

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR  
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS  
DEPARTMENT MUZAFFARABAD

Dated: 19th June, 2020

No. LD/Legis-Act/247-60/2020. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 19th May, 2020 and received the assent of the President on the 13th day of June, 2020, is hereby published for general information.

(ACT XVI OF 2020)

An

Act

to provide for the establishment of a Human Rights Commission and to ensure promotion, protection and enforcement of Human Rights in the Azad Jammu and Kashmir

WHEREAS, it is expedient to provide for the establishment of a Human Rights Commission and to ensure promotion, protection and enforcement of Human Rights in the Azad Jammu and Kashmir as provided in the Azad Jammu and Kashmir Interim Constitution, 1974, the Universal Declaration of Human Rights and the various International Conventions, Treaties and Covenants and for matters ancillary or akin thereto;

AND WHEREAS, to make all possible efforts for establishment and strengthening of indigenous institutional mechanism for promotion and protection of basic human rights and basic liberties and to formulate policies to foster equality, unity, peace and harmony regardless of caste, creed, race, gender or religion for all State Subjects;

It is hereby enacted as follows:-

CHAPTER I  
PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Commission for Human Rights Act, 2020.

(2) It shall extend to the whole of the Azad Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(a) "Aggrieved person" means any person whose human

rights are adversely affected;

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“Child” means a person under the age of 18 years;

“Commission” means the Human Rights Commission constituted under Section 3;

“Chairperson” means the Chairperson of the Commission;

“Director General” means the Director General of Human Rights;

“Government” means the Azad Government of the State of Jammu and Kashmir;

“Human Rights” means the rights relating to life, liberty and dignity of the individual guaranteed by the Azad Jammu and Kashmir Interim Constitution, 1974 and included in the international instruments including political and women rights;

“Human Rights Court” means the Human Rights Court referred under Section 20;

“Member” means a member of the Commission and includes the Chairperson appointed under this Act;

“Non-Governmental Organization (NGOs)” means

and includes any private agency or body working voluntarily for the welfare of a person or community in AJ&K;

“Notification” means a notification published in the Government Gazette;

“Prescribed” means prescribed by rules or regulations made under this Act;

“Public Servant” means a Public Servant as defined under Section 21 of the Azad Penal Code, 1860;

“State” means the State of Azad Jammu and Kashmir;

“Rules” means rules made under this Act.

## CHAPTER-II

### HUMAN RIGHTS COMMISSION

Human\_ Rights Commission.- (1) The Government shall constitute a Commission to be known as Azad Jammu and Kashmir Human Rights Commission.

(2)

The Commission shall consist of,-

(i) — Chairperson, who is or has been Chairperson  
a Judge of the Supreme Court or  
a retired Civil Servant having  
demonstrable knowledge of, or  
practical experience in, matters  
relating to the Human Rights

Gi) Chairperson of the AJ&K Vice Chairperson  
Commission on the Status of

Women

(ili) one state subject from minority Member  
community

(iv) Secretary Law, Justice, Ex-officio Member  
Parliamentary Affairs and  
Human Rights

(v) Secretary Social Welfare and Ex-officio Member  
Women Development

(vi) Secretary Industries and Labour Ex-officio Member

(vii) Secretary Jammu and Kashmir Ex-officio Member  
Liberation Cell

(vili) a renowned Human \_ Rights Member  
activist

(ix) Director General Human Rights Member/ Secretary

(3) The Commission shall exercise such powers and perform  
such functions as provided in this Act:

Provided that of the total membership of the  
Commission, at least two shall be women members.

(4) A member shall not be less than forty years of age and  
shall have knowledge and experience relating to human rights.

(5) There shall be a Director General of the Commission,  
who shall be appointed amongst such civil servants possessing  
such qualification and experience as may be prescribed.

6) The Director General shall be the Chief Executive  
Officer of the Commission and shall exercise such powers and  
discharge such functions of the Commission, as may be  
delegated to him.

(7) The headquarters of the Commission shall be at  
Muzaffarabad:



Provided that the Government may establish sub-offices at other places in Azad Jammu and Kashmir.

(8) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among other, to acquire, hold and dispose of any property and shall sue and be sued by the said name.

(9) All members of the Commission shall work on prescribed terms and conditions.

Appointment of Chairperson and \_members.- (1) The Law, Justice, Parliamentary Affairs & Human Rights Department

shall, through public notice, invite suggestions for suitable persons for appointment as Chairperson and members of the Commission, except ex-officio members and, after proper scrutiny, shall submit a panel of three persons for each vacancy to the Prime Minister, who after consultation with the Leader of Opposition in the Legislative Assembly, shall appoint the Chairperson and members, as the case may be.

Term of office of Chairperson and of members.- (1) A person appointed as Chairperson or a member shall hold office for a

term of three years from the date on which he enters upon his office.

(2) The Chairperson or a member may resign from his office in writing under his hand addressed to the Prime Minister and on acceptance of the resignation such vacancy shall be filled within sixty days.

