that medical facilities were being provided to inmates but no such record was shown. As regards the nutritional needs of inmates, the Superintendent could only show a menu of last month, which means that there is a hotchpotch system that could not delineate how the meals were being provided to inmates and whether the meals were enough to fulfill their nutritional needs. As far as the psychological and emotional health of inmates is concerned, Kashana does not provide any psychological help to them. Kashana does not have a proper approval mechanism for shifting inmates to mental hospital. The procedure adopted by the Incharge Kashana was found inadequate.
- vi) No system of record management is in place. There was no separate register for the inventory of donations received from philanthropists. *Prima facie*, no transparent methodology is available to distinguish the expenditure incurred from regular budget or donations. The Superintendent could not produce any cash book, vouchers, ledger, or bill register, which means that the expenditure incurred from the government budget and donations are not being properly accounted for.
- vii) ...
- viii) The Superintendent Kashana was asked to provide minutes of the meetings of Advisory Committee which she failed to provide. However, the monthly progress report of Kashana pertaining to the month of July 2019 shows that the advisory committee has been de-notified, and it does not exist right now. The absence of SOPs, lack of an audit regime, and de-notification of the Advisory Committee show that Kashana has a dilly-dally administrative setup running on the whims of the In-charge.
- ix) As far as the position of budget and expenditure for the financial years 2016-17, 2017-18, and 2018-19, and the first quarter of 2019-20 is concerned, Kashana has received Rs.5,272,300/- against which an amount of Rs.3,652,228/- has been expended. Similarly, against the final release of Rs.11,562,800/-, Superintendent Kashana has incurred an amount of Rs.11,423,370/- during the financial year 2017-18. An amount of Rs.13,053,400/- was released during the financial year 2018-19, against which an expenditure of Rs.11,674,203/- has been booked. As regards the first quarter of the financial year 2019-20, an amount of Rs.3,061,000/- has so far been released, against which an expenditure of Rs.294,448/- has been shown. However, the fact remains that Superintendent Kashana or the Department could not provide vouchers or receipts of any amount expended during the aforementioned financial years.”

3. The CMIT made the following recommendations to improve Kashana's working:

- i) A well-defined Standing Operating Procedures should be developed by the Department for Kashana, displayed at a visible place, and followed in letter and spirit.
- ii) An overarching policy framework stipulating admission and relieving of inmates may be devised whereby only destitute girl children from the age of 10 to 16 may be admitted after complete scrutiny of family history with evidence that girls being admitted should be orphan, homeless, coming from broken families, single

parent who has no capacity or will to financially support her or the girls having no guardian. The Administrative Department ought to frame a uniform and standard policy to accommodate only those inmates who fulfill the aforementioned pre-requisites. A set of rules and regulations may also be devised by the Administrative Department in light of the Social Welfare and Bait-ul-Maal Department's policy.

- iii) A proper check and balance system may be put in place with a regular feature of periodical and random inspection and monitoring of Institutions like Kashana, which at present exhibits a loose administrative setup in order to curb the elements of malpractices and corruption.
- iv) The Department should arrange pre-service and in-service training facilities for the officers like the Superintendent, Warden, Social Medical Officer, and Social Welfare Officers on customized modules of the financial management role of DDOs and HRM to ensure that they could handle the institutions like Kashana in future following the procedures to be laid down in rules & policy.
- v) The educational, medical, and psychological needs of inmate girls of Kashana must be addressed, and regular services of doctors and psychologists should be provided to them.
- vi) Kashana does not have a proper approval mechanism for shifting inmates to mental hospital. The shifting of inmates to mental hospital or halfway home may be allowed only on the basis of medical certificates issued by the doctors.
- vii) A system of record management may be put in place in Kashana. A separate register for inventory of donations received from philanthropists may be maintained, and such inventory may be properly reported to the Administrative Department. Similarly, the record of expenditure incurred from regular budget may be maintained and inspected by an officer appointed by the Administrative Department.
- viii) The schooling of inmate girls may be properly checked with a follow-up system. Further, training of inmates in I.T., technical or vocational fields may also be ensured.
- ix) The success stories of the Child Protection Bureau and other institutions may be studied to make room for improvement in Kashana. The Administrative Department may like to benefit from the systems adopted by the successful institutions.

4. The then Chief Minister, Punjab, approved the CMIT's above-mentioned recommendations and directed "immediate compliance" vide order dated 20.12.2019. The CMIT has furnished a copy of the said order to this Court.

5. The Kashana Scandal is directly at issue in Ms. Afshan Latif's Writ Petition No. 76827/2019, *supra*. While the present petitions also stem from that scandal, their focus is broader. They question the regulation and oversight of various shelter homes and protection facilities for women and children in Punjab. The Petitioners contend that the Chief Minister's order dated 20.12.2019 has been disregarded. They urge this Court to invoke its constitutional jurisdiction and issue directives to the relevant authorities to

safeguard the fundamental rights of vulnerable women and children residing in these shelter homes.

6. In W.P. No. 78009/2019, the following questions of law emerge:

- (i) Under what legislative framework does the Government of Punjab establish and operate the shelter homes/Dar-ul-Amans and Women Protection Centres?
- (ii) Which government institution is responsible for the establishment, administration, and oversight mechanisms of shelter homes/Dar-ul-Amans and various women's protection centres established across Punjab?
- (iii) Has the Government of Punjab defined and distinguished the jurisdictions and mandates of the Punjab Social Welfare and Bait-ul-Maal Department and Women Protection Authority (established under the Punjab Women Protection Authority Act 2017) concerning shelter homes and protection centres?
- (iv) What is the status of the implementation of the Punjab Protection of Women against Violence Act, 2016, under which the Punjab Government is mandated to establish Protection Centres and shelter homes across Punjab?
- (v) What oversight mechanisms, including complaint management systems, are in place to ensure the safety, protection, and well-being of residents of the government-run Dar-ul-Amans/shelter homes, and are they adequate?
- (vi) How are the privately run shelter homes regulated? Is there any legislative framework in place?
- (vii) What specific measures should be implemented regarding the marriage of residents in Dar-ul-Amans, and what regulatory framework should govern such matters?

7. W.P. No. 10511/2020 raises the following issues:

- (i) How is the Province of the Punjab establishing and operating different institutions for the welfare of children?
- (ii) Which government institutions/departments are responsible for administering and overseeing the child protection mechanisms in Punjab?

8. Similar questions arise in the other two petitions.

Pakistan's international commitments

9. The international legal framework concerning women's rights to protection and shelter is anchored in several key human rights instruments and conventions that collectively aim to address and mitigate the vulnerabilities faced by women globally. The Universal Declaration of Human Rights (**UDHR**) is central to this framework, which articulates the right to an adequate standard of living, including housing, under Article 25. This foundational document underscores the inherent dignity and equality of

all individuals, laying the groundwork for subsequent treaties and declarations that specifically address gender-based discrimination and violence.

10. The Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**), adopted in 1979, is one of the most significant instruments in this regard. CEDAW mandates that States eliminate discrimination against women and ensure their access to rights in various spheres of life. It calls for the provision of shelters and support services to women who are victims of violence, emphasizing the importance of creating safe environments where women can seek refuge and support.¹

11. Similar protections exist under the ***International Convention on the Elimination of All Forms of Racial Discrimination***,² the ***Convention on the Rights of Persons with Disabilities***,³ and the ***Beijing Declaration and Platform for Action of 1995***, to which Pakistan is a signatory. The Beijing Platform serves as a comprehensive global policy framework for gender equality and the fundamental rights of women and girls. Strategic Objective D.1. of the Declaration calls for integrating measures to prevent and eliminate violence against women. Paragraph 125(a) of Objective D.1 specifically recommends that States provide “well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological, and other counseling services and free or low-cost legal aid where needed, as well as appropriate assistance to enable them to find a means of subsistence.”⁴

12. Specifically on the right to housing as a vital component of the right to an adequate standard of living, the United Nations Special Rapporteur on Adequate Housing has provided several guidelines with specific implementation measures for States, public authorities, and regional and local governments for the implementation of the right to adequate housing.⁵ The

¹ While CEDAW does not specifically reference “housing”, its provisions on non-discrimination, safety, and protection have been widely interpreted as including the right to shelter and safe housing for women. General Recommendation No. 19 on violence against women highlights that States should provide protective and support services, like shelters, for women at risk.

² Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination specifically includes “the right to housing” as a right that States Parties must guarantee on a non-discriminatory basis. This obligates States Parties to actively ensure that housing is accessible to all individuals without racial discrimination.

³ Article 28, right to an adequate standard of living and social protection.

