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FROM THE
PARLIAMENTARY PAPERS
By Information Centre PIPS
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Editorial

Dear Readers,

The Nation celebrates its 80th Anniversary of passing of the Pakistan Resolution on 23rd March, 2020 with a renewed resilience to work in unison to face all odds. The Pakistan Institute for Parliamentary Services secured another milestone by the grace of Allah swt, on holding its inaugural regional parliamentary workshop on PARLIAMENTARY PROCESSES AND CONSTITUENCY RELATION on Feb., 27-28, 2020 that was attended by more than 25 MPs and parliamentary officials from Cambodia, Turkey and Pakistan. Hats off to team PIPS, especially our prolific Parliamentary Development and IT team for their hard work.

This issue of the PIPS Parliamentary Research Digest includes absorbing articles on India's recently passed citizenship act that exposes the long acclaimed so-called secular ideology of India; imperative Right to Health and a piece reviewing the SDGs Goal 14 – use of oceans and marine resources. The Parliamentary Papers section shares data on highways.

Happy reading and profound regards,

Muhammad Rashid Mafzool Zaka

Senior Director General (Research and Legislation)



Group photo of Parliamentary Delegates from Cambodia, Pakistan and Turkey in First International Parliamentary Workshop on Parliamentary Processes and Constituency Relations at PIPS on February 27-28, 2020

FROM THE PARLIAMENTARY PAPERS

Total Earned Toll Revenue

by

Information Centre PIPS

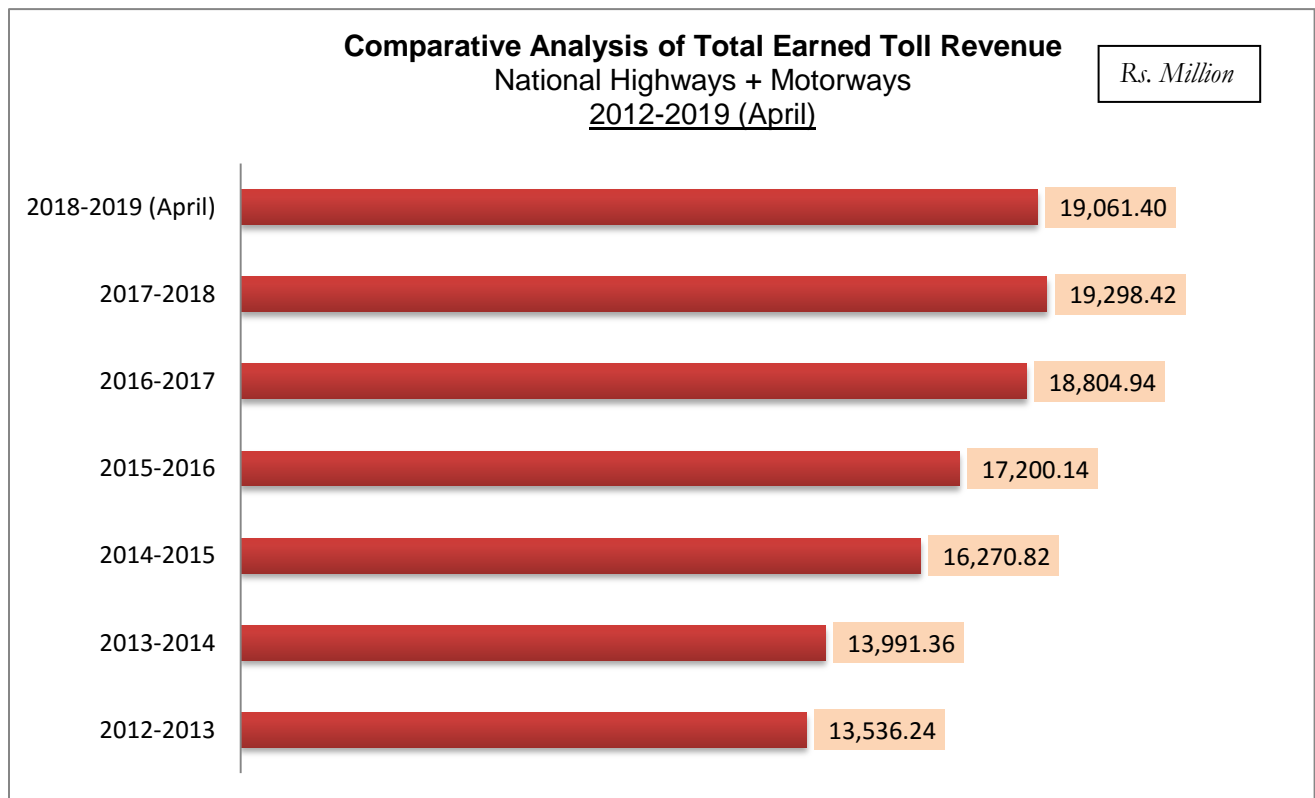
Qaiser Iqbal (Librarian)

& Areeb Shirazi – Young Parliamentary Officer

On May 8, 2019, Honorable Minister for Communications presented the statistics depicting comparative analysis of earned toll revenue over the last 7 years. The stats were presented in the upper house of parliament. It included toll revenues earned from Motorways and National Highways separately.

Total Earned Toll Revenue; National Highways and Motorways

FY 2012-2013 to FY 2018-2019 (April)



OPINION

India's Citizenship (Amendment) Act 2019**Fakiha Mahmood**

Research Officer, PIPS International Relations Desk

Abstract

Both the Houses of Indian Parliament passed the Citizenship Amendment Act 2019 on 9 and 11 December 2019, amending the Indian Citizenship Act 1955 which is the principle legislative instrument for citizenship in India. The legislation came into force after getting the assent of the President. The Act has received widespread condemnation within and outside India for creating divisions on the basis of religion in a culturally diverse country like India. It is threatening the secular image of world's biggest democracy and heightening tensions in a region already sweltering over the forceful annexation of occupied Jammu and Kashmir. This paper locates the salience of the Citizenship (Amendment) Act 2019 within the broader citizenship regime of India. It highlights the inherent discrimination and anomalies within the Act and analyzes the situation which has emerged in the aftermath of the enactment of the legislation both within as well as outside India. The paper concludes that the Citizenship (Amendment) Act will have far reaching consequences for peace and stability within India as well as the wider South Asian region. With enactment of such a discriminatory legislation, India has chartered a difficult course for its future.

1. Introduction

After the forceful annexation of occupied Jammu and Kashmir, the Hindutva inspired BJP led Indian government has embarked upon another venture of creating divisions and spreading hatred within India and threatening regional and global peace. Both the Houses of Indian Parliament passed the Citizenship Amendment Act 2019 on 9 and 11 December 2019, amending the Indian Citizenship Act 1955 which is the principle legislative instrument for citizenship in India. Subsequently, the legislation received the assent of the Indian President Ram Nath Kovind, thereby becoming the law of the land.

Discriminating among people on the basis of religion, the Citizenship (Amendment) Act of 2019, has received widespread condemnation within as well as outside India. In a culturally diverse country like India, the legislation is shaking the secular underpinnings of Indian constitution which bound together communities of multiple language, race, religion, and culture for more than seven decades after independence from British rule. For the Muslim community of India, it is a direct assault on their identity. For other religious dominations, it is a path towards a future inhabited with Hindus intolerant of any other religious community. Within the Hindu ranks the CAA is being perceived as a harbinger of Hindutva ideology which leaves no room for solace even for communities like Dalits.

The fears of rising nationalism, xenophobia, potential statelessness due to exclusion of various communities from the ambit of citizenship and upcoming regional instability as a result of unrest in India is compelling stakeholders within and outside India to condemn the Indian government for such irrational move. Within India violent protests have broken out in various parts including the capital city New Delhi. At the international level, the United Nations Human Rights Office, the European Parliament, United States Commission on International Religious Freedoms have in one way or the other taken note of the situation arising out of this discriminatory piece of legislation. Various countries have denounced the move through either open condemnation or through diplomatic recourse like cancelation of State visits etc.

Key questions

1. *What is the salience of Citizenship (Amendment) Act 2019 in the legislative framework of India's citizenship regime?*
2. *How the CAA is threatening peace within India with implications far beyond?*
3. *How the CAA is creating diplomatic problems for India at various international forums?*

Key Definitions

- i. **Citizenship:** "The concept of citizenship is composed of three main elements or dimensions. The first is citizenship as legal status, defined by civil, political and social rights. Here, the citizen is the legal person free to act according to the law and having the right to claim the law's protection. It need not mean that the citizen takes part in the law's formulation, nor does it require that rights be uniform between citizens. The second considers citizens specifically as political agents, actively participating in a society's political institutions. The third refers to citizenship as membership in a political community that furnishes a distinct source of identity."¹
- ii. **Naturalization:** "Naturalization denotes both the act of admitting an alien to the position and privileges of a native born citizen and the process of being so admitted. It has a governmental aspect in that it is usually considered an act of grace on the part of the sovereign; but it has also a personal aspect, for occasionally it is regarded as a natural right of man."²
- iii. **Stateless:** Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons defines a stateless person as 'a person who is not considered as a national by any State under the operation of its law.'

2. Legislative framework pertaining to citizenship in India**a. The Constitution of India**

The subject of citizenship has been covered in the Constitution of India in Part II, articles 5-11. The determination of as to who is an Indian citizen at the commencement of the Constitution has been made in articles 5-9. Article 9 abolishes any provision for dual citizenship as it states:

"No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State."

