

## **Human Rights Situation in Pakistan: A Case Study of the Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014**

Farhaj Sikander Yar Khan<sup>\*</sup>, Muhammad Ismail<sup>†</sup>, Muhammad Shahiryar.<sup>‡</sup>

### **Abstract**

*The Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act, 2014, is the landmark achievement of the Khyber Pakhtunkhwa government. Using post-positivism and qualitative methods, the researcher looked at primary and secondary data to determine how to explore this Act. Qualitative primary data was employed through thematic analysis. The unstructured interview protocol was distributed among district attorneys, lawyers, and professors. Act has a lot of good points, such as making human rights policy a crucial part of Khyber Pakhtunkhwa's development plan, making it easier to do the right thing, and setting up Pakistan's first HR information management system, making the first collection of national HR indicators for Khyber Pakhtunkhwa and ensuring that Human Rights Day is celebrated in Khyber Pakhtunkhwa. Another important finding was that the role of the Paris Principles and GSP+ status forced the passing of the Human Rights Act. This Act might be a beacon of hope for the people of that province. This study can benefit Pakistan's Khyber Pakhtunkhwa, Ministry of Law, decision-makers, future scholars, policymakers, civil servants, and government officials.*

**Keywords:** human rights; Paris protocols; GSP+; Khyber Pakhtunkhwa; Pakistan.

### **Introduction**

The provincial government of Khyber Pakhtunkhwa, Pakistan, passed the Promotion, Protection, and Enforcement of Human Rights Act, 2014, in order to protect and further human rights in the province. The Khyber Pakhtunkhwa Human Rights Commission is charged with advancing and defending human rights throughout the province, and its creation is mandated under the Act. The Commission has the authority to oversee the efficient administration and safeguarding of human rights in the region, to investigate and report on the current situation of human rights there, and to take any necessary action to achieve these goals. In addition to the Commission, the Act mandates the creation of a Provincial

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<sup>\*</sup>PhD Political Science scholar at Department of Political Science, Qurtuba University, D. I. Khan, Email: farhaj.sikandar.phd.scholar@gmail.com

<sup>†</sup>Assistant Professor at the Department of Politics and IR, Qurtuba University, D. I. Khan. Email: [dr.ismail@qurtuba.edu.pk](mailto:dr.ismail@qurtuba.edu.pk)

<sup>‡</sup>PhD Political Science scholar at Department of Political Science, Qurtuba University, D. I. Khan. Email: shehryar.khan.phd.scholar@gmail.com

Human Rights Directorate to aid in its operations. Protections for children, women, and various other at-risk populations are included in the Act as well.

After the 18th Amendment gave power from the central government to the provinces, Khyber Pakhtunkhwa (Khyber Pakhtunkhwa) was the first province to introduce and pass the Human Rights Act in 2014. Under the above laws, the government set up the Directorate of Human Rights and Equal Opportunity to address and end human rights abuses and violations (Zia, 2021). This law allows the government to intervene when human rights are abused or violated. With help from the UNDP, the government of Khyber Pakhtunkhwa was told to make a list of all cases of human rights abuse and violation and report them (Babar, 2020). The Geneva Convention on Human Rights says the Khyber Pakhtunkhwa province administration will submit reports. The government would ensure that the 2018 Khyber Pakhtunkhwa Human Rights Policy is carried out in line with international standards. The Khyber Pakhtunkhwa authorities also implemented human rights policies to strengthen public safety. Commissions and human rights principles in police department rules to raise awareness among law enforcement officers (Zia, 2021). The Khyber Pakhtunkhwa administration has also taken action against those responsible for human rights violations (Khyber Pakhtunkhwa Human Rights Policy Paving the way forward for human rights. 2018).

**Table 1**  
*List of NCHR activities*

Category	Khyber Pakhtunkhwa
Complaints	364
Suo Motu Action	119
[Total) Complaints & Suo Moto Action	483
In Hearing	47
Under Investigation at Initial Stages*	261
Disposed Of	175
Total	483

Source: National Commission on Human Rights, 2022

There need to be more academic studies in Pakistan devoted to this issue. So, this article gives a written account of the essential historical background of the Act that is being looked at. The research into the Human Rights Act is meant to shed light on the internal benefits and drawbacks of implementing human rights, as well as the exterior opportunities and dangers linked with this Act, all in the service of ensuring the safety of individuals. Regardless of whether they are adequately protected, the Act provides for them. This research represents an effort to examine the Act in depth. This article aimed to look into what led the government to do something brave and good for the general public. It was made clear how vital the Paris Principles and GSP+ status is to the success of the Act in question.