⁴ Beijing Declaration and Platform for Action,
https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/PFA_E_Final_WEB.pdf

⁵ U.N. Special Rapporteur, Guidelines for the Implementation of Right to Adequate Housing, A/HRC/43/43, December 2019
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>

first guideline recognizes the right to adequate housing as “integral to core human rights values such as dignity, equality, inclusion, well-being, security of the person and public participation” and calls on States to “guarantee the right to housing as a fundamental human right linked to dignity and the right to life”.⁶ Guideline 9 calls for ensuring gender equality in housing and land by recognizing it “as a central component of women’s right to substantive equality”. The guidelines recognize domestic violence as one of the leading causes of homelessness for women and that the “lack of alternative housing options for women experiencing violence in the home places their security and lives at risk”.⁷ It calls for reforming laws, policies, and practices so they “alleviate the systemic disadvantages that women experience.” Furthermore, the guideline also calls for the provision of emergency shelters and prompt access to front-line crisis services to those women who face household violence.⁸

13. The United Nations Convention on the Rights of the Child (**UNCRC**), adopted in 1989, is the primary international treaty that sets out the comprehensive framework for children’s rights. Under the UNCRC, children are entitled to special protection and assistance to ensure their physical, mental, and social well-being. This includes the right to adequate housing and shelter, as articulated in Article 27, which calls on States Parties to ensure that every child has the right to a standard of living adequate for their physical, mental, spiritual, moral, and social development.

14. Moreover, the UNCRC mandates States to protect children from all forms of abuse, neglect, exploitation, and violence and to take measures to prevent such occurrences. Article 19 specifically addresses protection from violence, including physical and mental violence, injury, abuse, and neglect. States are required to establish appropriate social programmes for the prevention of abuse and the treatment of victims. The UNCRC also emphasizes the importance of the family environment for the upbringing and

⁶ Guideline 1, U.N. Special Rapporteur, Guidelines for the Implementation of Right to Adequate Housing, A/HRC/43/43, December 2019
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>

⁷ U.N. Special Rapporteur, Guidelines for the Implementation of Right to Adequate Housing, A/HRC/43/43, December 2019, para 51, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>. Also see: OHCHR, Women and the Right to Adequate Housing, p. 76. See also A/71/310, para. 24, and A/HRC/35/30, para. 73

⁸ U.N. Special Rapporteur, Guidelines for the Implementation of Right to Adequate Housing, A/HRC/43/43, December 2019, para 51 - <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>, para 53(c)

development of the child, advocating for alternative care when necessary and ensuring that it is consistent with the child’s best interests.

15. In addition to the UNCRC, other international instruments and conventions further protect children’s rights to protection and shelter. These include the International Covenant on Economic, Social and Cultural Rights (**ICESCR**), which recognizes the right of everyone, including children, to an adequate standard of living, which encompasses housing, and the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, which enhances protection against exploitation and trafficking. **International Labour Organization (ILO) Convention No. 182 on the Worst Forms of Child Labour** underscores protections needed for children’s well-being, including shelter and protection from hazardous conditions. **The United Nations Guidelines for the Alternative Care of Children** emphasize the importance of family and community-based care and provide principles for the protection and well-being of children who are in alternative care settings.

16. Beyond the above-mentioned global agreements, regional human rights treaties also play crucial roles in protecting and promoting women’s and children’s rights. These instruments provide a basis for advocacy, policy development, and accountability, urging governments to adopt measures that effectively address gender inequalities and ensure that women have access to safe housing and support services.

17. Pakistan is a signatory to almost all the international conventions and agreements that protect the rights of women and children. Over the last two decades, the Government has taken various steps to incorporate human rights values into its statutes, policies, and action plans.

Right to shelter under the Constitution of Pakistan

18. The framers of the 1973 Constitution of Pakistan (the “**Constitution**”) envisioned the creation of a “new social order” based on egalitarian principles.⁹ The right to housing, though not expressly mentioned in the Constitution as a fundamental right, can be inferred from Article 9 (right to life and liberty), Article 14 (right to dignity), and Article 25 (right to equality). In ***Shehla Zia and others v. WAPDA*** (PLD 1994 SC 693), the

⁹ Preamble of the Constitution of 1973

Supreme Court of Pakistan ruled that the word “life” in Article 9 covers all facets of human existence. It stated: “The word ‘life’ has not been defined in the Constitution, but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally.” The Supreme Court interpreted “life” to include all rights necessary for a free, proper, comfortable, and clean life, drawing parallels with the United States Constitution and Indian jurisprudence. Later, in *Employees of the Pakistan Law Commission v. Ministry of Works* (1994 SCMR 1548), the Supreme Court specifically ruled that the right to housing is a part of the right to life. In this case, the employees of the Pakistan Law Commission had filed a petition under Article 184(3) of the Constitution praying for allotment of official residences. The Supreme Court stated:

“It is thus clear that Article 9 of the Constitution, which guarantees life and liberty according to law, is not to be construed in a restricted and pedantic manner. Life has a larger concept, which includes the right to enjoyment of life, and maintaining an adequate level of living for full enjoyment of freedom and rights. In this background, the petitioners' claim to be provided accommodation during the tenure of service, which is necessary for maintaining an adequate level of living, in our opinion, is covered by Article 9.”

(emphasis added)

19. The right to housing can be extrapolated within our Constitution if Article 9 is read in conjunction with 38(d), which falls in Part-II Chapter 2 of the Constitution under the heading “Principles of Policy”. In *Olga Tellis and others v. Bombay Municipal Corporation and others* (AIR 1986 SC 180), the Supreme Court of India explained that the Principles of Policy must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of fundamental rights. The relevant excerpt is reproduced below:

“The Principles [of Policy] contained in Articles 39(a) and 41 must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of fundamental rights. If there is an obligation upon the State to secure the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life. The State may not, by affirmative action, be compellable to provide adequate means of livelihood or work to the citizens. But, any person who is deprived of their right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21.”

20. While the right to housing, recognized as a fundamental right of citizens, obliges the State to ensure that every individual has access to adequate housing, reflecting the State's commitment to social justice and equality, the State's duty extends beyond this general obligation when it comes to vulnerable groups such as orphans, children, and women who are subjected to violence and abuse. Here, the doctrine of *parens patriae* comes into play, which refers to the State's role as a guardian for those who are unable to care for themselves. Under this doctrine, the State assumes a protective role, providing housing, essential care and support systems tailored to the specific needs of these vulnerable populations. Safe spaces are fundamental for women and girls to access their rights. A network of well-run, adequately resourced, and effective shelter homes and protection centres is vital for women and girl survivors of violence. With proper regulation and oversight, these shelter homes and protection centres can become sanctuaries of hope, resilience, and empowerment for women and girls, supporting their rehabilitation and reintegration into society.

History of the establishment of government-run shelter homes and protection centres for women

21. The history of the establishment of shelter homes/Dar-ul-Aman is not well documented. Apparently, the first Dar-ul-Aman, *Dua*, was established in Lahore in 1963 by a private institution Anjuman-e-Himayat-e-Islam.¹⁰ Although the Lahore Dua was private, it had patronage from the Social Welfare Department.¹¹

22. The Government of Punjab also established *Dar-ul-Falahs*, which are mother and children homes in which widowed/divorced, separated, and needy women with children are admitted and over a period of time rehabilitated in society. As per the Social Welfare Department's website, the first Dar-ul-Falah was established in Sialkot in 1966. There are now six Dar-ul-Falahs working in the divisional headquarters of Punjab (Lahore, Sargodha, Rawalpindi, Sialkot, Multan, and Bahawalpur), and each home can accommodate 30 women along with their children.¹²

¹⁰ History of Social Welfare and Domestic Violence Shelters called Dar ul Amans: A Case Study of Punjab Province Pakistan, Pakistan Journal of Criminology Vol. 10, Issue 2, April-June 2018 (94-106).
<http://www.pjcriminology.com/wp-content/uploads/2019/01/6.pdf>

¹¹ See: *Mst. Zubadia Khatoon vs. Chief Secretary, Government of Punjab* (PLD 2003 Lahore 53).