Articles 10 and 11 give Parliament the powers to legislate on the subject. Article 11 states:

"Nothing in the foregoing provisions of this part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship."

b. The Citizenship Act of 1955

The Citizenship Act of 1955 is the prime legislative instrument pertaining to citizenship in India. It came into force after receiving the Presidential assent on 30th December, 1955. The Citizenship Act recognizes acquisition of citizenship through birth, descent, registration, naturalization, and incorporation of territory. Since its enactment, the Act has gone through nine amendments including: The Citizenship (Amendment) Act, 1957; The Repealing and Amending Act, 1960; The Citizenship (Amendment) Act, 1985; The Delegated Legislation Provisions (Amendment) Act, 1985; The Citizenship (Amendment) Act, 1986; The Citizenship (Amendment) Act, 1992; The Citizenship (Amendment) Act 2003; The Citizenship

¹ <https://plato.stanford.edu/entries/citizenship/#Defi>.

² Seligman's Encyclopedia of the Social Sciences, Volume 11, Part 2 (New Delhi: Cosmo Publications, 2006), 305.

(Amendment) Act, 2005; The Citizenship (Amendment) Act, 2015. The Citizenship Act of 1955 accepts citizenship in terms of birth, descent, registration, naturalization, and incorporation of territory.

c. The Citizenship (Amendment) Act 2019

The Citizenship (Amendment) Act envisaged by the BJP government was presented in the Parliament in 2016 and passed in 2019. Following amendments have been introduced in the principle act:

- i. **Amendment of Section 2:** The definition of an “illegal migrant” contained in section 2 of the principle act is amended by adding:

“Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act.”
- ii. **Insertion of new section 6B:** Special provisions have been added after section 6A of the principle act to grant a certificate of registration or certificate of naturalization to a person exempted from the definition of illegal immigrant as a result of the amendment to section 2. Section 6 of the principle act contains provisions regarding citizenship by naturalization. The principle Act contains special provisions under section 6A with regard to citizenship of persons covered by the Assam Accord³. Section 6B was added to provide for the naturalization of persons given exemption in the definition of illegal migrant. It states:

“The Central Government or an authority specified by it in this behalf may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, grant a certificate of registration or certificate of naturalization to a person ... noting in this section shall apply to tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under “The Inner Line” notified under the Bengal Eastern Frontier Regulation, 1873.”
- iii. **Amendment of Section 7D:** Under Section 7D, the Central Government is authorized to cancel registration of Overseas Citizen of India Cardholder under certain circumstances as specified in sub-sections. This amendment increases the scope of cancellation of registration card in case the cardholder is found guilty of violating any of the provisions of the principle Act. It also provides the cardholder opportunity to be heard reasonably.
- iv. **Amendment to Third Schedule:** The Third Schedule of the principle Act pertains to the qualifications for naturalization.

“Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as “not less than five years” in place of “not less than eleven years.”

As a prelude to the Citizenship (Amendment) Act 2016/2019, the BJP led government had already facilitated the entry of people specified in the Citizenship Act, through amendments in The Passport (Entry into India) Amendment Rules, 2015 and The Foreigners (Amendment) Order, 2015. These notifications published in the Gazette of India (Extraordinary) on 8th September 2015 exempted such people from requirement of

³ Assam Accord was signed on 15th August 1985 between the Congress led government of Rajiv Gandhi and the leaders of protest movement raging on in Assam i.e. All Assam Students Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP). The Accord allowed citizenship, including the right to vote for those who entered Assam between 1951 and 1961. Those who had entered after 1971 were to be deported. Voting rights were denied for those who entered between 1961 and 1971 for ten years. The government also committed economic development as well as legislative and administrative safeguards to protect the cultural, social, and linguistic identity and heritage. Available at: <http://indiansaga.com/history/postindependence/accord.html>.

valid passport and visa to enter and stay in India and regularizing their stay if they have entered into India on or before 31st December 2014. However, as these measures did not automatically change their status of being “illegal migrants”, the government came up with the Citizenship Amendment Bill in 2016, which became Act in 2019 after some changes.

d. National Register of Citizens (NRC)

The National Register of Citizens (NRC) was published on 31st August 2019 specifically for the State of Assam. The objective was to identify migrants who have been living in Assam before 25th March, 1971. Monitored by the Supreme Court of India, the NRC process began in 2013. Around 1,906,657 individuals have been left out of the register leading to an administrative-cum-legislative crisis. Concerns are being raised after the government announced that the register will be extended across the country.⁴

3. Major issues arising out of the Citizenship Amendment Act 2019 (CAA)

- i. **Discrimination on the basis of religion:** One of the foremost criticisms pertains to the religious discrimination. Whereas the CAA facilitates citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis and Christians fleeing persecution from selected countries, the same protection is denied to Muslims of these selected countries.
- ii. **Discrimination on the basis of geography:** The CAA offers citizenship to selected communities from Afghanistan, Bangladesh or Pakistan. Whereas India also shares border with Bhutan, Burma, Nepal and Sri Lanka where there are many communities who are being persecuted, for example the Sri Lankan Tamils form the largest refugee group in India and have been residing in this country for over 30 years. However, the CAA does not bring into its ambit such communities, thereby casting doubts over the assertion that Act seeks to provide shelter to persecuted communities. Similarly, the Rohingya Muslims who have been persecuted in Myanmar have not been offered protection under the rubric of “persecuted communities,” despite the fact that India shares border with Myanmar. Apart from the exclusion of other neighboring countries, the inclusion of Afghanistan raises question as the Statement of Objects and Reasons in the bill provided that millions of citizens of undivided India were living in Pakistan and Bangladesh. If this rationale is accepted, one finds no reason for the inclusion of Afghanistan.
- iii. **Contradiction with Articles 14 and 15 of the Constitution of India:** The discrimination vested in the Act violates the provisions of Articles 14 which guarantees the right of equality before the law. Similarly, Article 15 of the Indian Constitution pertains to prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, it states “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”
- iv. **Ideological shift:** The move to grant citizenship on the basis of religion is a step towards the creating national identity denouncing the secular rhetoric. With its focus on spreading the Hindutva ideology, the BJP led Indian government is bent upon tarnishing its secular identity which the founding fathers of India pronounced before the world since independence. The promulgation of legislations like CAA has raised alarm bells for all those who cherished the secular underpinnings of the Indian Constitution. The culturally diverse country like India will be difficult to unite together by sidelining any single religious or cultural denomination.

⁴ Avishek Jha, “Understanding India’s National Register of Citizens,” *South Asian Voices*, 11 October 2019, <https://southasianvoices.org/explaining-indias-national-register-of-citizens/>.

- v. **Concurrence with National Register of Citizens (NRC):** The Act has been promulgated concurrently with the drive for nationwide citizenship verification process i.e. the National Register of Citizens. The exercise was initiated earlier in Assam, which resulted in the exclusion of more than 1.9 million people. These people were labeled 'illegal' migrants and may now be detained in newly built detention camps or deported. With the example of Assam, the drive for nationwide implementation of NRC process has generated fears that it aims to strip Muslims of their citizenship rights while protecting those of Hindus and other non-Muslims. Therefore, fears are growing that it will result in increasing xenophobia, religious intolerance and discrimination in India.
- vi. **Extending the executive authority to cancel Overseas Citizens of India (OCI) registration:** The Citizenship Act 1955 allowed the central government to cancel registration of OCIs on various grounds. The Act includes one more basis for the cancellation of registration of OCI, i.e. if the OCI has violated any law notified by the central government. Though the amendment provides the opportunity to be heard for the cardholder, critics point to excessive delegation of powers to the executive by the legislature. The Indian Supreme Court has held that while delegating powers to an executive authority. The legislature must prescribe criteria such as a policy, standard, or rule for their guidance, in order to set limits on the executive authority. In the absence of specified criteria, the powers given to the executive can slip into the ambit of abuse of power.⁵
- vii. **Rising statelessness:** The discriminatory approach adopted in the grant of citizenship will rise to increasing statelessness. Already the implementation of NRC process has left the status of 1.9 million people in uncertainty. If the process is carried out across India, as the BJP government has announced, millions of people will lose nationality resulting in statelessness.
- viii. **Regional instability:** As the violent protests have begun across India in order to condemn the government for the enactment of the discriminatory bill, the neighboring countries fear mass movement of people as a result of religious persecution and statelessness. The persecution of specific communities on the basis of religion will certainly result into mass movement of people across borders.

4. Backlash within India

The Citizenship (Amendment) Act 2019 has received widespread condemnation across India. At the government level R&AW, the prime security agency of India, has expressed its concern as recorded in the report of the Joint Parliamentary Committee of Indian Parliament as follows:

“... our only concern has been that the agencies who are inimical to us should not have a legal framework within which they can exploit our situation and infiltrate their own people into our own country. That is a matter of great concern for us.”

Some of the states, including Punjab, Rajasthan, West Bengal and Kerala, have deflected from the process of NPR or protested against the CAA. Similarly, Telangana State Assembly has also decided to pass anti-CAA resolution.⁶

The outrage over the CAA and NRC has culminated into eruption of violent protests in various parts of India. A group of protesters, led by women, have staged a sit-in in the Shaheen Bagh in

⁵ Roshni Sinha, “Issues for consideration: The Citizenship Amendment Bill 2019,” PRS Legislative Research, December 9, 2019, https://prsindia.org/sites/default/files/bill_files/Issues%20for%20Consideration%20-%20Citizenship%20%28Amendment%29%20Bill%202019%20final.pdf.