According to Morsink's (2001) article, human rights entail universal protections. Most people concur that all people should benefit from the protections promised by regional and international agreements to uphold human rights. International law also serves to constrain nations constitutionally. The government formally guarantees its citizens specific protections under this convention. William 1948 discussed the history of human rights while arguing. Marks (2016) writes that in the middle and end of the 19th century, people paid the most attention to a few different things—the 18th century, which was grounded in natural rights. The phrase "natural rights" has declined in favor throughout the years, but the idea of universality has not. Henry David Thoreau, the first individual to adopt the phrase "human rights," along with Thomas Paine and John Stuart Mill, widened the understanding. It was not until the 17th century that people in the West got civil and human rights. After World War II, such a group is finished when a very high level of commitment is found (Moeckli, Shah & Sandesh. 2014).

The United Nations (UN) also says it has been working to ensure that human rights are respected. Still, it has attacked many countries in this way at different times, such as with the Kashmir problem between Pakistan and India, Syria, Palestine, and so on (Schimmel, 2003). It should be made more apparent, and it is easier to tell the difference between classical and social rights. For a right to be "exemplary" or "classical," it must be "common" or "political," which means that it is not only the government's job to respect it but also the government's job to make sure that its citizens can enjoy it. Social rights differ from classical liberties because they do not always come with a natural duty (Akbarzadeh & MacQueen, 2008). The idea of human rights is strengthened by globalization (Griffin, 2008; Ishay, 2008; Donnelly, 2007; Power & Allison, 2006). They assert universal application and the obligation to respect human dignity. The protection of human rights is what stands

between humankind and globalization's worst effects. All other moral rules are built on the idea that everyone should be treated equally (Hasson, 2003; Freeman, 2011; Rawls, 1999). It affirms that everyone has inherent rights (Brysk, 2002).

Human rights in Pakistan are examined in depth by Khan (2020). At the outset, it looks at the human rights legislation and international treaties in place to safeguard fundamental freedoms in Pakistan. The paper then evaluates the efficiency of these statutes, highlighting the latter's restricted application and application. Then assess the government's efforts to safeguard human rights and finds them lacking in several key areas. The limitations of nongovernmental organizations (NGOs) and other civil society organizations (CSOs) in preserving human rights are also discussed. At last, it looks at how international human rights organizations have helped to safeguard human rights in the country and how effective they have been so far. In the article's final paragraph, the author urges readers to pay more attention to the human rights situation in Pakistan.

Khan (2019) examines the state of human rights in Pakistan in great detail. The author analyzes the state of human rights in the country, paying particular attention to the current difficulties and the effect of official initiatives. The author laments the widespread prejudice against religious minorities and women and the lack of respect for fundamental rights like freedom of expression, assembly, and association. The author also considers the state's role in preserving the rights of the weak, touching on such topics as extrajudicial killings and torture. At the end of the piece, the author suggests how the country can better protect human rights. If anyone wants to learn more about the human rights situation in Pakistan, this article is a great place to start.

This article by Choudhry and Ali (2019) critically analyzes human rights in Pakistan. The authors seek to analyze the state of human rights in Pakistan and the strategies used to address violations. They discuss the legal and constitutional framework of human rights in the country and the role of international organizations in monitoring and protecting human rights. They also examine the various challenges that have hindered the protection of human rights in the country, such as a lack of access to justice, corruption, and weak enforcement of laws. Finally, the authors suggest ways to improve the human rights situation in Pakistan, including promoting a culture of respect for human rights and greater access to justice. Overall, the authors provide a comprehensive and detailed evaluation of the state of human rights in Pakistan and the measures that could be taken to improve the situation.

