

Child Rights - 2014

Introduction

2014 has been a particularly turbulent year on all fronts, especially in child rights, not only for the world but for Pakistan as well. The polio virus has spread from the tribal belt into the most populous city, Karachi, aided by militant attacks on health workers giving vaccines. Political feuding has brought the government, and at times the country's major cities, to a standstill. The year ended with the most horrendous attack to date, on the Army Public School on Warsack Road in Peshawar, Pakistan. The siege of the Army Public School killed 145 people, 132 of them uniformed schoolchildren. The Tehrik-e-Taliban claimed responsibility for the deadliest attack to date on Pakistani soil. During an eight hour rampage at the Army Public School, a team of nine Taliban gunmen disguised in paramilitary uniforms stormed through the corridors and assembly hall, firing at random and throwing grenades. Some of 1,100 students at the school were lined up and slaughtered with shots to the head. Others were gunned down as they cowered under their desks, or forced to watch as their teachers were riddled with bullets. Their parents crowded around the school gates, praying their children would survive while listening to the explosions and gunfire as Pakistani commandos stormed the building.

A Taliban spokesman said the attack had been in retaliation for the continuing military operation against the group in North Waziristan tribal region. The Army Public School was targeted because it caters to the sons and daughters of serving army personnel, although some civilian pupils also attend. The image of children's bodies on the floor of their school auditorium, some of them not yet in their teens, demonstrates how the Pakistani Taliban's war has often been taken out on the country's most vulnerable citizens. A wave of outrage crossed national boundaries, with statements of support and sympathy coming from around the world. The attack generated a wave of opprobrium outstripping even the one that followed the attack on Malala Yousafzai in October 2012. She survived and became the youngest-ever recipient of the Nobel Prize in 2014.

The Norwegian Nobel Committee awarded the Nobel Peace Prize to Malala Yousafzai and Kailash Satyarthi for their struggle against the suppression of children and young people and for the right of all children to education. At a time when the world is confronting multiple challenges, this award stands as a symbol and a resounding message that will now ring louder than ever- the issue of children's rights.

Kailash Satyarthi has been at the forefront of the global movement to end child slavery and exploitative child labor since 1980. As founder and president of the *Global Campaign for Education* and of the *Global March Against Child Labour*, he has worked to fulfill every child's right to education.

Malala Yousafzai, world renown since the Taliban's decisive gunshot in October 2012 has reshaped the fight against extremism and the right of education for all children, especially girls. Secretary General of the United Nations, Ban Ki-Moon once stated, "With her courage and determination, Malala has shown what terrorists fear most, a girl with a book." Malala's compelling story has followed an astonishing trajectory. As a child herself, history will note her as the first youngest ever recipient of the prestigious Nobel Award, she has accomplished what many spend a lifetime achieving and has lit the path to a brighter future as the beacon of hope.

Indeed, both Yousafzai and Satyarthi have risked their lives to fight for children's rights. The Nobel Committee Chairman Thorbjom Jagland reinforced all children have a right to childhood and education and that "This world conscience can find no better expression," than through this year's winners.¹ For the many Pakistanis and Indians who enthusiastically hailed the joint win by Yousafzai and Satyarthi, it was a welcome taste of what unites, rather than divides their countries: a shared interest in education and in improving the plight of millions of downtrodden and abused children bringing light to children's rights. Undeniably, "A bright moment in dark times," as said by Nadeem Paracha, a Pakistani news media commentator on Twitter.

"We hope the recognition given to Kailash Satyarthi and Malala Yousafzai will help to raise the profile of children's rights and give added impetus to the efforts of all to make the rights of the child enshrined in the Convention a reality for all children."

—The United Nation's Committee on the Rights of the Child

The UN Convention on the Rights of the Child: Celebrating 25 Years

The United Nations Convention on the Rights of the Child (UNCRC) 1989 is described as the "Magna Carta" for children's rights. It is the most rapidly and widely ratified international human rights treaty in history. Indeed, the world made an extraordinary commitment to all children through its adoption as it recognizes and guarantees the rights, privileges and liberties for all children. Within it are details of the individual rights of persons under the age of 18 years. All who fall under the age of 18 are recognized as children and he or she has a right to develop to his or her full potential, free from discrimination, hunger and want, neglect exploitation, and other abuses. 2014 was a significant year for the treaty as it marked its 25th anniversary of the convention. As its 26th year started, on January 20th 2015, Somalia ratified the United Nations Convention on the Rights of the Child (UNCRC). Somalia is the 195th State to do so, leaving behind South Sudan and the United States of America as the only States in the world yet to ratify the UNCRC. The United States has signed the treaty in 1995. However, progress has been slow because conservative groups continue to oppose ratification. A campaign seeks to encourage lawmakers to ratify the UNCRC. Although Somalia's children face ongoing challenges posed by

¹ *The Nobel Peace Prize 2014* - Press Release. Nobelprize.org. Nobel Media AB 2014. Web. Dec 2014. http://www.nobelprize.org/nobel_prizes/peace/laureates/2014/press.html.

conflict, displacement, disease, malnutrition and child mortality, Somalia's ratification has been unanimously welcomed by UN agencies and NGOs alike as an important step towards improving children's rights. There is much to celebrate as 2014 marked 25 years of the Convention, from declining infant mortality to rising school enrollment and having Somalia ratify it.² However, this historic milestone must also serve as an urgent reminder that much remains to be done. Too many children still do not enjoy their full rights on par with their peers.

In a President's Statement issued during the Human Rights Council's Session in Geneva on the 25th anniversary of the adoption of the Convention on the Rights of the Child, the Council reaffirmed States obligations and commitments to promote and protect the rights, dignity, and well-being of each child; urged States that have not yet done so to consider becoming parties of the Convention on the Rights of the Child.

All State parties to the Convention are obliged to submit periodic reports to the Committee on the Rights of the Child in Geneva, on how the rights are being implemented. The committee examines each report and addresses its concerns and recommendations to the State party in the form of "Concluding Observations and Recommendations".

UNCRC

Pakistan ratified the United Nations Convention on the Rights of the Child on November 12, 1990. It was among the first 20 countries to sign and ratify the UNCRC, committing itself to protecting children's rights in Pakistan and holding itself accountable for this commitment before the international community.

Unfortunately, Pakistan's progress towards the implementation of the UNCRC has been weak on most counts. It is evident from the Concluding Observations and Recommendations of the Committee on Pakistan's Periodic Reports in 2003 and 2009 that the recommendations were implemented insufficiently or party resulting in poor progress on the implementation of the UNCRC.

Status of Pakistan's Period Report to the Committee on the Rights of the Child

Under Article 44 of the UNCRC, it is obligatory upon ratifying states to submit period reports initially after five years and then every two years to the UN Committee on the Rights of the Child. The reports highlight various measures undertaken by the state under the Convention. Pakistan's Initial period report was considered by the Committee in April 1994. The Second Period Report was considered in September 2003. Pakistan's Third and Fourth Period Reports

² *Convention on the Rights of the Child*. Unicef.org. Web. Dec 2014.
www.Unicef.org/crc

were submitted to the committee in December 2008 jointly and were considered in September 2009. Pakistan's Fifth Periodic Report was due to the Committee on December 11, 2012.

The National Commission for Child Welfare and Development (NCCWD) is a federal advisory body which falls under the umbrella of the Ministry of Law, Justice and Human Rights. The NCCWD is responsible for the monitoring and ensuring of implementation of Pakistan's commitments under the UNCRC which includes formulation of the compliance report due to the Committee on the Rights of the Child.

On February 23, 2012 issued a Notification which underlined the setup of a Steering Committee to provide support and oversee the report writing process of the Fifth Period Report to the UNCRC. SPARC, among other national and international NGOs, UN agencies, members of several Federal Ministries and government representatives are part of the Steering Committee. Despite the fact that the Ministry of Law, Justice and Human Rights set up this Steering Committee to oversee the report writing process in order to ensure that the report is written in accordance with the guidelines of the Committee and is submitted well in time, it failed to provide the report to SPARC, a member of the Steering Committee to oversee, write/edit parts of chapters of the report relevant to areas of expertise.

