Ministry of Human Rights
Government of Pakistan

A STUDY ON
HARMONIZING PAKISTAN'S LAWS
WITH INTERNATIONAL HUMAN RIGHTS STANDARDS



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Disclaimer

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Message of the Federal Minister for Human Rights

Pakistan remains deeply committed to advancing the constitutional promise of dignity, equality, and justice for all its people. As the Federal Minister for Human Rights, I am honoured to present this report, which represents a significant step in strengthening our national framework for the protection and promotion of human rights. Rooted in our Constitution and informed by Pakistan's international commitments, this report offers a comprehensive analysis of the challenges we face and identifies clear, workable and feasible solutions for reform. It reflects our conviction that meaningful progress requires honest assessment, institutional collaboration, and sustained political will.

This study, undertaken in partnership with the Research Society of International Law, provides a rigorous examination of legislative, policy, and institutional gaps across a wide spectrum of human rights issues. Drawing on hundreds of laws, court judgments, and treaty body recommendations, as well as consultations with federal and provincial stakeholders, the study presents a blueprint for aligning Pakistan's domestic legal framework with international human rights standards. Such research is essential for ensuring that our reforms are not only aspirational but also evidence-based and responsive to ground realities.

The findings of this report emphasize the importance of cohesive intergovernmental coordination, harmonized legislation, and, above all, effective implementation mechanisms. As human rights responsibilities are shared across ministries, provinces, and institutions, our collective success depends on strengthening institutional capacity, developing evidence-based solutions, and ensuring that protection mechanisms are accessible to all, especially the most vulnerable. The Government of Pakistan remains committed to translating these recommendations into actionable reforms that strengthen the rule of law, reinforce public trust, and contribute to a more just and inclusive society.

I commend the Ministry of Human Rights, the researchers, and partner organizations for undertaking this rigorous and timely study. Their efforts reflect our shared commitment to promoting transparency, accountability, and a rights-based approach to governance. Also, I extend my appreciation to relevant provincial departments who contributed their insights. This report is not an endpoint, but a foundation for continued progress. Its recommendations will guide the Government's policy direction as we work to fulfil Pakistan's constitutional values and international human rights obligations. I encourage all institutions, policymakers, and citizens to engage with this document and join us in advancing a rights-respecting future for every individual in Pakistan.

Senator Azam Nazeer Tarar
Federal Minister for Human Rights

Message from the Secretary Ministry of Human Rights

I am pleased to extend my appreciation on the publication of this study on *"Harmonizing Pakistan's Laws with International Human Rights Standards"* which is based on an in depth research of Pakistan's compliance with its human rights obligations. This study is a valuable contribution to our collective efforts to strengthen the human rights landscape in Pakistan and to support evidence-based policy planning, institutional development, and effective implementation of our national and international commitments.

Pakistan's Constitution guarantees fundamental rights to all citizens, and the State remains firmly committed to upholding the dignity, equality, and freedoms of every individual in accordance with our constitutional guarantees and the international treaties to which Pakistan is a party. In this context, rigorous and objective assessments are essential for identifying progress made, highlighting areas requiring focused attention, and guiding reform initiatives across federal and provincial levels. Such research and development related initiatives are highly instrumental for effective policy and planning on scientific lines with regard to introducing appropriate interventions.

The findings and recommendations of this report provide an opportunity for constructive introspection and will serve as a practical resource for policymakers, institutions, civil society organizations, and development partners working toward the promotion and protection of human rights, particularly the rights of women, children, minorities, persons with disabilities and other vulnerable segments. The Ministry of Human Rights welcomes such research-driven initiatives and remains committed to collaborating with all stakeholders to strengthen compliance mechanisms, enhance monitoring and reporting structures, and advance the implementation of Pakistan's human rights obligations.

I commend the authors, researchers, MoHR's core team and partner organizations for their dedication and professionalism in producing this comprehensive study. I am confident that this report will contribute meaningfully to ongoing national efforts aimed at ensuring a more just, inclusive, and rights-respecting society.

Abdul Khalique Shaikh
Secretary
Ministry of Human Rights
Government of Pakistan

Introduction

This report encapsulates the outcomes of an extensive research consultancy undertaken by the Research Society of International Law (RSIL) at the behest of the Federal Ministry of Human Rights, Government of Pakistan. The primary aim of this consultancy was to identify and analyze structural and legislative gaps impeding the full realisation of human rights protections across Pakistan, aligning domestic legislation and practices with the Constitution of Pakistan, 1973, international human rights obligations, and recommendations made by UN Treaty Bodies.

This research report is structured around eight key objectives: identifying legislative discrepancies at both federal and provincial levels concerning constitutional provisions; harmonising existing laws with Pakistan's obligations under core international human rights conventions, including ICCPR, CAT, CRC, and CEDAW; integrating recommendations from UN Treaty Bodies into domestic frameworks; analyzing provincial legislation to recommend uniformity; drafting model bills and amendments to address identified gaps; mapping implementation mechanisms across federal and provincial entities to highlight practical gaps; proposing a cohesive institutional framework to enhance intergovernmental coordination and reporting; and analyzing superior court judgments to identify and recommend necessary legislative amendments.

A robust and multidimensional methodology was implemented for the study. This included an extensive desk review of primary and secondary sources such as national and provincial legislation, constitutional texts, international human rights treaties, and official documents, including UN Treaty Body reports and governmental responses. In total, 566 recommendations from UN Treaty Bodies, 557 superior court judgments, and 182 distinct federal and provincial laws were rigorously reviewed. Key research tools employed included detailed legal and policy analysis, comparative analyses vis-à-vis international human rights standards, thematic content analysis of UN Treaty Body concluding observations, and comprehensive institutional mapping to assess roles, responsibilities, and capacities at the federal and provincial levels.

To ensure a grounded and practical approach, desk review was supplemented with stakeholder engagement through five structured consultations and eight detailed interviews. Participants included members from national human rights institutions, civil society organisations, legal professionals, and government stakeholders, whose insights significantly enriched the analysis.

Through this extensive approach, twenty critical human rights issues representing significant challenges or "pain points" within Pakistan's human rights governance framework were identified. Each issue has been meticulously examined within dedicated yet interconnected chapters. Each chapter begins with an executive summary, followed by a detailed situational analysis drawing from open-source data, news reports, official government documents, shadow reports from NGOs, and reports by UN bodies. This is complemented by an in-depth legal gap analysis assessing both international human rights standards and domestic legislation, including relevant provincial laws and superior court jurisprudence. Subsequently, an

institutional analysis delineates the roles and responsibilities of federal and provincial entities tasked with implementing human rights protections. Each chapter concludes with a summary of relevant observations from UN Treaty Bodies and targeted legislative, policy, and institutional recommendations, including proposals for new laws, amendments to existing legislation, implementation rules, institutional reforms, and mechanisms for enhanced coordination and reporting.

The intended use of this report is multifaceted, providing federal and provincial governments with a comprehensive blueprint for reforming human rights governance in Pakistan. It also serves as a critical resource for the judiciary, legal practitioners, civil society, and the international community. Given the strategic importance of human rights governance in today's global landscape, this report aims to address longstanding structural challenges, enhance Pakistan's international standing, and improve its rankings on key global human rights indicators. It is anticipated that targeted implementation of these recommendations will substantially enhance the rule of law, governance, and inter-institutional coordination in Pakistan, ultimately fostering national stability, development, and prosperity.

Research Methodology

This study employed a qualitative research approach. This methodology was selected due to the nature of the research, which focuses on legal texts, policy documents, institutional structures, and compliance mechanisms rather than quantitative data or statistical indicators. A qualitative approach allowed for in-depth analysis of the content, coherence, and applicability of existing human rights-related legislation in Pakistan.

Desk Review

The research involved a comprehensive desk review of primary and secondary sources. Primary sources included national legislation, constitutional provisions, international human rights treaties, and official government documents such as UN Treaty Body reports and responses. The study examines 566 recommendations by UN Treaty Bodies, 557 case law judgments, and 182 laws. Key research tools included:

- Legal and policy analysis of national and provincial laws,
- Comparative analysis with international human rights standards and obligations,
- Thematic content analysis of UN Treaty Body observations and concluding remarks, and
- Institutional mapping to assess the implementation responsibilities of federal and provincial entities.

The following research questions guided the study:

1. To what extent does Pakistan's domestic legal framework align with its constitutional and international human rights obligations?
2. What are the key gaps and inconsistencies within and between federal and provincial human rights-related legislation?
3. What recommendations can be made for harmonising legislation in line with international treaties and constitutional guarantees?
4. How effective are existing implementation mechanisms, and what barriers exist to their enforcement?
5. What are the respective roles of federal and provincial governments in the post-18th Amendment context regarding the protection and promotion of human rights?

These research questions directly reflect the Terms of Reference provided for the study and shaped the collection, review, and analysis of data. To maintain objectivity, the report avoids

normative or value-based judgments. All findings and recommendations are based on the documented analysis of legal texts and institutional roles in relation to Pakistan's constitutional and international obligations.

Stakeholder Consultations and Interviews

To substantiate the desk review, five stakeholder consultations and eight additional interviews were conducted with members of national human rights institutions, civil society organisations, lawyers and governmental stakeholders to understand what efforts have been taken to bolster Pakistan's compliance with its international human rights obligations.

The Ministry conducted a stakeholder consultation with Federal Government stakeholders, and nominated regional Ministry of Human Rights offices to convene provincial stakeholder consultations with representatives of the provincial governments involved in human rights compliance. These consultations focused on understanding the administrative issues of improving and monitoring human rights compliance, namely data collection, reporting and coordination (discussed in a dedicated chapter in this report). Consultations were also necessary to bridge gaps in desk review and to gain insights into the ground realities of those working to ensure compliance with Pakistan's international and domestic human rights obligations

Child Abuse and Exploitation

Chapter Summary

Child abuse and exploitation constitute critical areas within Pakistan's broader human rights and child protection agenda. The term encompasses a range of practices, including sexual and physical abuse, kidnapping, and commercial or digital exploitation. Available data indicates that while thousands of cases are reported annually, the actual incidence is likely higher due to underreporting influenced by social stigma and community sensitivities. In 2023, over 2,200 child abuse cases were officially recorded in the first half of the year alone. Children in vulnerable circumstances—such as those in domestic work, living on the streets, or displaced by conflict—face heightened risk. Public and institutional awareness has grown in recent years, resulting in the establishment of Child Protection Units (CPUs) and specialised legislative efforts to improve reporting, investigation, and rehabilitation processes.

Pakistan is a State Party to key international treaties relevant to child protection, including the UN Convention on the Rights of the Child (CRC), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-SC), and the Palermo Protocol on trafficking. These instruments obligate Pakistan to prevent, criminalise, and redress child abuse in all its forms. Domestically, constitutional protections under Articles 9, 11, 14, and 25(3) provide a foundation for child protection, supported by laws such as the Pakistan Penal Code (PPC), the Zainab Alert, Response and Recovery Act 2020, and the Prevention of Electronic Crimes Act 2016. All provinces and territories have also enacted child protection legislation, establishing institutions with mandates to prevent and respond to abuse. However, inconsistencies in definitions, penalties, and mandates across jurisdictions indicate areas where harmonisation with international standards could be strengthened to enhance legal clarity and uniform protection.

Institutional responsibilities for child protection are distributed among several bodies including the National Commission on the Rights of the Child (NCRC), provincial child protection authorities, the Zainab Alert, Response and Recovery Agency (ZARRA), and law enforcement agencies. The NCRC plays an oversight role and engages in policy advocacy and complaint redressal, while provincial child protection authorities manage on-ground services including shelter and rehabilitation. The Federal Investigation Agency (FIA) addresses online exploitation cases through its cybercrime wing. Coordination among institutions remains essential to avoid jurisdictional ambiguity and ensure effective case management. Efforts are ongoing to improve law enforcement responsiveness, establish child-sensitive investigation protocols, and develop specialised child protection courts.

This chapter provides a comprehensive examination of child abuse and exploitation, placing it in context with Pakistan's constitutional framework and international human rights commitments. It identifies areas where legislative and institutional enhancements can further align domestic practices with international standards under treaties such as the CRC and CRC-OP-SC. Suggested directions for future reform include harmonising legal definitions and

penalties across jurisdictions, expanding mandatory reporting obligations, and enhancing inter-agency coordination mechanisms. Additional priorities include procedural reforms to standardise child-sensitive practices, administrative improvements in data collection, awareness-raising campaigns, and capacity-building for law enforcement and welfare personnel. These measures offer opportunities to further strengthen Pakistan's child protection framework and ensure the rights and well-being of children across the country.

Situational Analysis

Child abuse and exploitation remain key areas of concern in Pakistan's human rights landscape. For the purposes of this analysis, child abuse is understood to include sexual abuse, physical abuse, commercial and sexual exploitation, kidnapping, and abduction. Related issues such as child labour, child marriage, and trafficking are addressed in separate chapters. Pakistan's commitment to protecting children from all forms of abuse and exploitation is grounded in both domestic legal frameworks and its obligations under the United Nations Convention on the Rights of the Child (CRC) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-SC), to which Pakistan is a State Party.

Child abuse remains consistently underreported; however, public awareness and institutional mechanisms are steadily improving. Between January and June 2023, 2,227 cases of child abuse were reported, with most victims aged between 6 and 15 years old.[1] A total of 4,253 such cases were recorded in 2022, with girls accounting for a slightly higher proportion of victims.[2] Similarly, trafficking-related data from 2023 indicated that 3,187 out of approximately 35,000 registered trafficking cases involved children. However, as noted by child protection experts, actual incidence rates are likely to be significantly higher due to underreporting, which is influenced by social stigma, familial pressures, and community sensitivities. These cultural barriers contribute to out-of-court settlements and reluctance in filing police reports.[3]

The State has made efforts to develop institutional responses to ensure greater protection to children against abuse. For instance, Child Protection Units (CPUs) have been established in several regions to offer psychosocial support, referrals, and assistance with legal processes. For example, the CPU at the Children's Hospital in Lahore provides a specialised response mechanism aimed at providing support to victims.[4] Nonetheless, to ensure greater reporting and action against such cases, the State is undertaking broader public engagement and strengthening community-based responses.[5]

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[1] Abid Hussain, "A Child Was Sexually Abused Every Two Hours in Pakistan This Year, NGO Says," *Al Jazeera*, August 25, 2023, accessed March 26, 2025, https://www.aljazeera.com/news/2023/8/25/a-child-was-sexually-abused-every-two-hours-in-pakistan-this-year-ngo-says

[2] Sahil, *Cruel Numbers 2022*, accessed March 26, 2025, https://sahil.org/cruel-numbers/.

[3] Interview with Dr. Naeem Zafar, Executive Director of PAHCHAAN, 25 February 2025

[4] Ibid.

[5] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 149

The Government of Pakistan has continued to develop legal and institutional frameworks to address child abuse and exploitation. Federal legislation such as the Zainab Alert, Response and Recovery Act 2020 reflect a rights-based approach to child protection. These efforts are complemented by the work of the National Commission on the Rights of the Child (NCRC), established under the National Commission on the Rights of Child Act 2017, which monitors implementation of child protection laws and makes policy recommendations.[6]

At the provincial level, child protection legislation has been enacted in all four provinces and territories, and dedicated Child Protection Bureaus, Authorities, or Units have been operationalised in Punjab, Sindh, Khyber Pakhtunkhwa, Balochistan, and Islamabad Capital Territory. These bodies are tasked with providing immediate support, rehabilitation, and reintegration services for children who experience abuse or exploitation.[7] Capacity-building for law enforcement and child welfare personnel remains an ongoing policy priority to ensure the effective operationalisation of these legal provisions.[8]

Emerging forms of abuse in the digital era, particularly online exploitation and child sexual abuse material (CSAM), present new challenges to the protection of children. Between 2020 and 2022, over 5.4 million incidents linked to Pakistan involving CSAM were reported.[9] The Federal Investigation Agency (FIA) has played a significant role in curbing these threats. However, the FIA's new National Cyber Crimes Investigation Agency (NCCIA) - which replaced the previous Cyber Crimes Wing - requires further capacity-building in technical and human resources capacities, especially in light of the complex nature of digital offenses and the speed at which such content proliferates.

The Government has also taken steps to ameliorate the conditions of children in vulnerable circumstances, such as those living or working on the streets, engaged in domestic labour, or displaced by conflict or natural disasters.[10] These groups are disproportionately vulnerable to child abuse and exploitation due to limited oversight, their lower socioeconomic status, and lack of access to social protection services. Public concern over the issue has increased in recent years, particularly following widely publicised incidents involving child domestic workers.[11] These cases have contributed to advocacy for expanded legal protections and more robust enforcement of existing safeguards.

Overall, Pakistan continues to take steps toward strengthening systems against child abuse and exploitation in line with its Constitution and international obligations. While challenges

[6] Ibid., para 15

[7] Pakistan. Initial Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography: CRC/C/OPSC/PAK/1. United Nations Committee on the Rights of the Child, 2020, para 59

[8] Ibid.

[9] Irfan Aslam, "Pakistani Kids Among Most Vulnerable to Online Sexual Abuse," *Dawn*, February 8, 2024, https://www.dawn.com/news/1812049

[10] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, paras 253-275

[11] Asif Chaudhry, "Maid Tortured by Judge's Wife Shifted to ICU," Dawn, July 26, 2023, https://www.dawn.com/news/1766805.

persists relating to underreporting, public awareness, and institutional coordination, these present key opportunities for targeted legal, administrative, and cultural interventions to building a more resilient, child-friendly protection framework across the country.

Legal Analysis

International Law

The UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child is the primary international legal framework governing the protection of children from various rights abuses. Article 3(1) enshrines the 'best interests of the child' as a primary consideration in all actions concerning children, including judicial and administrative proceedings – meaning laws and their enforcement should prioritise child welfare and protection.

The CRC makes explicit provisions for the protection of children against exploitative practices.

- Article 19 requires States to take measures against physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation of children, including child sexual abuse. The Article requires States to establish social programs to provide necessary support to such children, and identify, report, refer, investigate and treat such cases.

- Article 32 requires States to protect children against economic exploitation, particularly hazardous employment that interferes with their education.

- Article 33 requires States to adopt measures to protect children from the illicit use of narcotic and psychotropic drugs and substances, and in the production and trafficking thereof.

- Article 34 requires States to protect children against all forms of sexual exploitation and abuse, including prostitution and child pornography.

- Article 35 requires State to take appropriate measures to prevent the abduction or sale of, or traffic in children.

- Article 39 requires States to adopt measures to promote the physical and psychological recovery and social reintegration of child victims of neglect, exploitation or abuse, torture, cruel, inhuman or degrading treatment or punishment or armed conflicts.

Optional Protocols to the CRC

Pakistan is also party to two optional protocols to the CRC. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000

(OP-CRC-AC) prohibits the compulsory recruitment and involvement of children under the age of 18 years old in armed conflicts, particularly against taking direct part in hostilities. It allows voluntary recuritment of persons of children under the age of 18 subject to certain limitations, and prohibiting said children from taking direct part in hostilities. Article 6 of the Optional Protocol requires States to take all necessary legal, administrative and other measures to ensure the effective implementaiton of the Protocol

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children Child Prostitution and Child Pornography, 2000 (OP-CRC-SCCPCP) seeks to facilitate the elimination of the sale of children, child prostitution and child pornography. Key definitions are as follows:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3 of the OP-CRC-SCCPCP requires States to fully criminalise the above acts. Articles 4-11 detail how States must exercise jurisdiction over said crimes both domestically and through international cooperation, including through extradition.

The Palermo Protocol

Outside the CRC framework, another critical instrument is the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000). This protocol, supplementing the UN Convention against Transnational Organised Crime, obliges states to criminalise trafficking and related exploitation. Pakistan acceded to the Protocol in November 2022.

Article 3(a) of the Protocol defines trafficking in persons as follows:

> "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Article 3 further states that whether the victim consented to the trafficking is irrelevant as a mitigating factor to the crime. It also defines a child as any person under 18 years of age. Thus, the Protocol places additional measures on Pakistan to criminalise trafficking in persons as per

the definition in Article 3(a), and subsequently take effective administrative measures to curb the trafficking in persons as well.

Domestic Law

The Constitution of Pakistan

While the Constitution does not explicitly protect children's rights as a separate right, the following rights do apply here:

- Article 9 of the Constitution protects the right to life and liberty of all children, which protects children from the loss of life, kidnapping, abduction, and ensures their right to live a life of quality.
- Article 11 of the Constitution protects children from slavery, forced labour, trafficking, and hazardous employment when under 14 years of age.
- Article 14 of the Constitution protects the right to dignity and privacy of children, which protects them from unjustified bodily interference and acts compromising their dignity.
- Article 25(3) of the Constitution allows the State to take special measures to protect women and children.

Case Law

Because several cases of child exploitation are not reported, they do not make it to the judicial process. Cases filed under the child protection laws in each province also rarely make it to the High Courts and Supreme Court. In *Legal Aid Foundation for Victims of Rape and Sexual Assault (LRSA) v Federal Government through Secretary, Interior Divison and others*,[12] a judicial inquiry was conducted into the poor state of affairs of the police in investigating cases of reported child abuse. These recommendations to the Islamabad Police included, *inter alia*:

- The use of CCTV technology in police stations;
- Disciplinary action against police who fail to register FIRs;
- A revision of the SOPs on Gender and the Child Protection Unit to include child rape, molestation and sexual harassment;
- Regular inspections of police stations by the IG and DIG Police;
- The provision of healthcare and psychosocial services to victims;
- The mandatory administration of DNA testing and preservation of DNA evidence;

[12] PLD 2023 Islamabad

- The assignment of a female officer to be the first respondent to such cases; and
- Guidelines on the recording of evidence from the child survivor.

Legislation

The Pakistan Penal Code, 1860

There are several related provisions under the Pakistan Penal Code and other statutes that prohibit exploitative practices, such as prostitution, abduction and kidnapping, that are relevant for this chapter.

- Section 328 criminalises the exposure and abandonment of a child under twelve years old by a parent or guardian, and punishes the offence with imprisonment of up to seven years and/or a fine.
- Section 328A criminalises the wilful assault, ill-treatment, neglect or abandonment of a child, or any other act of omission or commission that physically or psychologically harms or injures the child, and punishes it with imprisonment between one to three years, and/or a fine between PKR 25,000 and PKR 50,000.
- Section 361 criminalises the kidnapping of a minor under 14 if male or under 16 if female out of the keeping of the lawful guardian, with the punishment for this being imprisonment of up to seven years and a fine under Section 363.
- Section 364-A punishes the kidnapping or abducting of a person under the age of fourteen so that "such person may be murdered or subjected to grievous hurt, or slavery, or to the lust of any person or may be so disposed of as to be put in danger of being murdered or subjected to grievous hurt, or slavery, or to the lust of any person" to be punished with death or with imprisonment for life or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years.
- Section 366A punishes the procuration of a minor girl (under the age of 18) for the purposes of illicit intercourse with up to ten years imprisonment and a fine.
- Section 366B punishes the importation of a girl under 21 years of age with the intention of forcing her or seducing her to have illicit intercourse with another person to up to ten years imprisonment and a fine.
- Section 369 punishes the kidnapping or abducting of a child under 10 years with the intent to steal from its person with imprisonment of up to seven years and a fine.
- Sections 371A and 371B punish those selling and buying persons for prostitution "or illicit intercourse with any person or for any unlawful and immoral purpose" respectively with up to 25 years imprisonment and a fine.

- Section 375 criminalises the rape of a minor being under the age of sixteen years of age with or without her consent, with the punishment for this under Section 376 being imprisonment between 10 - 25 years and a fine. or where committed by two or more persons, punishable with death or imprisonment for life.

- Section 377A criminalises sexual abuse, which involves fondling, stroking, caressing, exhibitionism, voyeurism or any other obscene or sexually explicit conduct or simulation of such conduct independently or with other acts to a person under the age of eighteen years. This is punishable with imprisonment between 14 and 20 years, and a fine of up to PKR 1 million.

Child Protection Laws

Each provincial and regional government has enacted legislation for the protection of children in their jurisdiction. These are as follows:

- The Punjab Destitute and Neglected Children Act, 2004;

- The Sindh Child Protection Authority Act, 2011;

- The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010;

- The Balochistan Child Protection Act, 2016;

- The Islamabad Capital Territory Child Protection Act, 2018;

- The Azad Jammu and Kashmir Child Rights (Care and Protection) Act, 2016, and

- The Gilgit Baltistan Child Protection Response Act, 2017.

These laws establish a provincial or regional authority that is responsible for the welfare of children in their respective provinces. Each law prioritises the best interests of the child as the primary principle governing the authority's decisions. The different laws seek to eliminate the physical and mental abuse, exploitation and neglect of children, focusing on their rehabilitation and rescue, as well as preventing them from falling into child labour. The laws set up Child Protection Units with authorised officers to monitor and implement their provisions. The laws also establish Child Protection Institutions which can take custody of children at risk of abuse or exploitation - these can also be institutions set up by non-governmental actors that are recognised (or require registration to) by the child protection authority in question.

The Zainab Alert, Response and Recovery Act, 2020

The Zainab Alert, Response and Recovery Act, 2020, specifically addresses child abduction (not broader forms of child abuse or exploitation). It establishes the Zainab Alert, Response and Recovery Agency (ZARRA) to manage rapid alerts for missing or abducted children. Under this Act, police are mandated to register FIRs immediately upon receiving reports, and failure to register such FIRs is explicitly criminalised. The Act establishes a national hotline,

maintains an online database, and disseminates alerts widely via media and a dedicated mobile application to ensure prompt and effective public outreach.

The Prevention of Electronic Crimes Act, 2016

The Prevention of Electronic Crimes Act, 2016, makes specific provisions to protect children against certain crimes committed using electronic means.

- Section 19 criminalises offenses against the modesty of a person through electronic means, increasing penalties when victims are minors, with imprisonment up to seven years and fines up to PKR 5 million.

- Section 19A explicitly prohibits producing, distributing, transmitting, procuring, or possessing child pornography, punishable by imprisonment of up to seven years and fines up to PKR 5 million.

- Section 22 criminalises the intentional production, distribution, or transmission of child pornography through information systems, imposing penalties of up to seven years imprisonment and fines up to PKR 5 million.

- Section 22A targets online grooming, solicitation, or enticement of minors for sexual abuse or exploitation, with imprisonment from five to ten years and fines up to PKR 10 million.

- Section 22B specifically criminalises online commercial sexual exploitation of minors, including child prostitution and child sex tourism, with imprisonment ranging from 14 to 20 years and substantial fines.

- Section 22C penalises using electronic systems to facilitate kidnapping, abduction, or trafficking of minors for sexual exploitation, prescribing imprisonment from 14 to 20 years and heavy fines.

- Section 24A criminalises cyberbullying of minors, including online harassment or intimidation, with imprisonment of one to five years and fines from PKR 100,000 to 500,000.

Analysis

Definition of a Child in Need of Protection and Penalties

While the definition of a child in need of protection is similar across each law, there are certain differences which can potentially impact the extent to which a child is protected from abusive and exploitative behaviour. For example, the following is the definition of a ‘destitute and neglected child’ under Section 2(k) of the Punjab Act:

k) "destitute and neglected child" means a child who–

(i) is found begging; or

(ii) is found without having any home or settled place of abode and without any ostensible means of subsistence; or

(iii) has a parent or guardian who is unfit or incapacitated to exercise control over the child; or

(iv) lives in brothel or with a prostitute or frequently visits any place being used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads an immoral or depraved life; or

(v) is being or is likely to be abused or exploited for immoral or illegal purpose or unconscionable gain; or

(vi) is beyond the parental control; or

(vii) has lost his parents or one of the parents and has no adequate source of income; or

(viii) is victim of an offence punishable under this Act or any other law for the time being in force and his parent or guardian is convicted or accused for the commission of such offence; [or]

[(ix) is at risk owing to disability or child labour; or

(x) is imprisoned with the mother or is born in a jail; or

(xi) is abandoned by the parents or guardian.

In comparison, below is the Sindh Act's definition:

(c) "Child in need of special protection measures" includes a child who-

(i) is victim of violence, abuse and exploitations;

(ii) is subjected to physical and psychological violence, sexual abuse or commercial sexual exploitation;

(iii) is forced into the worst forms of the child labour, exploitative labour, or beggary;

(iv) is subject to human trafficking within and outside Pakistan;

(v) is being misused for drug trafficking or is subjected to abuse of substances like glue drugs, spirit;

(vi) is engaged in an armed conflict;

(vii) is a child without primary care givers; and

(viii) is affected or infected with HIV aids.

There is a difference between how each law defines a child in need of protection. This creates potential lacunae of protection; for example, a child who is imprisoned with the mother or born in jail may be afforded protection in Punjab, but not in Sindh. Similarly, a child involved in an armed group in Sindh may be subject to protection, but not necessarily under the Punjab Act. The Balochistan approach is comprehensive as it defines a few key terms in detail, such as 'sexual abuse and exploitation' or 'mental violence', and then referring to said terms in the rest of the Act.

Furthermore, some of these laws (such as the Punjab and KPK ones) identify special offences against children, such as forced begging and child intoxication, whereas others do not (such as the Sindh and Balochistan ones). This divergence in approach creates confusion and at times can be a replication of the elements of the definition of a child in need of protection. Given that it is in the national interest to protect children from exploitation, the definitions of the types of activities that are prohibited should be harmonised across the provincial acts to ensure legal certainty, continuity and consistency in approach. This will also facilitate more consistent data collection and reporting of offences.

Legal inconsistencies

Several cases of child exploitation are registered under the PPC's various provisions. However, there is a discrepancy of how a child is defined across the different sections. For example, Section 361 pertaining to kidnapping from lawful guardianship applies to boys under 14 and girls under 16, whereas Section 366A, i.e., kidnapping for immoral purposes, protects girls under 18. Section 369 remains an antiquated provision that covers child theft only against children under 10 years old. These arbitrary definitions should be harmonised in line with Pakistan's commitments under the CRC, which defines a child as under 18, and does not distinguish between boys and girls.

Furthermore, there are multiple related offences, such as Sections 361 and 364-A, which complicates the recording of the FIR and the subsequent investigation process. The difference in the associated penalties across these sections is also concerning. For example, where Section

364-A is punishable by death (as the most extreme penalty), Section 366A is punishable with only up to ten years imprisonment. The discrepancy across the penalties creates additional confusion, particularly at the FIR stage, which inevitably influences the conduct of the legal procedure. Such discrepancy is particularly problematic given the high penalties associated with certain offences, such as Section 366A which provides for the death penalty. Therefore, it is imperative that definitions and penalties are harmonised and made uniform across the provinces.

Overlapping laws

There is a significant problem with overlapping offences and conflicting responsibilities. Because child protection is a devolved subject under Pakistan's Constitution, federal and provincial laws coexist and occasionally overlap. This can result in redundancies and jurisdictional ambiguities. One example is the overlap between PPC offenses and provincial offenses. After the federal government criminalised child pornography and sexual abuse in 2016, Punjab amended its PDNCA in 2017 to omit its own provision on "exposure to seduction" which covered similar conduct.[13] This was intended to eliminate duplication so that offenders are charged under the PPC nationwide.

Khyber Pakhtunkhwa, however, retained overlapping offenses (e.g. its law independently criminalises child sexual abuse and child pornography with different penalties) even after the PPC was amended and after the passing of the PECA. In principle, provincial laws can operate concurrently with the PPC, but they override other laws to the extent of inconsistency within that province. However, this creates a scenario where the same act could be charged under federal law or a provincial law or both. Thus, while an offender would be prosecuted under the PECA for child pornography, they could also be prosecuted under the Khyber Pakhtunkhwa Child Protection and Welfare Act.

The lack of clear protocols on which law takes precedence can lead to confusion, particularly for families of victims when reporting an incidence of the crime. Thus, it is imperative to harmonise legal provisions on the crimes and clarify the applicable protocols and institutional responsibilities when such reports are lodged with the police or the FIA.

Lack of Mandatory Reporting Obligations

One critical procedural gap in Pakistan's child protection framework is the absence of comprehensive mandatory reporting obligations for suspected cases of child abuse. Globally recognised best practices typically impose mandatory reporting duties on professionals such as teachers, healthcare providers, and social workers, facilitating early intervention and reducing instances of prolonged abuse. Currently, Pakistan lacks such general statutory duties, limiting

[13] Punjab Destitute and Neglected Children (Amendment) Act, 2017 - formerly section 40 of the Act.

intervention and leaving cases unreported or addressed inadequately at informal community levels.

The ZARRA Act partially addresses this gap by imposing obligations on police to immediately register cases and take rapid action when a child is reported missing or abducted. However, its scope is explicitly limited to cases of abduction or disappearance, not extending to broader situations involving physical, emotional, or sexual abuse where immediate reporting by professionals could facilitate timely interventions. Consequently, cases of ongoing domestic or institutional abuse may remain undisclosed or inadequately addressed due to a lack of clear mandatory reporting responsibilities across professional sectors.

Institutional Analysis

ZARRA Agency

At the federal level, the Zainab Alert, Response and Recovery Agency established under ZARRA 2020, specifically addresses child abduction. The Agency operates under the Ministry of Human Rights, managing nationwide alerts for missing or abducted children. It maintains a 24/7 call center, hotline, and online database, coordinates with law enforcement agencies, and ensures prompt registration and investigation of cases. The Act requires police to immediately register a FIR upon receiving a missing child report, imposing penalties for non-compliance, thus creating accountability for police responsiveness and standardising procedural actions nationwide.

National Commission on the Rights of the Child

The NCRC is one of the main State institutions responsible for overseeing the implementation of the law against child exploitation. It has a complaints system which involves multiple sources, such as a national hotline, email, social media and the ability to take up cases *suo moto*. The NCRC serves as a watchdog organisation, referring complaints it receives to the relevant law enforcement agencies to direct them to take action. It has produced several policy briefs and awareness campaigns on issues of child sexual abuse and exploitation, trafficking, and other related issues.

However, the continued work and outreach of the NCRC is constrained by its limited resources.[14] It has a single office in Islamabad, whereas its counterpart National Human Rights Institutions, such as the National Commission on the Status of Women, have provincial offices as well. As a watchdog organisation, it does not have law enforcement powers and is therefore limited to receiving complaints and forwarding them to the relevant police stations in the relevant jurisdiction of the crime.[15] The NCRC also lacks access to regularly reported data on

[14] Interview with Ayesha Raza Farooq, Chairperson of the NCRC, Islamabad, 6 February 2025.

[15] Ibid.

cases of child abuse and exploitation and has to seek such data from law enforcement agencies upon request, as opposed to a proactive regular sharing mechanism.[16]

Provincial Child Protection Authorities

Each province has a designated child protection authority. These are:

- The Punjab Child Protection and Welfare Bureau
- The Sindh Child Protection Authority
- The Khyber Pakhtunkhwa Child Protection and Welfare Commission
- The Balochistan Child Protection Authority
- The Islamabad Capital Territory Child Protection Authority
- The Azad Jammu and Kashmir Child Protection Unit
- The Gilgit Baltistan Child Protection Unit

While their names differ, they perform similar functions. Child protection authorities (referring to above organisations collectively) are established and empowered by their respective legislative acts to carry out certain functions through various sub-units at the district level. They employ Child Protection Officers who carry out assessments of whether certain children are in need of protection, as identified by the individual statutes' definitions. They can then take temporary custody of said child before producing the child before a Child Protection Court (special courts established under each act except for Balochistan, which assigns jurisdiction to Family Courts) which will determine whether the child should be sent to the custody of his/her parent(s) or guardian(s), or whether the child protection office should retain their custody. The authorities also establish child protection institutions for the shelter, rehabilitation, education and other related services for the children in its custody; alternatively, they can recognise existing institutions (such as NGOs) as institutions under the act as well. Apart from this, the child protection offices engage in awareness raising and capacity-building as well.

The work of child protection authorities is often hindered by resource constraints. Child protection authorities lack the necessary finances to expand and improve their services, such as larger rehabilitation centres to accommodate more children and the expansion of schools. This is coupled with the lack of adequately trained child protection officers who are sensitised on the appropriate laws, policies and best practices for taking children in need of protection into their custody. The scope of the authorities is also quite limited to providing shelter and

[16] Ibid.

rehabilitation to children who are victims of neglect and abuse and are less focused on addressing the root causes of such issues through policy reform, advocacy, capacity-building and other such initiatives.[17]

Another key issue is the lack of regular coordination between the child protection authorities, the police and the courts. In particular, only Punjab, Sindh and Khyber Pakhtunkhwa have notified the establishment of Child Protection Courts. Balochistan empowers the Family Courts to hear cases under its Child Protection Act.[18] Furthermore, coordination between said institutions is largely *ad hoc*, with police often being reactive rather than proactive unless explicitly trained to act otherwise.[19] However, these authorities do engage with police Women and Child Desks where notified to ensure child-sensitive handling of abuse complaints.

Law Enforcement Agencies

The police and the FIA are the key law enforcement agencies involved in the protection of children against abuse and exploitation. The police are often first responders to reports of child abuse and exploitation, and have been proactive in the investigation of such cases, particularly since the passing of the ZARRA Act. However, in some instances, the police often fail to act unless prompted by the NCRC, the media or a superior. The judgment in *Legal Aid Foundation for Victims of Rape and Sexual Assault (LRS) v Federal Government through Secretary, Interior Divison and others*[20] indicated the significant flaws in police protocols when approaching child protection cases. While the ZARRA Act penalises a police officer for failing to act on a report, the other child protection statutes do not include equivalent provisions.

Furthermore, there is a lack of a sensitised approach to child abuse cases, particularly where parents are unsure of the necessary course of action or unwilling to take action due to shame or cultural stigma. In fact, the police at times discourage reporting of crimes and try to get the victim's parents (or guardians) to forgive the perpetrator (often a relative) and move on.[21] This culture not only prevents accountability and justice but also perpetuates said culture of shame, stigma and a lack of reporting.

Recently, a bill was introduced at the National Assembly to amend provisions of the Code of Criminal Procedure, 1898, to facilitate improved investigative practices in child abuse cases.[22] Key provisions include the establishment of Child Courts in each province and the Federal Capital, the recording of a statement of a child victim or witness in a child-friendly and non-threatening environment, with a view to minimise trauma for the child, and a mandatory

[17] Ibid; Kishwar Enam, "Child Protection," Dawn, September 26, 2024, https://www.dawn.com/news/1861207#:~:text=Child%20abuse%20in%20Pakistan%20takes,education%2C%20healthcare%2C%20and%20shelter.

[18] Balochistan Child Protection Act, 2016, sec. 2(1)(k)

[19] Interview with Ayesha Raza Farooq, Chairperson of the NCRC, Islamabad, 6 February 2025.

[20] PLD 2023 Islamabad 195.

[21] Interview with Dr. Naeem Zafar, Executive Director of PAHCHAAN, 25 February 2025

[22] Code of Criminal Procedure (Amendment) Bill, 2024.

medical examination within 24 hours of receiving a report. The amendment also sets out qualifications for judges for Child Courts to be trained specifically in child protection law and trauma-informed adjudication, expedited procedures, and the denial of bail in sexual and physical abuse and exploitation cases. Most notably, the amendment sets out special protective measures for child victims and witnesses, such as witness protection, in-camera proceedings, safe housing and witness relocation, protection of identity and continued implementation and monitoring. It remains to be seen whether the bill will become law or will undergo further changes.

Intersection of Institutions

It is also unclear how overlapping responsibilities of institutions involved in child protection function. ZARRA's mandate to recover missing children nationwide means it must interface with provincial police, the FIA, and provincial child protection units simultaneously. The law emphasises complementing rather than duplicating efforts, yet coordination challenges are natural. A missing child in Lahore, for example, will trigger a ZARRA alert and FIA assistance, but the Punjab police and CPWB will concurrently be involved – multiple agencies handling different aspects of the case. Without clear protocols, this could lead to either a duplication of effort or, contrarily, a lack of effort where one body assumes the other will handle a task.

The Government has attempted to address this by including provincial representatives in ZARRA's operations and by using the existing ICT Child Protection Advisory Board to oversee ZARRA but this arrangement is novel. Similarly, the NCRC – as a federal oversight body – has a mandate to monitor implementation of child rights across Pakistan and can inquire into individual cases. For efficient use of resources, clear coordination protocols are needed vertically (federal-province) and horizontally (inter-provincial).