From a critical theory stance, Korteweg and Iacovino (2015) investigate the frequency with which human rights are violated in Pakistan. The authors place zero emphases on the country's power relations and the state's systemic brutality. They talk about how the state is implicated in human rights abuses and how the legal, media, and education systems contribute to the structural violence cycle. The authors propose that a critical theory approach is necessary to comprehend the complexities of the human rights situation in Pakistan and explore how international organizations still need to address this issue. Human rights in Pakistan, the authors argue, can only be addressed by shifting the power relations between the state and its population.

### **Theoretical Framework**

The theoretical framework of human rights laws is based on the Universal Declaration of Human Rights (UDHR). The United Nations General Assembly adopted the UDHR on December 10, 1948. It is the first document to outline the fundamental rights of all people. The UDHR outlines a range of civil, political, economic, social, and cultural rights to which everyone is entitled regardless of race, religion, gender, or any other status. These rights include the right to life, liberty, security, and the right to freedom of expression, assembly, and religion. The UDHR is the foundation of international human rights law. It serves as the basis for various international treaties and conventions, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Racial Discrimination. These treaties, conventions, and other documents are the legal framework for human rights protection and enforcement. In addition to international laws, the protection and enforcement of human rights are also the responsibility of governments. Governments are expected to promote and protect the rights of their citizens, as well as respect the rights of others. This includes ensuring that all citizens have access to legal remedies in cases of rights violations. National constitutions, laws, and regulations are essential for protecting human rights.

Critical Theory acknowledges the influence of power structures on legislation and policymaking, and it takes into account the positive and negative effects these factors have on different demographics. Institutional Analysis from a Critical Perspective: Critical Theory looks at how different kinds of institutions support or hinder the realization of human rights. The role of power in ensuring or undermining the ability of legal systems and other institutions to defend human rights is analyzed in detail. Identifying and contesting unequal power connections and the injustice

that comes from them is central to Critical Theory, which brings us to our third point: unmasking inequality. Its goal is to pinpoint the origins of social injustice and expose the ways in which authority is misused to violate human rights.

As a result, Critical Theory places special emphasis on underrepresented and oppressed groups. Its goal is to expose the ways in which people in positions of authority help to maintain discrimination and inequality, and to combat that discrimination wherever it may be found. Critical theory places an emphasis on social transformation and change as a means of advancing and safeguarding human rights. Its goal is to strengthen underrepresented communities by exposing and reforming the systems responsible for maintaining oppression.

Major characteristics of the theory are: One of critical theory's central tenets is that social power structures matter for determining what laws and policies are enacted and for what groups of people. Human rights promotion and protection are analyzed from a critical perspective in Critical Theory, which analyzes the consequences of institutions as well as their structures. It focuses on the ways in which power can either strengthen or weaken the ability of legal systems along with other institutions to uphold human rights. Thirdly, Critical Theory seeks to reveal and oppose inequitable power dynamics and the injustice they produce. It aims to pinpoint the causes of social disparity and the means through which power is wielded to undermine human rights. Specifically, Critical Theory focuses on the underrepresented and oppressed members of society. Its goal is to expose and combat the ways in which discrimination is institutionalized and how power is used to maintain social stratification. The critical theory places an emphasis on social change and transformation as a means to advance and safeguard human rights. Its goal is to strengthen underrepresented communities by exposing and changing the underlying power dynamics that keep them in a disadvantageous position.

### **Research Methodology**

The scholar adopted post-positivism to answer the questions and meet the objectives. Hence, the thematic analysis involved re-joining, segmenting and preparing the structures of the proofs, evidence, facts, and numbers before closing deductions (Grbich, 2012). This thematic analysis looked at the reasons and ways of thinking behind each fact and listed them in order (Matthews & Ross, 2010). Because the interpretive study was what it was, the researcher always came across random facts or unorganized evidence. This study used thematic analysis, which gave the researcher the tools they needed to understand the new parts of the Khyber

Pakhtunkhwa Human Rights Act, 2014, and the problems and opportunities that come with them. The list of interviewees is mentioned below (Table 2).

