



Review Methodology
June, 2018

Revisiting Pakistan Port Acts for Creating a Principal and Unified National Maritime Authority Act of Pakistan



Manzil Pakistan is a national non-profit think tank dedicated to developing and advocating public policy that contributes to the development of Pakistan. Our aim is to shape Pakistan to a country where policies on decisions of national interest are driven by non-partisan strategic thinking and implemented through consensus in the best interest of the people of Pakistan

Organizational Background

Manzil Pakistan is a national non-profit think tank dedicated to developing and advocating public policy that contributes to the development of Pakistan. Our aim is to shape Pakistan to a country where policies on decisions of national interest are driven by non-partisan strategic thinking and implemented through consensus in the best interest of the people of Pakistan. We take pride in providing a platform for debate on public policy for all stakeholders; civil society, academia, public and the government. Manzil Pakistan is registered as a Trust, no. 158. Currently Manzil Pakistan has resources dedicated on promoting good governance, law and justice and education.

Manzil has already been working and collaborating with different public sector institutions that include Pakistan Institute of Parliamentary Affairs (PIPS)

- Review of Legislative Framework of Pakistan (on-going);
- Development of ‘Manual for Legislation Drafting: *A primary guideline for legislation drafters*’;
- An extensive three-days Training of Drafters on Drafting Manual in association with PIPS and Westminster Foundation for Democracy (WFD) in 2018;

Previously, Manzil Pakistan has been awarded the honor to collaborate with the National Assembly on following projects:

- Review of research capacity of Pakistan Institute of Parliamentary Services and Think Tank affiliation;
- Review of National Assembly Research Wing and Library, annual work plan and subject matter experts’ affiliation with the National Assembly.

Manzil Pakistan has the privilege of numerous published articles in the national press and is also Pakistan partner for the Centre for Policy Studies (London) 2014 Margaret Thatcher conference on Liberty. The economic team at Manzil Pakistan has published working papers and policy notes on “Trade with India and analysis of vulnerable industries in Pakistan”; the educational research team has conducted research on “Access to education in Pakistan with district wise analysis of Sindh’s educational landscape”; the law and justice wing has working papers on “Joint roundtable with citizen’s police liaison committee on the criminal investigation process” and the governance team regularly publishes blogs on its website. Moreover, Manzil Pakistan has also conducted a preliminary study on the parliamentary committees of Pakistan which is available on its website.

Project Background

It is widely accepted that deep seaports provide greater advantage and potential for economic growth vis-à-vis land lock states. In this context, the 18th century has considerably redesigned the regional connectivity and changed the landscape of ports and associated towns. This is largely by-means of improvement, construction and expansion of docks and harbor across the globe. This not only has an impact on trade and economics but also laid prosperity in the local towns having such ports infrastructure. Thus the importance of ports has been realized in a well manner during the 18th century that required laws have also been drafted and enacted to regulate and oversee the establishments of ports, the operations at ports, harbor, quays and wharf. However, in the 19th and 20th century there have been considerable changes in the port operation and carriages of goods by sea not only by means of changes in trade activities but also by means of several technological advancement. For instance, the old and obsolete concept of port labour for loading and unloading of trade goods manually has now changed from person to advanced equipment for the same.

During the last few decades several new ports and port infrastructure were established and improved to carry ever-increasing trade activities by sea ports. The functions of ports have also increased beyond only provision of logistical platform. In this connection, globally there have been considerable advancements in the regulatory and supervision dynamics of the ports and associated industries i.e. shipping industry and ship-breaking industry etc.

Pakistan has three major operating commercial ports namely Karachi Port Trust (KPT), Port Qasim (PQ) and the newly developed Gawadar Port (GP), regulated under the three different Act/ Ordinance respectively. KPT and PQ are the oldest and premier ports in Pakistan handling major trade portion of entire national trade since inception. These two ports are located in the city of Karachi, while Gawadar is located in Balochistan province, at the mouth of the Persian Gulf and outside the straits of Hurmooz. The Gawadar port has formally become operative in December 2008, and providing an opportunity for transit-trade to neighboring countries like Afghanistan, China and Central Asian States. The recent initiatives that include the China Pakistan Economic Corridor (CPEC) have provided the prospects to turn the country into regional hub of trade-commerce. Thus all ports have gained considerable importance and their efficient function would significantly enhance the role of the country in both trade and transit-trade.

In view of changing dynamics of countries economy specifically the port economy there is a dire need to revisit the existing laws, rules and regulation. This is largely required in view of creating operational efficiency at ports, customs and tariff setting, increase competition, enhance investment, and provide level playing field to all stake holders at Ports in Pakistan. Thus, a sound and democratize legal framework is essential for smooth legal operations with the objective of promoting level playing field for all stakeholders in country's port operations as well as

prosperity for growth to all. Since Ministry of Maritime Affairs (formerly Ports and Shipping) has gone through significant revisions in governance structure, there is a considerable need to align the existing regulatory framework. The Ministry is not only the regulatory body for the ports in Pakistan but also primarily assigned to facilitate the ports and shipping industry of Pakistan.