At the end of 2013, NCCWD informed SPARC that Pakistan's fifth report to the Committee on the Rights of the Child on the implementation of the UNCRC was in the final stages. The Ministry of Foreign Affairs had sent the draft report back to the NCCWD with a few amendments suggested. The NCCWD was working on the amendments after which it would be sent back to the Ministry of Foreign Affairs for submission to the Committee by January 2014.

Keeping that in mind, late this year in November 2014 when SPARC inquired the NCCWD on the status of the 5th period report, we were informed that the report was still waiting vetting of the Ministry of Foreign Affairs. As of December 2014, Pakistan's 5th Period Report to the Committee is overdue by 2 years and pending submission. We are hopeful the NCCWD will produce the report to the Committee soon.

Developments in Optional Protocols to UNCRC

On April 14, 2014 the third Optional Protocol (OP3) to the United Nation's (UN) Convention on the Rights of the Child (CRC) entered into force. This enables children to complain to the UN on human rights violations and establishes an international complaints procedure for violations of child rights contained in the CRC, the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (OPAC), as well as the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC). Three mechanisms to challenge violations of children's rights are available: individual complaints, inquiries (for serious or widespread violations) and inter-state communications enabling children to bring complaints about violations if they have not been fully resolved on national level. Before the adaption of

OP3 CRC, the CRC was the only core human rights treaty that did not include a communication mechanism. OP3 now protects a broader range of children's rights than any other international mechanism.³ In 2014, Costa Rica, Belgium, Monaco, Ireland and Andorra ratified the treaty. As of December 2014, 14 out of 51 countries in total have not only signed but ratified OP3.

- Pakistan signed the first Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on September 26, 2001 but has yet to ratify it.
- Pakistan signed the second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on September 26, 2001 and ratified on July 5, 2011.
- Pakistan has yet to sign and/or ratify the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Pakistan & the Universal Periodic Review

Pakistan was reviewed for the second time in the UN Human Rights Council's (HRC) 14th session which took place from October 22nd to November 5th, 2012. The international community represented by 85 states present during the dialogue appreciated Pakistan's efforts in safeguarding human rights in some areas while highlighting various sectors needing special attention. A total of 166 recommendations were made to Pakistan. Following consideration, Pakistan accepted 126 recommendations and rejected seven. The Pakistan delegation stated that 73 of the 126 accepted recommendations were already implemented or were in the process of implementation. 34 recommendations were left pending or undecided but were subject to the outcome of consultations.

The seven rejected recommendations were reiterations of those made in the first cycle and regarded consideration of a moratorium on the death penalty, amendment to the blasphemy law; recognition of rape within marriage and the decriminalization of adultery and non-marital consensual sex. Additionally, a recommendation related to enforced disappearances and torture, cruel and inhumane, degrading treatment was also rejected. Pakistan rejected these on the basis that there was no national consensus on the repeal of blasphemy laws and the repeal of the death penalty was to be decided by the Parliament.

The recommendations with no response reiterated the consideration of ratification of important international human rights instruments. Pakistan responded that the ascension to international human rights instruments was examined under a constant and gradual process, where implementation was considered in terms of consistency with national law and financial implications. States also reiterated the need for removing restrictions on the freedom of religion

³ *UN Children's Complaint Mechanism Comes Into Force*. Web. Dec. 2014.
http://europa.eu/epic/news/2014/20140528-un-children-complaints-mechanism_en.htm

or belief and amendments to legislation that discriminates against persons belonging to minorities. The rights of women as well as protection from discrimination and violence were also recommended during both the cycles. The recommendations to adopt the pending Child Protection Bill and a national child protection policy were accepted by Pakistan.

The Human Rights Council adopted the outcome of the Universal Periodic Review of Pakistan on March 14, 2013 during its 22nd Session (plenary session). The period between this review and the upcoming review is called the follow up during which Pakistan will implement the recommendations it received for the improvement of human rights situation in the country.

International Developments

Human Rights Council:

The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States which are responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the United Nations General Assembly on 15 March 2006 with the main purpose of addressing situations of human rights violations and making recommendations on them.

The composition of the Council at its twenty-sixth session is of the following 47 countries: Algeria, Argentina, Austria, Benin, Botswana, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Côte d'Ivoire, Cuba, Czech Republic, Estonia, Ethiopia, France, Gabon, Germany, India, Indonesia, Ireland, Italy, Japan, Kazakhstan, Kenya, Kuwait, Maldives Mexico, Montenegro, Morocco, Namibia, *Pakistan*, Peru, Philippines, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, The former Yugoslav Republic of Macedonia, United Arab Emirates, United Kingdom, United States, Venezuela and Viet Nam.⁴

The 25th session of the UN Human Rights Council took place during the time period of March 3, 2014 until March 28, 2014. At the opening of the session Navi Pillay, the then High Commissioner to Human Rights highlighted many important ongoing crises. For example, child marriage. She stated that more than one in three women aged between 29 and 49 world-wide were married before their 18th birthday.⁵

The Annual Day of the Child was celebrated on March 13, 2014 with **Access to Justice for Children** as the theme for the full day discussion on the rights of the child. The meeting was aimed at raising awareness of the challenges faced by children in gaining access to justice, reaffirming existing standards and commitments made by Member States to empower children,

⁴ United Nations Treaty Collection. Web. Dec. 2014.

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-d&chapter=4&lang=en

⁵ *The Human Rights Council's 25th Session Opens in Geneva*. United Nations Human Rights, Office of the High Commissioner. Web. Dec. 2014.

<http://www.ohchr.org/EN/NewsEvents/Pages/HRC25.aspx>

including those in particularly difficult situations, and highlighting good practices and lessons learned from the work conducted by different actors. In her opening statement, the Deputy High Commissioner for Human Rights stated that access to justice for children was at the core of the protection of human rights and an essential prerequisite for the protection and promotion of all other human rights.⁶ She explained that access to justice meant that children could obtain fair and timely remedies for violations of their rights, and recalled that, although not explicitly mentioned in the Convention on the Rights of the Child, the right to an effective remedy was recognized as an implicit requirement of the Convention, as shown in general comment No. 5 of the Committee on the Rights of the Child. In order to enjoy access to justice, children must also be able to enjoy other fundamental rights provided in international instruments, including the rights to a fair trial and to have access to information. Children must also have access to the right to be heard and protected from discrimination on any grounds. She highlighted the challenges faced by children in their access to this right, including the complexity of legal systems, the lack of awareness and information, fear of reprisals and stigmatization, social attitudes concerning children, and dependence on support from adults. Certain groups of children also faced additional obstacles in their access to justice, such as children in institutional care, migrant children, children living in extreme poverty and children affected by conflict. At a national level, the Deputy High Commissioner set out two main aspects that need to be considered: the empowerment of children to claim their rights, including awareness of rights, the provision of appropriate information and recognition of the evolving capacity of children; and the ability of national legal systems to accept and address challenges faced by, or on behalf of, children. She suggested that this required child-sensitive procedures that are independent, safe, effective and easily accessible. At the international level, she drew attention to the third Optional Protocol to the Convention on the Rights of the Child.⁷

On May 8, 2014 the Human Rights Council held a meeting to appoint 19 individuals as human rights experts to report on a wide range of themes and country situations. Ms. Maud De-Boer Buquicchio from the Netherlands was appointed as the *Special Rapporteur on the sale of children, child prostitution and child pornography*.⁸

The 26th Session of the Human Rights Council took place during the time period of June 10, 2014 until June 27, 2014. Highlights of the three-week session featured a wide range of issues including presentations by the commission of inquiry on Syria, by the Special Rapporteur on the Democratic People's Republic of Korea and by the Independent Expert on the Central

⁶ *The Human Rights Council's 25th Session Opens in Geneva*. United Nations Human Rights, Office of the High Commissioner. Web. Dec. 2014.

<http://www.ohchr.org/EN/NewsEvents/Pages/HRC25.aspx>

⁷ *Human Rights Council: 25th Session*. Child Rights International Network. Web. 2014

<<http://www.crin.org/en/library/events/human-rights-council-25th-session>>.