### **Critical analysis of the Khyber Pakhtunkhwa Human Rights ACT of 2014: Thematic Analysis**

**Table 2**

*Respondents and Coding*

No.	Respondents Profession	Total	Code
1	Members from the provincial Law, Parliamentary Affairs and Human Rights Department	08	A-1; A-2; A-3; A-4; A-5; A-6; A-7; A-8.
2	Lawyers	04	B-1; B-2; B-3; B-4.
3	Journalists, Civil Society Organizations and NGOs	03	C-1; C-2; C-3.

*Source: Table created by the author*

The main questions were: Why is the Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act, 2014, being implemented? What is the Act's effectiveness for promotion, protection, and enforcement in Khyber Pakhtunkhwa with its strengths and weaknesses? What are the Act's requirements regarding the Paris Principles and GSP+ status? Furthermore, the objective was: Explore the factors behind the implementation of the Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act, 2014; Evaluate the Act's effectiveness for promotion, protection, and enforcement in Khyber Pakhtunkhwa with its strengths and weaknesses; To analyze the Act in light of Paris Principles and GSP+ status.

The following themes were chosen as the most important ones to describe the researcher's model. The participants identified relevant government departments concerning the thematic areas and drafted and circulated tailored interview protocols to these departments for feedback and information. The participants, comprising members from the provincial Law, Parliamentary Affairs, and Human Rights Departments, then entered into a round of follow-up consultations and key informant interviews. The consultations, conducted in the first instance with

Government stakeholders, were followed by further consultations with Civil Society Organizations and NGOs.

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### **Data Analysis: Major Themes from Qualitative data analysis (TDA)**

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#### **Theme 1** International Organizations Compelled Pakistan to enact and implement the HR Laws in the country

The first and most important thing that came out of the interviews was why states follow human rights rules. Hence, the first question asked of the respondent focused on this fundamental component. The vast majority of people who filled out the survey thought that international pressure makes sure that all governments follow these human rights rules. All levels of the Pakistani government, federal and provincial, were in the same boat. Human rights organizations from throughout the world, including the United Nations and others, pressured the country's ruling class into creating a system to safeguard citizens' fundamental freedoms and liberties.

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#### **Theme 2** This Act has several Key Strengths

At the end of the thematic analysis, it was found that the most important part of the study was the second most important theme. One part of the analysis focused on the subject of law's inherent strengths. In reality, every law has both advantages and disadvantages. That's what happened with this Act, too. It has long been recognized as among the most consequential acts in the history of the advancement and protection of human rights. The majority of those who responded were elderly males who had seen and done it all. They have both studied and experienced similar events in their line of work. Major benefits of the Act, as identified by respondents, include:

Human rights policy should be at the forefront of Khyber Pakhtunkhwa's development strategy.

Raising the level of human rights competence among the next generation of leaders.

Establishing the very first human resources data management system in Pakistan

Forming Pakistan's first comprehensive database of HR metrics

Human Rights Day should be celebrated across Pakistan and Khyber Pakhtunkhwa in particular.

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#### **Theme 3** This Act has several Key Weaknesses

The second major point of discussion was whether or not the Act had any serious flaws. The respondents' experiences shed light on, and they highlighted, the following weaknesses:

The government's slow procedures

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due to a lack of cooperation among government entities  
changes in leadership and stakeholder engagement  
a willingness to support human rights-based initiatives  
always seeking to incorporate all members of the group in all  
interactions.

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**Theme 4** Paris Principles and GSP+ status compelled the state to  
enact this Human Rights Act

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It's a reality that economics always takes precedence over politics. According to the responses, the Paris Principles as well as GSP+ seem to be the ideal trade and economic conditions for every country. As was said in the last chapter, if a state has GSP+ status, trade and economic ties with European countries can get a lot better. This thread also brings up the fact that the government has been forced to pass human rights laws because of pressure from other countries.

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### **Discussion on the major findings of the study**

The study's main goal was to look at Khyber Pakhtunkhwa's new human rights act, the Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act, 2014, as we know our country has a bad reputation for human rights across the globe. Very few laws and mechanisms have been developed to check the incidents of human rights violations. Developed democracies worldwide have set up ways to implement and enforce human rights, but we do not have anything like that. Human rights in Pakistan are not very important to Pakistan, and that is a fact. Whether they are children, women, or ordinary people, everyone has been the victim of some human rights violations. Every day, the newspapers and media report many incidents that reflect the sheer violation of human rights. Most of the time, people complain that there are no laws to stop those human rights violations. So, gradually the situation has been progressing towards improvement. Still, it has a long distance to cover, but scholars think it is half full and half empty.

