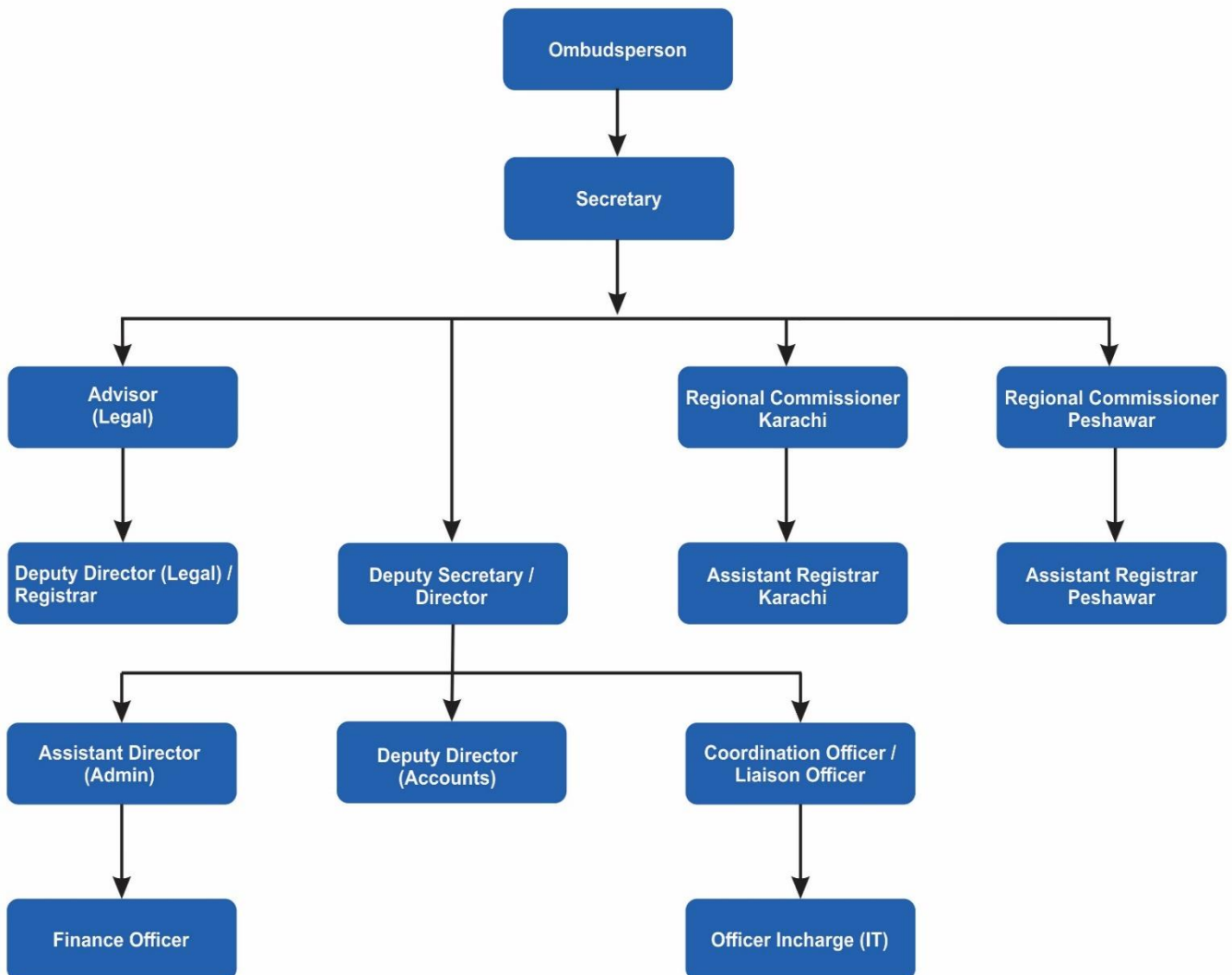




FEDERAL OMBUDSMAN SECRETARIAT
PROTECTION AGAINST HARASSMENT (FOSPAH)
14-M, FIRST FLOOR, ALI PLAZA, F-8 MARKAZ, ISLAMABAD

Subject: **PREPARATION OF ANNUAL REPORT ON THE OBSERVANCE AND IMPLEMENTATION OF PRINCIPLES OF POLICY (2017-18) UNDER ARTICLE 29(3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN.**

ORGANOGRAM



FOSPAH VISION

To redress grievances pertaining to harassment promptly and give instant relief to the aggrieved persons, it is our firm belief that awareness is the key to reduce and discourage harassment in all forms.

MISSION STATEMENT

To vanguard the respect and dignity of all workforce in
the cross-section of the country.

Message from Ombudsperson



As a Federal Ombudsman for Protection against Harassment, I have been witnessing men and women of our country being harassed at workplaces on day to day basis. This portfolio is an opportunity to provide justice to those who have remained voiceless. It is my utmost desire to initiate change in Pakistan and give voice to the weak segment of society. It is my resolve to eliminate the vestiges of harassment and make our society more gender sensitive which is free from the ills of harassment.

Ms. Kashmala Tariq

Federal Ombudsman for Protection
against Harassment at Workplace

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EXECUTIVE SUMMARY

Submission of the Annual Report to the Cabinet Division is a statutory requirement. Office of the Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace was established in March 2010. Thus, in June 2018 this Office has completed 08 years of the public amenity and this is the 8th Annual Report.

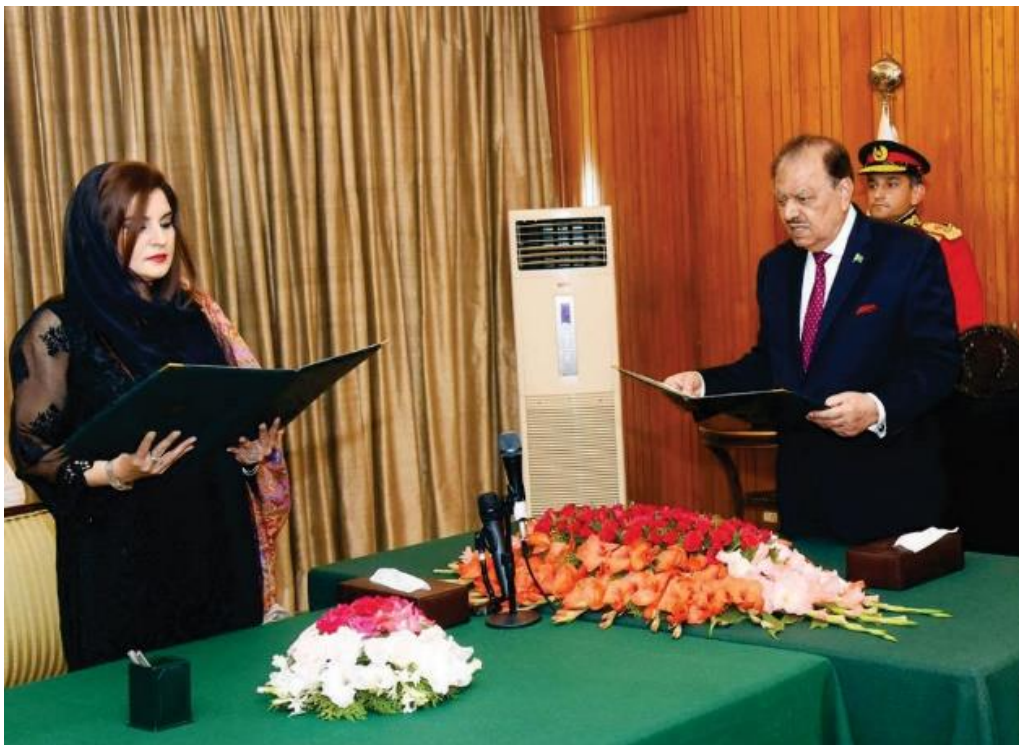
1. The Principles of policy, as laid down in Articles, 29 to 40 of the Constitution of the Islamic Republic of Pakistan, require that a Report on implementation and observance of these Principles in relation to the affairs of the Federation should be prepared and laid down before each House of Majlis-e-Shoora (the Parliament). Further, under Rule 26 of the Rules of Business 1973, Cabinet Division is entrusted with the responsibility to prepare the Annual Report on the Observance and Implementation of Principles of Policy in order to meet this constitutional obligation and is required to get inputs from the concerned Ministries/ Divisions, immediately after the closure of each financial year. This Annual Report shall, therefore, be presented through proper channel to the Parliament.
2. This report comprises of the initiatives, activities, developments and working of FOSPAH besides the recommendations as laid down in the Protection against Harassment of Women at Workplace Act 2010. This report consists of 5 Chapters.
3. Chapter 1: provides introduction and brief history about the Federal Ombudsman Secretariat for Protection against Harassment at Workplace.
4. Chapter 2: provides observations made in some of the cases of this forum.
5. Chapter 3: contains the statistics of the registered, disposed off and under progress cases of this Secretariat.
6. Chapter 4: discusses about the implementation and progress of the development projects.

Chapter No. 01

1. Introduction

1.1 Ms. Kashmala Tariq appointed as Federal Ombudsperson:

Ms. Kashmala Tariq has sworn in as the new Federal Ombudsperson for Protection against Harassment. Oath was administered at Aiwan-e-Sadar Secretariat, Islamabad by the President Mr. Mamnoon Hussain on 27th February 2018.



1: Ms. Kashmala Tariq taking oath as the Federal Ombudsperson for Protection against Harassment from President of Pakistan Mr. Mamnoon Hussain at Aiwan-e-Sadar Secretariat, Islamabad

Ms. Kashmala Tariq started her Law practice on 21st November, 1996 with Mandviwalla & Zafar, one of the leading law firms headed by Senator S.M. Zafar and Syed Ali Zafar. She has served as a Member of National Assembly for two terms (2002 -2013). As MNA, she was a very vocal and active member and tabled more than 25 pieces of legislation in the Parliament. Some of her prominent legislation, especially for improving the plight of women include amendment in Hudood Laws, amendment in Honor Killing Laws, Sexual Harassment, Women Empowerment Laws and Formation of National Commission for Human Rights. As human rights have always been her passion and in this regard, she has tabled multiple pieces of legislation which include: Child Rights, Child Domestic Labour, Bonded Labour and Protection of Minorities. Ms. Kashmala Tariq further assisted with

amendments in Pakistan Citizenship Laws and Rights of Senior Citizens. She had been a very active member of the Standing Committee of the Parliament (Finance, Commerce and Law, Justice & Human Rights). Ms. Kashmala Tariq was the first ever Pakistani Parliamentarian who has won a foreign election (by 175 Legislators) and got elected as Chairperson, Commonwealth Women Parliamentarians in 2007 (Delhi, India). Being Chairperson, she worked keenly on Human Right issues especially the rights of women and served from 2007 to 2011. She has been a Founding Member and Executive Director of the Parliamentarians Commission for Human Rights (PCHR) for 15 years.