⁸ *Human Rights Council Appoints 19 Human Rights Experts*. The United Nations Office at Geneva. Web. Dec. 2014. [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/3E07F4D18B239F1FC1257CD20047FEE5?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/3E07F4D18B239F1FC1257CD20047FEE5?OpenDocument)

African Republic, and interactive discussions on the issue of safety of journalists and **combating child, early and forced marriages.**⁹

On June 23, 2014, during the HRC's 26th Regular Session, a panel discussion on preventing and eliminating child, early and forced marriage was convened.

Flavia Pansieri, Deputy High Commissioner for Human Rights said that the existing abusive practices could not be characterized as “marriages”. If present trends continued, some 142 million girls would be married off before their 18th birthday by 2020, 39,000 every day.¹⁰ The collective experience demonstrated that the problem was not insurmountable, and solutions existed to address the root causes. Child marriage was rooted in unequal gender status and power relations that could result in the perpetual subjugation of girls and women. Discriminatory cultural gender practices, poverty and insecurity were among the key contributing factors.

The HRC requested the Office of the High Commissioner for Human Rights (OHCHR) to prepare a report (A/HRC/26/22) on the issue, with a particular focus on challenges, achievements, best practices and implementation gaps. The report addresses the factors that contribute to child, early and forced marriage (CEFM) and its impact on the realisation and enjoyment of girls’ and women’s rights. It notes that the impact of CEFM impact can be wide ranging. Girls and young women often face physical, psychological, economic and sexual violence. Furthermore, CEFM is associated with a range of poor health and social outcomes and other negative consequences. Specifically, early and frequent pregnancies, and forced continuation of pregnancy are all common in child marriages. They are closely linked with high maternal and infant morbidity and mortality rates and can have adverse effect on the girls’ sexual and reproductive health and rights. Child marriage and early childbearing are also recognised as significant obstacles to ensuring educational, employment and other economic opportunities of girls and young women.

The report highlights that States have taken a variety of measures to address CEFM, from the enactment of legislation on minimum age of marriage and prohibition of child marriages, to criminalisation of activities associated with CEFM, to awareness raising initiatives on the negative impact of child and forced marriage, to protection measures for victims.

Taking into consideration State practice as illustrative examples, the report identifies a number of the achievements, gaps and challenges in efforts to address CEFM. For instance, empowerment of women and girls is identified as an effective preventive measure against child and forced marriage. Programmes such as extension of the length of compulsory education, lower cut-off re-

⁹ *Human Rights Council Holds its 26th Regular Session.* The United Nations Office at Geneva. Web. Dec. 2014. [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/94618727C1BE2BF7C1257CED004B465B?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/94618727C1BE2BF7C1257CED004B465B?OpenDocument)

¹⁰ *Human Rights Council Holds Panel Discussion On Preventing and Eliminating Child Early and Forced Marriage.* The United Nations Office at Geneva. Web. 2014. [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/B6A39793377A1BA6C1257D0000558294?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/B6A39793377A1BA6C1257D0000558294?OpenDocument)

entry points and scholarships for girls, provision of non-formal education and vocational training, development of livelihood skills and life skills education, and scholarships/conditional cash transfers have proved to be effective in reducing CEFM and its harms. Other promising practices include efforts to involve men and boys, religious and community leaders, parents and communities at large to address the cultural acceptance of the practice.

In a resolution (A/HRC/26/L.19) on the mandate of the Special Rapporteur on trafficking in persons, especially women and children, the Council decided to extend the mandate of the Special Rapporteur for a period of three years. It also urged States, regional and multilateral organizations to develop and strengthen strategies and plans of action to combat trafficking in persons with a victim-centered approach.

The 27th Session of the Human Rights Council took place during the time period of September 8, 2014 until September 26, 2014. The HRC held a panel discussion on accelerating global efforts to **end violence against children** and to share best practices and lessons learned in this regard. Special Representative of the Secretary-General on Violence against Children, Marta Santos Pais, said that violence against children illustrated the many challenges that continued to compromise the protection of the rights of children.¹¹ At the end of last year, a global survey on violence against children was launched. It brought very good news about strategic changes made in law, policy and practice, made known positive experiences and initiatives, and shed light on gaps. At the regional level, there had been a very important consolidation of efforts and commitments. Commitments were important but only meaningful when followed by effective implementation. Dialogue between regions had been growing. At the national level, there were a growing number of countries with stories to tell. On legislation, it must not be forgotten that only 8 per cent of children had legal protection against violence. There was staggering data that pushed for action and there was a golden opportunity, which was the post-2015 development agenda. It was critical to preserve the elimination of violence against children as a distinct target and a cross cutting concern in the sustainable development goals. It was important to mobilize for the call that children themselves had made, and critical to preserve the recognition of this priority in the agenda.

During the 27th Session the HRC also bid farewell to High Commissioner Navi Pillay, her 6 year term as High Commissioner to the Office of Human Rights had come to an end.

United Nations General Assembly's Third Committee- Social, Humanitarian and Cultural:

The 69th session of the UNGA's Third Committee convened from October 3, 2014 until November 25, 2014. The Committee took action on and sent a total of 14 draft texts to the

¹¹ *Human Rights Council Holds Panel Discussion on Accelerating Global Efforts to End Violence Against Children. OHCHR. Web. 2014.*

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15089&LangID=E#sthash.SH3VWhyr.dpuf>

General Assembly during the session. It approved a new draft resolution on **protecting children from bullying**. By the terms of the draft text on bullying, the General Assembly would recognize that bullying, including cyber-bullying, can have a potential long-term impacts on the enjoyment of the human rights of children, and urged Member States to take all appropriate measures to prevent and protect children, including in school, from any form of violence, including forms of bullying. By the draft text, the Assembly would also urge all Member States to share national experiences and best practices for preventing and tackling bullying, including cyber-bullying¹²

In addition, the Third Committee discussed that politicization of children's rights should be avoided and national sovereignty and values should be respected, as it approved 10 draft texts, including a new one on the rights of the child. Although seven of the draft texts were approved without a vote, intense exchanges amongst Member States were triggered by language relating to girls and reproductive health and rights.¹³ Heated debate ensued over an operative paragraph of a draft text on the rights of the child, which was approved without a vote.

Moreover, the **58th session of the Commission on the Status of Women (CSW)** took place at the United Nations Headquarters in New York from March 10 to March 21, 2014. This year's priority theme was *Challenges and achievements in the implementation of the Millennium Development Goals for women and girls*¹⁴

UPR: The Human Rights Council Universal Periodic Review Working Group concluded its twentieth session in Geneva on November 7, 2014.¹⁵ SPARC would like to highlight that during the two week session of the UPR Working Group, a child rights related issue was addressed at large; specifically, **child protection measures and preventing torture and ill treatment**. Throughout the session of the UPR Working Group, the human rights records of 14 States were reviewed. The States reviewed this session were: Italy, El Salvador, The Gambia, Bolivia, Fiji, San Marino, Kazakhstan, Angola, Iran, Madagascar, Iraq, Slovenia, Egypt and Bosnia and Herzegovina. A few examples of where States have made progress in realizing their UPR recommendations are: improved efforts to protect the rights of migrants; achievement of

¹² *Third Committee Approves New Text Protecting Children from Bullying, Sending 14 Drafts to General Assembly*. United Nations. Web. 24 Nov. 2014.

<http://www.un.org/press/en/2014/gashc4125.doc.htm>

¹³ *Heatedly Debating Girls Rights, Third Committee Sends 10 drafts, Including New Text on Children, to General Assembly*. United Nations. Web. 21 Nov. 2014.

<http://www.un.org/press/en/2014/gashc4124.doc.htm>

¹⁴ *Agreed Conclusions. Economic and Social Council*. UN Women. Web. 25 March 2014.

<http://www.unwomen.org/~media/headquarters/attachments/sections/csw/58/csw58-agreedconclusions-advanceduneditedversion.ashx>

¹⁵ *Human Rights Council Universal Periodic Review Working Group concludes twentieth session in Geneva having reviewed 14 States*. OHCHR. Web. 7 November 2014.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15273&LangID=E#sthash.NNuQiypl.dpuf>

Millennium Development Goals; enhanced child protection measures; campaigns against discrimination and intolerance; programs to combat illiteracy; the creation of government bodies to fight corruption; reducing the gender pay gap; and steps to address conditions of detention and to prevent torture.

