

Pakistan's Universal Periodic Review

A look back at our promises

Civil society mid-term assessment report



پاکستان کمیٹن برائے انسانی حقوق
Human Rights Commission of Pakistan

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Human Rights Commission of Pakistan
Aiwan-i-Jamhoor, 107-Tipu Block, New Garden Town,
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Tel: (92-42) 35864994, 35838341, 35865969

Fax: (92-42) 35883582

E-mail: hrcp@hrcp-web.org

URL: www.hrcp-web.org

Blog: www.hrcpblog.wordpress.com

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About the Universal Periodic Review

The Universal Periodic Review (UPR) was created by the UN General Assembly on 15 March 2006 vide resolution 60/251, which also established the Human Rights Council. The UPR aims at identifying human rights violations wherever they occur, supporting States to rectify them, and improving the human rights situation in all countries.

The UPR is a state-driven process, which reviews the human rights records of all UN member states once every four to five years, providing an opportunity for states to demonstrate what actions they have taken to improve the human rights situation in their countries. It is one of the key human rights accountability mechanisms of the Council, which reminds states of their responsibility to fully promote and respect all human rights and fundamental freedoms within their territory and jurisdiction.

The review is conducted through interactive dialogues between the country under review and a Working Group composed of all member states of the United Nations. Each state review process is assisted by a group of three states, known as the 'troika', that serve as rapporteurs. The Working Group is an inter-governmental body whose meetings any UN entity and stakeholders (national human rights institutions (NHRIs), civil society, experts, etc.) can attend without the right to intervene.

The review is based on:

- A national report, which is prepared by the state under review;
- A compilation of UN data information, which summarizes information from reports of treaty bodies, special procedures, including observations and comments on the state concerned, and other relevant official UN documents;
- A summary of stakeholders' information, which summarizes 'credible and reliable information' submitted by other relevant stakeholders including NGOs and NHRIs.

Following the working group session, the Human Rights Council meets in plenary to study and adopt the final outcome document of the UPR, which comprises a summary of the procedures and conclusions, as well as recommendations for the state under review to improve its human rights situation. During this meeting, held to consider the outcome document, the state under review explains which of the recommendations made by the Working Group members it accepts. Member states, observers (including UN agencies), as well as other stakeholders, have the opportunity to make comments. States must return to the UPR Working Group for

subsequent reviews, and report on the measures taken to implement the recommendations made during previous cycles.

While NGOs are not able to make interventions during the UPR Working Group session, they can attend the session as observers. In addition, they can make an oral intervention during the adoption of the UPR outcome document, which occurs during the following session of the Human Rights Council. NGOs are also required to be consulted by the state under review during its preparation of a national report ahead of each UPR cycle.

Pakistan's last UPR outcome was adopted in March 2013. The third cycle review of Pakistan is expected to take place in April 2017.

Overview

Pakistan went through its second Universal Periodic Review (UPR) in October 2012 and adopted the outcome of the UPR in March 2013. During the Review, Pakistan received 167 recommendations, out of which it accepted 126, 'noted' 34, and rejected seven recommendations. The seven recommendations rejected by Pakistan related to repealing laws related to blasphemy; repealing laws criminalizing adultery; abolishing the death penalty; and halting military operations in Balochistan.

At the mid-term phase of the review cycle, the Human Rights Commission of Pakistan (HRCP) presents an assessment of the implementation of recommendations that Pakistan accepted in five thematic areas: women's human rights; rights of the child; freedom of thought, conscience and religion; human rights defenders and freedom of expression; and enforced and involuntary disappearances.

In collaboration with the International Commission of Jurists (ICJ), HRCP held national consultations over the course of six months on each thematic area with national civil society organizations, lawyers and human rights activists to take their input on the steps taken by the government in implementing accepted UPR recommendations.

HRCP's assessment has found that the government's performance in fulfilling its commitments during the 2012-2013 UPR at the mid-cycle period has been far from satisfactory. Out of the 67 accepted recommendations reviewed, 38 recommendations – a large majority – have not been implemented at all; 29 recommendations have only been partially implemented; and not a single recommendation has been implemented in full.¹ In some areas, particularly relating to enforced disappearance and the safety and security of human rights defenders, the situation has in fact deteriorated since Pakistan was issued the recommendations in 2012.

The following chapters assess the government's response to accepted recommendations thematically, and consider the progress made in implementing the recommendations in the light of national laws, policies, judgments and practices related to human rights; human rights obligations under international treaties and covenants; and expert opinions and reports of UN special procedures.

¹ Six recommendations (No. 122.95, 122.107, 122.105, 122.68, 122.146 and 122.117) relate to two or more themes. Their implementation has therefore been assessed more than once in the report.

Summary of Implementation

	No.	Recommendation	Implementation status
1.	122.35	Strengthen legislation to eliminate discrimination against women	Partially implemented
2.	122.95	Continue to work towards the empowerment of women and the promotion and protection of all their rights and intensify efforts and programmes to combat the phenomenon of trafficking of women and children	Partially implemented
3.	122.66	Adopt a national plan to implement legislation on women's rights	Not implemented
4.	122.86	Adopt a gender perspective in all public and private scenarios	Not implemented
5.	122.105	Continue fighting against trafficking of children and violence against women	Partially implemented
6.	122.107	Ensure the reporting and investigation of cases of violence against women and children	Not implemented
7.	122.61	Create mechanisms to protect and support victims of sexual violence or gender violence	Partially implemented
8.	122.102	Take steps to implement laws and policies with a view to eliminating early and forced marriage	Partially implemented
9.	122.103	Take effective measures to prevent forced or early marriage	Partially implemented
10.	122.90	Take necessary measures to end harmful traditional practices against women, sexual harassment in public and work places and domestic violence	Partially implemented

11.	122.21	Enact provincial legislation on domestic violence	Partially implemented
12.	122.25	Adopt Anti-Domestic Violence legislation	Partially implemented
13.	122.51	Implement legislation on strengthening women's rights, and adequately fund the newly established National Commission on the Status of Women	Partially implemented
14.	122.52	Strengthen the operation of domestic human rights institutions	Partially implemented
15.	122.53	Put in place effective monitoring and reporting mechanisms to ensure respect for women's rights	Partially implemented
16.	122.67	Continue to advance the promotion and protection of women's rights	Partially implemented
17.	122.94	Organize awareness and educational courses on gender equality and women's rights	Not implemented
18.	122.97	Train law enforcement personnel on gender sensitivity and equality	Not implemented
19.	122.68	Adopt social policies of access to services on education and health, in particular for women and girls	Not implemented
20.	122.83	Continue developing adequate measures to guarantee in law and practice the equality of women	Not implemented
21.	122.146	Consider providing universal free primary education to all children, regardless of their sex, nationality, race or ethnic origin	Partially implemented
22.	122.147	Continue to make efforts to expand access to education, especially for girls	Not implemented
23.	122.148	Ensure and allocate sufficient resources for girls' education in all provinces	Not implemented

24.	122.88	Continue to spearhead progress toward the promotion of gender equality and development for women	Partially implemented
25.	122.139	Take additional measures to facilitate access to health service for all members of society, especially women	Partially implemented
26.	122.87	Take deterrent measures to combat discrimination against religious minorities	Not implemented
27.	122.154	Analyze the possibility of adopting necessary measures to combat and prevent discrimination against religious minorities	Not implemented
28.	122.149	Review public school curricula in order to eliminate prejudice against religious and other minorities	Not implemented
29.	122.150	Improve the education system and school textbooks and promote the full safeguarding of religious freedom	Not implemented
30.	122.155	Increase action to tackle violations of religious freedom	Not implemented
31.	122.156	Adopt measures to ensure the protection of religious minorities and take necessary steps to prevent violence against members of religious minority communities	Not implemented
32.	122.157	Take appropriate, efficient measures to prevent discrimination and violence against religious minorities and bringing instigators to justice	Not implemented
33.	122.126	Take preventive and punitive measures against instigation of religious hatred	Partially implemented

34.	122.112	Hold accountable those who commit religiously motivated acts of violence	Not implemented
35.	122.113	Investigate attacks and violence against religious minorities and sects and bring those responsible to justice	Not implemented
36.	122.121	Enhance legislation and measures to address the situation of religious minorities, including blasphemy laws, forced conversion and discrimination	Not implemented
37.	122.158	Enforce measures and policies to ensure the participation of minorities in an appropriate way in the political life	Not implemented
38.	122.122	Continue and consolidate efforts in promoting dialogue, tolerance and social cohesion	Not implemented
39.	122.123	Continue its measures aimed at the promotion of interfaith dialogue and the culture of tolerance	Not implemented
40.	122.125	Actively support programmes strengthening religious freedom and tolerance	Not implemented
41.	122.23	Sustain the positive momentum in upgrading its laws and institutions, in particular in the areas of the rights of women and children	Partially implemented
42.	122.24	Expedite the adoption of the Charter of Child Rights Bill	Not implemented
43.	122.34	Share its expertise in developing a Special Child's Rights Charter with other countries	Not implemented
44.	122.40	Make efforts in the protection and promotion of the rights of children, especially by adopting the relevant legal instruments	Partially implemented

45.	122.59	Continue its policies on improving the rights of the child	Partially implemented
46.	122.54	Strengthen measures to protect and assist vulnerable segments of society, including those children affected by natural disasters to protect them from trafficking and exploitation at work	Not implemented
47.	122.71	Develop a comprehensive strategy to prevent sexual exploitation of children and their cruel treatment and increase criminal liability for these crimes	Not implemented
48.	122.41	Continue to enhance its efforts to protect women, children and other vulnerable groups against discrimination and violence	Partially implemented
49.	122.84	Intensify its efforts to effectively implement the laws on discrimination against women, and on the promotion and protection of children	Partially implemented
50.	122.117	Take steps to bring to justice those who have threatened, or attacked human rights defenders, children, and others who are working to promote democracy and accountability in Pakistan	Partially implemented
51.	122.141	Strengthen efforts to combine social security and poverty alleviation measures with the free and compulsory education programme that will enable the provision of the free education for all children	Not implemented
52.	122.153	Continue with its measures to protect children and improve their access to education	Partially implemented

53.	122.91	Continue working for the welfare of children, women and persons with disabilities	Partially implemented
54.	122.134	Continue its efforts for a systematic and sustained training process of child as well as developing the Child Protection Management Information System (CPMIS) and advancement in child immunization	Not implemented
55.	122.57	Ensure adequate resources in implementing MDGs with priority focus on vulnerable groups such as women and children	Partially implemented
56.	122.72	Continue to develop and enhance programmes to provide education and support to children who have been recovered from militants or extremists, and to help them reintegrate into society	Not implemented
57.	122.104	Adopt all possible measures to prevent and explicitly prohibit in its legal order the recruitment of children and their participation in armed actions and terrorist activities	Not implemented
58.	122.110	Take measures to combat impunity of all those who attack human rights defenders	Partially implemented
59.	122.118	Bring to justice perpetrators of attacks on journalists by effectively investigating all individuals and organizations accused of such abuses	Partially implemented
60.	122.119	Introduce strong legislation prohibiting attacks against journalists to effectively investigate such acts and prosecute the perpetrators	Not implemented

61.	122.27	Review and align the legislation with freedom of religion and belief and freedom of expression, as stipulated in the ICCPR	Not implemented
62.	122.29	Continue adopting measures in the framework of freedom of expression as the new legislation on freedom of expression was passed	Partially implemented
63.	122.101	Implement measures to protect the right to life and freedom of expression of human rights defenders	Not implemented
64.	122.20	Specifically criminalize enforced disappearances in the penal code and reinforce the capacities of the Pakistan Inquiry Commission on Enforced Disappearances in order that the Commission can fully carry out its mission	Not implemented
65.	122.114	Take effective measures against enforced disappearances by strengthening the Commission of Inquiry and expanding their mandate to all security agencies	Not implemented
66.	122.111	Reinforce its efforts to fight impunity regarding cases of enforced disappearance by bringing all responsible persons to justice	Not implemented
67.	122.115	Ensure investigations and prosecution of those responsible for abduction and enforced disappearances and encourage the Supreme Court to continue investigation on this problem	Not implemented

Women's rights

Introduction

The following chapter is a mid-term evaluation of Pakistan's implementation of the recommendations relating to the rights of women in Pakistan's Universal Periodic Review (UPR) 2012.

In the second cycle of the UPR, Pakistan was issued 34 recommendations pertaining to the rights of women. Out of the 34, Pakistan accepted 26, 'noted' seven, and rejected one recommendation that asked for the decriminalization of adultery and non-marital consensual sex. The recommendations accepted by Pakistan primarily concerned addressing various forms of violence against women, such as domestic violence and trafficking; fulfillment of women's rights to access to education and health; strengthening of national human rights mechanisms responsible for the advancement of women; and increasing gender sensitive training for law enforcement personnel.

Women in Pakistan face widespread economic, social and political discrimination. Whilst the Constitution of Pakistan enshrines the principles of equality and non-discrimination regardless of sex, successive governments have consistently accorded low priority to women's human rights.

The national and provincial mechanisms established for the advancement of women's rights lack sufficient human and financial resources, and technical capacity. Additionally, the existing monitoring mechanisms mandated to review the implementation of existing laws and structures for women, including the National Commission on the Status of Women and the corresponding provincial commissions, occupy primarily an advisory role with no powers to enforce their recommendations.

Since 2012, violence against women has continued at the same rate as before. In 2014 alone, for example, HRCP recorded 923 cases where women were killed in the name of 'honour'; 82 cases relating to 'honor killings' of minor girls; and over 100 cases where girls and women were killed in acid attacks.²

Even though Pakistan has enacted legislation criminalizing various forms of violence against women, such as the Domestic Violence Acts in Sindh (2013) and Balochistan (2014), and the Sindh Child Marriage Restraint Act, 2013, these laws suffer from lack of implementation and awareness amongst the public, law enforcement agencies and even the judiciary. Pakistan has also consistently failed to provide victims of violence sufficient support mechanisms and rehabilitation services. Furthermore, the lack of awareness regarding standard operating procedures (SOPs) for gender-related crimes and the lack of gender sensitive training for judges and police have led to under-reporting of cases and

² Human Rights Commission of Pakistan, State of Human Rights, 2014, accessed at: <http://hrcp-web.org/hrcpweb/data/ar14c/5-1%20women%20-%202014.pdf>, pp 217-218.

widespread impunity for the perpetrators.

Pakistan has also failed to attain most of its targets under the Millennium Development Goals, particularly those pertaining to health and education. Whilst provincial governments have initiated various incentive-based schemes to increase the enrolment of girls and women in schools, these schemes have failed to translate into higher literacy and enrolment rates. Additionally, there is a huge discrepancy between the national average of health and education indicators, and indicators related to vulnerable groups, such as rural women, women belonging to religious minorities and women with disabilities, with the latter being disproportionately at risk.

Legislative measures to promote and protect women's human rights

Accepted recommendations

122.95. Continue to work towards the empowerment of women and the promotion and protection of all their rights and intensify efforts and programmes to combat the phenomenon of trafficking of women and children (Qatar)

Partially implemented

122.35. Continue strengthening the legislation for the elimination of all forms of discrimination against women (Uruguay)

Partially implemented

122.66. Adopt a national plan with provisions to implement the legislations on women's rights (Brazil)

Not implemented

122.86. Continue with its work in the area of women's rights adopting a gender perspective in all public and private scenarios and encouraging the empowerment of women with a view to challenging the current inequality in the society (Bolivia (Plurinational State of))

Not implemented

122.105. Continue fighting against trafficking of children and violence against women (Djibouti);

Partially implemented

Assessment of implementation

Legislation and policies

Since Pakistan's Universal Periodic Review in 2012, the government of Pakistan

has undertaken the following major legislative steps related to women's rights: domestic violence laws have been enacted in Sindh and Balochistan; the Sindh Marriage Restraint Act, 2014 (which raises the legal age of marriage for girls to 18) has been enacted in Sindh; and an office of the ombudsperson to hear allegations of sexual harassment at the workplace has been put in place at the federal level, as well as in Punjab and Sindh.

Pakistan currently has no national policy or strategy to address violence against women or to eliminate discrimination against women. One of the few steps taken at the national level to combat discrimination is the Pakistan Women's Media Complaint Cell, which was launched in February 2014 by the National Commission on the Status of Women (NCSW). The Media Complaint Cell allows the public to register complaints about insensitive or sexist content seen, heard or read in Pakistani television or radio programmes or newspapers, and seeks to enhance gender responsiveness in media organizations.

In the provinces, Punjab has taken the lead in adopting policies and moving towards enacting laws related to women's protection. In March 2014, the chief minister of Punjab announced the Punjab Women Empowerment Package.³ Of the measures promised under the package, Punjab has established an operational Commission on the Status of Women, which initiated a provincial toll-free women's helpline in August 2014. The helpline provides referrals to relevant institutions and receives complaints of inaction by state institutions.

A task force to formulate a 'Domestic Workers Policy' had been constituted, but no policy has yet been formulated. Additionally, in March 2015, the Punjab Assembly passed the following laws that relate to women's human rights: Punjab Marriage Restraint Act, 2015, which increases the penalties for contracting and abetting a child marriage; Punjab Muslim Family Laws (Amendment) Act, 2015, which facilitates speedy resolution of family and custody disputes and provides for enhanced penalties for contracting second marriages in violation of law; and the Punjab Family Courts (Amendment) Act, 2015, which enhances the powers of family courts to resolve issues pertaining to the dissolution of marriages, dowry, maintenance and custody in an expeditious manner.