Summary of UN Observations

Committee on the Rights of the Child

In the UN Committee on the Rights of the Child's Concluding Observations,[23] several recommendations were highlighted to combat child abuse and exploitation. It was recommended that Pakistan should adopt appropriate laws that clearly define and prohibit child sexual abuse and exploitation, initiate a system for mandatory reporting of cases of child sexual abuse and exploitation in the home, schools and institutions, conduct awareness-raising activities and develop programmes and policies focusing on prevention, recovery and social reintegration of child victims.[24] It also recommended that Pakistan take measures to address drug and substance abuse among children, and adopt standards applicable to rehabilitation centres for drug-independence treatment and harm reduction services.[25] The Committee also

[23] United Nations Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CRC/C/PAK/CO/5, July 11, 2016.

[24] Ibid, para 37.

[25] Ibid, para 56.

recommended that Pakistan monitor registered and unregistered *madrasas* to prevent the possibility of abuse and exploitation,[26] and monitor non-State armed groups to prevent them from recruiting children.[27] The Committee also made note of the additional vulnerability of refugee, IDP and stateless children to abuse and trafficking.[28] It further recommended that the State take all necessary measures to protect children from being trafficked or sold within and out of Pakistan and provide comprehensive social and psychological assistance to recovered victims to support their social reintegration.[29]

Human Rights Committee

The Human Rights Committee has also made several relevant recommendations. Establishing mechanisms to monitor workplaces in the formal and informal sectors including domestic work to prevent force and modern labour and other forms of abuse and exploitation, particularly of children in domestic work.[30]

Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights recommended that the State ensure that women and girls who are victims of violence can freely report cases to the police and be treated with respect, and have access to necessary medical, legal, financial and psychological support.[31]

Universal Periodic Review

While there were no specific recommendations in Pakistan's 4th Universal Periodic Review on child abuse, several States made recommendations for Pakistan to strengthen protection of children against all forms of exploitation and violence. States such as Palestine, Egypt and Cameroon recommended that Pakistan take measures to prevent violence against children and generally strengthening law and policy measures towards the protection of children. Pakistan supported all of these recommendations.[32]

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[26] Ibid, para 64.

[27] Ibid, para 70.

[28] Ibid, para 66.

[29] Ibid, para 76.

[30] United Nations Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, UN Doc. CCPR/C/PAK/CO/2, November 7, 2024, para 33.

[31] United Nations Committee on Economic, Social and Cultural Rights. Concluding Observations on the Initial Report of Pakistan. UN Doc. E/C.12/PAK/CO/1, July 20, 2017, para 50(d).

[32] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

Recommendations

Legislative

Create a consistent definition of a child in need of protection, a uniform age and uniform punishments

It is imperative that a uniform definition of a 'child in need of protection' is implemented across all legislation affecting children. This requires consensus on what acts or situations place a child at risk of abuse and exploitation, with these categories broadly defined and enumerated with a non-exhaustive list. Such amendments should be reflected in the PPC provisions highlighted as well to ensure a consistent definition of a child and to remove arbitrary age stipulations in the PPC. Similarly, punishments for each crime should be harmonised and made equal across all provinces and all relevant statutory provisions to facilitate legal certainty and reduce the confusion caused by overlapping and conflicting statutory penalties, such as the child pornography example explored above.

Create a scheduled list of acts that require protection for children, rather than as a definition in the act, as well as their penalties and relevant responsible institutions

A scheduled list of acts and circumstances should be included in the National Commission on the Rights of the Child Act, 2017. Given that the NCRC Act is a federal statute, a scheduled list of offences against children can be codified and attached to the NCRC Act that can be easily amended. Each provincial child protection act can include a clause that refers to the scheduled list in the NCRC Act and establish jurisdiction over those acts when committed in their province. The list should also designate the relevant institution responsible for its investigation; for example, a case of child grooming for the purposes of pornography should be investigated by the FIA (irrespective of provincial jurisdiction), whereas cases of child maltreatment or neglect should be investigated by the provincial child protection authority. Demarcating such jurisdiction is imperative to establish legal certainty.

Empower the child protection authorities in each province to be more proactive organisations in combating child abuse and exploitation

The laws establishing provincial child protection authorities should be amended to ensure a proactive approach in combating child abuse and exploitation. Currently, their focus is on rehabilitation, as opposed to elimination and prevention. Thus, the legal mandate of the child protection authorities should be amended such that elimination and prevention becomes a primary focus of these authorities as opposed to an ancillary one. This includes making awareness raising, community engagement, education and regular coordination with police institutions a regular part of their role, along with the provision of shelter and rehabilitative services to children in need of protection. The amendments should also regularise and mandate reporting and investigation timelines upon the receipt of a complaint to ensure smoother coordination between relevant authorities.

Legislate reporting requirements

A statute mandating reporting of suspected child abuse by professionals in the education, healthcare, social work, *madrassas* and rehabilitative services sectors should be passed at the federal level as a statute seeking to implement the CRC.[33] The Act would designate professionsals who maintain close contact with children, such as doctors, nurses, teachers and social workers, and set a minimum threshold of suspected child abuse that conforms to the proposed scheduled list of acts to be added to the NCRC Act. The Act would also establish safe and anonymous reporting channels and procedures that would connect these professionals directly to the police and relevant child protection authority that can take jurisdiction of a particular case. The law would also criminalise a failure to report by a mandated reporter with a fine. It is imperative that the law extends whistleblower protection to the persons mandated to report. This should further be complemented by designated child protection units in schools and hospitals, with dedicated staff who can write and submit reports to the law enforcement agencies.

Pass the Criminal Procedure Code (Amendment) Bill, 2024

The Criminal Procedure Code (Amendment) Bill, 2024, is a promising endeavour to introduce a victim-centric approach to investigating and prosecuting child abuse crimes. It is imperative that this bill is passed and further operationalised through rules that apply to each province to expedite the incorporation of a victim-centric approach to the handling of such cases. Once the bill is passed, it should be complemented with mandatory trainings in each police district to ensure compliance.

Policy

Designate the child protection offices in each province as wings of the National Commission on the Rights of the Child, with a designated focal person for reporting and coordination.

In the absence of a federal ministry dedicated to child rights protection, the NCRC should establish a centralised consolidated coordination mechanism with each of the provincial child protection authorities. This will allow regular communication through formal channels, including procedures for requesting and submitting data. The provincial child protection authorities can also become de facto provincial wings of the NCRC, which can monitor the progress of each authority and recommend additional resources where necessary.

[33] The Federal Government is empowered to pass legislation implementing international treaties and conventions as per the Federal Legislative List.

Establish central database on child abuse and exploitation statistics, including the names and details of missing/abducted children and convicted offenders

A national database on child abuse and exploitation should be established with the NCRC and the Ministry of Human Rights as the designated offices overseeing its implementation. This database should allow individual police stations to register FIRs and track the progress of each case throughout the criminal justice system, i.e., from complaint filed to conviction passed. Police stations must be trained to regularly enter data into the system, which would allow the NCRC to monitor the progress of such cases. This would facilitate the NCRC's requirements for improved data collection and management as well.

Incorporate child protection laws, reporting guidelines and 'good touch, bad touch' policies in schools

Schools throughout the country should teach children the differences between 'good touch' and 'bad touch' in a manner that is easily comprehendible to children of all ages, including very young children. A curriculum can be collaboratively designed by the provincial School Education Departments, provincial child protection authorities and the NCRC. The curriculum should also include informing children on how to report such cases either to their parents/guardians or to the teachers.

Awareness-raising campaigns to encourage reporting of such crimes, including through anonymous means

A culture of reporting child abuse and exploitation must be inculcated throughout the country. This must be done through wide-scale awareness campaigns and continued community engagement. Social media tools can be used to ensure a wide reach of informational content that is formulated in each provincial language. Child protection authorities should be allocated additional resources to conduct awareness campaigns in rural areas with the help of the district and local governments. The progress of such campaigns can be coordinated by the NCRC.

Child Labour

Chapter Summary

Child labour remains a key area of focus within Pakistan's human rights and social protection agenda. It involves work that interferes with a child's education, health, and overall development. Recent provincial surveys indicate that millions of children across Pakistan are engaged in work, including a significant proportion in hazardous conditions. The majority are employed in agriculture, followed by the industrial and service sectors. The data highlight regional variations and socio-economic drivers such as poverty, limited access to education, and parental literacy levels. In response, both federal and provincial governments have taken steps to collect data and enhance monitoring to better understand the scale and characteristics of child labour and inform targeted policy responses.

Pakistan is party to several international human rights instruments relevant to child labour, including the UN Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and International Labour Organisation (ILO) Conventions Nos. 138 and 182. These instruments obligate the State to prohibit hazardous work and economic exploitation of children and establish minimum age thresholds for employment. Domestically, Article 11(3) of the Constitution prohibits hazardous work for children under 14, and federal and provincial legislation—such as the Employment of Children Act, 1991, and provincial child labour restriction laws—seek to operationalise these protections. However, legal definitions of "child" and employment thresholds vary between jurisdictions, indicating an opportunity to further harmonise legal frameworks across provinces to ensure consistent protection and alignment with international standards.

Institutional oversight of child labour is managed by various federal and provincial bodies, including the Ministry of Overseas Pakistanis and Human Resource Development, provincial Labour Departments, labour inspectorates, and District Vigilance Committees. Provincial Child Protection Authorities also play a role in addressing cases involving the worst forms of child labour. These entities undertake inspections, enforce child labour laws, and coordinate with social welfare services. Efforts to strengthen data systems, enhance training for inspectors, and improve inter-agency coordination are ongoing. Some provinces, such as Punjab and Khyber Pakhtunkhwa, have introduced policy and digital innovations to improve enforcement, while national-level initiatives focus on alignment with Sustainable Development Goal 8.7 and enhanced labour protections.

Going forward, opportunities exist for further strengthening Pakistan's framework for combatting child labour. These include legislative harmonisation across provinces, raising the minimum age of employment, criminalising specific forms of domestic child labour, and consolidating statutes into unified provincial labour codes. Enhancing institutional capacity through expanded labour inspections, dedicated district-level units, and improved coordination mechanisms can support more effective monitoring and enforcement. Additionally, implementing a national action plan and completing provincial labour surveys will provide a

strong basis for evidence-based policy. Social protection measures, including education-linked cash transfer programmes, may further reduce economic reliance on child labour. These steps can contribute to the progressive realisation of child rights and the broader goal of eliminating child labour in all its forms.

Situational Analysis

Child labour remains a signficant concern within Pakistan's broader human rights and social protection framework. Child labour is addressed under both domestic legislation and Pakistan's international obligations, particularly the United Nations Convention on the Rights of the Child (CRC) and International Labour Organisation (ILO) conventions, including Convention No. 138 (Minimum Age) and Convention No. 182 (Worst Forms of Child Labour), both of which Pakistan has ratified.

As of 2023, national estimates suggest that approximately 2.3 million children between the ages of 10 and 14 are engaged in some form of work.[34] There is considerable variation in the nature and extent of child labuor, including hazardous conditions, types of employment, and underlying socio-economic dynamics. To facilitate evidence-based policymaking, the provinces are undertaking child labour surveys to assess the prevalence and characteristics of child labour. As of January 2025, surveys have been completed in Punjab, Khyber Pakhtunkhwa (KP), and Gilgit Baltistan, while the remaining provinces and regions, as well as the Islamabad Capital Territory, are finalising their assessments.[35]

The Punjab Child Labour Survey (2019–2020) identified over 3.8 million working children, making up 13.4% of the province's total child population, with nearly half working in hazardous conditions.[36] The Khyber-Pakhtunkhwa survey (2022-2023) reported 922,314 working children, of whom 80.8% were classified as engaged in child labour,[37] while in Gilgit Baltistan (2018–2019), 91.2% of working children were engaged in child labour.[38] The surveys found that a significant proportion of these children are exposed to hazardous work environments, extended working hours, and instances of abuse.

The main sectors employing children in some form of child labour are agriculture (69.4%), followed by industry (19.7%) and the service sector (10.9%).[39] Within these sectors, children are found in farming, fishing, domestic work, retail, and small-scale manufacturing, including brick kilns, carpet weaving, surgical instruments, and mining. These sectors often involve what

[34] U.S. Department of Labor, Findings on the Worst Forms of Child Labor: Pakistan, 2023.

[35] Pakistan Bureau of Statistics, "Child Labour Survey Graph," accessed May 22, 2025, https://www.pbs.gov.pk/content/child-labour-survey-graph.

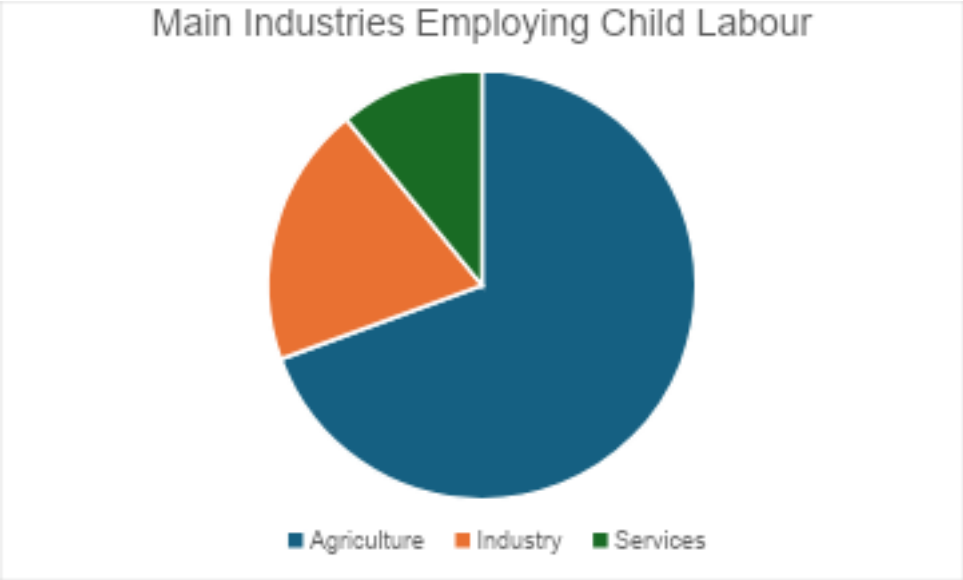
[36] Ibid

[37] Khyber Pakhtunkhwa Department of Labor, Child LabourSurvey: Key Findings, January 2024, https://dol.kp.gov.pk/wp-content/uploads/2024/01/Child-Labour-Survey-Key-Findings.pdf.

[38] Pakistan Bureau of Statistics, Child Labour Survey 2018-19: Key Findings Report, 2019, https://www.pbs.gov.pk/sites/default/files/other/cls2018-19/CLS_KFR_Final_English.pdf.

[39] U.S. Department of Labor, 2023 Findings on the Worst Forms of Child Labor: Pakistan, 2023.

are categorised as the worst forms of child labour, including hazardous occupations, bonded labour, and, in isolated cases, trafficking-related activities.



Pakistan has enacted a range of legislative frameworks at both the federal and provincial levels to address the problem of child labour. Each province has its own Restriction of Child Employment Act adapted from the federal Employment of Children Act, 1991 - the subject was devolved to the provinces following the 18th Amendment to the Constitution. These laws prohibit child labour in specific occupations and set minimum age requirements for employment. Enforcement mechanisms have been supported by labour inspectorates and child protection units under the oversight of respective provincial labour departments.

Despite this legal framework, economic and social realities contribute to the continued prevalence of child labour, as identified in the surveys. A major contributing factor is limited access to quality education, particularly in rural and remote areas.[40] Many children are unable to attend school due to affordability, distance, or perceptions of low educational value compared to immediate income generation.[41] For instance, the Khyber Pakhtunkhwa survey found that children often left school or never enrolled due to financial constraints or limited availability of schools.[42] Similar trends were identified in Punjab and Gilgit Baltistan.

Parental education levels also appear to be a determinant of whether children enter the workforce. According to the Punjab survey, 31.4% of heads of households with no formal education had children engaged in child labour, compared to only 9.1% of those who had

[40] Khyber Pakhtunkhwa Department of Labor, Child Labuor Survey: Key Findings and Recommendations (Peshawar: Khyber Pakhtunkhwa Government, 2024), 154.
[41] Ibid.
[42] Ibid.

completed higher education,[43] highligting the importance of intergenerational education in reducing child labour over time.

Poverty is a predominant factor influencing decisions related to child labour - if not the most predominant. The KP Child Labour Survey revealed that 31.8% of households in the poorest wealth quintile have a child in child labour, whereas only 8.8% of households in the richest quintile have a child in child labour.[44] Additionally, 52.9% of parents let children work to support household needs and 26% do so to supplement household income, indicating the predominance of economic factors in the decision to let children work.[45] Some children used their income for school-related expenses, indicating a willingness to continue education where feasible.[46]

The Government of Pakistan has recognised the importance of integrated responses involving education, child protection, and social welfare to combat child labour. Under its obligations to the CRC and the ICESCR, the State has committed to investing in enhanced access to free and compulsory primary education, vocational training,[47] and providing support to vulnerable households to reduce reliance on child labour. through programmes such as the Benazir Income Support Programme and the Ehsaas initiative involving conditional cash transfers to incentivise school attendance.[48]

Moving forward, continued collaboration between federal and provincial authorities, international partners, and civil society organisations is imperative to support legal and policy-based efforts to combat child labour. Key interventions include public awareness campaigns, training for labour inspectors, and monitoring of hazardous sectors. While legislation and policy frameworks are in place, implementation requires sustained investment in education, poverty reduction, institutional capacity, and public engagement. The provincial child labour surveys will be important tools to inform targeted legal and policy responses. The Government is focused on continuing efforts to enhance enforcement, expand social safety nets, and promote inclusive education to bolster Pakistan's child labour framework and ensure its conformity with constitutional rights and the State's international human rights obligations.

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[43] Punjab Labour Department, Punjab Child Labour Survey: Key Findings and Recommendations (Lahore: Punjab Government, 2024), 35.

[44] Khyber Pakhtunkhwa Labour Department, KPK Child Labour Survey: Key Findings (Peshawar: Khyber Pakhtunkhwa Government, 2024), 24.

[45] Ibid., 28.

[46] Ibid.

[47] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 212-234; Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, paras 172-200.

[48] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 13.

Legal Analysis

International Law

International Covenant on Economic, Social and Cultural Rights

Child labour is a violation of several international human rights treaties. Article 10(3) of the ICESCR states the following:

> 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

UN Convention on the Rights of the Child, 1990

Article 32 of the Convention on the Rights of the Child is reproduced below:

> 1. States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
>
> 2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
>
> (a) Provide for a minimum age or minimum ages for admission to employment;
>
> (b) Provide for appropriate regulation of the hours and conditions of employment;
>
> (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Pakistan is also a party to two main ILO Conventions on the prevention of child labour.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

This Convention prohibits ‘the worst forms of child labour’ defined under Article 3 as follows:

> (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for the use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Convention Concerning Minimum Age for Admission to Employment (No. 138)

This Convention sets the minimum age for admission to any employment which is "likely to jeopardise the health, safety or morals of young persons" to 18 years.[49] Article 5(3) of this Convention requires States Parties to, at the very least, apply this to the following industries:

mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

Similarly, Article 3(3) of the Convention states that the minimum age for work should be 16 years of age where "the health, safety and morals of the young persons concerned are fully protected and… the young persons have received adequate specific instruction or vocational training in the relevant branch of activity".

Domestic Law

Article 11 of the Constitution

The prohibition of slavery, forced labour and similar exploitative practices is provided for under Article 11 of the Constitution of Pakistan, which states the following:

11. Slavery, forced labour, etc. prohibited

(1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.

(2) All forms of forced labour and traffic in human beings are prohibited.

(3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

(4) Nothing in this Article shall be deemed to affect compulsory service:-

(a) by any person undergoing punishment for an offence against any law; or

[49] International Labour Organisation, Convention Concerning Minimum Age for Admission to Employment, No. 138, art. 3(4), adopted June 26, 1973, https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C138.

(b) required by any law for public purpose provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

The relevant provision applicable here is Article 11(3). Under Article 11(3), no child below the age of fourteen years may be engaged in any hazardous employment. The provision contains examples of what constitutes 'hazardous', such as factories and mines, indicating hazards to health. Notably, the provision does not completely outlaw all forms of child labour, but only that which is deemed hazardous and for those under the age of fourteen.

Federal Legislation

The Employment of Children Act, 1991

Before the Eighteenth Amendment, child employment was governed primarily under the Employment of Children Act, 1991, which prohibited the employment of children (i.e., those under the age of fourteen)[50] in a set of scheduled occupations and/or premises where certain hazardous activities take place.[51] Since the Eighteenth Amendment, each province has its own legislation prohibiting the employment of children in accordance with Article 11, with the former federal Act applying to the Islamabad Capital Territory.

The Children (Pledging of Labour) Act, 1933

The Children (Pledging of Labour) Act prohibits the pledging of children, who are defined as persons under the age of fifteen years, by parents or guardians. The penalty for a parent or guardian who pledges their children as labourers is between PKR 5,000 - 20,000.[52] Similarly, the person making the agreement with the parent or guardian will be subject to imprisonment of up to six months and a fine between PKR 20,000 - 50,000, with the same punishment for repeat offences.[53] The employment of a child whose labour has been pledged will also be punished with the same punishments as above.[54]

Other relevant federal statutes that apply to specific sectors include the following:

- The Road Transport Workers Ordinance, 1961 - Section 3 of this Ordinance prohibits the employment of persons under the age of 18 years in any road transport service, and sets the minimum age for driving a vehicle in a road transport service to 21 years of age.

- The Mines Act, 1923 - Section 26 prohibits the employment of children or permitting children to be present in any part of a mine below ground. Section 3(c) of the Act defines a child as a person under the age of 15 years old. The Act also regulates the

[50] Employment of Children Act, 1991, sec. 2(iii), Pakistan.

[51] Employment of Children Act, 1991, sec. 3, Pakistan.

[52] The Children (Pledging of Labour) Act, 1933, sec. 4, Pakistan.

[53] The Children (Pledging of Labour) Act, 1933, sec. 5, Pakistan.

[54] The Children (Pledging of Labour) Act, 1933, sec. 6, Pakistan.

employment of 'young persons' in mines, which it defines as persons between the ages of 15-17.

Case Law

There is little case law on the issue of child labour. Given that 70% of bonded labourers are children, the decision in *Darshan Masih v Federation of Pakistan*,[55] which holds the practice of bonded labour to be a violation of Article 11(2) of the Constitution, also applies here. Similarly, in *Muhammad Suleman v Station House Officer and others*,[56] the Lahore High Court held that child labour "deprives children of their childhood, potential and dignity and is harmful for their physical and mental development."[57] The Court expressed concern over the continued prevalence of bonded, forced and child labour throughout the province, and required the Government to apply the doctrine of continuing mandamus to continually monitor the implementation of laws pertaining to bonded, forced and child labour.[58]

Provincial Legislation

The following tables examine the various laws in each province on child labour, highlighting the minimum age of employment, restrictions and penalties.

Punjab

Act	Age	Restriction	Penalty
The Punjab Restriction on Employment of Children Act, 2016	Section 2(c): Child – under 15 Section 2(a): Adolescent – between 15 and 18	Section 3: No child to work in an establishment. No adolescent to perform any hazardous work in an establishment (included in Schedule).	Section 11(1) and (2): imprisonment between 7 days – 6 months. Fine between PKR 10,000 – 50,000. Sections 11(3): Worst forms of child labour. Imprisonment between 3 – 7 years, fine between PKR 200,000 – 1,000,000.

[55] PLD 1990 SC 513

[56] PLD 2020 Lahore 534

[57] Ibid, para 27

[58] Ibid, para 56

The Punjab Domestic Workers Act, 2019	Section 3: under the age of 15 years.	Section 3: no child under age of 15 allowed to work in a household in any capacity. No domestic worker under age of 18 engaged in domestic work except light work in a household.	Section 31(2): imprisonment of up to one month if knowingly employing child under 12. Fine between PKR 10,000 – 50,000 for child under 15.
The Punjab Home-Based Workers Act, 2023	Section 3: under the age of 15 years.	Section 3: no employer shall employ any person not attaining the age of 15 years as a home-based worker. No employment of a person between 15-18 years of age in contravention of Punjab Restriction on Employment of Children Act, 2016.	No penalty
The Punjab Destitute and Neglected Children Act, 2004	Section 3(e): child means a natural person under the age of 18 years.	Section 36: employment for begging. Section 36A: sale of goods for begging. Section 36B: rag picking	Section 36: imprisonment between 3 months – 5 years, and fine between PKR 10,000 – 100,000. Section 36A: imprisonment between 3 months – 3 years, and fine between PKR 10,000 – 100,000. Section 36B: imprisonment between 3 months – 3 years, and fine between PKR 10,000 – 100,000.

The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016	Section 2(e): a person under the age of 14 years.	Section 5: prohibition of employment of children at brick kilns. Section 6: presumption of child labour if child over the age of 5 years old is found on the premises of a brick kiln, unless proven otherwise by CNIC or B-Form.	Section 7: occupier and parent/guardian liable. Section 13: simple imprisonment between 7 days – 6 months, and fine between PKR 50,000-70,000.
The Punjab Factories Act, 1934 (as amended in 2022)	Section 2(c): child - a person under the age of 15 years. Section 2(a): adolescent – between 15 – 18 years old.	Section 32: prohibition of employment of women and children near cotton openers. Section 50: prohibition of employment of children. Section 51: adolescents to be granted certificates of fitness (under Section 52) to be able to work.	Section 60: fine of PKR 20,000. Section 61: enhanced penalties in case of previous conviction(s).
The Punjab Shops and Establishments Ordinance, 1969	Section 2(c): child – under the age of 15. Section 2(a): adolescent – between 15 – 18 years old.	Section 20: prohibition of employment of children. Section 20A: adolescent to carry certificate of registration with NADRA or birth registration, as well as card issued by employer. Section 20-B: employer must maintain register of adolescents on work.	Section 27(2): first conviction - fine of up to PKR 5,000. Second conviction - fine of up to PKR 10,000 and/or simple imprisonment of up to 3 months.

Sindh

Act	Age	Restriction	Penalty
The Sindh Prohibition of Employment of Children Act, 2017	Section 2(ii): Child – under 14 Section 2(i): Adolescent – between 14 - 18	Section 3: No child to work in an establishment. No adolescent to perform any hazardous work in an establishment.	Section 14(1): If child employed, up to 6 months imprisonment and/or fine of up to PKR 50,000. If child employed in hazardous work, fine between PKR 10,000-100,000 and imprisonment of up to 3 years. Worst forms of child labour: fine between PKR 200,000 - 1000,000 and imprisonment between 5 – 10 years. (2): employment of adolescent in hazardous work. Imprisonment up to 1 year and/or fine of up to PKR 75,000.
The Sindh Factories Act, 2015	Section 3(c): child - a person under the age of 14 years. Section 3(a): adolescent – a person between 14 – 18 years old.	Section 36: prohibition of employment of women and children near cotton openers. Chapter VI Section 81: prohibition of employment of children.	Section 92(2): manager and occupier both subject to imprisonment of up to three months, and/or fine between PKR 50,000 - 200,000. Section 92(1)(e): manager and occupier both subject to fine between PKR 25,000 - 50,000.

		Section 82: adolescents to carry tokens giving reference to certificates of fitness (issued under Section 83).	Section 93: enhanced punishment for repeat offence.
The Sindh Shops and Commercial Establishments Act, 2015	Section 2(1)(d): child – a person under the age of 14 years. Section 2(1)(a) : adolescent – a person between 14 – 18 years old.	Section 20: prohibition on the employment of children	Section 27(2) – fine between PKR 5,000 – 20,000 for first offence. Fine of PKR 1,000 reckoned from first day of offence and/or simple imprisonment of up to three months.
The Sindh Child Protection Authority Act, 2011	Section 2(g): child - a person under the age of 18 years.	Section 2(c): "Child in need of special protection measures" includes a child who- (ii) is subjected to physical and psychological violence, sexual abuse or commercial sexual exploitation; (iii) is forced into the worst forms of the child labour, exploitative labour, or beggary;	None

		(iv) is subject to human trafficking within and outside Pakistan; (v) is being misused for drug trafficking or is subjected to abuse of substances like glue drugs, spirit; (vi) is engaged in an armed conflict.	

Khyber Pakhtunkhwa

Act	Age	Restriction	Penalty
Khyber Pakhtunkhwa Prohibition of Child Labour Act, 2018	Section 2(b): Child – under 15 Section 2(a): Adolescent – between 15 and 18	Section 3: No child to be employed in or permitted to work in an establishment. Proviso: a child not below 12 years old can be engaged in light work alongside a family member for up to 2 hours to acquire skills as recognised by the government	Section 15(1) (children): imprisonment of up to 6 months and/or fine of up to PKR 50,000 Hazardous employment: imprisonment of up to 3 years and/or fine between PKR 10,000 – 100,000. Section 15(2) (adolescents): imprisonment of up to one year and/or fine of up to PKR 75,000

		No adolescent to be employed in or permitted to work in any hazardous work included in Schedule .	Section 15(3) (subsequent offence): imprisonment between 6 months – 5 years, and or fine between PKR 25,000-200,000
The Khyber Pakhtunkhwa Home Based Workers (Welfare and Protection) Act, 2021	Section 7(c): child – a person under the age of 14 years.	Section 7(c): duty of home-based worker not to engage a child under the age of 14 years old.	Section 15: fines as may be prescribed
The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010	Section 2(1)(d): a person under the age of 18 years.	Section 45: employing child for begging	Section 55: imprisonment of up to 3 years and/or fine of up to PKR 50,000

Balochistan

Act	Age	Restriction	Penalty
The Balochistan Employment of Children (Prohibition and Regulation) Act, 2021	Section 2(1)(c): child – a person under the age of 14 years. Section 2(1)(b): adolescent or young person – a person between 14 – 18 years old.	Section 3(1): no employment of persons under the age of 18 years to be employed in any hazardous occupations or worst forms of labour. Section 3(2): prohibition of employment in work in Schedule.	Section 17: imprisonment of up to 1 year and/or fine of up to PKR 100,000 Repeat offence: imprisonment of between 6 months - 2 years.

		Section 3(3): no child under age of 14 involved in employment. Section 3(4): children may engage in: light work outside of regular school hours that does not impact their health or ability to benefit from education; or vocational training as approved and inspected by Committee on child labour.	Section 18: same penalties in Section 17 apply to violations of the Mines Act, the Factories Act and the Shops and Establishments Ordinance
The Balochistan Child Protection Act, 2016	Section 2(e): person below the age of 18 years.	Section 2(w): 'Sexual abuse and exploitation' includes: (ii) the use of children in commercial sexual exploitation; (iv) child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking… and sale of children for sexual purposes and forced marriage.	None. To be defined by Child Protection Authority

Azad Jammu and Kashmir

Act	Age	Restriction	Penalty
The Azad Jammu and Kashmir Children (Pledging	Section 2(b): a person under the age of 15 years.	Section 3: agreements to be void	Section 4: fine of up to PKR 20,000

of Labour) Act, 2017		Section 4: parent/guardian making pledge of child labour Section 5: making agreement to pledge with parent/guardian Section 6: employing a child whose labour has been pledged	Section 5: fine of up to PKR 200,000 Section 6: imprisonment between 6 months - 1 year, and/or fine of up to PKR 100,000 Section 7 - repeat offence: imprisonment of 6 months - 2 years, and/or fine of up to PKR 300,000 for each subsequent offence
The Azad Jammu and Kashmir Restriction on Employment of Children Act, 2019	Section 2(c): child - a person under the age of 15 years. Section 2(a): adolescent - a person between 15 - 18 years old.	Section 3(1): prohibition on employment of children. Section 3(2): prohibition of employment of adolescents in hazardous work.	Section 11(1) and (2): imprisonment between 7 days - 6 months, and/or fine between PKR 10,000 - 50,000 Section 11(3): worst forms of child labour - imprisonment between 3 - 7 years, and/or fine between PKR 200,000 - 1,000,000 Section 11(4) (repeat offence): imprisonment between 3 months - 5 years, along with fine for prescribed offence

The Azad Jammu and Kashmir Prohibition of Child Labour and Regulation of Labour at Brick Kilns Act, 2017	Section 2(f): person under the age of 14 years.	Section 5: prohibition on employment of children. Section 6: presumption of child on premises of brick kiln during school hours to be employed.	Section 11: imprisonment between 7 days - 6 months, and/or fine between PKR 50,000 - 500,000 Section 8: potential sealing of brick kiln for up to 7 days.

Gilgit Baltistan

Act	Age	Restriction	Penalty
The Gilgit Baltistan Prohibition of Employment of Children Act, 2019	Section 2(1)(III): child - a person under the age of 14 years. Section 2(1)(I): adolescent - a person between 14 - 18 years old.	Section 3(1): prohibition of employment of children. Section 3(2): no employment of adolescents in hazardous work outlined in Schedule I.	Section 15(1): imprisonment between 7 - 15 days and/or fine between PKR 15,000 - 30,000 Section 15(2): imprisonment between 15 days - 1 month, and/r fine between PKR 20,000 - 40,000.

Islamabad Capital Territory[59]

Act	Age	Restriction	Penalty
ICT Domestic Workers (Employment Rights) Act, 2022	Section 5(a) - not below the age of 18 years	Section 5(a) - not below the age of 18 years	Section 30: imprisonment of up to three months and/or fine of up to PKR 100,000

[59] Applies in addition to the Employment of Children Act, 1991, and the Children (Pledging of Labour) Act, 1933, which now apply solely to the Islamabad Capital Territory after the 18th Amendment to the Constitution of Pakistan.

A perusal of these laws indicates significant discrepancies in the scope of protection and nature of penalties of children in employment. While each province has a designated child employment restriction law, there is differentiation between the definition of a child across the provinces, as well as across laws within each province. For example, the Punjab Act sets the minimum age for employment at 15 years old, whereas the Balochistan Act sets the minimum age for employment at 14 years old. Similarly, the Punjab Brick Kilns Act sets the minimum age for employment in brick kilns at 14 years old, despite this being a year younger than the Restriction on Child Employment Act. This also does not align with the various provincial child protection acts which define children as persons under the age of 18 years old. Thus, while a person may be considered a child in one province and prohibited from employment, in another province, that same child will be considered employable as an adolescent.

There is also a lack of legislation on home-based and domestic employment of children in Sindh, Balochistan, AJK and GB. While the laws in KP and Balochistan make provisions for light work for children, the other provincial Acts do not.[60] This creates a legal quagmire where children are not equally protected across the country, which is an issue pertaining to the devolution of this area of the law to the provincial governments. Uniformity must be accomplished across all provinces and employment sectors to ensure consistency in efforts against child labour.

Institutions and Policies

Ministry of Overseas Pakistanis and Human Resource Development

The Ministry of Overseas Pakistanis and Human Resource Department oversees labour affairs throughout the country and in the Islamabad Capital Territory. Because labour rights are primarily the domain of the provincial governments, the Federal Ministry looks to coordinate efforts towards ensuring labour rights across the provinces. In 2016, the Ministry developed the National Strategic Framework to Eliminate Child and Bonded Labour in Pakistan with the technical assistance of the International Labour Organisation.[61] The strategy seeks to align the provinces' efforts to eliminate child and bonded labour with the State's international and domestic human rights obligations. It also developed the National Labour Protection Framework in 2018, focusing on child labour, forced labour, labour inspection, and social dialogue, among other areas.[62] These policy initiatives indicate a commitment to curbing labour rights violations with the Ministry focusing on coordinating efforts between provincial governments under the national policies.

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[60] The Sindh Prohibition of Employment of Children Act, 2017, sec. 2(x) defines 'light work,' but does not include a provision specifying whether children are allowed to engage in light work.

[61] International Labour Organisation, "National Framework for the Elimination of Child and Bonded Labour Agreed," International Labour Organisation, https://www.ilo.org/resource/news/national-framework-elimination-child-and-bonded-labour-agreed.

[62] Javaid Iqbal Gill, A Study of Deficits in the Fundamental Principles and Rights at Work in the Brick Kiln Supply Chain: Focusing on Child Labour and Bonded Labour in Pakistan's Brick Kiln Sector, International Labour Organisation, 2022, 13. https://islamabad.aics.gov.it/wp-content/uploads/2022/10/ILO-Publication.pdf.,

Labour and Human Resource Departments, and Labour Inspectors

The Labour and Human Resource Department is responsible for ensuring the implementation and enforcement of all laws and policies related to labour rights, including the prohibition of the employment of children.[63]

After the 18th Amendment to the Constitution, labour matters have been devolved to the provincial governments. This has resulted in differing approaches to labour rights, including child labour. Currently, only Khyber Pakhtunkhwa has a Child Labour Policy published in 2018, while other provinces do not have an equivalent document.

Each Labour and HR Department is responsible for appointing labour inspectors. Currently, there are only 517 labour inspectors for the country's 10.63 million workers in the formal sector.[64] This is an insufficient number of inspectors given the sise of the formal economy, and hinders consolidated efforts in combating harmful labour practices consistently across the country, including child labour.

The appointment of the labour inspectors is overseen by the Public Service Commission. According to a job advertisement for the appointment of labour inspectors in Punjab, the following is the examination syllabus for the post:

> One paper of MCQ type General Ability Written Test of 100 marks and 90 minutes duration comprising questions relating to General Knowledge, Pakistan Studies, Current Affairs, Islamic Studies (General Knowledge for Non-Muslim Candidates), Geography, Basic Mathematics, English, Urdu, Every-day Science and Basic Computer Studies.[65]

According to this, labour inspectors do not require any prior knowledge of labour laws and policies, or other general legal information. This must be amended to ensure candidates have basic knowledge of labour regulations in their respective provinces, which should be further supplemented with ongoing training of new rules and regulations in the field. While labour inspectors do receive training on inspecting and reporting instances of child labour in their respective provinces, such training is insufficient to deal with the issue, and the inspectorates are often mired by corruption.[66]

Furthermore, certain reports indicate that labour inspectors face several challenges in conducting their work. These include transportation issues, which prevents regular inspections in harder-to-reach areas, making child labour more prevalent in said areas, as well as distorting

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[63] Punjab Labour Department, "Functions," Punjab Labour Department, https://labour.punjab.gov.pk/functions.

[64] Centre for Labour Research, "The Whistlers," Centre for Labour Research, https://clr.org.pk/the-whistlers/.

[65] Punjab Public Service Commission, Advertisement No. 02/2024, February 7, 2024, https://www.ppsc.gop.pk/Adds/Advt%20No-02-2024%20%2007-02-2024%20%20X7%20Version.pdf.

[66] Iqbal Ahmed Detho, "Study on Domestic Child Labour in Pakistan", (Islamabad, August 2023) Friedrich-Ebert-Stiftung, 7

true figures.[67] Similarly, some field officers fear registering FIRs through the police due to potential harassment by powerful industrialists.[68]

District Vigilance Committees

District Vigilance Committees (DVCs) have been established in each province under their respective bonded labour abolition acts. While the DVCs were originally envisioned to combat bonded labour, they have been tasked with combatting child labour as well, and are therefore the *de facto* Child Labour Committees established under each child employment restriction act. Thus, the same committees are tasked with combatting child labour as well as their original mandate of combatting bonded labour. Although there may be an overlap, i.e., employment of children into bonded labour, not all cases of child labour necessarily arise out of debt bondage.

Under the Bonded Labour System (Abolition) Rules, 1995, the DVCs must consist of 17 members including the Deputy Commissioner, a police officer not below the rank of a superintendent, a representative from the provincial Bar Council, a District and Sessions Judge, a member of the Federal Ministry of Overseas Pakistanis and Human Resources, members of the Labour, Health, Agriculture, Education and Social Welfare Departments, members from various civil society organisations and other members.[69]

However, several reports indicate that the DVCs are falling short of their assigned responsibility. According to a US Department of State report, DVCs fail to fulfil their mandate due to inaction, or by refusing to investigate or refer cases to the police.[70] Furthermore, law enforcement does not treat child labour as a priority area for action,[71] often justifying the need for children to take up employment on economic grounds, and therefore less of a human rights concern.[72] An ILO report also indicated that members of DVCs do not receive specific training on child labour, but rather are trained broadly on child protection rights. This indicates a significant lack in capacity in the primary institution tasked to combat child labour in Pakistan.