NATIONAL DEVELOPMENTS ROUND UP

January 2014:

The Anti-Rape Laws (Criminal Laws Amendment) Act 2013 was tabled in the Senate by Senator Syeda Sughra Imam. In February 2014, the **Criminal Law (Amendment) Bill 2014** which raises the minimum age of criminal responsibility and criminalizes child sexual abuse, cruelty to a child, child pornography, corporal punishment and internal human trafficking, was introduced in the National Assembly. The bill was a private member bill introduced by the Member of the National Assembly (MNA) Marvi Memon.

February 2014:

The government introduced the **Protection of Pakistan (Amendment) Ordinance 2014** which amended the 2013 Ordinance. The amendments give complete powers to the armed and civil forces to use force to prevent the occurrence of offences, even against children. The amendments allow the State to arrest any person, including children, under preventive detention for up to 90 days. Since the Anti Terrorism Act 1997 has overriding effect over the Juvenile Justice System Ordinance (JJSO) 2000, the prohibition of preventive detention for children below 15 years of age under the Section 10 (6) of the JJSO will not apply to children arrested under the Anti Terrorism Act. Hence, as the law currently stands, children can be held in preventive detention regardless of Section 10 (6) of the Juvenile Justice System Ordinance 2000; and can be tried by Anti Terrorism Courts notified as Juvenile Courts (following the Juvenile Justice System (Amendment) Ordinance 2012).¹⁶ The constitutionality of the Protection of Pakistan Ordinance is currently being challenged in the Islamabad High Court and the Supreme Court of Pakistan. The 2013 Ordinance was approved by the National Assembly in April 2014 and is currently awaiting approval by the Senate.¹⁷

¹⁶Abbasi, Obaid. *Pakistan Protection Ordinance: Law Repugnant to Fundamental Rights ,Civil Liberties, Say Experts*. Express Tribune. 4 February 2014. Web

<http://tribune.com.pk/story/667173/pakistan-protection-ordinance-law-repugnant-to-fundamental-rights-civil-liberties-say-experts/>

¹⁷ *Pakistan: Revise Repressive Anti-Terrorism Law*, Human Rights Watch. 11 April 2014. Web.

<http://www.hrw.org/news/2014/04/11/pakistan-revise-repressive-anti-terrorism-law>

March 2014:

Child Marriages Restraint Act, 1929

A Bill to further amend the Child Marriages Restraint Act, 1929, was tabled by Member of National Assembly Marvi Memon. Unfortunately, it did not progress and instead triggered controversy. She tabled the Child Marriage Restraint (Amendment) Bill 2014, calling for the prevention of child marriages in the country which, according to the MNA, are prevalent due to poverty, illiteracy, anti-human rights social and cultural practices. “An early marriage leads to early conception, which ultimately affects the health of the teenage girl,” the bill stated, while pointing out that enormous pressure is put on child brides to bear children. It states that the practice of child marriage is common in all parts of the country, particularly the poor urban and rural areas, but the act of solemnizing a child marriage is not cognizable, and police cannot take action against the offenders. Though the government did not oppose the proposed legislation, it however agreed to consider the legislation in view of the recommendations of the Council of Islamic Ideology.¹⁸

Pakistan’s top constitutional body responsible for giving legal advice to the legislature on Islamic issues, the Council of Islamic Ideology lashed out, condemning the proposed legislative amendments as un-Islamic. Apparently, under religious law, the parental right to arrange the marriage of a child may be exercised at any point, but consummation of the relationship is permissible only at puberty. Scholars argue of a distinction between the Nikkah (marriage) and Rukhsati (consummation of marriage). No age limit is prescribed for the former, but the attainment of puberty is a necessary precondition for the latter. The council suggested removal of a clause in the Child Marriages Restriction Act 1929 that prohibits a child from going against the will of his/her father and maternal grandfather, who have arranged an underage marriage for him/her. Council of Islamic Ideology members suggested that after reaching puberty, the child should have the right to undo the decision of his/her father and grandfather on underage marriage. Under the 1929 marriage laws, a couple can defy their underage marriage if it is contracted by their relatives, but they cannot go against the decision of their fathers and maternal grandfathers.¹⁹

Although the Council’s rulings do not have legal standing, they have the possibility of hindering progress on pending bills for increasing the minimum marriageable age for girls at the federal

¹⁸ Ahmed, Tanveer. *Bill Against Child Marriages Presented in NA; JUI-F Angry*. Daily Times. 26 March 2014. Web. <http://www.dailytimes.com.pk/islamabad/26-Mar-2014/bill-against-child-marriages-presented-in-na-jui-f-angry>

¹⁹ Muhammad, Peer. *Marital Matters: Underage Marriage [Nikkah] Not Un-Islamic: CII*. Express Tribune. 12 March 2014. Web. <http://tribune.com.pk/story/681784/marital-matters-underage-marriage-nikkah-not-un-islamic-cii/>

and provincial levels. According to UNICEF's *State of the World's Children 2015* report, three percent of Pakistani girls are married by the age of 15 years and twenty-percent by the age of 18 years. Child brides are at risk of reproductive health complications, HIV/AIDS infection, domestic violence and other adverse physiological and social outcomes. The ruling came under heavy criticism by members of the civil society who termed the ruling as regressive and hostile to girl children and called for the abolition of the Council.

Criminal Law (Amendment) Bill 2014

In the same month, the Criminal Law (Amendment) Bill 2014 was introduced in the National Assembly by MNA Shaista Pervaiz as a private member bill. This bill contains similar provisions to the Anti-Rape Laws (Criminal Laws Amendment) Act 2013 tabled in the Senate; however, it adds sections to the PPC 1860 with stricter punishments for rape, specifically for child rape.

May 2014:

A **draft Hindu Marriage Act** has been presented in the National Assembly but has yet to be passed into law, while the federal law ministry says that after devolution, marriage laws come under the provincial domain.

July 2014:

After the 18th amendment, domestic violence fell in the provincial domain but no serious efforts have been made by any provincial assembly to introduce legislation to combat it. The rise in domestic violence, child abuse and child labour is alarming and increasing day by day. Domestic violence has become a major issue in Pakistan and other sub-continental countries. About 5,000 women are killed in Pakistan from domestic violence with thousands of others maimed or disabled. The Thomson Reuters Foundation ranked Pakistan as the third most dangerous country in the world for women, after Afghanistan and the Democratic Republic of Congo; it is followed by India and Somalia. Domestic violence can be defined in various forms. Domestic violence in plain words means violent or aggressive behavior within the home, typically involving the violent abuse of a spouse or partner. There are many factors contributing to domestic violence in Pakistan, for instance poverty, illiteracy, social taboos, and that women in society are considered nothing more than second-class citizens.²⁰

²⁰ Ali, Sarmad. *Domestic Violence Should Be A Crime*. Daily Times. 10 July 2014. Web. <http://tribune.com.pk/story/681784/marital-matters-underage-marriage-nikkah-not-un-islamic-cii/>

January 2015:

In reaction to the Peshawar Attack, Pakistan's Parliament adopted the 21st Constitutional Amendment Bill and The Pakistan Army (Amendment) Bill, 2015 unopposed after 247 Members of National Assembly along with the Senate voted in favor of the laws aimed to set up constitutionally protected military courts to try civilian terrorism suspects. The preambles to both the bills were largely identical, citing "extraordinary situation and circumstances" that they said demanded "special measures for speedy trial of certain offences relating to terrorism, waging of war or insurrection against Pakistan" and prevention of acts threatening the country's security by "any terrorist or terrorist group using the name of religion or a sect and members of such armed groups, wings and militias".

However, the Pakistan Army (Amendment) added two key new sub-clauses in the existing act describing people or groups that could be punished under the new law.