Additionally, all provincial Women Development Departments have set up CEDAW committees, but concrete plans for coordination, reporting and implementation under CEDAW are yet to be formulated in all provinces. Trafficking of women and girls

Pakistan has not taken any steps to ratify the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000 (Palermo Protocol).

³ See Punjab Empowerment Initiatives, 2014, accessed at: http://wdd.punjab.gov.pk/system/files/Draft%20Women%20Empowerment%20Initiatives%202014%20for%20CM%20-%20-%20March%207-%202.24pm_0.pdf

The government has also failed to introduce any amendments to the existing legal framework on trafficking, which include the Prevention and Control of Human Trafficking Ordinance, 2002, and the Prevention and Control of Trafficking Rules, 2004, to cover various forms of trafficking, such as prostitution, forced marriage and bonded labour, within Pakistan's borders.

Additionally, law enforcement agencies and the judiciary have developed no protocols for identifying internal trafficking victims amongst vulnerable population and referring them to protective services.

The Anti-Trafficking Unit of the Federal Investigation Agency (FIA) is the primary source of data collection on illegal immigration and smuggling. However, this unit only collects data at legal check posts, mainly airports. Therefore, there is no record of or check on trafficking through illegal routes or internal trafficking. The FIA has made no attempts to collect data on the magnitude of or trends relating to the other forms of internal trafficking.

Violence against women

Accepted recommendations

122.107. Ensure the reporting and investigation of cases of violence against women, effective awareness campaign against violence and consolidate measures to address sexual abuses and exploitation of children (Egypt)

Not implemented

122.61. Create mechanisms to protect and support victims of sexual violence or gender violence (Switzerland)

Partially implemented

122.21. Enact provincial legislation on domestic violence as well as an increased number of support structures for women on the provincial level (Sweden)

Partially implemented

122.25. Adopt the Bill on Anti-Domestic Violence at the earliest possible (Maldives)

Partially implemented

122.90. Take necessary measures to end harmful traditional practices against women, sexual harassment in public and work places and domestic violence (Chad)

Partially implemented

Assessment of implementation

Support structures for victims of violence against women

The National Police Bureau (NPB) has adopted SOPs on the treatment of women who approach the police to register complaints. The NPB has also devised a Gender Strategy of Police (2012-2016) to serve as a framework to regulate the behaviour of police towards women, particularly victims of gender-based violence.

The quota reserved for female police officers has been increased to 15% in the province of Sindh to facilitate reporting of gender-based violence. Similarly, the government of Sindh has developed SOPs for gender-related crimes that are also being used in training police officers in the province.

Women complaint cells to report on violence against women and other issues affecting women have been set up in 72 police stations in Khyber Pakhtunkhwa (KP), seven in Punjab, and five in Sindh. In Sindh, Women Complaint Cells provide basic legal, medical and counseling services. The government of Punjab has also initiated the setting up of help desks for women at every police station in Punjab under the Women's Empowerment Initiative in 2014.

Alarmingly, there are currently only 44 government-run women's shelters in the country. The Social Welfare Departments of Punjab, Sindh and Balochistan have developed and notified SOPs for the treatment of women at dar-ul-amans (shelter homes for women) however, adequate budgetary allocations have not been made for the implementation of the SOPs.

In 2014, the Sindh Social Welfare Department, in collaboration with the National Commission on the Status of Women and civil society organizations, initiated a reform project for the development of dar-ul-amans in four districts of Sindh. The project is designed to strengthen the operation of the shelters; increase community awareness of laws relating to women; enhance facilities and services at women shelters; and increase their accessibility through developing effective referral pathways to the services.⁴ The project, however, is in nascent stages and no information has been made available to the public regarding its implementation.

In February 2015, the Senate approved the 'Anti-Rape Laws' (Criminal Laws Amendment) Bill, 2013. The Bill makes it mandatory for courts to decide rape cases within six months and supports DNA profiling as evidence during investigation of rape cases. The Bill also includes penalties for law enforcement officials who fail to investigate and pursue cases of alleged rape diligently. To protect victims, the Bill also proposes punishments for publishing the names of the victims without their consent. The Bill is currently being debated in the National

⁴ 'Dar-ul-aman reforms aim to ensure support to VAW victims', The News, 14 September 2014, accessed at: <http://www.thenews.com.pk/Todays-News-4-272639-Darul-Aman-reforms-aim-to-ensure-support-to-VAW-victims>

Assembly.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Pakistan ratified in 1996, requires states parties to adopt laws and policies, and ensure their effective implementation, including those related to health care protocols and hospital procedures to address violence against women and abuse of girl children and the provision of appropriate health services. However, no such measures have been adopted thus far. As a result, even when victims of gender-based violence are provided requisite medical care, psychological care and follow-up visits upon discharge from the hospital are rare.⁵

There are currently only three recognized government burn-treatment units in public hospitals in Pakistan and another three burn units in military hospitals. A large majority of these hospitals are located in major urban centers. As a result, victims residing in small cities and rural areas often succumb to their injuries before they reach the hospital. Furthermore, the existing burn units have limited bed space, and lack proper hygiene and maintenance.

Sexual harassment

In February 2015, the Federal Ombudsman proposed an amendment to the Protection of Women from Harassment in the Workplace Act, 2010, to extend the definition of 'workplace' to include workplaces of domestic servants and home-based workers. However, the amendment has not been adopted by either the National Assembly or the Senate thus far.

According to the Protection against Harassment of Women at Workplace Act, 2010, provincial ombudsmen appointed by all the four provincial governments are required to oversee the monitoring and implementation of sexual harassment laws. However, ombudsmen have only been established in Sindh and Punjab.

Provincial governments of Punjab, Sindh and Khyber Pakhtunkhwa (KP) have also formed Provincial Watch Committees to monitor the implementation of the Sexual Harassment Act. These committees, however, meet infrequently and have so far yielded no concrete results. The KP Watch Committee, for example, has only met twice in two years. In February 2015, the committee reportedly formed two sub-committees: one on monitoring and compliance and the other on capacity building. However, the public or media has not been informed of the work, or even the formation, of the committees.⁶

In January 2015, the Punjab Ombudsman in collaboration with the Punjab Women Development Department launched a Harassment Awareness Volunteer

⁵ National Commission on the Status of Women, 'Study on Review of National Health Policy with regard to Violence Against Women', accessed at: http://www.ncsw.gov.pk/prod_images/pub/StudyonNationalHealthPolicy.pdf

⁶ Umer Farooq, 'Protection of Women: More Committees formed for harassment at workplace', Express Tribune, 5 February 2015, accessed at: <http://tribune.com.pk/story/833537/protection-of-women-more-committees-formed-for-harassment-at-workplace/>

Programme (HAVP) in 36 districts of Punjab. Under the programme, volunteers visit workplaces to educate the workers of their rights under the Sexual Harassment Act and the management of their responsibilities under the Act. So far, volunteers have visited 20 different public and private organizations.⁷

According to the Domestic Violence Act enacted in Sindh, the oversight and monitoring of the law is entrusted to a commission appointed by the provincial government under the Act.⁸ Similarly, the implementation of both domestic violence laws in Sindh and Balochistan (such as lodging of complaints, securing medical assistance, providing legal assistance to the survivor, etc.) is entrusted to a Protection Committee operating in every tehsil (sub-district).⁹ The provincial government of Sindh has not appointed a commission and neither government has appointed protection committees thus far. Furthermore, no progress has been made on the formulation of the Rules of Business governing the implementation of the laws. As a result, the law effectively remains non-functional and no reported complaints, let alone convictions, of domestic violence have been secured under their provisions.

Harmful traditional practices

In February 2014, a Bill titled, 'Anti-Honour Killing Laws (Criminal Laws Amendment) Act 2014' was moved in the Senate. The Bill seeks to amend sections 309, 310, 311, 338-E and 345 of the Penal Code to exclude qatl-i-amd (intentional murder) committed in the name of or under the pretext of honour. Furthermore, the Bill also seeks to amend the Criminal Procedure Code to make murder committed in the name or on the pretext of honour a 'non-compoundable' offence, thereby putting honour killings outside the purview of compromise and the payment of blood money. In March 2015, the Senate approved the Anti Honour Killing Laws Act, 2014. Currently, the National Assembly is considering the Bill.

Forced and early marriage

Accepted recommendations

122.102. Take steps to implement laws and policies with a view to eliminating early and forced marriage (Canada)

Partially implemented

122.103. Take effective measures to prevent forced or early marriage, in particular

⁷ 'Harassment Awareness Volunteer Programme launched across Punjab', Daily Times, 5 January 2015, accessed at: <http://www.dailytimes.com.pk/punjab/08-Jan-2015/harassment-awareness-volunteer-programme-launched-across-punjab>

⁸ Section 5.

⁹ Sections 17 and 18.

with a view to ending rape, sexual exploitation and forced conversions of scheduled caste girls (Austria)

Partially implemented

Assessment of implementation

Early marriage

The government has failed to enforce eighteen years as the minimum legal age of marriage in all provinces as required under the definition of a child under the Convention on the Rights of the Child (CRC), which Pakistan ratified in 1990. Under the Child Marriage Restraint Act, 1929, and the Muslim Family Laws Ordinance, 1960, the minimum legal age of marriage is 16 for girls, and 18 for boys. The age of majority provided under Offence of Zina (Enforcement of Hudood) Ordinance, 1979, is 16 years, or the attainment of puberty.

In 2013, the Sindh Assembly passed the Sindh Child Marriages Restraint Act. Under the law, the minimum lawful age for marriage is 18 years and anyone marrying a child or performing, conducting or facilitating a child marriage is liable to be imprisoned for a minimum period of two years along with a fine. The law has been accompanied by an awareness campaign by the government in Sindh and several arrests have been made.

In January 2015, the Punjab Assembly passed a resolution to 'end under-age marriage'. In March 2015, Punjab enacted the Punjab Marriage Restraint (Amendment) Act, 2015. The law enhances the penalties stipulated under the Child Marriage Restraint Act, 1929, for contracting child marriages to imprisonment for a period of six months and a fine of Pakistani Rupees 50,000. However, the law does not increase the minimum lawful age for marriage for girls to 18.

A major hurdle to ensuring implementation of anti-child marriage laws is the failure of the government to introduce laws and regulations to make birth registration and marriage registration mandatory. The CRC and the International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified in 2010, make free and mandatory birth registration a fundamental obligation upon the state. The current registration process requires substantial direct and indirect costs as the child first has to be registered at the Union Council and then the data has to be entered in the national database in order to obtain the child registration certificate from the National Database and Registration Authority (NADRA). Under the Punjab government's Women Empowerment Initiative of 2014, the birth registration fees at the Union Council level have been waived. However, there is a lack of awareness of the policy measure amongst the administrative officials.

Forced conversion and marriages

Religious minority groups have consistently highlighted the gravity of the issue of

forced conversions in Pakistan. The government, however, has failed to enact legislation criminalizing the offence and penalizing perpetrators, including the police, judiciary and local seminaries and clerics, who all play a part in forcible conversion of non-Muslim girls to Islam. In July 2012, the National Assembly's standing committee on national harmony forwarded recommendations to the law ministry suggesting life sentences and fines for perpetrators of forced conversions. However, the deliberations and hearings failed to produce any concrete result.

The government has also failed to enact legislation and develop procedures allowing for the registration of marriage and divorce of members of the Hindu community. This facilitates forced marriages and conversion of Hindu women who are already married as upon being kidnapped and forcibly married to Muslim men, such women have no proof to demonstrate the existence of a prior marriage.

A Bill for the registration of Hindu marriages has been pending before the National Assembly since 2008. A draft of the Bill was reintroduced by the National Commission on the Status of Women (NCSW) in 2011 and then again in 2014. However, the National Assembly has repeatedly failed to attain consensus on the text of the Bill.

In response to a petition against the government's failure to deliberate upon the Bill, in January 2015 the Supreme Court directed the government to ensure that a finalized draft of the Bill was placed before the Cabinet for final approval within two weeks. A draft of the Bill was approved by the Cabinet earlier this year and is now pending before the National Assembly.

National human rights institutions

Accepted recommendations

122.51. Effectively implement the recent legislation on strengthening women rights and adequately fund the newly established National Commission on the Status of Women (Germany)

Partially implemented

122.52. Take steps to continue to strengthen the operation of domestic human rights institutions, including the Human Rights Ministry, National Human Rights Commission and the Commission on the Status of Women (Australia)

Partially implemented

122.53. Put in place effective monitoring and reporting mechanisms to ensure respect for women's rights and to address violence against women in all its forms (Slovenia)

Partially implemented

122.67. Continue advancing in the promotion and protection of women's rights, with the consolidation of all institutional mechanisms and the application of the laws being launched (Bolivarian Republic of Venezuela)

Partially implemented

Assessment of implementation

Ministry of Human Rights

In 2013, the Government denigrated the status of the Ministry of Human Rights from an independent Ministry and merged it with the Ministry of Law and Justice. The merging of the two ministries is feared to have an adverse impact on the state of human rights since the mandates of the two ministries are in direct conflict. Whilst the Ministry of Law and Justice is responsible for defending existing laws and the state in claims pertaining to its human rights violations, the Ministry of Human Rights was mandated to redress the grievances of victims of human rights violations committed by the state.

National Commission on the Status of Women

The National Commission on the Status of Women (NCSW) was established in 2000. However, while the Commission was conceived as a watchdog over the government's policies relating to women, it lacked the structural and financial independence to fulfill its role. Following years of advocacy from civil society groups, the National Commission on the Status of Women Act, 2012, was enacted to provide the commission with the independence to function as an effective monitoring and reporting mechanism for women's rights in Pakistan. The new law accords the commission the status of an independent legal entity. The commission is granted a budget by the government that includes an independent fund with powers to raise its resources. It also now has its own independent secretariat, detached from and non-accountable to any ministry. Under the 2012 Act, the commission is also empowered to inquire into complaints of violations of women's rights.

The NCSW, however, still lacks official consultative status regarding policy-development, planning or law making and there is no obligation for either parliament or concerned ministries to consider its recommendations within a reasonable timeframe.

Provincial commissions on the status of women

Provincial governments of Khyber Pakhtunkhwa and Punjab have also set up provincial commissions on the status of women.

The Provincial Commission on the Status of Women, KP, has been criticized for its

lack of independence, especially since the provincial government directly appoints members, with priority given to members of the provincial assembly. Furthermore,¹⁰ the commission is accorded no powers of inquiry or inspection of jails, and while the commission operates an independent fund, its expenditure is subject to the supervision of the provincial government.

The Provincial Commission on the Status of Women in Punjab was set up in 2014. The commission is empowered to seek, receive and call for information from any government or civil society organization with respect to women's rights violation in the province. The commission also has the power to look into complaints and provide recommendations for redress to the government. The commission possesses an independent fund comprising a government grant and donations made directly to it.

In May 2015, the Sindh Assembly passed the Sindh Commission on the Status of Women Act, 2015. This Act provides for the establishment of the Sindh Commission on the Status of Women (SCSW), which will consist of 21 members. The law mandates the government to appoint all members within 90 days of the passage of this Act.

National Human Rights Commission

In 2012, the National Assembly passed the National Human Rights Commission Act to set up a National Commission on Human Rights. The Act provides for the establishment of an autonomous human rights commission, possessing powers of entertaining human rights complaints or undertaking suo motu investigation of human rights violations.

After three years, members of the Commission were finally notified in May 2015, with Justice (r) Ali Nawaz Chohan appointed as the chairperson. However, the commission is expressly barred from investigating human rights violations committed by the intelligence agencies and is only allowed to seek a report from the federal government with regards to alleged human rights violations committed by the armed forces. As the NCHR law stands, it is not clear that the commission will get accreditation by the International Coordinating Committee of NHRIs, which is a requirement for an NHRI to be recognized internationally.

Human rights training

Accepted recommendations

122.94. Continue organizing awareness educational courses on human rights, including training on equality between women and men, and on women's rights (Libyan Arab Jamahiriya)

¹⁰ National Consultation on Women's Rights in Pakistan's Universal Periodic Review 2012, 1 October 2014.

Not implemented

122.97. Train its law enforcement personnel on gender sensitivity and equality (Slovakia)

Not implemented

Assessment of implementation

The National Police Bureau has developed and notified Standard Operating Procedures (SOPs) for dealing with the investigation of crimes of violence against women, but they have not been made part of the formalized training courses for the police. There is also no dedicated technical support available on the issue of women's rights, gender sensitization and violence against women to properly integrate related modules into the police training curriculum. The government has also developed no mechanism to update police officers on new legislation on women's rights or violence against women, with the result that police officials are often unaware of changes in legislation.

The National Police Bureau and the government of Pakistan have developed a Gender Strategy of Police (2012-2016) in consultation with civil society organizations. The strategy puts forth a framework to improve representation of women in the police; develop the capacity and competence of women police officers; cultivate a gender sensitive work environment; assimilate gender learning into police training; and enrich policing services with a gender equality perspective. The Strategy framework, however, has not been translated into concrete policy actions and remains largely unimplemented.

