

Following suggestions regarding updating Sindh Tenancy Act have been formulated on the basis of dialogue with the Haris at gross root level in 10 districts of Sindh province including Tando Mohammad Khan, Tando Allahyar, Umerkot, Mirpurkhas, Sanghar, Nawabshah, Dadu, Qamber, Shikarpur and Hyderabad. While the given suggestions were thoroughly reviewed in a consultations among representatives of civil society organizations held at Hyderabad press club and Hotel Mehran Karachi. The process was coordinated by Bhandar Hari Sangat and Actionaid Pakistan. All the suggestions have been incorporated in the draft.

	General	Customs and Basic Rights	<i>The word “customary” must be abolished / omitted where ever written in the Act being contradiction with basic human rights. Where ever necessary legal provision should be added instead of “customary manner”</i>
		Taqawi	<i>Act should define Taqawi very clearly and comprehensively. Taqawi is the expenses of crop and necessary expenses of the family during sowing and reaping of one crop. Taqawi must be within the limit of expected income of current crop. In case of any unusual situation or disaster the recovery of such taqawi will be made in consequent crops (maximum two). The loan paid more than that will be considered as an effort to make the Haris as bonded labor. Taqawi should be documented in duplicate; for either party (zamindar and Hari). At the time of recording the transaction between Hari and Zamindar; either party have right to take anybody to ensure the transaction has been recorded correctly. The final settlement of each crop will be made in duplicate for either party.</i>
			Any citizen can represent the either party before tenancy tribunal. No any practicing lawyer can appear on behalf of any party by producing the Vakalatnama.
			The permanent Haris according to Form will have property right of the land where their houses are built
1	Chapter 1	Section 2 (2)	“Tenant (“Hari “) means a person who personally cultivates the land of another person hereinafter called a “landlord” but does not include a person who takes from the Government a lease of unoccupied land.”
		<i>Suggestion</i>	<i>The chnage in ownership either by s ale, allotment lease or contract (makta) should not affect the Hari’s tenancy right.</i>
2	Chapter 2	Section 4 (1)	“A tenant shall be deemed to be a permanent tenant if at the commencement of the Act:- He has annually cultivated (a survey number or) at least four acres of land for the same landlord for a continuous period of not less than two years.”
		<i>Suggestion</i>	<i>A tenant shall be deemed permanent tenant even if he has cultivated 1 acre or more land of the same landlord for 3 months</i>
		Section 4 (II -a)	“Land purchased from government on installment system until all the installments thereof have been fully paid.”

	<i>Suggestion</i>	<i>A tenant shall be deemed permanent tenant even if all the installment of the land purchased from government on installment system have not been fully paid by the purchaser. Besides, if the purchaser fails to pay the installment fully, the land should be transferred to the permanent tenant on that land.</i>
	Section 4 (II-b)	“Land taken on lease from the government.”
	<i>Suggestion</i>	<i>A hari shall be called Inherent Hari even if the land has been taken from government on lease.</i>
	Section 5 (2-a)	“If, where the system of shifting cultivation exists, a tenant has personally cultivated different pieces or parcels of land in the same or adjoining dehs in the same Taluka for the same landlord during the qualifying period specified in section 4, he shall be deemed to be permanent tenant with cultivating right in that deh, but such rights shall not be in respect of any particular piece or parcel of land defined by metes and bounds.”
	<i>Suggestions</i>	<i>The hari shall have the right, to select some specific part or collection of parts of land.</i>
	Section 5 (3-a)	“A tenant may, with the permission of his landlord. Transfer his tenancy rights under sub-section (1) to any other piece or parcel of land belonging to the same landlord.
	<i>Suggestion</i>	<i>The consent of landlord should not be necessary for transferring the right of tenancy at some other piece or parcel of land of the same landlord.</i>
	Section 9	The names of permanent tenants shall be entered in a Record of Rights to be maintained in a manner to be prescribed
	<i>suggestion</i>	<i>1st The record must include family members of a tenant according to section 2 sub section 3 Explanations 2nd In failure of maintaining record there should be punishment for concerned officials</i>
	Section 10 (1)	“Provided that if the deceased tenant is a Muslim, the tenancy rights shall devolve on his legal heirs according to the personal law to which the deceased was subject.”
	<i>Suggestion</i>	<i>In case of death of tenant, the tenancy rights should be devolved to his/ her heir, irrespective of his/ her religion according to heirship law.</i>
	Section 12 (1)	“If a permanent tenant becomes unfit to carry out duties attached to his tenancy owing to physical or mental incapacity, the tenancy shall be managed by any of the members of his family nominated by him or in case he is unable to make such nomination due to his mental incapacity, the matter shall be referred to the Tribunal for nominating any member of his family and the decision of the Tribunal on that behalf shall be final, but nomination made by the tenant or the Tribunal shall be valid only during the life time of the tenant.”
	<i>Suggestion</i>	<i>The nomination of family member by Tribunal for managing the tenancy in case of mental incapacity of the</i>

