



Alternate Dispute Resolution (ADR) Mechanisms for Redressal of Business-related Human Rights Abuses in Sindh

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The Sindh Human Rights Commission (SHRC) was established under the Sindh Protection of Human Rights Act 2011 (amended in 2023) for the promotion and protection of human rights in the Province of Sindh. The Government of Sindh has constituted the SHRC under Section 3 (1) of the Act on 9th May 2013. The SHRC is currently headed by the Chairperson, Mr. Iqbal Ahmed Detho.

Foreword



It is with great pride and a profound sense of responsibility that I present this research report on " Alternate Dispute Resolution (ADR) Mechanisms for Redressal of Business-Related Human Rights Abuses in Sindh." This report is a critical examination of ADR mechanisms can be harnessed to address and rectify business-related human rights violations within our region.

The Sindh Human Rights Commission (SHRC) is an independent statutory body established under Sindh Protection of Human Rights Act, 2011 (SPHRA), with the mandate to protect and promote human rights in the province of Sindh.

Recently, the SPHRA (Amendment) 2022 enhanced the scope of SHRC's functions to include 'Business and Human Rights' as one of the important core responsibilities of the SHRC.

The SHRC is deeply committed to fostering an environment where human rights are upheld and protected, and businesses operate with integrity and accountability. The increasing complexity of business activities and their impact on human rights necessitates a thorough and nuanced approach to dispute resolution. Traditional legal mechanisms often fall short in addressing these challenges efficiently and effectively, making ADR a vital area of focus.

This report meticulously analyzes the current ADR mechanisms available in Sindh, including those within our own SHRC, national bodies, and various specialized institutions such as the Court-Annexed Mediation Center and the Federal and Provincial Ombudsperson offices. By exploring these mechanisms, we seek to identify gaps and opportunities for improvement, ensuring that business-related human rights issues are addressed with the seriousness they deserve.

Moreover, the inclusion of international best practices, particularly those from the European Union, provides valuable insights into how we can enhance our ADR frameworks.

The SHRC hopes that this report will serve as a catalyst for meaningful change, guiding policymakers, business leaders, and civil society towards more effective and human-rights-oriented dispute resolution strategies. The recommendations outlined herein are aimed at strengthening our ADR mechanisms, ensuring that they are not only accessible but also truly effective in upholding human rights.

In closing, I would like to extend my gratitude **Barrister Rida Tahir** (the author) and the **UNDP Pakistan** for their consistent support in the arena of Business and Human Rights.

It is our collective responsibility to ensure that human rights are not compromised by business practices and that our dispute resolution mechanisms reflect the highest standards of justice and fairness.

Sincerely,

IQBAL AHMED DETHO

Chairperson, Sindh Human Rights Commission

Contents

Foreword.....	2
Acronyms and Abbreviations	4
A. Introduction:.....	5
B. The Legal System of Pakistan:.....	6
C. Business and Human Rights:.....	9
D. Alternative Dispute Resolution:.....	11
E. Existing ADR mechanisms in Sindh:.....	13
1. Sindh Human Rights Commission (SHRC):.....	13
2. National Commission on Human Rights (NCHR).....	14
3. Arbitration Act 2024.....	15
4. Code of Civil Procedure:.....	16
5. The Court-Annexed Mediation Center (CAMC) at the Sindh High Court (SHC):.....	18
6. Small Claims and Minor Offences Courts Ordinance, 2002.....	19
7. Federal and Provincial Ombudsperson:.....	20
7.1. Federal Ombudsperson of Pakistan:.....	21
7.2. Provincial Ombudsperson (Mohtasib-E-Aala) Sindh:.....	22
7.3. Banking Mohtasib:.....	23
7.4. Ombudsperson for Protection Against Sexual Harassment of Women at the Workplace:..	24
8. Labour Department, Government of Sindh:.....	25
8.1. Negotiation:.....	25
8.2. Conciliation:.....	26
8.3 Arbitration:.....	26
F. European Union’s, best practices of ADR regarding business and human rights: ...	27
G. Recommendations:.....	31
H. Conclusion:.....	33

ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Mechanisms
BnHR	Business and Human Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Corporate Social Responsibility
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
CSR	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
GSP+	The EU GSP+ serves as a special incentive arrangement to promote good governance and sustainable development by facilitating trade.
HRD	Human Rights Department
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
NAP	National Action Plan on Business and Human Rights
NGO	Non-Governmental Organization
NHRCA	National Commission on Human Rights
NHRIs	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights. The UN office that works to promote and protect human rights globally.
RBA	Rights-Based Approach
SHC	Sindh High Court
SHRC	Sindh Human Rights Commission
Sindh	A province in Pakistan, the geographic focus of the study, which may include specific regional business practices and human rights issues.
SPHRA	SPHRA Sindh Protection of Human Rights Act 2011 (Amended 2022)
TIC Treaty Implementation Cell	TIC Treaty Implementation Cell
UNFCCC	United Nations Framework Convention on Climate Change
UNGPs	United Nations Guiding Principles on Business and Human Rights

A. INTRODUCTION:

Business operations affect the lives of millions globally. Even small enterprises operate within value chains that stretch across continents, highlighting their significant potential to uphold and advance human and labor rights.¹

Sindh with its 55.69 population stands second largest Province by population in Pakistan. The population of Sindh increased by 2.57 per cent in 2023.² Further, Sindh has the second largest economy in Pakistan.³ About 67% establishments/ factories are located in Karachi Division and remaining 33% are located in other districts of Sindh.⁴ Sindh's Civilian Labor Force (CLF) in 2020-21 stood at 48.83% with 36.52% males and 7.31% female participating in the labor force. The employment rate of the CLF in Sindh stood at 96.14%. Of these 15.27% of the CLF participated in manufacturing, 16.48% in wholesale and retail trade and 36.46% in agriculture/forestry and fishing.⁵

Due to its inherent economic strengths, Sindh is poised for significant economic growth in the next 10 to 15 years. This growth will be fueled by increased global trade and enhanced trade within Pakistan. With appropriate policies in place, Sindh can leverage its youthful and expanding workforce, strategic geographical position, abundant natural resources, and dynamic business community. These factors collectively position the province to emerge as a key driver of Pakistan's economic expansion.⁶

Moreover, Sindh's advantages include Karachi, which serves as both a gateway to international markets and a potential hub for agglomeration economies. By 2030, sectors such as information technology services and export-oriented light manufacturing are expected to spearhead growth not only in Karachi but also in rapidly developing secondary cities across the province.⁷

It is important to highlight that Pakistan also benefits from the Generalised System of Preferences Plus Status (GSP+), granting it preferential access to the EU market. To maintain this status, Pakistan must adhere to the effective implementation of the 27 international core conventions underlying the GSP+ scheme, which is required for beneficiary countries in order to continue benefitting from GSP+ status. The 27

¹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. Business and human rights. Retrieved July 13, 2024, from <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/business-and-human-rights/>

² Pakistan Bureau of Statistics (2023) '7th Population and Housing Census'. Available at <https://www.pbs.gov.pk/sites/default/files/population/2023/Press%20Release.pdf>

³ Government of Sindh. Economy. Retrieved from <https://www.sindh.gov.pk/economy#:~:text=Historically%2C%20Sindh's%20contribution%20to%20Pakistan's,from%2036.7%25%20to%2046.5%25.>

⁴ Bureau of Statistics, Planning & Development Department, Government of Sindh. (2023). Monthly Industrial Production & Employment Survey (MIPE) December, 2023. Retrieved from <https://sbos.sindh.gov.pk/files/SBOS/MIPE/2023/MIPE%20Report%20Dec-2023.pdf>

⁵ Government of Sindh. 2023. *Sindh statistics 2022-2023*. Sindh Bureau of Statistics. <https://sbos.sindh.gov.pk/files/SBOS/Development%20Statistics/SINDH%20STATISTICS%202022-04092023.pdf>

⁶ World Bank Group. (2017). Sindh Growth Strategy: Overview of the Sindh Growth Strategy. Retrieved from <https://pnd.sindh.gov.pk/storage/resourcePage/TymyMhAjp6d6LwHzh7o7pLipwHfgKjzaVKCuxr.pdf>

⁷ Ibid

conventions cover the four areas of human rights, labour rights, environmental standards and good governance.⁸

The GSP+ program holds significant promise for the Sindh government by incentivizing enhancements in labor rights, thereby fostering more sustainable and fair economic growth in the region.

Further, the Sindh Government established the Treaty Implementation Cell (TIC) in 2023 to enable the Federal and Provincial government to effectively implement ratified conventions and to report regularly on the progress being made.⁹

Therefore, it becomes crucial to ensure that businesses operating in Sindh adhere to human rights standards by address human rights issues and ensuring that the individuals have access to a swift dispute resolution mechanism for the redressal of their grievances.

B. THE LEGAL SYSTEM OF PAKISTAN:

The legal framework of Pakistan is multifaceted, drawing from various sources and encompassing different branches of the law. The Constitution of Pakistan serves as the supreme law of the land. It defines the structure of the government, delineates the powers of various state institutions, guarantees fundamental rights to citizens, and establishes the framework for the legal system.