Provincial governments have failed to make human rights and gender equality courses part of the mainstream curriculum at public and private educational institutions. In fact, the National Education Policy, 2009, places emphasis on increasing 'religious education' which often runs in contravention to human rights ideals, particularly those relating to women's human rights. The Sindh High Court in 2013 directed the provincial education ministry to introduce a human rights curriculum in textbooks. In response, the provincial education ministry has constituted a committee to deliberate on the matter and propose amendments to the current curriculum.

Education

Accepted recommendations

122.68. Continue adopting its social policies of access to services on education and health, in particular for women and girls (Venezuela (Bolivarian Republic of))

Not implemented

122.83. Continue developing adequate measures to guarantee in law and practice

the equality of women, particularly their right to education, and fight effectively discrimination against women and gender violence (Spain)

Not implemented

122.146. Consider providing universal free primary education to all children, regardless of their sex, nationality, race or ethnic origin (Thailand)

Partially implemented

122.147. Continue to make efforts to expand access to education, especially for girls (Japan)

Not implemented

122.148. Ensure and allocate sufficient resources for girls' education in all provinces (Namibia)

Not implemented

122.88. Continue to spearhead progress toward the promotion of gender equality and development for women, in particular in areas of education and employment (Cambodia)

Partially implemented

Assessment of implementation

With the introduction of the 18th Amendment to the Constitution of Pakistan, 1973, education is now a provincial subject. Provincial governments have initiated different projects to boost female literacy rates and reduce dropouts. Under the Khyber Pakhtunkhwa (KP) Education Sector Reform Programme, the KP government offers incentives to increase girls' access to mainstream education through free textbooks, stipends at the secondary level and voucher schemes and scholarships.¹¹ By the end of 2012, around 3,000 women and girls had benefitted from the programme in over 24 districts.¹² The Education Sector Reforms Unit, KP, has also created a policy regarding special incentives to female teachers in disadvantaged districts, including hostel facilities for female teachers, etc., and facilitating female teachers' transportation to and from school.

The chief minister of Balochistan declared 2014 as the year of an 'education emergency'. However, the Balochistan government has failed to translate the

¹¹ Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, 'Ongoing Programme: Primary Education', accessed at: <http://kpese.gov.pk/Downloads/Education%20Sector%20Plan.pdf>

¹² Ibid.

slogan into effective policy formulation and implementation. The number of young girls in school remains dismal in 2014, over 62% of girls between the ages of 5-16 years were out of school.¹³ There is also an alarming shortage of teachers with over 58% of government primary schools operating with only one teacher.¹⁴ High gender disparities in the province in education and enrolment are attributed to growing militancy. Girls' schools are often targeted by militant groups and teachers are threatened, forcing the schools to shut down for prolonged periods.¹⁵

In 2013, the Sindh Government enacted the Sindh Right to Free and Compulsory Education Act pursuant to Article 25A of the constitution. Under the law, all children between the ages of 5-16 are entitled to free and compulsory education. The Act also obligates private schools to educate 10 percent of their students for free. The Sindh government, under the Sindh Education Sector Reform Programme, has also initiated a stipend programme for girls attending classes six to ten in order to increase enrolment of girl students in secondary classes, especially in remote and underprivileged areas in Sindh. Since 2003, the Sindh government has been distributing free textbooks among students of primary schools. The government has now expanded this initiative to include students up to Class XII. In 2012-2013, the total number of books distributed from primary school up to college level was 4,606,882.¹⁶

The Sindh Assembly has also enacted the Sindh Educational Standards and Curriculum Act, 2014. The Act aims to provide for the establishment and implementation of educational standards and the development of curriculum quality through research and textbook control. However, the Sindh Curriculum Council, the body responsible for the implementation of the Act, has not yet been constituted and notified by the Sindh Assembly.

In addition, the Sindh educational ministry also notified the formation of a 12-member committee on textbook reforms. The committee is currently reviewing the curriculum in Sindh with a view to advising the government on reforms that eliminate gender, ethnic and religious bias and promote human rights.

The Punjab government has established Community Learning Centers in 23 districts to help women acquire basic literacy and vocational training, income generation skills and also continuing education for adults. Under the 'Punjab Women Empowerment Package, 2014', the Punjab government has created various funds such as the Punjab Educational Endowment Fund to provide

¹³ Alif Ailaan and SDPI, 'Pakistan District Education Rankings 2015', accessed at: https://d3n8a8pro7vhm.cloudfront.net/alifailaan/pages/537/attachments/original/1430979597/District_Ranking_Report_2015.pdf?1430979597

¹⁴ Ibid.

¹⁵ Syed Ali Shah, 'Female Literacy hits new low in Balochistan', Dawn, 31 December 2014, accessed at: <http://www.dawn.com/news/1154252>

¹⁶ Government of Sindh, Education and Literacy Department. 'Distribution of Free Text Books to Students', accessed at: <http://www.sindheducation.gov.pk/educationReforms/ftb.jsp>

women with scholarships for higher education. Punjab government, under the Women's Empowerment Package, has also expressed an intention to introduce more women writers in the textbook board because the curriculum encourages the formation of stereotyped gendered behaviour and inculcates gender biases in children. Most of the textbook board writers are still men.

One of the primary obstacles to women's and girl's equal access to education is threats to and attacks on educational institutions. The CEDAW Committee in its Concluding Observations issued in 2013 recommended the government of Pakistan 'promptly investigate, prosecute and punish' the perpetrators of such violence. It was only in the wake of the recent attack on the Army Public School in December 2014, that the government finally issued security protocols for schools all over the country. However, the government has failed to establish any response mechanisms for the repair and reconstruction of educational institutions that have been subjected to such attacks, nor has it developed any protocols for the reintegration of students whose educational institutions have been subjected to such attacks.

Health

Accepted recommendations

122.68. Continue adopting its social policies of access to services on education and health, in particular for women and girls (Venezuela (Bolivarian Republic of))

Not implemented

122.139. Take additional measures to facilitate access to health service for all members of society, especially women (Oman)

Partially implemented

Assessment of implementation

In Pakistan's existing public health care system, a majority of the Basic Health Units and Rural Health Centers are not functional. The government has failed to make emergency obstetric care available on a 24-hour basis in public sector tertiary care centers, with the result that women have to visit private facilities that are expensive, and in most cases do not provide proper obstetrical care as per international standards.

Pakistan has maternal mortality rate (number of women who die from pregnancy-related causes per 100,000 live births) of 276, which is amongst the highest in the world. As a result, the government is severely off-track in meeting its Millennium

Development Goals target of a maternal mortality rate of 140.¹⁷ Over 61 percent of all deliveries are assisted by traditional birth attendants (TBA), whereas 39 percent are assisted by skilled birth attendants (SBA).¹⁸ The MDG target for percentage of births attended by SBA was over 90 which Pakistan has also failed to meet.

The government has also failed to amend or repeal its restrictive abortion laws. Because of these restrictions, women are forced to resort to unsafe, illegal abortions, which often result in life threatening complications after the procedure. The government has not introduced any national policy or guidelines on post-abortion care.

The government of Punjab has devised the Punjab Health Sector Strategy (2012-2020) to improve life expectancy and to ensure equitable access to health services for all population groups in Lahore. Under the strategy, in 2013, the Punjab government merged the Lady Health Workers Programme, the Nutrition Programme and the Maternal and Newborn Child Health (MNCH) Programme into one programme called the Integrated Reproductive Newborn Child Health (RMNCH) and Nutrition Programme to promote good governance and increase coordination between the different programmes. The strategy also makes allowances for the provision of family planning services at all primary and secondary health care facilities; upgradation of one-third of Basic Health Units (BHUs) to provide services 24/7; ensure the provision of 24/7 emergency obstetric and newborn care at all primary rural and urban health centers; and ensuring availability of nutritional services for women and children at all health care facilities.

The government of Punjab has also added misoprostol, a drug used to prevent and treat post-partum hemorrhage (PPH) and post abortion complications to the 'essential medicines list', thereby making it available in all public sector health facilities and pharmacies. However, this move has not been accompanied by an awareness campaign for disseminating information regarding its usage among women and birth attendants.

A Health Information System has been put in place by the Punjab government tasked with compiling a database about all health facilities and outreach health units functioning in all districts of Punjab. In addition to that, a logistics management information system (LMIS) was started in 2011, which aims to improve the supply chain management of contraceptives and general medicines.

The government of Punjab has also set up the Public Health Care Commission under the Punjab Health Care Commission Act, 2010. The commission is responsible for regulating all public and private (formal and informal) health care establishments in Punjab. Since its establishment the commission has developed

¹⁷ Government of Pakistan, Planning Commission. 'Pakistan Millennium Development Report: 2013', accessed at: <http://www.undp.org/content/dam/pakistan/docs/MDGs/MDG2013Report/UNDP-Report13.pdf>

¹⁸ Ibid.

the Minimum Service Delivery Standards (MSDS) to ensure the continuum of quality care. All service providers are required to be licensed by the health commission so that they may be regularized and monitored by the commission.

In 2013, the Sindh government integrated the Reproductive, Neonatal, and Child Health programmes to provide greater access to reproductive health care. Under the new consolidated programme, the government has also added Manual Vacuum Aspiration (MVA) and misoprostol to the list of essential medicines. Additionally the Sindh Welfare Department has initiated a programme for the provision of free maternal health, childcare and treatment of infectious diseases, psychological and emotional health, and health referrals at government hospitals.

The Sindh government has also set up a provincial commission on health under the Health Care Commission Act, 2014. The commission aims to monitor public and private health care providers under minimum service guidelines/standards developed by the government. The commission also reserves the right to impose fines and penalties on service providers that violate minimum standards.

Rights of the child

Introduction

The government of Pakistan has made significant international commitments to uphold the rights of the child: Pakistan ratified the Convention on the Rights of the Child in 1990, and signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2011.

In the second cycle of the Universal Periodic Review, Pakistan was issued 28 recommendations relating to the rights of children. Pakistan accepted 21 and seven recommendations were left pending. The recommendations that were pending asked for the ratification of the optional protocol to the Convention on Child Rights on the involvement of children in armed conflict, and the ratification of the Palermo Protocol against trafficking of women and children. They also asked for legislation that banned the employment of children as domestic workers, as well as an outright ban on any labour for children under the age of 14.

This chapter evaluates Pakistan's mid-term performance in meeting the recommendations accepted under the 2012-2013 UPR. It analyses legislative and administrative developments in the country and assesses how far these go in assisting Pakistan to fulfill its obligations regarding the rights of the child.

Following the 18th constitutional amendment in 2010, the rights of the child were made a provincial subject. While greater provincial control on child rights' legislation allows provinces to draft laws and adopt policies that meet the peculiarities and requirements of the child population in their region, it has also resulted in disparity in the quality and kind of legislation regarding child rights between provincial standards. At one stage the four provincial governments did agree to coordinate their child right programmes but no follow up action has been reported. The lack of coordination among provincial departments tasked with child welfare concerns has bred new problems of its own, often in the form of delayed justice for children who come under the jurisdiction of more than one province.

Consequent to the devolution of child rights, there has been a flurry of new laws in the last few years. Most significant amongst these has been the creation of bodies in the form of commissions and bureaus, tasked with different aspects of the protection and promotion of child rights. The Khyber Pakhtunkhwa Child Protection and Welfare Commission and the Sindh Child Protection Authority are in charge of implementing legislation that protects the rights of children and have a wide range of responsibilities. The Punjab Child Protection and Welfare Bureau though created before the post-18th amendment devolution serves much the same purpose for the province of Punjab. Balochistan does not yet have an operational child protection department.

Despite the plethora of old and new legislation that now covers the subject of child

rights, major deficiencies are apparent. Labour laws prohibiting child labour only cover a limited list of occupations in which children under 14 may not be employed. Moreover, all these occupations fall within the formal sector, leaving the substantial informal sector in Pakistan completely unregulated. Children who work as domestic labour, in particular, are vulnerable to abuse and exploitation.

Laws regarding criminal liability continue to hold children above the age of seven criminally responsible, and amendments to this law are languishing in the assemblies. Amendments to the Pakistan Penal Code introducing sexual offences such as seduction of underage persons, child pornography and sexual abuse, are also still awaiting consideration by the National Assembly two years after being tabled. Trafficking is another major area of focus in the recommendations for which existing laws are completely inadequate.

More heartening developments have been made in the area of education. Compulsory and free education legislation has been passed in Punjab, Sindh, Balochistan and the Islamabad Capital Territory. Recent surveys have also shown an increase in enrollment rates in all provinces, and also in Gilgit-Baltistan and the Federally Administered Tribal Areas (FATA). Nevertheless, the low quality of education remains a major concern due to teacher absenteeism, absence of infrastructure, and lack of teacher training.

The child health sector has also seen gradual improvements with increased rates of immunization and lower maternal and child mortality in many parts of the country. However, worrying trends in the shape of famine in Tharparkar in Sindh leading to severe malnutrition, and declining health indicators in Balochistan have created a medical emergency in these regions, in which children have been particularly vulnerable. One of the main areas of concern is polio, and 51 union councils in Balochistan have been declared to be at a 'high risk' for the polio virus by the Balochistan Polio Emergency Cell. As many as 306 new polio cases were detected in Pakistan in the year 2014 alone, representing a whopping 86% of new polio cases worldwide for that year. The efforts to eradicate the crippling disease were compounded by targeted attacks on polio vaccinators and their security escorts, killing 41 vaccinators and security personnel in 2014.

It remains a longstanding concern that the jurisdiction of laws in Pakistan does not include FATA and Gilgit-Baltistan, and no laws to cover child rights have been passed especially for these areas. This puts the children of these regions at a clear disadvantage and results in denial of their fundamental rights.

While in some instances the government has shown the intent to pass legislation for the promotion and protection of the rights of children, the slow cogs of government machinery have delayed the enactment of these laws. Where laws already exist, they are seldom implemented, owing in many cases to inadequate provision of resources or low administrative capacity. Without remedying these issues in the coming two years, it appears unlikely that Pakistan will meet its UPR commitments on time.

Legislative measures and policies

Accepted recommendations

122.23. Sustain the positive momentum in upgrading its laws and institutions, in particular in the areas of the rights of women and children (Myanmar)

Partially implemented

122.24. Expedite the adoption of the Charter of Child Rights Bill (Bhutan)

Not implemented

122.34. Share its expertise in developing a Special Child's Rights Charter with other countries and continue its efforts in cooperation with international groups to advance this initiative (United Arab Emirates)

Not implemented

122.40. Continue its ongoing efforts to advance the rights of women and make similar efforts in the protection and promotion of the rights of children, especially by adopting the relevant legal instruments (Republic of Korea)

Partially implemented

122.59. Continue its policies on improving the rights of the child (Jordan)

Partially implemented

Assessment of implementation

Child protection

The current child protection apparatus in Pakistan is divided at the provincial level: In Sindh, the Child Protection Authority Act was enacted in 2011, but the body to implement provisions of the Act was constituted only in March 2015. In Punjab, the Child Protection and Welfare Bureau is the focal department for the protection of child rights. In Khyber Pakhtunkhwa, the Child Protection and Welfare Commission is in place for the same purpose. Balochistan and Islamabad Capital Territory do not currently have operational child protection departments.

Key provincial legislation that can be relied on to offer protection to children are: the Punjab Destitute and Neglected Children (Amendment) Act, 2007; the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010; the Sindh Child Protection Authority Act, 2011; and the Sindh Children Act, 1955, which though primarily a law for all juveniles also makes provision for the care of homeless and destitute children. A Bill regarding child rights is still pending in the Balochistan provincial

assembly. A Child Protection Policy is still pending in all provinces and at the national level.

Adding to the child protection system, in 2013 the Federal Ombudsman appointed a National Commissioner for Children. The purpose of the Commissioner's office is to create an avenue for the redress of complaints related to and by children against maladministration by federal agencies. Another stated purpose is to allow information gathering by collecting complaints and research that will allow the Federal Ombudsman to advise the government on systematic issues that may cause detriment to children in the country. The commissioner also has the power to take suo motu notice of mistreatment of children or denial of child rights by federal agencies. However, the office of the commissioner was established through a notification by the Federal Ombudsman and has no legislative support. Additionally, there is no sustainable funding and support from the state and it is currently run as a development project funded by UNICEF.

Labour

Children under 14 are forbidden by law to work in 34 professions listed in the Employment of Children Act, 1991. The West Pakistan Shops and Establishment Ordinance, 1969, which is in force in all the four provinces also prohibits the labour by children under 14 in shops, restaurants, hotels and other 'professional establishments'. Other than the listed occupations in both laws, there is currently no bar to employing children below the age of 14 despite the constitutional bar to employment of under-14 children in hazardous occupations. More worryingly, millions of children are currently employed in the informal sector, which is entirely unregulated and as a result, often offers unsafe working standards and harsh conditions of work for children. Within the informal work sector, children constitute a large proportion of domestic workers. Children doing domestic work are often mistreated and in some cases, they have been subjected to abuse resulting in their death.¹⁹

Although Pakistan has ratified the ILO conventions on minimum age of workers and the worst forms of child labour, implementation is far from satisfactory.