Provincial Child Protection Authorities

Provincial Child Protection Authorities are responsible for ensuring the protection of children from exploitation and abuse. This includes protecting children from employment in the worst forms of child labour, as defined by the ILO Convention on the Worst Forms of Child Labour, such as commercial sexual exploitation and trafficking, as well as other forms of modern slavery, such as forced begging. While child labour does not directly come under their ambit,

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[67] Shahid Saeed, "Long Road to Eradicating Child and Bonded Labour in Khyber Pakhtunkhwa," The Friday Times, July 27, 2023, https://thefridaytimes.com/27-Jul-2023/long-road-to-eradicating-child-and-bonded-labour-in-khyber-pakhtunkhwa.

[68] Ibid.

[69] Bonded Labour System (Abolition) Rules, 1995

[70] US Department of State, "2024 Trafficking in Persons Report: Pakistan" (2024) https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/

[71] ILO, "Assessing the capacity of law enforcement agencies to address child labour in Pakistan" (2023) Capacity, 34

[72] Ibid.

given their limited jurisdiction as outlined by their parent statutes, they can take cognisance of cases where children are involved in activities within their jurisdiction, which often take the form of the worst forms of child labour, such as commercial sexual exploitation.[73] They can provide shelter to such children, as well as facilitating their education, healthcare and the finding their parents or guardians, or admitting them to child protection institutions.

Currently, the mandates of these authorities are quite limited to certain offences stipulated in their establishing statutes. Their mandates should be expanded to cover all children that are victims of child labour, particularly where they are involved in all hazardous works and the worst forms of child labour that are identified in each provincial child labour act, as such children will often be in need of protection and rehabilitation.[74]

Provincial Policies

Nevertheless, positive efforts have been made to consolidate a stricter approach by some provinces.

Punjab

In addition to the Punjab Labour Policy 2018, in 2024, the Punjab Labour and Human Resource Department drafted the Punjab Labour Code which seeks to harmonise all laws related to the protection and enforcement of labour rights into one statutory document. Chapter 2.3 of the Code makes provisions for the elimination of child labour, and seeks to raise the minimum age of children to 16 years old. The Chapter also prohibits the engagement of children in hazardous work and directly invokes the UN Convention on the Rights of the Child. Such an initiative should be adopted by other provinces as well.

Furthermore, the Punjab Labour Department introduced the Labour Inspection Management System which operates in real time as inspections are carried out. Inspections are entered into a centralised database, and Inspectors and business are geo-tagged to track the location of the relevant business should there be a reported offence. The Punjab Department also established the Industrial Relational Institute which provides training courses to officers of the Directorate of Labour Welfare, human resources management of various industries and trade union representatives and workers.[75] Courses include labour laws, industrial relations laws, child labour, bonded labour, and other areas.[76] It is unclear how often these trainings are conducted and to what extent they have a positive impact on law enforcement within businesses and industries.

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[73] U.S. Department of Labor, Findings on the Worst Forms of Child Labor: Pakistan, 2023.

[74] As per the Scheduled activities in each provincial child employment restriction law.

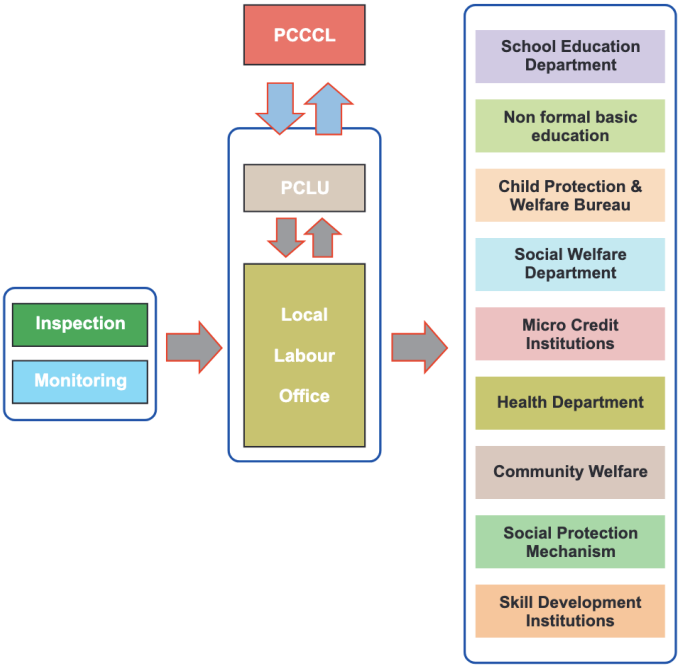
[75] Punjab Labour Department, "Industrial Relations Institute," Punjab Labour Department, https://labour.punjab.gov.pk/industrial_relational_institute.

[76] Punjab Labour Department, "Industrial Relations Institute," Punjab Labour Department, https://labour.punjab.gov.pk/industrial_relational_institute.

Khyber Pakhtunkhwa

The KP Government passed a Child Labour Policy in 2018, and is currently the only province to have a consolidated policy to combat child labour across Pakistan. The Policy establishes the Coordination Committee on Child Labour to serve as the Steering Committee for the Policy.[77] It also establishes the Child and Bonded Labour Unit (C&BLU) to facilitate surveys, maintain a record of child labourers, manage the referral system, liaising with international organisations, facilitate research, and other tasks.[78]

The Policy establishes an effective labour inspection system with a referral mechanism. labour inspectors must submit full information of any children to the C&BLU which will then forward the information to relevant authorities and maintain a regular follow-up.[79] The following diagram indicates the procedure.[80]



The diagram illustrates a comprehensive approach to addressing the root causes of child labour. Once an inspection or monitoring exercise finds evidence of child employment, the Inspector reports to the Local Labour Office, which then reports to the Provincial Child Labour Unit. The

[77] Khyber Pakhtunkhwa Directorate of Labour, KP Child Labour Policy 2018 (Peshawar: Khyber Pakhtunkhwa Directorate of Labour, 2018), 19, http://directorateoflabour.kpdata.gov.pk/img/kp-child-labour-policy-2018/KP%20Child%20Labour%20Policy%202018.pdf.

[78] Ibid., 19-20.

[79] Ibid., 11.

[80] Ibid., 12.

case is then forwarded to the institutions on the right of the diagram to address the reasons as to why the child is involved in labour. Thus, the Policy adopts a comprehensive approach to the problem of child labour by coordinating with relevant organisations, and also seeks to harmonise its goals with other provincial policies, such as the KP Human Rights Policy and efforts to enhance free and compulsory education.[81] Continued efforts must be made to ensure adequate resources to the provincial government and its various departments to bolster efforts to combat child labour.

Summary of UN Observations

Committee on Economic, Social and Cultural Rights

The CESCR has made several recommendations for Pakistan to combat child labour. Their recommendations include strengthening legislation prohibiting child labour through measures such as stronger labour inspections, ensuring those who employ child labour are prosecuted, adopting measures for the recovery of working children, and undertaking a national survey on the nature and extent of child labour.[82] It also recommended that Pakistan reduce the number of out-of-school children through coordination with policies on child labour.[83]

Committee on the Rights of the Child

The CRC Committee also made recommendations to eliminate child labour by addressing its root causes, such as poverty, establishing mechanisms for regular monitoring and inspection of workplaces that employ children, and conducting a national child labour survey, developing programmes of identification and protection of child victims of forced labour (including domestic work).[84] It also recommended that Pakistan strengthen labour inspectorates through necessary training and support specific to child labour inspections, and the ability to receive, investigate and address complaints of alleged child labour violations.[85] The CRC Committee further emphasised that Pakistan harmonise its legislation to establish minimum ages for employment in accordance with international standards.[86]

Universal Periodic Review

[81] Ibid., 13.

[82] UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Initial Report of Pakistan, E/C.12/PAK/CO/1, (2017), para 64

[83] Ibid, para 80

[84] United Nations Committee on the Rights of the Child, Concluding Observations on the Fifth Periodic Report of Pakistan, UN Doc. No. CRC/C/PAK/CO/5 (2016), para. 72.

[85] Ibid

[86] Ibid

In Pakistan's 4th Universal Periodic Review, Nepal, Libya, Palestine and France recommended that Pakistan pursue efforts to eliminate child labour.[87] Pakistan supported all of these recommendations.

Recommendations

Legislative

Increase the age of a 'child' across the country to 16 years of age

One of the principal steps is to raise the minimum legal age for employment nationwide. At present, definitions vary across provinces—with some statutes permitting employment for children as young as 14 or 15—which creates a patchwork of protections and enforcement gaps. To align with Pakistan's international obligations under the ILO Minimum Age Convention (No. 138) and the CRC, it is proposed that all provincial child employment laws be amended so that the minimum age for employment is uniformly set at 16 years. This change should be accompanied by a clear provision allowing for 'light work' for children aged 13 and above—strictly as a form of vocational training that does not impede their education, health, or general development.

Criminalise Domestic Child Labour

In addition to raising the age threshold, domestic child labour—especially in the household context—should be explicitly criminalised. There are two possible avenues for this. The first is to amend the Schedule in each child employment restriction law to include domestic child labour. The other is to pass a law similar to the Punjab and ICT Domestic Workers Act which sets a minimum age for admissibility to domestic work. This would allow the provinces to develop a domestic labour regulatory framework separate from other forms of child labour, which would entail its own inspection system, oversight body and penalties.

Consolidate Provincial Laws into Unified Child Labour Code

The fragmentation of current legal provisions also creates confusion among enforcement agencies. To remedy this, all laws related to child employment should be consolidated into a single statutory code in each province. This unified child labour code would resolve discrepancies between various provisions—such as differing minimum ages or contradictory penalties—and simplify training, reporting, and enforcement procedures. A model code that brings together existing legislation, drawing inspiration from regional initiatives like the draft Punjab Labour Code, will provide clarity and serve as a reliable reference for judges, law enforcement, and other stakeholders.

Enhance Penalties

[87] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

Penalties for violations also require substantial revision. Presently, the fines and imprisonment terms do little to deter offenders, particularly in cases where economic gain from child labour is significant. It is recommended that penalties be enhanced considerably. For example, each identified violation should incur a minimum custodial sentence of two years and a fine of no less than PKR 200,000. Moreover, the current practice of offering a choice between a fine or imprisonment should be replaced by imposing both sanctions simultaneously. Additional measures—such as the suspension of operations for businesses found in violation and the publication of offending entities' names—can further increase the deterrent effect.

These legislative measures must be crafted with due regard to international best practices. In several European countries, unified labour codes have significantly improved enforcement by eliminating legal loopholes. Similarly, countries such as Bangladesh have shown that clear age thresholds combined with stiff penalties contribute to a decline in child labour practices. By adopting such measures, Pakistan can take significant strides toward ensuring that its legal framework protects children in a consistent and enforceable manner.

Policy Reforms

Develop and implement a clear National Action Plan on the Elimination of Child Labour, which harmonises efforts to advance education and labour rights

Alongside legislative reform, strengthening institutional capacity is critical. A national, multisectoral strategy that brings together relevant stakeholders is essential in coordinating efforts and ensuring effective implementation on the ground.

A revised National Action Plan on the Elimination of Child Labour should serve as the cornerstone of this coordinated approach. Drawing on examples from countries like Malawi and Bangladesh, the Action Plan must clearly outline strategic objectives, assign responsibilities, and define a five-year implementation framework that integrates education, healthcare, and social welfare measures.[88] This plan should coordinate efforts among the Federal Government and provincial authorities, ensuring regular data sharing, resource allocation, and joint monitoring of key indicators—such as reductions in child labour prevalence and improvements in school attendance.

Expedite the completion of the Child Labour Survey in the remaining provinces

The Action Plan should also directly address the data gaps that have long hindered effective policy formulation. With no national survey conducted since 1996, it is imperative that the remaining provinces and the Islamabad Capital Territory expedite their child labour surveys. Reliable and up-to-date data will help in the tailoring of interventions to local conditions and in measuring progress over time.

[88] International Labour Organisation, 'Strategies to End Child Labour in Bangladesh and Malawi' (2020) https://www.ilo.org/global/topics/child-labour.

Improve labour inspection capacity and formalise a child labour inspection policy

Each provincial Labour and Human Resources Department should establish a clear child labour inspection and monitoring system. According to a US Department of Labour study, Pakistan requires at least 4,388 labour inspectors to cover its 66 million workforce. Currently, Pakistan only has 517 labour inspectors,[89] and is therefore ill-equipped to conduct labour inspections adequately in its formal economy, let alone the informal economy.

A clear labour inspection policy should be implemented, particularly targeted towards child labour. Labour inspectors should have a minimum level of knowledge of labour laws and regulations at the time of their appointment, which should be ensured by incorporating it into the examination syllabus. Labour Departments should adopt the handbook developed for labour inspectors by the ILO on combating child labour[90] and translate the publication into Urdu and provincial languages. Regular, ongoing training sessions are needed to keep inspectors abreast of new rules and enforcement techniques, and to counteract challenges like corruption and logistical barriers, which are particularly acute in hard-to-reach areas. The policy should also include unannounced visits, regular follow-ups and prompt reporting and enforcement action into a centralised information repository.

Establish Centralised Information Repository System

An integrated, centralised information system is also crucial for ensuring that enforcement actions are data-driven and coordinated. A central database—ideally established by the Ministry of Labour and Human Resources—would record all labour inspections, flag violations, and track cases involving child labour. Models such as India's Shram Suvidha Portal and Bangladesh's Labour Inspection Management Application demonstrate that real-time data entry and sharing can significantly streamline communication between labour departments, police, and child protection agencies. With such a system in place, unannounced inspections and immediate follow-ups can be efficiently recorded and managed, reducing the risk of violations going unreported due to intimidation or coercion by employers. A system has been installed in Punjab; however, its effectiveness is unclear, and it is unclear whether there are specific provisions for recording instances of child labour, or whether the system primarily focuses on occupational health and safety.

Establish Child Labour Units in each District

At the district level, establishing dedicated Child Labour Units can further strengthen the enforcement process. These units—formed in conjunction with existing District Vigilance Committees—should be given clear authority over all matters related to child labour. Composed of technical experts, representatives from local government, law enforcement, and child protection agencies, these units would be responsible for investigating complaints,

[89] Centre for Labour Research, "The Whistlers," Centre for Labour Research, https://clr.org.pk/the-whistlers/.

[90] International Labour Organisation, Combating Child Labour: A Handbook for Labour Inspectors (Geneva: International Labour Organisation, 2002).

coordinating with relevant authorities, and ensuring that cases are promptly and effectively addressed. By offering specialised expertise in managing cases of child labour, district units can also focus on the rehabilitation and reintegration of affected children, ensuring a comprehensive response to violations.

Conditional Cash Transfers through Microfinance Institutions

Finally, it is important to recognise that poverty underlies much of the persistence of child labour. Conditional cash transfer schemes—managed through microfinance institutions and social welfare programs—can alleviate the economic pressures that compel parents to send their children to work. Research by the World Bank supports the view that cash transfers, when coupled with investments in quality, accessible education, can lead to a significant reduction in child labour rates.[91] Such financial support must be carefully integrated with broader measures—ensuring that children not only remain in school but also have access to vocational training and other opportunities that can lift families out of poverty over the long term.

In summary, the recommended legislative reforms and institutional–procedural measures are designed to create a unified, effective system for combating child labour in Pakistan. By standardising the legal age for employment, criminalising domestic child labour, consolidating fragmented statutes, and enhancing penalties, the legal framework can become a stronger deterrent against exploitative practices. At the same time, a well-coordinated institutional response—anchored by a national action plan, improved inspection capacity, a centralised information system, dedicated district units, and supportive cash transfer schemes—will enable more effective monitoring and enforcement. These measures, modeled on successful examples from comparable jurisdictions, provide a clear roadmap for reducing the prevalence of child labour and safeguarding the future of Pakistan's children.

[91] World Bank, 'Conditional Cash Transfers for Reducing Child Labour' (2018) https://www.worldbank.org/en/topic/childlabour.

Child Marriages

Chapter Summary

Child marriage remains a significant area within Pakistan's human rights landscape, intersecting with legal, socio-cultural, and economic dimensions. Defined internationally as any marriage where one or both parties are under the age of 18, child marriage affects a considerable segment of the population. According to recent estimates, approximately 18 million girls in Pakistan were married before turning 18, with prevalence rates ranging across provinces from 11% in Punjab to 30% in Sindh, Balochistan, and Khyber Pakhtunkhwa. Early marriage often correlates with early childbearing, reduced educational attainment, and limited workforce participation, and has implications for maternal and child health. Recognising these impacts, the Government of Pakistan continues to engage with diverse stakeholders to raise awareness and address the issue through legal and policy interventions.

Pakistan has ratified several international human rights instruments relevant to the protection of children's rights, including the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR). These instruments collectively call for the prohibition of child marriage, the establishment of a uniform minimum age of marriage at 18, and the promotion of free and informed consent in marriage. At the domestic level, the Child Marriage Restraint Act, 1929, and its provincial adaptations govern the minimum age of marriage, though inconsistencies persist. While Sindh has set the minimum marriageable age at 18 for both sexes, other regions retain lower thresholds for girls. Judicial rulings, including those of the Federal Shariat Court, have affirmed the compatibility of setting the minimum marriage age at 18 with Islamic principles. Aligning domestic legislation with these interpretations presents an opportunity for harmonisation with Pakistan's international commitments.

Institutional responsibility for the implementation and oversight of child marriage laws is distributed across Union Councils, Nikah Registrars, the police, the judiciary, and national human rights institutions such as the National Commission on the Rights of the Child (NCRC). These entities are tasked with registration, enforcement, and advocacy functions. While training initiatives have been introduced, expanding coverage and standardising content remain areas for development. Furthermore, the absence of a centralised registration and data management system presents challenges in monitoring and enforcement. Birth registration gaps and inconsistencies in documentation affect age verification processes, and differences in legal treatment across jurisdictions occasionally lead to circumvention of protective statutes.

Future policy directions may include legislative reforms to establish a uniform minimum marriage age of 18 for both genders across all provinces and regions, enhancements to penalties for violations, and explicit recognition of statutory rape within underage marriages.

Additionally, developing a national action plan supported by inter-provincial coordination, centralised data systems, and structured training for Nikah Registrars and judiciary could further strengthen prevention and enforcement. Expanding access to quality education, promoting community sensitisation, and integrating social protection measures—such as conditional cash transfers—offer complementary avenues to reduce the socio-economic drivers of child marriage. Collectively, these strategies provide a framework to safeguard children's rights and support Pakistan's broader human rights objectives.

Situational Analysis

Child marriage remains a complex issue in Pakistan because of intersecting social, cultural, and economic dynamics. The Government of Pakistan continues to take steps toward eliminating child marriage and protecting children from this practice in accordance with its commitments under the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Child marriages are marriages where one or both parties are under 'marriageable age', with the international standard of the minimum marriageable age being 18 years old. While the determination of marriageable age is largely done by States through domestic legislation, there is increasing recognition of the harmful impacts of marriages where one or both parties, usually the woman, is under the age of 18.

A UNICEF report from 2023[92] indicates that around 4.6 million girls in Pakistan are married before the age of 15, and 18 million girls are married before the age of 18. Around 1 in 6 young women are married in their childhood.[93] In terms of the provinces, Punjab has the lowest prevalence of child marriage (between 11-20%) whereas Sindh, Balochistan and Khyber Pakhtunkhwa have a 21 – 30% prevalence.[94] The report also indicates that 40% of women aged 20 to 24 years gave birth before the age of 18.[95]

The Pakistan Demographic and Health Survey highlights that women aged 15-19 are more likely to be married than men aged 15-19, at 14% and 3% respectively.[96] The Survey also highlighted that 6% of women had had sexual intercourse by the age of 15, and 27% by the age of 18.[97]

[92] UNICEF Pakistan, Child Marriage Country Profile (Islamabad: UNICEF Pakistan), https://www.unicef.org/pakistan/media/4151/file/Child%20Marriage%20Country%20Profile.pdf.

[93] Ibid.

[94] Ibid.

[95] Ibid.

[96] The DHS Program, *Demographic and Health Survey 2017-18* (Islamabad: National Institute of Population Studies, 2019), 68, https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf.

[97] Ibid., 70.

A study conducted by UN Women and the National Commission on the Status of Women (NCSW) in 2021 found several other problems associated with child marriages.[98] Some notable statistics include:

- 228,000 girls who did not attend secondary school;
- PKR 26.8 billion indirectly lost in wages;
- 21% loss of labour force participation;
- 21% additional child births; and
- 22% additional child mortality.

The Government of Pakistan acknowledges these impacts and has undertaken various legal and policy initiatives to address child marriage. Legislation such as the Child Marriage Restraint Act, 1929 is in force at the federal level, with provinces empowered to enhance its provisions as applicable to their own jurisdictions. Recently, a bill was passed at the Islamabad Capital Territory level to raise the minimum marriageable age for both boys and girls to 18 years.[99] This follows on from the example set by Sindh, which has adopted legislation establishing 18 as the minimum legal age for marriage for both boys and girls. The Government regularly actively engages with religious scholars, community leaders, civil society and policymakers to expand awareness of the harmful consequences of child marriage and influence lawmaking accordingly.[100]

Multiple socio-cultural and economic factors contribute to the persistence of child marriage in certain communities. These include traditional norms regarding family honour, moral values, and perceptions of early marriage as a protective mechanism against social pressures.[101] In some cases, religious misinterpretations have contributed to support for early marriage, although leading religious scholars and judicial authorities have clarified that such practices are not obligatory under Islamic law.[102]

Certain customs, including *vani* (also known as *swara*), *ghag*, and *watta satta*, continue to be reported in remote and underserved areas.

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[98] The DHS Program, *Demographic and Health Survey 2017-18* (Islamabad: National Institute of Population Studies, 2019), 70, https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf. This is the most recent study available of this type.

[99] Syed Irfan Raza, "National Assembly Passes Landmark Bill to Criminalise Child Marriages in Islamabad," *Dawn*, May 17, 2025, https://www.dawn.com/news/1911451.

[100] Pakistan. Fifth Periodic Report Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: CEDAW/C/PAK/5. United Nations Committee on the Elimination of Discrimination Against Women.., para 103; Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 19

[101] Nasrullah, M., R. Zakar, M. Z. Zakar, et al., "Knowledge and Attitude Towards Child Marriage Practice Among Women Married as Children—A Qualitative Study in Urban Slums of Lahore, Pakistan," *BMC Public Health* 14 (2014): 1148, https://doi.org/10.1186/1471-2458-14-1148.

[102] United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), *Child Marriage Costing Study Report: Pakistan* (June 2021), https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/06/Child%20Marriage%20Costing%20Study%20Report-Pakistan-Final.pdf-34.

- *Vani* or *swara* – this custom involves the forced marriage of young girls to settle disputes between feuding families, as well as to settle debts or crimes (such as murder and adultery/fornication).[103] While this practice has been pronounced unconstitutional by the Federal Shariat Court[104] and other courts,[105] and has been criminalised under Section 310-A of the PPC, the practice remains prevalent in remote areas;

- *Ghag* – this custom involves a man announcing his intention to marry a certain girl in public, after which the girl's parents are obliged to marry her to the announcer.[106]

- *Watta satta* – this custom involves the exchanging of girls through marriage, and does not require the consent of the girls being exchanged.

These customs have been the subject of judicial scrutiny and legal reform. Section 310-A of the Pakistan Penal Code criminalises the use of girls to settle feuds, and courts have consistently declared such practices unconstitutional. However, the persistence of these practices indicates the importance of strengthening implementation, community engagement, and awareness-raising efforts.

Economic vulnerability is also a significant driver of child marriage. For families with limited financial resources, marrying daughters at a younger age is often perceived as a means of reducing household burdens, or securing modest economic advantages through dowry or customary arrangements.[107] The Government has recognised this link and continues to invest in social protection initiatives such as the Benazir Income Support Programme and Ehsaas, which offer conditional cash transfers to encourage girls to complete their education and delay their marriage to a more suitable age.[108]

Limited awareness among parents and community members regarding the legal framework and the potential health and developmental impacts of child marriage further compounds the challenge. In some areas, local *nikkah khwans* (i.e., marriage registrars) have reported pressure to solemnise underage marriages, citing inadequate legal protection when refusing to do so.[109] Therefore, strengthening collaboration between religious leadership, local police officials, and child protection institutions remains a key priority in such contexts.

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[103] "The Heinous Practice of Vani in Pakistan," *EACPE*, August 3, 2018, https://eacpe.org/the-heinous-practice-of-vani-in-pakistan/.

[104] PLD 2022 FSC 57.

[105] *Gul Sher v. Additional and Sessions Judge/Ex Officio Justice of Peace, Bhowana*, PLD 2023 Lahore 171.

[106] United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), Child Marriage Costing Study Report: Pakistan (June 2021), 13, https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/06/Child%20Marriage%20Costing%20Study%20Report-Pakistan-Final.pdf.

[107] Ibid., 35.

[108] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 13

[109] POdA, "One-Day Training for Nikah Khawans, Marriage Registrars, and Union Council Secretaries in District Sheikhupura in Punjab," POdA, https://www.poda.org.pk/one-day-training-for-nikah-khawans-marriage-registrars-and-union-council-secretaries-in-district-sheikhupura-in-punjab/.

In its reports to UN treaty bodies, Pakistan has reaffirmed its commitment to reducing the incidence of child marriage and harmonising domestic legislation with its obligations under international human rights instruments. The Government has emphasised the importance of legislative reform, institutional strengthening, and community sensitisation to promote behavioural change and combat child marriage across the country.[110]

Legal Analysis

International Law

Child marriages are categorically prohibited under international human rights law instruments. Child marriages are a violation of the rights to marriage and the rights of the child recognised under the ICCPR, the CEDAW and the CRC.

Marriage and Family Rights

Marriage and family rights are recognised under Article 16 of the UDHR, and is given binding force under Article 23 of the ICCPR. In terms of marriage rights, Article 23 adopts a holistic approach by covering rights to enter a marriage, during marriage, and to dissolve a marriage. It recognises the right to everyone of "marriageable age" to enter into a marriage and start a family. The term "marriageable age" is determined by States Parties themselves, with the standard minimum age being 18 years of age, in line with the standard minimum age to be considered an adult under the CRC.

The prohibition of forced marriages under Article 23(3) is a fundamental element of the right. While this does not forbid certain practices such as arranged marriages, it prohibits marriage customs that deny a spouse the ability to consent to or object to marriage to a certain partner, or deny a spouse the right to leave a marriage. This includes child marriages, as well as other practices such as a widow marrying a relative of her deceased husband (called wife inheritance or levirate marriage), marriages as a punishment, and marriages to a woman upon abduction.[111]

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides further protection against child marriages. Article 16 of the CEDAW requires States Parties to implement measures ensuring equal rights between men and women to enter into a marriage,[112] and to freely choose a spouse and enter into a marriage with their free and full consent.[113] Article 16(2) further states that

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[110] Pakistan. Follow-up to the Fifth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women: CEDAW/C/PAK/FCO/5. United Nations Committee on the Elimination of Discrimination against Women, 2023, para 4; Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 3

[111] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 651-652.

[112] Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), art. 16(1)(a).

[113] Ibid, art. 16(1)(b).

> The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Supplementary Convention) was passed in 1956 by the UN ECOSOC to further entrench the abolition of slavery, servitude, and similar institutions and practices. Under Article 1, among the listed prohibited activities, States Parties to the Convention undertake to eliminate forced marriages and the exploitation of children. To enforce this, Article 2 requires States Parties to prescribe suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages.

The Rights of the Child

Article 24 of the ICCPR recognises three main rights of the child. The first is the right to protection as a minor "on the part of his family, society and the State". This right must be available to all children on a non-discriminatory basis. This extends much of the rights of the ICCPR to children. These include the right to life, protection against cruel, inhuman or degrading treatment or punishment; protection against slavery, servitude and forced labour; the right to a fair trial (under a separate juvenile justice system); and the right to recognition and family rights (such as reunification and custody).[114] These rights are also provided for under the CRC as individual justiciable rights.

The UN Convention on the Rights of the Child is the main international instrument governing the protection of children. The CRC sets the age of majority (i.e., the age where a person is no longer considered a child) at 18 unless domestic law sets the age of majority earlier. While there is no explicit provision on the prohibition of child marriages, there are several rights that are hindered by way of child marriage. These include:

- The right not to be separated from his or her parents against their will (Article 9);
- The right of children capable of forming their own views to express those views freely in all matters affecting them (Article 12);
- The responsibility of the parents to ensure the best interests of the child (Article 18);
- The protection against all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse while in the care of a person who has the care of the child (Article 19);
- The right to education, with a minimum of complete primary education (Article 28);

[114] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 662-684.

- The protection against all forms of sexual exploitation and sexual abuse (Article 34); and

- The protection against all other forms of exploitation prejudicial to any aspects of the child's welfare (Article 36).

Domestic Law

The Constitution of Pakistan

The issue of setting a minimum marriageable age through domestic law has been challenged for violating the Injunctions of Islam under Article 277 of the Constitution. However, the Federal Shariat Court agreed that setting this age at 18 would not violate the injunctions of Islam. In the case of *Ali Azhar v. Province of Sindh*, the Court noted that the agreed position under Islamic law is that marriageable age is determined by both physical maturity, i.e., puberty and the ability to exercise sound judgment. The Federal Shariat Court upheld this view in *Ali Azhar v. Province of Sindh*,[115] differing between being physically mature (*baligh*) and mentally mature (*rushd*), and stating that "mental maturity comes later than sexual puberty due to many external factors associated with the intellectual and emotional development of a person".[116] A similar ruling was held in *Farooq Omar Bhoja v. Federation of Pakistan through Ministry of Law and Justice of Pakistan through Secretary, Islamabad*,[117] where the Court noted that the State could implement measures, such as a minimum marriageable age, to prevent a certain harm even if it is permitted under Islamic law.

Legislation

The Child Marriage Restraint Act, 1929

The Child Marriage Restraint Act 1929 prohibits the underage marriage of children. It sets two different age limits for its definition of a child: eighteen years for males, and sixteen years for females.[118] After the Eighteenth Amendment to the Constitution, the issue of child marriages has become a provincial subject.[119]

Section 4 of the Act punishes an individual for marrying a child to six months of simple imprisonment and a fine of fifty thousand rupees. Similarly, the Act prohibits the solemnisation of an underage marriage and also punishes the parents or guardians of the child involved in the marriage.[120] The Act authorises Magistrates to take up cases of child marriage, and allows the

[115] PLD 2023 FSC 265.

[116] Ibid., para. 6.

[117] PLD 2022 FSC 1.

[118] Child Marriage Restraint Act, 1929, sec. 2(a).

[119] Entry 5 on the Concurrent Legislative List abolished by the Eighteenth Amendment to the Constitution: Marriage and divorce; infants and minors; adoption.

[120] Child Marriage Restraint Act, 1929, secs. 5 and 6, respectively.

Family Courts to do so only where a complaint is submitted by the Union Council.[121] The Courts can also issue an injunction prohibiting a child marriage that is about to take place if they receive such information under Section 12.

In *Azka Wahid v. Province of Punjab and others*,[122] the Lahore High Court struck down the definition of a child under the Child Marriage Restraint Act[123] as discriminatory, and requested the Government of Punjab to amend the law to raise the minimum marriageable age for women to 18.

Attempts have also been made to increase the minimum marriageable age in KP and Balochistan. A bill was tabled by the KP Assembly to raise the minimum marriageable age for girls to 18; however, the bill was rejected by the Cabinet.[124]

The Sindh Child Marriages Restraint Act, 2013

The Sindh Child Marriages Restraint Act, 2013, considers both males and females under eighteen years of age to be children, and thus prohibits the marriage of any person under the age of eighteen years of age.[125] The Sindh Act increases the punishment for a male contracting party marrying a girl-child to two years of rigorous imprisonment.[126] The punishments for solemnising a child marriage, as well as a parent or guardian concerned in a child marriage, are both rigorous imprisonment between two to three years along with a fine.[127]

The Federal Shariat Court upheld the decision of the Sindh Government to raise the minimum marriageable age for women to eighteen years of age in *Ali Azhar v. Province of Sindh*[128] as permissible under Islamic law.

Pakistan Penal Code, 1860

Section 375 of the PPC defines the offence of rape. Among the descriptions, Section 375(v) states that sexual intercourse with a woman with or without her consent when she is under sixteen years of age constitutes rape, which is punishable with death or imprisonment between 10-25 years along with a fine under Section 376. Thus, any sexual intercourse with a girl-child under the age of sixteen even within a 'marriage' would be considered statutory rape.

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[121] Ibid., sec. 9.

[122] W.P. No. 32798 of 2023.

[123] As applied to Punjab after the Punjab Marriage Restraint (Amendment) Act, 2015.

[124] Consultation with Federal and Provincial Government representatives on Improving Compliance with International and Domestic Human Rights Obligations (Islamabad, 12 February 2025), Remarks by Representative from the Khyber Pakhtunkhwa Human Rights Department.

[125] Sindh Child Marriages Restraint Act, 2013, sec. 2(a).

[126] Ibid.

[127] Ibid., secs. 4-5.

[128] PLD 2023 FSC 265.

Similarly, Section 498B prohibits forced marriage by coercion or compulsion with up to seven years of imprisonment and a fine. As indicated above, Section 310A punishes giving a female or compelling her to enter into a marriage as *badal-i-sulh, wanni* or *swara* "or any other custom or practice under any name" with imprisonment between three and seven years, and a fine of five hundred thousand rupees.

Other relevant laws include:

- The Majority Act, 1875 - under Section 3 of the Majority Act, 1875, the age of majority of persons domiciled in Pakistan is eighteen years of age.
- The Dissolution of Muslim Marriages Act, 1977 - Among the grounds for a judicial decree for a dissolution of marriage, Section 2(vii) states that a wife can repudiate the marriage before attaining the age of eighteen years if she was given in marriage by her father or another guardian before the age of sixteen.
- The Hindu Marriage Act, 2017 – Section 4(b) of the Hindu Marriage Act requires both parties to be at least eighteen years of age to contract a marriage.
- The Christian Marriage Act, 1872 – Section 60 of the Christian Marriage Act requires both parties to be at least eighteen years of age to contract a marriage (as recently amended).
- The Punjab Sikh Anand Karaj Marriage Act, 2018 - Section 3 of the Punjab Sikh Anand Karaj Marriage Act requires both parties to be at least eighteen years of age to contract a marriage.

Institutions

Union Councils and Nikah Registrars

The Union Councils are responsible for the registration of births, deaths, marriages and divorces.[129] These operate under the Local Government Acts of each province. The Union Councils are responsible for licensing Nikah Registrars who solemnise marriages. The West Pakistan Rules under the Muslim Family Laws' Ordinance, 1961, provide procedural rules for the registration of marriage. Rule 7 states that any person competent to solemnise a marriage under Islamic law can apply for a Nikah Registrar licence to the Union Council. If the Union Council deems the applicant fit, it will issue a licence using Form I.

There is no clear guidance on the requirements of eligibility for Nikah Registrars. The Rules simply state that the Union Council will deem the applicant fit. Thus, a set of rules or a policy document must be developed to harmonise guidelines across the provinces. For example, Nikah Registrars must complete a designated course before their appointment that includes Muslim

[129] Punjab Local Government Act, 2022, sec. 22(1).

personal law, a breakdown of Pakistan's child marriage restraint laws, and case law on the matter.

While there is evidence of training of Nikah Registrars conducted by provincial governments,[130] it is unclear how regular these are and whether these are mandatory requirements for the issuance of licence. In the majority of the available training reports, the Nikah Registrars have been willing to accept an increased minimum marriageable age for women to 18 as well.

Furthermore, given the higher proportion of child marriages conducted in KPK, Balochistan and Sindh, there is a need to increase efforts in training in these areas There is a need for more scheduled, regular and consistent training programmes across the country on the Islamic requirements of a valid marriage, age verification procedures, and reporting guidelines when suspecting a child marriage.

National Commission on the Rights of the Child

The National Commission on the Rights of the Child (NCRC) is a national human rights institution (NHRI) established under the National Commission on the Rights of the Child Act, 2017, to deal with complaints of violations of children's rights. The NCRC is empowered to receive complaints on such violations, including child marriages, and forward the case to the relevant agencies or departments to initiate criminal proceedings. It also reviews laws affecting children's rights and recommends reform solutions.[131] The NCRC has also consulted major stakeholders, including civil society, in Punjab, Balochistan and KPK to work towards raising the minimum age of marriage for girls in their provinces.[132]

According to the NCRC, one of the major obstacles to ending child marriage is the lack of birth registration particularly in rural areas where such marriages are highly prevalent.[133] This prevents Nikah Registrars or the police from ascertaining or verifying the real age of a potential victim as the real birth date cannot be verified by NADRA.

Another obstacle appears in cases of forced conversions and marriages of underage Hindu girls in northern Sindh. Because the marriageable age in Sindh is higher than in Punjab, abductors will travel to bordering towns in Punjab to register marriages with women aged 16-17 years old, capitalising on a critical legal loophole.[134]

To continue its work, the NCRC should be allocated greater financial resources and technical expertise to conduct nationwide training programmes, advocacy and policy reform on child

[130] Punjab Commission on the Status of Women, "Training of Nikah Registrars," accessed 10 February 2025, https://pcsw.punjab.gov.pk/training-of-nikah-registrar.

[131] National Commission on the Rights of the Child Act, 2017, sec. 15.

[132] National Commission on the Rights of the Child (NCRC), Annual Report 2023-2024 (Islamabad: NCRC, 2024), 42

[133] Interview with Ayesha Raza Farooq, Chairperson of the NCRC, Islamabad, 6 Februrary 2025.

[134] Interview with Pirbhu Lal Satyani, Member Sindh/Minorities of the NCRC, Islamabad, 6 February 2025.

marriages, given the scale of the problem and its effects on the enjoyment of other rights, such as education and children's health.

Police

The police play a key role in investigating allegations of child marriages. In terms of the evidence required in such cases, they gather evidence such as the documentary evidence affirming the age of the girl. Where there is an absence of documentary evidence, the police can obtain medical evidence, such as bone ossification tests, to determine the age of the child.[135] However, the process of obtaining medical evidence can be time-consuming, particularly where there is doubt about the authenticity of the documentary evidence.[136]

In some instances, police also apply criminal charges discretionarily under different laws.[137] This can hamper data recording and collection of cases, which further hampers evidence-based interventions as it is unclear how many true cases there are. For example, cases where a young girl is abducted for marriage, recording the case as one of 'abduction' rather than child marriage can obscure the total number of cases. The data is also skewed because parents also file cases of abduction to protest against a daughter's wilful and consensual marriage to a man who they disapprove of, which makes the consistent and accurate reporting of such cases difficult.

There is evidence of training of police officers on the enforcement of the Child Marriage Restraint Acts.[138] However, it is unclear whether such training is conducted on a regular basis and to all police units across the country, particularly those operating in regions where child marriages are prevalent.