In recent years, there have been considerable changes in the laws and regulation for ports and associated industries. One of the changing concepts is to bring all the ports under one umbrella of supervision, a concept of developing a unified legal framework for all ports in the country for bringing efficiency and investment; by providing level playing field for all stakeholder and competitors.

Realizing the importance of ongoing development in maritime sector, National Transport Policy 2018 (NTP 2018) recently announced, also puts in a great emphasis on its development to Harmonized its pace with fast growing Port based economic activities. Policy sets a direction by defining a dominant role of different ports and highlighted that development of Gawadar Port would serve as a balancing port focusing on regional transit, transshipment and other trade opportunities. Whereas Port Qasim and Karachi Port would serve as an international gate way port for all types of shipments.

NTP 2018 also provides a guideline for the roles of public and private sectors where private sector terminal operators would lead in providing specialist terminal service delivery. Public sector would provide navigation and supportive port infrastructure. In this scenario an independent regulatory oversight would only be accomplished through establishing **National Maritime Authority**.

Following is brief methodology on how to proceed for the review of existing legal framework of different ports in Pakistan and how this could lead to the development of National Maritime Authority Act.

Policy Review Methodology

Manzil Pakistan will organize a team of economic experts to do a preliminary research on role and importance of Pakistan Ports on trade and transit-trade. Beside this, a team of legal experts will review the existing regulatory framework of Pakistan ports and associated statutes (acts, laws and ordinances). The legal team will also review the contemporary laws enacted in other developed and developing economies having ports. As a part of the methodology the team at Manzil Pakistan will conduct a critical review and the give policy guideline for the changing needs of revisiting the ports statutes and leading to a suggestion on National Maritime Authority Act.

The proposed methodology comprised of two major steps, following is the brief along with the description of each step:

Manzil Pakistan proposes a working collaboration with Ministry of Maritime Affairs of Pakistan for developing National Maritime Authority Act. Manzil Pakistan would develop a working paper for this project and seeks necessary guidance during review of present laws and policies from Ministry of Maritime Affairs. Working paper would lay down a foundation work for a preliminary draft and steps to follow. Ministry of Maritime Affairs would be in close consultation during every step of the process and be overseeing legislative procedures when the bill would be presented in the Parliament.

1. **Preparation of Working Paper:** A working will be prepared covering the recommendations and will be put forward for deliberation to Ministry of Maritime Affairs with reasons and references. Recommendations approved by Ministry will then be incorporated in drafting of the respective bill(s). The following aspects and steps will be covered under the working paper.
 - a. **Incorporating the best practices and relevant laws:** Picking up the common legal provisions by the contemporary countries (UK, Singapore, etc) the working paper incorporates best practices and relevant laws after customizing it to National needs.
 - b. **Consultation with Stakeholders:** Input from the stakeholders are utmost important for a working paper to exhibit the essential requirements.
 - Government (Ministry of Maritime Affairs and related authorities)
 - Port Authorities i.e. KPT, Port Qasim, Gawadar etc.
 - Shipping Industry and its related business community
 - c. **Legal Deliberations:** Legal deliberations are the corner stone for any act to be effective; acts with low legal formidability create more harm than good. With the consultation process, working paper will incorporate the objective of Government, Industries and other relevant stakeholders. A legal deliberation trims it down and makes it under the purview of Law.
 - d. **Legal Formulation:** After a comprehensive deliberation with stakeholders and legal consultation, the legal formulation will be under taken to formally process the drafting of Statute(s) or an amendment to existing Statute(s).

2. **Drafting Bill for Required Statute(s):** The bill would be drafted considering the objective, reviewing best practices and by leaving flaws and taking best approaches to regulate and operate with objectives specified above. Where necessary amendment bills will be drafted for appropriate changes in the existing Statute(s). Similar to the working paper drafting steps will be taken care of for the finalization of Statute(s) and amendments (if any).
 - a. **Review of contemporary laws:** Picking up the common legal provisions by the contemporary countries (UK, Singapore, etc) the draft bill incorporates objective practices after customizing it to National needs.
 - b. **Legal Deliberations:** With the consultation process as explained during the process adopted for the development of working paper, the legal deliberation will also serve for the drafting of selected Statute(s) and makes it under the purview of Law.

Developing an act is an extensive process, clarity, rigorous consultation, legal proofing and a broad forward looking approach that caters short and long term objectives must be considered. It is assumed that draft of (Proposed) National Maritime Authority Act will take back and forth until it is refined enough to best serve our National objectives with a legal ambit over it. Once the drafting finalized, it will be shared with the Ministry of Maritime Affairs for the perusal and to further process it for the enactment of the bill from National Assembly.

Following is the illustration explaining the same.