A draft domestic worker policy has been circulated within the Punjab government departments but is still in the early stages of inception. A Bill on the subject is also pending before the federal parliament. Children in domestic employment as well as in agriculture, both excluded from the only child labour survey, are yet to be surveyed. Similarly, a Restriction of Child Employment Act has also been passed in Khyber Pakhtunkhwa and has tabled in the Punjab Assembly, but is yet to be passed as law.

¹⁹ The Child Advocacy Network has reported 35 cases of domestic labour child death since the year 2000, most of these are girls. Punjab has the highest reported number of cases of abuse against domestic workers.

Juvenile Justice System

The state of juvenile justice in Pakistan is plagued both by administrative incapacity and outdated laws that do not meet international human rights standards for child treatment.

Section 83 of the Pakistan Penal Code (PPC) stipulates that a child over the age of seven can bear criminal responsibility if he or she is mature enough to judge and understand the consequences of his or her actions. This understanding of criminal responsibility of children is clearly in contravention of the principles of the Convention on the Rights of the Child. The Criminal Law (Amendment) Bill, 2014, increases this age of criminal liability to ten, but that is yet to be approved by the National Assembly.²⁰

The Juvenile Justice System Ordinance (JJSO), 2002, is the only major legislation that provides legal safeguards to juveniles. The JJSO defines anyone under the age of eighteen as a child and mandates the provision of legal aid for every child who comes into conflict with the law. Through notification, panels of lawyers in districts across all provinces have been set up ostensibly for the purpose of providing free legal aid to juveniles, but in practice these panels have done little to assist children facing trial. Child rights groups consider lack of resources for these panels as a major reason for their non-operational condition. Moreover, separate juvenile courts, another venue for juvenile justice mandated under the JJSO, have not been established anywhere in the country.²¹ Child Rights Desks are yet another initiative under the JJSO to provide legal assistance in matters involving children, but currently not a single Child Rights Desk exists in Pakistan.

In terms of institutional capacity, the lack of government attention and resource allocation to rehabilitate and decriminalize juveniles is evident from the lack of borstal or detention centers for juveniles. Khyber Pakhtunkhwa and Balochistan do not have any borstal or detention institutes meant for juveniles, though a borstal institution law has been passed by the Khyber Pakhtunkhwa assembly in 2012 and plans to establish a borstal in the province are underway. Punjab and Sindh have notified existing prisons run by the prison department as borstal institutes and juvenile jails that run contrary to the provisions of the JJSO. The direct result of this situation is that in many cases juveniles have to be kept in close contact with hardened criminals which is likely to push them into a life of crime, while the paucity of specialized juvenile institutes means that little to no effort is put into rehabilitating juveniles and helping them to become productive, law abiding members of society.

²⁰ This will not apply to anti-terrorism cases.

²¹ Sohail Ramzan, 'Juvenile Justice System Ordinance is in books only', Pakistan Today, 19 July 2014, accessed at: <http://www.pakistantoday.com.pk/2014/07/19/national/juvenile-justice-system-ordinance-is-in-books-only/>

Street children

Street children are the most vulnerable group of children in the country, being susceptible to crime, disease, drug abuse and sexual exploitation. Therefore, any comprehensive effort to improve child rights must include provisions to improve the situation of street children.

Currently, an estimated 1.2 to 1.5 million children live on the streets in Pakistan. Many of these children are orphans or have been separated from their families following major natural disasters or while fleeing conflict areas. Laws such as the above-mentioned Punjab Destitute and Neglected Children Act 2004, Sindh Child Protection Authority Act 2011 and Khyber Pakhtunkhwa Child Protection and Welfare Act 2010 all make provisions for the care of unaccompanied or uncared for street children. Despite the existence of this legal protection none of the provinces except Punjab has established facilities to house any children at risk taken off the streets.²²

Sexual harassment and trafficking

Accepted recommendations

122.54. Strengthen measures aimed at providing protection and assistance to vulnerable segments of society, including those children affected by natural disasters to protect them from trafficking and exploitation at work (Libyan Arab Jamahiriya)

Not implemented

122.71. Develop a comprehensive strategy to prevent sexual exploitation of children and their cruel treatment and increase criminal liability for these crimes (Belarus)

Not implemented

122.95. Continue to work towards the empowerment of women and the promotion and protection of all their rights and intensify efforts and programmes to combat the phenomenon of trafficking of women and children (Qatar)

Partially implemented

122.105. Continue fighting against trafficking of children and violence against

²² Hasan Mansoor, 'Sindh has no facility to house street children being sent from Punjab today', Dawn, 23 July 2014, accessed at: <http://www.dawn.com/news/1120993>

women (Djibouti)

Partially implemented

122.107. Ensure the reporting and investigation of cases of violence against women, effective awareness campaign against violence and consolidate measures to address sexual abuses and exploitation of children (Egypt)

Not implemented

Assessment of implementation

Sexual abuse and exploitation of children pose serious threats to rights of children in Pakistan. Cases of sexual abuse are grossly underreported due to victims' reluctance to speak out in a conservative society, where a social stigma is attached to such victims. Moreover, victims in rural areas have limited access to reporting channels. Despite these limitations, in 2013 over 3,000 cases of sexual abuse of boys and girls under 18 were reported.²³ This was almost an 8% increase over the previous year.

Despite these numbers, child sexual abuse and harassment are a highly unregulated area in Pakistan's domestic law, as current legislation does not recognize the offence of 'sexual abuse' under the Pakistan Penal Code (PPC). The only existing offences that relate to sexual mistreatment are sexual harassment and rape (which is only established when the act of penetration occurs). Offences such as molestation are yet to be criminalized in the penal code. Once established, any kind of sexual intercourse with a child under 12 years of age is automatically considered to be without consent and is a crime under the PPC. Kidnapping or abducting a woman (including girls less than 18 years of age) where the abductor has the knowledge that the girl might be forced or seduced into intercourse is also a punishable offence under Section 365B of the PPC. The provision states 'Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled...or in order that she may be forced, or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished'.

The only law that currently recognizes sexual offences such as child molestation is the Anti Terrorism Act, 1997, but this is only in cases when molestation is coupled with rape.

Since 2009, the Ministry of Social Welfare has taken steps to amend existing laws regarding sexual abuse of children. However, despite consultations with a wide

²³ This includes incidents reported in the media and directly to NGOs working against sexual abuse such as SAHIL.

array of stakeholders, the amendment Bill introducing sexual offences against children into the law was not passed till 2013 when the assemblies completed their tenure. In 2014, it was tabled again as a Private Member's Bill in the National Assembly and is still awaiting consideration. The Bill adds a number of offences relating to sexual abuse: it makes it a punishable offence to expose children to explicit materials using any form of visual media and makes it an offence to aid in any manner the making, possession or distribution of pornographic material containing explicit images of children.

The offence of sexual abuse, pertaining to children and all other persons, is also directly incorporated by stating that 'whoever employs, uses, forces...or coerces any person to engage in, or assists any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct'²⁴ will be punished.

Surveys by NGOs working on sexual abuse show that children who live on the streets 'street children' are disproportionately at risk of being sexually abused. A high proportion of children forced into prostitution also fall in the category of street children. Transgender children are another vulnerable group that is a target of sexual abuse. Yet, the government has done little to give protection to these vulnerable groups of children. The Punjab Destitute and Neglected Children Act, 2004, has been enacted in Punjab and makes provisions for the rescue of destitute and neglected children who are to be taken into custody and relocated to child protection centers. Disturbingly, child protection centers are very few in number and exist in only six out of the 36 districts in the province. In Khyber Pakhtunkhwa, the Child Protection and Welfare Act, 2010, gives an expansive definition of a 'child at risk' and gives protection against offences such as child pornography, child sexual abuse, sale of child organs, corporal punishment, child begging and child trafficking but the problem of limited application in the province remains unsolved. In Sindh, the Child Protection Authority Act 2011 is yet to be properly implemented and no such laws providing for child protection centers exist in Balochistan, Islamabad Capital Territory or Gilgit-Baltistan and the tribal areas.²⁵

There are no special provisions for the care of transgender children who are without families. These children are at high risk for being engaged in prostitution at very early ages. The Sindh Social Welfare Department set up a community center in Karachi where transgender children could get vocational training but the center has been non-operational for the past many years due to lack of funds.

²⁴ Section 377A, Criminal Law (Amendment) Bill 2014.

²⁵ The population of street children has dramatically increased since 2010 following natural disasters such as floods and the increase in conflict in the Northern regions of the country.

Trafficking of children is a serious issue leading to illegal and bonded child labour as well as child abuse and prostitution. The Prevention and Control of Human Trafficking Ordinance, 2002, prohibits all forms of international trafficking. The Federal Investigation Agency has an anti-trafficking unit, and an inter-ministerial Committee on Human Trafficking and Smuggling to coordinate federal efforts to stop trafficking and help other countries in international investigations on trafficking has also been constituted.

Although no accurate statistics on international trafficking are available, Pakistan is a source, transit and destination country for trafficking. Girls from Afghanistan, Burma, Bangladesh Iran, Nepal and Central Asia are trafficked to and through Pakistan.²⁶ Within Pakistan, children from rural areas are trafficked to urban centers, where in many cases parents are made to believe that they are sending children to good employment within Pakistan or abroad. Internal trafficking is completely unregulated no offence of trafficking within the national borders of Pakistan is there on the statute book. Potential trafficking is only checked at seaports and airports. Police have used provisions relating to kidnapping and abduction when internally trafficked children have been rescued. Furthermore, no inter-provincial coordination system exists to facilitate the rescuing of trafficked children and prosecution of their abductors where they are abducted and taken from one province to another.

Violence and discrimination

Accepted recommendations

122.41. Continue to enhance its efforts to protect women, children and other vulnerable groups against discrimination and violence (Singapore)

Partially implemented

122.84. Intensify its efforts to effectively implement the laws on discrimination against women, and on the promotion and protection of children (Tunisia)

Partially implemented

122.117. Take steps to bring to justice those who have threatened, or attacked human rights defenders, children, and others who are working to promote democracy and accountability in Pakistan (Canada)

Partially implemented

²⁶ Country Report on Human Rights Practices for 2006, U.S Senate Committee on Foreign Relation, April 2008, page 2444.

Assessment of implementation

Violence

Violence against children is a pervasive issue in all provinces, and is manifested in a variety of forms. Children face violence at work, at home and even in schools in the form of corporal punishment.

Some legal structures exist to address complaints of violence against children. Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan have all set up Child and Women sections or Child Complaint departments under the office of their provincial ombudsman between the years of 2010-2012. These offices have been set up with the assistance of UNICEF, and are meant to allow complaints against government agencies and departments made by or on behalf of children.²⁷ Regrettably, their power only extends to recording complaints, and these departments are helpless if necessary laws do not exist to address the subject of the complaints they receive.

Some improvements have recently been made in procedures in Sindh that make reporting and prosecution of cases of violence against children easier. The Sindh government has ordered, through a Health Department notification, that hospitals must provide the materials required to record medical evidence; they must give copies of all results of chemical examinations and if they fail to do so, the children or their family on their behalf can make a complaint against the medical staff.

Nevertheless, legal issues continue to plague efforts to combat violence against children and hold perpetrators accountable.

Corporal punishment

Corporal punishment is an insidious form of violence against children that is regrettably an accepted method of 'disciplining' children in Pakistan. In the past few years, the media has reported dozens of cases in which corporal punishment in schools has resulted in permanent disfigurement and disability of the affected child.

The Pakistan Penal Code does not prohibit corporal punishment when it is carried out by a person in charge of the child in 'good faith' and allegedly for the child's benefit. Similarly, child welfare laws in Punjab do not prohibit corporal punishment while the Khyber Pakhtunkhwa Child Protection and Welfare Act ostensibly bans

²⁷ There have been reports that people seeking to make complaints at some of these offices are unable to access them as they are located within the provincial secretariats.

corporal punishment whilst paradoxically allowing it if done in 'good faith'. No law preventing corporal punishment exists in Balochistan. The Free and Compulsory Education Acts in Sindh and Punjab are the only laws currently in place that unequivocally prohibit corporal punishment (though this provision has never been enforced in practice). A Prohibition of Corporal Punishment Bill was tabled in the National Assembly in 2014, but is still awaiting approval by both houses.

Discrimination against minority children

In 2014, there were 150 reports of forced marriages²⁸ of underage Hindu girls in Sindh. In recent years, forced conversions and marriages have increased in interior Sindh where there is a sizeable Hindu population. There have been many incidents of girls under the age of 18 being abducted, forcibly converted to Islam, and made to marry Muslim men. The Child Marriage Restraint laws in each province, whilst punishing those who perform or aid a child marriage, do not nullify the marriage. Therefore, once abducted and converted, these underage girls are offered no adequate recourse. Recently, the Sindh Assembly increased the minimum age for marriage of girls to 18 (in other provinces the age remains 16), whilst Punjab has increased the penalties for carrying out a child marriage, but none of these laws give underage girls the option to nullify these marriages when they have taken place without their consent.²⁹

Education

Accepted recommendations

122.141. Strengthen its efforts to combine social security and poverty alleviation measures with the free and compulsory education programme that will enable the provision of the free education for all children (Indonesia)

Not implemented

122.146. Consider providing universal free primary education to all children, regardless of their sex, nationality, race or ethnic origin (Thailand)

²⁸ Despite the illegality of these marriages, an NGO Sahil, recorded an increase in underage marriages from 2012 to 2013. See also 'Punjab cracks down on child marriage', Express Tribune, 11 March 2015, accessed at: <http://tribune.com.pk/story/851328/punjab-cracks-down-on-child-marriage/>

²⁹ The Dissolution of Muslim Marriages Act, 1939, that still applies to all areas except the Tribal areas allows for annulment in some cases. Section 2 of the Act provides: "A woman married under Muslim Law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely: (vii) that she, having been given in marriage by her father or other guardian before she attained the age of sixteen years, repudiated the marriage before attaining the age of eighteen years: Provided that the marriage has not been consummated."

Partially implemented

122.153. Continue with its measures to protect children and improve their access to education (Senegal)

Partially implemented

Assessment of implementation

Article 25-A of the Constitution of Pakistan, which was inserted in 2010 through the 18th constitutional amendment, made entitlement to free and compulsory education of all children between the ages of five and sixteen a fundamental right.

The Sindh Assembly passed 'the Sindh Right of Children to Free and Compulsory Education Act' in 2013. This law makes it the state's duty to ensure enrollment and attendance as well as provision of all school related facilities for all children in Sindh.

Punjab enacted the Punjab Free and Compulsory Education Ordinance in 2014. The law repealed the Punjab Compulsory Primary Education Act, 1994. The ordinance calls for the establishment of schools in areas where there are none, and sets professional standards for school staff by listing regularity, curriculum development and keeping children free of anxiety and fear as their duties. It is also similar to the Sindh Act in charging the government with responsibilities regarding enrollment and school facilities.

In Balochistan, the Right to Compulsory Education Act, passed in, 2014 was a major milestone as no child rights specific laws had existed in the province prior to this. This is the most comprehensive of the provincial laws, offering little regulation of school staff and instead concentrating on the setting up of a Parent School Management Committee and an Attendance Authority. This Act, therefore, puts the onus of ensuring attendance on the parents; if they fail to send their child to school without any excuse (listed in the Act), they can be hauled up before a magistrate.

A similar Bill is pending in the Khyber Pakhtunkhwa provincial assembly. The NWFP Compulsory Primary Education Act, 1996, remains in force in the province. The proposed Khyber Pakhtunkhwa compulsory education law will also include penalties for parents and guardians who fail to send their children or wards to school.

The Sindh and Punjab free and compulsory education laws also bring private schools within their purview and stipulate that privately owned or managed

schools must also provide free education to at least 10% of their total student strength.

Enrollment figures for schools in Punjab from 2013 and 2014 are consistently high, averaging to around 80% (from a high of 98% to the lowest of 60%). Figures from Kashmir, Khyber Pakhtunkhwa and Gilgit-Baltistan are also consistently high while Sindh and Balochistan show great disparity between urban and rural areas.³⁰ Nevertheless, a nationwide increase in enrollment rates can be seen from 2011 to 2014.

Despite increased levels of enrollment, the quality of education being imparted remains a concern, as figures of children in the same districts who are able to read Urdu and English are significantly lower than the enrollment figures. Improving the quality of teaching through teacher trainings is not given due importance, and only 1.8% of education expenditure goes into training teachers.³¹

Moreover, boys are enrolled in schools at a much higher rate than girls in all provinces. Enrollment rates drop sharply as the level of the classes rises, this is partially due to the fact that middle schools in rural areas are much fewer and farther away than basic primary schools, because of which many parents decide against sending their children to middle and high schools. This is especially true in the case of females. The existence of 'ghost' schools, schools where teachers' salaries are being paid but no educational activity is taking place, is also a worrying feature of the education sector. A survey in 2013 identified 1,205 ghost schools across Pakistan.³²

There have been reports of discrimination against children of people who are rumored to have joined militant groups in Khyber Pakhtunkhwa, for example, have denied admission to these children for being 'children of terrorists'. Child rights activists fear that such marginalization in addition to depriving these children of their right to education may result in their radicalization.