¹² https://swd.punjab.gov.pk/mother_and_children_homes

23. Subsequently, during the period between 1973 and 1986, the Government of Punjab, under the then Ministry of Social Welfare, Women Development and Bait-ul-Maal, established eight *Rescue Homes* for women who were victims of violence had left their homes and needed immediate shelter.¹³ Rescue Homes were first established in the eight former divisional headquarters of the Punjab (Lahore, Gujranwala, Faisalabad, Rawalpindi, Sargodha, Multan, Bahawalpur, and Dera Ghazi Khan).¹⁴

24. In 2004, the Social Welfare Department envisaged a scheme, namely “Strengthening and Capacity Building of Eight Existing Shelter Homes & Establishment of Shelter Homes in the remaining 27 districts of Punjab.” As a result, 27 new women’s shelter homes, called “*Dar-ul-Amans*” were established.¹⁵ As of today, there are a total of 36 Dar-ul-Amans established in all districts of Punjab, and these homes claim to accommodate 20 to 50 women at a time, as per the Social Welfare Department website.¹⁶

25. The Federal Government established the Shaheed Benazir Bhutto Human Rights Crisis Centres for Women (“**Crisis Centres**”) across Pakistan, administered by the Federal Ministry of Women Development. These were among the earliest shelters for women facing violence and abuse. After the Eighteenth Constitutional Amendment, the management of these centres was transferred to the provincial governments. In 2014, twelve centres were officially handed over to the Social Welfare Department. These centres are now located in Bahawalpur, Dera Ghazi Khan, Faisalabad, Muzaffargarh, Khushab, Lahore, Multan, Rawalpindi, Sahiwal, Mianwali, Sialkot, and Vehari.¹⁷

26. In March 2017, one Violence Against Women Centre (**VAWC**) was established in District Multan under the Punjab Protection of Women Against Violence Act, 2016.¹⁸

¹³ <https://dgme.punjab.gov.pk/system/files?file=EVL-45%20Evaluation%20Report%20on%20 Strengthening %20and%20Capacity%20Building%20of%208%20Existing%20Shelter%20Homes%20and%20Establishment%20of%20Shelter%20Homes%20in%20Remaining%2027%20Districts%20of%20Punjab.pdf>

¹⁴ History of Social Welfare and Domestic Violence Shelters called Dar ul Amans: A Case Study of Punjab Province Pakistan, Pakistan Journal of Criminology Vol. 10, Issue 2, April-June 2018 (94-106).

<http://www.pjcriminology.com/wp-content/uploads/2019/01/6.pdf>

¹⁵ <https://dgme.punjab.gov.pk/system/files?file=EVL-45%20Evaluation%20Report%20on%20 Strengthening %20and%20Capacity%20Building%20of%208%20Existing%20Shelter%20Homes%20and%20Establishment%20of%20Shelter%20Homes%20in%20Remaining%2027%20Districts%20of%20Punjab.pdf>

¹⁶ https://swd.punjab.gov.pk/women_shelter_homes

¹⁷ https://swd.punjab.gov.pk/crisis_centres

¹⁸ <https://pwpa.punjab.gov.pk/services>

Legal framework

27. The following are the primary laws/rules that deal with shelter homes and protection centres for women in Punjab:

- i) Punjab Government Rules of Business, 2011;
- ii) The Punjab Protection of Women Against Violence Act, 2016; and
- iii) The Punjab Women Protection Authority Act, 2017.

28. As noted above, the Government of Punjab patronized the private institution Dar-ul-Aman established in Lahore, but it is unclear under what law this was done. Similarly, no legislation existed at the time to authorize the Social Welfare Department or the Punjab Government to set up the rescue homes referred to above. The Dar-ul-Amans in other districts, created under a “government scheme,” also lack a clear legislative mandate for the Social Welfare Department or the Punjab Government to implement such a scheme. This ambiguity extends to the establishment of Dar-ul-Falahs.

29. According to the para-wise comments submitted by the Social Welfare Department, Dar-ul-Amans and Dar-ul-Falahs were established under the authority granted by the Punjab Government Rules of Business, 2011. These institutions are regulated by guidelines, standard operating procedures (SOPs), and minimum care standards issued by the Department from time to time.

30. It is also unclear under which law the Federal Ministry of Women Development established the Crisis Centres, and following the Eighteenth Amendment, under which provincial laws they are currently administered and regulated. The regulation of these centres appears to be governed by the SOPs developed by the Women Development Department, which remain in effect.

The Punjab Protection of Women against Violence Act, 2016

31. In 2016, the Punjab Assembly enacted the Punjab Protection of Women against Violence Act, 2016 (the “**Women Protection Act**”), which was subsequently amended in 2022.¹⁹ This is the *only* law directly dealing

¹⁹ The Punjab Protection of Women Against Violence (Amendment) Act 2022.

with establishing and administrating Protection Centres²⁰ and shelter homes²¹ in the province. Under Section 13 of the said Act, Protection Centres and shelter homes were to be set up in each district in Punjab. Initially, the Act was notified only for District Multan, with the establishment of a Protection Centre under Section 13 through a notification dated 22.03.2017. Later, the Act was extended to the entire province of Punjab, following approval from the Punjab Government in its 3rd meeting held on 04.11.2022, and through a notification dated 18.11.2022. Around the same time, the Punjab Protection of Women Against Violence (Amendment) Act 2022 (the “**Amendment Act of 2022**”) was also enacted.

32. It is necessary to highlight that, aside from Multan District, no shelter homes or protection centres have been established in any other district of Punjab under the Women Protection Act.

33. The Amendment Act of 2022 introduced changes to the Women Protection Act (2016), including in sub-sections (6) and (7) of Section 13.²² Under these amendments, where a Protection Centre or shelter home is not established under the Women Protection Act, the Secretary of the Social Welfare Department may, subject to such terms and conditions as he may determine, declare any existing government facility, centre, or institution providing similar services as a Protection Centre or shelter home for the purposes of this Act. Following these amendments, the Secretary declared the 36 existing Dar-ul-Amans in all districts of Punjab as shelter homes.

²⁰ Section 2(1)(l) of the Punjab Protection of Women Against Violence Act 2016 defines “Protection Centre” as under:

(l) “Protection Centre” means a Violence against Women Centre established or declared under the Act.

²¹ Section 2(1)(q) of the Punjab Protection of Women Against Violence Act 2016 defines “shelter home” as follows:

(q) “shelter home” means a premises established or licensed by the Government under the Act to provide board and lodging and rehabilitation services to the aggrieved persons, other women and their children.

²² For facility of reference, sub-sections (6) and (7) of Section 13 (as amended) are reproduced below:

(6) Where a Protection Centre or shelter home is not established under this section, the Secretary may, subject to such terms and conditions as he may determine, declare any existing Government facility, centre, or institution providing similar services as Protection Centre or shelter home for purposes of this Act.

(7) Where any existing facility, centre or institution is declared as Protection Centre or shelter home under sub-section (6), the infra-structure, paraphernalia, assets and the employees of such facility, centre or institution shall remain under the administrative control of the Social Welfare and Bait-ul-Ma.l Department of the Government:

Provided that the service structure and terms and conditions of service of the employees of such facility, centre, or institution shall continue to be governed under the law, rules, and policies applicable to them for the time being in force.

Additionally, 11 existing Crisis Centres and 25 Dar-ul-Amans were notified as “Protection Centres” under Section 13(7), effective from 21.12.2022.

34. The table below summarizes the existing shelter homes and Protection Centres for women:

| | |
|--------------------|---|
| Shelter Homes | 36 Dar-ul-Amans |
| | 07 Dar-ul-Falahs (not declared as shelter homes under s.13(6) but house widowed women and their dependent children) |
| Protection Centres | 25 Dar-ul-Amans |
| | 11 Crisis Centres |
| | 1 VAWC in Multan |

35. By declaring all Dar-ul-Amans and 11 Crisis Centres as shelter homes and Protection Centres under the amended Women Protection Act, these institutions now have a legal mandate for their operation, which was previously lacking.

Punjab Women Protection Authority Act, 2017.

36. The Punjab Assembly also enacted the Punjab Women Protection Authority Act, 2017 for the provision of a comprehensive, efficient, effective, and gender-equitable system for the protection, relief, and rehabilitation of women against all forms of violence in the Punjab; to control, monitor, and oversee that system; and to deal with matters ancillary thereto.²³ The said Act establishes the Punjab Women Protection Authority (the “PWPA”), an autonomous statutory and corporate body.²⁴ Section 6 outlines its powers and functions, which *inter alia* include: (i) establishing, maintaining, monitoring, governing, operating, and constructing Protection Centres in Punjab; (ii) executing, implementing, and administering the protection system and providing relief and rehabilitation for women against violence; (iii) issuing necessary instructions, directions, or guidelines to the District Women Protection Committees, District Women Protection Officers, or any other officers or officials engaged in the protection system, or to any other body for the implementation of the projects of the PWPA and the effective implementation of the provisions of the Punjab Women Protection Authority Act 2017 and the Women Protection Act 2016; and (iv) formulating

²³ Preamble of the Punjab Women Protection Authority Act, 2017.

²⁴ Section 3(2) of the Punjab Women Protection Authority Act, 2017.

and ensuring minimum standards, a code of conduct, and Standard Operating Procedures to be followed by persons engaged in the protection system.

37. The Amendment Act of 2022 introduced various amendments to the Women Protection Act of 2016 to align it with Section 6 of the Punjab Women Protection Authority Act 2017. These amendments make the PWPA directly responsible for the implementation of the 2016 Act as well.

38. While the Social Welfare Department retains administrative control over the infrastructure, assets, and employees of Protection Centres and shelter homes notified under Section 13(6) of the Women Protection Act (as amended), this control is secondary to the PWPA's regulatory functions. The PWPA is empowered to issue SOPs, guidelines, and instructions to Protection Centres and shelter homes, which will take precedence over any conflicting SOPs or guidelines issued by the department.