Summary of UN Observations

Human Rights Committee

The HRC recommended that Pakistan "set the minimum age of marriage at 18 years for girls and boys, without exceptions" across the country.[139] The CESCR had a similar recommendation in its 2017 Concluding Observations.[140] The CEDAW Committee also recommended that the State amend the Child Marriage Restraint Act and set the minimum

[135] Research Society of International Law, "Policing Gender-Based Violence, Rapes, and Child Marriages," accessed 10 February 2025, https://rsilpak.org/2024/policing-gender-based-violence-rapes-and-child-marriages/.
[136] Ibid.
[137] Ibid.
[138] Punjab Police, "Training for police on Child Marriage Restraint Act," accessed 10 February 2025, https://punjabpolice.gov.pk/node/6586; Punjab Police, "A Training session was held with Police Officers/Officials on Child Marriage Laws and Child Protection" accessed 10 February 2025, https://dpockl.punjabpolice.gov.pk/node/439.
[139] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, 2024, para. 15.
[140] UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Initial Report of Pakistan, E/C.12/PAK/CO/1, 2017, para. 56.

marriageable age to 18 for both sexes throughout the country.[141] It also recommended amending the Pakistan Penal Code, 1860 to make provisions on forced marriages cognisable and to continue raising awareness about harmful marriage practices for women and girls.[142]

Committee on the Rights of the Child

The CRC Committee makes several other related recommendations pertaining to child marriages. It recommends that Pakistan harmonise the age of a child across all legislation, including the Child Marriage Restraint Act, to below 18 years of age.[143] It also recommends that Pakistan enforce legislation to prohibit child marriage by investigating and prosecuting persons, including members of *jirgas*, who endorse such practices.[144] This should be supported by awareness-raising campaigns on the harmful effects of child marriages as well as their rights under the CRC.[145] The CRC Committee also recommended that Pakistan take additional measures to safeguard refugee, asylum-seeking, and stateless children from early marriage,[146] and that the State takes measures against the sale, trafficking and abduction of children by addressing the root causes of these issues.[147]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review,[148] several States, including the Republic of Korea, Poland, Italy, Bangladesh and Sweden, recommended that Pakistan adopt legislative measures to prohibit forced and child marriages and raise the minimum marriageable age to 18 across the country. Pakistan supported both of these recommendations. These issues were connected to the right to education for young girls, the rights to marriage and family, and the protection from gender-based violence. Additionally, Greece recommended that Pakistan prohibit forced and child marriages, particularly as they connect to forced conversions. Pakistan also supported these recommendations.

Recommendations

Legislative

Raise the minimum marriageable Age to 18 years for both males and females

[141] UN Committee on the Elimination of Discrimination Against Women, Concluding Observations on the Fifth Periodic Report of Pakistan, CEDAW/C/PAK/CO/5, 2017, para. 50(a).

[142] Ibid, para 50(2)

[143] UN Committee on the Rights of the Child, Concluding Observations on the Fifth Periodic Report of Pakistan, CRC/C/PAK/CO/5, 2016, para. 17.

[144] Ibid, para 39(a)

[145] Ibid, para 39(b)

[146] Ibid, para 66(f)

[147] Ibid, para 76

[148] United Nations Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

The first key legislative recommendation is for Punjab, KPK, Balochistan, the Islamabad Capital Territory, AJK and Gilgit Baltistan to enact legislation or amendments to existing legislation to increase the minimum marriageable age to 18 years of age for females. This will conform to Pakistan's international obligations under both the CRC and the CEDAW, and will also follow the ruling of the Federal Shariat Court. This requires passing the proposed Child Marriage Restraint Amendment bills in both Punjab and Balochistan, and extending the same to the remaining provinces and regions.

Increase punishments for marrying a child and harmonise them across the provinces

The penalties for marrying a child, for solemnising a marriage and for parents/guardians allowing a child marriage should be increased and harmonised across the country to maintain consistency in efforts combatting child marriage. The punishments should be increased to a minimum one year of imprisonment and a fine of PKR 100,000 to increase the deterrent value of the punishment.

Similarly, Section 310A punishes the giving of girls in marriage in *wani, swara* or *badl-i-sulh*. These punishments should be increased where the girl given in marriage is underage and added onto the existing punishment under the Child Marriage Restraint Acts. This requires increased police sensitisation and proactiveness to register FIRs for both offences.

Punishment for statutory rape

Under Section 375(d) of the PPC, sexual intercourse with a girl under 16 years of age whether in marriage or outside is considered rape. Thus, where an underage marriage is consummated, the person marrying an underage girl should be punished for the offence of statutory rape.

Policy

Develop a clear multisectoral policy to combat child marriages

The Federal Government should develop a clear policy on combating child marriages across the country. This policy should be developed in consultation with each provincial government, national human rights institutions (such as the NCRC and NCSW) legislators, policymakers, civil society organisations and religious institutions. This should further be complemented by a National Action Plan to implement said policy. It is imperative that the Federal Government and the provincial governments jointly develop said policy along with budget resource allocation and capacity-building assessment needs to ensure a harmonised effort towards combatting the practice across the country.

This can be modelled off of the Bangladesh National Action Plan to End Child Marriage (2018-2030)[149] which sets out indicators, the designated ministries/departments and time frames for

[149] Ministry of Women and Children Affairs, Bangladesh, National Action Plan to End Child Marriage (Dhaka: Ministry of Women and Children Affairs, 2020),

the achievement of a set of objectives. The Plan focuses on increasing access to education, access to justice and victim protection services, and advocacy campaigns, among others.[150]

Mandatory training of Nikah Registrars at the time of issuing a licence and judges, including Islamic law requirements of *baligh* and *rushd*

Nikah Registrars, local government and Union Council Officials should receive regular training on the causes and harms of child marriages from both social and religious perspectives. Training programmes should be developed by Islamic law experts, religious scholars, and human rights experts and should be disseminated by each provincial government to their local governments. The modules should cover the conditions for a valid marriage under Islam, including the consent of the parties, the requirements for both physical and mental maturity, and how to ascertain the elements thereof, such as minimum educational requirements. Similarly, Family Court judges should be trained on the Islamic law requirements for a valid *nikkah* prior to their nomination to the Family Courts on the same topics.

The module should also include training on how to act in cases where families are pressurising Nikah Registrars to register an underage marriage. Given that coercion from families is a reason flagged by Nikah Registrars, guidelines should be developed by the Union Councils and the local police stations to facilitate the protection of the child in question and the Nikah Registrars as well.

Furthermore, the conditions of issuing a licence to Nikah Registrars under Rule 7(4) of the MFLO Rules should be amended to include punishment for violating the Child Marriage Restraint Act. This way, a Nikah Registrar's licence can be subject to revocation under the MFLO Rules for solemnising a child marriage along with the punishment for solemnising a child marriage under the Child Marriage Restraint Acts.

Develop a centralised registration system

A centralised marriage registration system should be developed by NADRA which can be accessed by NADRA, the Union Councils, local police and Child Protection Authorities/Welfare Bureaus. Currently, NADRA provides a verification system that allows users to verify the details of a particular person according to their existing records in the NADRA database.[151] However, due to data privacy concerns and the lack of a clear data protection law in Pakistan, the entire database cannot be accessed by other agencies.[152] Therefore, a centralised registration system should be developed such that the entry of the details of an underage spouse will immediately be flagged and alert the police who can take actions, with NADRA being the custodian of said database. This will also prevent the use of

https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/publications/cd85f424_9969_4f77_aec6_dce5c447acc9/NAPECM%20English.pdf.

[150] Ibid., Implementation Plan and Strategy, p. 29.

[151] Consultation with Federal and Provincial Government representatives on Improving Compliance with International and Domestic Human Rights Obligations (Islamabad, 12 February 2025)

[152] Ibid.

any fake documentation where the ages of the young girl are forged to show she is above 16/18 years of age. However, this is also dependent on the framing of data protection regulations, which NADRA is currently working on as of February 2025.[153]

Enhance investment in free and compulsory education particularly in rural areas, complemented by community advocacy campaigns to shape public opinion.

It is imperative that access to quality free and compulsory education is increased particularly in rural areas. This requires significant investment from provincial governments given the logistical challenges of establishing schools and providing the relevant resources and infrastructure to such areas. This also requires tackling the cultural challenges persisting in such areas on the need for girls' education in particular. Thus, educational investment should be complemented with advocacy programmes and targeted community awareness campaigns. Religious leaders, such as mosque imams in these areas, should be sensitised on the value and importance of education for girls from both religious and social perspectives.

Extension of microfinance facilities to provide financial support to families to reduce economic pressures leading to marrying off girl-children.

One of the main reasons for the continued prevalence of child marriage is poverty. To combat this, local governments should enhance social protection programmes through microfinance facilities, cash transfers and other similar economic incentive schemes. These facilities can be conditional, such as support for girls' education or vocational training. To be effective, these facilities must be targeted to areas where child marriage prevalence is high and based on a contextual understanding of the causes of child marriage.[154]

Initiatives such as the Female Secondary School Stipend (FSSP) have proven to have positive effects as they "help adolescent girls progress through and complete middle school, reduce labourparticipation, delay marriage, and have fewer children."[155] Similar other initiatives have had positive effects in countries such as India, Bangladesh, Zimbabwe, the Philippines, Mexico and Malawi. These initiatives can be financed through public-private partnerships, particularly with civil society organisations and human rights defenders operating in areas prone to child marriages. However, such initiatives will not prove to be effective on their own, and therefore need to be part of a holistic policy-based approach towards ending child marriages in the country.

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153 Ibid.

154 Girls Not Brides, How Cash Transfers Can Contribute to Ending Child Marriage (London: Girls Not Brides, 2021), 6, https://www.girlsnotbrides.org/documents/1655/How_cash_transfers_can_contribute_to_ending_child_marriage.pdf.

155 World Bank, The Impact of Conditional Cash Transfers on Child Labor and School Attendance in Pakistan (Washington, D.C.: World Bank, 2011), xi, https://documents1.worldbank.org/curated/en/459061468057349268/pdf/653580WP0Box360tanCCTImpactEval2011.pdf.

Modern Slavery

Chapter Summary

This chapter examines the issue of modern slavery in Pakistan, focusing on bonded labour and human trafficking as primary manifestations. These practices restrict personal autonomy and dignity and persist in both formal and informal sectors, particularly in agriculture, brick kilns, domestic work, mining, and informal migration routes. The Government of Pakistan continues to address these concerns through legal, administrative, and policy measures aligned with national priorities and international commitments. A multifaceted response involving prevention, enforcement, victim protection, and awareness-raising is considered central to addressing these issues comprehensively.

Pakistan has ratified several core international human rights treaties relevant to the prohibition of slavery and forced labour, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and multiple International Labour Organisation (ILO) Conventions. These commitments are reflected in Article 11 of the Constitution of Pakistan, which prohibits slavery, forced labour, human trafficking, and child labour in hazardous sectors. Domestic legislation includes the Bonded Labour System (Abolition) Act, 1992 (and its provincial versions) and the Prevention of Trafficking in Persons Act, 2018 (PTPA). While the legal framework is well-established, opportunities remain to strengthen penalties, harmonise definitions with international standards such as the Palermo Protocol, and further clarify jurisdictional overlaps to enhance enforcement and victim protection.

Institutional mechanisms for implementation include labour departments, the Federal Investigation Agency (FIA), provincial police, and District Vigilance Committees (DVCs). The FIA operates Anti-Human Trafficking and Smuggling Units and has introduced a national anti-trafficking hotline and action plan. Labour inspectors and DVCs play key roles in monitoring bonded labour; however, these structures can benefit from further capacity-building, logistical support, and procedural coordination. Coordination between federal and provincial bodies, civil society, and international partners such as IOM and UNODC contributes to policy development and technical support. Continued emphasis on standard operating procedures (SOPs), victim-centred approaches, data collection, and inter-agency collaboration is important to enhance the reach and effectiveness of these mechanisms.

This chapter identifies several opportunities for reinforcing Pakistan's response to modern slavery. These include legislative amendments to ensure mandatory penalties for offences, institutional strengthening of enforcement bodies, enhanced legal aid and rehabilitation services for victims, and expanded awareness campaigns. Improved data management, standardised complaint and referral systems, and targeted training for police, inspectors, and prosecutors are recommended to ensure consistent application of the law. Enhanced coordination mechanisms, including inter-provincial platforms and partnerships with NGOs

and the private sector, can support holistic implementation. These steps would further align Pakistan's domestic efforts with international standards and contribute to protecting vulnerable populations from exploitation.

Situational Analysis

The term 'modern slavery' encompasses various exploitative circumstances that involve a power differentiation similar to that of slavery, where one person strips the other of autonomy, dignity and freedoms in exchange for commercial gain. In Pakistan, these primarily manifest themselves in bonded labour and human trafficking, which will be the focus of this chapter. Both issues are complex, multifaceted, and have required sustained legal, administrative, and community-level responses. The Government of Pakistan continues to address these challenges, consistent with its national legal framework and its obligations under international instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and various ILO Conventions.

Bonded Labour

Bonded labour refers to a situation where individuals are compelled to work to repay a debt, often under conditions that restrict their freedom and perpetuate intergenerational cycles of labour. Despite being prohibited under the Bonded Labour System (Abolition) Act, 1992, and corresponding provincial laws, bonded labour continues to be reported, particularly in sectors such as brick kilns, agriculture, carpet weaving, mining, and domestic work. It is estimated that approximately 4.5 million individuals may be affected, with a significant proportion comprising children.[156]

Several factors contribute to the persistence of bonded labour, the most significant of which is poverty. The main driver of this is poverty, which traps a family into a continuous cycle of paying off their debts through labour.[157] As such debts accrue, the labourer is forced to continue working for their employers, who are usually powerful landlords. These landlords can trap labourers on their premises to prevent them from escaping without having paid their debts, with some maintaining private jails to keep them locked up.[158] Female labourers are also subjected to heightened vulnerabilities, such as sexual abuse.[159] The entrapment is further exacerbated due to the remoteness of the establishments (particularly brick kilns),[160] "informality of contracts, minimal wages and the lack of formal education" of the labourers, allowing landlords

[156] U.S. Department of State. *2024 Trafficking in Persons Report: Pakistan*. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[157] Friedrich-Ebert-Stiftung Pakistan. Breaking the Bondage: Bonded Labour Situation and the Struggle for Dignity of Brick Kiln Workers in Pakistan. Islamabad: FES, 2013, 20. https://library.fes.de/pdf-files/bueros/pakistan/10382.pdf.

[158] Nicholas Martin. "The Political Economy of Bonded Labour in the Pakistani Punjab." Contributions to Indian Sociology 43, no. 1 (2009): 35–59, 37. https://doi.org/10.1177/006996670904300102.

[159] Ibid.

[160] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

to circumvent bonded labour laws.[161] Many bonded labourers are uneducated and illiterate, and also do not have Computerised National Identity Cards.[162]

The Government has acknowledged these challenges and taken steps to enhance monitoring and enforcement. Institutions tackling bonded labour include dedicated labour inspectorates, provincial human rights departments, and district vigilance committees (DVCs). Freed bonded labourers are provided rehabilitation through shelter services and legal assistance in some areas. Pakistan's engagement with ILO conventions and the recommendations of treaty bodies has further informed legislative and administrative reforms aimed at strengthening protection for vulnerable workers.[163]

Human Trafficking

Human trafficking in Pakistan involves both cross-border and internal movement of individuals for the purpose of exploitation, including forced labour, sexual exploitation, forced begging, organ removal, and other forms of servitude. Trafficking may involve coercion, deception, or abuse of power and disproportionately affects children, women, and marginalised populations.

The Prevention of Trafficking in Persons Act, 2018 (PTPA) provides the primary legal framework for addressing trafficking offences. It defines trafficking broadly and sets out penalties for perpetrators. The Pakistan Penal Code also contains provisions that address various elements of trafficking-related crimes.

Cross-border trafficking is often linked to irregular migration and is distinguished from smuggling based on the presence or absence of consent. Individuals seeking employment abroad, particularly in the Gulf States, may fall victim to deceptive recruitment practices, leading to situations of involuntary servitude or forced labour, including under sponsorship regimes such as the kafala system. Domestically, trafficking has been associated with sexual exploitation, forced marriages, child begging, and domestic servitude.

Efforts to combat trafficking include the operation of Anti-Human Trafficking and Smuggling Units by the Federal Investigation Agency (FIA), training of law enforcement personnel, collaboration with international organisations, and the establishment of victim referral mechanisms.[164] Special attention has been given to vulnerable groups, including street children and child domestic workers, who are particularly at risk of exploitation.[165]

Despite these efforts, data suggests that the rate of convictions remains low in comparison to the number of reported investigations and prosecutions. Between 2018 and 2022, official data

[161] N.. Malik, "Bonded Labour in Pakistan". (2016) Advances in Anthropology, 6, 127-136. doi:10.4236/aa.2016.64012.

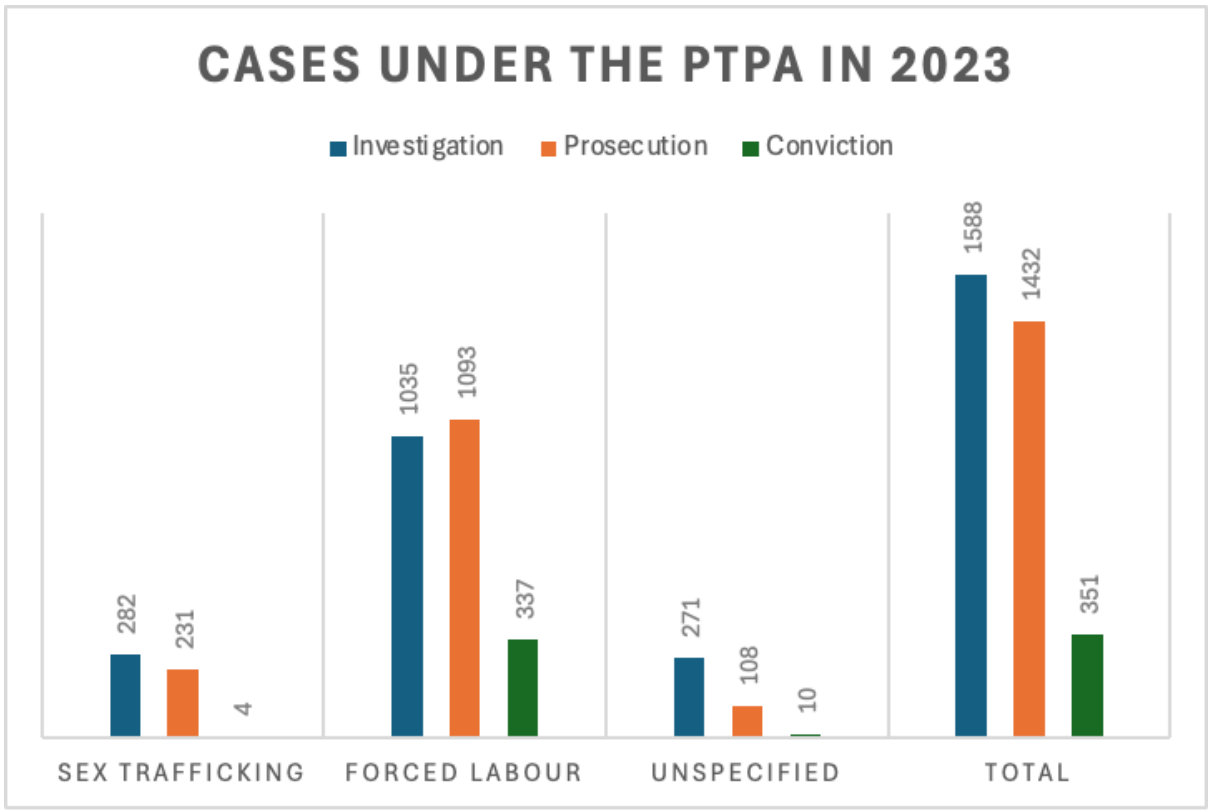
[162] Ibid.

[163] Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, para 70

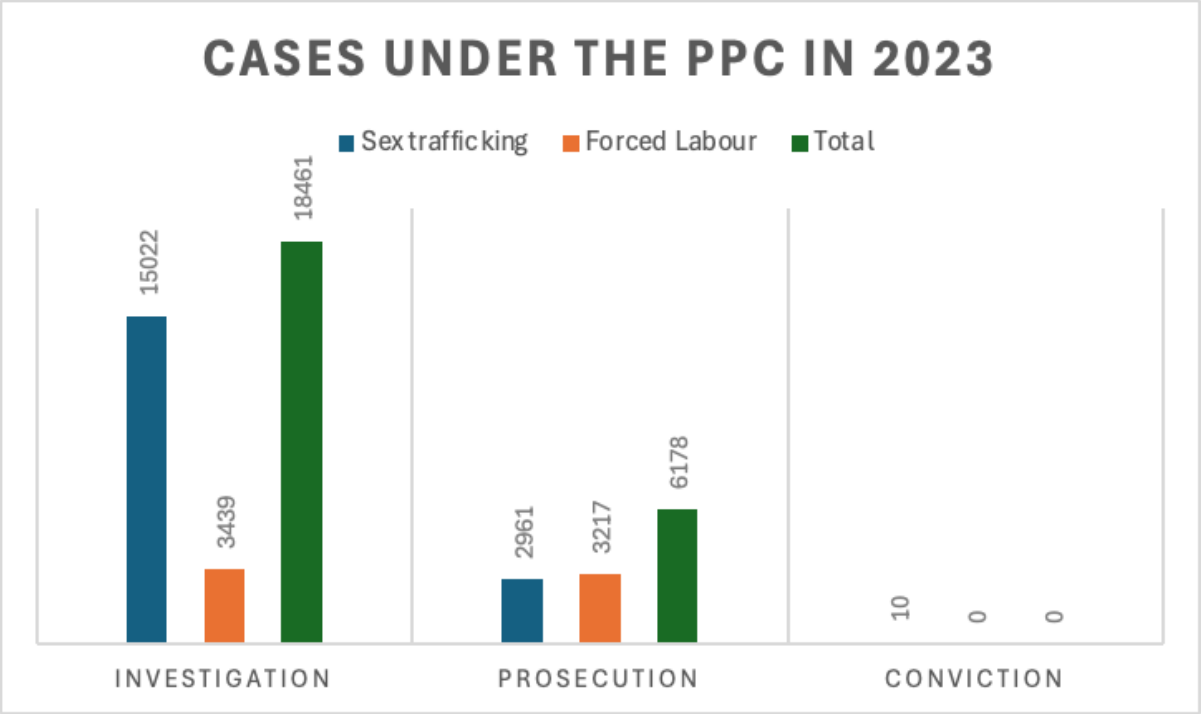
[164] Pakistan. Initial Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography: CRC/C/OPSC/PAK/1. United Nations Committee on the Rights of the Child, 2020, para 60

[165] Ibid.

reported under the PTPA includes 1,588 investigations, 1,432 prosecutions, and 351 convictions.[166] Under the Pakistan Penal Code, there were over 18,000 investigations and over 6,000 prosecutions during the same period, but limited recorded convictions.[167] This indicates the need for further institutional strengthening, including improved case management, protection of victims and witnesses, and increased public awareness regarding the legal definitions and consequences of trafficking.



[166] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.
[167] Ibid.



Children remain among the most vulnerable to trafficking, particularly for begging, child labour, and commercial sexual exploitation. Several instances of child trafficking have been reported, often compelled to engage in forced labour practices or, most commonly, domestic servitude, with some cases receiving national attention following media coverage. The government has taken consistent steps to address these risks through enhanced child protection legislation and operations, as well as shelter support by partnering with non-governmental organisations. Continued efforts in awareness-raising, community outreach, and institutional coordination are being pursued to prevent such exploitation and support victim rehabilitation.[168]

Pakistan's national action plans and inter-agency coordination mechanisms are evolving to address trafficking and forced labour in a comprehensive manner. The government has acknowledged the need to enhance data collection, streamline referral systems, and increase the capacity of frontline institutions. Collaboration with civil society and international partners, including the United Nations Office on Drugs and Crime (UNODC) and the International Organisation for Migration (IOM), plays a significant role in supporting these efforts.[169] Ongoing reforms, enhanced interagency coordination, and public engagement represent important avenues for deepening Pakistan's compliance with its constitutional obligations and international human rights commitments in combatting modern slavery practices.

[168] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 279-279

[169] International Organization for Migration (IOM). "IOM and SSDO Host Provincial Dialogue in Lahore on Trafficking in Persons and Smuggling of Migrants." *IOM Pakistan*. May 1, 2024. https://pakistan.iom.int/news/iom-and-ssdo-host-provincial-dialogue-lahore-trafficking-persons-and-smuggling-migrants.

Legal Analysis

International Law

The prohibition of slavery and servitude is a fundamental right considered to have *jus cogens* value under international law,[170] i.e., of such importance that it cannot be derogated from either under treaty or customary law. The right is an absolute and non-derogable right, which indicates its paramount importance. It creates obligations to respect and protect.

The right is connected to the League of Nations Slavery Convention 1926 which was subsequently reaffirmed by the United Nations. The treaty defines 'slavery' as the "status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."[171] Similarly, the term 'slave trade' covers all acts in the capture, acquisition, sale and transport of slaves.[172]

The term 'servitude' refers to "exploitation which does not manifest powers which would normally be associated with ownership, whether *de jure* or *de facto*."[173] The Slavery Convention was supplemented in 1956 by the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Article 1 of the Supplementary Convention further prohibited debt bondage, serfdom, forced and child marriages, and the sale or transfer of guardianship of a child under 18 for the purposes of exploitation as forms of servitude.

The crime of human trafficking is also considered a form of servitude under Article 8(2). Human trafficking is defined as follows:

> the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.[174]

Article 8(3) of the ICCPR pertains primarily to forced or compulsory labour. The ILO defines 'forced labour' under Article 2 of the ILO Forced Labour Convention 1930 (No. 29) ('Forced Labour Convention') as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

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[170] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 225; https://legal.un.org/ilc/reports/2019/english/chp5.pdf Conclusion 23(f).

[171] Convention to Suppress the Slave Trade and Slavery 1926, art. 1(1).

[172] Ibid., art. 1(2).

[173] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 226.

[174] UN Convention Against Transnational Organised Crime - Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, art. 3.

Article 8(3) of the ICCPR sets out exceptions to what is considered 'forced or compulsory labour'. These include:

- Hard labour under a prison sentence where it is provided for as a punishment by law;[175]

- All forms of work or service done by someone under detention or on conditional release from detention;

- Compulsory military service in States where this is mandated.[176] Similarly, States can provide alternative compulsory work requirements for those who conscientiously object to compulsory military service;[177]

- Labour or services provided in cases of 'emergency or calamity threatening the life or well-being of the community', such as war, natural disasters or epidemics;[178] and

- Work or service which forms part of 'normal civil obligations'.[179] This can include any work provided by law for the fulfilment of civil obligations as long as it is consistent with the other rights in the ICCPR.[180]

The State has several obligations to prohibit slavery, servitude and its many forms. The nature of these obligations is primarily to protect people against being forced into such forms of exploitation, as third parties largely perpetrate these crimes. However, these can also create obligations of respect upon the State to ensure it neither actively participates in nor facilitates such exploitative acts.

The primary obligation upon the State is to criminalise slavery, servitude and forced labour and assign penal offences to those perpetrating such acts.[181] Thereafter, States must proactively enforce such laws by investigating and prosecuting those perpetrating slavery, servitude and forced labour, especially since these acts are primarily perpetrated in the private domains against vulnerable segments of the population. These obligations are intrinsically connected to certain duties to fulfil, such as the provision of medical, psychological, social, legal and rehabilitative assistance to victims of servitude (and their families), which require additional State resources.[182]

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[175] Ibid., Article 8(3)(b).

[176] Also see ILO Forced Labour Convention, 1930 (No. 29), art. 2(2)(a).

[177] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 235.

[178] See Forced Labour Convention 1930, art 2(2)(d).

[179] See Forced Labour Convention 1930, art 2(2)(b) and (e).

[180] *Faure v. Australia*, CCPR/C/85/D/1036/2001, 31 October 2005; Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 232.

[181] Forced Labour Convention 1930, Articles 25-26.

[182] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 231-2.

Domestic Law

Article 11 of the Constitution

The prohibition of slavery, forced labour and similar exploitative practices is provided for under Article 11 of the Constitution of Pakistan, which states the following:

> 11. Slavery, forced labour, etc. prohibited
>
> (1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.
>
> (2) All forms of forced labour and traffic in human beings are prohibited.
>
> (3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.
>
> (4) Nothing in this Article shall be deemed to affect compulsory service:-
>
> (a) by any person undergoing punishment for an offence against any law; or
>
> (b) required by any law for public purpose provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Article 11 is a central fundamental right as it protects an individual's freedom of exploitative practices, such as slavery, servitude and forced labour, as per Article 8 of the ICCPR. Article 11 of the Constitution explicitly prohibits slavery, forced labour, human trafficking and the employment of children under 14 years of age in hazardous industries. The exceptions to the prohibition of Article 11 are covered in clause 4, where certain forms of 'compulsory service' are allowed.

Case Law Jurisprudence

The superior judiciary has interpreted this Article in several cases pertaining to the practice of bonded labour. In the landmark *Darshan Masih v. the Federation of Pakistan* case,[183] the Supreme Court held that the practice of bonded labour (or *peshgi*) violated Article 11(2) as it constituted a form of forced labour.[184] The Supreme Court directed the Federal Government to pass the Bonded Labour (Abolition) System Act, 1992, which later evolved into provincial acts after the 18th Amendment to the Constitution. Since then, the superior judiciary has called for the "due and purposeful enforcement of the Act".[185] The Lahore High Court also found enforcement lacking in a *mandamus* petition in 2020, ordering government bodies and labour departments to ensure enforcement and monitor progress.[186] The Lahore High Court has also

[183] *Darshan Masih v. Federation of Pakistan*, PLD 1990 SC 513.

[184] Ibid.

[185] *Syed Shabbir Hussain Kazmi and others v. Government of Pakistan*, PLD 2006 SC 1.

[186] *Muhammad Suleman v. Station House Officer and others*, PLD 2020 Lahore 534.

made a specific pronouncement of the additional vulnerability of women and children who are made to work at brick kilns, terming such employment as a violation of Article 11 as well.[187]

In terms of human trafficking, the Sindh High Court held that Article 11 of the Constitution also prohibits the trafficking of persons, and ties it to the protection of dignity under Article 14.[188]

Bonded Labour Legislation

Article 11(1)

The prohibition of slavery is largely dealt with under the Pakistan Penal Code, 1860 (PPC). Section 370 of the PPC punishes "[W]hoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave" with up to seven years imprisonment and a fine. The habitual dealing in slaves is punished under section 371 with ten years imprisonment and a fine.

Article 11(2)

There are several legislative provisions prohibiting forced labour. Section 374 of the PPC punishes those unlawfully compelling persons to labour against their will with up to five years imprisonment and/or a fine.

The Bonded Labour System (Abolition) Act, 1992

The Bonded Labour System (Abolition) Act, 1992 was passed after the *Darshan Masih* case to abolish the system of bonded labour throughout the country. The Act is complemented by a set of Rules to govern its operationalisation.

Section 2(e) of the Act contains a comprehensive and all-encompassing definition of the "bonded labour system". In essence, it is the rendering of one's labour – either by oneself or through a family member / dependent – or the forfeiture of one's freedom in exchange for the repayment of one's debt. Section 4 of the Act declares the system 'abolished' and every bonded labourer 'freed and discharged from any obligation to render any bonded labour'. The Act also declares all such agreements to be void under section 5. Under Section 11, the punishment for anyone hiring someone on the basis of bonded labour is imprisonment between two to five years, and/or a fine no less than Rs. 50,000.

Provincial Bonded Labour Laws

Since the Eighteenth Amendment to the Constitution's abrogation of the Concurrent Legislative List, the subject of labour practices has become the exclusive domain of the

[187] *Muhammad Siddique v. Mansha and other*, PLD 1997 Lahore 428.

[188] *Mst Gulzaran v Amir Bakhsh*, PLD 1997 Karachi 309.

provincial governments. Thus, all provinces have adopted a provincial version of the Bonded Labour System (Abolition) Act, largely reproducing the same sections. They are as follows:

- The Punjab Bonded Labour System (Abolition) Act, 2012
- The Sindh Bonded Labour System (Abolition) Act, 2015
- The Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015
- The Balochistan Bonded Labour System (Abolition) Act, 2015
- The Azad Jammu and Kashmir Bonded Labour System (Abolition) Act, 2017
- The Gilgit Baltistan Bonded and Forced Labour System (Abolition) Act, 2020

There are three main types of offences recognised under the Acts:

- Enforcement of bonded labour
- Extracting bonded labour
- Failing to restore the property of a bonded labourer.

Some provincial laws also make it an offence to obstruct a labour inspector. The laws have varying punishments.

Offence/Province	Punjab	Sindh	KPK	Balochistan	AJK	GB
Enforcing bonded labour	2-5 years, 50,000 - 200,000	2-5 years, minimum 100,000	2-5 years, 50,000 - 200,000	2-5 years, 50,000 - 200,000	2-5 years, 75,000	6 months - 1 year. Minimum 50,000
Extracting bonded labour	2-5 years, 100,000 - 350,000. Government may make arrangements for payment at rate of	2-5 years, minimum 100,000; If recovered, payment not less than PKR	2-5 years, 100,000 - 300,000. If recovered, payment not less than 50%	2-5 years, 100,000 - 300,000. If recovered, payment not less than 50% of minimum	2-5 years, 100,000 - 300,000. If recovered, payment not less than 50%	6 months - 2 years. 50,000 - 300,000. If recovered, payment of 600 for

	minimum wages.	269 for each day labour extracted.	of minimum wage for each day labour extracted.	wage for each day labour extracted.	of minimum wage for each day labour extracted.	each day labour extracted.
Failing to restore property	5 years, 20,000. If recovered, PKR 500 per day that was not recovered in due time	1 year 5,000 - 10,000 If recovered, 100 per day that was not recovered in due time	1 year, 50,000. If recovered, payment not less than 50% of minimum wage for each day not recovered in due time.	1 year, 50,000. If recovered, payment not less than 50% of minimum wage for each day not recovered in due time.	1 year, 15,000. If recovered, 25 per day that was not recovered in due time	1 year, 30,000. If recovered, payment of 600 for each day not recovered in due time.
Obstructing labour inspector	NA	NA	1 month, fine between 10,000 - 100,000.	1 month, fine between 10,000 - 100,000.	NA	15 days - 3 months, 50,000.

Prohibition of Child Labour at Brick Kilns Acts

The Punjab and the AJK Governments have both passed laws that prohibit child labour at brick kilns. The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016, and the Azad Jammu and Kashmir Prohibition of Child Labour and Regulation of Labour at Brick Kilns Act, 2017, seek to punish brick kiln owners and occupiers for employing children on their premises. Even where children are found on the premises, they are presumed to be employed under the acts unless proven otherwise. Together, these laws seek to prevent one of the most harmful yet common manifestations of bonded labour in Pakistan.

Analysis of Bonded Labour Legislation

The most significant shortcoming in the legislation is the structure of the penalties. The provisions allow for fines in lieu of imprisonment or additional to imprisonment. Such amounts may not necessarily be much of a penalty, and therefore an insufficient deterrent, for powerful and influential landlords that own or occupy brick kilns or farms that engage bonded labourers. A fine would therefore not be as strong a deterrent as a mandatory prison sentence, particularly if the fine is levied as the only penalty. It is also unclear how payments to the bonded labourer are to be made upon being freed, particularly if there is a disagreement about the date the labourer started working in the absence of an employment contract.

Human Trafficking Legislation

The Prevention of Trafficking in Persons Act, 2018 (PTPA)

The prevention and prohibition of human trafficking also falls under Article 11(2). This is governed by the Prevention of Trafficking in Persons Act, 2018. Section 3(1) of the Act defines 'trafficking in persons' as the recruitment, harbouring, transportation, provision or obtainment of another person (or attempts to) "through the use of force, fraud or coercion" for "compelled labour or commercial sex acts". This is punishable with up to seven years imprisonment and/or a fine of up to Rs. 1 million. Where the offence is committed against a child or a woman, the prison sentence may be increased up to ten years with a minimum of two years.[189] The penalties can be further increased under Section 4 where there are aggravating circumstances, including serious injury or death of a victim, activities of an organised criminal group, confiscating travel documents of victims, and repeating the same offence. The PTPA also clarifies that victims of trafficking should not be criminally liable for an offence under the Act, and recognises the need for the protection of victims and witnesses.

Several issues persist with the PTPA particularly as it applies to child trafficking. The National Commission on the Rights of the Child published a comprehensive policy brief on the shortcomings of the PTPA in combating child trafficking. Firstly, the Act overlaps with existing provisions of the PPC (explored below), such as the provisions on abduction. It also overlaps with child protection laws established under each statute (see the **Child Abuse and Explotiation** chapter). Given these overlapping provisions, it becomes complicated for families of victims who are unfamiliar with the law and unable to access effective legal aid to register FIRs. Furthermore, where police officers lack training on the definitions under the PTPA, they will be less likely to advise families on registering an FIR under the PTPA, and pursue cases under the PPC. This also distorts data collection on how many cases of trafficking are being registered, as cases are being registered under multiple sections but on similar offences.

Additionally, while the PTPA prevents the criminal liability of a victim in acts associated with their trafficking, the PPC sections do not have an equivalent provision. By virtue of Section 6,

[189] Prevention of Trafficking in Persons Act, 2018, sec. 3(2).

the PTPA adopts a victim-centred approach, ensuring that the victim remains unprosecuted regardless of their involvement in potential trafficking activities, but can be called as witnesses and be offered witness protection.

Like the bonded labour legislation, the framing of penalties under the PTPA making fines an alternative punishment rather than an additional one to a mandatory prison sentence is not commensurate with the gravity and seriousness of the crime, particularly where it concerns women and children who are most vulnerable to the crime. Therefore, the penalties should be amended to provide a mandatory prison sentence along with a fine, rather than as mutually exclusive penalties.

The Pakistan Penal Code, 1860

There are several related provisions under the Pakistan Penal Code and other statutes that prohibit related practices, such as prostitution, forced marriage and child marriage.

- Section 365B punishes the kidnapping or abduction of a woman to compel her into marriage or forced intercoures with life imprisonment and a fine.

- Section 366A punishes the procuration of a minor girl (under the age of 18) for the purposes of illicit intercourse with up to ten years imprisonment and a fine.

- Section 366B punishes the importation of a girl under 21 years of age with the intention of forcing her or seducing her to have illicit intercourse with another person to up to ten years imprisonment and a fine.

- Sections 371A and 371B punish those selling and buying persons for prostitution "or illicit intercourse with any person or for any unlawful and immoral purpose" respectively with up to 25 years imprisonment and a fine.

Provisions applicable to trafficking in children are explored in detail in the **Child Abuse and Exploitation** chapter.

Institutional Analysis

Labour Departments and Inspectors

The Labour and Human Resource Department is responsible for ensuring the implementation and enforcement of all laws and policies related to labour rights, including the prohibition of bonded labour.[190]

After the 18th Amendment to the Constitution, labour matters have been devolved to the provincial governments. This has resulted in differing approaches to bonded labour, as indicated in the legislative differences above. However, each provincial law is largely built

[190] Punjab Labour Department, "Functions," Punjab Labour Department, https://labour.punjab.gov.pk/functions.

upon the federal Bonded Labour System (Abolition) Act, which preceded the 18th Amendment to the Constitution.

Each Labour and HR Department is responsible for appointing labour inspectors. Labour inspectors are on the front lines of inspecting and identifying bonded labour.[191] However, the inspectors lack adequate training to identify indicators of trafficking involved in bonded labour, and often do not inspect small and medium sised businesses.[192] Currently, there are only 517 labour inspectors for the country's 10.63 million workers in the formal sector.[193] This is an insufficient number of inspectors given the sise of the formal economy, and hinders consolidated efforts to combat bonded labour across the country.

Furthermore, certain reports indicate that labour inspectors face several challenges in conducting their work. These include transportation issues, which prevents regular inspections in harder-to-reach areas, making child labour more prevalent in said areas, as well as distorting true figures.[194] Many inspectors have to use their own personal resources to carry out inspections.[195] They are also often denied entry into factories and other facilities to carry out inspections.[196] Similarly, some field officers fear registering FIRs through the police due to potential harassment by powerful industrialists.[197]

District Vigilance Committees

District Vigilance Committees (DVCs) have been established in each province under their respective bonded labour abolition acts. The DVCs have also been tasked with combatting child labour as well.

Under the Bonded Labour System (Abolition) Rules, 1995, the DVCs must consist of 17 members including the Deputy Commissioner, a police officer not below the rank of a superintendent, a representative from the provincial Bar Council, a District and Sessions Judge, a member of the Federal Ministry of Overseas Pakistanis and Human Resources, members of the Labour, Health, Agriculture, Education and Social Welfare Departments, members from various civil society organisations and other members.[198]

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[191] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[192] Ibid.

[193] Centre for Labour Research, "The Whistlers," Centre for Labour Research, https://clr.org.pk/the-whistlers/.