The bait-ul-maal³³ has funds that can be disbursed to children whose families may

³⁰ ASER Pakistan, 'Annual Status of Education Report', accessed at: <http://www.aserpakistan.org/index.php?func=report>

³¹ Dr. Hafiz A Pasha, 'The crisis of primary education', Express Tribune, 19 March 2015, accessed at: <http://tribune.com.pk/story/855302/the-crisis-of-primary-education/>

³² Waseem Abbasi, 'Over 12000 ghost schools found all over the country', The News, 30 August 2013, accessed at: <http://www.thenews.com.pk/Todays-News-2-198912-Over-1200-ghost-schools-found-all-over-the-country>

³³ The bait-ul-maal is an autonomous government body set up in 1991 to provide social protection to the poor marginalized segments of the society. It contributes towards poverty alleviation through its various services and providing assistance to the destitute, widows, orphans, and invalid, infirm and other needy persons, as per eligible criteria approved by Bait-ul-Mal Board.

need extra assistance to be able to send them to school. Unfortunately, the process for applying for funds is very long and cumbersome and far too technical for most of the people who would require them. Due to this millions of rupees are left unused in the bait-ul-maal each year when they could be helping impoverished families send their children to school.

Health

Accepted recommendations

122.91. Continue working for the welfare of children, women and persons with disabilities (Nepal)

Partially implemented

122.134. Continue its efforts for a systematic and sustained training process of child as well as developing the Child Protection Management Information System (CPMIS) and advancement in child immunization (Iran (Islamic Republic of))

Not implemented

122.57. Ensure adequate resources in implementing MDGs with priority focus on vulnerable groups such as women and children (Viet Nam)

Partially implemented

Assessment of implementation

Infant mortality

Of the eight Millennium Development Goals (MDGs) Pakistan has committed to meeting by 2015, five are particular relevant for the welfare of children. These are: eradicating extreme hunger and poverty; achieving universal education; reducing child mortality; improving maternal health; and reducing HIV/AIDS, malaria and other diseases.

Extreme hunger and poverty directly result in food insecurity and malnutrition in the child population. According to a National Nutrition Survey carried out in 2013, 60% of Pakistan's total population faces food insecurity.³⁴ The resulting malnutrition in the child population is responsible for 35% of deaths of children

³⁴ '60pc Pakistanis facing food insecurity', Dawn, 21 November 2013, accessed at: <http://www.dawn.com/news/1057489>

under five. Similarly, child mortality continues to be high as one out of every 14 children dies before completing the first year. Maternal mortality rates are also consistently high (276 out of 100,000 live births).³⁵

Progress in these MDGs continues to be slow despite increased allocation in the health budget in recent years in all provinces. According to UNDP indicators for measuring progress in MDGs, Punjab has made the greatest progress in nearing its MDG goals amongst the provinces, though it is unlikely that it will actually achieve the targets set for 2015 unless major changes are made. Sindh, though making progress in other areas, lags behind even the national average for infant mortality and malnutrition. This is due partially to the recent famine in Tharparkar that has led to many infant deaths. Khyber Pakhtunkhwa has lower than average progress in immunization, which is in part an unfortunate result of the attacks on polio vaccine workers. Balochistan is the worst performing province per almost all indicators. The rising security challenges, lack of adequate resources, and unsound priorities of the government have put Balochistan at the risk of not only failing to achieve any targets but also undoing any progress that was previously made: 43% of children are under-weight in Balochistan; child mortality rates are high even by national standards; and maternal mortality has increased to 785 per hundred thousand live births (more than three times that of other provinces).³⁶

Two major causes of high infant mortality rates are a lack of proper breastfeeding practices and minimal access to adequate childbirth facilities, including trained midwives. Legal measures have been adopted to combat these issues to some extent. The Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority Act, 2014, seeks to establish a health authority to improve pre-natal and antenatal health, ensure universal immunization of children, ensure proper medication for children afflicted with preventable diseases and reduce malnutrition amongst children. Sindh, Khyber Pakhtunkhwa and Balochistan have all passed laws for the protection and promotion of breastfeeding and child nutrition.

The lady health worker programme has also been a great success in providing women with qualified and capable pre- and post-natal help, as well as in the immunization of young children. Recent reports that the lady health worker programme will be rolled back have created a large number of vacancies in the programme, which will further aggravate the problem.

³⁵ 'Agonizing State of Maternal and Infant Mortality in Pakistan', National Trust for Population Welfare, accessed at: <http://www.pide.org.pk/pdf/Seminar/Agonizing%20State%20of%20Maternal%20-%20235%20.pdf>

³⁶ 'Eight Goals for 2015', UNDP, accessed at: <http://www.pk.undp.org/content/pakistan/en/home/mdgoverview.html>

Immunization

A major fallback for the immunization programme has been the recurrence of polio due to security problems with administering polio vaccines. Additionally, there are plans to shelve the National Malaria Control Programme, an effective programme for reducing malaria. Health experts fear this premature move will damage the progress made in treating preventable diseases as part of the MDGs. An improvement in the area of immunization has been the addition of the pneumonia vaccine to the vaccine bundle administered to children.

Disabilities

According to Pakistan's latest census carried out in 1998, there are over 3 million people with disabilities in Pakistan. Around 24 percent of them are children between the ages of 5 and 15. Pakistan is a signatory to the Convention on the Rights of Persons with Disabilities (CRPD) and therefore committed legally to improving conditions for persons with disabilities.

On the governance front, there exists a National Policy for persons with disabilities since 2002 that covers topics such as vocational training, sports and recreation and awareness campaigns and building requirements to make access for disabled persons easier. In Sindh and Punjab there are independent special education departments meant to administer and improve the educational opportunities for persons with disabilities. In Khyber Pakhtunkhwa and Balochistan the care of special persons falls within the ambit of the Department of Welfare. Despite the existence of these structures, no special legislation has been made for the development and aid of special children. A large proportion of them remain out of schools, and only 4% have access to schools that agree to enroll them. The Punjab Free and Compulsory Education law mandates the provision of 'suitable' education to mentally or physically challenged children, but does not specify what measures must be taken to ensure this.

CPMIS

The Child Protection Management Information System (CPMIS) collects information from stakeholders to develop and target resources towards child protection goals. Despite its many policy and administrative advantages, no state-run operational CPMIS exists in Pakistan at the moment. UNICEF has developed a similar system for its own programme operations in Pakistan.

Approximately 1.6 million Afghan refugees live in Pakistan. Infant and maternal mortality rates for the refugee population are significantly higher than those of the native Pakistani population. According to the Afghan Women's Council, a non-

profit organization established in Peshawar to aid Afghan women,³⁷ three out of ten Afghan refugee children in Pakistan suffer from malnutrition. Despite assistance and funding from the UNHCR and World Health Organization, the government has not done enough to provide adequate health infrastructure and facilities in areas of dense refugee population. Additionally, despite requests from UN humanitarian agencies, the government has also not provided special legal status or assistance to women-headed households that form the poorest and most marginalized of refugee groups, and suffer most from these abysmal health conditions.

Protection of children in conflict

Accepted recommendations

122.104. Adopt all possible measures to prevent and explicitly prohibit in its legal order the recruitment of children and their participation in armed actions and terrorist activities (Uruguay)

Not implemented

122.72. Continue to develop and enhance programmes to provide education and support to children who have been recovered from militants or extremists, and to help them reintegrate into society (Singapore)

Not implemented

Assessment of implementation

The rise of situations of armed conflict and internal terrorism in Pakistan in the previous decade has adversely affected the lives of many children. Along with the problems of general insecurity, a direct result of this increased conflict has been the arrival of thousands of internally displaced children and the recruitment of children into armed groups for combat.

There have been some instances of children being rescued from militant groups where they had been trained as combatants.³⁸ In 2009, the military set up a temporary rehabilitation programme for these children in an army school, but there is currently no permanent programme to rehabilitate such children and help them get a new start. Moreover, Pakistan has not ratified the Optional Protocol on the

³⁷ Women form the majority of the Afghan refugee population in Pakistan due to death in conflict of male members of the family, abandonment and lack of employment opportunities for men.

³⁸ 'Pakistan 'rescues' child soldiers', Al Jazeera, 29 July 2009, accessed at: <http://www.aljazeera.com/news/asia/2009/07/200972914236661774.html>

Involvement of Children in Armed Conflict, which in fact is one of the recommendations of the UPR left pending in 2012-2013. It is worrisome that the government has made no provisions to rescue or rehabilitate this growing population of children and prevent the further recruitment of child soldiers.

Human rights defenders and freedom of expression

Introduction

In the second cycle of the Universal Periodic Review conducted by the Human Rights Council in 2012-2013, Pakistan was issued eight recommendations that relate to human rights defenders and freedom of expression. Out of the eight, Pakistan accepted seven and 'noted' one recommendation. The 'noted' recommendation required Pakistan to develop a national policy for human rights defenders to help ensure their safety, and give them justice in situations where they were threatened or attacked for their work.

This chapter evaluates Pakistan's mid-term performance in implementing the recommendations it accepted in the 2012 Universal Periodic Review. It analyses legislative and administrative developments since the adoptions of the UPR outcome, and assesses how far these steps fulfill obligations arising out of accepted recommendations relating to human rights defenders and freedom of expression.

Human rights defenders have come under attack in Pakistan with the rise of an extremist ideology, militancy and a highly security-centered state in the past decade. Prior to the acceptance of the 2012 UPR recommendations, two coordinators for the Human Rights Commission of Pakistan were killed in different parts of Balochistan and three more have been killed elsewhere since then. Following the 2012 UPR, there has not been any positive change in terms of the safety of persons working for the promotion and defence of human rights.

Journalists, lawyers, activists have all come under attack, with a large number of unlawful killings recorded from 2012 to 2015. The government has so far not shown any political will to formulate a robust policy or system for the protection of human rights defenders. Legal measures introduced following attacks on journalists have been more concerned with financial compensation following an attack rather than on strengthening protective and accountability measures. Perpetrators have largely operated with unfettered impunity and ad hoc committees established to investigate attacks on high profile media targets have failed to release any conclusive reports or hold anyone accountable. Most alarmingly, institutions of the state, primarily the intelligence and military apparatus, have been consistently accused of being accomplices in many such attacks and in the disappearances of human rights defenders. This is especially true in cases where the HRDs have been vocal regarding political victimization and violations of fundamental rights in Balochistan. The ever-expanding legal apparatus of the 'security state' has also made it easier for the government and security agencies to clamp down on HRDs by labeling them 'anti-state'.

Freedom of expression is similarly under attack with increased censorship of online media and unprecedented disciplinary measures being taken against television channels for airing 'anti-state' and 'blasphemous content'. There have

been many cases of online harassment and smear campaigns against HRDs, activists and other vocal members of civil society who exercise their right of dissent or provide a counter-narrative to state positions and propaganda.

Security of human rights defenders

Accepted recommendations

122.110. Take measures to combat impunity of all those who attack human rights defenders (Spain)

Partially implemented

122.117. Take steps to bring to justice those who have threatened, or attacked human rights defenders, children, and others who are working to promote democracy and accountability in Pakistan (Canada)

Partially implemented

122.118. Bring to justice perpetrators of attacks on journalists by effectively investigating all individuals and organizations accused of such abuses (Norway)

Partially implemented

122.119. Introduce strong legislation prohibiting attacks against journalists to effectively investigate such acts and prosecute the perpetrators (Austria)

Not implemented

Assessment of implementation

Attacks against human rights defenders and impunity

With the rise of religious extremism, militancy, internal conflict and military operations in the northern and tribal regions of Pakistan, the work of human rights defenders has become even more difficult and more hazardous. State institutions have regrettably either been found helpless and unresponsive in the face of these challenges or, in some cases, have been even complicit in clamping down on the voices of HRDs.

Since 2012, the security situation for journalists has been worsening. Within the span of a single month in 2012, four journalists were killed. Amongst them was news correspondent Razzaq Gul, whose bullet-riddled body was found in Turbat, Balochistan, and involvement of state security agencies was suspected.³⁹ Leads

³⁹ Raza Rumi, 'Commentary: Attacks on Journalists and Human Rights Defenders in Pakistan', Human Rights Watch, June 8 2012, accessed at: <http://www.hrw.org/news/2012/06/08/commentary-attacks-journalists-and-rights-defenders-pakistan>

were also found for the other three extrajudicial killings but no suspects were apprehended in any of these cases. The South Asia Terrorism Portal, a database recording terrorism incidents across South Asia, has recorded 11 other killings of journalists from 2012 to the beginning of 2014.⁴⁰ The Human Rights Commission of Pakistan has documented at least 23 killings of human rights defenders and journalists from January 2014 to April 2015.

In 2014, Human Rights Watch ranked Pakistan as the 'most dangerous country for journalists'. Freedom Network Pakistan, a media rights watchdog, published a similar report stating that 2014 had been the worst year in past many decades for media security and freedom in Pakistan with 14 journalists, media personnel and bloggers killed for their work within the year.⁴¹ A few high profile cases in 2014 include an attack on prominent journalist Hamid Mir, who was shot allegedly in response to his television shows highlighting enforced disappearances in Balochistan; an attack on political analyst and television anchorperson Raza Rumi by unidentified gunmen; and an attack on Irshad Mastoi, bureau chief of a prominent news agency who was shot dead in his Quetta office. In addition, 58 others were also injured, attacked, kidnapped or harassed.⁴²

In addition to journalists, lawyers, judges and activists have also been targeted for their human rights work. Most prominently, lawyer Rashid Rehman was shot and killed at the HRCP office in Multan after having received numerous threats. He was the defence lawyer for Junaid Hafeez, a university professor facing trial for allegedly committing blasphemy. Lawyers representing persons accused of blasphemy have cited an intimidating courtroom atmosphere as a major hindrance in pursuing cases adequately and feel that their security is threatened in such an environment. Similarly, judges, especially those hearing controversial cases against persons with ties to militant groups and blasphemy offenses, have been threatened and intimidated in order to influence their decisions.

Activist and former Human Rights Watch Director for Pakistan, Ali Dayan Hasan, received multiple threats to his life and a propaganda campaign was mounted against him for speaking against atrocities committed by the state security agencies. Taimur Rahman, an assistant professor at a prominent university in Lahore, was also the target of a smear campaign along with his family on social media and television shows for protesting the cancelation of a discussion on rights of citizens in Balochistan.

Additionally, the United Nations Office for the Coordination of Humanitarian Affairs

⁴⁰ 'Terrorist Attacks on Journalists in Pakistan', South Asia Terrorism Portal, accessed at: http://www.satp.org/satporgtp/countries/pakistan/database/Terrorist_attacks_Journalist.htm# (not an exhaustive list)

⁴¹ 'Report terms 2014 the worst year for Pakistani Media', Dawn, January 7 2015, accessed at: <http://www.dawn.com/news/1159521>

⁴² 'Chronicles of Shame: Violations Against Pakistan's Media and Journalists in 2014', Freedom Network, January 25 2015, accessed at: <http://www.fnppk.org/chronicles-of-shame-violations-against-pakistani-media-and-journalists-in-2014/>

reported 91 attacks against aid workers only between January and November 2013. 29 of those attacked were killed. Amongst the most vulnerable of aid workers are health workers administering polio vaccines. In the years 2013 and 2014, over 60 polio workers were killed across Pakistan.⁴³

HRDs in Balochistan, FATA and Gilgit-Baltistan operate in an especially repressive and dangerous environment. Many journalists and vocal supporters of the rights of Baloch people have been abducted since 2012. One of them was Zahid Baloch, a nationalist student leader and activist. Zahid Baloch was picked up at gunpoint by men in military uniforms in March 2014 and has been missing ever since. Even more disturbingly, a mass grave was uncovered in Turbat, Balochistan in January 2013. It is feared that at least three of the bodies in the grave are of Baloch 'missing persons'.

In April 2015, human rights defender Sabeen Mehmud was subjected to a targeted attack by 'unknown assailants' after a discussion she had arranged on the plight of Baloch activists and missing persons in Karachi. She was killed while driving towards her home, and her mother was injured. Prior to the discussion, Sabeen had received warnings from persons purporting to represent the intelligence agencies, asking her to cancel the event. The Sindh government has since arrested four suspects who they claim were responsible for Sabeen Mehmud's assassination, including Saad Aziz, a graduate of a prestigious business school who reportedly 'confessed' to killing Sabeen for holding an event about Valentine's Day.

In Gilgit-Baltistan, there has been a severe crackdown on political activists demanding greater civil and political rights for the region. Peaceful protestors demanding compensation for displacement and making speeches for better protection of civil and political rights in Gilgit-Baltistan have been charged with sedition. In a vicious cycle of repression, human rights activists demanding the release of wrongly imprisoned and sentenced activists have also had criminal charges filed against them.

Women human rights defenders face a doubly dangerous situation as they not only face challenges due to the nature of their work but also because of their gender. Women HRDs are at greater risk of sexual violence, as well as facing prejudice in the course of their work. This is exemplified by the words of a cleric and former National Assembly member from Kohistan who decreed in a sermon that women working for NGOs were barred from entering Kohistan and if they were to do so they would be forcibly married to local men.⁴⁴

The Internet has also been used as a means of increased harassment and threats of sexual violence against women HRDs. Multiple incidents have been reported

⁴³'Polio workers killed in Pakistan attack', Al Jazeera, 26 November 2014, accessed at: <http://www.aljazeera.com/news/asia/2014/11/polio-workers-killed-pakistan-attack-20141126556854951.html>

⁴⁴'Anti-women decree: NGOs call for action against Kohistan cleric', Dawn, 1 June 2012, accessed at: <http://www.dawn.com/news/723011/anti-women-decree-ngos-call-for-action-against-kohistan-cleric-2>

where women activists had propaganda campaigns launched against them through social media. Pornographic materials with their faces morphed onto sexually explicit images were shared widely and personal details including home addresses and phone numbers of the women and their family members were circulated. In some cases, this led to the women being physically attacked whilst others were forced to retract statements and information they had published exposing human rights violations for fear of their personal security. No action has been taken in response to any complaints made regarding these incidents except where the women HRDs were able to use personal connections with the police authorities to have websites sharing their personal information blocked within Pakistan.