1.2 Previous Ombudspersons of this Secretariat:



Musarrat Hilali was the first Ombudsperson for Protection against Harassment of Women at Workplace, appointed on 13th January, 2011. Her tenure completed on 14th January 2013.



Second appointed Federal Ombudsperson was Justice (R) Yasmin Abbasey who took charge on 14th March, 2013 and held the office of Federal Ombudsperson till 26th February 2018.

1.3 Introduction to the Office of the Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace:

The objective is to create safe working environment for the workforce that is free from harassment, intimidation and abuse. It also fulfills their right to work with respect and dignity. The Act of Parliament (No. IV of 2010: Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace) was promulgated on **9th March 2010** and the office of the Ombudsman at the Federal level was established in pursuance thereof.

The legislation namely, “The Protection against Harassment of Women at Workplace Act 2010” will open new paths for working class, women and men alike, to fully participate in the development of Pakistan at all levels. The Act was initially promulgated in March 2010. Subsequently **Act No XIV of 2013** dated 20th March was promulgated to make institutional reforms of Federal Ombudsman at Federal level and the matters ancillary or akin thereto.

According to the Act of 2010, it is incumbent to have an internal inquiry committee in every organization/ department to facilitate the victims of harassment.

1.3.1. Organization:

Definition of the term “Organization” as defined in section 2(l) of the Protection against Harassment of Women at Workplace Act 2010:

“Organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution.

1.3.2. Harassment:

The “Protection against Harassment of Women at Workplace, Act 2010” defines **harassment** as:

any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidation, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made condition for employment.

Harassment covers a wide range of behaviors of an offensive nature. It is commonly understood as behavior that disturbs or upsets, and it is characteristically repetitive. In the legal sense, it is behavior that appears to be disturbing or threatening. Sexual harassment refers to persistent and unwanted sexual advances, typically in the workplace, where the consequences of refusing are potentially very disadvantageous to the victim.

1.3.3. Workplace harassment:

- the offensive, belittling or threatening behavior directed at an individual worker or a group of workers.
- the odious dealing through pitiless, malevolent, hurtful or embarrassing attempts to undermine an individual worker or groups of workers.

Recently, matters of workplace harassment have gained interest among practitioners and researchers as it is becoming one of the most sensitive areas of effective workplace management. In developed countries, it attracted lots of attention from researchers and governments since the 1980s, because a significant source of work stress is associated with aggressive behaviors in the workplace. Third world countries are far behind the developed countries in that there are limited efforts to investigate the questions on workplace harassment. Under occupational health and safety laws around the world, workplace harassment is identified as being core psychosocial hazards.

1.3.4. Jurisdiction:

Jurisdiction means a particular authority granted to a legal body to administer Justice within a defined field of responsibility. Jurisdiction is very important because it limits the power of a court to hear certain cases. This forum of Federal Ombudsman for Protection against Harassment at Workplace has a jurisdiction to entertain cases that are related to Harassment at Workplace and covers the entire nation who are working in Pakistan and outside the Pakistan.

1.3.5. Inquiry Committee:

The structure, regulations and other procedures related to the Inquiry Committee are as under:

- i. Each organization shall constitute an Inquiry Committee within thirty days of the enactment of “Protection against Harassment of Women at Workplace, Act 2010” to enquire into complaints under this Act.
- ii. The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no Collective Bargaining Agent (CBA). One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.
- iii. In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.
- iv. In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

- v. The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry.

Competent Authority is legally responsible to implement the judgment/ decision within stipulated time period and in case of failure to do so, the Ombudsman possesses power to punish for contempt as provided in the Contempt of Court Ordinance, 2003 (Act V of 2003).

This Secretariat have already constituted Internal Inquiry Committee under sub-section (1) of section 3 of the Protection against Harassment of Women at Workplace, Act 2010.

1.3.6. Complaint handling:

a) Procedure:

All complaints that are filed at the Federal Ombudsman Secretariat against Harassment are dealt with in accordance with the provision of Protection against Harassment of women at workplace Act 2010. Any woman or man can file a complaint under section 8 of the above mentioned act. The complaint can be registered with the Registrar at the Federal Ombudsman Secretariat. It can also be sent by post or submitted online via www.fospah.gov.pk. It can either be written in English or Urdu.

b) Requirement:

While filing a complaint, the complainant is required to have a comprehensive statement containing all the facts regarding the harassment experienced. With their statement all relevant evidence should attached. The complainant should also provide a list of all witnesses along with their computerized National Identity Cards, addresses and contact numbers.

The complainant is also required to submit an affidavit verifying the authenticity and truthfulness of the complaint lodged. While filing a complaint a power of attorney may also be required along with the addresses of the complainant and respondent. The complaint should duly be signed by the complainant. If need so. The Registrar may request further relevant documents.

1.3.7. Appeal handling:

a) Procedure:

Under section 6 of Protection against Harassment of Women at Workplace Act 2010 any party that may feel discontented / aggrieved by the decision of the inquiry committee constituted

under Protection against Harassment of Women at Workplace Act, 2010 is eligible to file an appeal at the Federal Ombudsman Secretariat within 30 days of the decision. Given that the appellant has suffered a minor or major penalty.

b) Requirement:

Any party aggrieved by the decision of the competent authority may appeal under Section 6 of the Protection against Harassment of Women at Workplace Act 2010 in his / her own name. The appeal shall contain all the relevant material, statements and arguments relied upon by the appellant. The appeal shall not be accusatory and derogatory. The appellant is required to file the appeal directly with the Registrar at the Federal Ombudsman Secretariat. It is important that the content of the appeal be verified by the aggrieved party to be true to his / her knowledge and belief. The appeal must be signed the appellant or affixed with a thumb impression.

The appellant authority may on consideration of appeal and any other relevant material, confirm, set aside, vary or modify the decision within 30 days in respect of which such appeal is made. It shall communicate the decision both to the parties and the employer.

1.3.8. Employer:

In relation to an organization, “Employer” means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes:

- i. an heir, successor or assign, as the case may be, of such person or, body as aforesaid;
- ii. any person responsible for the direction, administration, management and control of the management;
- iii. the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case may be;
- iv. the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
- v. the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof.

- vi. a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
- vii. office bearers of a department of a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

1.3.9. Responsibility of the Employer:

It shall be the responsibility of the employer to ensure implementation of Act of 2010, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

The management shall display copies of the ‘Code of Conduct’ in English as well as in language understood by the majority of employees **at a conspicuous place** in the organization.

On failure to comply with the provisions of this section (display copies of ‘Code of Conduct’), every employer shall be liable to fine which shall not be less than twenty-five thousand rupees.

The purpose of the ‘Code of Conduct’ is to create awareness about the “Protection against Harassment of Women at Workplace, Act 2010” and to make every employer or employee known about the definitions of harassment as defined in the Act.

Copies of the ‘Code of Conduct’ sheets that are displayed at the entrance of this organization:



CODE OF CONDUCT

Under Protection against Harassment of Women at the Workplace Act, 2010

[Schedule Sections 2 (c) and 11]

Whereas it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

- (I) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) "Harassment" means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation: There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical "hostile environment" claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through his/ her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH)

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ضابطہ اخلاق

جائے کار پر خواتین کو براسل کرنے سے تحفظ کیلئے ضابطہ اخلاق ایکٹ، ۲۰۱۰
جنول (دفعات ۲ (ج) اور ۱۱)

چونکہ یہ قرین مصلحت ہے مقلم کار پر عورت کو براسل کرنے کے خلاف تحفظ دینے اور حفاظت کے لیے ضابطہ اخلاق وضع کیا جائے جو ذیل میں دیا گیا ہے

(۱) ضابطہ تمام ملازمین انتظامیہ اور گنارمنزیشن کے مالکان کے لئے رہنمائی فراہم کرتا ہے تاکہ وہ کام کے لئے خوف دہرا سے پاک ماحول کو یقینی بنائیں؛

(۲) "خوف دہرا" سے کوئی بھی ناخوشگوار جنسی تعلق، جنسی میلان کی استدعا کرنا یا کوئی زبانی یا تحریری مراسلت یا جنسی نوعیت کے عملی اقدام یا جنسی تذکیریل جیسا کہ یہ مراد ہے کام کی انجام دہی میں مداخلت کا سبب بننا یا خوفناک، مخالفانہ یا جارحانہ ماحول پیدا کرنا یا نہ کرنا یا ناخوشگوار پورا کرنے پر مستعدیت کو سرا دینے کی کوشش کرنا یا ملازم کو اس فعل سے مشرک کرنا ہے، کسی ادارہ یا جائے کار میں، بشمول سرکاری کام کے سلسلے میں کوئی رابطہ یا صورت حال یا دفتر سے باہر کسی سرکاری سرگرمی کے دوران نہ کرنا یا روکنا یا ناقابل قبول ہے۔

تشریح: کام کے ماحول کو خراب کرنے کے تین نمایاں طریقے ہیں:

(الف) اختیارات کا غلط استعمال

کسی بھی صاحب اختیار شخص، جیسا کہ سپروائزر، کی طرف سے مستعدیت کو ملازمت میں رکھنے یا اجرت میں اضافہ، ترقی، تربیت کے مواقع، تہوار، ملازمت جیسے بعض فوائد دینے کے عوض جنسی میلان پیدا کرنے کا تقاضا کرنا؛

(ب) مخالفانہ ماحول پیدا کرنا

کوئی بھی ناخوشگوار جنسی تعلق، جنسی میلان یا جنسی نوعیت کا کوئی دوسرا زبانی یا عملی طریقہ اختیار کرنے کی استدعا کرنا یا کسی فرد کی کام کی کارکردگی پر اثر انداز یا کام کے ماحول میں خوف دہرا، بیادگی یا جارحیت پیدا کرنا۔ مخصوص "ناموافق ماحول" کا دعویٰ یا عمومی جارحانہ رویے کے نتائج کی مثال کا تقاضا ہوتا ہے، تاہم ایسے مقدمات جن میں انھیں خوف دہرا یا پھیلا یا جائے، مثلاً ایسے مقدمات جن میں جسمانی تعلق پایا جائے، جنہاں جارحانہ واقعے کی خلاف ورزی کا تین کرے گا۔

(ج) انتقام

جنسی تعلق کی اجازت سے انکار کے نتیجے میں انتقام لیا جاسکتا ہے، جس میں مستقبل میں ملازمت کی پروموشن یا تربیت کے مواقع کو محدود کرنا، کارکردگی پر نہیں خراب کرنا، ملازمت کے خلاف بیادگی یا ناخوشگوار ماحول یا ملازمت میں کے حقوق کو محدود کرنے کے دیگر ذرائع شامل ہیں۔ اس طرح کاروبار یہ بھی خوف دہرا برا اس کا ایک حصہ ہے۔

(۳) ہراساں کرنے کی شکایت کا عام حل یہ ہے کہ ملوث فریقین کے درمیان بھڑکھڑا دوسے کر مصلحت کر لی جائے، اور اس عمل میں انتہائی مداخلت کی جائے۔