The sub-clauses (iii) and (iv), to be inserted in clause (d) of sub-section (1) of section 2, after sub-clause (ii) are:

- (iii) Any person who is or claims or is known to belong to any terrorist group or organization using the name of religion or a sect and raises arms or wage war against Pakistan or attacks the armed forces of Pakistan and law enforcement agencies, or attacks any civil or military installation in Pakistan or kidnaps any person for ransom or causes death of any person or injury, or is in possession, storage, fabrication or transport of explosives, firearms, instruments, articles, suicide jackets or vehicles designed to be used for terrorist acts, or receives or provides funding from any foreign or local sources for such illegal activities and acts or does any act to overawe the state or any section of the public or a sect or a religious minority or to create terror or insecurity in Pakistan or attempts to commit any of the said acts, within or outside Pakistan shall be punished under this act;
- (iv): Any person who is or claims or is known to belong to any terrorist group or organization using the name of religion or a sect, commits an offence mentioned at serial Nos. (i), (ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi) (xii), (xiii), (xv), (xvi), (xvii) and (xx) in the schedule to the Protection of Pakistan Act 2014 (X of 2014).

Human Rights Activists strongly oppose the government's proposal to start executing 'terrorists' on Pakistan's 8,000 convicts on death row. They deem it an inadequate reaction, which according to them will neither help the victims of this week's atrocity nor improve the security situation in Pakistan. A report by the Justice Project Pakistan (JPP) and Reprieve titled 'Terror on Death Row' suggests that many of those who will be first to face the hangman's noose will not only have no connection to the massacre, they will not fit any reasonable person's definition of a 'terrorist'. At the very worst, they are common criminals. But, given the extent to which the trials at which they were convicted fell short of proper standards of justice, and were founded on confessions extracted under torture, there is the real risk many could be innocent altogether.

One case of 15 year old Shafqat Hussain:

At only fifteen years of age Shafqat was sentenced to death under Pakistan's Anti-Terrorism Act for an alleged 'kidnapping', which was characterized as terrorism on the tenuous basis that it "created a sense of terror in the wider community." Shafqat was convicted on the strength of one piece of evidence: a forced confession made after nine days of brutal police torture.

Shafqat's fate was set before anyone entered the courtroom: too poor to afford legal representation and too young to understand the trial, his state-appointed lawyer told him that "no one leaves the anti-terrorism courts without a death sentence." The same lawyer failed to raise crucial evidence showing that his client was a child and not even eligible for the death penalty.

Many of the 800 prisoners awaiting execution for 'terrorist' offences will have had the same experience as Shafqat. Most people charged under this legislation are subjected to systematic police torture and deprived of their right to due process on the basis they were badged 'terrorists' when arrested. The term terrorist is loosely defined in the legislation and almost anyone can be deemed a terrorist for any crime. A proper definition is pending. Furthermore, courts that try 'terrorists' are pressured to conclude the trial and hand down a verdict within seven days, barring which disciplinary action can be taken against the trial judge. The number of terrorist cases being prosecuted in Pakistan has skyrocketed, and there are currently 17,000 such cases pending, with courts continuing to hand down death sentences. In Sindh, where Pakistan's most populous city is located, an astonishing 40 percent of the prisoners on death row were tried as 'terrorists'.²¹

Provincial Developments Round Up

Sindh

April 2014:

The **Sindh Child Marriage Restraint Act, 2013** passed through the Sindh Assembly in the spring of 2014 year, achieves two objectives. Firstly, targeting weak penalty and enforcement structures within the 1929 Act, and secondly, lobbying for an increase in the minimum age for marriage of girls to 18 years.

²¹ Belal, Sarah. *Who Are We Hanging?* The International News. 20 December 2014. Web. <http://www.thenews.com.pk/Todays-News-9-291234-Who-are-we-hanging>

- According to the act, whoever, being a male above 18 years of age, contracts a child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall be liable to fine, said an official statement here on Wednesday.
- It says that whoever performs, conducts, directs, brings about or in any way facilitates any child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine unless he proves that he had reason to believe that the marriage was not a child marriage.
- Where a parent or guardian or any other person in any capacity, lawful or unlawful does any act to promote the child marriage or permits it to be solemnized or fails to prevent it negligently from being solemnized, shall be punished with imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine.
- Notwithstanding anything contained in the code, an offence punishable under this act shall be cognizable, non-bailable and non-compoundable.
- The court shall on taking cognizance of a case proceed with the trial and conclude the case within 90 days, the official statement says.²²

December 2014:

Sindh government, in its efforts to implement laws to protect women and children against exploitation, registered 1,261 cases of kidnapping women for forced marriages in 2014. “Five of the abductors were convicted while 369 have been put up for trial. Another 45 cases of abduction of children under 10 were also registered. One case of abduction where the victim was subjected to grievous hurt was also lodged.”²³

The Sindh Child Protection Authority Act was passed by the Sindh Assembly in 2011. As per the Act, the Authority has to be established within 60 days of the adoption of the Act. By the start of January 2015, the Rules of Sindh Child Protection Authority Act 2011 remained pending; awaiting vetting by the Sindh Law Department. However, the Sindh Child Protection Authority was to be notified on December 12, 2013.

²² APP. *Sindh Child Marriages Restraint Act Comes Into Effect*. Dawn News. 12 June 2014. Web. <http://www.dawn.com/news/1112097>

²³ APP. *1,261 Women Kidnapped In Sindh For Forced Marriages In 2014*. Dawn News. 31 December 2014. Web. <http://www.dawn.com/news/1154059>

January 2015:

Sindh where the majority of Hindus reside is moving forward legislation of **Hindu Marriages**. Sindh is now all set to introduce much awaited Hindu Marriage Bill in the Sindh Assembly's next session starting from January 23, 2015 after Supreme Court of Pakistan directive of a two-week deadline to federal government to finalize the draft of the proposed Hindu marriage registration bill aiming help remove hurdles in registering Hindu community marriages.²⁴ The 'Hindu Marriage Bill 2015' and 'Stop Force Conversation Of Religion' bills will be presenting during upcoming SA session, said Parliamentary leader of Pakistan Muslim League (F).

Punjab

March 2014:

Reproductive, Maternal, Neonatal and Child Health Authority Act 2014

In 2014, the Punjab government took a positive step towards improving maternal and child health by passing the Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority Act. The law calls for establishing an a Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority (section 3) to be supervised by a board of governors, headed by the Provincial Minister of Health (section 4). Some of the areas targeted by the authorities include (section 7);

- Improving contraceptive prevalence rate; reducing unmet need for contraception; improving percentage of women of women receiving at least four anti-natal cares from skilled providers; increasing tetanus vaccination, skilled birth attendance, children fully immunized, women receiving post-natal care and institutional deliveries.
- Increasing the number of children suffering from diarrhea, who receive proper/prescribed treatment; decreasing prevalence of anemia among pregnant women: and decreasing the prevalence of severe or moderate wasting among children.

The Act also regularizes the employment of lady health workers and health supervisors in the province. Resultantly, 48,000 lady health workers and 1,947 health supervisors are now permanent employees in the province and in a better position to ensure the provision of basic health facilities, especially to under privileged mothers and children.²⁵

²⁴ Kunbhar, Zulfiqar. *All Set To Introduce Hindu Marriage Bill In SA*. Daily Times. 18 January 2015. Web. <http://www.dailytimes.com.pk/sindh/18-Jan-2015/all-set-to-introduce-hindu-marriage-bill-in-sa>

²⁵ Admin. *Lady Health Workers (LHW) Regularization Bill Passed By Punjab Assembly*. Pakworkers. 20 March 2014. Web. <http://www.pakworkers.com/news/lady-health-workers-lhw-regularization-bill-passed-by-punjab-assembly/>

June 2014:

A network of organizations, called Alliance Against Child Marriage, drafted a bill titled ‘**The Child Marriage Prohibition Punjab Act 2014**. Consultation workshops and the process of drafting the bill began in early 2012 and thereafter the bill was proposed to a number of parliamentarians in the Punjab Assembly and officials in the Department of Social Welfare Punjab. The bill is yet to be taken up by an MPA and presented in the Punjab Assembly for debate.

The Child Marriage Prohibition Punjab Act 2014, a collective effort of the Alliance against Child Marriage, serves to fill in the gaps left by the 85-year-old 1929 Child Marriage Restraint Act adopted by the government of independent Pakistan. As the 18th Amendment to Pakistan’s Constitution effectively made child and women rights a provincial subject, it is important to note that the 1929 Act currently applies to all the provinces who do not have their own legislation pertaining to it. The only province to effectively produce its own legislation has been Sindh.