39. As adumbrated, the PWPA established a VAWC in District Multan in 2017 under the Women Protection Act. Once notified, the SOPs, guidelines, and regulations of the PWPA will also apply to this centre.

Implementation status of the laws dealing with Protection Centres and shelter homes

40. To ensure proper enforcement of women's fundamental rights, it is essential that the laws governing Protection Centres and shelter home facilities for women are implemented in both letter and spirit. According to the reports and para-wise comments submitted by the respondents, significant gaps exist in their implementation.

A. The Punjab Protection of Women against Violence Act 2016

41. Section 3 of the Women Protection Act mandates the Government to take several measures for its implementation, including establishing a universal toll-free number, setting up Protection Centres and shelter homes, appointing necessary staff, raising public awareness of the Act, and creating a database for monitoring and evaluation. However, implementation has been minimal. Since 2017, only one toll-free number and a single Protection Centre in Multan have been established, and staff appointments made solely in that place. Furthermore, there is no mechanism for sensitizing public officials, no data-based systems, and an overall lack of compliance with the law.

42. Section 11 requires the Government to establish a District Women Protection Committee in each district. However, only one committee has been notified in Multan, which operates without proper SOPs or guidelines. Section 13 mandates the establishment of Protection Centres, but only one new centre was set up in Multan. For all other districts of Punjab, existing government facilities such as Dar-ul-Amans and Shaheed Benazir Bhutto Human Rights Crisis Centres for Women were notified as shelter homes and Protection Centres, respectively. No serious endeavour was made to implement the law in its true letter and spirit. Instead, a stop-gap arrangement was put in place for quick enforcement of the law in Punjab by notifying existing shelter facilities and crisis centres as shelter homes and Protection Centres.

43. Section 14(1) obligates the Government to appoint a District Women Protection Officer and Women Protection Officers for each district to perform the functions outlined in sub-sections (2) and (3) of Section 14, respectively. However, appointments have only been made in Multan. In other districts, existing staff from different departments have been nominated to perform these functions without a proper structure or guidelines. Section 25 requires the PWPA to conduct performance audits of the protection system periodically, but this is not done. Section 27 mandates regular training for protection officers and staff, but the respondents have not provided any details regarding this in their replies or during the hearing of these petitions.

44. Section 28 mandates that the PWPA submit an annual report within three months of the end of the financial year to the Secretary, who will then present it to the Provincial Assembly of Punjab. This report should detail the services provided, rescue operations conducted, reasons for delays, performance audits, recommendations for reforms, and other matters specified in Section 28(2). However, the PWPA's annual reports have not fully covered all required aspects and data points.

45. Section 29 requires the Government to make rules for carrying out the purposes of the Act. However, even after eight years, they have not been framed. According to the PWPA, it has submitted draft rules to the Government, but these are still awaiting approval.

B. The Punjab Women Protection Authority Act 2017

46. Section 3 of the Punjab Women Protection Authority Act 2017 mandates the Government to establish the PWPA to fulfill the Act's purposes. The position of Chairperson has remained vacant from December 2022 until recently, with no legal justification provided for the delay in appointment.²⁵

47. The PWPA's responsibilities *inter alia* include developing standards and issuing guidelines for the protection system. However, only draft SOPs for Protection Centres have been prepared. No SOPs have been established for shelter homes. Furthermore, although the PWPA is mandated to hold monthly meetings, these are not conducted regularly.

48. Section 19 of the Act empowers the Government to conduct a performance audit of the PWPA, but no such audit has been conducted since its establishment. Section 20 of the Act requires the Director General to submit an annual performance report to the PWPA within three months of the end of each financial year. This report should detail all activities, developmental initiatives, achieved targets from the previous year, and future plans. The PWPA must then publish this report for public access and submit it to the Government, which in turn must present it to the Provincial Assembly of Punjab within ninety days. However, the annual reports for 2020/21 and 2022/23 submitted to this Court primarily list events and training sessions held mainly in District Multan. For 2022/23, the report mentions a one-day training session for District Women Protection Officers and Women Protection Officers in only 14 districts, including Lahore, with no training for officers in other districts as required by law. These reports are not available on the PWPA website and appear not to have been submitted to the Government or the Provincial Assembly.

49. Section 22 empowers the Government to make rules for carrying out the purposes of the Act by notification in the official Gazette. No rules have been drafted or notified by the Government. The PWPA is responsible for implementing and enforcing the Women Protection Act. In the absence of rules, its ability to evaluate and monitor effectively is significantly compromised.

²⁵ Ms. Hina Pervez Butt was appointed as Chairperson on 12 July 2024.

50. Section 23 provides that, subject to the Act and the rules, the PWPA may frame regulations for matters not provided for in the Act or rules and for which provision is necessary or expedient for carrying out the purposes of the Act. Despite eight years since its establishment, the PWPA has not made any regulations.

NCHR report

51. Recently, the NCHR and U.N. Women, in collaboration with the Aurat Foundation, released a comprehensive report titled "*More than Shelter: Needs Assessment of Dar ul Amans and Shelters in Pakistan.*" This report examines the conditions of Dar-ul-Amans across Pakistan, including three districts in Punjab. Key findings from the report are as follows:

(a) The physical infrastructure of shelter homes was lacking, with inadequate external environments and deficient security measures, such as missing jammers, security gates, and door viewers. Interior spaces, including rooms, kitchens, and bathrooms, were generally inadequate, while some shelters had no visitors' rooms, counseling rooms, or libraries. The study found fire safety to be unsatisfactory across all shelters. Chapter 4 of the NCHR Report further details the physical mapping results, revealing missing security systems and emergency exits in several Duas, with inadequate interior spaces and poor hygiene in toilets and bathrooms.

(b) A significant issue highlighted was the vacancy in staff positions, with many shelters lacking essential personnel, such as psychologists, preventing regular counseling for residents. The report documented the overall gaps in services, including discrepancies between the availability and accessibility of medical and legal aid. Educational activities and social integration services were notably absent or insufficient in most Duas.

(c) Challenges with the shelter environment were also evident, with a majority of residents not feeling safe. This was particularly pronounced in Peshawar and Rawalpindi, where all residents reported feeling unsafe. Psycho-social support was deemed unsatisfactory due to the absence of permanent or visiting psychologists, resulting in a lack of expert counseling and confidentiality concerns.

(d) Legal aid services, a basic need for survivors of violence against women and girls, were often reported to be available only at the residents' cost. Free legal aid was rarely available, increasing the vulnerability of survivors. Complaint-handling mechanisms were largely absent, with no systemic processes in place, and residents often resolved issues amongst themselves without proper support.

(e) A substantial portion of the budget allocated to Duas in Punjab was directed toward staff salaries, while the funds for survivors' daily meals were inadequate. No resources were earmarked for capacity-building or refresher training for shelter staff.

52. The Punjab Commission on the Status of Women conducted an empirical survey of the 35 Dar-ul-Amans in Punjab, titled "*The Sheltering Women from Harm: Dar-ul-Amans of Punjab - Achievements & Challenges*

2016.²⁶ This survey highlighted gaps and challenges existing at the time of the study, some of which are similar to those noted in the NCHR Report.

Existing oversight mechanisms (monitoring and evaluation system) for shelter homes and protection centres:

53. Since no SOPs or Rules have been framed under the Women Protection Act, which is the governing law, the following guidelines for administration and functioning and oversight as developed by the Social Welfare Department are currently in the field for the regulation of the Dar-ul-Amans/shelter homes:

- (i) Guidelines 2015 for the Dar-ul-Amans in Punjab (Shelter Homes for Women in Distress).²⁷
- (ii) Guidelines for the Protection of the Residents' Rights inside the Duas.²⁸
- (iii) TORs for the Provision of Legal Aid Services in Dar-ul-Amans.²⁹
- (iv) Complaints Management Committee TORs – as approved by Social Welfare Department in December 2014 to deal with Human Rights violations in Duas.^{30 31}
- (v) Advisory Committees Notification and Functions, 2015^{32 33}.

54. District Judges periodically visit Dar-ul-Amans and children's homes and issue necessary directives. They conduct these inspections in compliance with an order issued by the Lahore High Court a couple of years back in a constitutional petition. The Social Welfare Department has filed some of the District Judges' inspection reports with their reply in this Court, which I have reviewed. In my opinion, while there is little doubt that the

²⁶ <https://pcsw.punjab.gov.pk/system/files/ShelteringWomenfromHarmDarulAmansofPunjabAchievementsandChallenges2016.pdf>

²⁷ <https://swd.punjab.gov.pk/system/files/1.%20NEW%20-%20DUA%20Guidelines.pdf>

²⁸ <https://swd.punjab.gov.pk/system/files/1b.%20Guidelines%20for%20Protection%20of%20residents%27%20rights.pdf>

²⁹ <https://swd.punjab.gov.pk/system/files/TORs%20Pool%20of%20lawyers.pdf>

³⁰ <https://swd.punjab.gov.pk/system/files/TORs%20Complaints%20Management%20Committee.pdf>

³¹ The TORs of the Complaints Management Committees (CMC) stipulate that it shall consist of the SW District Officer, Dua In-charge, representatives of local NGOs, the chairperson of the Advisory Committee (or his/her representative), and a representative of the Dua residents. This body is supposed to address all complaints lodged at the Dua. Only 34% of Duas have active Complaints Management Committees. (Sheltering Women From Harm: Dar-ul-Amans of Punjab - Achievements and Challenges – 2016 <https://pcsw.punjab.gov.pk/system/files/ShelteringWomenfromHarmDarulAmansofPunjabAchievementsandChallenges2016.pdf>). However, since January 2023, all CMCs have been denotified and are not currently operational.