The fundamental rights are enshrined in Part II of the Constitution (Articles 8 to 28) and include various rights aimed at safeguarding the dignity, liberty, and equality of citizens. These rights are justiciable, meaning they can be enforced through the courts, and the Constitution provides mechanisms for citizens to seek remedies if their fundamental rights are violated.

Articles 8 to 28 of the Constitution outline these fundamental rights. These rights cover a wide range of civil, political, social, economic, and cultural aspects. The Constitution provides the right to equality before the law and non-discrimination (Article 25), freedom of speech (Article 19) and the freedom of association (Article 17).¹⁰

The Constitution also outlines principles of policy aimed at achieving social and economic justice, including provisions for adequate means of livelihood, social security, and protection against unemployment (Articles 38-40).¹¹

These rights are fundamental to the legal framework of Pakistan and provide the basis for the protection and promotion of human rights (including business and human rights) within the country.

⁸ - European External Action Service (EEAS). "European Union releases fourth GSP+ report evaluating implementation of 27 international conventions." Accessed July 18, 2024. Available at: EEAS - GSP+ Report

⁹ Government of Sindh, Human Rights Department. Treaty Implementation Cell. Retrieved July 18, 2024, from <https://humanrights.sindh.gov.pk/Treaty-Implementation-Cell>

¹⁰ Constitution of Pakistan. (1973). Retrieved July 18, 2024, from <http://www.na.gov.pk/en/content.php?id=88>

¹¹ Ibid

Following the 18th Constitutional Amendment in 2010, the federal legislative list was revised, transferring legislative and administrative authority for 15 federal ministries/subjects to the provinces. These subjects include human rights, education, labor and human resource, minority affairs, women's empowerment, and social welfare. Despite this devolution, certain federal ministries and subjects, such as the Ministry of Human Rights, continue to operate at the federal level.¹²

After the 18th Constitutional Amendment, the Provincial Assembly of Sindh enacted 17 Labour laws after tripartite consultations.¹³ These include:

- 1 The Sindh Industrial Relations Act, 2013.
- 2 The Sindh Workers Welfare Fund Act, 2014 (amended in 2023)
- 3 The Sindh Employees Old-Age Benefits Act, 2014.
- 4 The Sindh Companies Profits (Workers Participation) Act, 2015.
- 5 The Sindh Workers Compensation Act, 2015.
- 6 The Sindh Minimum Wages Act, 2015.
- 7 The Sindh Terms of Employment (Standing Orders), Act, 2015.
- 8 The Sindh Bonded Labour System (Abolition) Act, 2015.
- 9 The Sindh Factories Act, 2015.
- 10 The Sindh Shops & Commercial Establishment Act, 2015.
- 11 The Sindh Payment of Wages Act, 2015.
- 12 The Sindh Employees Social Security Act, 2016 (amended in 2022)
- 13 The Sindh Prohibition of Employment of Children Act, 2017.
- 14 The Sindh Occupational Safety & Health Act, 2017.
- 15 The Sindh Home Based Workers Act, 2018.
- 16 The Sindh Women Agricultural Workers Act, 2019.
- 17 The Sindh Maternity Benefits Act 2018

The Government of Sindh has also formulated numerous policies including the Sindh Human Rights Policy (2023 – 2027) which focuses on the promotion, protection, and fulfilment of human rights in compliance with the fundamental rights enshrined in the

¹² Constitution of Pakistan. (1973). Retrieved July 18, 2024, from <http://www.na.gov.pk/en/content.php?id=88>

¹³ Labour & Human Resources Department, Government of Sindh. "Labour laws have been enacted by the Provincial Assembly of Sindh after tripartite consultations." Labour & Human Resources Department, Government of Sindh, n.d., lhr.sindh.gov.pk/. Accessed 18 July 2024.

Constitution, core United Nations (UN) human rights treaties ratified by Pakistan and other international obligations.¹⁴

Further the Government of Sindh formulated the 'Sindh Climate Change Policy 2022' to tackle the adverse effects on climate arising from global warming, greenhouse effect, CO2 emission & carbon footprint, relentless use of fossil fuel, etc.¹⁵

It is important to note that after the 18th Amendment, Sindh Province is in the process to formulate a comprehensive Provincial Action Plan on Business and Human rights. Nevertheless, the Government of Sindh has recently notified a Provincial Steering Committee for the implementation of the National Action Plan on Business & Human Rights at the provincial level.

Additionally, Pakistan is a party to numerous international treaties, conventions, and agreements covering a wide range of issues, including business and human rights. Those relevant to business and human rights are reflected in the table below:

UN International Instruments	ILO International Instruments
1. Convention on the Rights of the Child: Ratified on November 12, 1990.	1. Forced Labour Convention, 1930 (No. 29): Ratified on February 14, 1951.
2. International Covenant on Civil and Political Rights (ICCPR): Ratified on June 23, 2010.	2. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87): Ratified on August 14, 1951.
3. International Covenant on Economic, Social and Cultural Rights (ICESCR): Ratified on April 17, 2008.	3. Right to Organise and Collective Bargaining Convention, 1949 (No. 98): Ratified on January 14, 1952.
4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Ratified on March 12, 1996.	4. Equal Remuneration Convention, 1951 (No. 100): Ratified on June 24, 2001.
5. Convention on the Rights of Persons with Disabilities (CRPD): Ratified on November 5, 2011.	5. Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Ratified on June 24, 2001.
6. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): Ratified on September 19, 1966.	6. Minimum Age Convention, 1973 (No. 138): Ratified on June 30, 2006.
	7. Worst Forms of Child Labour Convention, 1999 (No. 182): Ratified on October 14, 2001.

¹⁴ Dawn. (2023, April 28). "Cabinet approves Sindh human rights policy for five years". Dawn. Retrieved July 18, 2024, from <https://www.dawn.com/news/1768124>

¹⁵ Government of Sindh. (2022, June). Sindh Climate Change Policy – 2022. Environment, Climate Change and Coastal Development Department, Directorate of Climate Change. Retrieved July 18, 2024, from https://docc.sindh.gov.pk/files/DoCC/Sindh%20Climate%20Change%20Policy_June%202022.pdf

<p>7. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): Ratified on June 23, 2010.</p>	<p>8. Labour Inspection Convention, 1947 (No. 81): Ratified on 10 Oct 1953</p>
<p>8. Convention on Biological Diversity (CBD): Ratified on September 12, 1994.</p>	
<p>9. United Nations Framework Convention on Climate Change (UNFCCC): Ratified on April 24, 1994.</p>	
<p>10. Paris Agreement: Ratified on November 10, 2016.</p>	

C. BUSINESS AND HUMAN RIGHTS:

The Guiding Principles on Business and Human Rights (UNGPs) are the global standard for preventing and addressing the risk of adverse impacts on human rights involving business activity, and they provide the internationally accepted framework for enhancing standards and practices regarding business and human rights. The Human Rights Council unanimously endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011.¹⁶ These Guiding Principles are grounded in recognition of:

- (a) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

The UNGPs for business and human rights establish that businesses have a responsibility to uphold human rights. This entails ensuring that a business does not cause harm to human rights and takes steps to address any negative impacts on human rights that may involve individuals.¹⁷

The concept of Business and Human Rights encompass a wide range of human rights violations, which include (but are not limited) to those reflected in the table below:

¹⁶ Office of the United Nations High Commissioner for Human Rights. (n.d.). Business and human rights. Retrieved July 13, 2024, from <https://www.ohchr.org/en/business-and-human-rights>

¹⁷ UN Guiding Principles Reporting Framework. (2015). Reporting on human rights impacts: A guide for corporate reporting on the UN Guiding Principles on Business and Human Rights. Retrieved from https://www.ungpreporting.org/wp-content/uploads/2015/07/UNGPRF_businesshumanrightsimpacts.pdf

Twelve human rights are particularly relevant to the workplace:	Eighteen human rights that shape people’s lives and can be affected by the way a business runs its operations:
<ul style="list-style-type: none"> • Freedom of association • Right to equal pay for equal work • Right to organize and participate in collective bargaining • Right to equality at work • Right to non-discrimination • Right to just and favourable remuneration • Abolition of slavery and forced labour • Right to a safe work environment • Abolition of child labour • Right to rest and leisure • Right to work • Right to family life 	<ul style="list-style-type: none"> • Right to life, liberty and security of the person • Right of peaceful assembly <ul style="list-style-type: none"> ▪ Right to an adequate standard of living (including food, clothing, and housing) ▪ Freedom from torture or cruel, inhuman or degrading treatment ▪ Right to marry and form a family ▪ Right to physical and mental health; access to medical services • Equal recognition and protection under the law <ul style="list-style-type: none"> ▪ Freedom of thought, conscience and religion ▪ Right to education ▪ Right to a fair trial ▪ Right to hold opinions, freedom of information and expression ▪ Right to participate in cultural life, the benefits of scientific progress, and protection of authorial interests ▪ Right to self-determination ▪ Right to political life ▪ Right to social security ▪ Freedom of movement • Right to privacy.
<p>Source: Equality and Human Rights Commission. (2014). A guide to business and human rights. Retrieved from https://www.equalityhumanrights.com/sites/default/files/a_guide_to_business_and_human_rights_1_1.pdf</p>	

Under Guidance 25 of the UNGP “ As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.”