[194] Shahid Saeed, "Long Road to Eradicating Child and Bonded Labour in Khyber Pakhtunkhwa," The Friday Times, July 27, 2023, https://thefridaytimes.com/27-Jul-2023/long-road-to-eradicating-child-and-bonded-labour-in-khyber-pakhtunkhwa.

[195] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[196] Ibid.

[197] Shahid Saeed, "Long Road to Eradicating Child and Bonded Labour in Khyber Pakhtunkhwa," The Friday Times, July 27, 2023, https://thefridaytimes.com/27-Jul-2023/long-road-to-eradicating-child-and-bonded-labour-in-khyber-pakhtunkhwa.

[198] Bonded Labour System (Abolition) Rules, 1995.

Each province hasa established DVCs in each district in their provinces. Despite DVCs meeting multiple times, the DVCs have failed to fulfil their mandate due to inaction, including failing to report cases of bonded labour or report them to local police authorities.[199] Furthermore, according to the Punjab Labour Department, there is a lack of adequate sensitisation of the DVCs and an absence of proactivity, stemming from a lack of political will.[200] Thus, while there is a designated body responsible for scouting for bonded labour cases and referring them to the police, the lack of proactivity of the DVCs prevents adequate implementation of the provincial bonded labour laws.

Federal Investigation Agency - Anti Trafficking and Smuggling Wing

The FIA's Anti Trafficking and Smuggling Wing is the designated investigative agency under the PTPA (as well as the Prevention of the Smuggling of Migrants Act, 2018). It has 20 Anti-Human Smuggling and Trafficking Circles in seven provincial zones, as well as a unit at the Islamabad International Unit to identify potential trafficking victims.[201] In 2024, the FIA arrested 2012 traffickers, of which 37 were high-profile criminals.[202] It also began confiscating properties of those responsible of human trafficking. The FIA also recently launched an anti-trafficking hotline.[203] While the FIA operates at the federal level, it focuses mainly on transnational trafficking and smuggling crimes, whereas provincial police departments focus on domestic human trafficking cases, including forced labour.

The FIA also launched the National Action Plan to Combat Human Trafficking and Migrants Smuggling in 2021-2025. Key areas of focus include the capacity assessment of various key stakeholders, the improvement of disaggregated data collection, capacity-building and awareness raising, enhancing border control functions using technology, strengthening international cooperation and continuous monitoring and evaluation. The FIA also continued to engage in training of different departments across the country, having trained 2,064 officials on anti-trafficking enforcement. However, provincial governments were reported to have engaged in more training efforts.[204] Furthermore, such training did not focus on a victim-centred approach, but was more focused on identifying and interrogating perpetrators.[205]

While the FIA is taking positive steps, certain gaps in the implementation of the law and its National Action Plan still remain. There continues to be a lack of capacity to address trafficking

[199] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[200] Labour & Human Resource Department Punjab. "Bonded Labour." Accessed April 7, 2025. https://labour.punjab.gov.pk/bonded-labour.

[201] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[202] Federal Investigation Agency (FIA). FIA Performance 2024, 19. https://www.fia.gov.pk/files/tickers/1788909745.pdf.

[203] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[204] Ibid.

[205] Ibid.

crimes, particularly when understanding human trafficking, the legal framework on combating trafficking, and registering FIRs.[206] Reportedly, the FIA also established a National Referral Mechanism to enhance inter-provincial coordination on combating trafficking and other related crimes; however, according to the 2024 US State Department Report on Trafficking in Persons in Pakistan, it is unclear what bodies are part of the NRM and whether it includes civil society.[207] There were also reports of corruption within the FIA, with FIA officials being complicit in trafficking crimes in the 2024 Greece boat tragedy where several Pakistanis were victims of smuggling.[208]

Police

The police play a key role in combating both bonded labour and human trafficking, particularly domestic trafficking cases. The police are often first responders to complaints received from DVCs or directly from victims or their families. However, key issues with the police include a lack of resources and evidence in bonded labour cases, often tied to the inaction of the DVCs.[209] There is also a crucial lack of capacity in understanding anti-trafficking law in particular.[210] The police have invested in greater training efforts in anti-trafficking law; however, such training lacks a victim-centered approach.[211] It has also been reported that the police only act in trafficking cases when pressured by media and activists.[212] Furthermore, there have been instances where the police have refused to help bonded labourers escape by refusing to file a case against the landlord, often by accepting bribes.[213] Thus, there is a key need for capacity-building, sensitisation and victim-response training for police officers specifically tasked with dealing with bonded labour and trafficking cases.

Summary of UN Observations

Human Rights Committee

In its Concluding Observations, the Human Rights Committee recommended that Pakistan take all measures to prevent, combat and punish trafficking in persons, forced and bonded labour. This includes systematically monitoring workplaces in both formal and informal sectors to prevent exploitation, ensuring thorough investigations and sanctions against perpetrators, and providing full reparation for victims. The State should also intensify efforts to identify and assist victims and provide them adequate shelter coverage, particularly in rural and

[206] Ibid.

[207] Ibid.

[208] Zulqernain Tahir. "65 FIA officials barred from posting at immigration checkposts." Dawn. January 18, 2025. https://www.dawn.com/news/1885931.

[209] U.S. Department of State. 2024 Trafficking in Persons Report: Pakistan. Washington, D.C.: U.S. Department of State, 2024. https://www.state.gov/reports/2024-trafficking-in-persons-report/pakistan/.

[210] Ibid.

[211] Ibid.

[212] Ibid.

[213] Ibid.

marginalised areas. Additionally, the Government should allocate sufficient financial, technical, and human resources to relevant institutions, as well as study the root causes of forced and bonded labour to improve prevention policies.[214]

Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights recommended that Pakistan take all necessary measures to tackle the root causes of bonded labour and provide victims of bonded labour with a sustainable means of living. It further recommended that Pakistan should strengthen labour inspections and increase the penalties for perpetrators and public officials complicit in violations of the bonded labour abolition laws, while also enhancing the understanding of judges, particularly those in the lower courts, of the relevant laws.[215]

Committee Against Torture

The Committee Against Torture recommended that Pakistan take strong measures to eradicate human trafficking and forced labour by investigating all allegations and ensuring that authorities prosecute perpetrators with appropriate sentences. It should systematically monitor workplaces in both formal and informal sectors, including domestic work, to prevent exploitation and abuse. Additionally, Pakistan must provide victims of trafficking with redress, including compensation and rehabilitation.[216]

Committee on the Elimination of All Forms of Discrimination Against Women

The CEDAW made specific recommendations on trafficking in women and girls and prostitution. It recommended that Pakistan should effectively enforce the Prevention of Trafficking in Persons Act and the Prevention of Smuggling of Migrants Act by providing systematic training for judges, prosecutors, border police, immigration authorities, and other law enforcement officials while strengthening labour inspections, especially in sectors employing seasonal workers and private households. It further recommended that authorities must ensure that victims have access to inclusive shelters, support services, and effective redress. In terms of cross-border trafficking, it recommended that Pakistan enhance collaboration with forced marriage units in relevant countries to facilitate the prompt return of trafficked women and girls, and that law enforcement agencies must investigate and prosecute trafficking cases efficiently, ensuring that perpetrators receive appropriate punishment.

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[214] United Nations Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, UN Doc. CCPR/C/PAK/CO/2, November 7, 2024, para 33.

[215] United Nations Committee on Economic, Social and Cultural Rights. Concluding Observations on the Initial Report of Pakistan. UN Doc. E/C.12/PAK/CO/1, July 20, 2017, para 46.

[216] United Nations Committee Against Torture. Concluding Observations on the Initial Report of Pakistan. UN Doc. CAT/C/PAK/CO/1, June 1, 2017, para 33.

Furthermore, it recommended that the government should expedite the creation of a specialised inter-institutional mechanism to coordinate national anti-trafficking efforts and allocate sufficient resources to it. Awareness campaigns should highlight the criminal nature and risks of trafficking, while targeted training for the judiciary, law enforcement, and border police should enhance the early identification and protection of victims. Authorities must also train professionals in gender-sensitive treatment of trafficking victims and systematically collect and report disaggregated data on trafficking cases, criminal proceedings, and sentences.[217]

Committee on the Rights of the Child

The Committee on the Rights of the Child recommended that Pakistan work to eradicate all forms of bonded and forced labour of children, with a specific emphasis on those belonging to marginalised and disadvantaged groups. It further recommended that Pakistan conduct a child labour survey that highlights bonded and forced labour along with other worst forms of child labour, which the State has begun conducting.[218] These observations are further explored in the **Child Labour** chapter. The Committee also made recommendations on children in street situations, including a systematic assessment of children in street situations as the basis for a national strategy to combat its root causes, and that such children should receive adequate protection, assistance, nutrition, shelter, healthcare and educational opportunities.[219]

In terms of child trafficking, the Committee recommended that Pakistan take all necessary measures to protect children from being trafficked or sold either within Pakistan or abroad by addressing the root causes of the sale and trafficking. It also recommended that Pakistan provide comprehensive social and psychological assistance to children who have been sold or trafficked in order to support their recovery and social reintegration. Furthermore, the Committee recommended that Pakistan clarify its laws on internal trafficking, take measures to ensure that all reports of trafficking and sale of children are promptly and effectively investigated, and that the perpetrators are prosecuted and punished.[220]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, many States made recommendations on human trafficking, while few States made recommendations on bonded and forced labour. Multiple States, including Bangladesh, Panama, Djibouti, Ecuador and the Republic of Korea recommended that Pakistan strengthen its anti-trafficking legal framework, with a particular focus on trafficking in women and girls.[221] Pakistan supported all of these recommendations.

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[217] United Nations Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CEDAW/C/PAK/CO/5, March 27, 2020, para 34.

[218] United Nations Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CRC/C/PAK/CO/5, July 11, 2016., para 72.

[219] Ibid., para 74.

[220] Ibid., para 76.

[221] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

The Philippines recommended that Pakistan enforce laws against child domestic labour and consider ratifying the ILO Domestic Workers Convention, 2011, which Pakistan supported as well.

Recommendations

Bonded Labour

Remove fines in lieu of imprisonment by making amendments to remove 'or fine' from provincial BLSA.

The provincial anti-bonded labour statutes should require a mandatory imprisonment sentence to ensure their deterrent effect. Currently, the law allows for fines in lieu of imprisonment, which is an insufficient punishment given the seriousness of the crime. Therefore, the term 'or fine' should be rephrased to 'and fine' to ensure that the fine is levied in addition to the imprisonment sentence.

Penalise obstruction of labour inspector in Punjab, Sindh and AJK laws.

The Punjab, Sindh and AJK governments should amend their bonded labour statutes to criminalise the obstruction of labour inspectors by occupiers of factories or establishments. A reporting mechanism should be put in place whereby labour inspectors can report internally to their superior officer, who will then report to the police to take action. Where the police do not take action, the FIA should be nominated as a designated authority to take up such complaints.

Strengthen the DVCs through capacity-building and reporting mechanisms

The inaction of the DVCs is a critical factor in the persistence of bonded labour throughout the country. The DVCs should continue to receive additional training, capacity-building and resources to ensure continued efforts towards the abolition of bonded labour across the country. A Provincial Vigilance Committee should be established to oversee and coordinate the work of each DVC, and to take action against DVCs that are falling short of their responsibilities.

Develop clear, uniform SOPs for bonded labour inspection, expanding scope to other sectors beyond brick kilns, such as agriculture, carpet weavers, etc.

A set of clear standing operating procedures should be drafted for enhanced bonded labour inspectors. These should apply to multiple establishments where bonded labour is most frequently found, and should therefore not be limited to brick kilns. The ILO developed a handbook for labour inspectors on forced labour and human trafficking in 2008.[222] The

[222] Beate Andrees, Forced Labour and Human Trafficking: A Handbook for Labour Inspectors (Geneva: International Labour Office, 2008),

structure of the handbook can be updated and adapted to Pakistan's context by the Ministry of Overseas Pakistanis and Human Resources Department for dissemination to the Labour Departments in each province. The adaptation of the handbook should follow a series of consultations with Labour Departments, inspectors, law enforcement agencies and other relevant stakeholders involved in the fight against bonded labour and human trafficking in Pakistan.

The SOPs should cover a step-by-step process of what an inspector should do when s/he suspects cases of bonded labour at a particular establishment. The SOPs should also be developed in tandem with a simplified referral mechanism, such as an online portal, that allows inspectors to immediately register complaints that can be accessed by the relevant police station in whose jurisdiction the complaint is filed. The portal should also allow for a complaint management system that allows the individual to see the progress of their complaint and take relevant action where necessary, such as forwarding the complaint to the FIA Anti-Trafficking Wing.

Ensure sufficient resources for labour inspectors.

Several reports indicate a lack of resources for labour inspectors to adequately carry out consistent inspections, and to cover an adequate number of establishments in their provinces. Such support must be increased and extended by the Labour Departments to ensure that the work of the inspectors is facilitated, and that they do not have to utilise their personal resources.

Establish a legal aid unit within the Labour Department to provide state-sponsored assistance to bonded labour victims, rather than them doing it on their own.

Reports that bonded labour victims are expected to file their own cases to the police are worrisome, given their lack of resources, and their often being illiterate. Therefore, the Labour Departments should establish legal aid units in each district to provide *pro bono* legal assistance to victims who either approach themselves, or others approach them on their behalf. This can include consolidating a list of vetted *pro bono* lawyers with each district bar association.

Refer all workers discovered during inspection without CNIC to NADRA to ensure prompt registration.

Many bonded labourers are unregistered individuals, particularly in the informal economy. This makes it difficult for them to access State assistance, and also makes it difficult for the State to ensure they are accounted for in State policy initiatives combating bonded labour. It is imperative that where inspectors find labourers who are unregistered, they forward such cases to NADRA to ensure that they can be granted registration in the form of a CNIC.

https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_097835.pdf

Expand awareness, rehabilitation and relief efforts.

The practice of bonded labour persists despite nation-wide legislative and policy efforts. It is imperative that such efforts are complemented by awareness campaigns that reach the most vulnerable communities. Such efforts can engage civil society groups such as the Brick Kilns Owners Association Pakistan (BKOAP) and the Bonded Labour Liberation Front (BLLF) to directly engage with owners of brick kilns in more vulnerable areas to prevent the practice of bonded labour. Greater emphasis should be placed on victim support mechanisms, particularly after securing their freedom from bonded labour, to ensure they are protected from falling back into the practice again. This can include vocational training initiatives and the sponsoring of education for those who are released.

Human Trafficking

Replicate the definition of 'trafficking in persons' from the Palermo Protocol

While Pakistan is a party to the Palermo Protocol, it has not fully replicated its definition, leaving some elements of the crime out of its scope. The definition under Article 3 of the Palermo Protocol should be adopted as a whole into the PTPA, including its definition of a child as a person under the age of 18 years.

Make fines a mandatory punishment along with a prison sentence.

Currently, the sentencing under the PTPA is phrased as a prison sentence 'and/or' a fine. This allows courts to levy fines in lieu of imposing a mandatory prison sentence. The PTPA should be amended to ensure that fines are levied in addition to a prison sentence, and that the prison sentence be made a mandatory minimum punishment.

Proactive and systematic identification of trafficking victims, prioritising protection for vulnerable persons

The FIA and the police must engage in proactive and systematic identification of trafficking victims and adopt a victim-centred approach to their investigations. Proactive identification of trafficking requires law enforcement agencies to determine cases of trafficking without the lodging of a complaint, and on the basis of certain key indicators. This will involve increased monitoring and surveillance in particular hotspots or areas where trafficking is most likely to occur, which will in turn require more personnel and financial resources to increase the area covered in said investigations. This will ensure that trafficking is prevented rather than only punished after an FIR is lodged. The recently initiated anti-trafficking hotline can be put to good use to indicate cases of potential trafficking and allow police to conduct searches without an FIR.

Employ and institutionalise a victim-centred approach

A victim-centred approach is critical in trafficking cases as the crime involved causes significant psychological and physical harm to the victim, who may be entrapped in the same trafficking cycle in the future. This requires significant sensitisation of police officials and the establishment of psycho-social support cells in different police stations with designated officers and psychologists able to question victims. This will involve conducting interviews of the victims in an environment that they are comfortable in, providing psychological support to cope with post-traumatic stress disorder, prioritising the safe shelter and rehabilitation of the victim upon freedom, and other various techniques.

This approach should be institutionalised through guidelines, SOPs and continued training and capacity-building efforts. More female police officers should be recruited as first responders to trafficking victims, who are predominantly women and children, and officers from religious minority communities should also be recruited to be first responders to victims belonging to a religious minority. A focus should be on removing implicit biases for victims of prostitution and international trafficking during training, with an emphasis on non-punishment of the victim throughout the duration of the case, in accordance with the PTPA.

Develop central repository of victim-centric rehabilitation services and sign MoUs to consolidate partnerships in victim rehabilitation under the PTPA

The FIA must establish a consolidated network of shelter homes, rehabilitation centres and psychological services as part of its mandate to offer victim support under the PTPA. This will ensure that the relevant shelter homes are approved by the FIA for their standards of care and rehabilitation to allow them to refer victims to said shelters according to the jurisdiction in which they report the crime in, or of their own choosing. This system can be designed similarly to the provincial child protection offices that allow NGOs and local shelter homes to register themselves as child protection institutions under their provincial laws. This will also allow FIA oversight over said shelter homes to reduce the chances of victims falling prey to trafficking again and to prevent contact between the trafficker and the victim.

Strengthen witness protection programmes

Currently, witness protection programmes in Pakistan are relatively weak and poorly implemented. This results in significant witness intimidation and consequently affects the outcome of several investigations. The provincial governments must bolster funding and human resources to their respective witness protection programmes, with a particular emphasis on human trafficking victims.

Cross-cutting

Training and capacity-building of provincial actors, including on completing FIRs in line with legislation.

It is evident that there continues to be a dearth in capacity in anti-forced labour and anti-trafficking law and best practices due to the low conviction rates, particularly in sex trafficking. This requires significant training and capacity-building of the police, inspectors, prosecutors, judges, psychologists, protection officers and other relevant stakeholders on the elements of the relevant laws. Training and capacity-building modules should be developed in consultation with these stakeholders through an informed needs assessment followed by a best-practices informed design of training material.

Strengthen anti-corruption measures

Anti-corruption measures within the FIA, police, labour departments, and other relevant institutions should be bolstered. This can include the establishment of anti-corruption cells within each trafficking unit, and regular performance audits of relevant institutions. This should be combined with strict action against offenders and heavy penalties that are made publicly aware.

Education

Chapter Summary

This chapter provides a detailed analysis of the right to education in Pakistan, underscoring its significance as a foundational human right with far-reaching implications for inclusive development, social mobility, and equitable access to opportunities. Education in Pakistan is delivered through a diverse mix of public institutions, private providers, religious seminaries, and non-formal education initiatives. As of 2022–2023, over 56 million students were enrolled in 349,909 educational institutions nationwide. Despite this expansive system, approximately 26.1 million children aged 5 to 16 remain out of school, highlighting ongoing challenges in access and retention, particularly in rural areas and among girls. Regional disparities persist, and the education system continues to address infrastructure gaps, economic barriers, and socio-cultural factors affecting enrollment and completion.

Pakistan is a State Party to key international treaties relevant to the right to education, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These instruments emphasise universal, free, and compulsory primary education, accessible secondary and higher education, and inclusive curricula. Article 25A of the Constitution of Pakistan mandates free and compulsory education for children aged 5 to 16, supported by federal and provincial legislation such as the Right to Free and Compulsory Education Acts. Judicial interpretations have reinforced the linkage between education, dignity, and the right to life. While progress has been made, opportunities remain to harmonise provincial education laws, standardise rules of implementation, and strengthen compliance with non-discrimination and accessibility standards, particularly for vulnerable populations.

Implementation and oversight of education policy are coordinated across federal and provincial levels. The Ministry of Federal Education and Professional Training supports national cohesion, curriculum alignment, and international cooperation, while provincial education departments oversee service delivery through localised sector plans. Public-private partnerships, school management committees, and monitoring units such as Punjab's Program Monitoring and Implementation Unit contribute to system-wide governance. Despite this infrastructure, capacity gaps, coordination challenges, and uneven budget utilisation constrain full implementation. Monitoring data indicates disparities in school functioning, teacher deployment, and administrative performance, with emerging efforts to digitise enrollment records and track learning outcomes. Integrating education with broader child protection and welfare frameworks has been identified as a key opportunity for ensuring multi-sectoral coordination and responsiveness.

The chapter identifies several avenues for enhancing the delivery and realisation of the right to education. These include legislative harmonisation across provinces, the enactment of implementation rules, and strengthened legal accountability mechanisms. Policy priorities

include increased education financing, expanded stipend programs, improved school infrastructure, and targeted interventions for girls and marginalised groups. Scaling public-private partnerships and community-based schools, while integrating educational access into child welfare planning, can support a more inclusive and responsive system. These efforts are consistent with Pakistan's constitutional and international commitments, and they represent opportunities to advance equity, resilience, and human development through education.

Situational Analysis

Pakistan's education system has undergone significant reform and development, with continuous efforts being made to expand access to universal education and inclusive enrollment. Pakistan has committed to ensuring the right to education through its Constitution and its ratification of international instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). Education service delivery in Pakistan has been devolved to the provinces following the 18th Constitutional Amendment in 2010, after which provincial governments have developed their own specific laws, policies and institutional arrangements to enhance access to quality education in their respective jurisdictions.

As of 2022–2023, Pakistan had 349,909 educational institutions, serving over 56 million students and employing nearly 2.6 million teaching personnel.[223] Approximately 54% of enrolled students attended public sector institutions, with the remaining 46% enrolled in private institutions.[224] This dual-sector structure reflects the significant role of the private sector in complementing the government's educational initiatives and meeting the growing demand for education services.

Despite these developments, many children across Pakistan remain outside the formal education system. According to the Pakistan Institute of Education, approximately 26.1 million children aged 5 to 16 were out of school in 2023, representing around 38% of the school-age population.[225] This figure includes 13.7 million girls and 12.4 million boys.[226] While there has been a modest reduction in the out-of-school rate—falling from 39% to 38% over the past year—regional and gender disparities persist. Dropout rates remain high beyond the primary level, with fewer than half of students completing grade 10.[227]

Provincial comparisons reflect both progress and challenges. Punjab, with the largest population, accounts for the highest number of out-of-school children, with approximately 10.96 million.[228] While gender parity in enrollment is relatively strong, retention rates beyond

[223] Pakistan Institute of Engineering and Applied Sciences, PES Final Report (Islamabad: Pakistan Institute of Engineering and Applied Sciences, 2022), https://pie.gov.pk/SiteImage/Publication/PES-Final%20Report%2016Mb.pdf.

[224] Ibid.

[225] Ibid., p. 4.

[226] Ibid.

[227] Ibid.

[228] Ibid., p. 5

primary school drop significantly.[229] In Sindh, approximately 7.97 million children are not attending school, with girls constituting the majority.[230] Notably, the province records a high transition rate from middle to secondary education, suggesting that improved initial enrollment could yield further gains.[231] Khyber Pakhtunkhwa has made progress in transition rates as well but continues to face gender disparities in enrollment, particularly at higher levels.[232] Balochistan exhibits the lowest survival rates in the country, compounded by geographic remoteness, socio-economic barriers, and infrastructure constraints.[233] In contrast, the Islamabad Capital Territory, Azad Jammu and Kashmir, and Gilgit-Baltistan demonstrate relatively higher survival and transition rates, alongside comparatively better gender parity.[234]

Multiple factors contribute to disparities in educational access. From a social and cultural perspective, traditional gender norms continue to influence perceptions about the value of education for girls.[235] Early marriages and child labour are perceived as more beneficial alternatives to education for families with limited economic resources.[236] Evidence from provincial child labour surveys indicates that parents who have not received formal education are less likely to send their children to school.[237] These findings highlight the intergenerational cycle of limited educational attainment and underscore the need for increased community sensitisation and adult education.

Economic factors play a substantial role in shaping educational access. Although primary education is constitutionally guaranteed as free and compulsory under Article 25-A, costs associated with education such as uniforms, transportation, and educational materials continue to pose challenges for low-income families.[238] These financial considerations often lead families to prioritise income-generating activities over schooling, particularly for older children. Initiatives such as the Benazir Income Support Programme and the Ehsaas programme, which include conditional cash transfers linked to school attendance, represent important tools to mitigate these constraints and encourage continued enrollment.[239]

Infrastructure remains a critical component of access. In several provinces, particularly in remote or rural regions, inadequate school facilities—including the absence of toilets, boundary

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[229] Ibid.

[230] Ibid., p. 14

[231] Ibid., p. 15-16

[232] Ibid., pp. 17-19

[233] Ibid., pp. 20-22

[234] Ibid., pp. 23-29.

[235] Fareeha Zafar, "Issues of Gender in Education in Pakistan," *Commonwealth Education Partnerships 2007*, March 2004, 39, https://www.cedol.org/wp-content/uploads/2012/02/39-43-2007.pdf.

[236] Ibid.

[237] See the chapter on Child Labour.

[238] Fareeha Zafar, "Issues of Gender in Education in Pakistan," *Commonwealth Education Partnerships 2007*, March 2004, 40, https://www.cedol.org/wp-content/uploads/2012/02/39-43-2007.pdf.

[239] Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, para 13

walls, clean water, electricity, and sufficient classroom furniture—contribute to absenteeism and low retention.[240] These conditions have disproportionate effects on girls' access to education, particularly in communities where privacy and safety are important cultural concerns. Additionally, the shortage of qualified teachers, particularly female teachers in rural areas, further contributes to limited access, as does the high student-to-teacher ratio in overcrowded classrooms.[241]

To address these challenges, the federal and provincial governments have committed to enhancing education budgets, improving school infrastructure, and investing in the recruitment and training of teachers. The National Education Policy Framework and provincial sector plans outline priorities in these areas, while monitoring mechanisms at the provincial levels have been strengthened to track enrollment, dropout, and transition rates.[242] Additionally, community-based and non-formal education programs continue to be scaled up to reach out-of-school children, including girls, children with disabilities, and those affected by conflict or displacement.[243] Efforts are also being made to align curriculum reforms with child-centered and inclusive pedagogical practices, promote mother-tongue instruction in early grades, and mainstream digital learning tools to bridge access gaps.[244]

Overall, while Pakistan's education system has made notable strides in enrollment and infrastructure development, several systemic barriers continue to affect equitable access and quality. The existing policy and legislative frameworks provide a foundation for progress, and continued investment in inclusive education, strengthened implementation mechanisms, and targeted interventions for marginalised populations will be essential in realising the right to education for all children in Pakistan.

Legal Analysis

International Law

The right to education is a fundamental right which enables the realisation of many other fundamental human rights. The right to education is generally understood as a tool "by which economically and socially marginalised adults and children can lift themselves out of poverty

[240] Pakistan Institute of Engineering and Applied Sciences, *PES Final Report* (Islamabad: Pakistan Institute of Engineering and Applied Sciences, 2022), 10. https://pie.gov.pk/SiteImage/Publication/PES-Final%20Report%2016Mb.pdf.

[241] Ibid., 28-29.

[242] Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, para 174

[243] Ibid., para 192; Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 226.

[244] Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, para 209

and obtain the means to participate fully in their communities."[245] It must, therefore, be "directed to the full development of the human personality".[246]

The ICESCR contains the most wide-ranging and comprehensive articulation of the right to education in international law in Articles 13 and 14, interpreted in General Comments 11 and 13 of the Committee on Economic, Social and Cultural Rights. Article 13 recognises everyone's right to education, which is directed to the "full development of human personality", "sense of dignity", and shall "strengthen the respect for human rights and fundamental freedoms."[247] Education should promote understanding, tolerance and friendship and "enable all persons to participate effectively in a free society."[248]

Elements of the Right to Receive an Education

States are required to take measures to ensure that education is equally accessible, available, acceptable, and adaptable while prioritising the best interests of the student.

- Availability: Functioning educational institutions and programmes must be available in sufficient quantity within the jurisdiction of the State. Educational institutions must also provide sufficient protection from outside elements, adequate teaching materials, trained teachers, safe drinking water, sanitation facilities, and so on.

- Accessibility: Accessibility includes three overlapping dimensions: non-discrimination, physical accessibility, and economic accessibility. Education must be accessible to all, especially the most vulnerable groups, without discrimination. It must also be within safe physical reach, either at a convenient geographic location or through modern technology (i.e. distance learning). Finally, it must be economically feasible and affordable to all.

- Acceptability: Acceptable education entails quality instruction on relevant and culturally appropriate topics. It covers both the form and substance of education (i.e. curricula and teaching methods), which must be acceptable to society (students and parents).

- Adaptability: Adaptable education requires schools to be flexible in adapting to the changing needs of societies, responding to varying student needs, and accommodating different learning styles.

[245] Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Article 13) (Twenty-first session, 1999), United Nations, https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999., para 1.

[246] Universal Declaration of Human Rights, 1948 (UDHR), art. 26(2)..

[247] International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), art. 13(1).

[248] Ibid.

Right to Primary Education

As elaborated in Article 13(2) ICESCR, primary education must be "compulsory" and "available free to all." The Committee has interpreted "primary education" to be the "main delivery system for the basic education of children outside the family" from the World Declaration on Education for All.[249] Primary education should "ensure that the basic learning needs of all children are satisfied, and take into account the culture, needs and opportunities of the community".[250]

Right to Secondary Education

Though the content of secondary education varies among States, it includes completion of basic education and consolidation of the foundations for lifelong learning and human development. Secondary education "shall be made generally available and accessible to all by every appropriate means," meaning that it should not depend on a student's apparent capacity or ability and should be distributed throughout the State in a manner that it is available on the same basis to all.

Technical and vocational education

Article 13 (2) (b) presents technical and vocational education (TVE) as part of secondary education, reflecting the particular importance of TVE at this level of education. Article 26(1) UDHR also states that "[t]echnical and professional education shall be made generally available".

Right to Higher Education

In contrast to the right to secondary education, higher education "shall be made equally accessible to all, on the basis of capacity", which should be assessed by reference to all their relevant expertise and experience.[251]

Right to Fundamental Education

Fundamental education refers to "basic education" as set out in the World Declaration on Education For All.[252] Those who have not received or completed the whole period of their primary education have a right to fundamental education. The realisation of the right to fundamental education is not limited by age or gender and extends to children, youth and adults.

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[249] Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Article 13) (Twenty-first session, 1999), United Nations, https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999. See also World Declaration on Education for All (Jomtien, Thailand, 1990), United Nations, https://www.ohchr.org/en/resources/educators/human-rights-education-training/9-world-declaration-education-all-1990.

[250] World Declaration on Education for All (ibid), art. 5.

[251] ICESCR, art. 13(2)(c).

[252] Inter-Agency Commission (WCEFA), World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs (New York: United Nations, 1990), https://unesdoc.unesco.org/ark:/48223/pf0000127583.

Development of a School System

The requirement that the "development of a system of schools at all levels shall be actively pursued" means that a State Party is obliged to have an overall developmental strategy for its school system. The plan must encompass schooling at all levels, but the Covenant requires States Parties to prioritise primary education.

Right to Educational Freedom

The right to educational freedom requires States Parties to respect the liberty of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions and provides parents and guardians with the freedom to choose other than public schools for their children, provided the schools conform to "such minimum educational standards as may be laid down or approved by the State".[253]

Obligations

The Committee on Economic, Social and Cultural Rights have identified five minimum core obligations to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights incumbent upon every State Party. These include ensuring the right of access to public educational institutions and programmes on a non-discriminatory basis; ensuring that education conforms to the aims of education mentioned in Article 13(2); providing universal, free, and compulsory primary education; adopting and implementing a national educational strategy that includes provision for secondary, higher, and fundamental education (youth or adult basic education, or education that replaces missed or incomplete primary education; and ensuring parental freedom of education without interference from the State or non-state actors. States can fail to comply with minimum core obligations by using curricula inconsistent with the aims of education or by failing to maintain a transparent and effective system to monitor the conformity of the education system with the aims of education.

The obligation to respect requires states to refrain from interfering with the enjoyment of the right to education. States shall not introduce legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education. They should not interfere unduly with the exercise of educational freedoms, such as the right to establish educational facilities different from those run by the State, given that they comply with minimum educational standards.

The obligation to protect requires States to prevent interference in the enjoyment of the right to education by third parties (e.g. other individuals, groups, private schools and educational facilities, private companies, donors, and other non-state actors) usually through regulation and legal guarantees. For example, the state must ensure that third parties, including parents, do not prevent girls from going to school.

[253] ICESCR, art. 13(3).

The obligation to fulfil requires States to adopt legislative, administrative, budgetary, judicial, and other appropriate measures towards the full realisation of the right to education. The obligation to fulfil (facilitate) requires states to take positive measures that enable and assist individuals and communities to enjoy the right to education. The obligation to fulfil (provide) is triggered when an individual or group is unable, for reasons beyond their control, to realise the right themselves by the means at their disposal.

Domestic Law

Article 25A of the Constitution

Article 25A, which mandates the State of Pakistan to provide free and compulsory education to all children, reads as follows:

The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.

Article 25A can be divided into three parts: first, it establishes education as a fundamental right for all children aged 5 to 16 years; second, it mandates the federal and provincial governments to ensure free and compulsory education; and third, it mandates the enactment of laws to define the implementation of these rights.

Case Law

The 18th Constitutional Amendment of 2010 introduced Article 25A, the right to free and compulsory education, in Chapter I of the Constitution as a fundamental right. Prior to this, the Constitution did not recognise compulsory and free education as a right.[254] Instead, the responsibility of the State to provide education was outlined in Article 37(b) of the Principles of Policy, which stated, "The state shall remove illiteracy and provide free and compulsory secondary education within the minimum possible period". It also expressed that "the state shall make technical and professional education generally available and higher education equally accessible to all on the basis of merit".[255]

Similarly, Article 38(d) reads "The State shall provide basic necessities of life, such as food, clothing, housing, edification, and medical relief, for all citizens, regardless of sex, caste, creed, or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness, or unemployment," The inclusion of these provisions in the Principles of Policy meant they could only be used as guiding principles for the State to follow during policy formulation, and the State could not be held accountable for violations of these principles.[256]

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[254] Fazal Karim, *Judicial Review of Public Actions: A Treatise on Judicial Review, with Some Important Background Topics*, 2nd ed. (Karachi: Pakistan Law House, 2018), 1384.

[255] Constitution of the Islamic Republic of Pakistan, 1973, Article 37(c).

[256] Ibid., Article 30.

The 18th Amendment transformed the directive principle on education in the Constitution into a fundamental right, making it enforceable by courts.[257]

Even before the right to education found its place in Chapter I of the Pakistani Constitution in 2010, however, case law from the superior courts suggested the right to education could be drawn from the right to life while giving a broad or expanded interpretation. In *Imad Hussain v. Province of Sindh*, the Court noted that "it is abundantly clear that the right to education is a fundamental right covered by Articles 9, 14, 18 and 10 read with Article 37(c) of the Constitution". The following year, in *Muhammad Afzal v. BISE, Lahore*, the Supreme Court stated that "the right to education is an inalienable right of every person, and no one can be denied such right".[258]

Right to education as a part of right to life and dignity

Since the 18th Amendment, several cases have elaborated on the breadth and depth of the applicability of the right to education under Article 25A in Pakistan. The Courts have consistently treated education as intrinsic to the right to life and dignity. In *City School Private Limited v. Government of Punjab*,[259] it was observed that without the right to education, other fundamental rights under the Constitution shall remain beyond the reach of a large majority in Pakistan, which will be illiterate.

Access to education

In the *Suo Motu Case No.7 of 2017* (also referred to as Faisabad Dharna Case),[260] the Supreme Court not only upheld other fundamental rights but also invoked Article 25A, stating that road blockages and the inability of students to attend schools and educational institutions necessitate the enforcement of their right to education, as guaranteed by Article 25A of the Constitution.

In *Fatimah Quaid v The Principal S.M. Law College*, the Court held that the "benefit of education cannot be restricted to one or the other genera or classes."[261] Similarly, in *Al-Bakio International v Federation of Pakistan*, concerning how the Single National Curriculum is to be implemented in the provinces, Justice Jawad Hassan stated that "Education is the most essential instrument of change and can close the gap between the rich and poor within a society."[262]

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[257] *Petition regarding Miserable Condition of the schools,* 2014 SCMR 396; *Liaqat Hussain v. Federation of Pakistan*, PLD 2012 SC 224.

[258] *Muhammad Afzal v. Board of Intermediate and Secondary Education, Lahore*, 2007 SCMR 1460, para 7.

[259] *City School Private Limited v. Government of Punjab*, PLD 2018 Lahore 509.

[260] *Suo Motu Case No.7 of 2017*, PLD 2019 Supreme Court 318.

[261] *Fatimah Quaid v The Principal S.M. Law College*, 2024 MLD 1301, para 7.

[262] *Al-Bakio International v Federation of Pakistan*, PLD 2021 Lahore 1, para 19.

Conditions of Schools

Two years after the 18th Amendment, a *Petition Regarding Miserable Condition of the Schools* was filed in the Supreme Court under Article 184(3) of the Constitution to address the poor condition of schools in all provinces of Pakistan.[263] The Petition cited the poor conditions in schools, including illegal occupation of school buildings by police or other government departments, school staff being paid salaries despite providing no services, and the existence of ghost schools. The Supreme Court took issue with the fact that the case had been pending for a year, but decision-makers in the provinces were making no progress in enforcing the right to education. It, therefore, directed Provincial Governments through Chief Secretaries or Secretary Education(s) to implement orders of the Court in letter and spirit. And ordered carrying out of surveys of schools to determine how many are fully functioning, the number of ghost schools, the allocation of educational funds, the ratio of students studying in those areas, reasons for encroachments of school buildings, and in case of litigation between education department(s) and private person(s), why those cases were not being expedited by the Courts. District and Sessions Judges and District Education Officers conducted surveys and submitted reports to the Supreme Court regarding the condition and functioning of schools in their respective districts, noting challenges including untrained teachers, under-staffed/over-staffed schools, teacher absenteeism, recruitment and posting of teachers on political and monetary basis, illegal occupation/encroachment on school properties, lack of basic amenities, existence of ghost schools, and financial mismanagement and lack of audit in the Education Departments. The Supreme Court subsequently directed that Accreditation Boards be established in all provinces and ICT "to improve current miserable conditions of the institutions" and Provincial Governments be bound to enforce Articles 9 and 25A, noting that "in some of the Provinces legislation has already been made to enforce Article 25A".[264] It also noted that Provincial Governments and the ICT must enhance budgetary allocations for improving the education system.[265]

Rights of all genders

The right to education under Article 25A applies equally to all genders. *Dr. Muhammad Aslam Khaki v. S.S.P (Operations) Rawalpindi* concerned the restoration of fundamental rights of transgender persons, including their right to education.[266] Supreme Court Chief Justice Iftikhar Chaudhry directed all relevant authorities to ensure equal treatment of transgender persons under the Constitution of Pakistan and to ensure their participation in all walks of life, including equal access to education.[267]

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[263] *Petition Regarding Miserable Condition of the Schools*, 2013 SCMR 764.

[264] Ibid., para 174.

[265] Ibid.

[266] *Dr. Muhammad Aslam Khaki v. S.S.P (Operations) Rawalpindi*, PLD 2013 Supreme Court 188.

[267] Ibid.

Education in private institutions

Every citizen has a right to education, and the State is under an obligation to establish educational institutions to enable citizens to enjoy this right.[268] This obligation to provide free and compulsory education can be discharged by the State through State-owned or State-recognised private educational institutions, but when the State grants recognition to private institutions, it must ensure that they are not involved in exploiting parents and are functioning to the advantage of all citizens, not just richer strata of society.[269]

Legislation

Following the introduction of the right to education as a fundamental right under Article 25A of the Constitution, there was a period of time when no primary legislation was introduced to address the enforcement of the right to education in the provinces (as education is a devolved subject). Following a series of constitutional petitions before the High Courts, governments introduced legislation through Ordinances and later Acts. The 18th Amendment shifted the responsibility of educational design and delivery to the provinces, making them responsible for policy, planning, curriculum development and every other aspect of education.

