

Chapter 13

PROTECTION OF CITIZEN'S RIGHTS AND THE ROLE OF INSTITUTIONS

By the end of this chapter, students will be able to:

- Describe the Role of the Ombudsman regarding resolution of complaints made by citizens of Pakistan.
- Discuss and debate the Powers and functions of the Ombudsman.
- Describe the role of Women Ombudsman in Pakistan to resolve the issues faced by women including domestic violence.
- Explain the role of Human Rights Cell regarding protection of rights in Pakistan.
- Describe the functions of Ministry of Human Rights in Pakistan.

Introduction

In this chapter, we will learn in detail about the Ombudsman and Ministry of Human Rights in Pakistan.

Role of Ombudsman

The institution of Ombudsman (Mohtasib) is generally referred as the **"Poor Man's Court"**. It has been serving the people of Pakistan in a significant manner for more than three decades. An Ombudsman is an official appointed by the government or by parliament with a significant degree of independence. He / she is charged with representing the interests of the public by investigating and addressing complaints of maladministration or violation of rights. Its role in enforcing administrative accountability ensures that public service activities in particular the exercises of decision-making, powers are carried out not only appropriately but in a manner that is consistent with fairness.

The Mohtasib's purpose is to institutionalize a system for enforcing administrative accountability through investigating and rectifying any injustice done to a person. The Mohtasib is empowered to award compensation to those who have suffered loss or damage as a result of maladministration. This institution is designed to bridge the gap between administrator and citizen in order to improve

administrative processes and procedures. The institution of Ombudsman helps to curb misuse of discretionary powers.

The Ombudsman is empowered to understand and investigate the grievances of a common aggrieved man. For achieving the objectives, the Ombudsman Office has been made the most accessible institution to the public.

Ways of Filing Complaint

A complaint in the office of Ombudsman may be lodged in a number of ways: Complainant may file it by post, fax or in person. It may also be registered through email or can be filed online using the direct link provided on the website of the Ombudsman. Upon receipt of complaint, the Registrar processes the complaint and allocates a unique number to each case on the same day.

Powers and Functions of Ombudsman

The law empowers the Ombudsman to entertain complaints against any department, commission or office of the Government or a statutory corporation or other institution established or controlled by the Government. It does not include the High Court and the Courts working under the supervision of High Court and Provincial Assembly and its Secretariat.

Ombudsman on a complaint of any aggrieved person, on a reference by the Government or the Provincial Assembly or on a motion of Supreme Court or the High Court or on his own motion (suo moto) can undertake any investigation into any allegation of 'maladministration' on the part of any agency or its officers or employees. However, the Ombudsman has no jurisdiction to investigate or enquire into matters which are:

- (a) Subjudice before a court of competent jurisdiction.
- (b) Related to the external relations of Pakistan or connected with defence of Pakistan or Military, Naval and Air Force of Pakistan or the matters covered by the laws relating to these Forces.

The Ombudsman also cannot entertain for investigation against any complaint by or on behalf of a public servant or functionary concerning any matter relating to the agency in which the public servant has been or is working in respect of any personal grievance or relating to his service therein.

- Ombudsman has the same powers as are vested in a Civil Court under the code of civil procedure for summoning and enforcing the attendance of any person.
- Ombudsman can compel for the production of documents, receive evidence on affidavits and issue commission for examination of witnesses.
- The Ombudsman is vested with the powers to enter and search any premises and inspect any article, books of account and other documents.
- The Ombudsman has the same powers, mutatis mutandis, as the High Court has to punish any person for its contempt.

Women ombudsperson in Pakistan

This institution came into being as a result of "Protection against Harassment of women" at workplace act, 2010, passed by the parliament of Pakistan. The legislation has been enacted with the objective of protecting the women from harassment at workplace and for effective redressal of their complaints of harassment. The Act is meant to provide relief against acts of harassment to any man or woman who is a regular or contractual employee whether employed on the daily, weekly, monthly or hourly basis and includes an intern or an apprentice. The objective of this Act is to create a safe working environment for women, which is free of harassment, abuse and intimidation with a view toward fulfillment of their right to work with dignity.

The aggrieved person can lodge complaint through online mechanism free of cost or by post to the women ombudsperson in Islamabad or their focal persons in the provinces.

Functions of Federal Ministry of Human Rights

There are a number of functions of Ministry of Human Rights. Few most important functions are given as under:

- To review human rights and protection of labour rights situation in the country including implementation of laws, policies and measures.

- To coordinate activities of Ministries, Divisions and Provincial Governments in respect of human rights and facilitation of functions relating to Human Rights.
- To obtain information, documents and reports on complaints and allegations of human rights violations from Ministries, Divisions, Provincial Governments and other agencies.
- To refer and recommend investigations and inquiries in respect of any incident of violation of human rights, including rights of the disadvantaged and child rights.
- To pursue or defend issues, complaints representations and matters for and against Pakistan relating to human rights.

Human Rights Cell, Supreme Court of Pakistan

The Human Rights Cell is established in the Supreme Court of Pakistan. It deals with the applications received directly from public against the violation of Human Rights in Pakistan. Main purpose of the establishment of this cell is to provide speedy relief to public at large without any cost. There are many functions of Human Rights Cell. It receives application from public through e-mail or by post. HRC send letters to concerned parties and seek report regarding the contents/paras of complaint. Moreover, it provides speedy justice to public on administrative side as well. An overseas complaint cell is also established to deal with the applications of overseas Pakistanis.

Human Rights Department, Government of Sindh

In the recent past, Government of Sindh has established Department of Human Rights. The main objective of this department is to ensure the human rights of all people in the province. The department has established a Human Rights complaint cell in order to entertain various complaints about the violation of human rights in Sindh.

Summary

In this chapter, we studied in detail about the powers and functions of Ombudsman and Ministry of Human Rights in Pakistan.

EXERCISE

Check your knowledge and understanding

A. Answer the following questions:

1. Elucidate the Role of the ombudsperson in redressal of public grievances.
2. Write a short note on following:
 - What is the role of Women Ombudsperson in Pakistan?
 - What is the role of Human Rights Cell established in the Supreme Court of Pakistan?
3. What are the functions of Ministry of Human Rights in Pakistani?
4. Identify various forms of harassment in your area and write a detailed Note on any two of them.

B. Fill In the Blanks

- i. The institution of Ombudsman (Mohtasib) is generally referred as the _____.
- ii. The Ombudsman has the same powers, mutatis mutandis, as the _____ Court has to punish any person for its contempt.
- iii. Parliament of Pakistan passed the Protection against Harassment of Women at Workplace Act in _____.

Conduct a Mock Court

- Explore the most recent case of human rights violation in Pakistan.

Cooperate with others

- In groups, discuss and debate the powers and functions of the Ombudsman and present before the class.