⁶ India Today, “Telangana Assembly to pass anti-CAA resolution today,” 17 February 2020, <https://www.indiatoday.in/india/story/telangana-assembly-to-pass-anti-kaa-resolution-today-1647182-2020-02-17>.

order to protest the Citizenship Amendment Act, National Register of Citizens, and National Population Register. Shaheen Bagh is a Muslim dominated area adjoining the Indian capital city New Delhi.⁷

The day before the two-day visit of President Donald Trump witnessed large crowds protesting the CAA in India's capital city New Delhi. Police used tear gas to disperse the crowds which turned the protests violent. Similarly, fighting broke out in the Maujpur area in the northeastern part of New Delhi where the groups supporting and opposing the CAA clashed with each other. Moreover, separate protest erupted in the northern Indian city of Aligarh. Reports emerged about the use of stones against police and state administration.⁸

As per the report of the Amnesty International the people protesting the citizenship amendment law are facing a brutal crackdown by the Indian Government. More than 1000 people have been arrested and over 5000 detained. Internet services have been shut down in many parts of India. No less than 30 people have lost their lives as a result of the violence which culminate around the protests against citizenship law.⁹

The case of Assam

Assam is the second largest Indian state after the Indian occupied Kashmir in terms of largest number of Muslim population. It is one of the Fifth Schedule¹⁰ states of India. The resource rich State has attracted migrants since decades, however, the largest wave of migrants, both Hindu as well as Muslims, entered Assam in the wake of war which led the independence of Bangladesh in 1971.

Migration and citizenship are among the burning issues in Assam which have resulted into unrest repeatedly in the past decades. The Citizenship (Amendment) Act has faced resistance primarily in Assam. The party allied with the BJP in Assam, Asom Gana Parishad (AGP) has left the coalition as a mark of protest against the Act. Several lawmakers are criticizing the Act overtly. The civil society groups in Assam have also denounced the Act.¹¹ As part of the exercise in examining the Citizenship Amendment Bill, the Joint Committee of the Indian Parliament undertook three study visits to get first hand inputs at the field level. The visit undertaken to Guwahati, Silchar and Shillong in May 2018 concluded that the proposed amendment

“...is a threat to the language, culture and heritage of the ethnic people of Assam due to influx of foreigners from Bangladesh. For protection of the local people of Assam, the proposed amendment should not be approved...”

5. International condemnation

The Citizenship (Amendment) Act 2019 has received widespread condemnation from the international community due to its discriminatory approach which contradicts the international human rights law. India is party to various instruments of international law which impose certain

⁷ Prabhash K. Dutta, “What Shaheen Bagh’s Anti-CAA protest has achieved?” 10 February 2020, <https://www.indiatoday.in/news-analysis/story/what-shaheen-bagh-s-anti-caa-protest-has-achieved-1645047-2020-02-10>.

⁸ Aljazeera, “New citizenship law protests in India ahead of Trump’s visit,” 24 February 2020, <https://www.aljazeera.com/news/2020/02/citizenship-law-protests-india-trump-visit-200223184152816.html>.

⁹ Amnesty International, “Defend India’s rights to participate in peaceful protest,” <https://www.amnesty.org/en/get-involved/take-action/india-has-rights-to-peaceful-protests/>.

¹⁰ The Fifth Schedule of the Constitution of India contains provisions pertaining to administration and control of scheduled areas and scheduled tribes.

¹¹ Institute of Peace and Conflict Studies, “The Citizenship Amendment Bill and Assam’s immigration Politics,” Discussion Report, 17 January 2019, http://www.ipcs.org/comm_select.php?articleNo=5573.

limits on what states may lawfully do. Consequently, various international forums as well as some states have come up to denounce the Indian legislation:

- i. **United Nations Human Rights:** The Office of the High Commissioner for Human Rights expressed reservation over the Citizenship Amendment Act 2019, and said that the Act “is fundamentally discriminatory in nature.” The Human Rights Office also pointed towards the guidance provided by the international law in this regard. The statement added that the law contradicts the International Covenant on Civil and Political Rights and the Convention on the Elimination of All forms of Racial Discrimination, to which India is State party. These instruments of international law prohibit discrimination on the basis of race, ethnic or religious identity. The Office further stated:

“it appears to undermine India’s commitment to equality before the law, as enshrined in its Constitution ... while protecting persecuted groups in welcome, ... this should happen through a “robust” asylum system based on equality and non-discrimination, and which applies to all people regardless of race, religion, national origin or other status.”¹²

- ii. **European Parliament:** A resolution was submitted in the European Parliament on 28th January 2020 pertaining to the Citizenship Amendment Act. The resolution takes note of the fact that the Act

“seeks to expedite citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis and Christians fleeing persecution in Afghanistan, Bangladesh and Pakistan who have been resident in the country since before 2015, but does not extend the same protection to Muslims.”

The resolution has regretted the adoption and implementation of the CAA, terming it discriminatory in nature and dangerously divisive. It calls on the Government of India to immediately respond to citizens’ petitions as required by the Supreme Court and engage with various sections of the population in peaceful dialogue. The resolution has also took exception to the fall out of the NRC “which may be used to target marginalized groups.” Though the resolution still awaits the Parliament’s vote, the initiation of the debate itself is a diplomatic challenge for the Indian government working hard to present a soft image of its country around the world.¹³

- iii. **United States:** The United States Commission on International Religious Freedom (USCIRF), the US Ambassador-at-Large for International Religious Freedom, and the House Foreign Affairs Committee expressed their concern about the Citizenship Amendment Act 2019.¹⁴ In a statement released in the aftermath of the passage of bill through the Indian Parliament, the Commission stated:

“... If the CAB passes in both houses of parliament, the United States government should consider sanctions against the Home Minister and other principal leadership.”¹⁵

- iv. **Iran:** The Supreme Leader of Iran, Ayatollah Ali Khamenei took exception to condemn the massacre of Muslims over the Hindu-Muslim violence which broke out in the

¹² UN News, “New citizenship law in India ‘fundamentally discriminatory’: UN Human Rights Office,” 13 December 2019, <https://news.un.org/en/story/2019/12/1053511>.

¹³ European Parliament, Joint Motion for Resolution, https://www.europarl.europa.eu/doceo/document/RC-9-2020-0077_EN.html.

¹⁴ United States Commission on International Religious Freedom, “The Citizenship (Amendment) Act in India,” Legislation Factsheet, February 2020, https://www.uscifr.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf.

¹⁵ United States Commission on International Religious Freedom, “USCIRF raises serious concerns and eyes sanctions recommendations for Citizenship (Amendment) Bill in India which passed Lower House Today,” December 9, 2019, <https://www.uscifr.gov/news-room/press-releases-statements/uscifr-raises-serious-concerns-and-eyes-sanctions>.

aftermath of the controversial citizenship laws. He urged India to “confront extremist Hindus” and “stop the massacre of Muslims.”¹⁶

6. Conclusion

With the enactment of Citizenship (Amendment) Act 2019, the Hindutva inspired BJP led government in India has put the biggest democracy on a course of self-incrimination. The party is bent upon dividing the highly diverse country on the basis of religion, spreading hatred increasing xenophobia. While the Indian security apparatus is sensing danger in a legislation which opens the doors for selected persecuted communities of selected neighboring countries, the masses are protesting the legislation which will lead to millions of Indian citizens in a status of limbo by losing the citizenship of the country they reside in.

The Citizenship (Amendment) Act has been condemned across the world for its discriminatory nature and violation of international law. The Act is creating difficulties for the Indian government to avoid isolation among the diplomatic community. It has raised alarm bells among the neighboring countries who fear mass exodus of people fleeing persecution on the basis of religion.

The recently held election in Delhi has demonstrated the public anger over the BJP led government at the center who has suffered defeat in the backdrop of citizenship related legislation, however, as witnessed in the 2019 general election, India seems to lack any political force at the national level which can effectively dissolve the political power of Hindutva inspired BJP. In such a scenario, countries in the immediate neighborhood of India as well as the wider international community will have to embrace itself for the exigencies of BJP led Indian government which is bent upon spreading hatred and creating divisions on the basis of religion in a country inhabited with millions of diverse religious communities. The world will have to come up with an integrated strategy to protect the people of India as well as the wider region from the destructive policies of the BJP led Indian regime.

¹⁶ Reuters, “Iran’s Khamenei asks India to stop attacks on Muslims after deadly riots,” March 5, 2020, <https://www.reuters.com/article/us-india-citizenship-protests-iran/irans-khamenei-asks-india-to-stop-attacks-on-muslims-after-deadly-riots-idUSKBN20S1VG>.

ANALYSIS

Right to Health-A Fundamental Right**Asif Ahmed Abro**

Assistant PRC Officer, PIPS Quetta Office

“Health care is not a privilege. It's a right. It's a right as fundamental as civil rights. It's a right as fundamental as giving every child a chance to get a public education.”