The Right to Free and Compulsory Education Act, 2012

The first "right to education" act was passed in the Islamabad Capital Territory in 2012. This Act provides for free and compulsory education to all children of the age of five to sixteen years in schools established by the Federal Government and local government in the Islamabad Capital Territory. Under this Act, the government is obligated to provide free education to all children, ensure admission of children of migrant families, and ensure compulsory education and completion of said education. The Government is also obligated to ensure the safety of children and teachers to and from school, to ensure that the disadvantaged child is not discriminated against, provide infrastructure, establish an academic calendar, and ensure good quality of education and so on.[270]

To ensure 'free' education, the Act stipulates that no child should be liable to pay any fees or charges that could hinder their pursuit and completion of education.[271] This also includes the provision of free transport, special provisions for education, the allocation of sufficient financial resources and the identification of government responsibilities in guaranteeing free and compulsory education. Furthermore, the Act places a responsibility on private schools to admit disadvantaged children, constituting 10% of the class strength, with the provision of free education.[272]

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[268] *City School Private Limited v. Government of Punjab*, PLD 2018 Lahore 509, para 24.

[269] Ibid.

[270] The Right to Free and Compulsory Education Act, 2012, sec. 3(3).

[271] The Right to Free and Compulsory Education Act, 2012, sec. 3(2).

[272] Ibid., sec. 10.

Regarding compulsory attendance, it mandates that parents must ensure their child attends a nearby school until they have completed the prescribed education.[273] The Act also has provisions for Out-of-School Children (OOSC): the OOSC are to be enrolled and provided special training in order for them to be at par with their peers.[274] Section 4 of the Act provides for special provisions for education where a child has not been admitted to a school or could not complete their education. A child with disabilities also has a right to receive education at par with other students, with the Act mandating educational programmes designed for students whose mental ability, physical ability and/or emotional functioning require special teaching approaches, equipment, or care within or outside a regular classroom.[275]

Under section 20 of the Act, the Government is responsible for inquiring into complaints relating to the child's right to education and taking appropriate action. Sections 20(2) & 20(3) outline that any person having any grievance relating to the rights of a child under the Act can make a written complaint to the appropriate Government, which will be decided within a month after affording the parties a reasonable opportunity to be heard. Section 13 of the Act also outlines that a child may not be denied admission if admission is sought during the admission period of the year, and no child admitted to a school shall be expelled from school till the completion of the prescribed education.

The Act presents a daunting challenge for implementers.[276] In ICT, it seeks to cater to 0.077 million out-of-school children, in addition to regulating and managing countless schools public and private schools across the territory. In 2023, a case was filed in the Islamabad High Court concerning the implementation of the Right to and Compulsory Education Act 2012.[277] The Petitioner argued that pre-school education is not being provided in government schools in violation of Section 9 of the Act, and private schools have not kept a 10 per cent quota for disadvantaged children in violation of Section 10 of the Act. After hearing arguments, IHC Chief Justice Aamer Farooq issued notices to the Federation and the Ministry of Education seeking their replies.[278] This case highlights that despite the enactment of the Right to Free and Compulsory Education Act in 2012, several aspects of the legislation are yet to be enforced in full letter and spirit.

The provincial governments have enacted similar statutes to the ICT Act. The majority of the sections in these provincial Acts are identical in spirit to the ICT law (despite some minor differences which will be explored), given that they were drafted along the same lines. The laws are as follows:

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[273] Ibid., sec. 8.

[274] Ibid., sec. 4.

[275] Ibid, section 2(m)

[276] Khalid Khattak, "Govt Yet to Enforce Free, Compulsory Education Law," *The News International*, April 22, 2020, https://www.thenews.com.pk/print/647971-govt-yet-to-enforce-free-compulsory-education-law.

[277] Fiaz Mahmood, "IHC Moved Against Breach of Education Law," *The Express Tribune*, September 13, 2023, https://tribune.com.pk/story/2435531/ihc-moved-against-breach-of-education-law.

[278] Ibid.

- The Punjab Free and Compulsory Education Act, 2014;
- The Sindh Free and Compulsory Education Act, 2013;
- The Khyber Pakhtunkhwa Free and Compulsory Education Act; and
- The Balochistan Free and Compulsory Education Act.

While the laws are similar in letter, their effective implementation requires a cohesive effort aligning policy efforts and resources with the rights guaranteed under the laws.

Provincial Legislation

Punjab

Like the ICT Act, the Punjab Act sets out the responsibilities upon the government and local authorities to ensure free and compulsory education and requires parents to enroll children in a neighbourhood or allocated school except for reasonable excuses, which it further defines in Section 9. It prohibits capitation fees and unauthorised transfers, expulsions, denials of enrolment and corporal punishment.[279] The Act also imposes a responsibility on private schools to allow 10% of their total students to be enrolled without the payment of tuition fees.[280] The Act establishes a *Taleem* fund to allow the government and private individuals and organisations to provide grants and voluntary financial contributions towards schools. [281]It also sets out procedures for inspections and liability mechanisms for schools that are falling short of their duty to provide free and compulsory education.

Despite the Act's comprehensive drafting, in *Beaconhouse School System, Okara v. Commissioner Sahiwal Division etc.*,[282] the Court criticised the government's lethargy in notifying rules for the legislation, in this case, specifically concerning the responsibility of private schools in Punjab for providing free education. The Court stated:

It is noteworthy that legislation in this case was enacted by the Punjab Assembly in the year 2014 and this Court is at a complete loss in comprehending how the disadvantaged children could be denied their right to education, which is their fundamental right guaranteed under Article 25A of the Constitution, owing to procrastination at the hands of the Government which failed to frame and notify rules in discharge of its responsibilities under clauses (a) and (b) of section 24(2) of the Act. The private education sector, which was supposed to share the responsibility of right to education of disadvantaged children, has benefitted from inaction on part of the Government Departments even after the lapse of 10 years of passing of the Act. At

[279] Punjab Free and Compulsory Education Act, 2014, sec. 16

[280] Ibid, sec. 13

[281] Ibid, sec. 12

[282] *Beaconhouse School System, Okara v. Commissioner Sahiwal Division etc*., W. P. No.755 of 2024.

best, it shows an obvious neglect of the Government whereas, at worst, it may well be a case of regulatory capture warranting inquiry.[283]

At the time of the hearing in February 2024, the School Education Department stated that a draft of the rules had been framed and submitted to the Law Department and would be notified in some time. Despite this, at the time of writing this report, the rules under the Punjab Free and Compulsory Education Act, 2014 have still not been notified. Thus, despite the comprehensiveness of the Act, it requires clear rules to ensure its effective operationalisation throughout the province.

Sindh

The Sindh Act contains similar provisions to the aforementioned Acts. However, it does not include a *Taleem* fund like the Punjab Act. It sets out requirements for the determination and evaluation of school curriculum under Section 20, which the Punjab Act does not.

Implementation of the Sindh Act in letter and spirit is lacking. In *Pervaiz Ali v Province of Sindh*, the Court noted that the Sindh Education Department has "miserably failed to provide primary to higher secondary education to children, as approximately millions of children from backward areas are deprived from availing such facility due to non-availability of teachers…hence emergent efforts need to be taken."[284] These measures include recruiting teachers to make all schools closed due to the non-availability of teachers functional once again, conducting maintenance and repair work of damaged schools, and ensuring that education is accessible to all individuals.

Despite the provision for free education in Section 3 of the Sindh Right of Children to Free and Compulsory Education Act, 2013, several government schools still charge students fees in violation of Section 3(2) of the Act, which reads "No child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the school education." In a case before the Sindh High Court's Bench at Sukkur, the following was noted:

> At the outset, petitioners contended that despite of guarantee provided under Article 25-A of Constitution of Islamic Republic of Pakistan, 1973 and legislation by the province of Sindh under "The Sindh Right of Children Free and Compulsory Education Act, 2013" state is responsible to provide free and best education to every student and such directions were already issued by this Court through different orders despite of that Boards in the name of sport, certificate. mark-sheet, scout and pack certificate, charging fees; they have issued circular whereby it has been directed that examination forms cannot be received unless the fees is paid.[285]

[283] Ibid, para 12.

[284] *Pervaiz Ali v Province of Sindh*, C.P. No.D-84 of 2023.

[285] C.P.No.D-218 of 2023.

Sindh is the only province alongside the Islamabad Capital Territory which has prepared Rules of Business under its right to education legislation.[286] This indicates a positive step towards operationalising the Act; however, whether these Rules are being adequately implemented is questionable given that Sindh has the highest OOSC rate after Balochistan, and continues to face challenges in ensuring access to education in remote areas.

Khyber Pakhtunkhwa

Besides obligating the government to provide free and compulsory education up to the secondary level, the Khyber Pakhtunkhwa Free and Compulsory Primary and Secondary Education Act, 2017 also encourages community involvement through a parent-teacher council[287] and also establishes a *Taleem* fund.[288] However, in comparison to the other provincial statutes, the KP Act is brief and does not include any reference to specialised education services, responsibilities on the government and local authorities to monitor and ensure the right to free and compulsory education, duties on teachers, punishments for capitation fees, and any provisions for the right of recourse to effective administrative or judicial remedies. Nevertheless, the Khyber Pakhtunkhwa Education Sector Plan (2020-2025) outlines that the government will prioritise allocating resources from the provincial education budget to inclusive and special education so that adequate facilities and resources are available to cater to the needs of children with disabilities and refugee status, and from minority religions.

While it addresses the issue of attendance to some extent, it only shows a surface-level understanding of the problem by not specifying the responsibilities of the various stakeholders or the integration procedure of disadvantaged children. This indicates a pressing gap in the government's responsibility to create a comprehensive administrative structure to oversee the enforcement of the Act.

Balochistan

The Balochistan Act is also brief and lacks the level of detail in the ICT, Punjab and Sindh Acts. The Act suffers from similar shortcomings to the Khyber Pakhtunkhwa Act as it does not outline the extent of responsibilities on the provincial and local governments on ensuring the right to free and compulsory education. Rather, it places the brunt of the responsibility of Education on Parent School Management Committee (PSMCs). Equally, it does not include any provisions for the right of recourse to effective administrative or judicial remedies.

The Government of Balochistan launched a Complaint Management System (CMS) on its EMIS website to allow the public to submit complaints and grievances regarding education service delivery. The Balochistan Education Sector Policy (2020-2025) makes plans to develop formal grievance redressal mechanisms at the district level. Grievance redressal mechanisms

[286] "Right to Education (RTE) Laws: Toothless Sans Rules of Business," ITACEC, accessed April 10, 2025, https://itacec.org/right-to-education-rte-laws-toothless-sans-rules-of-business/.

[287] Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, 2017, Section 5.

[288] Ibid, Section 7.

are strengthened and aligned with other complaint reporting mechanisms at the federal and provincial levels. It also highlights the need to promote public awareness about its Complaint Management System (CMS).

Gilgit-Baltistan

The Gilgit-Baltistan Compulsory Education Act, 2020, mandates the free and compulsory education of children in the region. It establishes a Steering Committee to oversee the Act's enforcement, including encouraging parents to enrol their children in local schools.[289] It empowers a Magistrate to punish parents who refuse to enrol their children in school under Section 11, including a fine of PKR 3000 and up to a maximum of one month imprisonment. However, it lacks the comprehensiveness of the ICT, Punjab and Sindh Acts, including the responsibilities of the government and local authorities, schools and teachers, and provisions for special education, among others.

Azad Jammu & Kashmir Interim Constitution, 1974

As per Article 23 of the AJ&K Interim Constitution, 1974, the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law. The Interim Constitution does not elaborate any further on the provision of free and compulsory education in AJ&K. Furthermore, AJ&K has yet to introduce any specialised right-to-education legislation.

Institutional Analysis

The right to education requires a comprehensive policy effort that leverages financial and non-financial resources for its realisation, given that it is a positive social right.

Federal Government

The Ministry of Professional and Technical Training was established in July 2011 in the wake of the 18th Amendment. The federal role in Pakistan's education system is pivotal in fostering national cohesion and shaping consistent education policies and reforms across the country. By setting educational standards and focusing national attention on critical education issues, the federal government aims to drive equity, quality, and cohesion within the sector. It initiates and oversees programmes of national importance, particularly those aimed at promoting inclusivity and addressing disparities in access and outcomes.

A core function includes facilitating international cooperation and coordination on education matters, enabling alignment with global education goals and best practices, particularly after the 18th Amendment's devolution of education matters to the provincial governments. The federal government is also committed to achieving universal literacy, with targeted efforts to integrate religious educational institutions into the mainstream education framework to ensure

[289] Gilgit-Baltistan Compulsory Education Act, 2020, sec. 7

coherence and inclusivity. Through the systematic collection, analysis, and dissemination of key education indicators—including student learning assessments and education financing—the federal level supports data-driven decision-making. It also manages, supervises, and implements formal education in ICT through the Federal Directorate of Education, ensuring quality service delivery in federal schools and colleges.

Additionally, the registration and regulation of private educational institutions in ICT, including the enforcement of relevant rules and standards, fall within the federal mandate. The federal government contributes to the holistic development of youth by promoting civic and moral education through value-based systems such as the Scout Promise and Law. Furthermore, it ensures academic coordination and quality assurance across the country through bodies like the Inter Board Committee of Chairmen (IBCC), which harmonises evaluation standards and strengthens the credibility of large-scale student examinations.

Provincial Education Departments

Each provincial government has a dedicated School Education Department that oversees the fulfilment of primary education in conformity with Article 25A of the Constitution and the respective provincial free and compulsory education Acts. These are as follows:

- The Punjab School Education Department, the Literacy and Non-Formal Education Department, and the Special Education Department
- The Sindh Education and Literacy Department
- The Khyber Pakhtunkhwa Elementary and Secondary Education Department
- The Balochistan Education Department
- The Azad Jammu and Kashmir Directorate of Public Instructions Elementary and Secondary Education
- The Gilgit Baltistan Education Department

The functions of these departments are similar. They develop and implement province-wide policies related to the education sector. Each province developed an Education Sector Plan (ESP) in 2019-20 that spans five years, indicating priority areas, such as increased enrollment and student retention, increased investments in school infrastructure, and stronger governance and management of schools within their jurisdictions, among other areas. Additionally, the departments are responsible for ensuring the access to free and compulsory education as per each provincial free and compulsory education act, while ensuring that schools are equipped with the requisite facilities and resources to provide education of a certain quality to students.

Implementation Gaps

<u>Lack of Resources</u>

A recurring implementation gap is insufficient funding and utilisation at the federal and provincial levels. A 2022-23 PIE survey also contained information on the educational budget utilisation by each province. Educational budgets increased in Balochistan, Punjab and Sindh in 2022-23 from the previous year, but decreased in Khyber Pakhtunkhwa and the Islamabad Capital territory.[290] The total national education budget of the country amounts to 1.7% of the Gross Domestic Product (GDP) which is lower than the generally accepted benchmark of 4% of GDP.[291] The majority of budgetary expenditure is done on salaries, whereas budgets earmarked for development (school buildings and stationery, for example) remains underspent.[292] The survey reveals delays in the release of funds to school districts, which makes execution of school development programs challenging. This is further complicated by inefficiencies in budgetary approval processes, complex public procurement procedures, and untimely reallocation of funds from low- to high-spending heads.[293]

Furthermore, a major cause of low education quality and closed schools is the lack of competent teachers where needed. Many sanctioned teaching posts lie vacant, especially in rural and disadvantaged districts.[294] Hiring freezes, cumbersome recruitment, and political interference have led to teacher shortages. The courts have repeatedly directed education departments to fill vacant posts on an urgent basis.[295] In Sindh, the High Court ordered that all closed schools (many closed due to non-availability of teachers) be made functional by recruiting teachers within two months.[296] Moreover, teacher absenteeism remains a concern – monitoring reports show some improvement, but remote schools still suffer from absent or non-performing teachers.[297] Performance accountability for teachers (and education officers) is not rigorously enforced, indicating a clear gap in the governance of education providers.

Coordination

Another gap is coordination among multiple ministries/sectors at the provincial level. Education for children is not solely the domain of education departments – it intersects with social welfare (for child laborers), with health (school nutrition and child health programs), and others. However, these departments often work in silos, with few avenues for regular

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[290] Pakistan Institute of Education. Public Financing in Education Sector 2022–23. Islamabad: Ministry of Federal Education and Professional Training, 2023. https://pie.gov.pk/SiteImage/Publication/P.F%20Report.pdf., pp. 3-4

[291] Ibid.

[292] Ibid., p.3

[293] Ibid., p. 3

[294] Ibid., p. 3

[295] Pervaiz Ali v Province of Sindh, CP No. D-84 (2023)

[296] Pervaiz Ali v Province of Sindh, C.P. No.D-84 of 2023.

[297] Najeeb Ullah, Amir Jan, Niamatullah, Munir Ahmed, Muhammad Hassan Veesar, Muhammad Nadeem, and Arshad Ahmed, Causes of Teacher' Absenteeism and Its Impact on Students' Achievement at Secondary Schools of District Kech Balochistan, Pakistan, PalArch's Journal of Archaeology of Egypt/Egyptology 18, no. 8 (2021): 120-129, https://www.researchgate.net/publication/377722957_CAUSES_OF_TEACHER%27_ABSENTEEISM_AND_ITS_IMPACT_ON_STUDENTS%27_ACHIEVEMENT_AT_SECONDARY_SCHOOLS_OF_DISTRICT_KECH_BALOCHISTAN_PAKISTAN.

coordination.[298] The need for a holistic approach has been recognised by courts: recently in *Zafar Khiser v. Federation of Pakistan*,[299] a case concerning child nutrition, the Lahore High Court stressed that education cannot be isolated from child health and nutrition. The Court directed the government to develop legislation and a national policy for providing nutritious meals to schoolchildren in Punjab, acknowledging that hunger impedes education.[300] Such directives underscore that fulfilling the right to education requires multi-sectoral action (for example, a school meal program to improve attendance and learning, akin to India's Mid-Day Meal scheme which feeds 120 million children daily.[301] Provinces have yet to institutionalise mechanisms for this cross-departmental coordination, although Punjab has begun piloting school meal programs post-court order.[302]

Accountability and Oversight

A critical institutional gap is the lack of an effective accountability mechanism for enforcing the right to education. While provincial education departments are responsible for implementation, there is no independent body regularly reviewing their compliance with Article 25A. The federal Ministry of Human Rights and provincial human rights departments have not played a notable role in education rights. The National Commission on the Rights of Child (established in 2020) could theoretically monitor children's access to education, but it is new, under-resourced and already has a broad mandate.

The courts have become a forum of accountability by default – numerous petitions have been filed highlighting failures (such as lack of schools in certain areas, or government neglect of ghost schools). In 2014, the Supreme Court took the unusual step of directing District Judges to conduct surprise visits to schools and report on their condition.[303] The Sindh High Court, in the *Pervaiz Ali* case,[304] compiled a comprehensive judgment cataloguing issues like teacher absenteeism, closed schools, and misuse of education funds, and issued binding directions to officials to take corrective action (discussed further below). These judicial interventions indicate a void in the administrative oversight system. Ideally, there should be a regular inspection and audit regime within the executive branch to ensure schools are functioning and rights are being delivered. Provinces do have monitoring units – for example, Punjab's Program Monitoring and Implementation Unit deploys field monitors to check schools,[305] and KP's

[298] Stakeholder Consultation held with Representatives of the Government of Khyber Pakhtunkhwa (March 5, 2025)

[299] PLD 2023 Lahore 164

[300] Ibid.

[301] Paromita Pain, "Lessons Learned from India's Midday Meal Scheme for Schoolchildren," The Guardian, August 11, 2014,

[302] "LHC Orders Punjab Govt to Ensure Nutritious Meals for Schoolchildren," Dawn, January 19, 2023, https://www.dawn.com/news/1732439.

[303] 2014 SCMR 396

[304] C.P. No.D-84 of 2023

[305] "School Information System," Punjab Education Sector Reform Programme, accessed April 10, 2025, https://openpunjab.pesrp.edu.pk/schools/.

Independent Monitoring Unit does similar work.[306] These have had some success in tracking teacher attendance and infrastructure gaps. However, their findings are not always translated into policy action, and they are executive bodies lacking public transparency.

Some provinces face a shortage of administrative staff and expertise to manage the large system. Additionally, issues of corruption or mismanagement have plagued education budgets (e.g., funds for school repairs lapsing or being diverted). The Lahore High Court pointed out in 2024 that a decade of government "procrastination" in implementing the Punjab law had benefitted private school owners (who avoided providing free seats) at the expense of poor children– suggesting regulatory capture.[307] The court even alluded that inaction could be a case of "regulatory capture warranting inquiry" if the government deliberately allowed laws to remain unenforced.[308]

Similarly, although laws mandate that children must attend school and parents must send them, enforcement is almost nonexistent. There are "no robust mechanisms in place to hold those responsible – parents, education officials, local authorities – accountable when children are not enrolled or absent", as one recent analysis noted, despite being provided for in provincial laws[309] Fines or penalties for non-enrollment (where legislated) are not being imposed in practice, thereby hindering the fulfilment of the Article 25-A right.

The Role of the Community and Private Sector

The involvement of communities and the private sector is an important element of education governance. All provinces nominally have School Management Committees (SMCs) or Parent-Teacher Councils for government schools, intended to involve parents in school governance and minor budgeting. The effectiveness of SMCs varies; for example, in the Islamabad Capital Territory, SMCs were found to be inactive,[310] whereas in Sindh, they have helped mobilise local support (e.g. for school repairs or preventing dropouts).[311] Thus, the impact of community involvement in education governance varies across provinces.

On the private sector side, private schools now educate nearly half of all students. This means the right to education is being delivered through a pluralistic system. Private schools in Pakistan range from elite English-medium schools to low-cost schools in villages. Provincial laws do extend certain obligations to private schools (such as the 10% quota for disadvantaged students

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306 Education Monitoring Authority, Khyber Pakhtunkhwa, "New IMU Site," accessed April 10, 2025, http://175.107.63.45/NewIMUSite/index.aspx..

307 *Beaconhouse School System, Okara v. Commissioner Sahiwal Division, etc*., WP No. 755 (2024), para 11

308 Ibid.

309 "Key Gaps and Challenges in Pakistan's Education System," The State of Children in Pakistan, accessed April 10, 2025, https://stateofchildren.com/education-in-pakistan/key-gaps-and-challenges-in-pakistans-education-system/.

310 Sameena Arif, "Effectiveness of School Management Committees in Public Sector Educational Institutions of Islamabad Capital Territory," International Research Journal of Management and Social Sciences 5, no. 1 (January–March 2024): 646–656, https://irjmss.com/index.php/irjmss/article/view/298/283.

311 Lubna Naz, Abdul Aleem Qureshi, and Fauzia Sohail, "Pre and Post Assessment of School Management Committee: A Case Study of Sindh," Business Review 18, no. 1 (2023): 48–70.

in Punjab/Sindh, or requirements to register and follow minimum standards), essentially deputising them in the fulfillment of Article 25A. However, regulatory oversight of private schools is often weak; aside from sporadic fee control actions or curriculum requirements, there is no comprehensive mechanism to ensure private schools are contributing to universal access.

A positive development is the growth of Public-Private Partnerships (PPPs) in education – for example, the Punjab Education Foundation and Sindh Education Foundation fund and support hundreds of low-cost private schools or community schools to provide free education in underserved areas. These PPP programs have shown promise in expanding access quickly by leveraging private capacity with public funds.[312] The need now is to institutionalise and scale such partnerships (with proper quality assurance) as part of the state's strategy to fulfill the right to education.

Data and Monitoring Systems

All provinces maintain an Education Management Information System (EMIS) to collect annual school census data. However, these systems are not fully integrated or real-time. There is a need for integrating EMIS with national databases (like NADRA) to track every child. Encouragingly, the Planning Ministry in 2023 directed a "birth certificate-based admission system in collaboration with NADRA" such that when a child reaches school age, they are automatically flagged for enrollment.[313] This kind of integration – assigning each child a unique ID (linked to the national ID system) – could revolutionise monitoring by identifying every out-of-school child by name. Punjab has piloted such an approach by verifying millions of child records through NADRA.[314] These efforts need expansion and proper legal backing (to address privacy and data use concerns, and to ensure no child is missed, including those without birth registration).

Summary of UN Observations

Committee on Economic, Social and Cultural Rights

To improve the overall state of education, the Committee emphasises the need to increase enrollment rates at all levels, particularly primary education, with a focus on marginalised groups such as girls, rural children, and those from low-income families. Reducing the number of out-of-school children is also a priority, especially through policies that address related issues like child labour. The Committee urged Pakistan to enhance educational outcomes by improving the quality of teaching and learning resources, ensuring sufficient numbers of

[312] Masooda Bano, "Public Private Partnerships (PPPs) as 'Anchor' of Educational Reforms: Lessons from Pakistan," Background Paper for the Education for All Global Monitoring Report 2009: Overcoming Inequality: Why Governance Matters, 2008, https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=75c2ca7aa6d84079317ecf7febd81acde475c117.

[313] "Naveed Butt, "Out-of-School Children: National Action Plan Agreed Upon," Business Recorder, May 18, 2023, https://www.brecorder.com/news/40242721

[314] National Database & Registration Authority, "Local Projects," accessed April 10, 2025, https://www.nadra.gov.pk/local-projects/.

qualified teachers, and expanding adult literacy programs that are particularly inclusive of women.[315]

Additionally, the Committee stresses the importance of creating safe, inclusive, and accessible learning environments. This includes improving school infrastructure, particularly in the areas of water, sanitation, and electricity, and ensuring children with disabilities have access to inclusive education through appropriate legislative and policy frameworks. The safety of schools is also paramount; the use of educational institutions by military forces should be fully banned, and secure alternatives should be provided in the event of attacks. The Committee encourages the State to adopt international standards, such as the Safe Schools Declaration, and to consider its general comment on the right to education to guide future policies.[316]

The Committee calls on the State to critically assess public-private partnership initiatives in education, particularly the role of low-fee private schools, from a human rights perspective. It recommends strengthening regulations governing these schools, ensuring compliance, and enhancing the quality of education they provide. To uphold the right to education, the State must guarantee that children are not forced to drop out due to non-fee-related costs and work towards eliminating social segregation by ensuring equal quality education across both public and private institutions.[317]

Furthermore, the Committee urges the State to closely monitor school curricula, textbooks, and educational practices—across all institutions, including madrassas—to ensure they support the full development of students' personalities. It recommends intensifying reforms in madrassas and integrating human rights education into school curricula to cultivate a culture of respect for rights and freedoms. Public awareness campaigns on human rights should also be expanded, with a particular emphasis on educating religious leaders about their role in fostering mutual respect, tolerance, and peaceful coexistence among diverse ethnic and religious communities.[318]

Committee on the Elimination of All Forms of Discrimination Against Women

The Committee urges the State to enact legislation and take concrete measures to improve girls' school enrolment and retention, particularly at the secondary level. Actions recommended include holding parents and guardians accountable for ensuring regular attendance, formulating re-entry policies for young mothers to return to school following pregnancy, and implementing targeted programs aimed at maintaining girls' continuous education. Special attention should be given to girls from impoverished and rural backgrounds, pregnant adolescents, and

[315] United Nations Committee on Economic, Social and Cultural Rights. Concluding Observations on the Initial Report of Pakistan. UN Doc. E/C.12/PAK/CO/1, July 20, 2017, para 80

[316] Ibid.

[317] Ibid, para 82.

[318] Ibid, para 84.

adolescent mothers by addressing financial barriers and reducing indirect costs associated with education.[319]

Additionally, the Committee emphasises the importance of developing inclusive and accessible educational content that promotes gender equality, highlights women's rights, and provides positive portrayals of women in public life. School curricula should also incorporate comprehensive, age-appropriate education on sexual and reproductive health and rights, with a specific focus on encouraging responsible sexual behavior among adolescents. Effective monitoring mechanisms must be strengthened to support these initiatives and to ensure that girls who drop out of school have viable pathways to re-enter and complete their education.[320]

Committee on the Rights of the Child

The CRC Committee expressed serious concern about the significant number of out-of-school children, low investment in the education sector, and stark disparities in educational attainment between regions and gender. It highlighted issues like corporal punishment, poor infrastructure, and lack of early childhood education. Recommendations included increasing education budgets, ensuring compulsory and free primary education, and making schools safe, inclusive, and child-friendly.[321] The CRC also recommended the registration of *madrassas* to prevent abuse and explotiation, and to curb the teaching of material that promotes religious or sectarian intolerance.[322]

Committee on the Elimination on All Forms of Racial Discrimination

The CERD Committee's recommendations focused on discrimination in education based on ethnicity, language, and religion. It raised concerns about access disparities affecting ethnic and linguistic minorities, including Baloch, Pashtun, Sindhi, and religious minority children. The Committee recommended implementing inclusive education policies and ensuring mother-tongue instruction where possible to preserve cultural identities and improve learning outcomes.[323] Furthermore, the CERD Committee recommended that educational curricula at all levels be comprehensively reviewed to identify and elimiante content that perpetuates racial and ethnic stereotypes, and instead focuses on promoting tolerance and intercultural understanding.[324]

Universal Periodic Review

[319] United Nations Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CEDAW/C/PAK/CO/5, March 27, 2020, para 40.
[320] Ibid.
[321] United Nations Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CRC/C/PAK/CO/5, July 11, 2016., para 62
[322] Ibid, para 64.
[323] United Nations Committee on the Elimination of Racial Discrimination. Concluding Observations on the Combined Twenty-First to Twenty-Third Periodic Reports of Pakistan. UN Doc. CERD/C/PAK/CO/21-23, September 26, 2016.
[324] Ibid, para 34.

Many States made recommendations to Pakistan to promote access to education. States like Venezuela, Oman, Mauritius, Singapore and Syria (among many others) recommended that Pakistan continue to pursue positive efforts to strengthen universal access to education, including increasing enrolment, allocating additional resources to building schools, and targeting disadvantaged groups for specific efforts to increase access to education.[325] Countries such as Japan, Luxembourg, Argentina, and the State of Palestine encourage strengthening education systems with targeted support for rural areas, implementing laws to guarantee universal access, and keeping children—both boys and girls—in school beyond the primary level.[326] Specific focus is given to increasing school enrolment rates, reducing dropout rates, and enhancing the quality of education, particularly for girls, as highlighted by Ethiopia, Malaysia, Poland, and Serbia. These States stress the importance of enforcing supportive legal frameworks, such as a uniform minimum age of marriage, to remove social barriers that hinder girls' education.[327]

Moreover, the importance of inclusive and comprehensive education is underscored through calls from States like Bulgaria, Indonesia, and Thailand to promote equal rights to quality education regardless of gender, ethnicity, disability, or socioeconomic status.[328] Uzbekistan and Lithuania advocate for continued implementation of free and compulsory education and ensuring resource allocation to make public education accessible, especially in rural and remote regions.[329] Collectively, these recommendations urge holistic, sustained national efforts to realise the right to education for all children, grounded in equity, inclusivity, and long-term structural support.[330]

Recommendations

Legislative

Harmonise Right-to-Education Laws Across Provinces

The Federal Government, through an Inter-Provincial Education Ministers Conference , must mandate an assessment of the right to education laws across each province. This will allow provinces to enact amendments to harmonise provisions across the laws to ensure a consistent approach across the country towards education governance and facilitating universal access to education. Key harmonisation priorities include uniformly defining the guaranteed age range for free and compulsory education and increasing the maximum age of completion to 17 years

[325] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

[326] Ibid.

[327] Ibid.

[328] Ibid.

[329] Ibid.

[330] Ibid.

of age; explicitly prohibiting discrimination on the basis of gender, religion, ethnicity, language, or disability; and ensuring that "free education" includes the provision of textbooks, uniforms, and other essentials, within available resources with progressive increases. This exercise will particularly target Khyber Pakhtunkhwa and Balochistan to expand their skeletal laws to include comprehensive provisions, such as detailed roles for government officials, inclusion mechanisms for children with disabilities, and regulations for private schools. This will also urge the Azad Jammu and Kashmir government to draft and pass a similar law on the right to education.

Enact and Update Rules and Regulations for Implementation

Provincial governments must urgently enact the long-pending rules and regulations under their respective education laws. The Federal Government can draft model rules which can then be adapted by the provincial governments. The Lahore High Court's 2024 directive clearly stated that implementation of Article 25A cannot proceed without these critical legal instruments. These rules should elaborate on how free and compulsory education will be delivered, define criteria for identifying disadvantaged children, set procedures for enforcement and penalties, and outline infrastructure and quality standards.

Each province should establish a technical committee—comprising legal experts, education officials, and civil society representatives—to draft rules within a set timeframe (e.g., 90 days). A cross-sectoral consultative approach will ensure that all stakeholders involved in facilitating access to education are involved in formulating rules for implementation. Once finalised, rules must be publicly notified and widely disseminated to ensure transparency and awareness, and implemented accordingly.

Strengthen Legal Accountability Mechanisms

Provincial education laws must include robust accountability mechanisms. This includes empowering existing School Management Committees, or establishing a designated Access to Education Monitoring Unit in provincial education departments. These bodies should be granted authority to inspect schools, request data from officials, and act on public complaints. Furthermore, laws should also incorporate constitutional jurisprudence by recognising that denial of education violates the fundamental rights to life and dignity.

Policy

Enhance Education Financing to Meet Targets

Public spending on education must be increased to at least 4% of GDP, with strategic federal-provincial collaboration. Conditional grants and the proposed National Out-of-School Children (OOSC) Fund should incentivise provinces to prioritise underserved areas. Development funds should be directed towards building schools, hiring and training teachers, and providing

essential resources to schools, such as textbooks, stationery, furniture and subsidised meals. Furthermore, budget utilisation must be monitored rigorously by the provincial Education Departments to avoid lapses. Transparent, public-facing budget execution reports should be mandated, and courts' directions (e.g., the Sindh High Court's directive on using lapsed funds) must be institutionalised. Funds should also be earmarked for quality improvements, including curriculum reform, teacher training, and assessment systems.

Expand Stipends and Remove Cost Barriers

Financial incentives, such as conditional cash transfers through microfinance institutions, should be expanded to cover secondary education, with higher stipends for girls to offset chances of being involved in child marriage. Free transportation, uniforms, and examination fee waivers should be provided to eliminate hidden costs of schooling, which requires an expansion of provincial education budgets as well as increased cooperation with willing private sector organisations. Stipends must be targeted and timely, with a focus on areas with the highest dropout rates or gender disparities. Additionally, the integrated use of social protection budgets can further support educational access and should be encouraged by provincial governments, mandating the cooperation of social welfare and education departments .

Supportive Measures for Girls and Marginalised Children

As per the PIE's statistics, girls are more likely to be out of school than boys. Children belonging to minority communities and children with disabilities are further less likely to be enrolled in education. Therefore, provinces must ensure an intersectional approach towards developing access to education policies. This can include second-chance education options for adolescents (particularly girls) who dropped out, community schools tailored for conservative areas, and non-formal educational initiatives. Providing transport (vans, bicycles) and ensuring gender-segregated toilets, gender-segregated classrooms (where cultural sensitivities demand such initiatives), and boundary walls are essential to improving girls' retention in education. Educational interventions must also be linked with child protection systems to counter early marriage and support re-enrollment, involving community and religious leaders in outreach efforts.

Scale Public-Private Partnershipsand Community-Based Schools

Each province must formalise PPP frameworks as part of educational policies to scale access to education. Transparent policies should enable NGO-run schools, low-cost private providers, and CSR initiatives to contribute to the Article 25A mandate. This will help bridge budgetary and resource constraints across provinces and will allow the provincial governments to increase the outreach of educational facilities to more marginalised communities, particularly in rural areas.

Integrate Education with Broader Child Welfare Framework

Access to education must be recognised as part and parcel of a wider children's rights problem in Pakistan. The interconnected nature of access to education, the rise of child labour and child marriages, as well as other violations of children's rights, must be recognised at federal and provincial levels to ensure that access to education problems are not examined in a silo. Consequently, stakeholders from child protection authorities, healthcare, social welfare and other relevant departments must be consulted for a holistic child rights strategy across Pakistan. This will also allow for the development of coordination mechanisms, the sharing of best practices, and a multisectoral approach towards children's rights in Pakistan, of which access to education is a central issue.

Rights of Religious Minorities

Chapter Summary

This chapter provides a comprehensive examination of the rights of religious minorities in Pakistan, a subject of ongoing relevance to the national human rights framework. As per the 2023 national census, religious minorities constitute approximately 3.6% of the total population, encompassing diverse communities including Christians, Hindus, Sikhs, Parsis, and others. Pakistan's constitutional provisions guarantee freedom of religion, cultural development, and non-discrimination, and the state continues to engage across legal, policy, and administrative dimensions to uphold these commitments. Legislative, judicial, and institutional initiatives have been employed to promote interfaith harmony, ensure access to worship, safeguard places of religious significance, and address challenges such as hate speech and coerced religious conversions.

Pakistan is a State Party to several core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC), both of which contain provisions specific to religious freedom and minority protections. These obligations include the right to adopt and manifest a religion, protection from coercion, and safeguards for minority cultural and religious practices. Domestically, Article 20 of the Constitution guarantees religious freedom, while relevant legislation such as the Pakistan Penal Code, the Protection of Communal Properties of Minorities Ordinance (2002), and specific marriage acts for various minority groups collectively establish a legal basis for religious rights. While protections are broadly in place, there remain opportunities to further harmonise domestic frameworks with international standards, particularly in areas such as legal protections against forced conversions and the consolidation of anti-hate speech provisions.

Institutionally, the Ministry of Religious Affairs and Interfaith Harmony, provincial Minorities Affairs Departments, and the National Human Rights Institutions (NHRIs), including the

National Commission for Human Rights (NCHR) and the National Commission on the Rights of the Child (NCRC), are central actors in the implementation and oversight of policies affecting religious minorities. Development programs, welfare schemes, scholarship funds, and dedicated minority units within law enforcement bodies reflect a continued emphasis on inclusion and rights protection. The recent National Interfaith Harmony Policy (2025) establishes a more structured framework for engagement, including monitoring mechanisms and data-driven strategies. Opportunities exist to enhance coordination between federal and provincial stakeholders and further institutionalise training and sensitisation efforts within law enforcement and judicial systems.

Moving forward, the chapter identifies opportunities to strengthen protections for religious minorities through legislative, procedural, and institutional enhancements. These include clearer regulatory frameworks addressing online hate speech, enhanced roles for minority commissions, and development of implementation plans aligned with the National Interfaith Harmony Policy. Additionally, there is scope for expanding inter-provincial coordination, refining complaint redressal mechanisms, and mainstreaming minority concerns in policy design and execution. These efforts may contribute positively to the realisation of constitutional guarantees and reinforce Pakistan's commitments under international human rights law.

Situational Analysis

According to the 2023 national population census, religious minorities comprise approximately 3.6% of Pakistan's total population.[331] This includes Christians (1.37%), Hindu Jati (1.61%), Ahmadis (0.067%), Scheduled Castes (0.56%), Sikhs (0.0067%), Parsis (0.0009%), and other religious communities (0.03%).[332]

TABLE 9 : POPULATION BY SEX, RELIGION AND RURAL/URBAN, CENSUS - 2023

AREA/SEX	TOTAL POPULATION	MUSLIM	CHRISTIAN	HINDU JATI	QADIANI/ AHMADI	SCHEDULED CASTES	SIKH	PARSI	OTHERS
1	2	3	4	5	6	7	8	9	10
				PAKISTAN					
ALL LOCALITIES									
ALL SEXES	240,458,089	231,686,709	3,300,788	3,867,729	162,684	1,349,487	15,998	2,348	72,346
MALE	123,824,681	119,330,911	1,667,848	2,000,751	81,657	696,004	8,510	1,218	37,782
FEMALE	116,613,077	112,336,715	1,632,476	1,866,797	81,010	653,449	7,457	1,126	34,047
TRANSGENDER	20,331	19,083	464	181	17	34	31	4	517

The Government of Pakistan remains committed to the protection of religious freedom and the cultural and religious rights of minority communities, as enshrined in the Constitution's Objectives Resolution, the Fundamental Rights chapter and the Principles of Policy. The federal and provincial governments have passed legislation and administrative measures to strengthen the protection of the rights of all citizens, including those belonging to religious minority communities. In recent years, Pakistan has undertaken a range of initiatives aimed at

[331] Pakistan Bureau of Statistics, *National Population and Housing Census 2023: Table 9 – National*, 2023, https://www.pbs.gov.pk/sites/default/files/population/2023/tables/table_9_national.pdf.
[332] Ibid.

promoting interfaith harmony, improving the protection of places of worship, and addressing instances of religious intolerance.