As per the UNGPs, “ The term grievance mechanism is used to indicate any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought. State-based grievance mechanisms may be administered by a branch or agency of the

State, or by an independent body on a statutory or constitutional basis. They may be judicial or non-judicial.”¹⁸

In line with the UNGPs, the Ministry of Human Rights developed Pakistan’s first National Action Plan (NAP) on Business and Human Rights ((2021-2026). Under Pillar I, State Duty to Protect Human Rights, the NAP provides that it will work to ‘clear the backlog of cases in Courts and explore the feasibility of strengthening and promoting alternate dispute resolution mechanisms for the fair, effective, and timely redressal of human rights violations resulting from business activity.’¹⁹ Additionally, Pillar II provides for the ‘Corporate Responsibility to Respect Human Rights’, whereas Pillar III provides guidelines for ‘Access to Remedy’. In addition to judicial mechanisms, Pillar III provides quasi-judicial bodies to regulate competition in business, unfair labour practices and industrial disputes, including ADR mechanisms.

D. ALTERNATIVE DISPUTE RESOLUTION:

ADR has been defined as a “procedure for settling dispute by means other than litigation”²⁰. Formal ADR is an alternative to resolution of disputes in the courts through the judicial system. Among the many different types of ADR processes, the most common are mediation, arbitration, and conciliation.²¹

ADR has many advantages. It provides speedy resolution of disputes, saves direct and indirect costs related to litigation (such as cost of files, appointment of lawyers, printing of case files, etc), prevents damage to business relationships and reputation, alleviates stress while achieving remedies beyond the powers of the court (such as in some cases, a court may not be empowered to direct the parties to provide written apologies, etc).²² Further, ADR mechanisms have been recognized as effective approaches towards resolution of disputes. ADR alleviates the strain on judicial systems and bolsters access to justice while enhancing the overall experiences of individuals within the justice sector.

Prospective litigant/parties to a dispute are able to choose the method which is most appropriate according to the facts of their dispute. In Section 4 (ii-a) of the SPHRA 2022 Amendment, “alternative dispute resolution” is explicitly mentioned, which signifies that the law gives a wide discretion to the parties and to the SHRC to choose and adopt various alternative methods that they wish to choose for resolving their dispute.

¹⁸ Office of the United Nations High Commissioner for Human Rights. (2011). Guiding principles on business and human rights. Retrieved July 13, 2024, from https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf#page=29

¹⁹ Ministry of Human Rights, Government of Pakistan. (2021). National Action Plan on Business and Human Rights. Retrieved July 13, 2024, from <https://portal.mohr.gov.pk/wp-content/uploads/2021/11/NAP-BHR.pdf#page=17>

²⁰ Black’s Law Dictionary." St. Paul, MN: West Publishing Company 9 (2009): 1428.

²¹ World Bank. (2011). Setting out of court: Alternative Dispute Resolution and the Judicial Function. Retrieved July 13, 2024, from <https://documents1.worldbank.org/curated/en/320121468337243521/pdf/678050VP00PUBLOSettingOutOf0of0court.pdf>

²² Lord Justice Jackson (2009) Review Of Civil Litigation Costs Final Report, Tso (The Stationery Office), United Kingdom

ADR comes in a variety of forms, the principal ones being arbitration and mediation.²³ However, below is a list of different ADR methods:

Written offers	An offer to settle the dispute can be made in any form of writing, for example, an e-mail or via a letter. A written offer, once accepted by the parties, is binding. (Enforcement will follow normal contractual principles) ²⁴
Negotiation	Although there is no set procedure required for conducting a negotiation, the lawyers involved (on behalf of the parties) may put into effect their disputes. This process usually involves the use of lawyers, who are appointed by each disputing party to negotiate on their behalf. In less complicated cases, the disputing parties may be able to negotiate without the use of lawyers. So, this process can be conducted by the parties themselves and/or by their lawyers. ²⁵
Mediation	This process involves the use of a neutral third party (Mediator) to facilitate the resolution of a dispute between two or more parties. At the end of a mediation, the mediator will confirm the agreement reached between the parties and the parties to the dispute will usually sign that agreement.
Arbitration	In an arbitration, an independent arbitral tribunal makes the decision on the disputes between the parties. It is an adjudicative ADR process. It resembles to the process of litigation as it is similar to a court hearing and is usually considered an alternative to it.
Conciliation	It is process where an independent third party (conciliator) will help the parties to a dispute reach a resolution by developing options, considering alternatives in order to reach an agreement. The role of conciliators is similar to that of mediators except that the conciliator may also: have specialist knowledge and give legal information.

The judiciary in Pakistan has exceeded its capacity.²⁶ About 82pc of cases are currently pending (1.86 million) at the district judiciary level, while the remaining 18pc (0.39 million cases) are at the upper tier, which includes the Supreme Court, Federal Shariat Court, and High Courts. Further, 2.38 million new cases were filed during the period of July to December 2023, while the courts managed to resolve 2.30 million cases. Despite this

²³ Martin Partington (2001) Access to Justice: Re-forming the Civil Justice System of England and Wales, CLWR 30 1 (115)

²⁴ Susan Blake, Julie Browne & Stuart Sime (2016) A Practical Approach to Alternative Dispute Resolution. Fourth Ed. New York, Oxford University Press.

²⁵ Lord Justice Jackson (2009) Review Of Civil Litigation Costs Final Report, Tso (The Stationery Office), United Kingdom

²⁶ Hussain, S. A. (2019, December 18). Alternative dispute resolution gains traction in Pakistan. The Asia Foundation. Retrieved from <https://asiafoundation.org/2019/12/18/alternative-dispute-resolution-gains-traction-in-pakistan/>

significant resolution, the backlog of pending cases remained high due to the continual filing of new cases. Civil cases constitute 81% of the cases pending in the High Courts.²⁷

As a result, ADR is gaining fast policy traction in Pakistan. The Constitution of Pakistan guarantees the right of access to justice to all its citizens. This right is enshrined in several provisions of the Constitution, which include Article 10A was inserted through the 18th Amendment and guarantees due process of the law. Moreover, Article 37(d) provides for the promotion of social justice and removal of social evils and directs the state to ensure inexpensive and expeditious justice. These provisions collectively aim to ensure that every citizen of Pakistan has access to justice and redressal of their grievances and includes ADR.

Additionally, the UNGPs provides that State's respect, protect and fulfil human rights and fundamental freedoms and appropriate and effective remedies to individuals when human rights are breached. Further, the NAP on Business and Human Rights (2021-2026) also provides for strengthening and promoting ADR mechanisms for the fair, effective, and timely redressal of human rights violations resulting from business activity.

E. EXISTING ADR MECHANISMS IN SINDH:

The formal ADR mechanisms in Sindh are a mixture of court-annexed ADR, institutional ADR (where arbitrator can be appointed under the law by the parties) and ADR through public bodies.²⁸ Further, the framework pertaining to existing ADR mechanisms in Sindh exists under both under federal and provincial laws and policies. The list provided below gives an overview of the types of ADR mechanisms currently in use in Sindh.

1. Sindh Human Rights Commission (SHRC):

The SHRC is an independent statutory body established under Sindh Protection of Human Rights Act, 2011 (SPHRA), with the mandate to protect and promote human rights in the province of Sindh. Under Section 4 of the Act, the SHRC has the mandate to "4 (i) inquire, suo moto or on a petition presented to it by a victim or any person on his behalf, into complaint of –(a) violation of human rights or abetment thereof;(b) negligence in the prevention of such violation, by a public servant; (ii) recommend to Government the remedial measures including action to be taken against the persons involved in violation of human rights.

Recently, SPHRA (Amendment) 2022 enhanced the scope of SHRC's functions to Business and Human Rights as one of the important core responsibilities of the SHRC. In the Amendment Act, three sub-provisions have been incorporated in Section 4 of the Act. Section 4 (ii-a) which enhances the SHRC's role in redressal of business and human rights related violations/abuses through ADR. It provides: "Serves as an alternate dispute

²⁷ Law and Justice Commission of Pakistan, 'Bi-Annual Report of Judicial Statistics for the period from July to December 2023' <http://www.ljcp.gov.pk/>

²⁸ Detho, Iqbal Ahmed. 2018. "Alternative Dispute Resolution Mechanisms and Public Administrative Bodies Access in Community: A Mapping of Select Districts in Sindh." Legal Aid Society. Accessed July 19, 2024. <https://www.las.org.pk/wp-content/uploads/2019/01/Public-Administrative-ADR-Paper.pdf>

resolution and accountability mechanisms for business related abuse of Human Rights and Providing easy access to remedy.”