Salient features of the proposed Child Marriage Prohibition Punjab Act 2014 include: increasing the required minimum age for marriage of a girl to 18 years (16 in 1929 Child Marriage Restraint Act); a compulsory requirement of a computerized National Identity Card of both parties for registration of marriage or Nikkah Nama; minimum punishment of at least three years rigorous imprisonment with a fine of at least 200,000 rupees for offending parties including Nikkah Khawans; and a clause investing responsibility of the child marriage with the parents of both the bride and bridegroom, the Nikkah Khawans, Nikkah registrar, bridegroom if over 18 years of age, and the witnesses of the Nikkah.

The bill prepared by various child rights groups, including Action Aid Pakistan and Child Rights Movement Punjab Chapter, states that the appearance of the person or the start of puberty shall be no ground to consider any person an adult or child. It also gives the right to courts to dissolve child marriages after hearing both contracting parties, demand return of any dowry received before and after solemnization of marriage, provisions for maintenance and residence for female child contracting party, to decide custody and maintenance of children born out of child marriage, issue injunctions prohibiting child marriages, and to apply Code of Criminal Procedure Code 1898, The Muslim Family Laws Ordinance 1961, and the Guardian and Ward Act 1890 in court trails.

In contrast to the 1929 Child Marriage Restraint Act that prescribes a punishment of one-month imprisonment and a fine of Rs 1000 for child marriage, the Child Marriage Prohibition Punjab Act 2014 outlines penalties including rigorous imprisonment of three years at least and a 200,000 rupees minimum fine for male adults marrying a child, and for those performing, conducting, directing or abetting in solemnizing any child marriage. Additionally, the bill also prescribes minimum one-year imprisonment and Rs 200,000 fine for those found guilty of promoting or permitting solemnization of child marriages. These offences are further deemed cognizable, non-bailable, and non-compoundable criminal offences. For purposes of implementation, the government is ordered to arrange capacity building of all union council (UC) members, leaders of communities, Nikkah registrars, and Nikkah Khawans on the law, in addition to holding periodic sensitization and awareness training of relevant government officers, police and members of the judiciary.

The concluding clause of the bill states that the relevant provisions of Punjab Destitute and Neglected Children Act 2004 shall be amended to allow residency of child party to child marriage in established or recognized child protection institutions.²⁶

July 2014:

Members of the Punjab Assembly (PA) and civil society organizations (CSOs) have agreed to move a bill to get a commission for protection of child rights established in the province. Punjab Government is set to start up a **Child Rights Commission**. Offices of District Child Commissioners have been set up in all districts of the province to safeguard the rights of the children below the age 18 years and district advisers concerned have been assigned to look after the offices. It is responsibility of the state to protect the children's rights to education, nutrition, shelter, adequate living standards and citizens must raise voice against violation of the same. Children, their parents or common citizens may send complaint to Chief Provincial Commissioner for Children or District Child Commissioner or inform on Helpline 1050 in case of child abuse, Punjab Ombudsman said.

October 2014:

The Punjab Assembly passed the **Free and Compulsory Education Bill 2014** that had been promulgated as an ordinance by the governor in May. The law had been under deliberation since 2010 when Article 25-A that calls for free and compulsory education for children was made part of the Constitution. The assembly passed the bill unanimously and the opposition withdrew the amendments it had submitted earlier. According to the Bill, every child shall have a right to free and compulsory education from Grade 1 to Grade 10, including non-formal education, vocational education or a combination of all. School, according to this bill, means an educational institution imparting elementary or secondary education to the children and includes a school owned or controlled by a government or a local authority, school receiving aid from government or a local authority, an unaided school not receiving any kind of aid or grant to meets its expenses from the government and a seminary or any school providing school education.²⁷

December 2014:

Early Age Marriage Resolution

Pakistan figures high in the incidence of child marriage in the world. Of the 60 million girls married worldwide, under the age of 18 in 2012, 42 per cent were from Pakistan. The Punjab Assembly is taking some steps in the right direction to curb child marriage. The Punjab

²⁶ Karim, Meeran. *Punjab Yet To Benefit From Anti-Child Marriage Law*. The International News. 10 June 2014. Web.

<http://www.thenews.com.pk/Todays-News-5-255069-Punjab-yet-to-benefit-from-anti-child-marriage-law>

²⁷ Bangash, Faizan. *Bill For Free Compulsory Education Approved*. The International News. 28 October 2014. Web. <http://www.thenews.com.pk/Todays-News-5-280800-Bill-for-free-compulsory-education-approved>

Assembly unanimously passed a **resolution against the practice of early age marriages**. According to the law, no female under 16 and no male under 18 can contract a marriage for that is the legal age here. However, there are some traditional/cultural practices that allow for early marriages, which is what the Punjab Assembly has tried to overcome. Tabling a resolution to bar child marriages in Pakistan, lawmakers have argued that the marrying of young girls and boys under the legal age is a practice that can have severe repercussions. One of the reasons why the female mortality rate is so high in this country is because young girls often die in childbirth, their fragile undeveloped bodies unable to take the stress. Many are married off against their will and, when it comes time to consummate the marriage, they are often raped. Above and beyond all that remains the simple fact that when a girl child is married off, her innocent childhood is lost forever.

The resolution was moved by a progressive female treasury member Azma Zahid Bukhari in the House on a Private Members' Day in which she suggested to make some legislation to stop any early age marriage in the society but Jamat-Islami's on one member and Parliamentary Leader Dr Waseem Akhtar opposed it. Giving his arguments against the resolution, he termed it as against the basic principles and teachings of Prophet Muhammad (PBUH) which are in favor of marriage of children soon after attaining the age of their puberty. He further stated that such theories of stoppage of early age marriages was a western conspiracy to end enhancement of Muslims' population as they had some kind of fear of extra births of children in Muslims if they got marriages in early age. Mian Rafiq, another treasury member also spoke on the same issue supporting the mover and said that early age marriages were held in the initial stage of Islam as a need of that time when the Muslims needs more population to come in power but now the situation has been change in the current era so now, there was no more need of early age marriages in the society.

Balochistan

January 2014:

The Balochistan Assembly passed the Balochistan Breast Feeding Protection and Nutrition for Infants and Young Children Act 2014.

February 2014:

Right to Education Bill Enacted

The governor of Balochistan on 12th of March, 2013, approved the Ordinance on Free & Compulsory education for Balochistan. Whereas, earlier there was not a single legislation on child rights in Balochistan. The Ordinance makes all five to sixteen year old children residing in the Balochistan province for free and compulsory education by law. The Act is now also in place

titled **Balochistan Compulsory Education Act** officially passed on February 6, 2014 – implementation of which will be dependent on “Rule of Business” which still need to be formulated. Balochistan has close to two million children out of school and a literacy rate of only 44%.²⁸

Pakistan aims to achieve 100 percent primary school enrollment, 100 percent completion of education from grades 1-5 and 88 percent literacy rate by 2015. On the other hand according to Pakistan Millennium Development Goals (MDG) report, 2013 “Net primary enrollment ratio in Balochistan is 39 out of 100 percent, completion / survival rate grade 1-5 in Balochistan is 35 (male: 50 and female: 16) out of 100 percent and literacy rate in Balochistan is 46 (male: 65 and female:23) out of 88 percent.”²⁹

November 2014:

Save the Children demanded the Balochistan government to increase the provincial health budget to bring down the death rate of children and mothers in Balochistan. According to members of Save the Children’s Child Clubs, child mortality rate posed a greater threat to Balochistan as compared to the rest of the provinces.

- They said that the neonatal mortality rate was 63 out of live 1,000 births;
- While 111 children out of 1,000 could not make it to their fifth birthday.
- They maintained that mother mortality ratio was high in the province;
- Adding that 785 mothers out of 100,000 die every year.³⁰

The National Nutrition Survey depicts a grim picture of the nutrition status of women (52.2 percent of them suffered from chronic malnutrition) and children (16.1 of them suffered from acute malnutrition) of Balochistan which, according to the World Health Organization (WHO), puts the province in a state of emergency.