(۴) مستعدیت اس مقدمہ کے لیے یا مستعدیت کی جانب سے متعین کردہ کوئی عمل کار کن خوف دہرا کے واقعے کی غیر رسمی رپورٹ اس کے سپروائزر کو یا انکو ایگزیکٹو کے رکن کو کرے گا۔ ایسی صورت میں سپروائزر یا کینیٹا کارکن معاملے کی روح اور مستعدیت رضامندی سے معاملے کو حل کرنے کی کوشش کرے گا۔ استدعا زبانی یا تحریری طور پر کی جاسکتی ہے؛

(۵) اگر معاملے کو غیر رسمی طور پر تفتیش کے لئے اٹھایا جائے تو دفتر یا آفس کا ایک سینئر مینیجر خفیہ طریقے سے تفتیش کرے گا۔ منسوب کردہ ملازم کے ساتھ معاملے کو زوداوری سے حل کرنے کے ادا سے سے رابطہ کیا جائے گا۔

(۶) اگر رپورٹ کردہ قوم یا معاملہ میں خوف دہرا اس کی شدت بہت زیادہ ہے اور معاملے کا جائزہ لینے والا افسر یا رکن یہ محسوس کرتا ہے کہ تادیبی کارروائی کے لیے باضابطہ کارروائی ضروری ہے تو مستعدیت کی رضامندی کے ساتھ اس معاملہ کی باضابطہ کارروائی کی جاسکتی ہے۔

(۷) مستعدیت کے لیے لازم نہیں ہے کہ وہ خوف دہرا اس کی شکایت کو صرف غیر رسمی طریقے پر اٹھانے بلکہ ہر مریاد عورت کی بھی باضابطہ شکایت دائر کر سکتا / سکتی ہے۔

(۸) مستعدیت باضابطہ شکایت اپنے اچھارج، سپروائزر، سی بی اے کے نامزد کردہ شخص یا کارکنوں کے نام سے کرے، جیسے بھی صورت ہو، یا انکو ایگزیکٹو کے رکن کو رپورٹ دے سکے گا۔ کینیٹا کے جس رکن سے رابطہ کیا گیا ہو وہ تفتیش کا عمل شروع کرنے کا ذمہ دار ہے۔ سپروائزر عمل کے طریقہ کار میں سہولت پیدا کرنے کا اور اس کی ذمہ داری ہوگی کہ وہ انکو ایگزیکٹو پر اثر انداز نہ ہو یا رپورٹ نہ دے؛

(۹) آرگنائزیشن کے کسی بھی رکن کی انکو ایگزیکٹو کے طریقہ کار میں معاونت اور مدد حاصل کی جاسکتی ہے؛

(۱۰) آج عارضی طور پر تفتیش کے دوران دفتر میں ایسا بندہ دست کرے کہ مستعدیت اور ملازم دفاتر یا معاملات میں آپس میں کوئی رابطہ نہ کریں۔ اس میں دفتر کی عارضی طور پر تبدیل شامل ہوگی اگر وہ دونوں ایک ہی دفتر میں بیٹھے ہوں، یا کوئی ایسا اضافی چارج جو اس کے کنٹرول کے علاوہ اور بالائی حیثیت رکھتا ہے واپس لیا جاتا ہے ایک فریق کو دوسرے کی ملازمتی شرائط پر بالائی حیثیت دینا ہے۔ آج ملازم کو رخصت پر بھیجے کا فیصلہ کر سکتا ہے یا ملازمی کے معاملات پر کارروائی کرنے کے لئے قابل اطلاق طریقہ کار کے مطابق ملازم کو معطل کر سکتا ہے، بشرطیکہ ایسا کرنا مطلوب ہو؛

(۱۱) فریقین میں سے کسی کی طرف سے بھی انتظامیہ جذبے کی منتہی سے گھرائی کی جائے گی۔ تفتیشی عمل کے دوران کام، تفتیش، روزمرہ کے کارٹھی، رپورٹنگ کا طریقہ دار پہلے سے جاری کسی انکو ایگزیکٹو یا باضابطہ جائزہ لیا جائے تاکہ کسی بھی فریق کی طرف سے انتظامی کارروائی کو روکا جاسکے۔

(۱۲) بالعموم ادارے کے ملازمین کے مابین ہراسیت کا عمل نمائندگی ہوتا ہے، لہذا عام طور پر شہادت پیش کرنا مشکل ہوتا ہے۔ لہذا یہ سفارش کی جاتی ہے کہ عمل کو چاہیے کہ وہ فوری طور پر جارحانہ رویے سے متعلق کسی قابل اعتماد شخص کو رپورٹ کرے۔ باوجود اس کے کہ وہ اس وقت باضابطہ شکایت نہ کرنا چاہتا ہو مگر فوری طور پر رپورٹ کرنے سے معاملے کا اختتام متاثر نہیں ہوگا؛ اور

(۱۳) ضابطے میں ملازمین کو تمام کار پر تعدد سے تحفظ دینے سے متعلق طریقہ کار کے نمائندہ معیار دینے گئے ہیں لیکن یہ کسی ایسے بھڑکھڑا نظام کو متاثر نہیں کریں گے جو کسی آرگنائزیشن نے اختیار کرے ہوں نہ ہی اس تحفظ کی ماہ میں مائل ہوں گے جو ادارے میں کام کرنے والے ملازمین نے گفت و شنید کے ذریعے اپنے آجروں سے حاصل کئے ہوں۔

وفاقی محتسب برائے افساد ہراسیت بمقام کار

۱۳-ایم، فرسٹ فلور، علی پلازہ، ایف ایٹ مرکز، اسلام آباد

فون نمبر: 051-9262949, 051-9262953

1.4 Establishment of the Regional Offices:

Two Regional Offices of this secretariat were established in April 2017 at Karachi and Peshawar. Regional offices of Karachi and Peshawar have started functioning in their respective regions to facilitate cases of workplace harassment with immediate effect. Awareness campaigns have also been started by the regional commissioner in their respective jurisdiction to intimate the relevant working class about the Law and Rules related to protection against harassment of women at workplace and opening of the regional offices at Karachi and Peshawar for the convenience of victims of Harassment near to their workplace. This endeavor is expected to create awareness and sense of security and dignity for the working class in those areas. Addresses of the regional offices are provided below:

Federal Ombudsman Secretariat Regional office, Karachi

Radio Pakistan Building, 8th floor,

Hassan Square, Karachi, Pakistan.

Phone: 0092 21 99230511, 0092 21 99230512

Email: regional-commissionerkhi@fospah.gov.pk

Federal Ombudsman Secretariat Regional office, Peshawar

Gulberg No. 02, Naveed Lane, Street-5th,

Peshawar Cantt - Peshawar, Pakistan.

Phone: 0092 91 9331627

Email: rgnlcommissionerpew@fospah.gov.pk

As per the strategical plan of this Secretariat, in terms of Harassment Act 2010, it is our utmost objective to provide each and every person a working opportunity to earn livelihood in an environment that is free from intimidation and discrimination.

It has been realized by FOSPAH that out of 207.774 million population of the country together with 48.7% percent female, the benefits of this Act cannot be extended to maximum number of people in general and to active labor force in a purposeful manner until and unless the grievances of the working force working all over Pakistan are not addressed at gross root level. So, to get optimum results of the Act, this Secretariat has proposed to open more regional offices in major cities of Pakistan i.e. Gilgit Baltistan, Multan and Lahore to make this justice approachable to all those who deserve and desire this opportunity.

Pakistan



1.5 Introduction to the Online Systems:

Federal Ombudsman Secretariat aims to acquaint the general public about the “Protection against Harassment of Women at Workplace Act 2010”. To facilitate general public and to extend the accessibility of the stakeholders, several online systems have been developed and managed by this secretariat.

1.5.1. Complaint Management and Information System:

On our official website (www.fospah.gov.pk) Complaint Management and Information System (CMIS) has been provided to facilitate aggrieved persons to file online complaints.

1.5.2. Awareness campaign through SMS launched by FOSPAH:

Federal Ombudsman Secretariat has conducted awareness campaign through Short Messaging Service (SMS) intimating the process of filing of complaint through the above-mentioned system ‘Online Complaint System’.

Through this campaign, approximately 50,000 awareness messages have been sent in English and Urdu language to the working persons including Teachers, Lawyers, Bankers, University Students, Entrepreneurs and Federal and Provincial Government Employees of Pakistan.

Format of the awareness messages is provided below:

- **English version:**

Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace has created an online complaints system. Any complaint under the Act of 2010 for Protection against Harassment of Women at Workplace can be made online on the following websites or numbers given below.

Website: www.fospah.gov.pk

Email: registrar@fospah.gov.pk

Facebook: www.facebook.com/fospah

Twitter: www.twitter.com/fospah

Phone (Head Office, Islamabad): +9251 9262944

Phone (Regional Office, Karachi): +92 21 99230511

Phone (Regional Office, Peshawar): +92 91 9217322

Fax (Head Office, Islamabad): +92 51 9262949

- **Urdu version:**

وفاقی محتسب برائے انسداد ہراسیت نے آن لائن شکایات درج کروانے کا نظام متعارف کروادیا ہے۔ ہر وہ درخواست جو قانون برائے انسداد ہراسیت ایکٹ ۲۰۱۰ کے تحت آتی ہے وہ درج ذیل ویب سائٹ پر آن لائن رجسٹر کروائی جاسکتی ہے۔

ویب سائٹ: www.fospah.gov.pk

ای میل: registrar@fospah.gov.pk

فیس بک: www.facebook.com/fospah

ٹویٹر: www.twitter.com/fospah

فون نمبر (ہیڈ آفس، اسلام آباد): +92 51 9262944

فون نمبر (ریجنل آفس، کراچی): +92 21 99230511

فون نمبر (ریجنل آفس، پشاور): +92 91 9217322

فیکس (ہیڈ آفس، اسلام آباد): +92 51 9262949

1.5.3. Social media activities of FOSPAH:

Federal Ombudsman Secretariat has been maintaining its official Facebook page (www.fb.com/fospah) and Twitter page (www.twitter.com/fospah). Here, social activities related to this secretariat are posted. Further, the queries of the general public regarding process to file complaints, procedure to resolve the complaints, and jurisdiction of this forum in certain matters have been entertained by the social media administrator.

1.5.4. Hearing of the registered cases through video conferencing:

Federal Ombudsman Secretariat is providing the facility of video conferencing through appropriate available mediums for the parties to follow the hearing of their registered cases. This facility has been introduced to assist parties who belong to areas that are far away from the office of Federal Ombudsman Secretariat.