Rod Blagojevich, 40th Governor of Illinois

1. Introduction

All human rights treaties have recognized right to health is a fundamental human right. As a human, good health is our basic concern regardless of color, age, nationality, gender social status. We all consider good physical, mental and social health as a most valuable asset. On other hand, due to ill health we cannot perform our everyday tasks such as going school or work; attending family programs; participating in community services and enjoying peaceful life. The right to health is very much fundamental part of human rights.¹

The preamble of the Constitution of World Health Organization (WHO) defines health as:

“A state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”.²

The World Health Organization in its Constitution 1946 has recognized that

“the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”³

Further, Committee on Economic, Social and Cultural Rights says, right to health is not mere building hospitals and providing health care facilities. Right to health is an inclusive right, it also contains determinants of health such as: access to clean drinking water, adequate sanitation, safe and unadulterated food, healthy working and environmental conditions, access to health-related education and information and gender equality.⁴ In 2000, the Committee on Economic, Social and Cultural Rights assessed the arising issues in implementation of International Covenant on Economic, Social and Cultural Rights. In this assessment report committee says that right to health does not mean right to health only. It contains two aspects of freedom and entitlement. The right to health entitlements includes the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. It further says, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health. Many factors play important role with respect to an individual's health for example genetic factors, individual susceptibility to ill health and the adoption of unhealthy or risky lifestyles. Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the

¹ Office of the United Nations High Commissioner for Human Rights, “The Right to Health,” (Geneva: UNHCHR, 2008), Accessed March 3, 2020. <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>

² World Health Organization, “Constitution.” World Health Organization. Accessed March 3, 2020. <https://www.who.int/about/who-we-are/constitution>

³ Ibid.

⁴ World Medical Association, “Right to health,” World Medical Association. Accessed March 3, 2020. <https://www.wma.net/what-we-do/human-rights/right-to-health/>

realization of the highest attainable standard of health.⁵ Moreover, the Committee has issued detailed essential and interrelated guidelines for states to respect and protect the right to health such as

- i. **Availability:** States should ensure the provision of enough functioning public health and individual health care facilities throughout their territory.
- ii. **Accessibility:** Access to health involves four key elements: non-discrimination, physical accessibility, economic accessibility, and information accessibility.
- iii. **Acceptability:** Health facilities should be respectful of medical ethics and the culture of individuals and communities, as well as attentive to gender.
- iv. **Quality:** Health facilities should be scientifically and medically appropriate and of good quality, latest equipment, skilled medical professionals.⁶

2. Right to Health in constitution 1973

Unlike other 115 countries of the world, Constitution of Pakistan clearly does not recognize the right to health. The Principle of Policy refers the socio-economic rights but courts don't recognize them as fundamental right and cannot enforce them.⁷ Article 38(d) states that

“provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.”⁸

According to the famous human rights advocate I.A Rehman, the Constitution refers to health in a most limited sense. Medical relief is the last facility (after food, clothing, housing and education) to be provided only to those citizens who cannot earn their livelihood on account of infirmity, sickness or unemployment.⁹

Article 29(2) of Principle of Policy further sets condition for right to health.

“In so far as the observance of any particular Principle of Policy may be dependent upon resources being available for the purpose, the Principle shall be regarded as being subject to the availability of resources”.¹⁰

3. Right to health in International Laws

Pakistan is a responsible member of international community. It has signed and ratified almost all international treaties on protecting and promoting of human rights. These treaties also recognize right to health as fundamental right.

- i. **The Universal Declaration of Human Rights:** After independence Pakistan on 30 September became member of United Nations. The United Nations General Assembly in Paris on 10th December 1948 in resolution 217A adopted Universal Declaration of Human Rights in order to protect and promote common human right standards. The article 25 of Universal Declaration of Human Rights states that

⁵ United Nations Economic and Social Council, “Substantive Issues Arising In the Implementation of The International Covenant On Economic, Social And Cultural Rights,” (Geneva: Economic and Social Council, 2000).

⁶ ESCR-Net, “The Right to Health.” ESCR-Net. Accessed March 3, 2020. <https://www.escr-net.org/rights/health>.

⁷ Nishtar, Sania. “Health and 18th Amendment,” n.d.

⁸ The constitution of Islamic Republic of Pakistan, 1973, Articles 38.

⁹ Rehman, I.A, “Healthcare as Right.” *Dawn*, May 9, 2019. <https://www.dawn.com/news/1481200>.

¹⁰ The constitution of Islamic Republic of Pakistan, 1973, Article 29 (2).

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
 - (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.¹¹
- ii. **Constitution of the World Health Organization:** The Constitution was adopted by the International Health Conference held in New York from 19 June to 22 July 1946, signed on 22 July 1946 by the representatives of 61 States and entered into force on 7 April 1948. The preamble of constitution recognizes health as fundamental right states that
 “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”.¹²
- iii. **International Covenant on Economic, Social and Cultural Rights:** The covenant adopted by United Nations’ General Assembly’s resolution 2200A (XXI) and opened for signature, ratification and accession by of 16 December 1966 and entered into force on 3 January 1976. Pakistan signed this covenant on 3 November 2004 and rectified 17 April 2007. Covenant’s article 12 bounds states parties on these terms,
1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.¹³
- iv. **Convention on the Elimination of All Forms of Discrimination against Women:** On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981. Pakistan accessioned the treaty on 12 Mar 1996. The article 12 of CEDAW bounds states parties that
1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
 2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.¹⁴

¹¹ United Nations, “Universal Declaration of Human Rights.” Accessed March 3, 2020. <https://www.un.org/en/universal-declaration-human-rights/>.

¹² World Health Organization, “Constitution.” World Health Organization. Accessed March 3, 2020. <https://www.who.int/about/who-we-are/constitution>.

¹³ Office of the High Commissioner for Human Rights, “International Covenant on Economic, Social and Cultural Rights.” OHCHR. Accessed March 4, 2020. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

¹⁴ Office of the High Commissioner for Human Rights “Convention on the Elimination of All Forms of Discrimination against Women,” OHCHR. Accessed March 4, 2020. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

- v. **Convention on the Rights of the Child:** United Nations' General Assembly adopted this convention on 20 November 1989 through General Assembly resolution 44/25. The convention came into force on 2 September 1990. Pakistan signed this convention on 20 Sep 1990 and rectified on 12 Nov 1990. The article 24 of conventions states that
1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
 2. (a) To diminish infant and child mortality;
 - (c) To combat disease and malnutrition, provision of adequate nutritious foods and clean drinking-water.¹⁵
- vi. **Convention on the Rights of Persons with Disabilities (CRPD):** The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. The Convention entered into force on 3 May 2008. Pakistan signed treaty on 25 Sep 2008 and rectified it on 05 Jul 2011.

The article 25 of this treaty deal health rights of persons with disabilities, States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.¹⁶

4. State of health in Pakistan

The developed human capital plays crucial role in economic progress of any country and it is connected to good health. The good health indicators of population improve its productivity and it lays strong foundation of sustainable economic growth. For example in Pakistan GDP declines an estimated 2.47 percent as a result of 1 percent increase in infant mortality rate.¹⁷ Pakistan inherited its totally fragile health care system from colonial power Great Britain. The existing system consists of private and public sector health care systems. The private sector caters for the needs of almost 70% of population and remaining 30% is provided services by public sector out of which only 27% of the population is benefited from full healthcare system which comprises of mostly government servants and members of armed forces, the remaining 73% depend on out of pocket payments.¹⁸

- a. **Health indicators:** The recent statistics reveal that the incidences of communicable diseases like tuberculosis, malaria, dengue fever, typhoid and viral hepatitis are on the rise in 2019 while a rising trend of non-communicable diseases particularly heart diseases, stroke, diabetes, hypertension and cancer were recorded last year. According to various reports, over 2,00,000 new cases of cancer were reported in Pakistan in 2019 and over

¹⁵ Office of the High Commissioner for Human Rights, "Convention on the Rights of the Child," OHCHR. Accessed March 11, 2020. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹⁶ Disability, Department of Economic and Social Affairs Disability, "Article 25- Health." Department of Economic and Social Affairs Disability. Accessed March 4, 2020. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-25-health.html>.

¹⁷ State Bank of Pakistan, "State of Health Sector in Pakistan," State Bank of Pakistan, 2018.

¹⁸ Ahmad Hassan, Khalid Mahmood, and H. A. Buksh. "Healthcare system of Pakistan." *IJARP* 1, no. 4 (2017): 170-173.

1,20,000 people died of various types of cancers last year and 30 to 40 per cent of all deaths in Pakistan were due to cardiovascular diseases (CVD) in 2019.¹⁹

According to WHO Pakistan is facing a double burden of disease (BoD), with endemicity of hepatitis B and C with 7.6% affected individuals; the 5th highest tuberculosis burden in the world, and focal geographical area of malaria endemicity. The overall HIV prevalence is 21.0%, although 77.0% of those who inject drugs are using sterile injecting equipment. In addition, the country has high rates of unscreened blood transfusions.²⁰

UNICEF data on child survival chances shows following mortality rates (deaths per 1000 live births) neonatal mortality rate 42; infant mortality rate 57 and under five mortality rate is 69. Additionally, 38% of children are stunted, only 69% households use iodized salt. On sanitation aspect only 60% population is using least basic sanitation services and 10% of population practice open defecation. Moreover, only 35% population has access to managed safe drinking water and 56% population is using basic drinking water services.²¹ Pakistan has one of the highest maternal mortality ratio in South Asia. Almost 70% deliveries still take place at home. The recent report by Index Mundi show that Pakistan has maternal mortality rate of 178 deaths per 100000 births.²²

- b. Public Spending on Health Sector in Pakistan:** World Health Organization (WHO) has recommended that 5% of GDP should be spent on healthcare system.²³ According to Pakistan Economic Survey 2018-19, the percentage of GDP health expenditure has improved from 0.91 percent in 2016-17 to 0.97 percent in 2017-18 and during FY 2018-19(Jul-Mar) it increased by 0.53 percent compared to 0.49 percent during corresponding period last year.²⁴ 2019-20 annual budget shows the respective health allocations, federal government has allocated only Rs.13 billion, it covers 32 new and 13 existing health projects and money will also be spend on Sehat cards and Ehsas food program. Punjab has set aside Rs.297 billion for health sector. The money will be spent on upgrading hospitals and funding the hepatitis and tuberculosis programs. Meanwhile, in Balochistan, the provincial health budget is fixed at Rs34.18bn. The bulk of the amount will go towards creating more than 1,000 jobs, establishing 21 emergency and trauma centers and setting up the Bolan medical university. Khyber Pakhtunkhwa has set aside Rs52bn for health in its provincial budget. The broader goal of the health appropriation is to provide free treatment to everyone in the province as part of universal health coverage. The Sehat card facility is envisaged to be extended to every family. Sindh government has allocated Rs.114.4 for the health sector. The increased allocation will be used to complete 12 ongoing schemes. An additional Rs1bn has been set aside to deal with the outbreak of HIV in the province.²⁵

¹⁹ Muhammad Qasim, "Pakistan Continues to Face Double Burden of Diseases in 2019." *The News*, January 19, 2020.