Furthermore, Section 4 (iv-a) empowers the SHRC “To visit any business enterprise or corporate or corporate entity, with prior intimation to the concerned corporate entities supervisory body or authority, to ascertain the reported violations or abuses and the working conditions of the employees, workers or inmates of the supply chain or value chain as the case may be”

Similarly, Section 4 (v) also empowers the SHRC to “Review the safeguards provided by or under the Constitution or any law for the time being in force for protection of Human Rights and also in sphere of Business and Human Rights and National Action Plan on Business and Human Rights to ensure accountability and access to remedy as an alternate dispute forum and to recommend measures for effective implementation of laid down procedure and for due diligence in business enterprise”

Business and human rights” have been defined in Section 2 (i-a) as “the rights envisaged under the United Nations Guiding Principles (UNGPs) and corporate related human rights abuses” whereas Section 4 (v-i) defines the NAP on Business and Human formulated by the Ministry of Human rights in keeping with UNGPs to ensure protection of human rights abuses by engaging business to foster corporate respect and due diligence for human rights.

The SHRC has been quite proactive in the promotion and protection labor rights i.e. handling numerous complaints of labor rights violations, incidents of work place harassment, occupational health and safety, etc.

Recently, the SHRC released its Strategic Plan 2023-2027. Priority Area 1 of the Strategic Plan provides for the establish an integrated online Complaint and Case Management System with a robust database. Further Priority Area 2 provides that SHRC conduct periodic inspections of business enterprises to monitor and ensure compliance with human rights standards.

Particularly, Priority Area 2 (vi) provides that the SHRC will also conduct inspections of business enterprises and corporations to assess their compliance with human rights standards i.e. UNGP and the National Plan of Action on Business and Human Rights to ensure fair labour practices, non-discrimination policies, occupational health and safety measures and protection of workers' rights.²⁹

2. National Commission on Human Rights (NCHR)

In 2012, the National Human Rights Commission Act (NHRCA) was enacted, followed by the issuance of a notification in 2015 to appoint members to the National Human Rights Commission (NHRC). The NHRCA grants the NHRC authority to investigate human rights violations, promote human rights awareness, conduct research on international law, raise awareness about human rights protections, recommend measures for fulfilling treaty

²⁹ Sindh Human Rights Commission, Government of Sindh. (2023). Strategic Plan 2023-2027.

obligations, and develop a national plan for the promotion and protection of human rights.

However, the NHRC does not possess the authority to adjudicate cases directly. According to Section 13 of the Act, the NHRC functions akin to a civil court, where it can summon parties, call for evidence and documents, and issue orders against violators. Nevertheless, it lacks the power to facilitate mediation or arbitration between parties in cases involving human rights violations.

3. Arbitration Act 2024

The Arbitration Act, 1940 was a colonial era legislation, it governed arbitration agreements, procedures, and domestic arbitral awards in Pakistan.³⁰ The newly enacted law (Arbitration Act 2024) is based on the UNCITRAL Model Law on International Commercial Arbitration 1985, as amended in 2006. The UNCITRAL Model Law on International Commercial Arbitration is a framework developed by the United Nations Commission on International Trade Law (UNCITRAL) to harmonize and modernize laws governing international arbitration.

The newly passed Arbitration Act 2024 is a notable stride towards establishing a robust, contemporary, and accessible framework for resolving disputes through arbitration. The legislation enhances arbitral tribunal authority, bolsters party autonomy, ensures the appointment of skilled arbitrators, minimizes judicial interference, and simplifies the enforcement process. These advancements promise to streamline arbitration procedures, cultivate a more appealing business environment for both local and international enterprises, and alleviate pressures on the judicial system.³¹

As per Section 1 (2), the law extends to the whole of Pakistan. As per Section 2 (1) (a) "arbitration" means any arbitration whether or not administered by an arbitral institution".

Section 2 (1) (c) defines an "arbitral award" as a "decision of the arbitral tribunal on the substance of the dispute and includes any final, interim, or partial award and any award on costs or interest". Further Section 2 (1)(d) defines "arbitral institution" as a permanent organization with a set of its own arbitration rules which has been duly notified by the Ministry of Law and Justice as a recognized arbitral institution".

(f) "commercial" has been defined in Section 2(1) (f) as including but is not limited to, "matters arising from all relationships of a commercial nature, whether contractual or not, such as any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consul/ng; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; and, carriage of goods or passengers by air, sea, rail or road;"

³⁰ Delos Dispute Resolution. (2023). Global Arbitration Places (GAP) Pakistan (2nd ed.). Retrieved from <https://delosdr.org/wp-content/uploads/2023/02/Delos-GAP-2nd-edn-Pakistan.pdf>

³¹ Kluwer Arbitration Blog. (2024, June 5). Arbitration revolution: Decoding Pakistan's draft bill on Arbitration Act 2024. Kluwer Arbitration Blog.

Further, Section 3 (1) (a) provides that the “Act shall apply to all arbitrations seated in Pakistan”. While Section 8 provides the definition of “arbitration agreement”

The First Schedule provides general principles regarding the impartiality and independence of an arbitrator.

4. Code of Civil Procedure:

The Civil Procedure (Sindh Amendment) Act, 2018 amended the Code of Civil Procedure Act (Act No. V of 1908) in the Province of Sindh. Section 89-A (1) defines ADR as a “procedure for settling disputes without court trial, namely arbitration, mediation, conciliation or negotiation.”

The amended law provides in Section 89-A that “the court may use Alternative Dispute Resolution (ADR) methods to resolve cases of civil or commercial matters: Provided that for the purposes of this section, ADR refers to mediation, conciliation and negotiation.”

It also defines “Conciliation” as a process which is conducted confidentially in which a neutral person (conciliator) actively assists parties in working towards a negotiated agreement of a dispute or difference, putting forward proposals for the settlement with the parties in ultimate control of the decision to settle the terms of resolution, the conciliator having no decision-making power or authority to impose solutions on the parties or force settlement between the parties”.

“Mediation” is defined as “a process which is conducted confidentially in which a neutral person (mediator) actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle the terms of resolution, the mediator having no decision-making power or authority to impose solutions on the parties or force settlement between the parties.”

Therefore, the law can also be utilized to resolve disputes through mediation, conciliation and negotiation. It is important to note that only disputes of ‘civil or commercial matters’ may be resolved.

As per Section 89-A (3), case may be forwarded for ADR by referral of the cases to a mediator/conciliator “ in the following circumstances: -

- (i) Upon presentation of a plaint, the court shall at the first instance, examine and assess the possibility of resolving the case in a way which is to the advantage of all parties under one of the methods of ADR;
- (ii) If at any stage of the case, before or after the recording of admissions and denials, the court considers there is a possibility of resolving the case in a way which is to the advantage of all parties under one of the methods of ADR;
- (iii) Upon consent of all the parties.”

The process that the court will follow in the circumstances identified under sub-section (3)(i) and (ii) is stipulated in Section 89-A (4):

- “(i) Upon the conclusion of the court to refer the case to ADR, the court shall issue notice to the parties to make submissions upon the next date of hearing as to why their case should not be referred to ADR;
- (ii) Where no sufficient cause is shown, the Court shall refer the case for ADR to a mediator/conciliator...”

Section 1B further clarifies the timeline and the process which will be followed when a court refers a plaint or case to ADR under Section 89-A, it provides that:

“1B. – When a court refers a plaint or case to ADR under Section 89-A of this Code, the following process shall be employed:-

- (i) Appointment of Mediator/Conciliator.- The Court shall nominate a mediator/conciliator as identified under Order X Rule 1C.
- (ii) Fixing of Date and Time.- Upon referring the case for ADR, the court shall direct the parties to appear before the appointed mediator/conciliator on the date and time fixed by the court and shall set a time for returning of the reference which shall not be more than sixty (60) days from the date of reference. The mediator/conciliator may submit a written request for extension of time period which may be extended for no longer than thirty (30) days by the Court, on showing good cause which shall be noted in a court order.
- (iii) Determination of Fee.- The Court, upon deciding to refer a case to ADR, may determine the amount of fee, if any, to be paid to the mediator/conciliator by the party or parties.
- (iv) Appearance of Parties.- The parties to the case shall take part in the ADR proceedings in person or through an authorized representative empowered to settle the matter.
- (v) Procedure of ADR.- In dealing with the case referred to him, the mediator/conciliator may follow such a procedure, as may be appropriate in the circumstances of the case.
- (vi) Settlement.- If a settlement is reached between the parties, the mediator/conciliator shall prepare a deed of settlement containing terms of such settlement, signed by the parties and submit it to the Court on the day fixed by the Court together with a certificate that the settlement between the parties was voluntary.
- (vii) Preparation of Decree.- Upon the receipt of the deed of settlement and after hearing the parties the court may pass judgment and decree in terms of the settlement.
- (viii) Failure of Settlement.- If no settlement is reached between the parties, including if any of the parties refuses to participate in the process, the mediator/conciliator shall record the statement of the fact and submit it to the Court on or before the date fixed
- (ix) Commencement of trial.- If no settlement is reached within the allocated time period, the case shall proceed in Court without delay on a day to day basis.”