Chapter No. 02

2. Number of observations made in some of the cases of this forum:

- This case was instituted on 21st February 2018 and decided on 09th of May 2018. Complainant is a telephone operator at PDA Exchange, Hayatabad, Peshawar. She filed this case against the accused, the Chief Security Officer cum Administrator in the same organization. She alleged that said officer involves his interest in her job description without being her duty officer on unknown grounds. She alleged that said officer accommodates the female staff on consideration for indecent favours. In this case she claimed that his behavior with her is disgracing in a way that she has been transferred by him without any legal authority. Therefore, her transfer should also be undone through her right of interim relief. On the other hand, the accused was summoned by the Regional Commissioner for submission of his reply to her complaint and he refused all the allegations. Both the parties appeared through their counsels during entire proceedings of the case. The evidence was submitted on behalf of the complainant and later on the accused presented his evidence. Full arguments were heard on behalf of both the parties. During the evidence of the complainant some audio recordings of the accused were produced and the accused admitted them to be his. In which accused was found to be using undignified words against the complainant.

The accused was convicted in two sets in this case under sub-section 4 (i)(a) of section 4 (Censure direction to be careful in future for creating offensive work environment) & Sub-section 4 of (i)(d) of section 4 (Recovery of compensation of Rs. 250000/- payable to complainant upon use of abusive language against complainant) of the Protection Against Harassment of Women at Workplace Act 2010. Additionally, the DG PDA was directed through a saving clause to restore the transfer of complainant to her previous place of posting. The judgment was served to the Director General Peshawar Development Authority for its implementation. The DG PDA responded through his letter No. 1-12-355/1126-1132 dated 13-07-2018 that entire judgment has been implemented in true essence.

- Complainant is an Assistant Director, Education department KPK, Peshawar. She filed a complaint on 16th January, 2018 against the accused who is an IO in Anti-corruption KPK, Peshawar. Her allegations were that the accused had been harassing her in the design that she has been appointed in education department on bogus and fake documents. Years have passed but the said inquiry of the accused remained in progress. He (Accused) time and again called her on telephone and had sent her friendship messages. The said inquiry of Anti Corruption was against Section 6 of Anti-Corruption rules 1999. According to said rule, the inquiry can be completed within 90 days but the accused

prolonged the same to get the complainant entrapped for his improper reasons. The evidence was led by both the parties. The defense witnesses favored the complainant and the entire version of complainant was proved in letter and spirit. Therefore, the accused was convicted on 2nd March 2018 in two sets, in this case under sub-section 4 (i)(b) of section 4 (with stoppage of one year increments for taking benefit of sexual desire) & Sub-section 4 of (i)(d) of section 4 (Recovery of compensation of Rs. 75000/- payable to complainant upon dragging her unnecessarily into inquiry beyond the mandate of section 6 of anti-corruption rules 1999. Later on, the accused filed representation with Honorable President of Pakistan. After hearing the arguments of both the parties, the President of Pakistan converted his conviction from minor to major and ordered his compulsory retirement from service under section 4(4)(ii)(b) of the Act IV of Harassment 2010. Thus, this case was finalized.

- The Act of Protection against Harassment of Women at Work Place 2010 has no jurisdiction to inquire cases which is administrative in nature i.e. regularization and promotion. Reliance is placed upon the representation filed before the Presidential Secretariat, wherein it has been directed that this office should be mindful of the difference between harassment and service / administrative / disciplinary matters.

Most of the cases are related to administrative matter and this office does not have the jurisdiction to inquire those matters. In Complaint No. 1 (424)/2018-FOS the complainant said that she was serving as Jr. Environmental Scientist G-8(a) at E&PHE Division NESPAK Head Office, Lahore Since April, 2012. She stated that she has been mentally tortured and humiliated for the past two years by her senior Project Manager (P.M) and General Manager (G.M)/Head E&PHE Division as they have insulted her in front of other colleagues and threatened to terminate her from service. It is further narrated that the P.M was not satisfied with her work performance and asked her to make him happy and follow his line and length. She further alleged that when she was sleeping during office hour a picture was taken by the officer. Subsequently, she filed a harassment complaint before the NESPAK. Three members were appointed by Harassment Committee, contents of which are similar to instant complaints. As a result of the inquiry, the complainant was transferred to other Division. On opponent's said, complaint is not maintainable before this Office as the same does not fall within the scope of "Protection against Harassment of Women at Workplace Act, 2010" (hereinafter referred to as the "2010 Act"). Furthermore, the complainant has invoked the jurisdiction of this Honorable Office with ulterior motives and with unclean hands to blackmail and harass the respondents as the purpose behind moving the instant complaint is to get service benefits from the employer i.e.

NESPAK. Whether the words “go make your P.M happy” and “follow my line and length” not amounts to harassment under the 2010 Act. The complaint of complainant is hereby dismissed.

- The Act of Protection against Harassment of Woman at Work Place 2010 has no jurisdiction to entertain the cases of ex-employee and retired civil officers. And this Act also does not provide any remedy to these employees as well. In the Complaint No 1(418)/2018-FOS the complainant was retired Officer of the Information group. She filed complaint for harassment, blackmailing against the opponent, who was also in Information Group. She alleged that the opponent had grudge against the complainant for refusing his marriage proposal and harassed professionally by obstructing her rightful posting and promotions. Complainant already raised the issue before different forums. The grievance of the complainant is administrative in nature itself and does not come under the ambit of harassment because both of the parties are retired officers. It is well settled principal of law that laws cannot be applied retrospectively unless it is specifically provided. Principle of laches is also applicable in the complaint, as the maxim of equity goes by “equity aids the vigilant and not those who slumber on their]” (as denied in 2017 CLC 1361). The excuse of the complaint was ignored at appropriate forum. It was enunciated by Islamabad High Court that the act of 2010 does not provide any remedy to ex-employees, hence the same analogy applied for retired civil servants. The instant complaint is hereby dismissed.

- In *Appeal No. 1(417)/2017, the Honourable Ombudsman directed the Islamabad Club to* restore the complainant to her employment at the Islamabad Club and to remove the accused from the honorary post of Member, Managing Committee with a fine of Rs. 10. Lakh out of which Rs. 5 Lakh is given to the complainant as compensation. In addition, Islamabad Club was fined Rs. 1 Lakh for not having a duly constituted harassment committee under the Protection against Harassment of Women at the Workplace Act 2010.

Brief facts of the case are that complainant joined Islamabad Club in the year 2015 working as an Assistant Manager Gym. Her contract was renewed thrice based on her excellent performance. Accused is a retired civil servant who was appointed as Member, Manager Committee, Islamabad Club in the year 2017. When the contract of complainant was near its completion, accused started calling complainant to his office unnecessarily. On 21.09.17, accused detained complainant in his office for one and a half hour where it was alleged that he offered sexual relations in exchange of her contract extension. When complainant refused the offer, accused by virtue of being Convener of HR and Disciplinary Committees, initiated disciplinary proceedings against her for using club facilities i.e.

swimming pool by her daughter twice in the year 2016. Complainant explained that she was given verbal permission by the former General Manager. Contract of Complainant was completing on 21.10.17 and according to Club rules, an employee is supposed to be served a prior notice of 15 days in case of non-extension of contract. However, Complainant was served notice on 23.09.17 after she filed complaint against the accused to General Manager and Secretary Capital Administrative Development Division (CADD). Subsequently, CADD initiated inquiry and decided in favour of Complainant as there was no harassment committee in Islamabad Club. However, CADD after completing its report backtracked and did not share the report with Complainant. Afterwards, Islamabad Club formed its own inquiry committee which was biased and in violation of the *ibid* Act. The committee had concluded its inquiry in favour of accused, which was set-aside by this office.

- Federal Ombudsman has decided *complaint No. 1(465)/2018* with the directions that opponent is dismissed from service under section 4 sub-section 4(ii)(d) and (e) of the Act of 2010 along with a fine of Rs. 1,000,000 out of which Rs. 500,000 is payable as compensation to the complainant.

Brief facts of the case are that the complainant and opponent were wife and husband and their marriage was dissolved through court. The complainant was working as a lecturer in a university in Lahore whereas the opponent is a former police officer. After the dissolution of their marriage, the opponent started to harass the complainant at her workplace by using different modes such as fake email IDs and profiles on social medium like LinkedIn and Facebook. The opponent also sent defamatory letter to the workplace of the complainant causing mental torture, harming the complainant's professional repute and integrity. Above all, the opponent initiated a spree of frivolous cases on the complainant and her family by virtue of being an influential police officer and attempted to expel the entire family from their legitimate house by adopting illegal means. After fulfilling all the legal technicalities, the complainant was allowed to prove her case by providing the evidence. The complainant provided documentary evidence and her oral statement was recorded as *ex-parte*. This office has reached to the conclusion that the respondent / opponent has found to be guilty of harassing his ex-wife by defaming her repute, sexual baseless allegation, hindering her job at her workplace, uploading immoral material and creating fake facebook IDs with the name of complainant, hence found guilty of harassment at workplace. The case is decided *ex-parte* in favor of complainant.

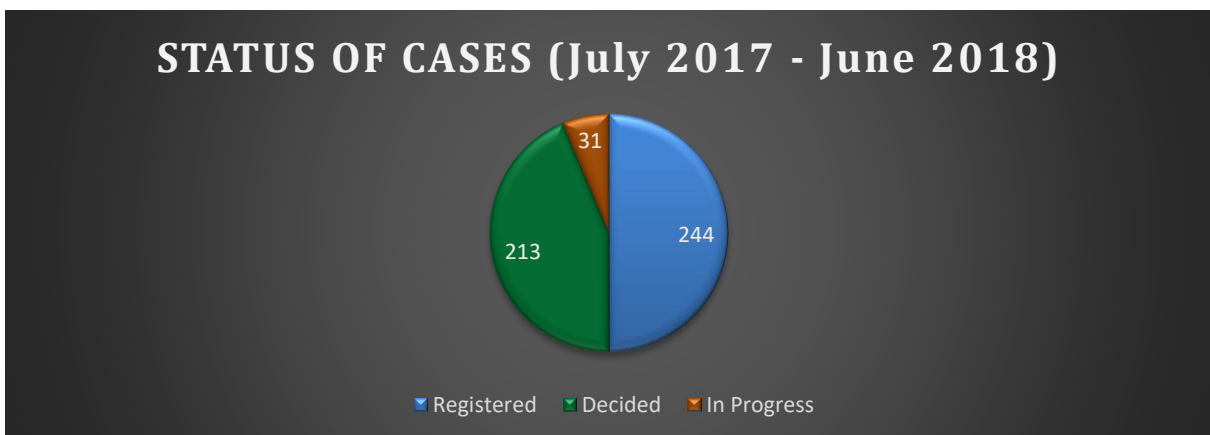
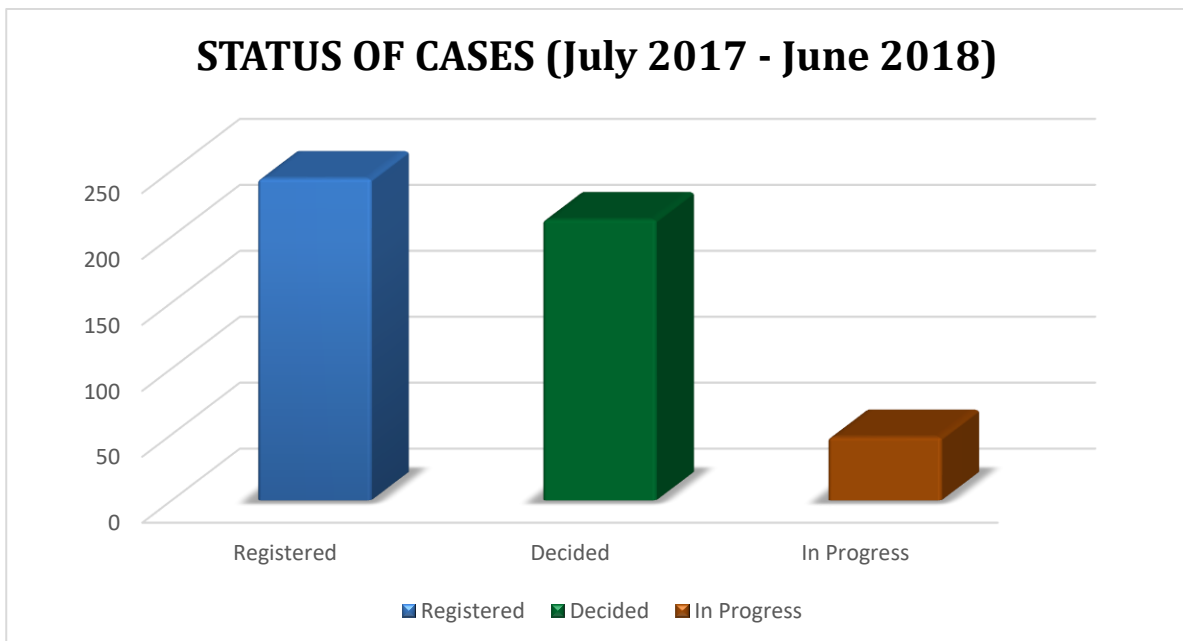
Chapter No. 03