³² <https://swd.punjab.gov.pk/system/files/policy%20instruction%20of%20advisory%20committee.pdf>

³³ According to the Terms of Reference, the Advisory Committee comprises representatives of concerned departments such as police or education, the medical superintendent of the health department, a representative of the District Bar Association, prominent members of the local community involved in business and/or philanthropy, and the Dua In-Charge. Advisory Committees have multiple roles: They help mobilize additional funds through private donations as well as voluntary service providers from the public and private sectors; assist in monitoring adherence to the Guidelines and ensuring minimum standards of cleanliness, assist in arranging staff training. The Committee also has the authority to recommend the selection of women for admission to the shelter homes and to extend residents' stays. As of January 2023, Advisory Committees have also been denotified and are not functional.

District Judges' visits are beneficial, they are insufficient for comprehensive monitoring of Dar-ul-Amans.

55. The Social Welfare Department's reply filed with this Court states that each Dar-ul-Aman submits a monthly progress report. However, no such reports were provided, and it is unclear to whom these reports are submitted and how they are evaluated. Additionally, the Department claims there is live monitoring of Dar-ul-Amans through a Management Information System, but no details were provided on the system's location, operation, or the type of oversight and monitoring it ensures.

56. The Social Welfare Department's website claims that shelter homes operate under a systematic monitoring and evaluation framework managed by the Directorate General Social Welfare and Bait-ul-Maal. This framework reportedly includes an action planning cycle template, mid-term and final evaluations, monthly progress reports, resident statistics, health and hygiene forms, and service provider visit forms. However, during the hearing of these petitions, no data regarding these tools were submitted to the court record, and no evidence was presented of any mid-term or final evaluations or monthly progress reports. Simply listing these tools on the Department's website is inadequate; their actual implementation must be demonstrated.

57. The situation regarding the monitoring and regulation of Protection Centres is equally disturbing. The Government has not framed or notified the SOPs or Rules under the Women Protection Act that are necessary to regulate them. Currently, only the Protection Centre in Multan, established under the Women Protection Act, is functioning under the supervision and guidance of the District Women Protection Committee for Multan, which provides some oversight and evaluation mechanisms for the centre.

58. As discussed above, the Protection Centres include the Shaheed Benazir Bhutto Human Rights Crisis Centres for Women and certain Dar-ul-Amans designated as such. The aforementioned Crisis Centres are currently regulated by SOPs developed by the Women Development Department at the federal level. Following the Eighteenth Constitutional Amendment and the subsequent devolution of these institutions to the provinces, the Social Welfare Department has not formulated new SOPs for their regulation. The NCHR Report also noted that "SBBWCCs are devolved to the provinces, but

their adoption remains challenging in terms of ownership and the promulgation of Rules. There are no Minimum Caring Standards for SBBWCCs to monitor the quality of services.”³⁴

59. Staff competency directly impacts service delivery, functioning, and oversight mechanisms at Protection Centres and shelter homes. The Women Protection Act stipulates that if District Women Protection Officers or Women Protection Officers have not been appointed, the Secretary may, by notification in the official Gazette and under specified terms and conditions, nominate any officer from the Social Welfare Department to perform their functions under the Act. Consequently, the Secretary has notified various appointments. Notably, neither the Dar-ul-Aman Guidelines 2015 nor any SOPs specify the eligibility requirements for staff appointments, particularly for the In-charges, superintendents, managers, and psychologists. This lack of defined criteria makes it difficult to assess whether these staff members are suitable to fulfill their responsibilities. The NCHR Report has also highlighted that the staff “showed a lack of understanding of gender, gender-based violence (GBV), shelter SOPs, and how to handle survivors with respect and dignity. There was also negligible awareness of pro-women laws ...”³⁵ This gap in knowledge and skills underscores the need for clearly defined eligibility criteria and comprehensive training programmes to ensure that staff members are equipped to provide the necessary support and protection to women in these shelters. Without such measures, the effectiveness of Protection Centres and shelter homes remains significantly compromised.

Need for the establishment of District Women Protection Committees to ensure monitoring and evaluation

60. As mentioned earlier, Section 11 of the Women Protection Act mandates the Government to establish a District Women Protection Committee (“**District Committee**”) in each district. However, only one committee has been notified in Multan, which operates without proper SOPs or guidelines. District Committees play a crucial role in implementing the Act. According to Section 12, their responsibilities include supervising the Protection Centre, shelter home, and toll-free helpline and taking steps to

³⁴ Page 18 of NCHR Report available at <https://www.nchr.gov.pk/wp-content/uploads/2023/12/More-Than-Shelter.pdf>

³⁵ Page 19 of NCHR Report available at <https://www.nchr.gov.pk/wp-content/uploads/2023/12/More-Than-Shelter.pdf>

improve services. They must ensure the uninterrupted functioning of the toll-free number and high-quality response at the Protection Centre, including arranging employee training. Additionally, the committees liaise with other departments and agencies to enhance the performance of the Protection Centre and shelter home, mediate and reconcile disputes under the Act, and ensure cases of violence are referred to the Protection Centre for medical examination and investigation. The District Committees also approve the annual plan of action for the Protection Centre and shelter home, address and solve problems faced by these institutions, and monitor and evaluate their work. They enlist women volunteers and organizations, assign roles to them, and suggest measures for better protection of women. Furthermore, the District Committees ensure minimum standards and SOPs for employees, approve the annual report on the protection system's performance for submission to the Government, and perform any other functions assigned by the PWPA related to the Act's objectives. In light of all this, a complete regulatory system cannot exist without duly notified District Protection Committees in all districts of Punjab.

Regulation of privately run shelter homes

61. In Punjab, private organizations such as Dastak, SOS, and Edhi Home provide shelter services, but there appears to be no government regulation of these facilities. The Additional Advocate General did not present any legislation or regulatory framework regarding them except the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961, and the Charities Act, 2018, which provide for the registration of such organizations.

62. The Government should introduce measures to ensure the proper regulation and smooth operation of privately run shelter homes after thorough consultation with these organizations. It should also enhance public-private partnerships to raise awareness of available shelter and protection services for women facing violence. Nevertheless, the Government must not abdicate its fundamental responsibility to provide shelter and protection for women who are victims of abuse by shifting it to private entities.

Issue of marriage of residents of shelter homes

63. There are serious allegations of forced marriages of residents in some shelter homes. During the hearing of the present petitions, the Secretary Social Welfare Department stated that marriages of residents are conducted only with their consent and, where applicable, the permission of their guardians, plus the approval of the Advisory Committees notified by the Department. He mentioned that only one marriage has been arranged to date. The Terms of Reference (TORs) for these Advisory Committees, outlined in Notification No. SO(D) 2-3/2011 dated 09.10.2018,³⁶ cover responsibilities such as managing operations, selecting beneficiaries, handling complaints, and overseeing rehabilitation programmes. There is no specific mandate for arranging marriages for residents. It cannot be assumed that this falls under the committee's rehabilitation duties.

64. The only explicit reference to marriages is found in paragraph 5.6 of Guidelines 2015 of the Social Welfare Department, which provides:³⁷

5.6 The Dar-ul-Aman may, with the consent or on the request of a resident, arrange for a resident to be married. All marriages arranged by the Dar-ul-Aman shall be conducted by a Nikah Registrar in the presence of at least two witnesses. The consent and/or request of a resident to enter into marriage must be given in express terms and shall, in all cases, be evidenced in writing.

65. Regarding Kashana (orphanages for girls), the “*SOPs and Policy Guidelines to Run the Affairs of Kashana Institutions*” (January 2020) state as follows:³⁸

10. Rehabilitation:

- a) ...
- b) The incharge, with consultation of the advisory committee and prior approval of the Director General SW&BMD, may arrange marriages of inmates of 18 years and above.
- c) Such marriages shall be conducted with the free will and consent of the inmate and her legal guardian with support from an Advisory Body/Philanthropist.
- d) The girls age of 18 above may be referred to Dar-ul-Falah and other institutions.