The provincial government has been further asked to allocate more resources to improve the child health and survival situation in the province. Save the Children Advocacy and Campaign Manager Nadeem Shahid said that despite endorsement made by the provincial government, multi-sector nutrition strategy was not launched. It was also suggest that the government of

²⁸ *Legislation: Balochistan. Right To Education Pakistan.* RTE Pakistan. Web. 2014.
<http://rtepakistan.org/legislation/balochistan>

²⁹ Zareef, Tahir. *Human Rights in Balochistan: Frightful and Neglected.* Balochistan Point. 10 December 2014. Web.
<http://thebalochistanpoint.com/human-rights-in-balochistan-frightful-and-neglected/>

³⁰ Staff Report. *Balochistan Govt Asked To Increase Health Budget.* Daily Times. 15 November 2014. Web.
<http://www.dailytimes.com.pk/national/15-Nov-2014/balochistan-govt-asked-to-increase-health-budget>

Balochistan may take positive headway to appoint chairman of the health committee to process formation of the Infant Feeding Board for implementation of the Balochistan Protection and Promotion of Breastfeeding and Child Nutrition Law 2014.

Employment of Children (Amendment) Bill

Back in 2012, a draft of the provincial Employment of Children (Amendment) Bill to ban employment of children below 14 years of age was submitted for vetting to the Balochistan Law Department. In October 2012, the bill was returned without vetting as the Department wanted the removal of certain inconsistencies in the draft. By January 2015, the bill had yet to be tabled in the assembly.

Khyber Pakhtunkhwa

January 2015:

In the aftermath of the Peshawar Army Public School on Warsak Road attack, the Khyber Pakhtunkhwa government decided to allow employees of all educational institutions, including teachers, to carry licensed arms on the premises to respond fittingly in case of a terrorist attack. The Provincial Information Minister informed the media that the provincial cabinet has decided to allow teachers and other staff members to keep their licensed weapons with them so that in case of any eventuality they could engage attackers for initial five to 10 minutes before personnel of law-enforcement agencies will show up to respond to the attack. Moreover, in KP and across all of Pakistan, educational institutions had been told not to reopen campuses unless they fully carried out the government's security guidelines.³¹

The cabinet of KP also approved the **Khyber Pakhtunkhwa Universities (Amendment) Bill 2015** proposing changes in the existing law to reduce the tenure of vice chancellor of public sector universities. The amendment also provided for the sending of a government university's vice chancellor on forced leave for 90 days.

Furthermore, three more bills related to laborers were also approved by the cabinet:

- **The Khyber Pakhtunkhwa Bonded Labour Abolition Bill,**
- **The Khyber Pakhtunkhwa Prohibition of Employment of Children Bill:** Prohibits the employment of children under 14 years of age,
- **The Khyber Pakhtunkhwa Shops and Other Establishments Bill.**

³¹ *KP Govt Allows Teachers, Staff To Carry Arms Into Schools.* Dunya News. 16 January 2015. Web. http://video.dunya.com/index.php/en/mustwatch/12968/KPK-Govt-allows-teachers,-staff-to-carry-arms-into-schools#.VM9PM2iUc_9

Protection of Breastfeeding and Child Nutrition Act 2015

On January 9, 2015 the provincial assembly unanimously passed the Khyber Pakhtunkhwa Protection of Breastfeeding and Child Nutrition Act 2015 thus rendering propagation or assertion of any material in any manner whatsoever by a manufacturer or a distributor that encouraged bottle-feeding or discouraged breastfeeding; a punishable deed. Under the said law, headed by the provincial health minister an 11-member Khyber Pakhtunkhwa Infant Feeding Board would be constituted. The board would report violations, recommend investigation against manufacturers, distributors or health workers and would advise the government on policies or guidelines for the promotion and protection of breastfeeding. Spearheaded by a district council nazim, in every district an eight-member district infant feeding committee will also be formulated. More importantly, the law makes it mandatory for breast milk supplement manufacturers to explicitly conspicuously display the public message which should clearly communicate and register the fact that any supplement or substitute whatsoever cannot replace the significance of Mother's Milk and write on milk packages in bold characters that "mother's milk is best for your baby and helps in preventing Diarrhoea and other illnesses".

The law prohibits labeling packages with any public message or advertising note that might discourage breastfeeding. It also directs to label the products with necessary information bilingually that is both in English and Urdu about the appropriate use of such products. The law would invalidate the sale of such products, which would fail to satisfy any provisions of the said law. The new piece of legislation also makes it mandatory for health workers to support breastfeeding and stops them from promoting any so-called substitute product for infants. The law has defined "infant" as any baby up to the age of twelve months. Violators of the law can face imprisonment for a term that may extend up to two years, or a fine not less than Rs 50,000 or more than Rs 500,000 or both.

Unfortunately, Pakistan has the highest bottle-feeding rates and lowest exclusive breastfeeding rates in South Asia. The percentage of exclusively breast-fed children has remained static and has risen only from 37.1 percent in 2006-2007 to 37.7 percent in 2012-2013. However, when it comes to the bottle-feeding rate, Pakistan has no close competitors; bottle-feeding rate has risen from an already undesirable 32.1 percent in 2006-2007 to a high 41 percent in 2012-2013.³²

Right to Education Bill Pending Enactment

³² Press Release. *SUN-CSA Pak Congratulates KP Assembly on Nutrition Act 2015*. Daily Times. 16 January 2015. Web. <http://www.dailytimes.com.pk/national/16-Jan-2015/sun-csa-pak-congratulates-kp-assembly-on-nutrition-act-2015>

The Right to Education article was added to the Constitution of Pakistan in 2010 as part of the 18th Amendment. The amendment also placed the onus of legislating on education issues with provincial governments. At an oversight meeting organized by the provincial assembly's Standing Committee on Education, participants deliberated upon the stagnancy of the Right to Education Bill in Khyber-Pakhtunkhwa. They said the proposed law has still not been enacted despite the inclusion of Article 25-A in the Constitution of Pakistan almost five years ago. As a result, the province has a literacy rate of only 52% with approximately 2.5 million children out of schools. Thus far, all provinces and territories have enacted Right to Education bills except K-P. Civil society, education experts, parliamentarians, and government functionaries representing the education department, the law department as well as the finance ministry attended the meeting to discuss gaps in the enactment of the bill and the provision of free and compulsory education in K-P.

A representative from the law department argued that the reason for delays had to do with a lack of synergy between various departments. Participants also touched upon other issues along with education in K-P, including a very dismal literacy rate for females, the impact of militancy on attendance and retention, poor governance and a lack of effective, responsive oversight mechanisms. Under the Right to Education article, the state is obligated to provide “free and compulsory education to all children of the age of 5 to 16 years in such a manner as may be determined by law.”³³

Prohibition of Corporal Punishment Bill

In 2013, SPARC shared a draft of the Prohibition of Corporal Punishment Bill with the Education Department Secretary and conducted meetings with the Deputy Secretary and Chief Planning Officer who vowed to consider passing related legislation in the future. Unfortunately, during 2014 nothing in regards to corporal punishment transpired despite that it was also declared prohibited under the Child Protection and Welfare Act 2010.

Child Marriage Restraint Bill

Last year in 2013, provincial ministers, who had earlier lent their support for curtailing child marriages, backtracked on their views when the Child Marriage Restraint Amendment Bill 2013 was presented in the Khyber Pakhtunkhwa Assembly. The bill calls to curtail child marriages in Khyber Pakhtunkhwa and Federally Administered Tribal Areas (FATA), was rejected by most of the legislators. The bill was criticized for having financial implications and for part of a western agenda. One legislator stated that the approval of the bill would create a new debate and more issues in the province; hence, there was no need to discuss the bill in the assembly. Furthermore, it was added that there is no age limit for marriage in other Islamic countries. This reservation is in line with the declaration made by the Council of Islamic Ideology in March 2014.

In January 2015, at the National Conference on Child Marriages in Pakistan, Chairperson of the Khyber Pakhtunkhwa PCSW Neelam Toru said in her province there was a lot of resistance

³³ Our Correspondent. Filling The Gaps: Committee On Education Highlights Loopholes. Express Tribune. 8 January 2015. Web. <http://tribune.com.pk/story/818805/filling-the-gaps-committee-on-education-highlights-loopholes/>

on awareness campaigns about harmful effects of child marriages. She said in her province girls were considered as the 'honor' of the family and were taken out of school on reaching puberty.