3. Status of the Cases registered from 1st July 2017 to 30th June 2018

3.1. Statistics of the Cases at Head Office Islamabad

No. of Cases Registered	No. of Cases Decided	In Progress Cases
244	213	31

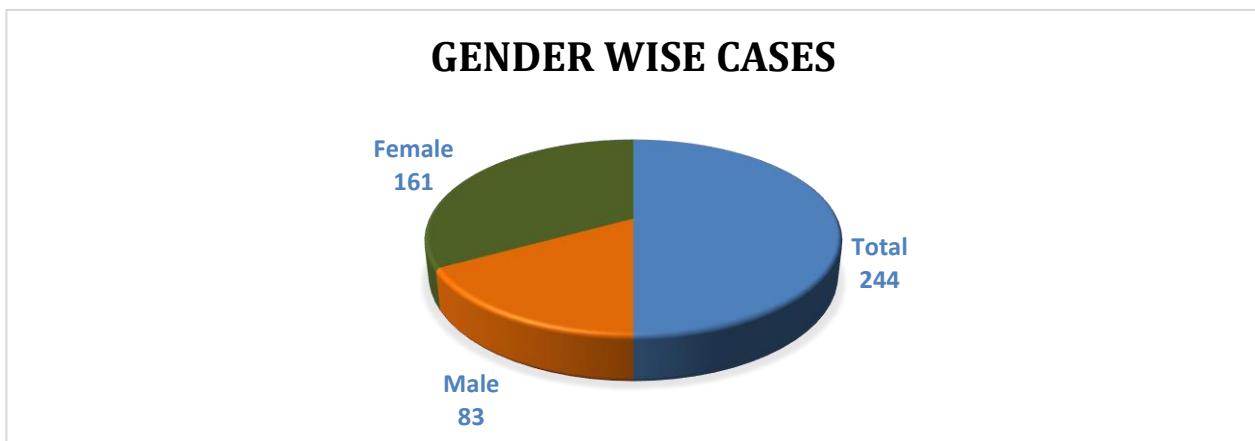
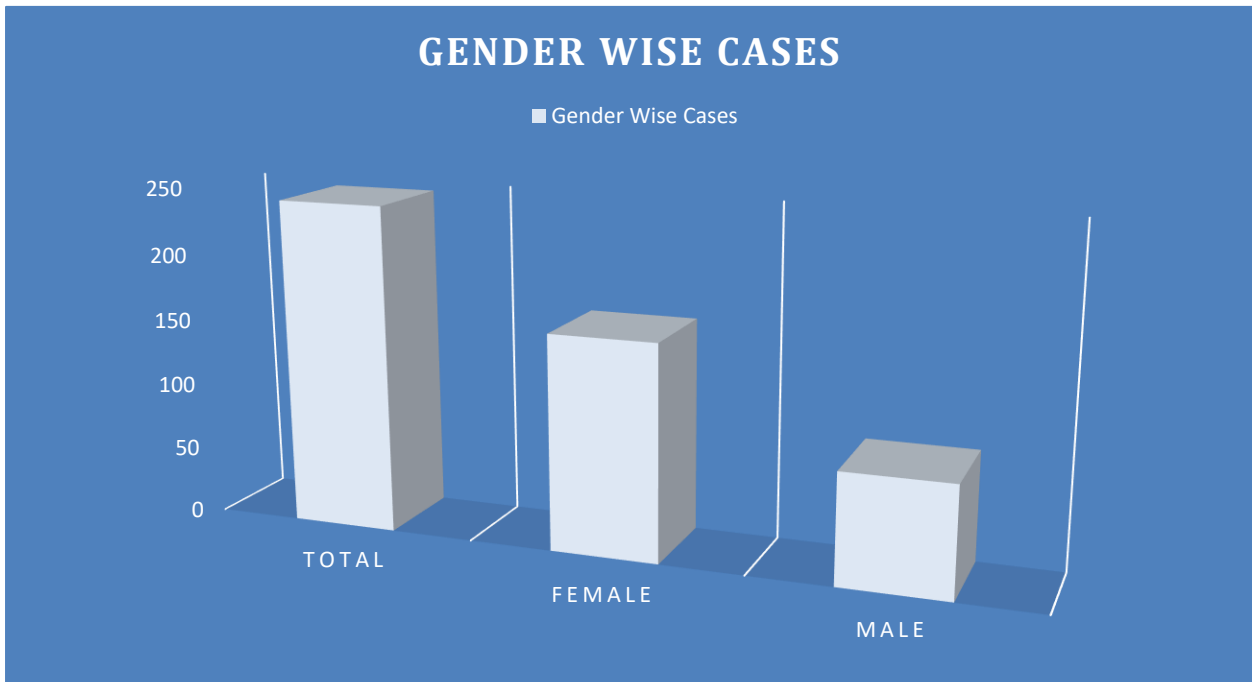
During the period under report (July 2017 to June 2018), Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH) has registered 244 cases. Following the principle of quick disposal of cases as required under law, 31 cases are pending while the rest have been disposed of.



3.1.1 Gender-wise bifurcation

Total	Female	Male
244	161	83

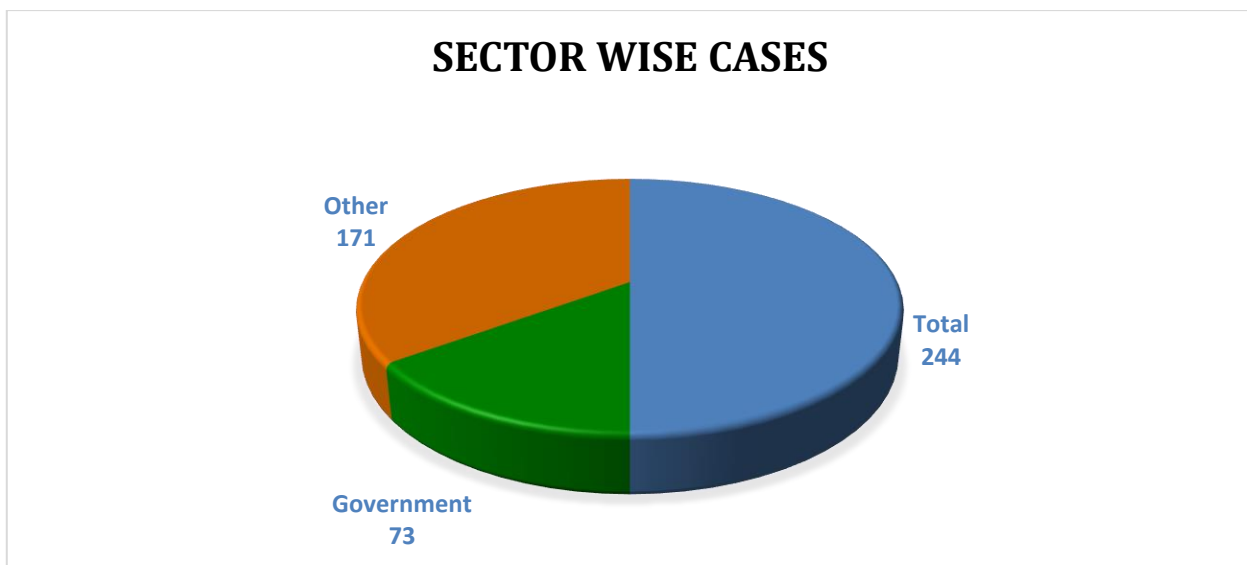
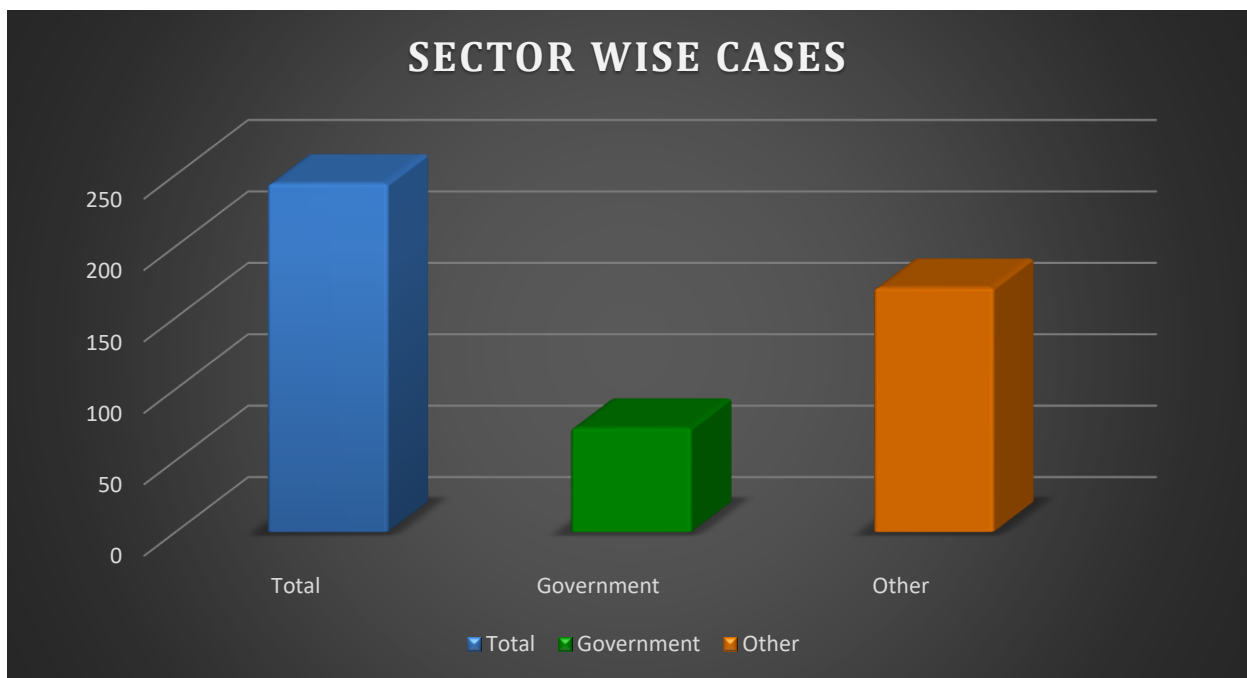
Out of all cases registered during this year, 161 cases by female complainants and 83 cases by male complainants have been registered in this Secretariat.