66. Evidently, the regulatory framework for conducting marriages of shelter home residents remains weak and inadequate. Proper oversight

³⁶ Notification No. SO(D) 2-3/2011 dated 09.10.2018 [Revised policy instructions on the formation and functions of Advisory Committees for all institutions under the Social Welfare Department]. Available at: <https://swd.punjab.gov.pk/system/files/policy%20instruction%20of%20advisory%20committee.pdf>

³⁷ <https://swd.punjab.gov.pk/system/files/1.%20NEW%20-%20DUA%20Guidelines.pdf>

³⁸ <https://swd.punjab.gov.pk/system/files/SOPs%20of%20kashna.pdf>

mechanisms are needed to eliminate any chance of residents being forced into marriage, particularly orphan girls, and to ensure they are not placed in such situations. Forced marriage is a serious criminal offence under section 498B PPC, punishable by up to seven years of imprisonment and a fine of Rs.500,000/- . The functions of the Advisory Committee should explicitly include oversight of marriage arrangements. Specifically, for marriages of orphan girls residing in Kashanas and other children's homes managed by the Social Welfare Department, the Child Protection & Welfare Bureau should act as the oversight body to ensure a proper mechanism is in place, guaranteeing that marriages are conducted with the full and free consent of the residents.

Legislative framework for the protection of children

67. Article 141 of the Constitution stipulates that subject to the Constitution, Majlis-e-Shoora (Parliament) may make laws (including laws having extra-territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

68. The executive authority of provincial governments in Pakistan is defined by Articles 137, 138, and 139(3) of the Constitution. Article 137 states that a province's executive authority, subject to the Constitution, extends to matters on which the Provincial Assembly has the power to legislate. However, in any matter where both the Federal Parliament and the Provincial Assembly have legislative powers, the executive authority of the Province shall be subject to and limited by the executive authority expressly conferred by the Constitution or federal law. Article 138 allows the Provincial Assembly to delegate functions to subordinate authorities based on the Provincial Government's recommendations. Article 139(3) mandates the Provincial Government to establish rules for the allocation and transaction of its business. The Punjab Government has framed the Rules of Business 2011 under this mandate. These sub-constitutional rules solely pertain to the organization and regulation of the government's internal workings and do not equate to the legislative conferment of jurisdiction.³⁹ The First Schedule lists the departments, while the Second Schedule details the distribution of business among them. The Social Welfare and Bait-ul-Maal Department and the Home Department are the key departments dealing with child protection

³⁹ Rule 3 of the Rules of Business, 2011.

matters in Punjab. According to the Second Schedule of the Rules of Business, the Social Welfare Department is responsible for the “registration, technical assistance, and monitoring of social welfare agencies.” It also handles social protection, including institutional care, skill development, rehabilitation, and the “eradication of social evils” as envisioned in Article 37 of the Constitution. These responsibilities largely govern the child protection mechanisms, although not specifically, but generally.

Federal legislation governing the protection of children

National Commission on the Rights of the Child Act 2017

69. Parliament has enacted the National Commission on the Rights of the Child Act, 2017 (**NCRC Act 2017**) to establish the National Commission on the Rights of Child (**NCRC**) to discharge its obligations under the UNCRC. The Commission’s functions, as outlined in Section 15 of the Act, include examining and recommending changes to legislation and administrative proposals related to child rights; liaising with provincial commissions and organizations; reviewing and recommending measures for effective implementation of laws and policies protecting child rights; reporting on the effectiveness of such laws and policies; inquiring into violations of child rights and recommending actions; examining factors inhibiting child rights enjoyment such as violence and exploitation; sponsoring research and maintaining a database on child issues; spreading awareness and promoting dialogue on child rights; reviewing existing policies and programmes on child rights in light of international instruments and make recommendations for their effective implementation; calling for information from government bodies and civil society organizations with powers akin to a civil court pertaining to complaints of child rights violations; and undertaking additional functions as assigned by the Prime Minister or concerned division for the promotion and protection of child rights.

70. Before the establishment of the National Commission on the Rights of the Child under the NCRA Act 2017, the National Commission for Child Welfare and Development (**NCCWD**) was established by the Government through a resolution on 16th December 1979, effective from 1st January 1980. This resolution was amended over time, with the last amendment in 1991, placing the NCCWD under the Ministry of Health and

Social Welfare as an advisory body to the Government of Pakistan on matters related to children. After the devolution of the Ministry of Social Welfare and Special Education, the NCCWD was transferred to the Capital Administration & Development Division to function at the ICT level. It was later placed under the Ministry of Human Rights with the Prime Minister's approval, effective 2nd December 2011. Currently, it operates under the Ministry of Human Rights. The NCCWD is responsible for coordinating, monitoring, and facilitating the implementation of the United Nations Convention on the Rights of the Child (UNCRC) and other national and international obligations. It also submits mandatory periodic reports on the implementation of the UNCRC to the U.N. Committee on the Rights of the Child in Geneva and other relevant bodies.⁴⁰

71. The NCRC is an independent statutory body, while the NCCWD operates under the Ministry of Human Rights at the federal level. They function in parallel but complement each other. The NCRC acts as an oversight body, responsible for investigating child rights violations and holding the government accountable for its obligations toward children. In contrast, the NCCWD focuses on policy coordination and programme implementation, particularly at the international level, including the submission of mandatory periodic reports on the implementation of the UNCRC.

Provincial legislation for the protection of children

72. In the context of the provinces, specifically the Punjab, the following statutes enacted by the provincial legislature play a crucial role in establishing and administering shelter homes and Protection Centres for children:

- i) Punjab Government Rules of Business, 2011 (the “**Rules of Business**”).
- ii) Punjab Vagrancy Ordinance, 1958 (the “**Vagrancy Ordinance**”);
- iii) Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (the “**SWA Registration and Control Ordinance**”); and
- iv) Punjab Destitute and Neglected Children Act, 2004 (the “**PNDC Act of 2004**”) along with the Punjab Destitute and Neglected Children (Registration of Organizations Managing Accommodation) Rules, 2019 (the “**PNDC 2019 Rules**”) made thereunder.

⁴⁰ <https://mohr.gov.pk/Detail/MzFjMTM5ODctODkwYS00NTUyLTk2NjQtMmNjZjEwNzJIN2Fk>

73. I have already discussed that, as per the Second Schedule to the Rules of Business, the Social Welfare Department is responsible for the registration, technical assistance, and monitoring of social welfare agencies. Additionally, the Department handles social protection, including institutional care, skill development, rehabilitation, and the eradication of social evils. Under the Social Welfare Department, the Bait-ul-Maal Wing oversees the administration of the Punjab Vagrancy Ordinance, 1958, and the Voluntary Social Welfare Agencies (Registration & Control) Ordinance, 1961. Both statutes involve establishing and administering welfare homes and agencies for children, creating an overlap in jurisdiction.

74. The Vagrancy Ordinance defines a child as a person under fourteen and includes provisions for their protection. It establishes welfare homes for vagrants, including children, and allows children without a livelihood to gain voluntary admission to these homes. The administration of the Vagrancy Ordinance falls under both the Social Welfare Department and the Home Department, according to the Rules of Business.

75. The Home Department also administers the Punjab Destitute and Neglected Children Act 2004 (**PDNC Act**), which protects children under eighteen. The PDNC Act aligns with Pakistan's obligations under the UNCRC to protect neglected children through legislation and administrative reforms. The Act establishes the Child Protection and Welfare Bureau (**CPWB**), an autonomous body under the Home Department, responsible for managing and regulating child protection institutions. The CPWB's powers include establishing and recognizing child protection institutions, overseeing their operations, and ensuring the well-being of destitute and neglected children.

76. Both the Social Welfare and Home Departments play crucial roles in child protection. However, their overlapping jurisdictions in certain areas lead to inefficiencies in fulfilling the State's responsibilities toward children. Notably, Under the PDNC Act, the CPWB and its administered Child Protection Institutions serve "destitute and neglected children" up to the

age of eighteen, covering both boys and girls.⁴¹ The CPWB is responsible for establishing, recognizing, registering, and maintaining Child Protection Institutions and non-governmental organizations that provide rehabilitation and accommodation services for these children. However, the CPWB's role overlaps with that of the Registration Authority under the SWA Registration and Control Ordinance, administered by the Social Welfare Department. The latter is responsible for registering and overseeing voluntary social welfare organizations, including those involved in childcare. Consequently, both the CPWB and the Social Welfare Department perform similar functions and have identical mandates in registering and overseeing non-governmental organizations related to childcare, leading to duplication of efforts in these roles.