The following organizations and persons have been provided as being eligible to be Mediators/Conciliators:

- “(a) Organizations / institutions / Court-annexed mediation centers established or recognized by the Sindh High Court that specialize in ADR methods and maintain a list of mediators or conciliators with training as required under sub-clause (b);
- (b) Persons, who have undergone a minimum of 40 hours’ skills-based training in mediation and/or conciliation and have been accredited as mediators or conciliators by a reputable organization or institution;
- (c) A judge nominated by the Court to conduct ADR who has been certified as a mediator/conciliator by the Sindh Judicial Academy or is accredited as under sub-clause (b);
- (d) Salis appointed under the Small Claims and Minor Offences Ordinance 2002;
- (e) Any other person agreed to by the parties and upon approval of the Court in accordance with the law.”

According to Section 89-B, the parties may also resolve any dispute of civil or commercial nature through the use of an ADR method before initiating any legal proceeding. The parties “may file an application alongwith settlement duly signed by the parties and other relevant documents in the court having jurisdiction which shall be registered as a “Judicial Miscellaneous” matter. The court after hearing the parties shall pass judgment and decree as under this Code.”.

Section 1D provides certain prohibitions. It states that “the mediator/conciliator shall not act in any capacity on behalf of any of the parties in connection with the case in other proceedings nor shall he be called as a witness in such proceedings except to attest to the authenticity of the settlement agreement. ”

Further, “any information, statement, document and anything disclosed to the mediator/conciliator during ADR proceedings shall be kept confidential and no document including any transcript, formal record or audio-visual recording shall be made of the proceedings except with written approval of the mediator/conciliator and consent of the parties. ”

Moreover, “no communication or any kind of documentation made during the ADR process can be produced in court with regards to the case or any other related proceedings.”

5. The Court-Annexed Mediation Center (CAMC) at the Sindh High Court (SHC):

The SHC is actively focusing on innovative methods to dispense speedy justice by implementing the ADR framework across the province.³² A CAMC has been established by the SHC in Karachi to facilitate parties in achieving expedient resolution of disputes

³² Tanoli, Ishaq. (2024, May 12). More mediation centres to be set up across Sindh: SHC CJ. Dawn. Retrieved from <https://www.dawn.com/news/1832961>

through mediation and negotiation. It follows the process stipulated in the Civil Procedure (Sindh Amendment) Act, 2018.

Upon referral to CAMC, disputes are scheduled within its roster. Parties are notified of their mediation session(s), which are conducted by a judicial officer certified as a mediator. This ensures professionalism and impartiality throughout the process.³³

CAMC's mediation process is a methodical approach to resolving disputes. It begins with individual meetings with each party to grasp their perspectives and concerns. Subsequently, joint sessions are held to encourage dialogue and explore mutually agreeable solutions. The process upholds rights to privacy and confidentiality while offering a conducive environment for conflict resolution.³⁴

6. Small Claims and Minor Offences Courts Ordinance, 2002

The Small Claims and Minor Offences Ordinance, 2002 (Ordinance XXVI of 2002), was passed by the Federal Government. As per Section 2 (a) "amicable settlement" includes settlement through arbitration process, other than arbitration under the Arbitration Act, 1940 (X of 1940), mediation, conciliation or any other lawful means mutually agreed upon by the parties.

The Small Claims and Minor Offences Court are presided over by a Civil Judge / Judicial Magistrate (section 4 (2)).

As per Section 5(a), the Small Claims and Minor Offences Court can try all suits and claims specified in Part I of the Schedule to the Ordinance, the subject-matter of which does not exceed one hundred thousand rupees in value for the purposes of jurisdiction. However, the High Court may, by notification in the Official Gazette, vary the value from time to time. The suits and claims specified in Part I of the Schedule to the Ordinance include:

- Suit for recovery of money due on contract in writing, receipt or any other documents.
- Claim for damages on account of contract in writing.
- Suit for the specific performance or rescission of a contract in writing.
- Suit for recovery of movable property or value thereof.
- Suit for separate possession of joint immovable property through partition or otherwise
- Suit for compensation.
- Suit for redemption of mortgage property.
- Suit for enforcement of easement rights.
- Suit for rendition of accounts of joint property.
- Suit to restrain waste and remove nuisance.
- Disputes under the Canal and Drainage Laws.
- Mesne profits of property.

³³ Sindh High Court Mediation Centre. (2024). About us. Retrieved from <https://mediation.shc.gov.pk/about>

³⁴ Ibid

- Suit for compensation for wrongful taking or damaging movable or immovable property.
- Suit for damages by cattle trespass.
- Suit for damages and compensation arising out of traffic accidents.

The Small Claims and Minor Offences Court can also settle any other relief not falling under the Schedule but agreed to by the parties to be settled under the Ordinance.

The criminal jurisdiction of the court is defined in Section 5(1)(b) and Part II of the schedule of the ordinance. The courts can try offences as prescribed by Pakistan Penal Code 1860, which are punishable with imprisonment not exceeding three years, with fine, or with both.

The procedure to be followed in civil cases stipulated in Section 6:

- (i) Every claim or suit before the Court shall be instituted by presentation of a plaint duly verified on oath or solemn affirmation;
- (ii) The plaint shall contain all material facts relating to the claim or dispute, a schedule giving the number of witnesses intended to be produced in support of the plaint, the names and addresses of witnesses and a brief summary of the facts to which they would depose;
- (iii) Where a plaintiff sues or relies upon a document in his possession or power, he shall produce it in the Court either in original or copy thereof alongwith the plaint;
- (iv) Where a plaintiff relies on any other document, not in his possession or power as evidence in support of his claim, he shall enter such document in a list to be appended to the plaint, giving reasons of relevancy to the claim in the plaint;
- (iv) The plaint shall be accompanied by as many copies thereof including the schedule and the lists of documents referred to in clause (4) as there are defendants in the suit, for service upon the defendants, and
- (vi) The plaint shall be accompanied by 'one time process fee of twenty-five rupees.'

As per Section 34, in criminal proceedings, the Court will follow the procedure prescribed in the Code of Criminal Procedure, 1898 (Act V of 1898), and Qanun-e-Shahadat, 1984 (President's Order No. 10 of 1984).

7. Federal and Provincial Ombudsperson:

The original meaning of the word 'Ombudsperson' is "a representative, or agent for someone, who can deal with juridical or economic matters on behalf of that person."³⁵ The

³⁵ National Conference of State Legislatures. (1999, September 10). The Ombudsman. Leadership Staff Annual Training Seminar, Hotel Monteleone, New Orleans, Louisiana. <https://www.usombudsman.org/the-ombudsman/>

Ombudsperson Agencies are also known as “Idara-e- Mohtasib” in Pakistan. Mohtasib is an Arabic word, derived from the root word ‘hisbah’ and translates to ‘accountability’ in English language.³⁶ The following federal and provincial Ombudsperson offices operate in Pakistan:

7.1. Federal Ombudsperson of Pakistan:

The legal framework pertaining to the office of the Federal Ombudsperson includes the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, the Wafaqi Mohtasib (Ombudsman)'s Investigation and Disposal of Complaints Regulations 2013 and the Processing of complaints relating to service matter 2019 and 2023.

The Regional Offices of the Federal Ombudsperson are located in Karachi (all districts of Karachi), Sukkur (Khairpur, Ghotki, Naushero Feroze, Larkana, Jacobabad, Shikarpur, Kashmore, Qamber and Shahdadkot), Hyderabad (Jamshoro, Matiari, Tando Muhammad Khan, Shaheed Benazirabad (Nawabshah), Badin, Dadu, Thatta and Sajawal) and Mirpur Khas.³⁷

The Jurisdiction of the Federal Ombudsman extends to the whole of Pakistan (Section 2 (1) of the 1983 Order). The jurisdiction is provided under Section 9 and includes the following:

“(1) The Mohtasib may, on a complaint by any aggrieved person, on a reference by the President, the Federal Council or the National Assembly, as the case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it

or of his own motion, undertake any investigation into any allegation of maladministration on the part of any Agency or any of its officers or employees:

Provided that the Mohtasib shall not have any jurisdiction to investigate or inquire into any matters which:

- (a) Are sub-judice before a court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference or motion by him; or
- (b) Relate to the external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or government; or
- (c) Relate to, or are connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.

³⁶ Banking Mohtasib Pakistan. (2023). Annual report 2023. Retrieved July 15, 2024, from https://www.bankingmohtasib.gov.pk/Documents/Annual_Report_2023.pdf

³⁷ Mohtasib Pakistan. (2024). [Territorial jurisdiction, Head office and regional offices]. Retrieved July 15, 2024, from <https://mohtasib.gov.pk/Detail/MjA2OTc4NzAtNTIwMi00NDkxLWFkMDctMDAwMmRhOGJiNzhj>

(2) Notwithstanding anything contained in clause (1), the Mohtasib shall not accept for investigation any complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is, or has been, working in respect of any personal grievance relating to his service therein.