Federally Administered Tribal Areas (FATA)

Ambiguity persists regarding the rights extended to the inhabitants of FATA, especially women and children. Article 246 and 247 of the Constitution made the status of Fata different from the rest of the country. Under Article 247 (3) of the Constitution, no Act of the parliament is applicable to FATA unless the President issues directives in this regard. Similarly, Article 247 (5) empowers the President to make regulation for peace and good governance in FATA. The most oppressive provision is Article 247 (7) which bars the Supreme Court and high courts from exercising any jurisdiction in tribal areas.

The successive governments failed in extending some important laws related to rights of children to FATA. Even, if some of the laws were extended to FATA it proved to be a futile exercise as the government failed to put in place the required institutional framework for their implementation.

The Juvenile Justice System Ordinance, 2000, introduced in the rest of the country during the military government of General Pervez Musharraf, was extended to FATA after campaigning by civil society organizations in 2004. However, that law has yet to be implemented there. Vital institutional framework required under this law has yet to be introduced, including the setting up of probation department, juvenile courts and borstal institutions, etc.

In November 1998, the President of Pakistan extended another important law, Employment of Children Act, 1991, to FATA, but without any homework. The law bars the working of children in hazardous occupations and also provides mechanism for their working in other occupations. Interestingly, a labor department is not available in FATA for the implementation of this law.

The Federally Administered Tribal Areas Compulsory Primary Education Regulation, 2002, was introduced in May 2002. This law has so far not been implemented. This law provides for setting up of an agency or education authority with the responsibility of taking action against parents for not sending their children to acquire primary education. It also provides penalty for the employer who employs a child.³⁴

There are several important laws which have so far not been extended to Fata. Some of these laws are:

- Child Marriage Restraint Act 1929;
- Prevention and Control of Human Trafficking Ordinance 2000;
- Prisoners Act 1900;
- Probation of Offenders Ordinance 1960;
- Reformatory Schools Act 1897;

³⁴ Ahmed Shah, Waseem. *View From The Courtroom: Child Rights Laws Yet To Be Implemented In FATA*. Dawn News. 1 December 2015. Web.
<http://www.dawn.com/news/1148048>

- Bonded Labour System (Abolition) Act 1992;
- Shops and Establishment Ordinance 1969;
- Workers Children (Education) Ordinance 1972;
- Vaccination Ordinance 1958;
- Protection of Breast Feeding Ordinance 2002;
- Prohibition of Smoking Ordinance 2002;
- Guardians and Wards Act 1890;
- Birth, Death and Marriage Registration Act 1886; and,
- West Pakistan Control of Orphanage Act 1958.

Jehanzeb Khan, the regional head of SPARC, told Dawn news that it is important that the government should introduce a law on the pattern of Khyber Pakhtunkhwa Child Protection and Welfare Act, in FATA so that a child protection commission can be set up there. Furthermore, he also stated that the Prevention and Control of Human Trafficking Ordinance should also be extended to Fata with certain amendments and the issue of internal trafficking in the country should also be included in it.

SPARC informed Dawn News that 900 schools were fully or partially damaged during militancy in FATA and Khyber Pakhtunkhwa which had left over 100,000 girl students without schools. These schools should be reconstructed and the standard of education should also be improved in FATA so that children could be sent to schools instead of sending them elsewhere.

Islamabad Capital Territory (ICT)

January 2015:

The Private Educational Institutions Regulatory Authority (PEIRA) Act was signed on March 5, 2013. Prior to the passage of this law, educational institutions of the Federal capital had been running through a regulatory authority formed by a presidential ordinance. Under this Act, an authority would be setup to monitor, register, and regularize private educational institutions in the capital as a corporate body. However, the rules were not developed while the act also lacked the criteria of appointing the chairman.

Private schools associations in the federal capital have demanded appointment of a permanent chairman of PEIRA and conduct its audit from 2006-2013. The regulatory authority mandated to control, register and promote private educational institutions in the capital is unable to fulfill its responsibilities without a permanent chairman since 2013.

President Private Schools Network (PSN), Dr. Afzal Babar demanded the authorities to develop SROs for the act including devising the criteria for appointment of its chairman and advertise the post of chairman to fill this seat on merit. He said the capital has an authority Federal Directorate of Education (FDE) to look after 422 educational institutions with an estimated 200,000 students.

However there is no functional authority to control and register 2,000 private schools with three hundred thousand students. He also demanded audit of PEIRA since its formation in the year 2006 till 2014 to check how much revenue it has generated through collecting registration fee, fines and other charges.

Conclusion

The standards and principles expressed in the UNCRC can only become a reality when they are respected by communities at large and institutions at all levels of administration. Pakistan was one of the first countries in the world to be a signatory of the UNCRC and yet after 25 years its children in continue to face issues related to violence, abuse, lack of protective social welfare structures and the lack of a comprehensive legal framework for the protection of their rights. We do recognize and appreciate both the national and provincial government's developments but it cannot stop there and more remains to be done. We have noted that the main discourse lies in lack of proper implementation of current laws. Therefore we urge both national and provincial assemblies to immediately adopt all pending legislation regarding children on a priority basis and ensure proper enactment and implementation of all laws passed.

In light of the Peshawar Attack on the country's most vulnerable asset, its children, the government must formulate a policy at national as well as provincial levels for victims of terrorism. It is a glaring truth 2014 has put forth in front of Pakistan, we must protect our children. Proper policy, followed by legislation and implementation on protecting children who are victims of terrorism must immediately take place. The government must also define "terrorists" more clearly in its legislation so that in cases like 15 year old Shafqat Hussain, the innocent do not get entangled.

Pakistan has failed to achieve the Millennium Development Goals (MDGs), including MDG-4, which refers to a two-thirds reduction in the under-five mortality rate, which currently stands at 87 per 1,000 live births. Pakistan ranks number 23 in highest under five-mortality rate in the world according to UNICEF's *The State of the World's Children Report 2015*. There is also the problem of poor vaccination rates for children due to a weak routine immunization system and growing violence against them, among various other serious issues afflicting child rights in the country. We urge civil society, private sector, media, the government and all stakeholders to raise awareness campaigns and educate the masses forgotten in far corners of the nation.

Following devolution of the 18th Amendment, there is need to effectively build pressure on the federal and provincial governments on taking immediate action toward improving the situation of children by firstly fulfilling Pakistan's national and international obligations. SPARC would like to reiterate that while provinces have enacted laws and policies central to improve the state of child rights, unfortunately, implementation remains a key concern.

Recommendations

- The national and provincial assemblies must pass all pending bills.
- The provincial governments need to urgently enact child protection laws especially keeping in consideration the horrific attack on the Army Public School in Peshawar.
- Child Protection Units must be established throughout the county, which provide free legal aid to the child victims of such crimes.
- In light of the Peshawar Attack the government must formulate a policy at the national and provincial levels for victims of terrorism.
- National and provincial assemblies need to bring in specific laws which clearly translate the articles of the UNCRC into domestic law
- Minimum age of criminal responsibility should be raised to an age acceptable by international human and child rights standards.
- The Child Marriage Restraint Act 1929 should be amended with the minimum punishment for perpetrators be increased as well as the fine. Penalties should be applicable to parents of both the bride and groom. The minimum age for marriage for both boys and girls should be raised to 18 years as per international standards.
- The federal government should ratify the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC); and sign and ratify the Optional Protocol on the Communications Procedure (OPIC).
- Being a signatory to the Convention on the Rights of the Child (CRC), Pakistan should take measures to meet minimum standards in the juvenile justice system.
- In light of Article 25A of the constitution, the President should notify the Federally Administered Areas Right to Free and Compulsory Education Regulation.
- The provincial government of Balochistan should introduce child rights specific legislation and notify the rules for the March 2013 Ordinance which declared primary and secondary school education in the province as free and compulsory.
- Government should develop national and provincial strategies to counter the increasing number of street children and provide nutrition, shelter, healthcare and educational opportunities.
- A national-level body with statutory status to ensure effective implementation of Pakistan's national and international obligations must be put in place.