77. Besides the overlap in overseeing non-governmental organizations, the operation of Kashana Homes, which derives authority directly from the Rules of Business without any enabling legislation, leads to potential arbitrariness in the administration of alternative care for children. This situation raises the question of whether the Social Welfare Department possesses inherent executive authority to manage and regulate the Kashana Homes. According to the jurisprudence developed in our country, the answer is negative. In ***Mehran Security Services (Pvt.) Limited vs. Pakistan*** (2000 YLR 2655), the Sindh High Court held:

“16. Since this matter has not been taken very seriously on behalf of the respondents, it has not been specifically contended that the said decision was made on the authority of Rules of Business, 1973 of the Federal Government, but it seems that the decision was made on the assumption that

⁴¹ As per the definitions under **Section 3(I)(k) of the PDNC 2004 Act** read with **Section 3(I)(e)**, a “destitute and neglected child” means a **child under the age of eighteen**, who –

- i) is found begging; or
- ii) is found without having any home or settled place of abode and without any ostensible means of subsistence; or
- iii) has a parent or guardian who is unfit or incapacitated to exercise control over the child; or
- iv) lives in brothel or with a prostitute or frequently visits any place being used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads an immoral or depraved life; or
- v) is being or is likely to be abused or exploited for immoral or illegal purpose or unconscionable gain; or
- vi) is beyond the parental control; or
- vii) has lost his parents or one of the parents and has no adequate source of income; or
- viii) is victim of an offence punishable under this Act or any other law for the time being in force and his parent or guardian is convicted or accused for the commission of such offence; or
- ix) is at risk owing to disability or child labour; or
- x) is imprisoned with the mother or is born in a jail; or
- xi) is abandoned by the parents or guardian.

said Rules of Business empower the Ministry to take this decision. These Rules have been treated under Article 99 of the Constitution, and the Article itself clearly states that they shall be ‘for the allocation and transaction of the business of the Federal Government’ of course, these Rules have a higher status than ordinary delegated legislation, because they have been made on the authority of the Constitution itself, but they cannot substitute an Act of Parliament or Law to determine or affect the rights and duties of the citizens. Where a law assigns a function or confers a power on the Federal Government, the Rules of Business merely prescribe as to which of the Ministries or Divisions shall perform those functions and exercise those powers, and in what manner. These Rules cannot, therefore, be used to lay down the limitations, requirements, and mode, as in this case, which can only be done by enactment. In the case of M/s Murree Brewery Co. Ltd. v. D.G. Excise and Taxation and others (1991 MLD 267 (Lahore)) also, a view was expressed that the licensing system contemplated in Article 18 of the Constitution should be under some law.”

(emphasis added)

78. The above discussion shows that the Social Welfare Department cannot operate Kashana Homes without specific legislation. It should also be noted that, according to Section 20 of the PDNC Act, the CPWB is authorized to recognize, register, and oversee only organizations managed by either local governments or non-governmental organizations. Hence, it cannot control or oversee the Social Welfare Department, a government entity, or the Kashana Homes.

Conclusion

79. The writ petitioners have raised valid concerns regarding the functioning of Protection Centres and Dar-ul-Amans (shelter homes) in Punjab and the safety and well-being of the residents. These concerns are substantiated by reports from the Chief Minister’s Inspection Team (CMIT), the National Commission for Human Rights (NCHR), and an empirical survey by the Punjab Commission on the Status of Women titled “*The Sheltering Women from Harm: Dar-ul-Amans of Punjab – Achievements & Challenges 2016.*”

80. Issues in Protection Centres and Dar-ul-Amans have arisen due to a lack of uniform policies and standards across these institutions and the absence of proper monitoring and oversight. The Punjab Government heavily relies on the Rules of Business 2011 to regulate these institutions, but these rules do not provide a robust legal framework, leading to inconsistencies and administrative confusion. Although the Women Protection Act (2016) and the Punjab Women Protection Authority Act (2017) offer some legislative support, their implementation has been inadequate. Additionally, the

jurisdictional overlap between the Social Welfare and Home Departments complicates the effective administration of child protection services.

81. The reliance on Standard Operating Procedures (SOPs) and guidelines rather than formal regulations under relevant laws is disturbing where the statutory powers granted to supervising and implementing authorities. For example, the Child Protection & Welfare Bureau, empowered by Section 50 of the PDNC Act, has not utilized its authority to frame regulations, leading to the continued use of SOPs and guidelines as the primary regulatory mechanism. This trend extends to other sectors, such as the Social Welfare Department's regulation of Dar-ul-Amans/Dar-ul-Falahs and the Punjab Women Protection Authority's reliance on draft SOPs for Protection Centres.

82. Regulations provide a stronger and more authoritative framework than SOPs or guidelines. They are embedded in the legal system, which gives them a level of legitimacy and enforceability that SOPs and guidelines lack. This legal backing is crucial for ensuring compliance, as regulations can impose penalties for non-compliance, fostering a culture of adherence to established rules and standards. SOPs and guidelines, while helpful in providing detailed operational instructions and standards, do not carry the same legal weight as regulations. They are often seen as internal documents that may not be subject to the same level of scrutiny or enforcement. As a result, reliance on SOPs and guidelines without the backing of formal regulations can undermine the robustness and effectiveness of the regulatory framework.

83. In the context of Punjab, the continued reliance on SOPs and guidelines despite the statutory authority to frame regulations suggests a missed opportunity to strengthen governance and accountability. Authorities should prioritize developing and implementing formal regulations to provide a clear legal foundation for their actions. This would not only enhance the legitimacy and authority of the regulatory framework but also ensure that there are clear legal consequences for non-compliance, ultimately leading to better governance and protection of vulnerable populations.

84. The issue of forced marriages and abuse within shelter homes remains critical. The current regulatory framework for conducting marriages is weak, necessitating stricter oversight mechanisms to prevent any form of

coercion or abuse, especially for orphan girls. The State's obligations under international conventions like the UNCRC and the CEDAW emphasize the need for a robust legal and administrative framework to protect vulnerable women and children. However, the provincial implementation of these commitments has been lacking.

85. There is an urgent need for comprehensive legislative reforms, clear operational guidelines, improved oversight mechanisms, and enhanced support services are essential to ensure the safety and well-being of residents in these institutions. Addressing these issues requires a coordinated effort from the relevant authorities to uphold the fundamental rights of vulnerable women and children.

Directions of the Court

86. Article 199(1)(a)(i) of the Constitution empowers this Court to command a person performing, within its territorial jurisdiction, functions in connection with affairs of a federation, a province, or a local authority, to do anything he is required by law to do. However, it is well-established that courts cannot issue a writ or direction to the legislature to enact a law. Nonetheless, in **Sharaf Faridi and others v. The Federation of Islamic Republic of Pakistan and another** (PLD 1989 Karachi 404), a seven-member Bench of the Sindh High Court held that, in exceptional circumstances, the High Court may direct the Federal and/or Provincial Government to initiate legislative measures. The Court reasoned that there is a marked distinction between a directive to the legislature to legislate and a directive to the Executive to initiate legislative measures. This view was upheld by the Supreme Court of Pakistan in **Al-Jehad Trust through Habibul Wahab Al-Khairi Advocate and others v. Federation of Pakistan and others** (1999 SCMR 1379) and reiterated in **Province of Sindh and others v. M.Q.M. through Deputy Convener and others** (PLD 2014 SC 531). Following these precedents, the High Courts in our country have, in several cases, directed the Government to take steps toward enacting a law or amending an existing one.⁴²

⁴² See: *Minoo Hoshang Kapadia v. Arnaz Minoo Kapadia* (PLD 2008 Karachi 271), *Riaz Hanif Rahi v. Federation of Pakistan and others* (PLD 2015 Islamabad 7), *Walid Iqbal v. Federation of Pakistan and others* (PLD 2018 Lahore 1), *Subay Khan v. Federation of Pakistan and others* (PLJ 2018 Lahore 224), and *Mian Muhammad Asif v. Superintendent of Police and others* (PLD 2020 Lahore 137).

87. Accordingly, it is directed as follows:

Legislative measures

- (i) The Punjab Government is directed to formulate and notify Rules under Section 29 of the Punjab Protection of Women against Violence Act 2016 and under Section 22 of the Punjab Women Protection Authority Act 2017 to comprehensively regulate all shelter homes and Protection Centres in the province within six months.
- (ii) The Punjab Government is further directed to formulate and notify Rules under Section 49 of the Punjab Destitute and Neglected Children Act 2004 for implementation of the said Act in letter and spirit, including the rules for the effective administration and management of child protection institutions in terms of Section 21 of the Act within six months.