This study started with the exploration of secondary data. Scholars read books, journal articles, and a lot of national and international newspapers to figure out what was going on. The Act was a big step forward for the Khyber Pakhtunkhwa government in implementing and enforcing human rights and ensuring people did not break them. This is a comprehensive document that needs thorough study. A scholar found that academic study has yet to be done to explore this Act under study and check what kind of forces compelled the state to bring forth such a great Act. The literature review helped the scholar understand the issue further.

The scholar is also a law degree holder and district attorney, which helped me get the critical data and study them, which is usually outside the range of independent scholars.

### Table 7

#### **Below summarize these eight techniques of implementation for enforcing human rights (Almost here)**

Following a thorough thematic analysis, the scholar honed in on many overarching themes, including:

- International Organizations Compelled Pakistan to enact and implement the HR Laws in the country
- **This Act has several Key Strengths**
  - Making human rights policy central to the development plan for Khyber Pakhtunkhwa
  - Increasing future responsibility holders' capability for human rights
  - Setting up Pakistan's inaugural HR information management system in operation
  - Establishing the very first nationwide collection of national HR indicators for Pakistan
  - Honour Human Rights Day in Pakistan and especially Khyber Pakhtunkhwa
  - Paris Principles and GSP+ status compelled the state to enact this Human Rights Act.
- **This Act has several Key Weaknesses**
  - The government's slow procedures
  - due to a lack of cooperation among government entities
  - changes in leadership and stakeholder engagement
  - a willingness to support human rights-based initiatives
  - always seeking to incorporate all members of the group in all interactions.

### **Conclusion**

From this study, the researcher has concluded the following:

1. One of the significant accomplishments of the Khyber Pakhtunkhwa government, the examined Act, has helped advance human rights in the province.
2. The Act was passed and is now being enforced in response to pressure from outside the country. However, it is undeniable that it will have far-reaching positive effects on the average citizen and help paint a more positive image of the country outside.

3. Some of the Act's most notable qualities have been crucial in the growth of the nation and the province for decades. Human Rights Policy Centrality to Khyber Pakhtunkhwa Development Plan; Capacity Building for Future Human Rights Responsibility Holders; Implementation of Pakistan's First HR Information Management System; Compilation of Pakistan's First National HR Indicators; Celebration of Human Rights Day in Pakistan and Khyber Pakhtunkhwa.
4. More recently, it was discovered that GSP+ was the state's attempt to gain favor with the West. This status is essential because it lets the country trade with European countries on better terms.

### **Recommendations**

The "Human Rights Situation in Pakistan: A Case Study of the Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act, 2014" recommends:

- Strengthen the Directorate of Human Rights (DHR): It needs additional funding, staff, and independence. It should additionally be able to investigate without complaints.
- Highlight the 2014 Khyber Pakhtunkhwa Promotion, Protection, and Enforcement of Human Rights Act: Few people know their rights under the KP Act. The government should promote the KP Act and complaint filing through a public education campaign.
- Improve DHR complaint handling: It's slow and inefficient. The government should simplify complaint filing and resolution.
- Protect Pakistani human rights workers: They are routinely threatened and harassed. The government should provide protection and financial aid to human rights defenders.
- Regardless of position or power, the government should prosecute human rights abuses. This will make it clear that human rights violations will not be permitted.

The study also presents specific proposals to promote human rights in Khyber Pakhtunkhwa, such as:

- Reduce extrajudicial executions and enforced missing persons: The study concluded that Khyber Pakhtunkhwa has a major problem with them. The government should hold perpetrators accountable and compensate victims' families to reduce these events.
- Improve women and minority treatment: Khyber Pakhtunkhwa discriminates against women and minorities. To enhance their treatment, the government should enforce anti-discrimination legislation and provide fair opportunities for learning and work.

- Safeguard reporters and other media workers: Khyber Pakhtunkhwa journalists endure threats and violence. The government should investigate and prosecute journalist attacks to safeguard them.

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