One key area where policy engagement remains active and a continued priority issue is in the implementation of offences related to religious freedom and practice. While this right is constitutionally protected, its application through law and administrative measures has resulted in complex legal and social outcomes. To address these challenges, the federal and provincial governments have emphasised training for law enforcement and judicial officers to sensitise them about religious tolerance and interfaith harmony and to prevent the misapplication of religious offences.[333]

The Government has also continued to engage with concerns relating to the protection of religious sites. In response to isolated incidents of damage or destruction, immediate administrative and legal action has been taken, and the State has demonstrated its resolve by initiating restoration work where necessary. For instance, following the incident in Karak, Khyber Pakhtunkhwa in December 2020, the provincial government undertook reconstruction of the affected temple and reaffirmed its commitment to safeguarding places of worship for all communities.[334] Similarly, the construction of a new Hindu temple in Islamabad,[335] approved by relevant religious advisory bodies, reflects the recognition of the rights of minorities to establish religious institutions in accordance with law and cultural traditions.

To further institutionalise support for minority communities, various departments have implemented dedicated development schemes. The Ministry of Religious Affairs and Interfaith Harmony administers the Minorities Welfare Fund, which supports the repair and maintenance of minority religious sites, offers scholarships to minority students, and provides direct financial assistance to individuals in need.[336] In the 2023-24 fiscal year, the Fund allocated Rs. 28 million for religious site maintenance, Rs. 60 million for education-related grants, and Rs. 12 million for financial support to families.[337] Provincial governments, including Punjab and Sindh, have similarly facilitated programs through their respective Auqaf and Religious Affairs departments to support gurdwaras, mandirs, and churches.[338]

In the digital era, the Government continues to take efforts to address religious hate speech. Regulatory bodies such as the Pakistan Telecommunication Authority (PTA) and the Pakistan

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[333] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 96.

[334] "KP Govt to Reconstruct Hindu Temple: Mahmood Khan," *The News International*, January 2, 2021, https://www.thenews.com.pk/latest/767679-kp-govt-to-reconstruct-hindu-temple-mahmood-khan.

[335] Kalbe Ali, "PM Approves Grant for Construction of Hindu Temple in Islamabad," *Dawn*, June 27, 2020, https://www.dawn.com/news/1565405

[336] Ministry of Religious Affairs and Interfaith Harmony, *Minorities Welfare Fund*, accessed May 15, 2025, https://www.mora.gov.pk/Detail/OThlMWZhYTctZjdhNi00YTJiLWEwZWQtZTNjM2I2OWM5NTc1.

[337] Ibid.

[338] Pakistan. Twenty-Sixth Periodic Report Submitted under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination: CERD/C/PAK/26. United Nations Committee on the Elimination of Racial Discrimination, 2022, paras

Electronic Media Regulatory Authority (PEMRA) have been tasked with monitoring digital content, promoting responsible discourse, and ensuring that freedom of expression is exercised within the bounds of constitutional and legal norms.[339] The National Action Plan for Human Rights also identifies countering hate speech as a key area of focus, with strategies under development to promote interfaith dialogue and social cohesion.[340]

The issue of forced conversions and marriages of minority women and girls, particularly in certain regions, has prompted the attention of legislators and law enforcement authorities.[341] Pakistan has taken measures at the provincial level to enhance legal protections, and to engage stakeholders in awareness raising and capacity-building.[342] The State has also taken active measures in criminalising harmful practices against women, including gender-based violence and cultural practices such as *ghag*.[343] Furthermore, Pakistan's commitment to enhancing the legal identity and rights of all children, including those from minority communities, is further demonstrated through the expansion of birth registration systems led by the National Database and Registration Authority (NADRA). These efforts support the verification of legal age and identity, which are particularly relevant in adjudicating cases involving underage marriage or forced conversion.[344]

Pakistan remains aligned with the core principles of international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). The National Commission for Human Rights (NCHR) and the National Commission on the Rights of the Child (NCRC) also play key roles in monitoring the implementation of legal protections for religious minorities and in advising the government on policy reform.[345]

Pakistan has made tangible progress in institutionalising protections for religious minorities and promoting interfaith harmony, and acknowledges multiple areas for improvement. Consequently, the State's progress in legislative reforms, capacity-building programs, and administrative measures reflect a clear trajectory towards enhanced inclusion and protection of religious minority groups. At the same time, several areas offer further potential for policy development and institutional strengthening. Continued investment in these domains will

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[339] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 101.

[340] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 100-105.

[341] Human Rights Commission of Pakistan, *2024 State of Human Rights in 2023* (Lahore: Human Rights Commission of Pakistan, 2024), https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-State-of-human-rights-in-2023-EN.pdf.

[342] National Commission on the Rights of Child (NCRC), *Policy Brief: Forced Conversion*, Islamabad: NCRC, 2025, https://ncrc.gov.pk/resource/policy-brief-forced-conversion/.

[343] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 49

[344] Ibid., para 3

[345] Ibid., para 15.

support Pakistan's broader vision of an inclusive, rights-respecting society where all citizens are able to fully realise their constitutional freedoms.

Legal Analysis

International Law

ICCPR

The freedom of thought, conscience and religion is an important civil right that protects the rights of individuals to practice their religious beliefs without unjustified interference from the State. It is a qualified but non-derogable right that creates obligations to respect, protect and fulfil. Under Article 18 of the UDHR, the right includes the freedom to adopt a religion, to change a religion, and to manifest the religion in practice. This was given enforceability under Article 18 of the ICCPR.

Article 18(1) of the ICCPR covers the "freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching". This creates an obligation to respect to not interfere with an individual's ability to hold or adopt a religious belief, such as legislation which outlaws a particular faith practice. This also creates obligations to protect: the State must also prevent other entities from interfering with an individual's freedom from having or adopting a religion, which may include criminalising expression that is contemptuous to any religious belief.

The second element of Article 18(1) is the freedom to manifest one's religious belief either individually or as part of a collective, such as religious rituals, observance of holidays, dietary regulations, and distinctive clothing.[346] Accordingly, States are under an obligation to respect and to not punish individuals for manifesting their religion, such as by prohibiting religious clothing in public. This can become an obligation to protect, such as passing anti-discrimination legislation for companies when hiring candidates requiring accommodations to practice their religious faith. This also creates an obligation to fulfil to ensure a social and political environment conducive to religious practice, such as by providing permits for the construction of places of worship and allowing members of a religious community to regulate the conduct of their basic affairs, such as by selecting religious leaders, establishing seminaries or religious schools, and other similar functions.[347]

In line with Article 18(1), Article 18(2) prohibits the use of coercion to compel someone to have or adopt a religion of his/her choice. Thus, the State cannot use force to compel someone to have or adopt a religious belief and must also prevent other non-State actors from using coercion in this regard. This is a particularly important protection for religious minorities living

[346] United Nations Human Rights Committee, General Comment No. 22: Article 18 (Freedom of Thought, Conscience, and Religion), CCPR/C/21/Rev.1/Add.4, July 30, 1993, para. 4.
[347] Ibid

in a State that has a recognised State religion, or an overwhelming majority of the population subscribing to a particular religious belief.[348]

As per Article 18(3), limitations on the freedom of thought, conscience and religion must be "prescribed by law" and be "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."[349] Particular emphasis must be placed on preventing the discriminatory application of the freedom of religious belief. Examples of these can be:

- Public safety - the removal of face coverings (e.g., the Muslim *niqab*) solely for the purposes of identification at airports or other checkpoints (blanket bans on *niqabs* would be a violation of Article 18(1));
- Public order - limiting large-scale religious processions to prevent public unrest in areas prone to religious strife or sectarian violence;
- Public health - limiting congregational worship during epidemics or pandemics to prevent the spread of disease;
- Public morals - restricting expression that is contemptuous to particular religious beliefs through anti-hate speech laws; and
- Rights and freedoms of others - prohibiting forced conversions or unwarranted proselytisation efforts.

This list is exhaustive and States cannot invoke other grounds to limit the exercise of the freedom of religion, such as national security.[350] As a non-derogable right, the right to religious freedom persists during times of national emergency. The freedom from coercion to have or adopt a religious belief cannot be restricted in any circumstances.[351]

The Rights of Minorities

Article 27 ICCPR is the most widely accepted legally binding provision on minorities and provides the basis and inspiration for the UN Declaration on Minorities. Under Article 27, persons belonging to minorities "shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." The CRC provides similar protection for minority children in Article 30. The ICCPR and CRC are the only core human rights conventions that mention minorities by name; however, minority rights, non-discrimination in particular, are protected in several of the core conventions.

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[348] Ibid., para 9

[349] International Covenant on Civil and Political Rights, 1966 (ICCPR), art. 18(3).

[350] Human Rights Committee, General Comment No. 22: Article 18 (Freedom of Thought, Conscience, and Religion), CCPR/C/21/Rev.1/Add.4, July 30, 1993, para. 8.

[351] Ibid.

The HRC recognises that Article 27 is an autonomous and distinct right available to individuals belonging to minorities from the other rights in the ICCPR.[352] Minority rights have been subsequently addressed in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities which is the only United Nations soft law instrument entirely devoted to minority rights.[353] Article 2 of the Declaration largely mirrors the protections in Article 27 ICCPR though it uses more explicit language to require positive action. Article 27 of the Covenant requires that persons belonging to minorities "shall not be denied the right to", whereas article 2 of the Declaration uses the positive expression "have the right to". The Human Rights Committee has interpreted Article 27 to require more than mere passive non-interference however.[354]

Article 27 of the ICCPR seeks to protect persons who belong to a group and who share in common a culture, a religion, and/or a language. Minorities under Article 27 need not be nationals or citizens, or even permanent residents of a State. Although the Article refers to the rights of minorities in those States in which they "exist", its application is not subject to the official recognition of a minority group by the State.[355]

Though Article 27 is expressed in negative terms, "persons belonging to such minorities shall not be denied the right," it recognises the existence of a right. Minority rights are based on four pillars: protection of existence, protection and promotion of identity, equality and non-discrimination, and the right to effective participation. As a result, a State Party is under an obligation to ensure that the right and its exercise are protected against their denial or violation, both by acts of the State Party itself and acts of other persons within the State Party.

While Article 27 does not refer to special measures to be adopted by States, States are obliged to ensure that all individuals under their jurisdiction enjoy their rights which may require specific action to correct inequalities to which minorities are subjected.[356] Where culture manifests in a particular way of life associated with the use of land, for example, the protection of minority rights may require legislative measures to protect such ways of life and ensure the effective participation of members of minority groups in decisions that affect that way of life.

Domestic Law

Article 20 of the Constitution

Article 20 guarantees the fundamental right of freedom of religion and reads as follows:

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[352] United Nations Human Rights Committee, General Comment No. 23: Article 27 (Rights of Minorities), CCPR/C/21/Rev.1/Add.5, April 8, 1994.

[353] United Nations General Assembly, Resolution 47/135, adopted December 18, 1992, A/RES/47/135.

[354] Ibid., paras 6.1 and 6.2.

[355] United Nations Office of the High Commissioner for Human Rights (UN OHCHR), Minority Rights: International Standards and Guidance for Implementation, HR/PUB/10/3 (New York & Geneva: United Nations, 2010), 15.

[356] United Nations Human Rights Committee, General Comment No. 18: Non-discrimination, HRI/GEN/1/Rev.1, November 10, 1989.

20. Freedom to profess religion and to manage religious institutions.

Subject to law, public order and morality:-

every citizen shall have the right to profess, practice and propagate his religion; and

every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

Article 20(a) can be divided into three parts: first, it grants citizens the freedom to declare and believe in their religion; second, it grants citizens the freedom to practice their religion, which includes performing religious rituals, celebrating festivals, and adhering to religious customs; and third, it grants citizens the freedom to propagate, which includes individuals and religious groups spreading their religious teachings, whereas, clause (b) gives every religious denomination and sect the right to establish, maintain and manage its religious institutions.

Case Law Interpretation

In *Mubarik Ali Babar v. Punjab Public Service Commission*,[357] the Supreme Court, while emphasising the religious freedom and rights of non-Muslims in Pakistan, observed that Quaid-e-Azam has repeatedly affirmed that as a foundational principle of Pakistan, the rights of all minorities shall be safeguarded and all citizens of Pakistan are equal and have equal rights irrespective of their religion and assured and asserted that minorities, irrespective of their community, will receive protection and their religion, faith, or belief will be secure. Further, it was asserted that there will be no interference of any kind with their freedom of worship.

In the recent *Mubarak Ahmad Sani v. The State* case,[358] the Supreme Court noted that religious compulsion contradicts the divine accountability scheme in the Hereafter, citing freedom of faith as one of Islam's fundamental tenets. The Court further held that the Constitution enshrines the principle of no religious compulsion, as mentioned in the Holy Qur'an, as a fundamental right in Article 20.

Legislation

Rights to Practice Religious Beliefs

The Pakistan Penal Code includes provisions designed to criminalise acts that insult the religious sentiments of various communities. Many of these provisions were introduced during the British colonial era to maintain public order by preventing communal violence, and there is ongoing debate over whether they fully reflect today's diverse societal attitudes.

[357] *Mubarik Ali Babar v. Punjab Public Service Commission*, 2023 SCMR 518.

[358] *Mubarak Ahmad Sani v. The State, etc*., 2024 SCMR 1303.

Over time, specific measures have been incorporated into the Code that restrict certain religious expressions, particularly limiting the use of particular titles, symbols, and forms of religious self-identification by Ahmadis. The legal framework, as interpreted by the higher judiciary, is premised on the understanding that the freedom to profess religion is protected; however, this right is subject to reasonable limitations in the interests of public order, morality, and respect for the sacred sentiments of communities. The Supreme Court has affirmed that while the law may impose restrictions to safeguard communal harmony, it must be carefully enforced to avoid misuse that could foster religious intolerance and hatred.[359]

The courts have also underscored the constitutional guarantee of equal protection for all citizens. *Tahir Naqash v. The State*, [360] the Supreme Court held that individuals, regardless of their religious background, are entitled to the fundamental rights enshrined in the Constitution—even in circumstances where statutory provisions differentiate between communities.

Thus, although the higher judiciary has recognised that restrictions on certain religious expressions may be justified to preserve public order and uphold moral standards, it has also cautioned against the risks of discriminatory application. The evolving jurisprudence reflects an ongoing commitment to balance the protection of religious sentiments with the broader rights of all citizens, while emphasising the need for continual reform to ensure that the legal framework does not become a tool for promoting intolerance and undermine the genuine expression of religious identity.

Hate Speech

There are multiple provisions against hate speech across Pakistani legislation.

- Section 505(2) of the PPC criminalises the making, publication or circulation of any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment for a term which may extend to seven years and with fine.

- Section 8 of the Anti-Terrorism Act, 1997 (ATA), criminalises acts intended or likely to stir up sectarian hatred, with Section 9 punishing this with imprisonment of up to five years and a fine;

- Section 11W of the ATA criminalises the printing, publication or dissemination of any material glorifying terrorist activities or inciting hatred along religious, sectarian or ethnic lines, punishing such acts with up to five years imprisonment and a fine.

[359] *Zaheeruddin v. the State*, 1993 SCMR 1779

[360] *Tahir Naqash v. the State*, PLD 2022 Supreme Court 385.

- Section 10(b) of the Prevention of Electronic Crimes Act, 2016 (PECA), criminalises the unauthorised access to, copying from and interference with critical infrastructure information systems or data, or the glorification of such offences, for the purposes of advancing inter-faith, sectarian or ethnic hatred as cyber-terrorism, with punishment of up to fourteen years imprisonment and/or a fine of PKR 50 million.

- Section 11 of the PECA criminalises hate speech with imprisonment of up to seven years imprisonment and/or a fine.

While there are several provisions pertaining to hate speech, how these will overlap must be clarified. For example, hate speech disseminated online will technically fall under all of these provisions, and can therefore be investigated by the police (under the PPC and the ATA), armed forces or civil armed forces (under the ATA), or the National Cyber Crimes Investigation Agency (NCCIA) (under the PECA). Given the varying penalties, it should be clarified through non-obstante clauses in the PECA that hate speech disseminated online will fall under the exclusive jurisdiction of the PECA. Alternatively, such investigations can be conducted through joint investigation teams comprising of members of all three organisations.

Forced Conversions

There is no special law specifically prohibiting forced conversions in Pakistan. There are few reported judgments on forced conversions and marriages, as the majority of these cases are resolved at the lower court stage or between the parties themselves. However, the superior judiciary has made certain important pronouncements upholding the invalidity of forced conversions. For example, in a *suo moto* case taken up by the Supreme Court after attacks on a church in Peshawar,[361] the Court held that Article 20 contains a right against forced conversions as each citizen - Muslim or non-Muslim, has the right to practice their own religious faith.[362] However, there is an absence of an explicit legal provision against forced conversions.

Marriage Acts

The framework for the solemnisation of marriages and divorce procedures for Christians, Hindus, Parsis and Sikhs[363] are governed by specific laws. These are:

- The Christian Marriages Act, 1872;
- The Divorce Act, 1869;
- The Hindu Marriages Act, 2017;
- The Parsi Marriage and Divorce Act, 1936;

[361] PLD 2014 SC 699

[362] Ibid., para 15(e)

[363] *Tahir Naqash v. the State*, PLD 2022 SC 385.

- The Punjab Sikh Anand Karaj Marriages Act, 2018; and
- The Special Marriage Act, 1872 - for persons belonging to different religious groups.

The Protection of Communal Properties of Minorities Ordinance, 2002

The Protection of Communal Properties of Minorities Ordinance, 2002, bans the sale or transfer of any property that is designated for communal use by a religious minority group. However, the property can be sold or transferred if the Federal Government does not object to it.

While these laws are in place, there is no legislation that explicitly authorises the enjoyment of religious freedoms, such as the right to practice and profess their religion (as provided in the Constitution) or the protection against forced conversion. This law would provide an implementation structure to the Article 20 right and would empower relevant authorities to take up cases where the right to religious freedom is violated. This remains the biggest lacuna in the enjoyment of religious rights for religious minorities. Currently, Punjab has the Sikh Gurdwaras Act, 1925, which regulates the administration of gurdwaras in the province. However, there is no equivalent legal provision for Christians, Hindus, Ahmadis, Parsis and other religious minorities.

Article 21 of the Constitution

Article 21 of the Constitution of Pakistan guarantees the freedom of religion by protecting individuals from being compelled to pay taxes for the promotion of any religion other than their own. It is a critical provision that ensures financial autonomy in matters of faith and reinforces Pakistan's commitment to religious freedom. The Article states that "No person shall be compelled to pay any special tax, the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own."

This provision underscores the principle of religious neutrality in the collection and use of public funds. By prohibiting forced taxation for religious purposes, it fosters inclusivity and respect for diverse religious beliefs.

Case Law Jurisprudence

The superior judiciary has ensured that no tax is imposed on the basis of a particular religion. In *Elahi Cotton Mills v. Federation of Pakistan*,[364] the Court held that although the power to tax is an essential attribute of sovereignty, the right conferred in Article 21 is a limitation upon the State's general power to tax. Thus, no person can be compelled to pay a special tax to be spent on the propagation and maintenance of a religion other than his own religion.

These principles were reaffirmed in *Church Missionary Trust Association v. Federation of Pakistan*[365] where the court declared that "every State was duty bound to take necessary

[364] PLD 1997 SC 582.

[365] PLD 2022 Balochistan 36

measures to ensure that the persons belonging to minorities may exercise fully/effectively all their human rights and fundamental freedoms without any discrimination and in full equality before law." It further noted: "Islamic law granted non-Muslim communities the right to considerable autonomy of self-determination in their internal affairs regarding education, tax collection, law and religion".

Legislation

Several laws align with Article 21 to ensure financial neutrality in matters of religion. Firstly, statutes like the Income Tax Ordinance, 2001 and Sales Tax Act, 1990 deal with tax laws, which do not impose any specific taxes for religious purposes, maintaining neutrality in taxation. Similarly, the Waqf Properties Ordinance, 1979 ensures that funds derived from waqf properties are used solely for the purposes defined within the waqf and not for the propagation of unrelated religious activities. Additionally, the Punjab Charities Act, 2018 regulates charitable organisations and ensures transparency in the use of funds, preventing misuse for the propagation of a specific religion.

Institutional Analysis

Ministry of Religious Affairs and Interfaith Harmony

The Federal Ministry of Religious Affairs and Interfaith Harmony is responsible for ensuring interfaith harmony across the country. It has taken several initiatives to promote interfaith harmony through seminars and conferences. It established the National Commission for Minorities (NCM) in 1990, which was functional until 2023. It also established the Minorities Welfare Fund, which includes a scholarship for students belonging to religious minorities, development schemes for the repair and maintenance of religious places, general financial assistance including marriage grants.[366]

Recently, the Federal Cabinet approved the National Interfaith Harmony Policy in February 2025. The salient features of the policy include re-establishing the National Commission on Minorities, combating intolerance through interfaith dialogues, curbing hate speech, mainstreaming minorities through legislation and administrative initiatives, and the use of data to curb instances of hate speech and religious intolerance.[367] The Policy designates the NCM as the primary statutory body responsible for its implementation. It also establishes a complaint cell to respond to grievances, as well as a Web Evaluation Cell to monitor online hate speech.

In terms of mainstreaming minorities, the Policy recommends scholarship schemes, financial assistance and small development schemes, as well as a 5% job quota across federal and provincial services. The Policy also seeks to revise educational curricula to encourage interfaith

[366] Ministry of Religious Affairs and Interfaith Harmony, "Title of the Webpage," Ministry of Religious Affairs and Interfaith Harmony, accessed February 18, 2025, https://www.mora.gov.pk/Detail/OThlMWZhYTctZjdhNi00YTJiLWEwZWQtZTNjM2I2OWM5NTc1.
[367] Ibid.

harmony and combat extremist themes. The Policy also focuses on coordination with *ulema* and religious leaders to combat hate speech, as well as regular liaison between the federal provincial governments to ensure a coordinated approach towards combating religious hatred.

Provincial Minorities Affairs Departments

The work of the Ministry is supported by designated departments in each province. These will be individually explored below.

Punjab

The Human Rights and Minorities Affairs Department was established in 2008. A new Interfaith Harmony function was allocated to the Department in 2019.[368] The Department established the Minority Advisory Council in 2019[369] to advise the Government on drafting and/or amending laws pertaining to interfaith harmony, the promotion of economic well-being and literacy in minority communities, and the general promotion of tolerance and interfaith harmony across Punjab.[370]

The Department establishes its own educational scholarship for minorities,[371] as well as provincial guidelines for the granting of Christian marriage licences.[372] The Department also establishes grants for members of the religious minority communities for Christmas, Holi and the birthday of Guru Nanak. The Chief Minister also launched the CM Minority Card in January 2025. Under this scheme, "About 50,000 families in Punjab will receive Rs 10,500 after every three months and the amount will be increased in the next few years" with the number expected to increase to 75,000 families as well.[373]

Sindh

The Minorities Affairs Department of Sindh is responsible for the protection of minorities in the province. The Department also has its own scholarship fund for minority students and also regulates the functioning of minority places of worship throughout the province. The

[368] Human Rights and Minorities Affairs Department, Punjab, "Overview," Human Rights and Minorities Affairs Department, Punjab, accessed February 18, 2025, https://hrma.punjab.gov.pk/overview.

[369] Human Rights and Minorities Affairs Department, Punjab, MACP 2019 (Punjab: Human Rights and Minorities Affairs Department, 2019), https://hrma.punjab.gov.pk/system/files/MACP%202019.pdf.

[370] Human Rights and Minorities Affairs Department, Punjab, "Advisory Council," Human Rights and Minorities Affairs Department, Punjab, accessed February 18, 2025, https://hrma.punjab.gov.pk/advisory_council.

[371] Human Rights and Minorities Affairs Department, Punjab, "Educational Scholarship," Human Rights and Minorities Affairs Department, Punjab, accessed February 18, 2025, https://hrma.punjab.gov.pk/educational-scholarship.

[372] Human Rights and Minorities Affairs Department, Punjab, "Punjab Christian Marriage (Preparation & Submission of Returns of Solemnised Marriages) Rules, 2023," Human Rights and Minorities Affairs Department, Punjab, accessed February 18, 2025, https://hrma.punjab.gov.pk/CML.

[373] "Maryam Launches Chief Minister Minority Card," Business Recorder, February 18, 2025, https://www.brecorder.com/news/40344079/maryam-launches-chief-minister-minority-card.

Department also provides financial assistance grants to families and is also drafting a Provincial Interfaith Harmony Policy.[374]

Khyber Pakhtunkhwa

The Auqaf, Hajj, Religious and Minority Affairs Department is the designated government department for the protection of minority rights in Khyber Pakhtunkhwa. The Minority Affairs wing runs several Annual Development Programme Schemes, which includes welfare packages, financial assistance and scholarship programmes, the construction and rehabilitation of worship places and residential colonies, the purchase of land for minority graveyards and *shamshan ghats*, and the celebration of religious festivals.[375]

Balochistan

The Minorities Affairs Department of Balochistan governs the framework of minorities rights in the province. While it is unclear what initiatives the Department has implemented, given that it was only very recently established, it seeks to formulate policies for the protection of minority rights and welfare, as well as for interfaith harmony. It also implements the Christian Marriage Act and other relevant laws.[376] It also recommends investigations and inquiries into incidents of minority rights violations.[377]

While the work of the provincial Minorities Affairs Departments is commendable, efforts must be made to pass overarching legislation for the protection of the rights of religious minorities to be free from violence and persecution. The current initiatives by the Departments focuses on poverty alleviation and development packages to support the construction and maintenance of places of worship. Such initiatives should be given legislative backing rather than being entirely administrative actions to ensure accountability of those responsible for administering said initiatives, and to provide a framework for transparency, accountability and grievance redressal through the courts or a designated tribunal.

National Human Rights Institutions

The National Commission on Minorities

The National Commission on Minorities (NCM) is posited to be the primary national human rights institution (NHRI) responsible for upholding the rights of religious minorities in the country. The Commission is currently being established; a bill was introduced for the re-

[374] Minority Affairs Department, Sindh, "Five Years Performance Report 2018-19 to 2022-23", accessed February 18, 2025, https://minorityaffairs.sindh.gov.pk/elfinder/connector?_token=&cmd=file&target=fls2_TWlub3JpdGVzICYgQWZmYWlycyBEZXBhcnRlbWVudC9PcmdyYW5vZ3JhbS9GaXZlIFBlcmZvcm1hbmNlIFJlcG9ydC5wZGY.

[375] Auqaf, Hajj, Religious & Minority Affairs Department, Government of Khyber Pakhtunkhwa, "Sectoral Summary" https://ahrma.kp.gov.pk/storage/media/ADP/1721743183.pdf.

[376] Minority Affairs Department, Balochistan, "Services," Minority Affairs Department, Balochistan, accessed February 18, 2025, https://minorities.balochistan.gov.pk/services/.

[377] Ibid.

establishment of the NCM in 2024. The bill outlines more detailed functions to regulate the NCM's actions and is similar to the establishing statutes of Pakistan's other NHRIs.

The functions of the NCM will include:

- Considering laws that are reported to be discriminatory towards religious minorities
- Recommending steps for the mainstreaming of minorities to the Federal Government
- Ensuring the celebrations of religious functions of minorities
- Looking into grievances of minorities and making suitable recommendations to the Government for their redressal
- Ensuring the protection and functioning of places of worship of minorities, and
- Considering cases of NOCs for the sale/purchase/transfer of communal properties.

It is foreseen that once the Act is passed, the NCM will resume its previous roles, as well as play a central role in implementing the National Interfaith Harmony Policy.

The National Commission on Human Rights

The National Commission on Human Rights (NCHR) is at the forefront of advocating for the rights of religious minorities. It played a significant role in responding to the Jaranwala incident, providing relief packages to affected communities, engaging with district authorities and religious leaders, and spurring legal action against those involved in the mob violence.[378] The NCHR also receives complaints through various channels, and forwards them to relevant authorities for further investigation and arrests. The NCHR is also actively engaged in knowledge production and raising awareness about the rights of religious minorities. Key publications include a situation report on the plight of the Ahmadiyya community,[379] a summary of its initiatives on upholding minority rights in 2022-23,[380] and a fact-finding report on systemic discrimination against religious minorities.[381]

In terms of legislative and policymaking recommendations, the NCHR has been proactive in the banning of discriminatory advertisements targeting Christian citizens for sanitary worker

[378] National Commission for Human Rights (NCHR), *Jaranwala Report* (Islamabad: National Commission for Human Rights, 2023), https://nchr.gov.pk/wp-content/uploads/2023/10/Jaranwala-Report.pdf.

[379] NCHR, *Ahmadiya Report* (Islamabad: National Commission for Human Rights, 2024), https://nchr.gov.pk/wp-content/uploads/2024/04/Ahmadiya-Report.pdf.

[380] NCHR, *Upholding Inclusivity: Minority Rights Initiatives 2022-2023* (Islamabad: National Commission for Human Rights, 2023), https://nchr.gov.pk/wp-content/uploads/2023/09/Upholding-Inclusivity-Minority-Rights-Initiatives-2022-2023.pdf.

[381] NCHR, *Minority Report* (Islamabad: National Commission for Human Rights, 2022), https://nchr.gov.pk/wp-content/uploads/2022/05/Minority-Report-compressed.pdf.

positions, the implementation of minority quotas in various public sector organisations, and the designation of Hindu Marriage Registrars.[382]

The National Commission on the Rights of the Child

The National Commission on the Rights of the Child (NCRC) takes up complaints where the rights of children have been infringed. It forwards the complaints received through its various channels to the relevant law enforcement authorities in each province to take cognisance of the matter.

In the case of minorities, the NCRC has been vocal in advocating for the need for a law against forced conversions and forced marriages. The NCRC has recently drafted a bill in collaboration with the Centre for Social Justice, a civil society organisation focusing on minority rights, which is currently being examined by the Federal Government. In 2022, the NCRC also released a policy brief on forced conversions,[383] which laid the foundation for the above bill.

Law enforcement and the judiciary

The police (and other relevant law enforcement agencies) are responsible for ensuring effective investigations into rights violations and the subsequent arrests of offenders, whereas the judiciary is responsible for administering justice where rights have been violated. Minority Protection Units have been established in certain police jurisdictions such as the Islamabad Capital Territory and Meesaq Centres in Punjab.[384] It has been reported that a similar unit will be established in Karachi as well.[385] Efforts have been made to train police officers to sensitise them to concerns of minority communities, such as a training of Hyderabad police officers running the Minority Facilitation Desks.[386] Such programmes should be administered across the country and specialised desks should be set up in each district to hear cases of minorities rights violations.

Similarly, law enforcement agencies, including the FIA's Cyber Crime Wing (now replaced by the NCCIA), are responsible for curbing hate speech. The FIA's Anti-Terrorism Wing has also been involved in curbing hate speech under the ATA.[387] The FIA has taken a proactive role in

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[382] NCHR, "Policymaking," National Commission for Human Rights, accessed February 18, 2025, https://nchr.gov.pk/policymaking/.

[383] National Commission for Rights of Child (NCRC), *Policy Brief: Forced Conversion* (Islamabad: National Commission for Rights of Child, 2023), https://ncrc.gov.pk/wp-content/uploads/2023/12/POLICY-BRIEF_NCRC__Forced_Conversion.pdf.

[384] "Capital police set up Minority Protection Unit," Dawn, February 18, 2025, https://www.dawn.com/news/1770650.

[385] "Special police force to be established for protection of minorities, their worship places," Dawn, February 18, 2025, https://www.dawn.com/news/1808332.

[386] Community Support and Services Program (CSSP), "CSSP in Collaboration with DIGP Hyderabad Range Conducted Refresher Trainings for Minority Facilitation Desks," Community Support and Services Program, September 13, 2024, https://cssp.org.pk/2024/09/13/cssp-in-collaboration-with-digp-hyderabad-rangeconducted-refresher-trainings-minority-facilitation-desks/.

[387] The Frontier Post, "FIA submits report pertaining to blasphemous content on social media to IHC," The Frontier Post, April 2021, https://thefrontierpost.com/fia-submits-report-pertaining-to-blasphemous-content-on-social-media-to-ihc/.

combatting online hate speech. Notably, in 2020, the FIA blocked 167 accounts containing blasphemous content, anti-sectarian rhetoric and hate speech.[388] In 2022, the Cyber Crime Wing achieved convictions of 56 persons in 63 cases of hate speech.[389] This shows a promising approach towards curbing hate speech online.

It is unclear whether the judiciary receives similar training focused particularly on minority sensitisation. In the Punjab Judicial Academy's Handbook for General Training Programs for Senior Civil Judges and Civil Judges/Magistrates, under the Justice for Social Units chapter, the term 'vulnerable groups' is defined to include 'women, children and special persons',[390] with similar terminology also used in an equivalent Sindh Judicial Academy publication.[391] The term 'vulnerable group' as it exists in the Handbooks should also include religious minority communities, which it fails to do currently, and therefore indicates a gap in holistically understanding the vulnerability of religious minority groups in Pakistan.

Summary of UN Observations

Several UN Treaty Body Committees and States have recommended that Pakistan adopt positive legal and policy measures to protect the rights of religious minorities to profess and practice their religious beliefs.

Religious Freedom

Human Rights Committee

In terms of religious freedom, the HRC recommended that Pakistan increase its efforts to prevent, investigate and prosecute acts of discrimination and instigation of violence against religious minorities,[392] protect places of worship and cemeteries,[393] amend blasphemy laws to conform to the ICCPR, [394] and prevent and investigate violent attacks against persons accused of blasphemy,[395] and prosecute those who wrongly accuse others of blasphemy.[396]

Committee on the Elimination of All Forms of Racial Discrimination

[388] Ibid.

[389] Federal Investigation Agency (FIA), FIA Annual Report 2022 (Islamabad: FIA, 2022), 8 https://www.fia.gov.pk/files/publications/1570609486.pdf.

[390] Pakistan Judicial Academy (PJA), GTP-SCJ & CJ (Islamabad: Pakistan Judicial Academy, 2025), https://pja.gov.pk/system/files/GTP-SCJ%2526CJ.pdf.

[391] Sindh Judicial Academy (SJA), Pre-Service Training Programme 2020 - Training Guidelines and Instructions for Additional District and Sessions Judges (Karachi: Sindh Judicial Academy, 2020), http://sja.gos.pk/assets/Handbook/ADJS.pdf.

[392] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 47(a)

[393] Ibid, para 47(b)

[394] Ibid, para 47(c)

[395] Ibid, para 47(d)

[396] Ibid, para 47(e)

The CERD Committee also made similar recommendations in its Concluding Observations in 2017, which placed a stronger emphasis on due process. Their recommendations included adopting standard operating procedures for police and law enforcement in blasphemy cases, ensuring the burden of proof rests on the prosecution, and to investigate mob lynchings and other extra-judicial killing of those wrongly accused of blasphemy.[397]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review,[398] Germany and Czechia recommended that Pakistan apply legislative measures to prevent the misuse of the blasphemy law, especially against religious minorities. These recommendations were supported by Pakistan. However, recommendations by States such as Italy, Spain and Poland to decriminalise and/or repeal the blasphemy law altogether were only noted by Pakistan; these could not be supported due to commitments to Islamic law under the Constitution.

Forced conversions

Human Rights Committee and Committee on Economic, Social and Cultural Rights

In terms of forced conversions, the HRC recommended that Pakistan "should intensify its efforts to eradicate forced conversions and forced marriages of girls, including by strengthening its legal framework and enforcement mechanisms", and that "those responsible are brought to justice." It also recommended that "all victims have access to effective remedies and support services such as adequate shelters, legal aid, psychological counselling and rehabilitation programmes."[399] The CESCR echoed that Pakistan should prohibit forced conversions of persons to another religion without their consent.[400]

Committee on the Elimination of All Forms of Racial Discrimination

The CERD Committee echoed the HRC's recommendations, and added the need for training of law enforcement officials, prosecutors, lawyers and judges on "due process and evidentiary standards", the victims' access to justice and rehabilitation programs, and the State's commitment to increased birth registration by addressing barriers, such as a distrust of public authorities.[401]

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[397] UN Committee on the Elimination of Racial Discrimination (CERD), Concluding Observations on the Combined 24th to 26th Periodic Reports of Pakistan, CERD/C/PAK/CO/24-26, (2024), para 16

[398] United Nations Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

[399] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 55

[400] UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Initial Report of Pakistan, E/C.12/PAK/CO/1, (2017), para 58

[401] UN Committee on the Elimination of Racial Discrimination (CERD), Concluding Observations on the Combined 24th to 26th Periodic Reports of Pakistan, CERD/C/PAK/CO/24-26, (2024), para 26

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, Finland, Greece, and Mexico all recommended that Pakistan should adopt legislative measures to prohibit forced conversions and marriages of young girls. Pakistan supported these recommendations.

Recommendations

Legislative

Pass legislation on the protection of the right to religious freedom for religious minorities

There is a pressing need for legislation that protects the right to religious freedom for religious minorities. While a Protection of the Rights of Religious Minorities Bill was introduced in 2020, it was not passed.

The law should embody the language of Article 20 of the Constitution as well as Article 18 of the ICCPR. It should ensure the right to observe and profess religious practices without unjustified interference. The laws should ensure the right to establish and manage religious institutions, which should be overseen by the Federal Ministry of Religious Affairs and Interfaith Harmony and the provincial Minority Affairs Departments. This law should contain a list of criminal offences, such as the desecration of churches, temples, gurdwaras and other places of worship. It should also criminalise hate speech against any particular religious group, with strict penalties for incitement to violence against such groups. The law should empower the National Commission on Minorities to act as a monitoring body with powers to take up complaints and forward them to relevant law enforcement agencies, who will then take cognisance of cases under the offences clarified in this act. Offences should be cognisable, non-compoundable and non-bailable. A law on forced conversion is currently being considered by the Federal Government, and would (if passed) substantiate these proposed laws as well.

Given the sensitivities of this law, it is necessary to ensure a strategic communication strategy at the time of its drafting to ensure that its provisions are in conformity with the injunctions of Islam under Article 227 of the Constitution. This requires consultation with parties across the political spectrum to ensure an inclusive drafting process. This would also require input from the Council of Islamic Ideology, religious minority communities and the Minorities Affairs departments from the different provincial governments. This legislation will also be viewed positively internationally, as this is a key issue highlighted by multiple States, intergovernmental organisations and international NGOs, which will prove beneficial for Pakistan's global strategic positioning.

Consolidate anti-hate speech laws and designate a joint task force for investigation

The various provisions against hate speech across the PPC, ATA and the PECA should be harmonised and reflected in a singular law against hate speech passed at the federal level. Given

the National Interfaith Harmony Policy's strong focus on combating hate speech, a centralised law with a clear definition of the crime, its varying types (i.e., print publications, verbal incidents, online hate speech) and associated penalties. The law should designate a joint task force to investigate incidents - one at the federal level to deal with cases affecting national security or having a trans-provincial effect, and one in each province to deal with cases within each province. These task forces should include representatives from the police, the NCCIA and, where such crimes cross the threshold of 'terrorism' (as per Section 6 of the ATA - see the **Counterterrorism Measures** chapter) - or threaten national security, the armed forces.

Amend the PECA to include a non-obstante clause for online hate speech

In the absence of a consolidated anti-hate speech law, the PECA should be amended to include a non-obstante clause to the effect that any hate speech found online that can also be prosecuted under other laws will fall under the exclusive jurisdiction of the PECA. This would ensure legal and procedural clarity given the multiple applicable provisions on hate speech.