		<i>tenant should be valid even after the life time of the tenant as laid down in Section 10 (1) and (2) of the Act. Besides, the nomination of family member for managing the tenancy due to mental incapacity of the tenant should be made first of all by the family of the tenant. In case of dispute on nomination among the family members, than the matter should be taken to the Tribunal.</i>
	Section 12 (2)	“If a permanent tenant is not able to cultivate the land personally on account of temporary illness, absence or pilgrimage or similar other reasons, it shall be binding upon him to arrange for the proper cultivation during his absence with the approval of his landlord; provided that the absence of permanent tenant on this account shall in no case exceed a continuous period of one year; and if exceeds the said period, the permanent tenant shall be deemed to have abandoned his tenancy rights with the meaning of Clause (b) of Section 13.
	<i>Suggestion</i>	<i>1st In case of tenant’s absence from cultivation for over 1 year under appropriate arrangement, his right to cultivation shall remain effective. The consent of landlord for selecting any person to work in place of the tenant during his absence should not be necessary. 2nd absence means a tenant is absent along with all his legal family members / heirs</i>
	Section 13	“Notwithstanding any agreement, usage, decree or order of Court of law, the rights conferred on a permanent tenant by tenancy rights are held is acquired or requisitioned by Government for a public purpose or unless such tenant add:”
	<i>Suggestion</i>	<i>“If the government acquires or requisites such land for the said reason than the affected tenant should be compensated with alternate land for cultivation, employment or cash amount.</i>
	Section 13 (e)	Fails to cultivate the land personally;
	<i>suggestion</i>	<i>Failsto cultivate the land personally or through his / her legal heirs/ family members</i>
	Section 13 (f)	“Fails without sufficient cause to cultivate the land in the manner, or to the extent customary in the locality in which the land is situated.”
	<i>Suggestion</i>	<i>This rule should be abolished (customary practices should not be allowed being in contradiction with basic human rights).</i>
	Section 13 (g)	“Has done any act which is destructive of or is permanently injurious to the land.”
	<i>Suggestion</i>	<i>This rule should be abolished or there should be a list of such act which is destructive for land</i>
	Section 13 (i)	“If after the commencement of this Act convicted by a court of law of the offense of theft of the crop of his landlord.”
	<i>Suggestion</i>	<i>This rule should be abolished.</i>