3.1.2 Sector-wise bifurcation

Total	Government	Others
244	73	171

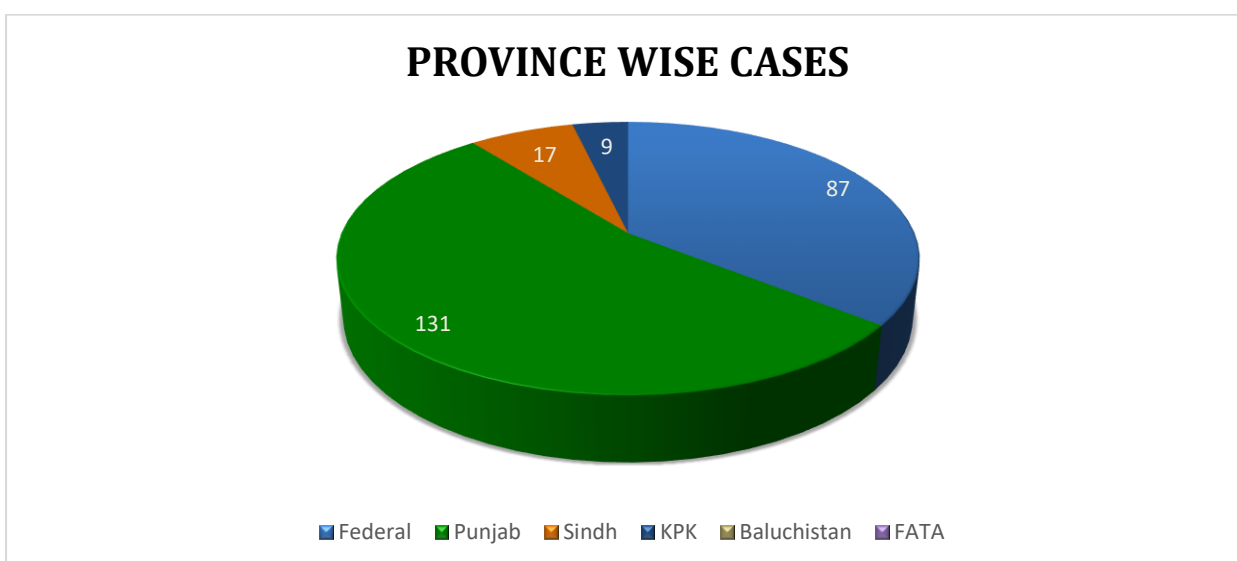
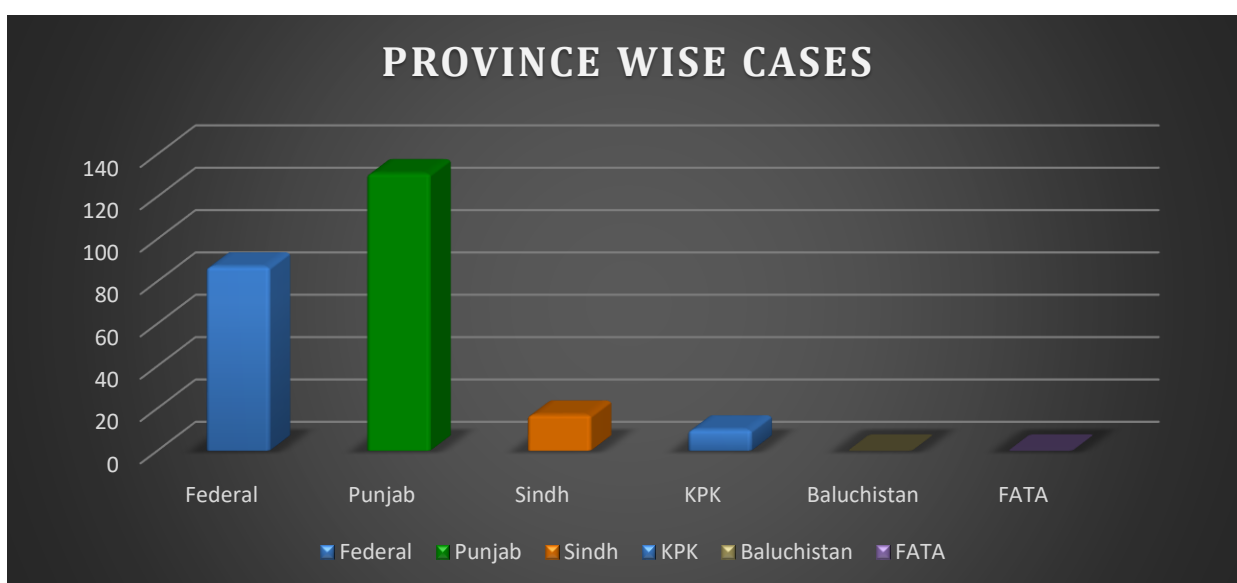
During the period under report (July 2017 to June 2018), FOSPAH has entertained 73 cases from Government sector and 171 cases from other (Non-Government) sectors.



3.1.3 Province wise bifurcation

Year	Total No. of Cases	Region / Province					
		Federal	Punjab	Sindh	KPK	Baluchistan	FATA
1 st July 2017 to 30 th June 2018	244	87	131	17	09	0	0

Out of these 244 cases, 87 cases from Federal, 131 cases from Punjab, 17 cases from Sindh and 09 cases from Khyber Pakhtunkhwa have been registered in the Registrar Office of this secretariat.



3.1.4 Comparative analysis of the cases registered in this secretariat:

In the last year (1st July 2016 – 30th June 2017), FOSPAH received 84 cases out of which 32 were from Federal, 30 from Punjab, 15 from Sindh and 7 from Khyber Pakhtunkwa. Out of these 84 cases, 76 cases were disposed of.

Moreover, in the above mentioned 84 cases, 65 cases were filed by female complainants while 19 cases by male complainants. Furthermore, 63 of these cases were from Government agencies whereas 21 cases were from the private sector.

On the other hand, a drastic increase in the number of cases can be seen from the duration 1st July 2017 – 30th June 2018, wherein 244 cases have been filed with FOSPAH, out of which 87 cases are from Federal, 131 from Punjab, 17 from Sindh and 09 from KPK. During the time period, 213 cases have been disposed off out of 244, in which 161 cases were filed by females and 83 by males. Similarly, 73 cases were related to the government agencies and 171 from the private sector.

Due to the outreach programme and increasing awareness on the issue of harassment, a visible increase in the number of cases can be seen. A large number of cases are from Punjab and hence a Regional Office of FOSPAH in Lahore is crucial.

3.2. Statistics of the Cases at Regional Office Karachi

No. of Cases Registered	No. of Cases Decided
10	10

3.3. Statistics of the Cases at Regional Office Peshawar

No. of Cases Registered	No. of Cases Decided
13	09

Chapter No. 04

4. Implementation and progress of development projects

4.1 Steps taken by the Federal Ombudsman Secretariat (Head Office Islamabad) to create awareness and implementation of the Harassment Act 2010:

For creating awareness about “The Protection against Harassment of Women at Workplace, Act 2010” among the workforce, several awareness seminars and training sessions in the period under report (Jul 2017 – Jun 2018) have been conducted at different organizations all over Pakistan. Details of the some of the events are provided below:

a. Ms. Omiamah Zaman Khan, Liaison Officer FOSPAH attended a live TV show 'Newswise', which was broadcasted on 18th October 2017 at DAWN NEWS. In that show, the Liaison Officer elaborated several legal aspects and enlightened the importance of “The Protection against Harassment of Women at Workplace, Act 2010”.



2: Ms. Omiamah Zaman Khan Liaison Officer FOSPAH at live TV Show

b. In a meeting with Senator Samina Abid (**Human Rights Committee**), Liaison Officer of the Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace discussed the issue of Harassment at Workplace.

c. Participation of the representative of FOSPAH in **Sustainable Development Conference: Protecting gender equality and overcoming harassment** held on 5th – 8th December 2017 at Marriott Hotel, Islamabad.

d. An Awareness/ Training session on the subject "Workplace Harassment" was organized by the Federal Ombudsman Secretariat on 12th December 2017 at **International Islamic University, Islamabad (IIUI)**. For creating awareness among the students of IIUI, Ms. Omiamah Zaman Khan delivered a presentation on the **“PROTECTION AGAINST HARASSMENT OF WOMEN AT WORKPLACE, ACT 2010”**.



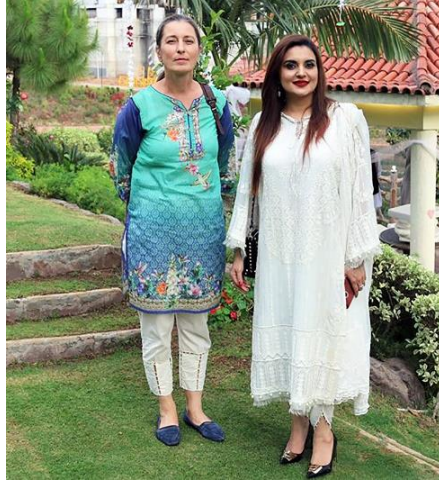
3: Group photo at International Islamic University, Islamabad

e. Federal Ombudsman Secretariat and Bedari working on Protection against harassment of women at the workplace. Discussing different issues and their practical solutions.

4.2. Mega outreach programs conducted by Federal Ombudsman Secretariat (Head Office Islamabad):

a) First Outreach Program:

Team FOSPAH hosted a reception at Bahria Golf City, Islamabad. People from all walks of life attended the event. Ms. Kashmala Tariq shared her vision and aims regarding the implementation of anti-harassment laws in every organization. She explained that the Protection against Harassment of Women at Workplace Act 2010 is to be complied by all organizations within Pakistan, making harassment at workplace a criminal offence. The objective of this law is to create a safe working environment that is free from harassment, abuse, intimidation and discrimination allowing workers the right to work with dignity and encourage higher productivity by providing a comfortable workplace environment.