²⁰ World Health Organization, "Country Cooperation Strategy," WHO, 2018. Accessed March 4, 2020. https://apps.who.int/iris/bitstream/handle/10665/136607/ccsbrief_pak_en.pdf;jsessionid=D5018F88EBBD.

²¹ UNICEF, "Key Demographic Indicators." Unicef for every child. Accessed March 4, 2020. <https://data.unicef.org/country/pak/>.

²² "Why Mothers Are Dying during Childbirth in Pakistan." SAMMA TV, April 8, 2019. <https://www.samaa.tv/living/health/2019/04/why-mothers-are-dying-during-childbirth-in-pakistan/>.

²³ Savedoff, William D. "What should a country spend on health care?." *Health Affairs* 26, no. 4 (2007): 962-970.

²⁴ Ministry of Finance, "Health and Nutrition in *Pakistan Economic Survey 2018-19*, (Islamabad: Printing Corporation of Pakistan, 2019). http://www.finance.gov.pk/survey_1819.html.

²⁵ Arif Azad, "Health Budgets," *Dawn*, July 2, 2019. <https://www.dawn.com/news/1491601>.

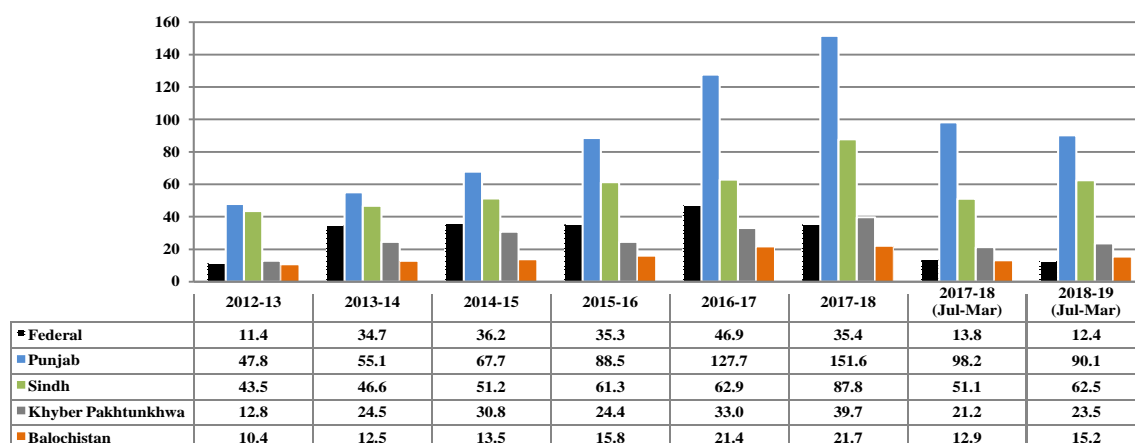


Figure 1: Share in Total Public Sector Health Expenditure (in billions)

Source: Pakistan's Economic Survey 2018-19

- c. **Health infrastructure** According to recent data by Pakistan Bureau of Statistics of the year 2018, the number of public sector hospitals has increased to 1,279, Basic Health Units (BHUs) improved to 5,527, Rural Health Centers (RHCs) were increased to 686 and dispensaries to 5,671. These facilities together with 220,829 registered doctors, 22,595 registered dentists and 108,474 registered nurses bring the current ratio of one doctor for 963 persons, 9,413 persons per dentist and availability of one hospital bed for 1,608 persons.²⁶ Table 1 shows the healthcare facilities from 2011-2018.

Table 1: Healthcare Facilities (in numbers)

Health Manpower	2011	2012	2013	2014	2015	2016	2017	2018
Registered Doctors	152,368	160,880	167,759	175,223	184,711	195,896	208,007	220,829
Registered Dentists	11,649	12,692	13,716	15,106	16,652	18,333	20,463	22,595
Registered Nurses	77,683	82,119	86,183	90,276	94,766	99,228	103,777	108,474
Population per Doctor	1,162	1,123	1,099	1,073	1,038	997	957	963
Population per Dentist	15,203	14,238	13,441	12,447	11,513	10,658	9,730	9,413
Population per Bed	1,647	1,616	1,557	1,591	1,604	1,592	1,580	1,608

Source: Pakistan Bureau of Statistics

5. Way forward

- Recognize health as fundamental right:** Pakistan has signed and ratified all human rights international treaties. These all treaties have recognized health as fundamental right. The Parliament of Pakistan must amend its constitution and recognize health as fundamental right. The proposed amendment incorporates that "State shall provide a system of health protection, prevention, treatment and access to essential medicines; further all citizen shall have access to basic health care facilities, emergency medical care and mental health care. Previously in 18th amendment education was transferred from "Policy of Principal" to "Fundamental rights". The good health is also crucial for economic and social development of Pakistan as education is.
- Adopt WHO definition of health:** The World Health Organization has defined health "physical, mental and social well-being and not merely the absence of disease and infirmity." This definition has inclusive nature and covers all aspects of health and its determinants. Therefore, government must adopt this definition at all levels. Parliament of Pakistan must incorporate this definition in constitution while making health

²⁶ Ministry of Finance 2019, *op. cit.*

fundamental right; government must give it serious consideration while formulating health policy and the health care agencies also implement and provide health care facilities according to this holistic approach.

- iii. **Allocate at least five per cent of GDP for health:** The World Health Organization recommended that states must allocate its 5% of Gross Domestic Production (GDP) for public health spending. Unfortunately, Pakistan doesn't spend 1 % of its GDP on health. The public health care infrastructure and manpower is inadequate and unequally distributed. The main reason is health sector is under-budget. The 70 % of population rely on private health provider and Pakistan's 24% population lives under national poverty line. It is crucial to keep nation healthy government must rise public spending on health as per WHO recommendation.
- iv. **Provision of determinants of health:** The basic determinants of health play crucial role in attaining good health such as: access to safe drinking water, pollution free air, non-adulterated food, adequate nutrition, proper sanitation. Right to health is not just access to health care but it contains its determinants too. Government must consider these aspects while making health policy. Providing access to these facilities will also reduce the burden on disease on people and national exchequer.
- v. **Human right based approach:** Health is not just public good but also a human right. Human right based approach in health will provide a clear mechanism to evaluate health policy, service delivery, identifying discriminatory practices and unequal health outcomes. Health service delivery can be monitored through human right based approach. Its core principles are participation, equality and accountability. Participation means taking all stakeholders on board for assessment, analysis, planning, policy making, implementation and evaluation; equality means that all people will get access to health care facilities irrespective of social status, race, color, religion and gender; accountability refers that the all duty bearers of health sectors public or private are answerable to the human rights watch dog. Recognizing health as fundamental right will provide space for human rights watch dogs to evaluate health on human rights based approach.
- vi. **Private sector obligation:** The private companies can affect right to health in several ways. Companies marketing pharmaceutical products or medical equipment may contribute positively to the enjoyment of the right to health by reducing prices and producing quality products. Extracting and manufacturing industries infringe upon right to health by polluting water, air and soil. Companies can contribute more positively by reducing the pace of polluting air, water and soil for promoting and protecting right to health.

6. Conclusion:

All international treaties on human rights signed by Pakistan recognize right to health as fundamental right with special focus on right to health for all vulnerable segments of society such as women, children and disable persons. The health indicators of Pakistan are at alarming stage. This adverse situation demands more public spending on country's fragile health sector. The country needs huge infrastructure and manpower for improvement in the existing healthcare system. More public spending and modern medical infrastructure and skilled man power can be a solution to the problem. The country can also follow the example of Education which was not there in the constitution before 18th amendment as a fundamental right. Insertion of article 25A made education fundamental right. Now, this slight change in Constitution has put constitutional bar on governments to provide free education and the governments are striving to implement it in letter and spirit through need based legislations and policies. The leadership can take serious note of the situation and declare health as a fundamental right of citizen. Making health constitutionally fundamental right will bound successive governments to pay full attention to health care system of country through legislations and policy reforms.