HRDs working for the protection of labour rights have also come under attack through contrived cases being instituted against labour union members agitating for better working conditions. Though laws regulating industrial relations are in place, the redress processes for wrongful dismissal (the most frequently used method to silence labour rights defenders) are extremely lengthy and tedious. There are no systems in place to facilitate or expedite litigation that workers can ordinarily not afford, especially when pitted against the exponentially more powerful state or big businesses, effectively silencing labour rights activists.

Despite this increasing insecurity for HRDs, little has been to enact laws and policies and put in place systems to prevent the proliferation of such incidents. Moreover, the general culture of impunity that has led to perpetrators of acts against HRDs going scot-free is a direct contravention of Pakistan's human rights obligations, including commitments made in the 2012 UPR.

Whilst Pakistan has reaffirmed its commitment to the principles of the UN Declaration on Human Rights Defenders, there is little in the way of legal provisions and systems in place to ensure that those principles are upheld and implemented. General criminal laws and their implementation have not helped in ensuring the safety of HRDs. A lack of will on the part of the state to bring perpetrators to justice has compounded this problem, as criminal cases instituted and commissions established to investigate attacks on HRDs (for example the commissions constituted to investigate the attack on Hamid Mir and the murder of Saleem Shahzad) have produced no result. Moreover, lack of security for judges has hampered their ability to award impartial decisions on the true merits of a case and led to even greater impunity for the attackers.

One exception to this norm is the trial for the unlawful killing of journalist Wali Khan Babar. In March 2014, six suspects facing trial were convicted by an anti-terrorism court for their role in Wali Khan Babar's murder. Even in this case,⁴⁵ however, the 'masterminds' behind the killing have still not been apprehended.

⁴⁵ Committee to Protect Journalists, 'In Pakistan, six convicted in Wali Khan Babar murder', 3 March 2014, accessed at: <https://cpj.org/2014/03/in-pakistan-six-convicted-in-wali-khan-babar-murde.php>

There have been some other developments of note related to journalists at the federal and provincial levels. The federal government has established a committee of relevant ministers that will assess recommendations on providing assistance to journalists in distress as well as compensation for those injured or killed. The Khyber Pakhtunkhwa Journalists Welfare Endowment Fund Act, 2014, is tasked to do the same for journalists in KP. The Sindh government has announced a compensation package for families of journalists killed in the line of work, and the Balochistan government has set up a commission to investigate the deaths of journalists in the province. Nevertheless, these steps are all ad hoc, arbitrary and other than the Khyber Pakhtunkhwa Welfare Act, they do not have legal foundations.

At the federal level, the National Assembly has also committed itself to drafting a federal law on the safety of journalists but no such draft has been made public.⁴⁶

Human rights defenders operating within the tribal areas have received threats from militant groups; security agencies operating in the region; and the office of the political agent, the official state representative in the area. Numerous activists and journalists have been killed⁴⁷ or kidnapped and the application of the Frontier Crimes Regulation (FCR) to these areas continues to deprive residents of the basic rights other citizens of Pakistan enjoy, at least in the law. Under the FCR, the political agent may detain indefinitely anyone who in his opinion could 'threaten the peace'. This is a repressive law that can very easily be used to silence HRDs in the tribal areas.

National Commission for Human Rights

The National Commission for Human Rights Act was enacted in 2012, and finally in May 2015 members of the commission were notified. However, it is a matter of concern that the commission may be toothless at birth, as the NCHR Act, 2012, contains no mention of support or assistance for human rights defenders. Moreover, the commission will have no power to question actions taken by state intelligence agencies, whose involvement is suspected in many cases of attacks on HRDs.

Freedom of expression and right to information

Accepted recommendations

122.27. Review and align the legislation with freedom of religion and belief and freedom of expression, as stipulated in the ICCPR (Sweden)

Not implemented

⁴⁶ Noor Aftab, 'Efforts afoot to get journalists safety bill approved', Pakistan Freedom of Expression Monitor, December 5 2014, accessed at: <http://pakistanfoemonitor.org/efforts-afoot-get-journalists-safety-bill-approved/>

⁴⁷ In December 2011, for example, Zarteef Afridi, a human rights defender and the HRCP coordinator in Khyber Agency was killed by the Taliban.

122.29. Continue adopting measures in the framework of freedom of expression as the new legislation on freedom of expression was passed (Lebanon)

Partially implemented

122.101. Implement measures to protect the right to life and freedom of expression of human rights defenders, and ensure that the perpetrators of violence are brought to justice (Australia)

Not implemented

Assessment of implementation

Freedom of expression is an essential requisite for human rights work. Without an ability to voice their opinions or make their findings public, the effectiveness of the work of human rights defenders is vastly diminished. Freedom of information is a corollary of freedom of expression in most major international instruments, including the ICCPR. Freedom of information creates an enabling environment for HRDs, and the right to 'seek, obtain, receive and hold information relating to human rights' has been specifically protected by the UN Declaration on Human Rights Defenders.

The Constitution of Pakistan lists freedom of speech amongst the fundamental rights of all Pakistani citizens. Despite this, freedom of expression of HRDs be they journalists, lawyers or activists has been severely restricted over the past few years. Many activists who have been vocal in their opposition to state policies in security sensitive areas such as Balochistan and FATA as well as in urban centers of Sindh and Punjab, have been kidnapped, harassed, and, in some instances, killed. In many cases the aggressors' connection to the state is clear. A startling example is the abduction of anti-drone activist Kareem Khan, who was abducted by men in police uniforms in the cantonment area of Rawalpindi the day before he was due to travel to Europe to give testimony before the European Parliament regarding the effect of the drone programme on the tribal population of Pakistan.

Intimidation and physical harm is not the only hurdle to the freedom of expression of HRDs. In the past two years, the movement of Baloch rights activists has been restricted and many have been prevented from traveling outside the country to attend events where violations of rights in Balochistan would be the topic of discussion. A key example is that of Mama Qadeer, a prominent Baloch activist, struggling to highlight the issue of enforced disappearances, who was stopped from going to the United States to attend a conference on enforced disappearances and has reportedly been placed on the Exit Control List. In April

2015, an academic discussion on Balochistan scheduled at a prominent university in Lahore was forcibly cancelled. Faculty of the university claim this was done on the instruction of the intelligence agencies, as Baloch activists, including Mama Qadeer, were among the speakers.

Pakistan's blasphemy laws are also responsible for restricting the freedom of expression of HRDs. The blasphemy provisions in the Pakistan Penal Code punish a variety of offences including 'offending religious sentiment', insulting the Prophet Muhammad (PBUH) or desecrating the Quran or places of worship. Though some of these provisions may be used to penalize the desecration and destruction of places of worship of all religions or the use of offensive language against religious persons of all persuasions, so far these laws have almost exclusively been used to punish offences against Islam.

Blasphemy laws have often been used against HRDs by leveling false allegations of blasphemy against them. In a country with rampant extremism, this has become a common (and effective) method to silence HRDs. Salman Taseer, former Governor of Punjab and Shahbaz Bhatti, former Minister for Minority Affairs, were both assassinated because of their demand to amend the blasphemy provisions. Federal Minister for Information, Parvez Rasheed, who stated that madrassa education had been unable to keep up with modern education also faced a malicious campaign led by a prominent religious scholar accusing the minister of blasphemy and apostasy.

Pakistan's blasphemy laws and provisions of the penal code on offences related to religion not only contravene Article 19 of the ICCPR (about freedom of expression), but also the right to freedom of religion, thought and conscience; the right to a fair trial; and the right to be free from discrimination. Due to the security threats faced by the accused, their families, judges and lawyers in blasphemy cases, accused persons are often kept in pre-trial detention for prolonged periods; judges who decide blasphemy cases are often not impartial; and the right to a proper and adequate defense is rarely provided. In many instances, mobs or at times, even individuals, have killed people accused of committing blasphemy. Many activists and journalists who have been accused of blasphemy because of their work in the defense of human rights have had to flee the country. Journalists also claim that they have been instructed to not report on blasphemy-related stories for fear of 'blowback'.⁴⁸

In some instances, the right to freedom of expression is violated through the denial of an avenue for legitimate expression of grievances. This is true in the case of

⁴⁸ Sadaf Ahmed, 'Blasphemy and Freedom of Speech in Pakistan', *Contributoria*, April 2014, accessed at: <https://www.contributoria.com/issue/2014-04/52fc0673f170ba5525000031>

brick kiln workers, one of the most vulnerable groups of labourers in Pakistan, with regard to human rights abuses by their employers. Current laws make it extremely difficult for brick kiln workers to unionize, as they require far too large a number of persons, a number not usually employed at a single kiln, to establish a union. This is compounded by a requirement for National Identity Cards, something many rural labourers do not have. Such laws result in further victimization of brick kiln workers, leaving few avenues of redress available to them.

Other forms of restriction on freedom of expression of HRDs include censorship, and in certain cases, outright banning of TV news channels. The Pakistan Electronic Media Regulatory Authority (PEMRA) has been used as a tool to force media outlets to tow the line of the political and security establishment. A prominent news channel, Geo News was temporarily banned for 'harming national interest' after a television show on the channel accused an intelligence agency of orchestrating the attack on journalist Hamid Mir. This was the first time a TV channel had been punished by a complete ban of broadcast as well as a financial penalty. Geo News and another channel were also taken off the air in 2014 for putting out supposedly 'blasphemous content'.

The Internet, now a hotbed of activism, has also become an avenue of state censorship and harassment of HRDs. In 2014, a range of new technology has been put in place by the Government for online media surveillance and censorship. A large number of websites, especially those highlighting human rights violations by the state, have been blocked on national security grounds. Wordpress, a popular blog hosting website, was banned in 2015 in a move that has been widely condemned by HRDs as a violation of freedom of expression and an attempt to silence dissent. On occasions, state censorship has gone as far as banning reviews and information regarding films on website IMDB, where a particular film was considered to show dissident views from Balochistan.⁴⁹ The use of surveillance technologies such as 'Netsweeper' and FinSpy by the government has also led to intrusion in the privacy of HRDs and raised serious concerns regarding their safety.

On the legislative side, a number of recent laws ostensibly meant to combat terrorist activity have created a legal basis for undermining the safety and freedom of expression of human rights defenders. The Fair Trial Act, 2013, for example, allows the government to intercept private communications by using advanced technology without providing adequate safeguards against the abuse of this power.

The Protection of Pakistan Act, 2014, is another problematic law for HRDs. The

⁴⁹'Pakistan government imposes online censorship', Unrepresented Nations and Peoples Organization, 26 November 2013, accessed at: <http://unpo.org/article/16629>

law includes in its definition of 'militant' anyone who 'threatens or acts or attempts to act in a manner prejudicial to the security, integrity or defence of Pakistan' or even anyone who aids or abets someone in this pursuit and shifts the burden of proof of disproving involvement in such activity onto the defendant. It is feared that this broad definition could be used to obstruct and negate the work of HRDs in cases where they are involved in exposing human rights violations by the state, especially in the context of the development of an increasingly repressive security state. The Act also allows the police and armed forces to arrest people on the basis of 'reasonable suspicion', and to detain them without trial for an extended period of time with no consequence for the officials in case of wrongful detention as long as they have done so in 'good faith'. 'Internet offences and cybercrimes' are included in the list of non-bailable scheduled offences, though what constitutes these offences is nowhere defined in the law.

The Prevention of Electronic Crimes Bill, 2015, currently before the National Assembly, makes the act of rendering useless 'information systems' a crime. Activists working for Internet freedom believe this can easily be extended to criminalize the act of using circumvention tools to avoid online surveillance or accessing Internet content blocked by the state. The proposed law also authorizes the Pakistan Telecommunications Authority to block online content that is against 'the glory of Islam, the integrity, security or defense of Pakistan, friendly relations with a foreign state or public morality and decency' without prior judicial sanction. Such blanket clauses are susceptible to be misused, and have been condemned by activists as draconian measures against freedom of expression.

However, the present draft of this law also criminalizes technology driven sexual crimes such as threatening sexual violence, though the proposed punishment is lesser than the punishment for similar crimes in the Pakistan Penal Code. It also criminalizes cyber stalking, offences against the dignity of a minor and glorification of hate speech, and these are important provisions given the violence experienced by women online. Despite an increased focus on Internet-aided crimes, the Bill still does not include the crime of blackmail or incitement to violence, two commonly used means adopted to harass and silence HRDs.

The right to information is another fundamental human right linked with freedom of expression and the work of HRDs. Under the 18th constitutional amendment, Article 19A of the Constitution of Pakistan expressly recognizes the right to information.

Right to Information (ROI) laws exist at both the federal and provincial levels. The Pakistan Right of Information Act was passed in 2013 and covers information requests from federal agencies and departments. Sindh and Balochistan have had ROI laws since 2005 and 2006, respectively, whilst Khyber Pakhtunkhwa and Punjab have passed ROI legislation in 2013 and 2014, respectively.

The Sindh and Balochistan laws are based on a now defunct Freedom of Information Ordinance from 2002, and are widely considered weak laws as they allow broad grounds for exceptions and refusal of requests for information. The two laws have the additional weakness of not providing a timeframe for the ROI authority or the Ombudsman to reply to a request for information. Moreover, the officers who have to be appointed under the laws in each department to handle requests for information have not been appointed thus far in many cases.

In contrast, the more recent Khyber Pakhtunkhwa and Punjab laws are a considerable improvement on the old laws, and include important features such as maximum disclosure; protection for whistle-blowers; precedence over secrecy-oriented laws; inclusion of NGOs under the RTI umbrella; minimal cost of making requests for information; facilitation of access by the state authorities; and no exemption for any public body. Additionally, in the case of both these laws, if the request for information relates to a serious case, it must be conceded within 24 hours of the request.

Despite the existence of these laws, there have been many instances of denial of information requested by HRDs. A primary example of this is the case of the Tootak mass grave discovered in Turbat, Balochistan. Despite continued requests, no reliable information has been released and the HRDs making the requests have faced hostility from state officials.

The Punjab and Khyber Pakhtunkhwa laws have been in place only for a little over a year and thus are yet to be tested. The Pakistan Press Foundation has reported that in the past year, the KP government has been more responsive to requests for information than the Punjab government, whilst Punjab government employees claim that delays are purely administrative and no request has yet been denied on the basis of exceptions like 'state security'.⁵⁰ More time is required to accurately assess the effectiveness of these laws, and the strength of the information commissioners to deal with requests that might have a controversial state security angle such as cases involving disappearances and prolonged detention of persons at undisclosed detention centers.

The right to information with respect to government administrations of the tribal areas and Gilgit-Baltistan is unclear and a further hindrance to the defense of human rights in those areas. This is especially significant because journalists or observers have not been allowed to operate freely in areas of ongoing military operations and thus very little is known about the legality of military tactics, collateral damage or other human rights concerns in conflict areas.

⁵⁰ Waseem Abbasi, 'KPK government better than Punjab at access to information', Pakistan Press Foundation, September 18 2014, accessed at: <http://www.pakistanpressfoundation.org/access-to-information-2/78135/kpk-govt-better-punjab-access-information/>

Enforced and involuntary disappearances

Introduction

The incidence of enforced disappearance, unresolved cases of past disappearances, and impunity for perpetrators continue in Pakistan as strongly as before. Previously restricted mainly to Balochistan and the northwestern region of the country, enforced disappearances now appear to have become a national phenomenon, especially as a response to political opposition, and nationalist and separatist movements.

During Pakistan's 2012 Universal Periodic Review, eight recommendations related to enforced disappearances were made. Out of these, Pakistan accepted four, 'noted' three and rejected one recommendation. The rejected recommendation asked Pakistan to halt operations aimed at silencing dissent in Balochistan, and ensure laws are equally enforced to investigate and prosecute those responsible for torture and enforced disappearances nationwide.

There are wide differences in estimates of the overall number of cases of enforced disappearance in the country. Defence of Human Rights, a non-governmental organization working towards the recovery of disappeared persons, has reported that more than 5,000 cases of disappearances have still not been accounted for. The Voice of Baloch Missing Persons alleges around 18,000 persons have been disappeared. The officially constituted Commission of Inquiry on Enforced Disappearances, on the other hand, reports 1,273 unresolved cases of enforced disappearance.

HRCP has documented at least 300 new cases of alleged enforced disappearance from September 2013 to April 2015 in 48 selected districts across the country. Following previous patterns, a majority of these cases were reported from Balochistan. More than 30 cases of alleged enforced disappearance, however, were reported from interior Sindh, which is a new development and a cause for enhanced concern.⁵¹ The Muttahida Qaumi Movement⁵² also alleged an increase in enforced disappearance and extrajudicial killings of its workers, which it attributed to a series of targeted operations in Karachi by the Rangers, a paramilitary force. Thus, even taking the most conservative estimates, a significant number of enforced disappearances remain unresolved in the country.