4: Federal Ombudsperson Ms. Kashmala Tariq along with Netherlands Ambassador Ardi Stoios-Braken



5: Federal Ombudsperson Ms. Kashmala Tariq along with Mr. & Mrs. Stefano Pontecorvo (Italian Ambassador) and Mr. Rolf Holmboe (Denmark Ambassador)



6: Federal Ombudsperson Ms. Kashmala Tariq along with Mr. Rolf Holmboe (Denmark Ambassador), Mr. & Mrs. Stefano Pontecorvo (Italian Ambassador), Rasheed Godil, ArdiStoios-Braken (Netherlands Ambassador) and other respected guests



7: Group photo of Team FOSPAH

b) Team FOSPAH visited Pakistan Sweet Homes:

Mr. Zamurd Khan Patron in chief at **Pakistan Sweet Homes (PSH)** cordially invited the Federal Ombudsperson for protection against harassment Ms. Kashmala Tariq along with Secretary Ombudsman Secretariat Mr. Agha M. Ali Abbas and team FOSPAH to visit PSH on the 8th of May 2018. It was a great opportunity to talk about improving the future of the children of our country. Currently **PSH** is accommodating **500 boys and 100 girls**. During the visit Ms. Kashmala Tariq appraised about the sensitivity of child abuse and stressed upon educating our children regarding protection against child abuse. She emphasized on the importance of sex education and also teaching children the difference between '**good touch and bad touch**'. Parents and schools both should play an equal role in spreading this awareness.

Ms. Kashmala Tariq further explained why heinous crimes like rape and sexual assault have taken a toll on younger children. She stated that because of the lack of sex education, children may be subjected to sexual abuse without them being aware of it, therefore it is our utmost responsibility to educate children regarding this matter so that they are able to protect themselves from an early age. The meeting came to a conclusion that by collective efforts an “Orphan Registration Act” will be enacted to keep check and balance.



8: Team FOSPAH visited Pakistan Sweet Homes, Islamabad to meet and greet the children. Mr. Zamurd Khan Patron in Chief Pakistan Sweet Homes also present



9: Group Photo of Team FOSPAH

c) Team FOSPAH at International Labour Organization (ILO) Seminar “Ending Violence and Harassment of Women and Men in the World of Work”:

Ending violence and harassment of women at workplace, a seminar conducted by international labour organization (ILO). Federal Ombudsman for protection against harassment was invited as one of the chief guests to speak on the mutual issue. Representative from FOSPAH Mehnoor Ahmad shared the organization's agenda of creating safe places for women to work in. Women should be able to enjoy the same privileges as men do and vice versa. There should be a **standard behavior for all the employees** to behave in a workplace in order to avoid any misconduct. Every organization should have an in house inquiry committee which should comprise of 3 members and one of them should be a women. If any organization failed to do so they are fined up to 100,000 rupees.

Furthermore, FOSPAH emphasized on treating men and women equally as FOSPAH do not discriminate in genders. It caters all genders equally including transgender. FOSPAH provides easy avenues to file complaints. If people are unable to reach the office they can register their complaints online through our official website (www.fospah.gov.pk).

The panel guests shared the same view to make women feel safe at work place. They suggested that adults as well as **children should be aware of inappropriate behavior**, for this purpose government should introduce **knowledge of good touch bad touch** in schools syllabus. They were of the view that government should provide equal employment opportunities and job security for all in order to avoid any misconduct. Additionally, the honourable panel suggested that **women and men should have equal pay roll** to avoid professional jealous and insecurity at workplace.



10: Participation of Team FOSPAH at ILO Seminar



11: FOSPAH representative while addressing the participants



12: ILO representative while addressing the participants

d) Memorandum of Understanding between FOSPAH and Forum of Pakistan Chamber of Commerce and Industries (FPCCI) for mega outreach program:

Ms. Kashmala Tariq along with Mr. Agha M. Ali Abbas Secretary Ombudsman Secretariat held a meeting with Syed Mazhar Ali Nasir Sr. Vice President **FPCCI** and other office bearers of the Federation of Pakistan Chambers of Commerce and Industry (FPCCI) at FPCCI Head Office, Karachi. The purpose of the meeting was to apprise the business community about Harassment Laws at workplace. Ms. Kashmala Tariq briefed the audience about the nature, scope and legal implications of harassment at workplace. She stressed upon the importance of including the business community and chambers of commerce in combating harassment, as it is the largest workforce in the private sector. She also implored FPCCI to instruct its subordinate organizations/ market committees to place the manual of instructions regarding Code of Conduct at conspicuous places within their organizations. The conference ended with a mutual vote of thanks from the Ombudsperson against Harassment and the Vice President FPCCI. Together they signed an **MoU** which included the provisions of opening up FOSPAH help desks at all the chambers of commerce in the country including **Gilgit Baltistan** and ensuring the formation of internal inquiry committees in the chambers. This action is a giant leap towards the cooperation between FOSPAH and FPCCI and they have agreed to employ all resources in spreading awareness regarding this important issue.



13: Federal Ombudsperson Ms. Kashmala Tariq and Sr. Vice President FPCCI Mr. Syed Mazhar Ali Nasir Signing MoU between FOSPAH and FPCCI



14: Federal Ombudsperson presenting crest to the President FPCCI Mr. Ghazanfar Bilour; Secretary Ombudsman Secretariat Mr. Agha Ali Abbas, Malik Sohail Hussain and Mr. Karim Aziz Malik Vice President FPCCI also present

e) Memorandum of Understanding between FOSPAH and Center for Research and Security Studies (CRSS):

Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH) and The Center for Research and Security Studies (CRSS) signed a Memorandum of Understanding (MoU) to work on protection against harassment at the Islamabad Club on the 30th May, 2018. There are common grounds on which cooperation between FOSPAH and CRSS would be beneficial and in the interest of public. At the MoU signing ceremony, the need for independent research and analysis on issues such as **gender equality, discrimination, equal opportunities and access to justice** were also discussed. Both the organizations looked forward to jointly carrying out activities on the subject matter. Under the agreement FOSPAH and CRSS would seek collaboration to promote enforcement mechanism for the Protection against Harassment of Women at Workplace Act 2010 and awareness campaigns throughout Pakistan.



15: Federal Ombudsperson Ms. Kashmala Tariq and Executive Director CRSS Mr. Imtiaz Gul signing MoU between FOSPAH and CRSS. Mr. Aized Ali Program Director CRSS also present



16: Group photo at MoU signing ceremony between FOSPAH and CRSS

f) Meeting with Inspector General of Police (Islamabad) for creating awareness on harassment:

Ms. Kashmala Tariq visited Police HQ, Islamabad for joint collaboration against harassment and gender issues. IGP Dr. Sultan Azam Temuri awarded her a souvenir and assured her to extend their support for the cause.



17: IGP Dr. Sultan Azam Temuri presenting souvenir to the Federal Ombudsperson Ms. Kashmala Tariq at Police HQ, Islamabad

g) Memorandum of Understanding between FOSPAH and Federal Investigation Agency National Response Centre for Cyber Crimes:

FOSPAH hosted an Iftar Dinner at Mariano restaurant, Bahria Golf City, Islamabad on 6th June 2018. A wide range of guests from all walks of life attended the event. Federal Ombudsperson Ms. Kashmala Tariq apprised the audience about the nature and significance of anti-harassment laws. She also shared her vision of creating a harassment free environment at work places and to provide an enabling environment to realise one's potential without any sort of intimidation. Furthermore, Federal Ombudsperson signed an **MoU with National Response Centre for Cyber Crimes (NR3C)**, a robust wing of Federal Investigation Agency (FIA). As every crime is going on cyber, so is harassment and preempting the need of the time FOSPAH and NR3C have devised a joint strategy to **share information, provision of a free, safe, and confidential remedy** for the victims of online harassment at workplace. With the aim to offer legal assistance and a referral system, both organizations have intended to work hand in hand in spreading awareness about the mutual cause.



18: Federal Ombudsperson Ms. Kashmala Tariq and DG FIA Mr. Bashir Memon displaying the signed copy of MoU between FOSPAH and FIA Cyber Crimes Cell

h) XV International Baku Conference of Ombudsmen, Azerbaijan:

Federal Ombudsman Secretariat Protection Against Harassment (FOSPAH) **Ms. Kashmala Tariq** attended the **XV International Conference of Ombudsmen** which was held on the **20th and 21st of June 2018 in Baku**. Entitled “The role of national human rights institutions in ensuring and promoting human rights”, the conference was dedicated to the Human Rights Day in the Republic of Azerbaijan, the **100th anniversary of establishment of the Azerbaijan Democratic Republic**, the **95th anniversary of Azerbaijan's national leader Heydar Aliyev** and the 70th anniversary of the

adoption of the Universal Human Rights Declaration. The conference aimed at discussing the role and exchanging the experience of **National Human Rights Institutions**.

The conference participants included state and government officials, foreign ombudspersons, international human rights experts, MPs, representatives of diplomatic corps accredited in Azerbaijan, as well as NGOs and mass media.

In her remarks, Azerbaijani Ombudsperson Elmira Suleymanova spoke of rapid development of Azerbaijan, the activities of the Azerbaijan Democratic Republic (ADR), the first legal and secular republic in the Muslim East, noting that the ADR ensured women's suffrage still at the dawn of the 20th century. Elmira Suleymanova also noted the importance of holding conferences of this format. She further said that Ombudsmen from more than 60 countries took part at the conferences held in Azerbaijan.

Ombudsman, as the etymology of the word goes used to be known as defender of the people. The very essence of this office is to provide justice to the people at the doorstep without inordinate procedural delays. This forum provided an opportunity to the Honorable Ombudsmen of the world to exchange their views about human rights institutions and the role they play in making people aware of their rights and corresponding duties. Such forums are indeed enviable as the world can learn about the best practices invoke in the globe. The pictures given below give a purview of the best minds working together.