ANALYSIS

Use of Oceans, Seas and Marine Resources for Economic Development

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1. Introduction

Oceans cover three quarters of the earth's surface and contain 97 percent of the earth's water.¹ Oceans, seas and marine resources act as a source of employment, recreation, trade, culture and provide economic benefit for many people throughout the world. Due to an international recognition of the nutritional and socio-economic importance of oceans, seas, fisheries and marine resources, the 2030 Agenda for Sustainable Development has devoted for the first time, a global goal on oceans and seas. Goal 14 is exclusively dedicated to “conserve and sustainably use the oceans, seas and marine resources for sustainable development. It has ten targets relating to marine pollution, protecting marine and coastal ecosystems, minimizing ocean acidification, sustainable management of fisheries and ending harmful fisheries subsidies, conserving coastal and marine areas, increasing economic benefits to Small Island Developing States (SIDS) and Least Developed Countries (LDCs). Different forms of fisheries subsidies are given but these subsidies pose some harmful impacts on marine resources such as Illegal, Unreported and Unregulated (IUU) fishing. Almost 40 per cent of the world oceans are heavily affected by human activities, including pollution, depleted fisheries, and loss of coastal areas.

It requires pragmatic policies, investment and innovations to restore the productive capacity of the oceans and increase economic benefits to developing countries, in particular SIDS and LDCs. Innovations which integrate best practices can benefit greatly from opportunities offered around the concepts of Oceans economy/blue economy.²

2. Importance of Oceans, seas and Marine Resources

The oceans cover a huge surface of our planet and play a key role in supporting life on earth.

- a. **Food Security:** Fisheries and aquaculture make a significant contribution to food security and livelihoods of millions of people in the world. Global fish production was estimated at 171 million tons in 2016, supplying around 20.3 kg/capita per year and 17 per cent of global animal proteins and many essential micronutrients.
- b. **Protein Source:** Oceans serve as the world's largest source of protein, with more than 3 billion people depending on the oceans as their primary source of protein. Fish and seafood consumption accounted for 20 per cent of animal protein intake, about 26

¹ UNDP, “Sustainable Development Goals: Goal 14, Life below Water” UNDP, March 3, 2020. <https://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-14-life-below-water/targets.html>

² SDG Compass, “Conserve and sustainably use the oceans, seas and marine resources for sustainable development.” SDG Compass, March 4, 2020. https://sdgcompass.org/wp-content/uploads/2016/04/Goal_14.pdf

per cent in LDCs, 19 per cent in other developing countries and about 16 per cent in Low Income Food Deficit countries.³

- c. **Climate Regulator:** They are the most diverse and important ecosystem, contributing to global and regional elemental cycling and regulating the climate. Oceans absorb about 30 per cent of carbon dioxide produced by humans, buffering the impacts of global warming.
- d. **Employment Generation:** Marine Protected Areas contribute to poverty reduction by increasing fish catches and income, creating new jobs and improving health. Fisheries and aquaculture contribute US\$100 billion per year and about 260 million jobs to the global economy.
- e. **Inclusion of Women Workforce:** Women comprise 47 percent of the total workforce dependent on commercial capture fisheries for their livelihoods, including the post-harvest sector.
- f. **Source of International Trade:** International shipping moves over 90 percent of international trade is valued at US\$435 billion per year.
- g. **Oil Extraction:** Thirty percent of global oil extraction now occurs in offshore waters, valued at approximately US\$900 billion per year. The oceans provide natural resources for energy production.
- h. **Role in Global GDP:** Globally, the market value of marine and coastal resources and industries is estimated at \$3 trillion per year or about 5 per cent of global GDP.
- i. **Tourism Promotion:** Tourism represents 5 percent of global GDP and coastal tourism is clearly a major component, with an estimated value of about US\$271 billion per year.⁴

3. Fisheries Subsidies

Subsidies are government policies in aid of one or more industries, usually carrying a financial benefit to the industry. Fisheries subsidies represent any financial support allocated to the fishing industry by a government.

a. Types of Fisheries Subsidies

There are different types of fisheries subsidies. Some of them are given below

- i. **Direct Government Payments to the Industry:** This classification includes such a diverse range of subsidies as grants made for the purchase of new fishing vessels, vessel decommissioning payments, fishermen's unemployment insurance, compensation for closed seasons, equity infusions and price support programs.
- ii. **Tax Waivers and Deferrals:** This classification includes programs such as fuel tax exemptions for fishing vessel fuel, sales tax exemptions, special income tax deductions for fishermen and deferred tax programs.
- iii. **Government Loans, Guarantees and Insurance:** The government may make loans to fishermen or fishing firms on favorable terms, such as loans with lower than market interest rates or longer than usual amortization periods.

³ UNCTAD, "Achieving the targets of Sustainable Development Goal 14: Sustainable fish and seafood value chains and trade" 16–17 July, 2018. <https://unctad.org/meetings/en/SessionalDocuments/Background-Note-Second-Oceans-Forum-July2018-v4.pdf>

⁴ UNDP, "UNDP Support to the implementation of sustainable development goal 14" UNDP, March 4, 2020. https://www.undp.org/content/dam/undp/library/Sustainable%20Development/14_Oceans_Jan15_digital.pdf

- iv. General Programs that Affect Fisheries:** Finally, there are tax waivers applicable to all industries, subsidy programs aimed at industries other than fisheries that may affect fisheries either positively or negatively, and general social programs that affect the entire society.⁵

b. The Scope of Proposed Subsidies Prohibition

The aim of the World Trade Organization (WTO) fisheries negotiations has been to ‘prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing’. There has been a real challenge to come to any agreement on which type of subsidies should be prohibited. World Wildlife Fund (WWF) calls for a broad scope for prohibitions of fisheries subsidies. These include, at a minimum, subsidies that increase fishing capacity or effort, and subsidies that contribute to illegal, unreported and unregulated (IUU) fishing.

Some prohibited subsidies are given here:

- i. Subsidies for capital costs such as vessel construction and modernization that directly enhance fishing capacity, increasing pressures on stocks and reducing the industry’s productivity.
- ii. Subsidies to operating costs, including fuel subsidies which enhance effort, allow fishermen to continue fishing and overfishing even when it is no longer economic to do so.
- iii. Subsidies to vessels engaged in illegal, unreported or unregulated fishing (IUU)
- iv. Subsidies for vessels: acquisition, construction, repair etc. of fishing/ service vessels
- v. Subsidies on transfer of fishing/service vessels to third countries.
- vi. Income support for natural or legal persons engaged in fishing.
- vii. Price support for products of marine wild capture fishing.
- viii. Subsidies arising from the further transfer of access rights that a payer government has acquired from another Member government.
- ix. Subsidies that allow fishing on stocks that are overfished. Government funding to promote fishing effort on stocks that are overfished directly furthers stock depletion and prevents recovery.⁶

c. Factors Contributing to Overcapacity in World Fisheries

It has also been reported that fisheries subsidies fuel unfair competition, particularly between large fleets and individual artisanal fishermen and foster inequality. Almost 84 per cent of all fisheries subsidies tend to benefit large scale fleets. The challenge is to eliminate harmful subsidies and convert its funds for investment in fisheries sustainability to reduce pressure on fish stocks. There are some other important factors that have been seen to contribute to overcapacity:

- i. Resilient profitability of fishing activities, whereby technical progress and relative price inelasticity of demand for fish have largely compensated for diminishing yields in overfished fisheries.

⁵ FAO, “Introducing fisheries subsidies” FAO, March 3, 2020. <http://www.fao.org/3/a-y4647e.pdf>

⁶ Ibid.

- ii. Sizable national fishing subsidization programs.
- iii. Mobility of distant water fleets.
- iv. Failure of fisheries management.⁷

d. Drawback of Fisheries Subsidies

The most harmful impact of subsidies gives rise to the issue of ‘illegal, unregulated and reported’ (IUU) fishing. Subsidies for fishing are contributing to the rapid depletion of many fish species and preventing efforts to save and restore global fisheries, causing ocean fisheries to generate US\$ 50 billion less per year than they could.

- i. **Illegal, Unreported and Unregulated (IUU) Fishing:** Illegal, Unreported and Unregulated (IUU) fishing is a broad term that captures a wide variety of fishing activity. IUU fishing is found in all types and dimensions of fisheries. It occurs both on the high seas and in areas within national jurisdiction.
- ii. **Illegal Fishing:**
 - a) Conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State.
 - b) Conducted by vessels flying the flag of States that are parties to a relevant Regional Fisheries Management Organization (RFMO) but operate in contravention of the conservation and management measures adopted by that or the violation of national/international laws.
- iii. **Unreported Fishing:**
 - a) Fishing which have not been reported or misreported to the relevant national authority, in contravention of national laws and regulations.
 - b) Undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- iv. **Unregulated Fishing:** In the area of application of a relevant RFMO that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization.⁸

e. Impacts of Illegal, Unreported and Unregulated fishing (IUU)

- i. **Threats to Fish Population:** IUU fishing has a major impact on fish populations and presents a threat to global fisheries. Its occurrence is high. Conservative estimates of IUU fishing put the figure at 13 – 31 percent of the global catch, valued

⁷ UNCTAD, “Achieving the targets of Sustainable Development Goal 14: Sustainable fish and seafood value chains and trade” 16–17 July, 2018. <https://unctad.org/meetings/en/SessionalDocuments/Background-Note-Second-Oceans-Forum-July2018-v4.pdf>