		Section 14 (1)	“Notwithstanding anything contained in section 13, a landlord may terminate tenancy of a permanent tenant by giving him one year’s notice in writing, stating therein the reasons for such termination, if the landlord bona fide requires the land for cultivating it personally or for garden, huri mechanized cultivation, or any non-agricultural purpose; provided that the area to be cultivated personally for purpose other than mechanized cultivation or gardening shall not exceed 50 acres.”
		<i>Suggestion</i>	<i>In case of landlord taking his land back from the tenant for the reasons of personal mechanized cultivation or gardening, he shall give the compensation to tenant in form of alternate land for cultivation or cash amount.</i>
		Section 14 (5)	“If a tenant is evicted under this section, it shall be obligatory on the landlord to provide the tenant with similar land, if available, in his holding or failing such land, compensation equal to one year assessment paid in the previous year in respect of the land from which the tenant is evicted.”
		<i>Suggestion</i>	<i>The landlord should pay 25 percent share of the new value of the land</i>
		Section 22 (I)	Notwithstanding any agreement, usage or custom it shall be lawful for any landlord to take any free labor or beggar from his tenant or any member of the family of the tenant
			<i>This section must be omitted being contradictory with basic human rights</i>
	Chapter 4	After section 25 a new section may be added for	A committee consisting of representative of administration preferably District Officer (Revenue) and Hari representative be formed at district level to process the application and provide necessary guidance to Haris for initiating legal action and can process for arbitration if both parties agree.
3	Chapter 4	Section 28 (1-b)	“In case of a hari, a relation of the hari or any other hari of the same deh; or a legal practitioner.”
		<i>Suggestion</i>	<i>The hari should be represented for hearing for case either by himself or by some other hari of the same Deh or by some hari rights worker or activist. If legal practitioner is necessary than the Government should arrange it free of cost for hari.</i>
		Addition	<i>Sub section 6 (mandatory) should be added for fixing a period of 30 days for decision on the complain even ex-party</i>
		Addition	<i>The tenancy tribunal (DDO), the appellate tribunal (DO) or reviewing tribunal (EDO) will necessarily submit the copy of decision to Director district Human Rights Board / District and session Judge. The Director / Judge will have the authority to issue any instruction, directives, remark, order if thinks necessary</i>
		Addition	<i>At any stage of matter in tribunal either party can approach the Director District Human Rights Board / District and session Judge if he / she is not satisfied with the process</i>
		Section 32	“An order made by the Executive District Officer (Revenue) under section 31 and subject to the

			provisions of that section an award of the Tribunal or the order of the District Office (Revenue) shall be final and shall not be called in question in any Court.
		<i>Suggestion (1)</i>	<i>The decision should be challengeable in higher civil courts.</i>
		<i>Suggestion (2)</i>	<i>The composition of tribunal under section 32 should be placed under the judicial magistrate called as Hari Court.</i>
4	Chapter 5	Section 34 (1)	“If any landlord or tenant contravenes any of the provisions of this Act or of the Rules made thereunder, he shall on conviction by a Magistrate not lower in rank than that of a Second Class Magistrate be liable to a fine which may extend to Rs.500 and in default of payment of fine to simple imprisonment which may extend to one month.
		<i>Suggestion</i>	<i>The land owner not maintaining the accounting system of crop and if doesn't not give teanant to their share will be punished with six to one year imprisonment or fine of Rs: 50,000 to 100,000/- or both punishments. The tenants' share of crop and expenses for legal proceedings will be paid from the amount of fine The fine and punishment other offenses will be dealt according to the nature of offenses according to the relevant laws.</i>
		Section 34 (2)	“The court may when passing judgment order the whole or any part of the fine recovered to be applied in the payment to the party as compensation for any loss or injury caused to him by the offense.”
		<i>Suggestion</i>	<i>The fine money as punishment should be abolished. However, the court must grant the affected party with compensation in kind or in cash to redress the loss.</i>
5	(Land Reform Regulation 1972, Material law Regulation 115)	Section 25 (1-d)	25 (1): “A tenant shall not be ejected from his tenancy unless it is established in revenue Court:” 25 (1-d) “Failed to cultivate or arrange for the cultivation of the land comprised in the tenancy in accordance with the terms thereof, or arrange for the cultivation of the land comprised in the tenancy in accordance with the terms in this behalf in accordance with the customary manner of cultivation in the locality.”
		<i>Suggestion</i>	<i>The rule should be abolished. The customary manner is contradictory with basic human rights</i>