Removal of the Chairperson and members.- The Chairperson and members may be removed from office on the grounds and in

the manner provided for in Article 42-E of the Azad Jammu and Kashmir Interim Constitution, 1974.

Acting Chairperson.- At any time when the Chairperson is absent or unable to perform the duties of his office for any reason, or in the event of the vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the members of the Commission shall elect an Acting Chairperson from amongst themselves until the incumbent Chairperson resumes his office, or as the case may be, until the appointment of a new Chairperson to fill such vacancy which shall not exceed sixty days.

Terms \_and\_ conditions of service \_of\_ members including Chairperson.-. The salaries and allowances payable to, and

terms and conditions of service of the members, other than ex-





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officio member, shall be such as may be prescribed by the Government.

Procedure \_of the Commission.- (1) The Commission shall regulate its own procedure.

(2) All orders and decisions of the Commission shall be authenticated by the Director General.

(3) The quorum of the meeting shall not be less than one-half of the total membership of the Commission.

(4) The decision of the Commission shall be taken by the majority of the members present and, in case of a tie, the member presiding the meeting shall have a casting vote.

(5) No act or proceedings of the Commission shall be invalid on the ground, merely of the existence of any vacancy in, or defect in the constitution of the Commission.

Officers\_and\_other\_staff\_of the Commission- (1) The Government shall make available to the Commission such employees, police and investigative staff required for the efficient performance of the functions of the Commission.

(2) The Government may appoint such other administrative, technical and scientific staff for the Commission, permanently or on ex-officio basis as it may consider necessary.

(3) The salaries, allowances and other privileges of employees of the Commission shall be same as admissible to their counterparts of regular Government Departments.

Annual and \_ special reports of the Commission.- (1) The Commission shall submit an annual report to the Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Government shall cause the annual and special reports of the Commission to be laid before Azad Kashmir Legislative Assembly along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

(3) The Commission shall publish reports on human rights

situation on regular basis.

Functions of the Commission.- The Commission shall perform all or any of the following functions, namely:-

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- (b)
- (c)
- (d)
- (e)
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- (k)

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highlight the Human Rights violation being committed by Indian authorities in the Indian Occupied Jammu and Kashmir;

review human rights situation including implementation of laws, policies and measures;

inquire, suo moto or on a petition presented to it by the victim or any person on this behalf, into complaint of-

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

intervene in any proceeding involving any allegation or violation of human rights pending before a court with the approval of such court;

visit, under intimation to the Government, any jail or any other institution under the control of the Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereof;

review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommended measures for their effective implementation;

analyse the human rights situation and recommend measures to protect human right to Government.

undertake and promote research in the field of human rights;

spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

Registration of non-governmental organizations and institutions working in the field of human rights;

such other functions as it may consider necessary for the promotion of human rights.

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## CHAPTER IIT INQUIRIES AND INVESTIGATIONS

Inquiry into complaints.- (1) The Commission while inquiring into the complaints of violations of human rights may call for information or report from any authority or organization, subordinate thereto, within such time as may be specified by it:

Provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own:

Provided further that in case the complaint relates to areas that are security sensitive, the Commission shall obtain a report within fifteen days from the Federal Government and if the report is not received within thirty days the Commission may proceed to inquire into complaint on its own:

Provided also that if on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been Initiated or taken by the Government or authority, it may not proceed with the complaint and inform the complaint accordingly.

(2) Without prejudice to anything contained in sub-section (1), if the Commission considers necessary, having regard to nature of the complaint, it may initiate an inquiry.

(3) If at any stage of the inquiry, the Commission,-

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this Section shall apply where the credit of a witness is being impeached.

Powers relating to inquiries.- (1) The Commission shall, while inquiring into complaint under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of any document;

- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

(2) The Commission shall have power to require any

person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Section 176 and Section 177 of the Pakistan Penal Code.

(3) The Commission shall be deemed to be a civil court to the extent that is described in Sections 175, 178, 179, 180 and 228 of the Azad Penal Code, 1860. If the offence is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under Section 346 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193, 196 and 228 of the Azad Penal Code, 1860.

(5) The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898.

Investigation.- (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Government.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Commission.-





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(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document;

(c) requisition any public record or copy thereof from any office.

(3) The provisions of Section 14 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilized under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry, including the examination of the person who conducted or assisted in the investigation, as it thinks fit.

Statements made \_by\_persons\_to\_the Commission.- No statement made by a person in the course of giving evidence

before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement-

(a) is made in reply to the question which he is required by the Commission to answer; or

(b) is relevant to the subject matter of the inquiry.

Persons likely to be prejudicially affected to be heard.- If, at any stage of the inquiry, the Commission-

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is

likely to be prejudicially affected by the inquiry, it shall

give to the person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defense:

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Provided that nothing in this section shall apply where the credit of a witness is being impeached.