Since Pakistan's 2012 UPR, the government has alarmingly taken many regressive steps to further facilitate the practice of enforced disappearance and entrench impunity for perpetrators. This includes promulgating the Protection of Pakistan Ordinance, 2013, followed by enacting the Protection of Pakistan Act,

⁵¹ See 'HRCP's alarm at missing men in Sindh turning up dead', Human Rights Commission of Pakistan, 4 December 2014, accessed at: <http://hrcp-web.org/hrcpweb/hrcps-alarm-at-missing-men-in-sindh-turning-up-dead/>

⁵² A political party active primarily in urban centers of the Sindh province.

2014, which seek to legalize secret and unacknowledged detention, and give blanket immunity to those responsible for enforced disappearance.

Criminalizing enforced disappearance

Accepted recommendation

122.20. Specifically criminalize enforced disappearances in the penal code and reinforce the capacities of the Pakistanis Inquiry Commission on Enforced Disappearances in order that the Commission can fully carry out its mission (France)

Not implemented

Assessment of implementation

Pakistan has failed to specifically criminalize enforced disappearance. Criminal complaints in cases of alleged disappearances, where registered by the police, continue to be filed under sections of the Pakistan Penal Code related to abduction and unlawful confinement.

Commission of inquiry

Accepted recommendations

122.114. Take effective measures against enforced disappearances by strengthening the Commission of Inquiry and expanding their mandate to all security agencies (Germany) / Vest the National Commission of Inquiry on Enforced Disappearances greater authority and resources to conduct investigations (Sweden)

Not implemented

Assessment of implementation

Pakistan has failed to strengthen and allocate sufficient resources to the Commission of Inquiry on Enforced Disappearances. As a result, the Col has progressively lost relevance in the struggle against enforced disappearances in the country.

Groups working on enforced disappearances, including the NGOs Human Rights Commission of Pakistan, Defence for Human Rights and Voice for Baloch Missing Persons (VBMP), continue to express their lack of confidence in the Commission of Inquiry, which they consider biased and ineffective. They argue the ineffectiveness of the commission is demonstrated by the fact that security agencies defy its orders on a regular basis.⁵³ They also claim that the commission

⁵³ 'Enforced disappearance: SC seeks list for taking action against officials', Express Tribune, 28 January 2011, accessed at: <http://tribune.com.pk/story/110384/enforced-disappearances-sc-seeks-list-for-taking-action-against-officials/>

members are not sympathetic to the cause of families of the disappeared. They cite these factors as giving rise to concern that the real effect of the commission is actually protection of the security agencies allegedly responsible for carrying out the enforced disappearances and further entrenchment of impunity.⁵⁴

In June 2012, addressing a press conference, Justice (r) Javed Iqbal, chairman of the commission, called the figures of disappeared persons given by human rights groups 'baseless propaganda', and claimed that foreign intelligence agencies who wanted to destabilize Pakistan were responsible for creating and inflating the issue of 'missing persons'.⁵⁵

Judges of the Supreme Court have also in the past remarked that the Commission of Inquiry is incompetent and ineffectual.⁵⁶

In May 2013, however, the Supreme Court of Pakistan disposed of a constitutional petition on enforced disappearances filed by HRCP in 2007 and observed that HRCP could pursue the matter before the commission. HRCP filed a review petition in the Supreme Court, requesting the court to reconsider its order. HRCP contended that the jurisdiction of the Supreme Court under Article 184 (3) could not be replaced by a commission, whose majority comprised non-judicial authorities, especially since the matter raised was of public importance and clearly involved violation of fundamental rights, the enforcement of which fell squarely within the jurisdiction of the Supreme Court. HRCP highlighted that 47 people on its list submitted to the SC were still untraced, and their families had not been given any access to the commission set up by the government. The review petition hearings have begun, but no decision has so far been made.

This particular matter, as well as many others where cases of enforced disappearance are referred to the Commission of Inquiry by the courts, demonstrate that though ostensibly formed to provide a measure of public accountability, the commission on enforced disappearances has served to promote impunity by diverting investigation of human rights violations and crime through the criminal justice process into a parallel ad hoc mechanism vulnerable to political interference and manipulation.⁵⁷

⁵⁴ See also 'Hopes, fears and alienation in Balochistan', Human Rights Commission of Pakistan, May 2012, <http://hrcp-web.org/hrcpweb/wp-content/pdf/ff/12.pdf>

⁵⁵ 'Foreign agencies behind missing persons: Justice Iqbal', Dawn, 9 June 2012, accessed at: <http://dawn.com/news/725187/foreign-agencies-behind-missing-persons-justice-iqbal>

⁵⁶ 'Missing Persons Commission incompetent: Justice Khawaja', Pakistan Today, 5 July 2013, accessed at: <http://www.pakistantoday.com.pk/2013/07/05/national/missing-persons-commission-incompetent-justice-khawaja/>

⁵⁷ See also, 'Khuzdar mass graves: Commission rules out involvement of armed forces, agencies', Dawn, 19 August 2014, accessed at: <http://www.dawn.com/news/1126329>

Impunity

Accepted recommendations

122.111. Reinforce its efforts to fight impunity regarding cases of enforced disappearance by bringing all responsible persons to justice (Switzerland)

Not implemented

122.115. Ensure investigations and prosecution of those responsible for abduction and enforced disappearances and encourage the Supreme Court to continue investigation on this problem (Belgium)

Not implemented

Assessment of implementation

Alarming, the perpetrators of enforced disappearances still enjoy near total immunity. In many cases, the police refuse to register a criminal complaint against suspected perpetrators, who are predominantly members of the security agencies. Even where complaints are registered, investigations are compromised and partial.

It is no surprise, therefore, that despite orders of the Supreme Court, testimonies of eye-witnesses and accounts of victims of disappearances who have been freed from captivity implicating security agencies in the practice of enforced disappearance, not a single perpetrator of enforced disappearance has been brought to justice in Pakistan thus far.

Protection of Pakistan Act, 2014

The Protection of Pakistan Ordinance (PPO), 2013, was promulgated by President Mamnoon Hussain in October 2013. Among other things, the PPO created special courts for trying offences set out in the ordinance and gave law enforcement agencies wide powers to preventively detain individuals suspected of being involved in the scheduled offences.

The PPO was later amended through Protection of Pakistan (amendment) Ordinance, 2014, promulgated by the president in January 2014. The amended PPO retrospectively authorised arrests and detention of suspects by law enforcement agencies, and granted these agencies complete immunity for 'acts done in good faith during the performance of their duties'. The amendments to the PPO also gave law enforcement agencies authority to withhold information from the public about the location of detainees, and in some cases, information about the charges against them.

The ordinance was temporary and lapsed in June 2014. However, parliament

retained many of the ordinance provisions in the new law, the Protection of Pakistan Act (PPA), which was adopted on 2 July 2014. Section 9 of the Act, among other things, authorizes secret and unacknowledged detention, as well as in some cases, the nondisclosure of grounds for detention. Section 6 permits preventive administrative detention and excludes fundamental safeguards for those in such detention, and retrospectively authorizes other arbitrary or unauthorized arrests or detentions previously carried out. These provisions are inconsistent with Pakistan's international human rights obligations, including the one in relation to the right to liberty.⁵⁸

Shortly after the December 2014 attack on an army public school in Peshawar, which killed 150 people, most of whom were children, the parliament unanimously voted to amend the 1973 constitution and the Army Act, 1952, to allow military tribunals to try civilians accused of belonging to 'a terrorist group or organization using the name of religion or a sect' carrying out acts of violence and terrorism. According to the amendments, those detained for offences under the PPA may now also be tried by military courts, which do not conform to internationally recognized fair trial standards.⁵⁹

Protection of witnesses

Witnesses, including family members of forcibly disappeared persons, and their lawyers report that they are frequently subjected to threats, harassment and other forms of victimisation, allegedly by members of the security forces. Despite this situation being brought to the notice of the courts and the Commission of Inquiry, neither the courts nor the commission have ensured that concrete measures for protection of witnesses are put in place. The reluctance of witnesses to testify or testify truthfully in such a climate of danger real or perceived has an impact on the fairness and effectiveness of proceedings.

Accountability of law enforcement and intelligence agencies

As Pakistan continues to conduct counter-terrorism operations, and to implement these measures, security agencies are in fact gaining wider and less restrained legal powers. The increase in power, however, is not accompanied by corresponding improvements in accountability mechanisms.

Section 20 of the Protection of Pakistan Act, 2014, for example, provides that 'no member of the police, armed forces or civil armed forces acting in aid of civil

⁵⁸ See 'Newly enacted counter-terrorism law endangers human rights', International Commission of Jurists, 11 July 2015, accessed at: <http://www.icj.org/pakistan-newly-enacted-counter-terrorism-law-endangers-human-rights/> and also 'ICJ urges Senate to reject 'Protection of Pakistan' Bill', International Commission of Jurists, 14 May 2014, accessed at: <http://www.icj.org/icj-urges-senate-to-reject-protection-of-pakistan-bill/>

⁵⁹ See 'ICJ Denounces Law Permitting Military Trial of Civilians', International Commission of Jurists, 6 January 2015, accessed at: <http://www.icj.org/pakistan-icj-denounces-law-permitting-military-trials-of-civilians/> and 'HRCP alarmed at setting up of military courts', Human Rights Commission of Pakistan, 26 December 2014, accessed at: <http://hrcp-web.org/hrcpweb/hrcp-alarmed-at-setting-up-of-military-courts/>

authority...shall be liable to any action for the acts done in good faith during the performance of their duties.' Section 6(5) of the Act retrospectively applies this immunity indefinitely to arrests and detentions made by the armed forces or civil armed forces before the Protection of Pakistan (amendment) Ordinance, 2014, came into force.

Blanket amnesties for crimes under international law and grave violations of human rights are prohibited under international law. The prohibition is based on the explicit duty of states to investigate and prosecute such violations as well as on victims' right to truth, justice and reparation.

This provision of the PPA violates Pakistan's obligations under international law, including under ICCPR Article 2(3), to investigate allegations of such violations and prosecute those responsible for violations, as well as to ensure victims' rights to truth, justice and reparation.

Even where legal immunities are not a bar to prosecution, harassment of witnesses, non-implementation of court orders, and incompetent and partial investigations result in perpetuating the crisis of impunity in cases of human rights violations, particularly of enforced disappearances, where the security agencies are the alleged perpetrators.

Rights of religious minorities

Introduction

Civil society organisations and religious minority communities have voiced grave concerns over growing faith-based threats and violence in Pakistan. The challenges have been compounded by an attitude of denial, apathy and negligence to the widespread victimization of religious minority communities and sects in the country.

In the second cycle of Pakistan's UPR in 2012, 22 recommendations were made relating to the rights and freedoms of religious minorities. Out of the 22, Pakistan accepted 15 recommendations and 'noted' seven. The 'noted' recommendations asked for the amendment of legislation discriminatory to religious minorities, with a particular emphasis on blasphemy laws. Pakistan also rejected a recommendation issued by Spain asking for the 'derogation of the law on blasphemy'.

This chapter evaluates Pakistan's implementation of recommendations made to it during the 2012 UPR. It presents an analysis of the obligations imposed under the recommendations accepted by Pakistan and assesses the extent of Pakistan's progress in fulfilling the obligations.

Since 2012, there has been a rise in religiously motivated incidents of violence in Pakistan. Places of worship and pilgrims of religious minorities are victims of religiously motivated attacks with little or no preventive action taken by law enforcement authorities. Banned militant outfits, such as the Lashkar-e-Jhangvi, continue to operate, often with the knowledge of state authorities, despite their admitted involvement in such attacks.⁶⁰ Law enforcement authorities rarely pursue investigations and make arrests in response to attacks on religious minorities, and convictions in incidents of violence where the victims are members of religious minorities are rare.

In 2013 alone, over 400 members of the Shia community were killed in targeted attacks all over the country. In March 2015, over 15 members of the Christian community were killed and at least 70 were injured in twin suicide attacks on two churches in Lahore. This was the biggest attack on the Christian community after the attack on Peshawar's All Saints Church in September 2013, that left over 127 people dead and more than 250 people injured.

⁶⁰ Human Rights Watch, 'State of the World Report, 2014: Pakistan', accessed at <http://www.hrw.org/world-report/2014/country-chapters/pakistan>

Religious minorities in Pakistan live in an environment characterized by discrimination, hostility, forced conversions, and abuse of legislation about offences relating to religion.⁶¹ According to the Human Rights Watch, at least 16 people are currently on the death row for alleged blasphemy under Section 295-C of the Pakistan Penal Code, while another 20 are serving life sentences. At least 262 people are awaiting trial for charges relating to offences against religion, including blasphemy charges, in the province of Punjab alone. Many of the people charged with blasphemy are members of the religious minority communities, often as a result of false accusations motivated by property and social disputes. Many others are subjected to mob attacks and reprisals, allegedly because of suspicion that they have committed blasphemy.

In March 2013, for example, an enraged mob burnt over 125 homes and two churches in the predominantly Christian locality of Badami Bagh in Lahore after allegations of blasphemy against a local resident. The police was aware of the imminent attack, and issued calls for evacuation to the residents a few hours before it came, but took no preventive action to stop the mob.⁶²

Religious minorities also face economic and social discrimination, and the government has made few attempts to curb it. Members of the religious minorities, particularly Christians and Hindus from 'scheduled castes' usually take up sanitation jobs that Muslims are unwilling to do. Additionally, in the agricultural sector, Christians and scheduled caste Hindus account for a big proportion of bonded labourers who are coerced into lives of servitude as a result of the unpaid debts, including those of their previous generations. The government has failed to secure even a single conviction of perpetrators of bonded labour under the existing bonded labour law, which criminalizes the practice.

In June 2014, the Supreme Court of Pakistan in a judgment reiterated the economic and social discrimination faced by the minorities and the failure of the state to protect them and their religious places from violence. The court issued a number of directions to the federal and provincial governments, including the setting up of a task force for protection of places of worship; a reform of school curricula to ensure it promotes religious harmony; constitution of a national council for the protection of minorities; and the designation of a bench of the Supreme Court to oversee implementation of the judgment. However, the relevant departments of the government have demonstrated little political will in implementing the directions of the Supreme Court and have paid no heed to

⁶¹ These include: Section 295, Injuring or defiling place of worship; section 295-A, deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs; 295-B, defiling the Quran; and 295-C, use of derogatory remarks, etc., in respect of the Holy Prophet (PBUH).

⁶² Human Rights Commission of Pakistan. 'Joseph Colony Incident, HRCP holds Police, administration responsible', 13 March 2013, accessed at <http://hrcp-web.org/hrcpweb/joseph-colony-incident-hrcp-holds-police-administration-responsible/>

repeated calls from civil society and minority rights activists.⁶³

Discrimination

Accepted recommendations

122.87. Take deterrent measures to combat discrimination against women, girls and religious minorities and work towards eliminating poverty among those groups (Iraq)

Not implemented

122.154. Analyse the possibility of adopting the necessary additional measures to combat and prevent discrimination against religious minorities (Argentina)

Not implemented

Assessment of implementation

Pakistan has failed to combat discrimination faced by religious minorities in availing economic opportunities and to address poverty amongst these groups. Religious minorities in Pakistan are largely condemned to do low wage jobs that Muslims are unwilling to take up, with little opportunity to improve their socio-economic position. Such jobs feed into social stigmatisation and stereotyping of religious minorities, which prevents them from taking up other jobs and occupations to improve their socio-economic conditions.

In 2014, the Supreme Court of Pakistan directed the federal and provincial governments to implement a five per cent quota allocated to minorities in all public sector jobs. However, the government has adopted no concrete steps to fulfil this requirement.

Pakistan has also failed to counter the discrimination faced by religious minorities in enjoying their freedom to profess their religion, particularly by protecting their places of worship. In 2014, a survey conducted by a Hindu rights group revealed that out of the 428 places of worship for Hindus, only 20 were operational, while most others had been leased by the Evacuee Trust Property Board for residential and commercial purposes.⁶⁴

⁶³ Human Rights Commission of Pakistan and the International Commission of Jurists Consultation on the Rights of Religious Minorities in Pakistan's 2012 Universal Periodic Review. 1 December 2014.

⁶⁴ Minority Rights Group International. 'Searching for Security: The Rising Marginalization of Religious Communities in Pakistan', December 2014, accessed at: <http://www.minorityrights.org/13004/reports/mrg-searching-for-security-pakistan-report.pdf>

Members of the Ahmadi community are also prevented from practising their religion. Sections 298-B and 298-C of the Pakistan Penal Code prohibit Ahmadis from 'directly' or 'indirectly' posing as Muslims, 'propagating their faith', employing Islamic terminology and/or using Muslim places of worship. Therefore, the law, in essence, prevents Ahmadis from worshipping in mosques or referring to their own places of worship as mosques. As a result, district level authorities often refuse to grant permission for the construction and renovation of Ahmadi places of worship. Their places of worship and community lands are also often confiscated by local governments and given to Muslims.⁶⁵ These provisions remain in the penal code, and no steps have been taken to amend them.