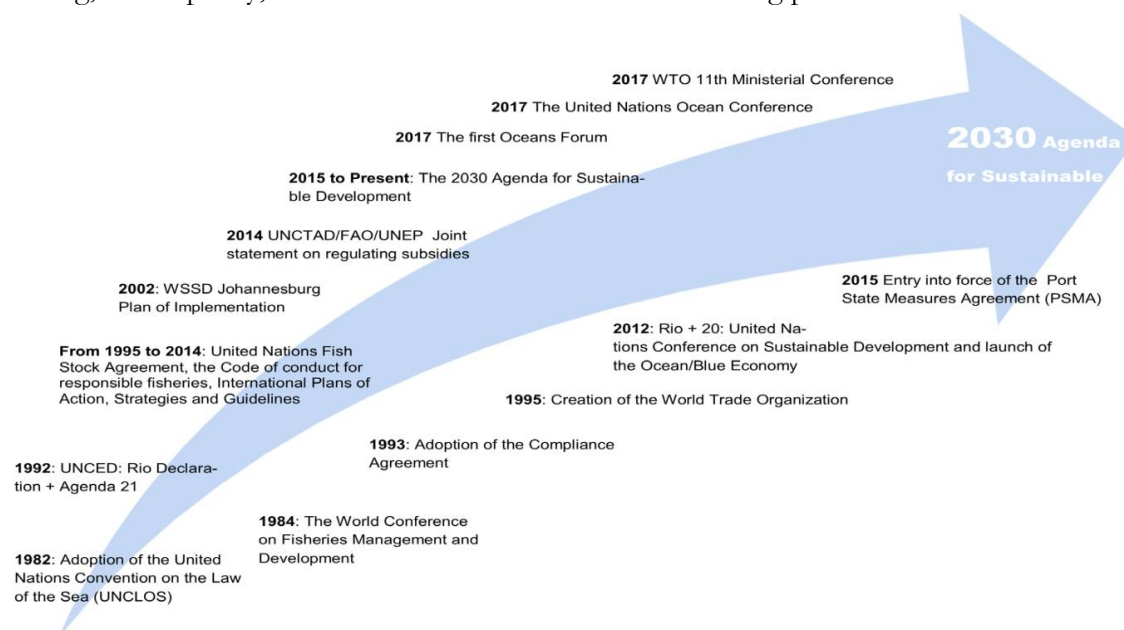
⁸ African Trade Policy Center, “The WTO’s Fisheries Subsidies Negotiations” July 5, 2017. https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_intro_e.htm

between \$10 billion to \$23.5 billion annually. This equates to about 18% of all fishing activities globally.

- ii. **Risk to Fish Species:** IUU fishing takes place in all oceans and threatens nearly all fisheries and species. According to WWF's analysis 86 percent of global fish stocks are at risk of IUU fishing. 57 percent of the volume of global catch is at high risk of IUU fishing and 30 percent of the volume of the global catch is at moderate risk.
- iii. **Disturbance in Exclusive Economic Zones (EEZs):** IUU fishing occurs both within exclusive economic zone (EEZs) and on the high seas. But the largest share of total IUU fishing activities are in developing countries' EEZs.
- iv. **Violation of International/ National Laws:** In practice, IUU fishing can include several illegal activities such as catching of banned varieties of fish, harvesting without a license or the violation of national laws or agreements by RFMOs.⁹

4. Key Instruments and Undertakings for Sustainable Fisheries and Living Marine Resources

Programs, initiatives and projects were implemented to improve fisheries, conservation and to address emerging issues such as overfishing, Illegal Unregulated and Unreported (IUU) fishing, overcapacity, fisheries subsidies and destructive fishing practices.¹⁰



5. Relationship of Small Island Developing States (SIDS) and Least Developed Countries (LDCs) to Oceans, Seas and Marine Resources

The world has 54 lower and lower-middle income coastal and island countries for which oceans represent a significant jurisdictional area and a source of tremendous opportunity. Target 14.7 of the SDGs focuses on enhancing the economic benefits to SIDS and LDCs from the sustainable

⁹ Ibid.

¹⁰ UNCTAD, "Achieving the targets of Sustainable Development Goal 14: Sustainable fish and seafood value chains and trade" 16–17 July, 2018. <https://unctad.org/meetings/en/SessionalDocuments/Background-Note-Second-Oceans-Forum-July2018-v4.pdf>

use of marine resources, including through the sustainable management of fisheries, aquaculture, and tourism. Oceans and their marine resources are thus the base upon which the economies of many SIDS and coastal LDCs are built, and they are central to achieve the Sustainable Development Goals.

Small island developing states face particular challenges to their sustainable development. These include:

- i. Small populations
- ii. Limited resources
- iii. Vulnerability to natural disasters and external shocks
- iv. Strong dependence on international trade.¹¹

6. Status of Pakistan's Fisheries

Pakistan is the world's sixth-most populous country, with a population in 2017 of approximately 193 million people and a per-capita income of US\$1,629. Pakistan's fisheries contribute modestly to economic growth and social development. The 2007 National Policy and Strategy for Fisheries and Aquaculture Development in Pakistan remain largely relevant, though it was not adopted at the time due to political transition. Pakistan's fisheries are facing challenges and not achieving their economic potential. Aquaculture is also failing to fulfill its potential, despite favorable agro-climatic conditions. Post-harvest processing is under-developed, contributing to relatively low value addition in the sector.

a. Challenges Faced by Pakistan's Fisheries

- i. The leading challenge is the serious over-exploitation of marine fisheries stocks due to overcapacity in fishing fleets, illegal fishing methods, and lack of surveillance and licensing.
- ii. The sector is hampered by institutional rivalries, low budgets, and weak enforcement of what legal and regulatory provisions do exist.
- iii. Excessive exploitation, mismanagement, and pollution have degraded ecosystems in Pakistan waters, reducing their productivity and endangering resource-dependent livelihoods.

b. Opportunities for Pakistan's Fisheries

- i. Fisheries have an opportunity to become a much stronger engine of economic growth and social development
- ii. Global demand for protein-rich fisheries products is rising, providing opportunities for ocean-facing countries such as Pakistan.
- iii. Improved management of marine resources can help prevent large declines in production
- iv. Aquaculture presents opportunities to diversify exports away from marine fisheries.
- v. In addition to economic benefits, fisheries offer important benefits for food security and nutrition.¹²

¹¹ Ibid.

¹² World Bank Group, "Revitalizing Pakistan's Fisheries Options for Sustainable Development." March 6, 2020. <http://documents.worldbank.org/curated/en/122481529566117025/pdf/Revitalizing-Pakistan-s-Fisheries-Options-for-Sustainable-Development.pdf>

7. Way Forward

Pragmatic policies, investment and innovations are required to restore the productive capacity of the oceans and increase economic benefits to developing countries, in particular SIDS and LDCs. Innovations which integrate best practices can benefit greatly from opportunities offered through the concept of Oceans economy/blue economy.

The “blue economy” concept seeks to promote economic growth, social inclusion, and the preservation or improvement of livelihoods while at the same time ensuring environmental sustainability of the oceans and coastal areas. The blue economy has diverse components, including not only establishment of traditional ocean industries such as fisheries, tourism, and maritime transport, but also new and emerging activities, such as offshore renewable energy, aquaculture, seabed extractive activities and marine biotechnology.

The different pathways toward the blue economy depend on national and local priorities and goals. Nevertheless, there are common steps that will be required by all countries aiming to adopt this approach to managing their oceans. These include:

- i. The effective implementation of the United Nations Convention on the Law of the Sea is a necessary aspect of promoting the blue economy concept worldwide.
- ii. In view of the challenges facing SIDS and coastal LDCs, partnerships can be looked at as a way to enhance capacity building. Countries must accurately value the contribution of natural oceanic capital to welfare.
- iii. Investment in, and use of the best available science, data, and technology is critical.
- iv. Each country should weigh the relative importance of each sector of the blue economy and decide, based on its own priorities and circumstances, which one should be prioritized.
- v. Anticipating and adapting to the impacts of climate change is an essential component of a blue economy approach.¹³

¹³ UN and World Bank Group, “The Potential of the Blue Economy - Increasing Long-term Benefits of the Sustainable Use of Marine Resources for SIDS and Coastal Least Developed Countries” March 4, 2020. <https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2446&menu=1515>

SEMINAR PROCEEDINGS**Post Legislative Scrutiny of
The Protection against Harassment of Women at Workplace Act 2010**

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1. Introduction

Protection against Harassment of Women at Workplace Act 2010 is a landmark piece of legislation, which ensures a safe, secure and conducive work environment for women, working in public and private institutions. Pakistan institute for Parliamentary Services arranged a seminar on international women day, in collaboration with UNFPA, UNDP and WPC, for post legislative scrutiny of the said Act. Experts from various walks of life including female paramedics, faculty members from different universities, advocates and students were invited to find out the lacunas and shortcomings along with the challenges of implementation. A number of Parliamentarians, representatives of different organisations and civil society members also participated and apprised the audience about their work for women rights in Pakistan. The purpose of the seminar was to analyse the law, find out shortcomings and give recommendations to Parliament for further improvements in the law.

2. Summary of Proceedings

Ms. Aliona Niculita, (Deputy Resident Representative UNDP) described the law a step towards gender equality and economic independence of women. She discussed that Gender Equality is Goal No 5 of SDGs and all the members of UN are unanimous upon it. Ms. Lina Mousa, (Representative UNFPA) started with the verse of famous poet Faiz Ahmed Faiz for women.

*“Speak; your lips are free.
Speak; it is your own tongue.”*

She emphasized on the need to recognize the social, economic and cultural achievements of women. She said, it is the fundamental right of women to enjoy gender equality described the Gender Based Violence to be the greatest violation of Human Rights, including Dignity and Security.