#### CHAPTER IV PROCEDURE

Inquiry into complaints.- The Commission while inquiring into the complaint of violations of human rights may-

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(ai)

call for the information or report from the Government or any other authority or organization subordinate thereto within such time as may be specified by it:

Provided that-

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(b) if, on the receipt of information or report the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

Steps after inquiry. The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely,-

(a)

(b)

(c)

where the inquiry discloses, commission of violation of Human Rights or negligence in the prevention of violation of Human Rights by a public servant, it may recommend to the Government or authority, the initiation of proceedings for

prosecution or such other action as the Commission may deem fit against the concerned person or persons;

approach the High Court for such directions, orders or writs as the court may deem necessary;

recommend to the Government or authority for the grant of such immediate interim relief to the victim

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or the members of his family as the Commission may consider necessary;

(d) subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;

(e) the Commission shall send a copy of its inquiry

report together with its recommendations to the Government or authority and the Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(f) the Commission shall publish the inquiry report together with the comments of the Government or authority, if any, and the action taken or proposed to be taken by the Government or authority on the recommendations of the Commission.

#### CHAPTER V HUMAN RIGHTS COURTS

Human Rights Courts.- The Court of Session in each District shall have power to try offences arising out of violation of Human Rights.

Special Prosecutor.- For every Human Rights Court, the Government shall, by notification, appoint a Special Prosecutor, having not less than seven years practice as an Advocate, for the purpose of conducting cases in that Court:

Provided that till the appointment of Special Prosecutor the Public Prosecutor appointed under the Law Department Manual, 2016 shall conduct the cases in the Courts for which they will be paid additional allowance by the Commission.

#### CHAPTER VI FINANCE, ACCOUNTS AND AUDIT

Fund of the Commission.- (1) There shall be established a fund to be known as the Commission for Human Rights Fund which shall vest in the Commission and shall be used by the Commission to meet the charges in connection with its functions

under this Act.

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(2) Source of the Fund shall amongst other monies be the following, namely:-

(a) such sums as the Government shall, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Commission by any of grants such sums of money for being utilized for the purposes

of this Act;

(b) grants and endowments and income therefrom; and

(c) all other sums or properties which may in any manner

become payable to, or vest in, the Commission in respect of any matter.

(3) The Commission, while performing its functions and exercising its powers under this Act, shall exercise highest sense of prudence as far as expenditures are concerned.

Expenditure to be charged on the Fund.- The Fund shall be expended for the purposes of,-

(a) paying any expenditure lawfully incurred by the Commission, relating to remuneration of its members, employees, advisors and consultants of the Commission including legal fees and costs as well as other fees and costs;

(b) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or in the exercise of its powers under this Act;

(c) purchasing or hiring equipment, machinery and any other work and undertakings in the performance of its functions or in the exercise of its powers under this Act;

(d) repaying any financial accommodation received; and

(e) generally, paying any expenses for carrying into effect the provisions of this Act.

Power \_to obtain finances \_and\_receive\_grants.- The Commission may, from time to time, obtain and receive unconditional grants or contributions from donors and non-governmental organizations in a transparent manner. No contribution from any foreign source, private or governmental, shall be acceptable except after the approval of the Government of Pakistan.





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Accounts and audit.- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Auditor-General of Azad Jammu and Kashmir.

(2) The accounts of the Commission shall be audited by the Auditor-General at such intervals as may be specified by him.

(3) The Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Auditor-General generally has in connection with the audit of Government's accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and paper and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Auditor General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Government by the Commission and the Government shall cause the audit report to be laid, as soon as may be after it is received, before the Legislative Assembly.

#### CHAPTER VII MISCELLANEOUS

Jurisdiction of the Commission.- (1) The Commission shall not have any jurisdiction to inquire into any matter which-

(i) is sub-judice before a court of competent jurisdiction or judicial tribunal; or

(ii) relates to the external affairs of Pakistan or the relations or the dealing of Pakistan with any Foreign State or Government; or

(iii) relates to or is connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces;

(iv) matters incidental and ancillary to the above subjects.

Constitution of special Investigation Teams.- Notwithstanding

anything contained in any other law for the time being in force,

where the Commission considers it necessary so to do, it may constitute one or more special investigation teams, consisting of

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such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

Indemnity.- No suit, Prosecution or legal proceedings shall lie against the Commission or any Member, officer, servant, advisor or consultant of the Commission in respect of anything which is in good faith done or intended to be done under this Act or the rules made thereunder or order made or published by or under the authority of the Government, Commission or any report, paper or proceedings.

Members and Officers to be public servants.- Every Member of the Commission, and every officer appointed or authorized by the Commission to exercise functions under this Act, shall be deemed to be a Public Servant.

Commission to be Special Institution. The Commission shall be a special institution of the Law, Justice, Parliamentary Affairs and Human Rights Department for the purposes of Azad Government of State of Jammu and Kashmir Rules of Business.

Power to make rules and regulations.- (1) The Commission, with the approval of the Government, may make rules for carrying out the purposes of this Act.

(2) The Commission may make regulations for purposes of regulating its business.

Removal of Difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official gazette, make such provisions not inconsistent with this Act, as appears to it to be necessary or expedient for removing the difficulty.

Sd/-  
(Gulfray Ahmed Khan)  
Section Officer (Legislation)