Additionally, members of the Ahmadi community continue to be subjected to harassment and attacks. In 2014 alone, at least 13 Ahmadis were killed and another 12 were assaulted ostensibly for practicing their faith. Multiple attacks were also reported on their places of worship as well as graveyards.⁶⁶

Education

Accepted recommendations

122.149. Review public school curricula in order to eliminate prejudice against religious and other minorities (Germany)

Not implemented

122.150. Improve the education system and school textbooks and promote the full safeguarding of religious freedom and other human rights by programmes which, beginning in primary school and within the context of religious instruction, will educate everyone to respect their brothers in humanity (Holy See)

Not implemented

Assessment of implementation

The curricula for public schools, including the textbooks assigned to students, contains derogatory remarks against religious minorities that incite religious

⁶⁵ Ibid.

⁶⁶ Asad Hashim, 'Pakistan's Ahmadiyya: An 'absence of justice'', Al Jazeera, 7 August 2014, <http://www.aljazeera.com/indepth/features/2014/08/pakistan-ahmadiyya-an-absence-justice-20148616414279536.html>

hatred and bias.⁶⁷ In October 2014, the Sindh Minister for Education constituted a 12-member advisory committee on textbook reforms. The committee is tasked with offering recommendations for removing ethnic, religious and gender bias from textbooks and curriculum.

One committee member, Dr. Bernadette Dean, however, was forced to leave the country after banners threatening her were posted in Karachi in April, accusing her of being a 'foreigner' who was trying to remove Islamic content from textbooks. No action was taken against the student wing of a religious-political party that had put up the banners.

The KP government announced plans to reform its syllabus by removing material derogatory to religious minorities. However, the plans were thwarted by the Jamiat Ulema-e-Islam (JUI), which advocated introducing teachings of jihad and Islam into the Social Studies and Islamiyat textbooks at elementary and secondary levels.⁶⁸

The Punjab government too has made little effort to review, and accordingly revise, historical distortions and biases against religious minorities in textbooks. In April 2013, provincial education authorities withdrew a new Urdu literature book for class 10 after criticism was made over absence of Islamic teachings in the content of the book. Similarly, in September 2013, the government barred a private school from teaching comparative religion as a subject. The Lahore-based school had introduced comparative religion as an additional subject to educate its students about the tenets of Islam, Christianity, Buddhism, Zoroastrianism and Hinduism. The course was condemned as an attempt to convert students to other religions by a local television anchorperson, and thereafter, was made the target of a hate campaign in print and social media. Following the backlash, the Punjab government ordered authorities to confiscate all reading material pertaining to the course and constituted a committee to review 'objectionable material' in the curriculum of all private educational institutions.⁶⁹ Additionally, in January 2014, the government directed the publisher of the Pakistan Studies textbooks to include references to jihad and emphasize the religious belief of Pakistan's founder.⁷⁰

⁶⁷ Anjum James Paul. 'Biased Pakistani Textbooks'. Pakistan Minorities Teachers' Association, October 2014, accessed at: http://itacec.org/document/learning_resources/2014/BIASED%20%20PAKISTANI%20TEXTBOOKS.pdf

⁶⁸ 'KP schools will teach Jihad again', The Friday Times, August 2013, accessed at: <http://www.thefridaytimes.com/beta3/tft/article.php?issue=20130823&page=2>

⁶⁹ Asher John. 'Comparative Religion Studies banned in Punjab'. Pakistan Today. 21 September, 2013, accessed at: <http://www.pakistantoday.com.pk/2013/09/21/city/lahore/comparative-religion-studies-banned-in-punjab/>

⁷⁰ International Crisis Group, 'Education Reform in Pakistan', 23 June 2014, accessed at: [http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/257-education-reform-in-pakistan.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/257-education-reform-in-pakistan.pdf)

Violence, forced conversions and misuse of blasphemy laws

Accepted recommendations

122.155. Increase action to tackle violations of religious freedom especially, but not only, against members of religious minorities (Italy)

Not implemented

122.156. Adopt measures to ensure the protection of religious minorities, including Ahmadis, Christians, Hindus and Sikhs, prevent the abuse of blasphemy legislation, halt forced conversions, and take necessary steps to prevent violence against members of religious minority communities (Canada)

Not implemented

122.157. Take appropriate, efficient measures to prevent discrimination and violence against religious minorities, bringing instigators to religious violence to justice (Slovakia)

Not implemented

122.126. Take preventive and punitive measures against instigation of religious hatred (Germany)

Partially implemented

122.112. Hold accountable those who commit religiously motivated acts of violence (United States of America)

Not implemented

122.113. *Investigate attacks and violence against religious minorities and sects and bring those responsible to justice (Norway)*

Not implemented

122.121. *Continue efforts to enhance legislations and measures to further address the situation of religious minorities, including blasphemy laws, forced conversion and discrimination against non-Muslim minorities (Thailand)*

Not implemented

Assessment of implementation

Violence against religious minorities and their places of worship

Places of worship of religious minorities and pilgrims traveling to and from holy sites often become targets of attacks in Pakistan. The International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified in 2010 and is therefore obligated to implement, mandates states to exercise due diligence to 'prevent, punish, investigate and bring perpetrators to justice or redress harms caused by non-state actors'.⁷¹ Pakistan, however, has repeatedly failed to take the required action against perpetrators of such attacks in fact, in some cases, institutions of the state are accused of being complicit or directly involved in their perpetuation.

In 2013, nine Hindu temples were attacked in the city of Larkana, in Sindh. In the same year, under great pressure from local clerics, police demolished minarets of Ahmadi places of worship. Additionally, in September 2013, a suicide attack on the All Saints Church in Peshawar killed over 100 Christians. 2015 was another particularly violent year for religious minorities: in March 2015, attacks on two churches in Lahore killed at least 15 people and in May 2015, gunmen attacked a bus carrying Ismaili Shia pilgrims in Karachi, killing over 45 people.

As a response to the repeated and unabated attacks on places of worship of religious minorities, the Supreme Court of Pakistan in June 2014 directed the provincial governments to set up special task forces to protect minorities' places of worship. However, no provincial government has made any logistical or budgetary arrangements to set up such task forces.

Similarly, following an attack on an army public school in Peshawar in December 2014, the government adopted a comprehensive 'National Action Plan' (NAP) to counter terrorism and extremism in the country. The NAP provides that the government will take 'strict action against the literature, newspapers and magazines promoting hatred, decapitation, extremism, sectarianism and intolerance' and will ensure 'protection of minorities'. Like the Supreme Court's directions, these provisions of the NAP have not been implemented with force.⁷²

The government has, however, taken some measures against hate speech against vulnerable groups, including those belonging to religious minorities. In May 2015, an anti-terrorism court convicted a Sunni religious preacher for inciting hatred against the Shia community and sentenced him to five years

⁷¹ Human Rights Committee, General Comment 31, Nature of General Legal Obligation on State Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

⁷² 'Govt has failed to protect minorities' worship places', The Frontier Post, 16 March 2015, accessed at: <http://www.thefrontierpost.pk/govt-has-failed-to-protect-minorities-worship-places/>

imprisonment.⁷³ According to the Interior Ministry, 341 others were charged with making hate speech, out of which 251 were arrested. 41 shops disseminating hate material had also been shut down.⁷⁴

Forced conversions

Despite minority groups periodically drawing attention to the gravity of the issue of forced conversions, the government of Pakistan has failed to enact legislation criminalizing the offence and penalizing the perpetrators, including police, judiciary and local seminaries and clerics. In July 2012, the National Assembly's standing committee on national harmony forwarded recommendations to the law ministry suggesting life sentences and fines for perpetrators of forced conversions. However, the deliberations and hearings failed to produce any concrete result.

Currently, there is also no law allowing for the registration of marriages and divorces of the Hindu community. Not only does this create difficulties for married Hindu women in obtaining National Identity Cards and passports. In instances when Hindu women who are already married are kidnapped by Muslim men and forcibly converted, women's families possess no documentary record of their previous marriages which can be used as part of evidence to demonstrate to the authorities prior marriage and help make the case for abduction and forcible conversion.⁷⁵

A Bill for the registration of Hindu marriages has been pending before the National Assembly since 2008. A draft of the Bill was reintroduced by the National Commission on the Status of Women (NCSW) in 2011 and then again in 2014. However, the National Assembly has repeatedly failed to attain any consensus on the text of the Bill.

In response to a petition against the government's failure to deliberate upon the Bill, the Supreme Court, in January 2015, directed the government to ensure that a finalized draft of the text of the Bill was placed before the Cabinet for final approval within two weeks. A draft of the Bill was approved by the Cabinet, and is now pending before the National Assembly.

⁷³ 'Pakistani imam jailed for five years for anti-Shia sermons', Express Tribune, 20 May 2015, accessed at: <http://tribune.com.pk/story/889374/pakistani-imam-jailed-for-five-years-for-hate-speech/>

⁷⁴ '251 arrested for hate speech, NAP meeting informed', Dawn, 14 January 2015, accessed at: <http://www.dawn.com/news/1156974>

⁷⁵ See editorial. 'Hindu Marriage Laws', Dawn, 22 May 2014, accessed at: <http://www.dawn.com/news/1107800>

Misuse of blasphemy legislation

Pakistan has made no attempts to amend or repeal the blasphemy law that facilitates persecution of religious minorities and legitimizes impunity for perpetrators of violence against religious minorities. In September 2013, the Council of Islamic Ideology (CII), a constitutional body advising the legislature on whether or not laws are Islamic, unanimously ruled that there is no need to amend the blasphemy laws in Pakistan and that the CII would not allow any such reform.⁷⁶

In February 2015, the Punjab Prosecution Department drew up a list of 50 cases of alleged offences against religion, including blasphemy, in which it found that the accused persons were exploited by inadequate evidence, lack of legal counsel or mental illness. The provincial government has undertaken to represent these accused in special expedited trials. The government has also made plans for the release and security of the accused after the acquittals. The step is necessary in Punjab where at least 262 accused are awaiting trial since 2010 for blasphemy or related offences. The measure has been praised as a positive move, signaling recognition by judiciary and the government of the abuse of the blasphemy law.⁷⁷

Participation in political life, social cohesion and harmony

Accepted recommendations

122.158. Enforce the measures and policies that Pakistan has undertaken to ensure the participation of minorities in an appropriate way in the political life (Libyan Arab Jamahiriya)

Not implemented

122.122. Continue and consolidate efforts in promoting dialogue, tolerance and social cohesion (Egypt)

Not implemented

122.123. Continue its measures aimed at the promotion of interfaith dialogue and the culture of tolerance (Azerbaijan)

Not implemented

⁷⁶ 'Advice to Legislature: No Need to Amend Blasphemy Law'. Express Tribune, 20 September 2013, accessed at: <http://tribune.com.pk/story/606884/advice-to-legislature-no-need-to-amend-blasphemy-law-cii/>

⁷⁷ Phelim Kine, 'Dispatches: A Glimmer of Hope for Victims of Pakistan's Blasphemy Law', Human Rights Watch, 10 February 2015, accessed at: <http://www.hrw.org/news/2015/02/10/dispatches-glimmer-hope-victims-pakistan-s-blasphemy-law>

122.125. Actively support programmes strengthening religious freedom and tolerance especially in the run-up to the elections in 2013 (Germany)

Not implemented

Assessment of implementation

Political participation

Religious minorities are politically under-represented. Political parties do not prioritize issues affecting religious minorities in their manifestos or their electoral campaigns and, additionally, religious minorities are not adequately represented in leadership positions of political parties or in the legislature.

Under Article 25 of the International Covenant on Civil and Political Rights, Pakistan is required to facilitate political participation of religious minorities. However, members of religious minorities, and issues specific to their communities, are sidelined from mainstream party politics and contained in specialized minority wings. In its first year (2013-2014) of its five-year term, the National Assembly discussed minority issues only for 15 hours out of a total of 322 working hours.⁷⁸ No Bill addressing minority issues has been passed during the term of the National Assembly so far.

In the 2013 elections, political parties referred to the rights of religious minorities in vague and general terms in their party manifestos. None of the parties made any specific promises to improve religious minorities' political representation or address their electoral concerns.⁷⁹ Additionally, minority candidates elected on general seats or appointed on reserved seats in the national and provincial legislative assemblies were not granted any politically important portfolios.

Notably, while all other minorities have been added to a common list of voters as a result of the abolition of the system of separate electorates, Ahmadi voters continue to appear on a separate voters' list. To complete voter registration, Ahmadi voters must provide their address and disassociate themselves from Islam in contravention with their religious views. During the 2013 elections, Ahmadis expressed fears that the separate voter lists, which are available to the public, could put them at risk of attacks.

Additionally, during election campaigns, minority candidates were threatened by

⁷⁸ 'Is the NA Apathetic towards minorities' issues?', Dawn, 22 September 2014, accessed at: <http://www.dawn.com/news/1133565>

⁷⁹ Human Rights Commission of Pakistan, 'Religious Minorities in Elections: Equal in Law, not in Practice' 2013, accessed at: http://hrcp-web.org/hrcpweb/wp-content/pdf/Minority_Election_Report.pdf

workers of political parties and in some places derogatory material was circulated warning people that it was a sin to vote for 'infidels'. No action was taken by the ECP or other authorities against the publishers of such material.⁸⁰

Under Article 51(4) of the Constitution, ten seats are reserved for non-Muslims in the National Assembly, and under Article 106, non-Muslims are awarded three seats in Balochistan; three in Khyber Pakhtunkhwa; eight in Punjab and nine in the Sindh provincial legislatures. Candidates are appointed to these seats on the basis of priority lists submitted to the ECP by each political party. The allocation of these seats is in accordance with the official population census conducted in 1998, when the population of minorities was estimated to be 3.86 percent. The government has failed to conduct an official census since 1998 and update the seats allocated to minorities on the basis of a more accurate representation of the proportion of minorities in the population.

In 2014, numerous private member Bills were moved to increase the number of reserved seats in the National Assembly and the Senate. However, the National Assembly Standing Committee on Law, Justice and Human Rights put the Bills on hold until a new population census was conducted.⁸¹

Social cohesion and harmony

Religious minorities in Pakistan routinely face social, economic, and religious discrimination. Members of minority religious groups also live in constant fear of religiously motivated intimidation or violence as a result of abuse of blasphemy laws and anti-Ahmadi provisions in the Pakistan Penal Code. Sectarian violence has gone up by more than a fifth since 2013, and an unprecedented increase in attacks on places of religious worship can be seen.

Despite calls by civil society groups to make religious harmony and mutual respect a national priority, the government and other state institutions have failed to recognize the significance of such actions.

During the 2013 election campaign, for example, several parties expressed strong support for the anti-Ahmadi provisions in the constitution and the penal code. The media publishes derogatory remarks and stories against religious minorities, especially against Ahmadis without any censure from the state. Sunni militant organizations also often publish literature calling for violence against non-Muslims and minority sects within Islam.

⁸⁰ Ibid.

⁸¹ 'NA Committee Stalls Bill on Minorities Seats'. Daily Times, 29 April 2014, accessed at: <http://www.dailytimes.com.pk/national/29-Apr-2014/na-committee-stalls-bill-on-minorities-seats>

Conclusion and recommendations

At the mid-term phase of the Universal Periodic Review cycle more than 27 months after Pakistan adopted the UPR outcome document Pakistan's progress in meeting the commitments to the people of the country and the international community to take certain steps to promote and protect human rights has been disappointing. The government's indifference to the UPR process is part of its larger apathy to Pakistan's deteriorating human rights situation not only are human rights placed very low on the national agenda, they are also the first victims in alleged responses to the growing militancy and terrorism in the country.

Since 2012-2013, many human rights gains made after Pakistan's return to democracy in 2008 have been reversed. The informal moratorium on the death penalty, instituted in 2008, was lifted and has led to the execution of over 165 people; the constitution of Pakistan was amended to authorize military courts to try individuals including civilians suspected of committing offences related to terrorism; laws were enacted to provide legal cover to enforced disappearances and the practice was seen extended to regions where previously few cases were reported; the space for human rights activism and dissent shrank alarmingly with journalists, human rights defenders, and activists indiscriminately attacked; and members of religious minorities continued to be subjected to discrimination, violence and attacks with impunity.

At this rate, Pakistan will go into its next Universal Periodic Review in 2017 with perhaps a worse human rights record than before. This would be an additional indictment of Pakistan's disregard for its national and international human rights obligations, and a source of even greater embarrassment for a country that has been serving as a member of the UN Human Rights Council for over six years.

MID-TERM IMPLEMENTATION REPORT UNIVERSAL PERIODIC REVIEW (2012) -PAKISTAN

HRCP strongly urges Pakistan's federal and provincial governments to:

1. Prioritize human rights in all laws and policies, and specifically, take concrete steps to implement the recommendations accepted during the 2012-2013 UPR;
2. Work towards the implementation of all UPR commitments, including 'noted' recommendations;
3. Adopt comprehensive and detailed "Action Plans" enumerating the steps

envisioned to implement accepted UPR recommendations;

4. Hold consultations with all relevant stakeholders, including civil society organizations, community leaders, and human rights activists, and ensure their research, findings and concerns are addressed in UPR “Action Plans”;
5. Ensure that civil society organizations and NGOs are consulted and their views are adequately represented in Pakistan's national report ahead of the next UPR cycle.