Moreover, worthy women Parliamentarians from federal as well as provincial assemblies apprised the audience about role of Women Parliamentary Caucuses (WPCs) in their respective assemblies. They informed the participants that WPCs are going to put all the laws related to women on its official website and an awareness campaign through social media has been launched under the umbrella of WPCs to spread awareness. WPCs have also written letters to all government and non-government organizations to comply with” the protection of women against harassment at workplace Act 2010”.

3. Recommendations

The Protection against Harassment of Women at the Workplace Act 2010 must be appreciated since it is the first of its kind to address harassment as a significant legal issue. By protecting a woman’s right to work, the Act affirms the Government’s commitment towards fulfilling its international treaty obligations such as those under UDHR and CEDAW. Moreover, it has allowed women to raise their voice against harassment at the workplace and has provided them

¹ Rapporteurs of the seminar

an equal opportunity to earn livelihood, which will eventually lead to greater women participation in the workforce and the economy of the country. However, the Government of Pakistan needs to take several legal measures to ensure the effective implementation of the Act. This places a huge responsibility on the Ombudsmen to ensure that the implementation of the law is consistent with the objectives of the law and in consonance with the principles of justice, equity and fairness. Furthermore, it should be compulsory for organizations to conduct regular assessments with respect to incidents of harassment. Lastly, awareness-raising campaigns need to be conducted with the help of media and non-profit organizations so that more women are aware of their rights under the legislation and can therefore take advantage of it.

A set of suggestions were given through expert presentations, speeches of the parliamentarians, panel discussion and question answer session at the end of the seminar. Some major recommendations are provided below.

- i. Display of code of conduct must be ensured.
- ii. Financial autonomy of Ombudspersons' offices must be ensured.
- iii. A mechanism should be established to monitor progress on sexual harassment cases.
- iv. Ombudspersons should be able to refer and ask for actions taken by concerned private and public sector institutions in cases referred to them or that come to their notice.
- v. All stakeholders should focus on implementation, collectively by, instead of continuing to propose amendments.
- vi. Provide quality training to all employees/students, especially the Inquiry Committee Members.
- vii. All organizations that comply with the law should register themselves in a web based data.
- viii. It is important that case statistics of Ombudsperson offices be compiled and annual reports should be submitted to parliament and the relevant ministries.
- ix. Ombudspersons should be given powers to ask for information regarding committees established in organizations and their affectivity.
- x. Parliamentarians should ensure that the monitoring of the implementation of anti-sexual harassment law is strictly in place.
- xi. Activating Provincial Implementation Watch Committees and notifying one at the federal level will help the process.
- xii. Stay orders are regularly invoked and Ombudsperson office's jurisdiction is challenged in the higher courts. Addressing this requires studying cases challenged in the high courts (especially where stay has been granted).
- xiii. Nurses and transgender should also be brought under the ambit of this law.

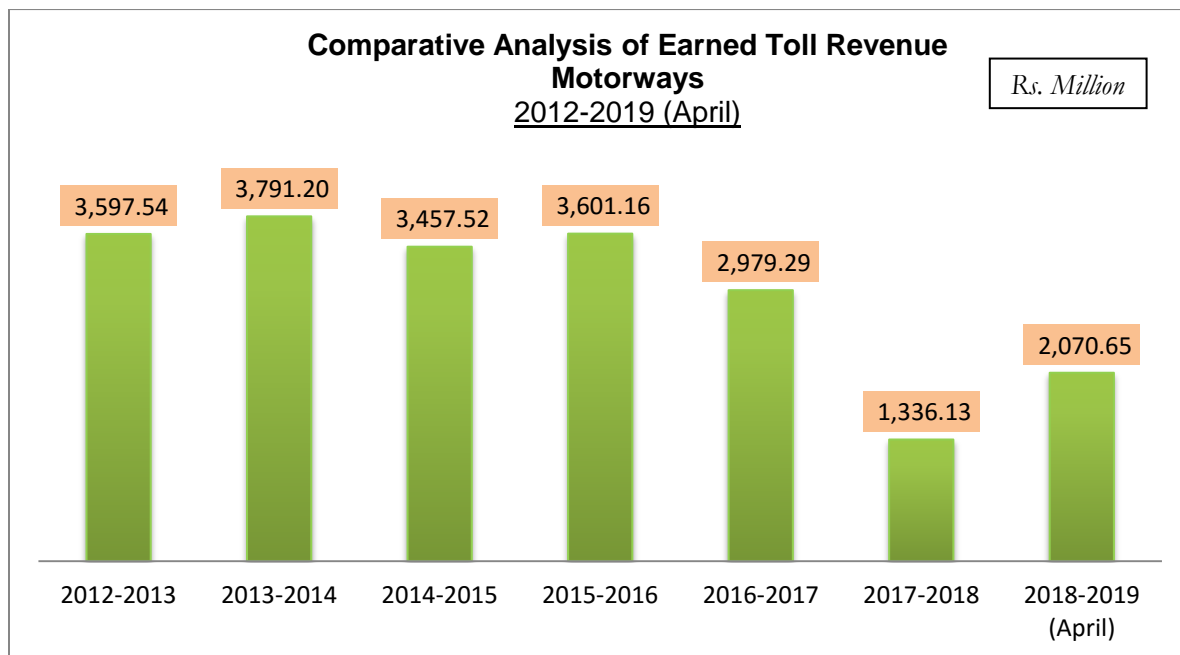


Honorable Speaker Asad Qaiser presiding commonwealth day seminar organized by National Assembly and PIPS

Total Earned Toll Revenue (continued)

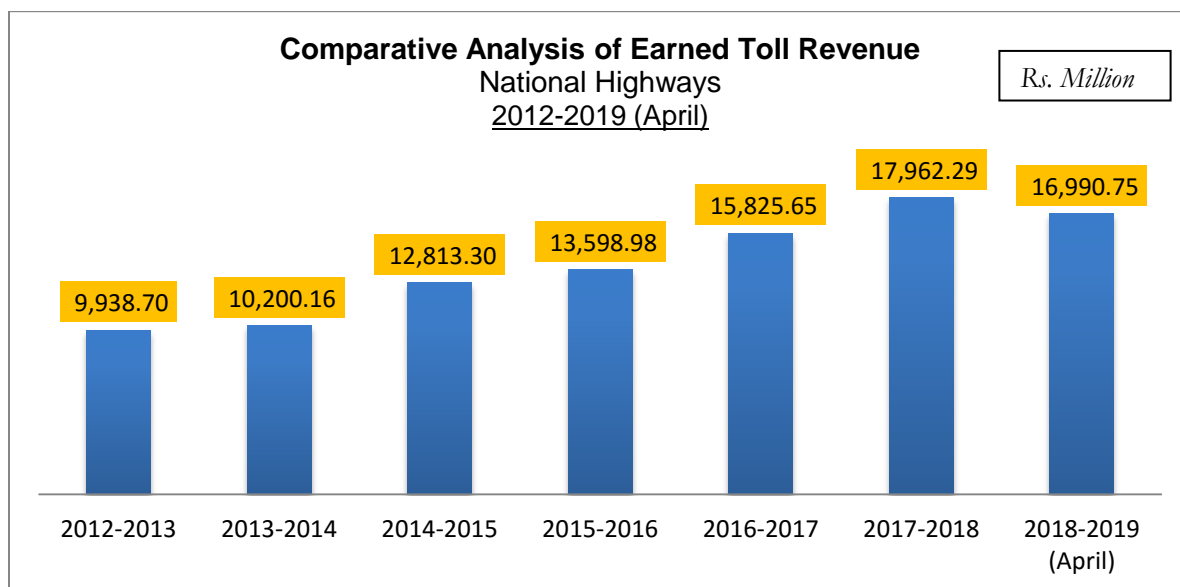
Earned Toll Revenue; Motorways

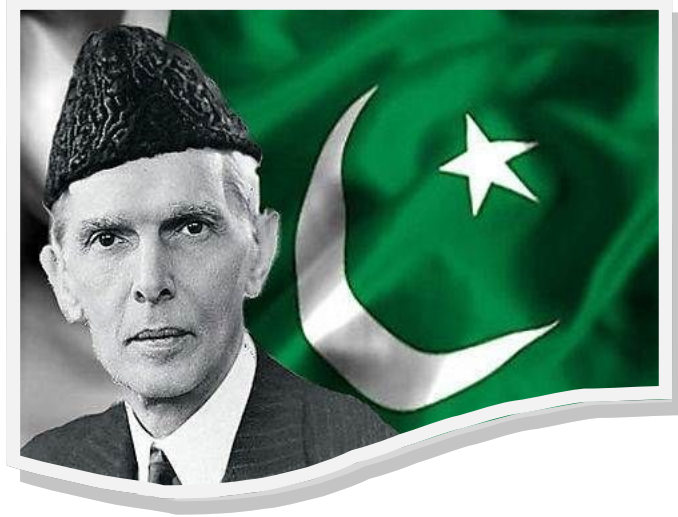
FY 2012-2013 to FY 2018-2019 (April)



Earned Toll Revenue; National Highways

FY 2012-2013 to FY 2018-2019 (April)





“I am proud that I am not the Governor-General who was an agent of another power but a Governor-General who is chosen by the people...It is our sacred duty to look after the poor and help them, I would never have gone the toil and suffering for the last ten years had I not felt our sacred duty towards them. We must secure for them better living conditions. It should not be our policy to make the rich richer, but that does not mean that we want to uproot things. We can quite consistently give all their due share.

(Public address, Karachi Club, 9 August 1947)



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