19: Federal Ombudsperson Ms. Kashmala Tariq in the Parliament of Azerbaijan along with other participant Ombudspersons on the "XV International Baku Conference"



20: Federal Ombudsperson Ms. Kashmala Tariq along with Ombudsperson of Azerbaijan Elmira Suleymanova

i) 19th Meeting of the Forum of Pakistan Ombudsmen in Kashmir:

The Federal Ombudsperson for Protection against Harassment **Ms. Kashmala Tariq** attended the 19th meeting of the Forum of Pakistan Ombudsmen at Kuttan, Azad Jammu & Kashmir along with Federal Tax Ombudsman and President FPO Mr. Mushtaq Ahmad Sukhera, Ombudsman AJ&K Mr. Mirza Zaffar Hussain, Federal Insurance Ombudsman (Sindh) Mr. Raesuddin Paracha, Provincial Ombudsman Punjab Mr. Najam Saeed, Provincial Ombudsman Sindh for Protection Against Harassment Justice (Retd) Shahnawaz Tariq, Provincial Ombudsman Khyber Pakhtunkhuwa (Peshawar) Mr. Aqal Badshah, Ombudsperson for Protection against Harassment Punjab Ms. Rukhsana Gillani, Secretary of the Forum of Pakistan Ombudsmen Mr. Abdul Khaliq and Secretary Ombudsman AJ&K Mr. Absar Hussain Jarrar. During the three day meeting all Ombudsmen of Pakistan shared their views and experiences with other participants. They further discussed about the importance of participating in international conferences and conducting elections on regular basis. The need to enhance the effectiveness of the platform of Ombudsmen was also discussed. On the last day of the 19th meeting, all Ombudsmen were invited to a reception hosted by the President of AJ&K Mr. Sardar Masood Khan at President House AJ&K. The President discussed about the importance of harassment-free workplaces and appreciated the work of Ms. Kashmala Tariq

and other Ombudsmen for their services. At the end of this reception, Federal Ombudsperson, Ms. Kashmala Tariq presented souvenirs to the President of AJ&K and other participant Ombudsmen.



21: Group photo of Federal Ombudsperson Ms. Kashmala Tariq along with President of AJK Mr. Sardar Masood Khan, Federal Tax Ombudsman & President FPO Mr. Mushtaq Ahmad Sukhera, Ombudsman AJ&K Mr. Mirza Zaffar Hussain, Federal Insurance Ombudsman (Sindh) Mr. Raesuddin Paracha, Provincial Ombudsman Punjab Mr. Najam Saeed, Provincial Ombudsman Sindh for Protection Against Harassment Justice (Retd) Shahnawaz Tariq, Provincial Ombudsman Khyber Pakhtunkhwa (Peshawar) Mr. Aqal Badshah, Ombudsperson for Protection against Harassment Punjab Ms. Rukhsana Gillani, Secretary of Forum of Pakistan Ombudsmen Mr. Abdul Khaliq and Secretary Ombudsman AJ&K Mr. Absar Hussain Jarrar



22: Federal Ombudsperson Ms. Kashmala Tariq presenting souvenir to the President AJ&K Mr. Sardar Masood Khan

As a result of above mentioned awareness seminars and training sessions, workforce of Pakistan is becoming more aware about their fundamental right to work in a safe working environment and about the legal protection available for them. The number of cases registered each year in this secretariat makes it evident that because of these awareness campaigns, working persons are now quite motivated to raise their voices against any misconduct that they experience and to consult the available legal forums in case of any workplace harassment they encounter.

4.3 Steps taken by Federal Ombudsman Secretariat Regional Office Karachi to create awareness and implementation of the Harassment Act 2010:

The Regional Office Karachi was established in the month of May, 2017 under Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace.

A comprehensive work plan (based on each quarter) was made whereby the major focus was kept on awareness campaign through initial meetings with stake holders, sending letters to institutions/organizations for the implementation of Act 2010 and holding of the awareness sessions through different platforms. The Regional Commissioner remained engaged in meetings with various departmental heads and officials from different organizations for the possible coordination to discuss referral mechanism where possible. Apart from such meetings and to achieve a better outcome a multimedia presentation was also prepared by the Commissioner to provide a comprehensive introduction on FOSPAH and its mandate under the Protection Against Harassment of Women at Workplace Act 2010. With respect to create the awareness among the participants about the conception of the FOSPAH Regional Office Karachi in general and the provisions of the Act 2010 in particular, the Regional Commissioner Karachi attended several (Seminars/Conferences/Training sessions) during the period under report. Details of the some of the events have been provided below:

- a. A short brief provided by Regional Commissioner at a Seminar conducted by Legal Rights Forum at Mehran Hotel Karachi on 19th October 2017.
- b. A brief given by Regional Commissioner at a Workshop conducted by Society for Human Rights at Faran Hotel Karachi on 31st October 2017.
- c. A multimedia presentation was delivered by Regional Commissioner at a women conference organized by Advance Educational Institute & Research Center (AEIRC) at Shaheed Zulfikar Ali Bhutto Institute of Science and Technology (SZABIST) Karachi on 7th December 2017.
- d. A short brief was given by Regional Commissioner at KASHAF Educational and Health Research Center, Karachi on 9th December 2017.
- e. A brief given by Regional Commissioner at Women protection conference held by DCHC at Beach Luxury Hotel, Karachi on 26th December 2017.
- f. Regional Commissioner participated in seminar on the topic of Safer Charity conducted under Ministry of Information at Arts Council Karachi on 26th February 2018.

- g. Regional Commissioner attended a seminar on Social Economic Protection in Pakistan conducted by Center for Peace Security and Development (CPSDO) at Karachi on 27th February 2018.
- h. Regional Commissioner participated in seminar on Criminal Justice System organized by Legal Rights Forum (LRF) at Marriott Hotel, Karachi on 26th April 2018.
- i. Regional Commissioner attended a session conducted on Workshop for Prosecutors arranged by Society of Human Rights at PC Hotel, Karachi on 16th May 2018.

4.4 Steps taken by the Federal Ombudsman Secretariat Regional Office Peshawar to create awareness and implementation of the Harassment Act 2010:

In order to create awareness among the workforce belonging to Peshawar region, the regional commissioner have participated in several awareness seminars that have been conducted by **Peshawar University, Hayatabad medical complex, Institute of kidney diseases, Lady reading hospital, University of Karak, Abdul Wali Khan University, Provincial Public Service Commission, National Telephone Company Peshawar, Minority Communities Organization, Khundo Kor Organization and Human Rights committee of Pakistan**. The regional commissioner Peshawar has briefed the participants of the above mentioned awareness seminars about the legal implications of Harassment Act 2010 and the working of the Protection against Harassment of Women at Workplace.

Moreover, the regional commissioner Peshawar has also signed memorandum of understanding **(MOU) with Khundo Kor NGO and Human Rights committee of Pakistan**.



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ISLAMABAD, THURSDAY, MARCH 11, 2010

[THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE
WORKPLACE ACT 2010]

PART 1

Acts, Ordinance, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 11th March, 2010

No. F. 9 (5)/2009- Legis. The following Acts of Majlis-e-Shoora
(Parliament) received the assent of the President on 9th March, 2010, are
hereby published for general information:

Act No. IV OF 2010

*An Act to make provisions for the protection against harassment of women at
the workplace*

WHEREAS the constitution of the Islamic Republic of Pakistan recognizes the
fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection
of women from harassment at the workplace;

It is hereby enacted as follows:

1. Short title, extent and commencement. - (1) This Act may be called the Protection against Harassment of women at the Workplace Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;

(b) “CBA” means *Collective Bargaining Agent as provided in the Industrial Relations Act 2008, (IV of 2008) or any other law for the time being in force.*

(c) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;

(d) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;

(e) “Complainant” means a woman or man who has made a complaint to the Ombudsman or to the Inquiry Committee on being aggrieved by an act of harassment;

(f) “Employee” means a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an *intern or an apprentice*;

(g) “Employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whatsoever and includes–

(i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;

(ii) any person responsible for the direction, administration, management and control of the management;

- (iii) the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case maybe;
- (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
- (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof.
- (vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
- (vii) office bearers of a department of a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;
- (h) "harassment" means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;
- (i) "Inquiry Committee" means the Inquiry Committee established under sub-section (1) of section 3;

- (j) “management” means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;
- (k) “Ombudsman” means the Ombudsman appointed under section 7
- (l) “organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;
- (m) “Schedule” means Schedule annexed to this Act;
- (n) “workplace” means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee. – (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority

4. Procedure for holding inquiry. – (1) The Inquiry Committee, within three days of receipt of a written complaint, shall–

- (a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made there under the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:

- (a) The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;

- (d) Adverse action shall not be taken against the complainant or the witnesses;
- (e) The inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) The Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

i. Minor penalties:

- (a) censure;
- (b) withholding, for a specific period, promotion or increment;
- (c) stoppage, for a specific period, at an efficiency bar in the time scale, otherwise than for unfitness to cross such bar; and
- (d) recovery of the compensation payable to the complainant from pay or any other source of the accused;

ii. Major penalties:

- (a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service; and
- (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.
- (f)

(5) The Competent Authority shall impose the penalty recommended by the

Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for *psycho-social counseling or medical treatment* and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee. – (1) The Inquiry Committee shall have power–

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to Ombudsman for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties. – (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision

prefer an appeal to an Ombudsman established under section 7.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the Ombudsman.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) Until such a time that the ombudsman is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall *mutatis mutandis* apply

(5) On the appointment of Ombudsman all appeals pending before the District Court shall stand transferred to Ombudsman who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. Ombudsman: - (1) The respective Governments shall appoint an ombudsman at the Federal and provincial levels.

(2) A person shall be qualified to be appointed as an Ombudsman who has been a judge of high court or qualified to be appointed as a judge of high court. The Ombudsman may recruit such staff as required to achieve the purposes of this Act and the finances will be provided by the respective Governments

8. Ombudsman to enquire into complaint. - (1) Any employee shall have the option to prefer a complaint either to the Ombudsman or the Inquiry Committee.

(2) The Ombudsman shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the Ombudsman within five days and his failure to do so without reasonable cause the Ombudsman may proceed *ex parte*. Both the parties can represent themselves before the Ombudsman.

(3) The Ombudsman shall conduct an inquiry into the matter according to the rules

made under this Act and conduct proceedings as the Ombudsman deems proper.

(4) For the purposes of an investigation under this Act, the Ombudsman may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsman is relevant and helpful in the conduct of the investigation.

(5) The Ombudsman shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to President or Governor: - Any person aggrieved by a decision of Ombudsman under sub- section (5) of section 8, may, within thirty days of decision, make a representation *to* the President or Governor, as the case may be, who may pass such order thereon as he may deem fit.

10. Powers of the Ombudsman. - (1) The Ombudsman shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

- i. Summoning and enforcing the attendance of any person and examining him on oath;
- ii. Compelling the production of evidence;
- iii. Receiving evidence on affidavits;
- iv. Issuing commission for the examination of witnesses
- v. entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsman has a reason to believe that any information relevant to the case may be found; and
- vi. The Ombudsman shall have the same powers as the High Court has to punish any person for its contempt.

(2) Ombudsman shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub- section (4) of section 4.

11. Responsibility of employer. – (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against* harassment *at the workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file *a petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law. –

The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules. -The Federal Government may make rules to carry out the purposes of this Act.

Schedule

[See sections 2(c) and 11]

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

Whereas it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) “Harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation:

There are three significant manifestations of harassment in the work environment:

a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical "hostile environment" claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) *A complainant or a staff member designated by the complainant* for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;

- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at anytime;
- (viii) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;

- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.