(3) For carrying out the objectives of this Order and, in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.

(4) The Mohtasib may set up regional offices as, when and where required.”

It is important to note that ‘maladministration’ is defined in Section 2 (2) as :” (i) a decision, process, recommendation, act of omission or commission which: (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bona fide and for valid reasons; or (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or (c) is based on irrelevant grounds; or (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.”

7.2. Provincial Ombudsperson (Mohtasib-E-Aala) Sindh:

The Office of Provincial Ombudsperson (Mohtasib) Sindh established through Sindh Act No. 1 of 1991 (Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991), which empowers Provincial Ombudsman (Mohtasib) Sindh to diagnose, investigate, redress and rectify any injustice done to a person through mal administration of an Agency of the Government of Sindh.³⁸

The jurisdiction, functions and powers of the Ombudsman has been provided under Section 9 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991 as follows:

(1) The Ombudsman may on a complaint by any aggrieved person, on a reference by the Governor or the Provincial Assembly, or on a motion of the Supreme Court or the High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of mal administration on the part of any Agency or any of its officers or employees: -

Provided that the Ombudsman shall not have any jurisdiction to investigate or inquire into any matters which:-

(a) Are subjudice before a court of competent jurisdiction or judicial tribunal or board in Pakistan on the date of the receipt of a complaint, reference or motion by him; or

³⁸ Mohtasib Sindh. (2024). Our charter. Retrieved July 15, 2024, from <http://mohtasibsindh.gov.pk/About/OurCharter>

- (b) Relate to the external affairs of Pakistan or the relations or dealings of Pakistan with any foreign state or government; or
- (c) Relate to, or connected with, the defence of Pakistan or any part thereof, or the Military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.

(2) Notwithstanding anything contained in sub-section (1), the Ombudsman shall not accept for investigation any complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is or has been, working, in respect of any personal grievance relating to his service therein.

(3) For carrying out the objectives of this Act and, in particular for ascertaining the root causes of corrupt practices and injustice, the Ombudsman may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.

(4) The principal seat of the Office of Ombudsman shall be at Karachi, but may set up regional offices as, when and where required”

Maladministration has been defined as under Section 2(2) as “(i) A decision, process, recommendation, act of omission or commission which: (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonfire and for valid reasons; or (b) is perverse arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or (c) is based on irrelevant ground; or (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and (ii) neglect, inattention, delay incompetence, inefficiency and ineptitudes, in the administration or discharged of duties and responsibilities;”

Under Section 33. (1) of the Establishment of the Office of Provincial Ombudsman for the Provincial of Sindh Act, 1991, the Ombudsman and a member of the staff have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without writing memorandum and without the necessity of docketing any complaint or issuing any official notice.

7.3. Banking Mohtasib:

The institution of Banking Mohtasib Pakistan (BMP) was established in the year 2005 under Part IV-A of Banking Companies Ordinance, 1962 (“BCO”). Subsequently, an Act of Parliament called The Federal Ombudsmen Institutional Reforms Act, 2013 (Act XIV of 2013) was promulgated in March 2013, the provisions of which have effect notwithstanding anything contained in any other law for the time being in force. It repeals by implication whatever is inconsistent with it in the other enactments and confers upon Ombudsman additional power of review.

The Banking Mohtasib institution plays a crucial role in resolving disputes and facilitating amicable resolutions between complainants and commercial banks, including inter-bank disputes. This is done informally, fairly, and in accordance with the law. The governing laws mandate that the Banking Mohtasib must maintain independence, impartiality, and autonomy both in administration and finances while adjudicating complaints. The services of the Banking Mohtasib are provided free of cost or at minimal expense to complainants and parties involved in disputes.³⁹

The role of institution of Banking Mohtasib in the financial industry is to resolve disputes through a process, which is largely conciliatory, and where such mediation is unsuccessful, to adjudicate and pass a speaking order to decide the dispute.⁴⁰

7.4. Ombudsperson for Protection Against Sexual Harassment of Women at the Workplace:

About 93 per cent of working women in Pakistan acknowledge facing workplace harassment.⁴¹ Workplace harassment, a manifestation of gender-based violence (GBV), particularly impacts women, exacerbating economic and social disparities. This pervasive issue serves as a formidable obstacle hindering women's pathways to achieving financial autonomy and economic empowerment. Its detrimental effects span across all types of employment, whether formal or informal, exerting profound socio-economic repercussions on affected individuals, their families, and broader communities. Furthermore, workplace harassment tarnishes the reputation and diminishes the productivity of enterprises.⁴²

Sindh Province has not enacted a specific law of workplace harassment post the 18th Amendment to the Constitution. However, in 2010, the Parliament of Pakistan enacted the Protection against Harassment of Women at the Workplace Act 2010 ('2010 Act') to provide legal protection to women against harassment at the workplace. This law is also applicable in Sindh.

The Ombudsperson for Protection Against Sexual Harassment of Women at the Workplace is governed by the Protection Against Harassment of Women at Workplace Act, 2010 and 2022 Amendment. The Act mandates the establishment of the office of the Ombudsperson at the federal and provincial levels to address complaints of sexual harassment at workplaces and to ensure a safe working environment for women. The Ombudsperson has the authority to investigate complaints, hold hearings, and take appropriate actions against perpetrators of harassment. The aim is to provide a

³⁹ Banking Mohtasib Pakistan. (2023). Annual report 2023. Retrieved July 15, 2024, from https://www.bankingmohtasib.gov.pk/Documents/Annual_Report_2023.pdf

⁴⁰ Ibid

⁴¹ The Express Tribune. (2023, August 17). Unending cycle of harassment: Is Pakistan safe for working women? Retrieved from <https://tribune.com.pk/story/2378537/unending-cycle-of-harassment-is-pakistan-safe-for-working-women>

⁴² Tahir, Rida. (2023). Redefining harassment. The News International. Retrieved from <https://www.thenews.com.pk/print/934849-redefining-harassment>

mechanism for women to seek justice and protection from harassment in their professional environments.

It is important to note that Section 3 of the law defines the key terms used in the Act, such as "harassment," "complainant," "respondent," and "workplace." The definition of harassment under Section 2(h) was redefined under the 2022 Amendment. While "stalking" and "cyberstalking" were added under Section 2(h)(i), "discrimination on the basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and pre-judicial mind-set or notion, resulting in discriminatory behavior on basis of gender against the complainant" was inserted through Section 2(h)(ii).

Furthermore, through redefining section 2(e), the protection against harassment was extended to "former employee who has been removed or dismissed from service or has resigned, and a parent or guardian where the complainant is a minor". Importantly, the definition of workplace under 2(n) was extended to include: educational institutes, concerts, studios, sporting facilities, etc.

Section 4 mandates every organization to establish an Internal Inquiry Committee to address complaints of harassment. The section outlines the composition of the committee, which typically includes at least three members, with one member being a woman and another being an external member from a non-governmental organization or a civil society organization working on women's rights.

Section 5 details the duties and functions of the Internal Inquiry Committee. It includes receiving complaints of harassment, conducting investigations in a timely and confidential manner, providing both parties (complainant and respondent) an opportunity to be heard, and submitting a report of its findings and recommendations to the employer.

Section 6 specifies the procedure for conducting an inquiry by the Internal Inquiry Committee. This includes maintaining confidentiality.

Section 8 provides the process to be followed when making complaint to the Ombudsman whereas Section 9 provides the framework pertaining to appeal to President or Governor, it states: "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."

8. Labour Department, Government of Sindh:

The Sindh Industrial Relations Act, 2013, includes provisions for arbitration alongside the options of the labour court and labour appellate tribunal. It is applicable to all persons employed in any establishment or industry, including fishing and agriculture, as per Section 1(3).

8.1. Negotiation:

Section 35 is titled 'Negotiations relating to differences and disputes' It provides that, if at any time, an employer or a collective bargaining agent identifies the emergence or

likelihood of an industrial dispute, they may express their views in writing to either the Council or the other party. If the views are directed to the Council, a copy must also be sent to the other party.

Upon receiving such communication, the Council or the recipient party shall endeavor to resolve the dispute through bilateral negotiations within ten days of receipt, or within an agreed extended period. If an agreement is reached between the parties, it shall be documented in writing as a memorandum of settlement, signed by both parties, and a copy forwarded to the conciliator and the authorities. In cases where no settlement is achieved between the employer and the collective bargaining agent, or if bilateral negotiations fail within the Council following communication of views, the employer or the collective bargaining agent may issue a notice of lock-out or strike, as applicable under the provisions of this Act, to the other party to the dispute within seven days from the conclusion of dispute.

8.2. Conciliation:

Under section 36 of the Act, the Government shall appoint through an official Gazette notification as many persons as it deems necessary to serve as conciliators for the Act's purposes. Where a party to an industrial dispute serves a notice of strike or lock-out under, it shall, simultaneously, with the service of such notice, deliver a copy thereof to the conciliator who shall proceed to conciliate in the dispute and also forward a copy of the notice to the Labour Court (Section 38).