Administrative measures

a) Women Protection

- (iii) The Punjab Government is directed to constitute and notify District Women Protection Committees for every district within three months in terms of Section 11 of the Punjab Protection of Women against Violence Act 2016. The said committees shall meet at least once every three months as required by Section 11(6) of said Act.
- (iv) The Punjab Women Protection Authority is directed to conduct the necessary training for District Women Protection Officers, Women Protection Officers, and other employees within the protection system as required by Section 27 of the Punjab Protection of Women against Violence Act 2016.
- (v) District & Session Judges in each district are directed to conduct thorough inspections of the Dar-ul-Aman/Shelter Homes in their jurisdiction at least once every two months and ensure that the residents' complaints are duly addressed and resolved.
- (vi) The Punjab Government is directed to establish a database and software for efficient service delivery and to implement a monitoring and evaluation mechanism to fulfill the objectives of the Punjab Protection of Women against Violence Act 2016, as mandated under Section 3(2) of the Act.
- (vii) The Punjab Women Protection Authority is directed to frame Regulations under Section 23 of the Punjab Protection of Women against Violence Act 2016.
- (viii) The respective departments shall align and standardize the existing SOPs/Guidelines for Dar-ul-Amans and Shaheed Benazir Human Rights Centres for Women.
- (ix) The relevant authorities should establish a robust monitoring mechanism to ensure full compliance with their legal obligations. The respect, dignity, and privacy of women survivors of gender-based violence must be safeguarded.
- (x) All male staff, except essential personnel stationed at the outer premises and security guards, shall be removed from within the Dar-ul-Amans/shelter homes. CCTV cameras should be installed (if not already in place) at the entrances and within the premises of the Dar-ul-Amans.
- (xi) Lady police constables should be deputed round the clock in all Darul Amans/Shelter Homes in every district to ensure the safety of residents.

- (xii) Vocational training should be provided for women residing in Dar-ul-Amans/Shelter homes in each district to empower them toward financial independence.

b) Child protection

- (xiii) The Punjab Government is directed to constitute the Board of Governors within a month in accordance with Section 6 of the PNDC for effective performance of the oversight functions of the Board, as conferred in Section 9 of the Act.
- (xiv) The Child Protection and Welfare Bureau is directed to frame regulations under Section 50 of the PNDC Act 2004, particularly to ensure minimum standards of care in child protection institutions and to facilitate orderly, hassle-free meetings between parents and their children.
- (xv) The Child Protection and Welfare Bureau is directed to ensure that all organizations providing accommodation for destitute and neglected children are duly registered, as required by Section 20-A of the PDNC Act 2004. The Bureau shall publish information about these registered organizations on its website for public access.
- (xvi) The Child Protection and Welfare Bureau is directed to establish child protection units for local areas, i.e., at the division level, district, or tehsil, as required under Section 16 read with Section 3(h) of the PNDC Act 2004. The respective departments shall harmonize the existing SOPs/Guidelines for Kashana homes with the said regulations.
- (xvii) The Director General of the Child Protection and Welfare Bureau is directed to regularly submit an annual progress report to the Board under Section 14 of the PNDC Act 2004 within the stipulated period.
- (xviii) The Social Welfare Department is directed to register all its institutions providing shelter/accommodation/ residence to children with the Child Protection and Welfare Bureau within three months.

Access to information

- (xix) The official Respondents are directed to ensure access to information and to fulfill their statutory duties under the Punjab Transparency and Right to Information Act 2013. Specifically, the respective departments should proactively disclose information in accordance with Section 4, appoint public information officers as mandated by Section 7, maintain and organize information under Section 8, and publish annual reports as required by Section 9. Additionally, they should update their websites to provide accessible information on shelter homes, protection centers, and the services offered to children and women.

Doctrine of Continuing Mandamus

88. The writ of *mandamus* dates back to ancient times. However, the doctrine of continuing *mandamus* is a modern innovation. Continuing mandamus, also referred to as structural interdict or structural injunction, consists of a series of orders issued by a court of law over an extended period directing an authority to perform its statutory functions or duties. The court does not dispose of the case but keeps it pending to supervise the performance of the duty and execution of the mandate. This approach is used in situations that cannot be resolved quickly and require a solution over a long time –

sometimes even years.⁴³ A scholar discussed the efficacy of this doctrine as follows:

“The doctrine of continuing mandamus serves several functions especially in a case where the executive does not carry out its functions effectively and either does not implement a statutory function or duty, or does not exercise its discretion wisely. The judiciary has been seen as an effective tool by the citizens to enforce the law and uphold justice when the executive has not done that. The remedy is often considered useful especially in the case of children’s rights which the executive has continuously failed to implement. Thus, the only remedy left for the rights of children is the PIL. … [and] the court can use its powers under continuing mandamus to address this issue.”⁴⁴

89. Courts in various jurisdictions have effectively applied the doctrine of continuing mandamus. In Canada, the case of *Doucet-Boudreau v. Nova Scotia (Minster of Education)* [2003] 3. S.C.R. 3, (2003 SCC 62), involved minority language education rights. The Court retained supervisory jurisdiction to ensure the province’s compliance, requiring periodic status reports. In the Philippines, in *Metro Manila Development Authority v. Concerned Residents of Manila Bay* [574 SCRA 661 (2008)], the Supreme Court issued a writ of continuing mandamus to compel the government to clean up, rehabilitate and preserve the Manila Bay.

90. In India, the Supreme Court first used this approach in *Bandhua Mukti Morcha v. Union of India and others* [(1984) 3 SCC 161 : AIR 1984 SC 802], which concerned the plight of labourers, gross violations of fundamental rights, bonded labour and inhumane working and living conditions, with no access to necessities like clean water. The Court intervened by issuing wide-ranging remedial orders, encompassing twenty-one directives to the state government. In *Sheela Barse v. Union of India and others* (AIR 1988 SC 2211), a PIL concerning violations of constitutional and statutory rights of children in custodial restraints, the Supreme Court of India gave numerous directions to different state governments, prison authorities, State Legal Aid Board, and made several recommendations to the legislature to enact a central legislation. Justifying its monitoring, the Court noted: “Indeed as the relief is positive and implies affirmative action, the decision are not ‘one-shot’ determinations but have on-going implications. Remedy is both imposed, negotiated or quasi-negotiated. Therefore, what corresponds to

⁴³ *Muhammad Suleman v. Station House Officer and others* (PLD 2020 Lahore 534).

⁴⁴ Shreemanshu Kumar Dash, *Writ of Continuing Mandamus in matters of PILs: A Step towards Development of Environmental Jurisprudence*: IOSR Journal of Humanities and Social Science (IOSR-JHSS), Volume 22, Issue 8, Ver. 9 (August. 2017) PP 26-35 available at www.iosrjournals.org

the stage of final disposal in an ordinary litigation is only a stage in the proceedings.”

91. However, it was *Vineet Narain and others v. Union of India and another* (AIR 1998 SC 889), where the Supreme Court coined the medium of continuing mandamus. The Court monitored the investigation of the case to ensure that the authorities abide by its directions. It held that “the medium of ‘continuing mandamus’ was a new tool forged because of the peculiar needs of this matter.” Thereafter, the Indian courts have applied continuing mandamus in numerous cases to achieve long-term enforcement of their orders.⁴⁵

92. In Pakistan, the Supreme Court issued directions analogous to the nature of continuing mandamus in many cases, such as *The Bank of Punjab and another v. Haris Steel Industries (Pvt.) Ltd. and others* (PLD 2010 SC 1109), without specifying that it was following the doctrine. However, in *Asghar Leghari v. Federation of Pakistan and others* (PLD 2018 Lahore 364), a learned judge of this Court specifically mentioned the principle of continuing mandamus and stated that he was following it. After that, this doctrine was pressed into service in various cases.⁴⁶

93. The above discussion shows that the doctrine of continuing mandamus, practised in other countries, is also integrated into our legal system. Given the unique circumstances of these cases, I will not dispose of these petitions and, instead, direct the office to schedule them for a hearing before any available Bench in the fourth week of May 2025. The Chief Secretary, Government of the Punjab, shall submit a progress report to this Court on that date.

94. Before concluding this judgment, I wish to extend my appreciation to the *amici curiae*, Barrister Khadija Yasmin Bokhari, and Mr. Usama Khawar, Advocate, as well as the Research Officer, Mr. Asim Murtaza Cheema, for their valuable assistance.

⁴⁵ See: *M.C. Mehta v. Union of India and others* [(2008) 1 SCC 407], *Swaraj Abhiyan (II, III and IV) v. Union of India and others* (AIR 2016 SC 2953), *Manushi Sangthan Delhi v. Govt. of Delhi (Delhi)* [2010(168) DLT 168], and *Mahendra Lodha v. State of Rajasthan* [RLW 2007(2) Raj. 1428].

⁴⁶ See: *Mall Road Traders Association v. The Deputy Commissioner, Lahore* (2019 CLC 744), *Sheikh Asim Farooq v. Federation of Pakistan and others* (PLD 2019 Lahore 664), *Muhammad Ahmad Pansota and others v. Federation of Pakistan and others* (PLD 2020 Lahore 229), *Muhammad Tahir Jamal, Advocate v. Government of the Punjab and others* (PLD 2020 Lahore 407), *Muhammad Suleman v. Station House Officer and others* (PLD 2020 Lahore 534), and *Mubashir Ahmad Almas v. Province of Punjab and others* (PLD 2021 Lahore 720).

95. The Registrar of this Court is directed to send copies of this judgment to all the District and Sessions Judges in the province and the Chief Secretary, Government of the Punjab.

**(Tariq Saleem Sheikh)
Judge**

Announced in open court on _____

Judge

Naeem

Approved for reporting

Judge