8.3. Arbitration:

If the conciliation fails, the conciliator will try to persuade the parties to agree to refer the dispute to an Arbitrator, as per Section 40. In case the parties agree to refer the dispute to an Arbitrator, they will appoint an Arbitrator and refer the dispute to the Arbitrator by agreement in writing. As per Section 40 (4), the Arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred to him. After the arbitrator has made an award, the Arbitrator will forward a copy thereof to the parties and to Government which shall cause it to be published in the official Gazette. Section 40 (6) provides that the award of the Arbitrator shall be final and no appeal shall lie against it, and it shall be valid for such period as may be specified in the award but not exceeding two years.

F. EUROPEAN UNION'S, BEST PRACTICES OF ADR REGARDING BUSINESS AND HUMAN RIGHTS:

The The European Union (EU) GSP+ serves as a special incentive arrangement to promote good governance and sustainable development by facilitating trade. The incentive grants Pakistan zero-rated or preferential tariffs on nearly 66% of tariff lines, enhancing the country's ability to export to the EU market. Therefore, it is crucial to discuss EU's best practices of ADR regarding business and human rights.⁴³

The EU is a political and economic union of 27 member countries located primarily in Europe. The EU aims to promote economic cooperation, political stability, and social progress among its member states through shared policies and institutions. Key aspects of the EU include a single market with free movement of goods, services, capital, and labor, as well as common policies in areas such as trade, agriculture, and environmental regulation.⁴⁴

The EU has recognized the UNGP as "the authoritative policy framework" in addressing corporate social responsibility and business and human rights related abuses.⁴⁵ Further, the Council of Europe Committee of Ministers welcomed the principles in a Declaration in 2014 and expressed strong support for their implementation by member states.⁴⁶

Additionally, the European Convention on Human Rights (ECHR) provides for the right to effective remedy in Article 13. Moreover, the EU Charter of Fundamental Rights also includes other relevant provisions, such as on non-discrimination (Article 21), the rights of the child (Article 24), environmental protection (Article 37) and consumer protection (Article 38), as well as solidarity rights more generally (Title IV).⁴⁷

Non-judicial mechanisms are present across all EU Member States, albeit with significant variations in their authority and scope. Some mechanisms possess quasi-judicial powers, while others lack the ability to issue binding decisions but may offer mediation services or guide and advocate for victims in judicial proceedings. These non-judicial mechanisms complement judicial processes by providing greater accessibility, reducing costs, and

⁴³ European Union External Action. (2024, September 16). European Union releases fourth GSP report evaluating implementation of 27 international conventions. European Union External Action. https://www.eeas.europa.eu/delegations/pakistan/european-union-releases-fourth-gsp-report-evaluating-implementation-27-international-conventions_en?s=175

⁴⁴ European Union. (2024). History of the European Union. Retrieved from https://european-union.europa.eu/principles-countries-history/history-eu_en

⁴⁵ Council of Europe Commissioner for Human Rights. Business enterprises begin to recognise their human rights responsibilities. Retrieved July 17, 2024, from <https://www.coe.int/hr/web/commissioner/-/business-enterprises-begin-to-recognise-their-human-rights-responsibilities>

⁴⁶ Committee of Ministers. (2014). Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights. Adopted on 16 April 2014 at the 1197th meeting of the Ministers' Deputies. Council of Europe. Retrieved from [https://search.coe.int/cm#{%22CoEIdentifier%22:\[%2209000016805c6ee3%22\],%22sort%22:\[%22CoEValidatio nDate%20Descending%22\]}](https://search.coe.int/cm#{%22CoEIdentifier%22:[%2209000016805c6ee3%22],%22sort%22:[%22CoEValidatio nDate%20Descending%22]})

⁴⁷ European Union Agency for Fundamental Rights (FRA). (2020). Business and human rights: Evidence, challenges and opportunities for the EU. Retrieved from https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-business-human-rights_en.pdf

expediting resolution times through mediation. Although their decisions are generally non-binding, their voluntary nature can be deemed as advantageous, facilitating negotiation processes.⁴⁸

Following are the best practices adopted by the EU in terms of ADR for redressal of business related human rights abuses:

The Operation of ADR Mechanism against the backdrop of a fully accessible formal justice system: The Directive 2013/11/EU⁴⁹ ensures consumer protection by addressing the asymmetry of power in ADR procedures, which seek to resolve disputes by imposing a resolution on the consumer. Nevertheless, it emphasizes that ADR procedures do not substitute court processes and should not deny consumers or traders their rights to seek recourse through the courts. It upholds parties' access to the judicial system, ensuring that if an ADR procedure with non-binding outcomes fails to resolve a dispute, parties remain free to pursue judicial proceedings regarding that matter.

Furthermore, in the case of *Alassini v Telecom Italia*, the Court of Justice of the EU specified that out-of-court settlement procedures should not unduly delay legal proceedings rather it should pause the statute of limitations period for claims, and should involve minimal or very low costs for the parties involved.⁵⁰

National Actions Plans (NAP): Since 2011, the European Commission has been encouraging EU member states to develop national action plans (NAPs) for implementing the UNGP.⁵¹ In its Recommendation, the Council of Europe Committee of Ministers also urged member states to develop and adopt NAPs. In addition, the Committee of Ministers intends to share NAPs and good practices in this area through an information system to be maintained by the Council of Europe. A core part of the NAPs is to provide effective access to remedy. Nine European countries have already released National Action Plans (NAPs) addressing business and human rights: Finland, Denmark, Italy, Lithuania, the Netherlands, Norway, Spain, Sweden, and the United Kingdom. An additional nine NAPs are currently in development or planned for release in Azerbaijan, Belgium, Czech Republic, Germany, Greece, Ireland, Portugal, Slovenia, and Switzerland.

Free Legal Aid: The 2016 Council of Europe recommendation on human rights and business underscores the importance of ensuring equal access to legal resources, as defined in Article 6 of the ECHR. This includes implementing effective legal aid schemes that are practical and accessible, particularly for cases involving business-related abuses

⁴⁸ Ibid

⁴⁹ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), (2013) OJ L165/63

⁵⁰ *Alassini v Telecom Italia*, Joined cases C-317/08, C-318/08, C-319/08 and C-320/08 ECLI:EU:C:2010:146.

⁵¹ European Union Agency for Fundamental Rights (FRA). (2020). Business and human rights: Evidence, challenges and opportunities for the EU. Retrieved from https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-business-human-rights_en.pdf

(paragraph 41). This is crucial due to the often-substantial disparity in resources between claimants and defendants, especially when the defendant is a large corporation.⁵²

ADR and Online dispute resolution (ODR) for consumer disputes: The substantial rise in online sales, especially during the COVID-19 pandemic, and the contractual issues brought to light by the energy crisis, underscore the ongoing need for an efficient, affordable, and equitable method to resolve disputes between consumers and traders. Such disputes commonly involve issues like refunds, replacement of defective products, or the termination of contracts due to unfair terms.

Directive (2013/11/EU) on alternative dispute resolution for consumer disputes (the 'ADR Directive') provides an out-of-court solution for consumers to resolve disputes on goods and services purchased from traders established in the single market. Together with Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes (the 'ODR Regulation'), the ADR Directive forms a horizontal EU-level framework for ADR.⁵³

The ADR Directive and the ODR Regulation are cornerstones of the legal framework to ensure efficient access to consumer redress in the EU. Commission implementing regulation (EU) 2015/1051 complements the ODR Regulation with modalities for the exercise of the functions, an electronic complaint form and cooperation between contact points of the platform.

Collective Redress: Collective redress mechanisms are on a growth trajectory within the EU.⁵⁴ The UNGPs acknowledge that human rights violations linked to business activities frequently impact groups of people rather than just individuals, emphasizing the collective dimensions of such abuses. In particular, UNGPs General Principle 26 provides that: "legal barriers that can prevent legitimate cases involving business-related human rights abuse from being addressed" include 'inadequate options for aggregating claims or enabling representative proceedings (such as class actions and other collective action procedures), and this prevents effective remedy for individual claimants'. It has been highlighted that collective actions are an effective means for a large number of victims to access remedy, principally because they 'have the potential to reduce legal fees and risks for claimants' by allowing them to 'band' together.⁵⁵

⁵² Council of Europe. (2016). Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business. Retrieved from <https://rm.coe.int/human-rights-and-business-recommendation-cm-rec-2016-3-of-the-committe/16806f2032>

⁵³ European Parliament. (2024). Resolution on effective dispute resolution in online sales and energy contract disputes (EPRS Briefing, No. 757788). Retrieved from [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/757788/EPRS_BRI\(2024\)757788_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/757788/EPRS_BRI(2024)757788_EN.pdf)

⁵⁴ European Law Institute. (2022). Report on Business and Human Rights: Access to Justice and Effective Remedies (with input from the EU Agency for Fundamental Rights, FRA). Retrieved from https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI_Report_on_Business_and_Human_Rights.pdf

⁵⁵ European Law Institute. (2022). Report on Business and Human Rights: Access to Justice and Effective Remedies (with input from the EU Agency for Fundamental Rights, FRA). Retrieved from https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI_Report_on_Business_and_Human_Rights.pdf

In 2013, the European Commission Recommendation to the EU Member States promoted the use of collective redress.⁵⁶ As a result, discussions regarding collective redress in the EU once again came to the fore based on a 2018 EU legislative proposal for a harmonized EU consumer collective redress mechanism, which was adopted in law as the EU Consumer Representative Actions Directive.⁵⁷

It is important to note that Art 8(a)(2) of the Directive (EU) 2020/1828 of the European Parliament and of the Council provides that ‘Individual consumers concerned by a representative action for redress shall not pay the costs of the proceeding’.

Strengthening the Ombuds institutions: In 2017, the European Union Agency for Fundamental Rights (FRA), responding to a request from the Council of the European Union (EU), suggested that Member States explore enhancing the effectiveness of non-judicial mechanisms within the realm of business and human rights.⁵⁸

In subsequent research conducted in 2019 and 2020, the European Union Agency for Fundamental Rights (FRA) reaffirmed its earlier recommendations. Specifically, it advocated for enhancing Ombuds institutions.

The European Ombudsman created in 1995 with the objective of ensuring that the EU’s institutions and bodies are held to account.⁵⁹ The European Ombudsman investigates individual complaints of maladministration against the EU’s institutions and agencies. Additionally, the Ombudsman conducts proactive strategic inquiries to address broader systemic issues within the EU institutions.⁶⁰

The traditional public-sector Ombuds model has evolved significantly over time, giving rise to a more recent hybrid or extended model. This newer approach grants Ombuds institutions an explicit human rights mandate, expanding beyond their traditional role of oversight of the public sector and administrative authorities. A notable emerging trend is the extension of jurisdiction for human rights Ombuds institutions to handle complaints originating in the private sector.⁶¹

The above best practices of the EU can be incorporated into Sindh’s evolving ADR mechanisms (through development/amendment of laws, formulation of rules or polices,

⁵⁶ European Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law (2013/396/EU) [2013] OJ L201/60 (European Commission Recommendation 2013/396/EU on collective redress) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013H0396>

⁵⁷ Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers

⁵⁸ European Union Agency for Fundamental Rights (FRA), ‘Improving Access to Remedy in the Area of Business and Human Rights at the EU Level: Opinion of the European Union Agency for Fundamental Rights’ (2017), https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-opinion-01-2017-business-human-rights_en.pdf

⁵⁹ Médiateur Européen <https://www.ombudsman.europa.eu/fr/home>

⁶⁰ European Law Institute (2022). Report on business and human rights. Retrieved from https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI_Report_on_Business_and_Human_Rights.pdf

⁶¹ Linda C Reif, *The Ombudsman, Good Governance and the International Human Rights System* (Springer 2004)

etc) to provide individuals and corporations effective and efficient ADR mechanisms for redressal of their disputes.

G. RECOMMENDATIONS:

To advance reforms in Sindh's ADR framework regarding business and human rights, drawing insights from EU best practices, the following recommendation are provided:

- The SHRC should develop a Provincial Action Plan on Business and Human Rights for the Province of Sindh, in view of the 18th Amendment to Pakistan's Constitution in 2010. Sindh has the second largest economy in Pakistan with 67% establishments/ factories located in Karachi alone. This has become crucial, particularly in light of Sindh's advancing legal framework concerning business and human rights. The SHRC has the powers and function under Section 4 iii) of the SPHRA 2011 to formulate, implement and regularly update policies with a view to protect human rights; as well as under Section 4 (vi) to study treaties and other international instruments on human rights and make recommendations for their effective implementation. In the 2022 Amendment of the SPHRA, Section 2 i-a) added business and human rights and defined it as the rights envisaged under the United Nations Guiding Principles (UNGPs) and corporate related human rights abuses.
- The SHRC is a sub-national human rights institute. The Paris Principles, which the United Nations General Assembly adopted in 1993 provide that human rights institute must be effective and independent, equipped with sufficient resources and mandated to promote and protect the full spectrum of human rights. However, according to Section 15A (i) of the Sindh Rules of Business 1986, the SHRC is an attached department of the Human Rights Department, which calls its independence into question. Therefore, it is recommended that the SHRC is made an independent institution in line with the Paris Principles for its effective functioning.
- Lack of awareness of legal rights, entitlements and forums available for redressal is a key issue that plagues Sindh's justice system. The State must spread awareness to the beneficiaries on the existing ADR systems. This includes enhancing the capacity of ADR bodies responsible for handling disputes related to business and human rights issues such as the SHRC, Ombudspersons, etc. The training should focus on the international standards and best practices, including those from the EU. Further, awareness raising among businesses, individuals, and legal professionals about their rights and responsibilities concerning human rights in business operations is essential to increase access to justice.
- Provision of free legal aid is crucial for increasing access to ADR mechanisms. Currently, Sindh lacks a law on State provided free legal aid. At the federal level, the Legal Aid and Justice Authority Act 2020 (which also lacks a framework pertaining to free legal aid for ADR) was enacted, post the 18th Amendment to Pakistan's Constitution, legal aid is a Provincial subject. By way of comparison, In

Punjab, the Provincial Punjab Legal Aid Agency has been established on 29 October 2019 under Punjab Legal Aid Act 2018. Similarly, the Khyber Pakhtunkhwa Legal Aid Act 2019 was enacted in Khyber Pakhtunkhwa. The Acts are similar in nature. They provide for a Provincial Legal Aid Agency and stipulate the functions for the agency. Section 4 of the Punjab Legal Aid Act, 2018 stipulates the functions for the agency, which includes "(a) evolve policies, principles and guidelines for providing legal aid;" Therefore, it is recommended that special legislation is enacted in the Sindh Province to institutionalize the legal aid mechanism and to channel the legal aid mechanism through a uniform and well-coordinated mechanism and standard. The Legal Aid Agency can then continue to evolve policies, principles and guidelines for providing legal aid for ADR.

- The Sindh Consumer Protection Act, 2014 should be amended to provide for ADR mechanism for swift redressal of disputes. Currently, under Section 26, a claim for damages arising out of contravention of any provisions of the Act needs to be filed before a Consumer Court. A Consumer Protection Council is established under Section 25. As per Section 25(3), the Consumer Protection Councils can be given other functions as may be designed to them by Government by notification in the official Gazette. Therefore, the government can also increase the mandate of the Consumer Protection Council through providing it the functions to refer the matters for resolution of disputes to ADR.
- Currently, the Federal and Provincial Ombudsman may undertake any investigation into any allegation of maladministration on the part of any Agency. Agency has been defined in the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991 as "a Department, Commission or office of the Provincial Government or a statutory corporation or other institution established or controlled by the Provincial Government. This is a limited mandate. In line with the best practices of the EU, the office of the Ombudsperson should overcome its traditional role of oversight of the public sector and administrative authorities. Their mandate should be extended to encompass jurisdiction for human rights for handling complaints originating in the private sector.
- The UNGPs acknowledge that human rights violations linked to business activities frequently impact groups of people rather than just individuals, emphasizing the collective dimensions of such abuses. Section 35 of the Sindh Industrial Relations Act, 2013 provides the legal framework for collective bargaining during negotiations. Nevertheless, collective bargaining should also be extended for other ADR mechanisms such as the Ombudsperson institute along with increasing their capacity for handling complaints originating in the private sector.
- The State should ensure that the ADR procedures do not substitute court processes and do not deny consumers or traders their rights to seek recourse through the courts. For example, Article Section 40 (6) of the Sindh Industrial Relations Act, 2013 provides that "the award of the Arbitrator shall be final and no appeal shall lie against it, and it shall be valid for such period as may be specified in the award but not exceeding two years". The state must uphold the parties' access to the judicial system, ensuring that if an ADR procedure with non-binding outcomes fails to

resolve a dispute, parties remain free to pursue judicial proceedings regarding that matter. The State should ensure that the ADR procedures do not substitute court processes and do not deny consumers or traders their rights to seek recourse through the courts.

- Online mechanism for dispute resolution with an electronic complaint form and cooperation between contact points of the platform can serve as a quick form of redressal especially because there has been substantial rise in online sales in the backdrop of Covid 19. Currently, Sindh lacks online ADR mechanisms. These can be incorporated into the legal system to protect consumers and manufacturers.

H. CONCLUSION:

Sindh, the second most populous province in Pakistan with a rapidly growing economy, is at a pivotal juncture poised for substantial economic expansion. This growth trajectory underscores the critical need to integrate robust mechanisms that safeguard both business interests and human rights. The effective and efficient use of ADR mechanisms can help the State provide speedy access to redressal of disputes. Nevertheless, the State must incorporate the recommendations outlined above to promote and protect business related human rights abuses.



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