Pass the National Commission for Minorities Bill 2024

The proposed bill for the re-establishment of the NCM should be passed expeditiously. A provincial Commission for Minorities should also be established in each province under the respective Minorities Affairs Departments, with a clear mandate to receive and forward complaints of rights violations to the relevant authorities, conduct investigations and inquiries, and conduct legislative and policy research and advocacy. Similar to the existing NHRIs, the NCM should act as a watchdog on the law enforcement authorities and whether they are providing adequate relief and support to members of religious minority communities, particularly those whose rights have been violated and who have sought grievance redressal either through the NCM or other avenues.

Policy

Operationalisation of the National Interfaith Harmony Policy

While the National Interfaith Harmony Policy is a positive step, the next step is to operationalise the Policy with timelines, indicators and a breakdown of responsibilities across federal and provincial levels for its implementation. This should be a consultative process with governmental and non-governmental stakeholders - including civil society, religious leaders and educational stakeholders - outlining the responsibilities of each federal and provincial government department. Interventions should be time-bound and measurable with clear indicators for progress. This would also entail breakdown of financial and non-financial resources needed for such interventions, including plans for public-private partnerships (PPP) to bridge financing gaps (if any) faced by governmental stakeholders. The focus of the Policy's operationalisation should be to ensure a trickling down of the effects of interventions to the grassroots level by engaging with stakeholders at the district levels.

Regular training and sensitisation of police and judges

The training and sensitisation of the police and the lower judiciary is imperative in the fight against religious persecution and the protection of religious minorities. Such training modules should be prepared by the Federal Judicial Academy in collaboration with the provincial judicial academies, NHRIs and the Ministry of Religious Affairs and Interfaith Harmony. The course should focus on how the police and judges should approach victims belonging to religious minorities, and what roles they can exercise in reducing the abuse of existing laws. For example, special guidelines on how to register FIRs under the Offences Relating to Religion chapter should be developed and disseminated to all police stations. This would include what questions to ask to determine whether an offence was plausibly committed. Similarly, judges should receive training on recording statements and testimonies from victims of forced conversions and marriages, such as recording her statements in chambers and ordering her appearance in court separately from her alleged husband.

Regulate the process for religious conversion

The process for the validation of a religious conversion should be regulated by the provincial governments, primarily under the Minorities Affairs departments. A person who wishes to convert to Islam should receive a certificate of religious conversion from a registered religious seminary (under the Societies Registration Act), which should be validated by a magistrate. The magistrate should be assigned the authority to question the person wishing to convert to Islam about their reasons for doing so, and should also be able to engage a basic level of Islamic knowledge to further establish their choice to convert. Once a magistrate is satisfied that the conversion is out of the person's free will, s/he may notarise or validate the certificate of conversion. This process allows for judicial intervention to ensure that religious conversion is not done under duress.

Continued interfaith dialogues and advocacy

The importance of interfaith harmony and respect for religious minorities beliefs should be emphasised through continued engagement with the wider community. The National Interfaith Harmony Policy emphasises the need for greater grassroots engagement to inculcate societal respect for interfaith harmony, including through curriculum reforms. This should be done in coordination with civil society organisations across the country. Events can include seminars in schools, interfaith conferences, workplace training events, and social media advocacy. These efforts should be coordinated by the Ministry and Provincial Minorities Affairs Departments, and further facilitated by the NCM when established.

Death Penalty

Chapter Summary

This chapter provides a comprehensive overview of the death penalty as a key issue within the broader human rights framework in Pakistan. Capital punishment remains part of Pakistan's penal system and is applicable to a range of offences under national legislation, including murder, terrorism-related acts, sexual offences, and certain crimes under religious and moral statutes. As of 2023, over 6,000 individuals are on death row, with Punjab and Khyber Pakhtunkhwa accounting for the highest concentrations. The moratorium on executions, lifted in 2014, led to a surge in executions until 2019, after which a marked decline was observed, with no executions recorded from January 2020 through August 2022. While this reduction has been acknowledged in national and international discussions, the overall number of inmates on death row has increased due to administrative and procedural factors, including the resolution of appeals and data updates.

Pakistan is a State Party to key international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the Convention Against Torture (CAT). Article 6 of the ICCPR obliges State Parties to limit capital punishment to the "most serious crimes," requiring stringent adherence to fair trial standards and procedural safeguards. Domestically, Article 9 of the Constitution of Pakistan guarantees the right to life and liberty, permitting lawful deprivation only through due process. The Juvenile Justice System Act, 2018, prohibits capital punishment for individuals under 18 at the time of the offence, reflecting commitments under the CRC. While these laws offer critical safeguards, ongoing dialogue highlights opportunities to further harmonise Pakistan's domestic legal framework with international obligations, particularly concerning offences punishable by death and age determination processes.

Institutionally, the administration of the death penalty involves multiple stakeholders, including law enforcement agencies, the judiciary, and prosecutorial services at the federal and provincial levels. Sessions Courts serve as trial courts for capital offences, with mandatory appellate reviews by High Courts and the Supreme Court. Additionally, anti-terrorism and military courts possess jurisdiction in specific cases. Institutional mechanisms for oversight and fair trial implementation are in place; however, opportunities remain to strengthen investigatory processes, forensic practices, legal aid accessibility, and inter-agency coordination. Initiatives such as judicial and law enforcement training programs have been introduced, with particular attention to fair trial rights and human rights standards.

Looking forward, there are several areas for consideration to enhance the alignment of Pakistan's capital punishment framework with international human rights standards. Legislative reforms may include reviewing the scope of capital offences and introducing statutory sentencing guidelines. Institutional strengthening can focus on expanding access to legal aid, improving age verification mechanisms, and enhancing judicial training on

sentencing practices. Procedural enhancements could involve ensuring separate sentencing hearings and embedding forensic evidence standards. Additionally, inter-provincial coordination and data harmonisation could support more consistent implementation practices. These reforms offer the opportunity to further Pakistan's commitment to a rights-based criminal justice system while supporting national and international efforts to ensure the effective protection of the right to life.

Situational Analysis

The death penalty remains part of the penal framework in Pakistan and applies to a range of offences under national law. These include, among others, murder, terrorism-related offences, sexual offences, drug-related crimes, and certain offences defined under religious and moral laws. Currently, over 6,000 individuals are on death row in Pakistan,[402] with the application of capital punishment largely concentrated in the provinces of Punjab and Khyber Pakhtunkhwa, followed by Sindh, Balochistan, and Azad Jammu and Kashmir.[403]

Following the attack on the Army Public School in Peshawar in 2014, the Government lifted a moratorium on executions that had been in place since 2008 as part of a broader national security response.[404] Between 2015 and 2019, the country witnessed an increase in the number of executions, with the highest number being in 2015.[405] However, between January 2020 through August 2022, no executions had been conducted.[406] Despite the absence of executions in recent years, the total number of death row inmates has increased due to a variety of procedural and administrative factors, such as the finalisation of appeals and the inclusion of previously unreported cases in data sets.[407] In 2023, the number of prisoners on death row rose significantly, with the largest concentration of inmates in Punjab and Khyber Pakhtunkhwa. Male prisoners constitute the overwhelming majority of death row inmates, with female prisoners representing a very small percentage of the total population, primarily located in KP.[408]

Through various treaty body engagements, Pakistan has acknowledged the evolving global discourse on the use of capital punishment. As a State Party to the International Covenant on Civil and Political Rights (ICCPR) since 2010, Pakistan affirms its commitment to aligning domestic legal practices with internationally recognised principles, including those related to fair trial guarantees and the treatment of vulnerable populations. For example, in its second

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[402] Justice Project Pakistan. *Death Penalty in Pakistan: Data Mapping Capital Punishment 2024*. Lahore: Justice Project Pakistan, 2024. https://jpp.org.pk/wp-content/uploads/2024/10/Death-Penalty-2024.pdf.

[403] Ibid.

[404] Asad Hashim. "Pakistan Lifts Death Penalty Moratorium." *Al Jazeera*, December 17, 2014. https://www.aljazeera.com/news/2014/12/17/pakistan-lifts-death-penalty-moratorium.

[405] Justice Project Pakistan. *Death Penalty in Pakistan: Data Mapping Capital Punishment 2024*. Lahore: Justice Project Pakistan, 2024. https://jpp.org.pk/wp-content/uploads/2024/10/Death-Penalty-2024.pdf.

[406] Ibid.

[407] Ibid.

[408] Ibid.

periodic report under the ICCPR, Pakistan outlined efforts to ensure fair trial standards in capital punishment cases, including the right to legal representation and the protection of due process rights at all stages of criminal proceedings.[409] The Government has recognised that continuous development of judicial and investigative capacities is integral to ensuring procedural integrity in serious criminal cases. To that end, training programs have been initiated for judges, prosecutors, and law enforcement officials, with a particular focus on human rights standards and fair trial obligations.[410]

At present, over 1,400 death row cases are pending appeals before the Supreme Court of Pakistan.[411] Sentencing patterns in the lower courts have shown fluctuation in recent years, attributed to broader systemic factors such as judicial backlog, caseload pressures, and procedural timelines. The number of death sentences awarded has declined since 2015, which may reflect an emerging trend towards the consideration of alternative sentencing in eligible cases.

Pakistan has also reaffirmed its constitutional protections for juveniles and persons with disabilities. Capital punishment cannot be awarded as a punishment to juvenile offenders as per the Juvenile Justice System Act, 2018. Continued efforts are being made to strengthen the birth registration system and documentation of age in line with Pakistan's commitments under the ICCPR and the Convention on the Rights of the Child (CRC) to ensure that juvenile offenders are not mistaken for adult offenders and consequently awarded a capital sentence.[412] These efforts reflect a commitment to aligning juvenile justice protections with international standards.

In light of these developments, there are ongoing discussions within legal, academic, and policy circles regarding the future application of the death penalty. These discussions have emphasised the importance of procedural safeguards, evidence-based sentencing, and the continued examination of capital punishment within the broader framework of criminal justice reform.

In conclusion, Pakistan maintains the legal provision for capital punishment while concurrently undertaking institutional and legal reforms that reflect a nuanced and evolving approach. The absence of executions in recent years provides a basis for continued dialogue and policy reflection. Strengthening the capacity of judicial and investigative systems, ensuring procedural protections, and aligning legal practice with international standards remain areas with significant potential for further development. These measures collectively contribute to the broader objective of a just, fair, and rights-based criminal justice system.

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409 Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, paras 63-68.

410 Ibid; Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 15.

411 Justice Project Pakistan. *Death Penalty in Pakistan: Data Mapping Capital Punishment 2024*. Lahore: Justice Project Pakistan, 2024. https://jpp.org.pk/wp-content/uploads/2024/10/Death-Penalty-2024.pdf.

412 Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, paras 77-81.

Legal Analysis

International Law

ICCPR

The right to life is arguably the most fundamental right to the entire human rights corpus. The Human Rights Committee (HRC) affirms that the effective protection of the right to life is a necessary prerequisite for the enjoyment of all other human rights.[413] It is recognised as a qualified non-derogable right that creates obligations "to respect and ensure the right to life, to give effect to it through legislative and other measures, and to provide effective remedies and reparation to all victims of violations of the right to life."[414]

Article 6(1) of the ICCPR protects the right to life for all human beings, requiring States to protect it by law and prevent its arbitrary deprivation. The right encompasses protection against unnatural or premature death, as well as the entitlement to enjoy a life with dignity.[415] The term 'deprivation' involves "intentional or otherwise foreseeable and preventable life-terminating harm or injury, caused by an act or omission" which "goes beyond injury to bodily or mental integrity or a threat thereto."[416] The term 'arbitrary' refers to a lack of a legal basis for the deprivation of one's life, or a basis that is "inconsistent with life-protecting laws and procedures" according to international law.[417] Altogether, it is incumbent upon a State to take measures to ensure that one's life is not taken away unjustly and that the quality of their life is not unjustly hampered.

Article 6 of the ICCPR delves into the requirements for the valid exercise of the death penalty as a limitation of the right to life. As per Article 6(2), the death penalty can only be issued in accordance with the law in force at the time and only for the most serious crimes in countries that have not abolished the death penalty. The HRC emphasises following due process as a critical prerequisite to ordering the death penalty in any particular case.[418] Those sentenced to death must also be allowed to seek pardon or commutation of their sentence under Article 6(4). Paragraph 5 also prohibits the death penalty for those who are below the age of 18 at the time of the commission of the offence. The ICCPR also requires States to limit the death penalty to "crimes of extreme gravity involving intentional killing",[419] and prohibits the mandatory death sentence, which leaves domestic courts no discretion to issue a lesser punishment.[420]

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[413] United Nations Human Rights Committee, General Comment No. 36: Article 6, Right to Life, CCPR/C/GC/36, September 3, 2019, para 2.

[414] Ibid., para 4.

[415] Ibid., para 3.

[416] Ibid., para 6.

[417] Ibid., para 12.

[418] Ibid, para 41.

[419] Ibid., para 35.

[420] Ibid., para 37.

Domestic Law

Article 9 of the Constitution

Article 9 of the Constitution guarantees a person's rights to life and liberty. It states that "No person shall be deprived of life or liberty save in accordance with law."[421] The provision protects two distinct rights: life and liberty. According to Article 9, a person's right to life cannot be deprived except in accordance with the law. The sanctity of the right to life is paramount, and it "cannot be violated, discriminated or abused by any authority."[422] The right applies not only to citizens but to all persons within Pakistani jurisdiction.[423]

The significance of life requires a high threshold for its legal deprivation. Because Pakistan permits the death penalty, it is considered a lawful deprivation of one's life, granted due process is followed, and all criminal justice safeguards are ensured. However, where due process and other related rights are not protected in a criminal trial, resulting in a death penalty sentence, the right to life will be violated. Thus, in *Safia Bano v. Home Department, Government of Punjab*,[424] it was held that offenders with mental illnesses cannot be sentenced to death.

Offences Punishable by Death in Pakistan

Pakistan Penal Code

Section	Crime
121	Waging and abetting war against Pakistan
132	Abetment of mutiny [if mutiny is committed]
194	Perjury to secure a conviction for a capital offence if an innocent person is executed
295-C	Use of derogatory remarks in respect to the Holy Prophet [blasphemy]
301	Unintentional homicide
302	*Qatl-i-amd*, i.e., premeditated homicide

[421] Constitution of the Islamic Republic of Pakistan, 1973, Article 9.

[422] Benazir Bhutto v. President of Pakistan, PLD 1998 SC 388.

[423] Rahil Azizi v. State, PLD 2024 Islamabad 231.

[424] PLD 2021 SC 488.

354-A	Stripping a woman in public
364-A	Kidnapping a person under the age of 14
365-A	Kidnapping or abducting for extorting property or valuable security
376	Rape
396	Dacoity with murder
402-B	Hijacking
402-C	Harbouring or abetting hijacking

Other Legislation

Section and Statute	**Crime**
Section 5 of the Offences of Zina (Enforcement of Hudood) Ordinance, 1979	*Zina*, i.e., adultery
Section 17(4) of the Offences Against Property (Enforcement of Hudood) Ordinance, 1979	*Haraabah*, i.e., robbery, in the course of which he commits murder
Section 2 of the High Treason (Punishment) Act, 1973	High treason
Section 127 of the Railways Act 1890 and Railways (Amendment) Act 1995	Maliciously hurting persons travelling by railway or damaging property belonging to the railway
Section 9 of the Control of Narcotics Substances Act, 1997	Possession of, import or export of, or trafficking in narcotics

Pakistan Army Act, 1952 ● Section 24 ● Section 26 ● Section 31	● Offences in relation to the enemy and punishable by death ● Disclosure of parole or watchword ● Mutiny and insubordination
Pakistan Navy Ordinance, 1961 ● Section 29 ● Section 30 ● Section 31 ● Section 32 ● Section 36 ● Section 37	● Misconduct in action by persons in command ● Misconduct in action by other officers and men ● Obstruction of operations ● Corresponding with, supplying, or serving with the enemy ● Offences of mutiny ● Failure to suppress mutiny
Pakistan Air Force Act, 1953 ● Section 34 ● Section 37	● Offences in relation to the enemy and punishable by death (no alternative) ● Mutiny (no alternative)
Section 3 of the Explosive Substances Act, 1908	Punishment for causing an explosion likely to endanger life or property
Section 7(a) of the Anti-Terrorism Act, 1997	Act of terrorism that causes the death of any person

This list indicates that Pakistani law provides for the death penalty for multiple non-serious crimes in a manner that is incompatible with its obligations under Article 6 of the ICCPR.

However, the Supreme Court upholds death sentences only for crimes that end in death: murder; murder and terrorism; and murder, kidnapping and terrorism.[425] Although the Supreme Court does not uphold death sentences for less serious crimes, Pakistan's lower courts still have the option to impose a death sentence for less serious crimes. Supreme Court precedent states that only in the most exceptionally aggravated offences is "the infliction of the death penalty" justified,[426] consistent with Article 6 of the ICCPR. Nevertheless, this ruling has not translated into statutory law reform.

The Influence of Sharia Law in Pakistan

Pakistan has incorporated various elements of Islamic law into Pakistan's criminal legislative framework. This began primarily with the introduction of the 1979 Hudood Ordinances, which comprise six separate laws: the Offence of Zina Ordinance, the Offence of Qazf Ordinance, the Prohibition Order, the Offences Against Property Ordinance, the Execution of the Punishment of Whipping Ordinance, and an ordinance amending the CrPC, and the creation in 1980 of the Federal Shariat Court.[427]

The impact of these developments was that the penalties imposed under the justice system became inconsistent with Pakistan's international human rights obligations. In September 1990, Sections 299 to 338 of the PPC that addressed the offences of murder and manslaughter were amended to incorporate the provisions of the Qisas and Diyat Ordinance.[428] The amendment was related, in part, to a July 1989 ruling by the Federal Shariat Court that the existing provisions relating to murder and bodily injury were contrary to Islamic law because they did not allow for offences to be excusable by pardon by the victim(s) (or the heirs of the victims) or by payment of *diyat*.[429]

As such, the penalties for offences in Chapter XVI of the PPC include *qisas*, *diyat*, *daman*, *arsh* and *ta'zir* punishments. *Qisas* is the principle of 'an eye for an eye' whereby the victim or the heir(s) (*wali*) of a victim can choose to award the same punishment to the offender. Thus, if the offender murdered the victim, the *wali* can choose to have the offender killed under a lawful exercise of *qisas*, which will be executed by a functionary of the Government.[430] Alternatively, the *wali* can choose *diyat*, which is the payment of blood money equivalent to 30,630 grams of silver.[431] The *wali* can also compound the right of *qisas* and forgive the

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[425] FFR (Foundation for Fundamental Rights) and Reprieve. *The Pakistan Capital Punishment Study: A Study of the Capital Jurisprudence of the Supreme Court of Pakistan*. Islamabad: Foundation for Fundamental Rights, 2019. https://reprieve.org/wp-content/uploads/sites/2/2019/04/Pakistan-Capital-Punishment-Study.pdf, 21.

[426] *Muhammad Sharif v. the State*, PLD 2009 SC 709, para 20.

[427] President's Order No.1 of 1980 (Constitution (Amendment.) Order, 1980.

[428] Criminal Law (Second Amendment) Ordinance, 1990. The Ordinance became an Act in 1997, the Criminal Law (Amendment) Act, 1997.

[429] *Federation of Pakistan v. Gul Hasan Khan*, PLD 1989 SC 633, para 1.

[430] Pakistan Penal Code, 1860, sec. 314.

[431] Ibid, sec. 323.

offender. Nevertheless, the PPC also allows punishments under *ta'zir*, i.e., judicial discretion, which includes the death penalty for *qatl-i-amd*.[432]

To that end, the provisions on *qisas* and *diyat* naturally encouraged a more private resolution process, with limited involvement from the State and the courts. This has allowed wealthy, powerful, and socially influential offenders to "pressure the victim's legal heirs to accept an out-of-court settlement, either based on monetary compensation or without depending on the power the offending party can wield."[433] The continued application of qisas and diyat without comprehensive regulation and active State oversight can, at times, lead to outcomes where individuals with greater financial means are able to avoid prosecution.[434]

Sentencing of Juveniles

The Juvenile Justice System Act, 2018 (JJSA) prohibits sentencing a child to death, imprisonment, labour, being put in fetters, being handcuffed or given any corporal punishment at any time while in custody.[435] Although the Act formally abolished capital punishment for individuals under the age of 18, there continue to be instances where minors are sentenced to death in practice.[436] Due to inadequate age determination procedures, investigators often consider people who were children at the time of their offence to be adults, in violation of Section 8 of the Juvenile Justice System Act.[437]

Determinations of juvenility are an important component of the JJSA, but courts often fall short in the implementation of protective safeguards and protocols. This is particularly concerning given that almost 70% of children in Pakistan are not registered at birth, particularly those belonging to religious and ethnic minority groups, as well as those living in rural areas.[438] Furthermore, since defendants are rarely informed of the fact that they might have a mitigating circumstance, such as age, and because they often lack legal representation, they often fail to raise this issue in court.[439] Thus, it is imperative that fair trial standards are upheld to prevent the sentencing to death of children in contravention of Pakistan's international legal obligations.

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[432] Ibid, sec. 302.

[433] FIDH (International Federation for Human Rights). *Punished for Being Vulnerable: How Pakistan Executes the Poorest and the Most Marginalised in Society*. Paris: International Federation for Human Rights, 2019. https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2019-Punished-for-being-vulnerable.pdf, 13.

[434] Ibid, 14.

[435] Juvenile Justice System Act, 2018, sec. 16 (subject to exceptions in proviso).

[436] Justice Project Pakistan. *Death Row's Children: Pakistan's Unlawful Executions of Juvenile Offenders*. Lahore: Justice Project Pakistan, 2017. https://www.jpp.org.pk/wp-content/uploads/2017/10/Death-Rows-Children.pdf, 5.

[437] The Advocates for Human Rights, The World Coalition Against the Death Penalty, Legal Awareness Watch Pakistan, Marvi Rural Development Organisation, and The Human Rights Commission of Pakistan. *Pakistan Stakeholder Report on the Death Penalty for the United Nations Universal Periodic Review,* July 2022; p. 8

[438] Allard K. Lowenstein. A "Most Serious Crime": Pakistan's Unlawful Use of the Death Penalty. Lahore: Justice Project Pakistan, September 2016. https://www.jpp.org.pk/wp-content/uploads/2016/11/2016_09_23_PUB-DP-Report-1.pdf, 27.

[439] Ibid, 27-28.

Institutional Analysis

Law Enforcement

In Pakistan, law enforcement is managed by both federal and provincial police forces. It is argued that ineffective investigations lead to capital cases owing to insufficient resources and weak procedures at the police level. In Pakistan, cases are often built primarily on witness testimonies and confessions, some of which are reported to have been obtained under duress.[440] Prosecutors do not always closely examine the strength of the case or work extensively with police officers to enhance the evidence prior to presenting it in court.[441] The high conviction rates, especially in murder cases during the defendant's initial trial, provide little motivation for prosecutors to address the persistent weaknesses in the evidence presented in capital cases.[442]

Furthermore, public defence systems in Pakistan face significant challenges. Anecdotal accounts indicate that some defendants, including juveniles, may not receive timely or adequate legal aid. For instance, during a 2019 visit to a juvenile prison in Punjab, HRCP staff noted that nine out of 22 inmates (40%) reported not having received any legal assistance.[443] It is not uncommon for defendants to receive access to legal counsel only at the time of their first court appearance. This is problematic as the 2013 United Nations Principles and Guidelines on Access to Legal in Criminal Justice Systems state that the "right to legal aid of suspects arises before questioning, when they become aware that they are the subject of investigation, and when they are under threat of abuse and intimidation, e.g., in custodial setting."[444] The public defender, with its high caseload, low motivation and inadequate training, cannot give full attention to the case, which results in weak defences and, thus, higher rates of death penalties. These issues are amplified for individuals accused of blasphemy, who struggle to find lawyers to represent them, even for a fee. In blasphemy cases, public defenders often withdraw from cases and are not replaced or do not actively pursue their client's interests.

The Judiciary

Criminal Courts

Criminal cases in Pakistan, in the first instance, begin in the Magistrates and/or the Sessions Courts (often collectively referred to as the "District Courts"), which operate at the district level in each province. Cases involving offences punishable by death are exclusively tried in

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[440] FIDH (International Federation for Human Rights). *Punished for Being Vulnerable: How Pakistan Executes the Poorest and the Most Marginalised in Society*. Paris: International Federation for Human Rights, 2019. https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2019-Punished-for-being-vulnerable.pdf, 16.

[441] Ibid.

[442] Ibid.

[443] Ibid, 17.

[444] United Nations Office on Drugs and Crime. U*nited Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*. New York: United Nations, 2013. https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf.

Sessions Courts and decided by Sessions Judges. In contrast, Magistrate Courts handle cases involving non-capital offences, with Sessions Courts serving as appellate courts for these matters.[445]

Under Section 338D of the PPC and Section 374 of the Code of Criminal Procedure 1898, death sentences must be reviewed by a High Court judge. Criminal cases can first be appealed at the High Courts, with final appeals heard by the Supreme Court. The Federal Shariat Court also has jurisdiction over appeals related to cases governed by the Hudood Ordinances.[446] The system of review and appeal ensures checks and balances on the sentencing of the death penalty. Over 85% of death sentences imposed by the lower courts from December 2014 to October 2018 were subsequently commuted to prison terms or overturned by the Supreme Court.[447] Nevertheless, the high percentage of sentences overturned suggests various inconsistencies in judicial reasoning, examination of evidence and fair trial procedures.

Another significant issue is the lack of scrutiny of prosecution evidence in court. This issue begins with prosecutors, who often fail to assess whether the cases built by the police are strong enough to warrant trial. The problem is then exacerbated by lower court judges, who rarely question the credibility of the evidence presented or the methods used to obtain it—including instances where confessions may have been extracted through torture and should, therefore, be inadmissible.[448]

This issue is particularly concerning in cases involving juveniles. Once a defendant's age is recorded in a case file, it is rarely verified, even by judges. As a result, juveniles are frequently treated as adults in the judicial process. A defence lawyer specialising in death penalty cases in Pakistan highlighted this systemic failure, stating that when it comes to juvenile justice, judges do not challenge evidence presented to them by the police and assume all defendants are adults.[449] Similarly, it has been noted that "the failure of so many lawyers to ask a client's age – one of the most basic of factual questions – can be seen as a symptom of wider systemic failures in Pakistan's justice system, in which adequate legal representation is so often lacking".[450]

Lack of access to lawyers is a crucial factor in being unable to establish strong cases to prevent the death penalty. When an accused is arrested, in the vast majority of cases, he will be kept in

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[445] See Criminal Code of Procedure 1898, Schedule II.

[446] Constitution of the Islamic Republic of Pakistan, 1973, art. 203-DD.

[447] Justice Project Pakistan. *Counting the Condemned: Data Analysis of Pakistan's Use of the Death Penalty*. Lahore: Justice Project Pakistan, October 2018. https://www.jpp.org.pk/report/counting-the-condemned/.

[448] FIDH (International Federation for Human Rights). *Punished for Being Vulnerable: How Pakistan Executes the Poorest and the Most Marginalised in Society*. Paris: International Federation for Human Rights, 2019. https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2019-Punished-for-being-vulnerable.pdf, 21.

[449] Ibid.

[450] Justice Project Pakistan and Reprieve. *Juveniles on Pakistan's Death Row*. March 2015. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=ireg2l4nwJ5l0LLiFWIvLg2HtDke6Ebf6nW38K0AE4rwYCMTXXGUedVXCHloOGmD, 10.

police custody under physical remand.[451] When the investigation is taking place during physical remand, lawyers are generally not given access to the accused to guide him or her through the questioning.[452] In rare cases, lawyers are permitted to meet their clients, but only in the prison superintendent's office and under the constant supervision of a guard.[453] Attempts by lawyers to raise concerns with prison authorities have been met with dismissive responses, citing a lack of space or security risks as reasons for the restrictions.[454] Judges have largely refrained from intervening to ensure that prison authorities provide private meeting spaces for legal counsel and their clients.[455] This makes it particularly difficult for defence lawyers to build strong cases that reflect their client's wishes, thus leading to a rise in the rate of convictions for offences reflecting the death penalty.

Lack of Judicial Independence and Safety

External pressure from victims' families, communities, and the general public significantly contributes to the high conviction and death sentence rates in lower courts. Judges often face intense pressure to convict, as many in the population view such outcomes as the only form of justice available. In high-profile cases, the presence of mobs outside the courtroom further intensifies this pressure, leading judges to fear for their safety if they acquit defendants, even when the evidence is too weak to justify a conviction.

In 2011, Punjab Governor Salman Taseer was assassinated in broad daylight by his security guard, Mumtaz Qadri, just weeks after Taseer had visited Asia Bibi, a Christian woman convicted of blasphemy in 2010 and sentenced to death.[456] Qadri told police he had no regrets and that killing Taseer was his "religious duty" to eliminate a blasphemer.[457] He was later convicted, sentenced to death, and executed in 2016.[458]

The judge who convicted Qadri encountered extreme pressure—his office was ransacked by Islamist lawyers, and he received repeated death threats for undermining blasphemy laws. These threats eventually forced him to flee Pakistan, highlighting the dangerous external pressures influencing judicial decisions in high-profile blasphemy cases.[459]

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[451] The Code of Criminal Procedure, 1898, sec. 167.

[452] Interview conducted with Advocate Zafar Hussain, Cabinet Member Islamabad Bar Association, on February 26, 2025.

[453] Ibid.

[454] Ibid.

[455] Ibid.

[456] Declan Walsh. "Salmaan Taseer murder throws Pakistan into fresh crisis." The Guardian, January 4, 2011. https://www.theguardian.com/world/2011/jan/04/punjab-governor-murder-pakistan.

[457] BBC News. "Pakistan judge Pervez Ali Shah 'flees death threats'." BBC News, October 25, 2011. https://www.bbc.com/news/world-south-asia-15445317.

[458] CBS News. "Pakistani Governor Killed by Own Bodyguard." CBS News, January 4, 2011. https://www.cbsnews.com/news/pakistani-governor-killed-by-own-bodyguard/.

[459] BBC News. "Pakistan judge Pervez Ali Shah 'flees death threats'." BBC News, October 25, 2011. https://www.bbc.com/news/world-south-asia-15445317.

These events illustrate the deep-rooted societal and political pressures in Pakistan's legal system and the risks faced by those who attempt to uphold fair trial standards in such a volatile environment.

No Separate Sentence Hearings

Pakistan's judicial system lacks a separate sentencing hearing following a conviction, with trial judges issuing sentences at the time of judgment.[460] This practice has been criticised by lawyers, who argue that it denies them the opportunity to present mitigating factors once guilt has been established.[461] Additionally, many lower court judges do not actively consider mitigating circumstances during sentencing, often due to misconceptions that such arguments are solely the responsibility of higher courts.[462] In some cases, judges are simply unaware that mitigating factors can be raised during trial, leading them to impose the harshest sentence available under the law, regardless of the specific circumstances of the case.[463]

One of the reasons for this tendency is the significant pressure placed on judges, particularly in capital cases, to impose the death penalty.[464] Public opinion often favours the most severe punishment, and lower court judges frequently adopt a cautious approach, believing it is safer to hand down the maximum sentence rather than risk a more lenient ruling being overturned.[465] Many lower court judges hesitate to issue lesser sentences, leaving it to appellate courts to review and potentially reduce them.[466]

Khyber Pakhtunkhwa promulgated the Khyber Pakhtunkhwa Sentencing Act, 2021 where section 14(3) requires the Court to "schedule a separate hearing for sentencing at least seven days after the date of conviction of the offender". This is a positive step, which will encourage the consideration of mitigating circumstances through the trial court. However, lawyers have noted that these separate hearings do not occur in practice. Rather, the previous procedure of review of the sentence by the High Court under section 338D of the PPC and section 375 of the CrPC still remains in practice.[467]

Anti-Terrorism Courts

Established under the 1997 Anti-Terrorism Act, anti-terrorism courts are special civilian courts with jurisdiction over specific offences under the PPC related to acts of terrorism. Over time, successive amendments to the Act have broadened their jurisdiction to include crimes such as

[460] Interview conducted with Advocate Zafar Hussain, Cabinet member Islamabad Bar Association, on 26th February 2025.

[461] Ibid.

[462] Ibid.

[463] Ibid.

[464] Ibid.

[465] Ibid.

[466] Ibid.

[467] Ibid; Interview conducted with Advocate Sufyan Haider, on 26th February 2025.

arms trafficking, kidnapping, extortion, sectarian violence, and targeted political killings.[468] This expansion has significantly contributed to a growing backlog of cases before these courts.[469] This is explored in greater detail in the **Counterterrorism Measures** chapter.

Military courts have the jurisdiction to pass death sentences for criminal offences under the Pakistan Army Act, 1952, the Pakistan Navy Ordinance, 1961, and the Pakistan Air Force Act, 1953. In January 2015, the 21st Amendment to the Constitution, along with amendments to the 1952 Pakistan Army Act, expanded the jurisdiction of military courts to include the trial of civilians suspected of terrorism-related offences.[470] According to the Inter-Services Public Relations (ISPR), the media wing of the Pakistan Army, the Federal Government referred cases involving 717 defendants to military courts for trial between January 2015 and December 2018.[471] By 16 December 2018, 546 of these cases had been concluded, resulting in 310 death sentences. Of those sentenced to death, 56 were executed, while the remaining 254 awaited execution.[472] These trials also raise questions about fair trial protections, particularly where they result in death sentences, as these trials follow summary procedures, are not open to the public, and are overseen by military officers as opposed to judicial officers. This is discussed further in the **Military Trials of Civilians** chapter.

Summary of UN Reports:

Human Rights Committee

The Human Rights Committee (HRC) has recommended that Pakistan maintain a *de facto* moratorium on executions and take steps toward adopting a formal legal moratorium with a view to eventually abolishing capital punishment.[473] It has urged Pakistan to limit the application of the death penalty to only the most serious crimes, specifically those involving intentional killing.[474] Additionally, the HRC has called for amendments to the Juvenile Justice System Act, 2018 to ensure that individuals who were under 18 years old at the time of the

[468] See Anti-terrorism (Second Amendment) Act, 2004, sec. 14; Anti-terrorism (Amendment) Act, 2013, sec. 3; Anti-terrorism (Second Amendment) Act. 2013, sec. 2.

[469] FIDH (International Federation for Human Rights). *Punished for Being Vulnerable: How Pakistan Executes the Poorest and the Most Marginalised in Society*. Paris: International Federation for Human Rights, 2019. https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2019-Punished-for-being-vulnerable.pdf, 10.

[470] The Constitution (Twenty-first Amendment) Act, 2015.

[471] Inter-Services Public Relations (ISPR). "Update on Military Courts to date. Since establishment of courts cases of 717 accused terrorists were sent to Military Courts by Federal Government. Of these 717 cases 546 have been finalised by the Military Courts. Press Release No. PR-5096." December 16, 2018. https://www.ispr.gov.pk/press-release-detail.php?id=5096.

[472] Ibid.

[473] Human Rights Committee. Concluding Observations on the Second Periodic Report of Pakistan. CCPR/C/PAK/CO/2. Geneva: United Nations, November 7, 2024. para 23.

[474] Ibid.

offence are not sentenced to death.[475] It has also stressed the need for an independent and effective age-determination process to prevent wrongful executions of juveniles.[476]

Another key concern raised by the HRC is the use of military courts to try civilians and impose death sentences, which violates international fair trial standards. The Committee urged Pakistan to review and reform its legislation on military courts, ensuring that civilian defendants are tried in regular courts with full procedural safeguards.[477] It also recommends abrogating military courts' jurisdiction over civilians and ensuring that their proceedings comply with international human rights norms under Articles 14 and 15 of the ICCPR.[478]

Committee on the Rights of the Child

The Committee on the Rights of the Child (CRC) has emphasised the urgent need to protect minors from capital punishment. It has called on Pakistan to order a stay on all executions involving individuals who were under 18 at the time of their offences and to launch a comprehensive review of all death penalty cases where age-determination procedures were flawed.[479] The Committee has stressed the importance of reopening inquiries in cases where juvenility was in question, with the aim of either releasing the prisoner or commuting their sentence to life imprisonment.[480]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, various countries urged Pakistan to reinstate a moratorium on executions as a first step toward abolition. Countries like Norway, Portugal, Australia, and Croatia have emphasised the need for a formal suspension of executions.[481] Others, including Switzerland and Mexico, have recommended abolishing the death penalty for non-violent offences, such as drug-related crimes, in line with Article 6 of the ICCPR, which restricts the use of capital punishment to only the most serious crimes.[482]

Additionally, Germany and Cyprus have advised Pakistan to reduce the number of crimes punishable by death and work towards phasing out capital punishment entirely.[483] Several nations, including Luxembourg, Estonia, Ecuador and Malta, Spain, Greece, and France, have encouraged Pakistan to ratify the Second Optional Protocol to the ICCPR, which calls for the

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[475] Ibid, para 23(c).

[476] Ibid.

[477] Ibid, para 42.

[478] Ibid, para 43.

[479] Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. CRC/C/PAK/CO/5. Geneva: United Nations, July 11, 2016. para 25.

[480] Ibid.

[481] Human Rights Council. Report of the Working Group on the Universal Periodic Review: Pakistan. A/HRC/53/13. Geneva: United Nations, March 21, 2023. paras 46.99, 46.101, 46.103, and 46.104.

[482] Ibid., paras 46.102 and 46.98.

[483] Ibid., paras 46.108 and 46.105.

complete abolition of the death penalty.[484] Israel has also recommended an end to the execution of minors and persons with disabilities, highlighting concerns about fair trial standards and age determination procedures.[485]

Recommendations

Legislative

Abolition of the Death Penalty for Less Serious Crimes

The Government must amend various criminal laws to exclude those crimes that do not meet the threshold of the "most serious crimes" in accordance with Article 6 of the ICCPR. This will require legislative reform, entailing structural changes to the criminal justice system. It is recommended that the punishments be converted to imprisonment terms proportionate to the seriousness of the crimes to serve as a viable alternative to the death penalty. This also conforms to the *de facto* practice of the superior judiciary, whereby death penalties for less serious crimes are rarely upheld. However, this legislative reform will ensure that lower courts do not pass such sentences as well.

Strengthening Fair Trial Standards and Legal Aid Mechanisms

A lack of fair trial safeguards, coerced confessions, unreliable witness testimonies, and flawed investigations cast doubts on convictions where the defendant is sentenced to death. This is exacerbated by the absence of a bifurcated trial system, which prevents defence lawyers from effectively arguing mitigating circumstances separately from the question of guilt in a separate sentencing hearing – as is done in several jurisdictions worldwide.

To address these issues, Pakistan must introduce legal reforms that explicitly prohibit the use of torture-induced confessions and establish independent oversight mechanisms to ensure proper investigative procedures. This will require stringent enforcement of the Torture and Custodial Deaths (Prevention and Punishment) Act, 2021. Additionally, courts must require strong forensic evidence in capital cases rather than relying solely on police reports and verbal testimonies. Given the severity of the punishment, the burden of proof on the prosecution must consequently be far more stringent than in other criminal proceedings.

A key component of fair trial standards is access to effective legal representation, which remains a significant gap in Pakistan's justice system. Many defendants, particularly those from underprivileged backgrounds, are unable to afford the high fees of lawyers and the expenses of the justice system. Thus, the government must invest in a State-funded public defence system that provides experienced public defence lawyers to those facing the death

[484] Ibid., paras 46.19, 46.21, 46.22, 46.23, 46.24 and 46.25.

[485] Human Rights Council. Report of the Working Group on the Universal Periodic Review: Pakistan. A/HRC/53/13. Geneva: United Nations, March 21, 2023. para 46.95.

penalty. Ensuring early access to legal aid from the moment of arrest is thus crucial in preventing procedural violations and ensuring a fair defence.

Reforming Anti-terrorism Courts and Military Courts

There is a dire need to reform the structure of anti-terrorism courts and military courts. These courts often operate in secrecy, denying defendants the right to a fair trial, legal representation, and appeals in civilian courts. Their procedures violate fundamental due process rights, as evidence is frequently withheld from defendants, and convictions are often based on confessions extracted under duress. Pakistan should limit the jurisdiction of these courts to genuine terrorism-related cases and ensure that all capital cases involving civilians are tried before regular criminal courts with complete transparency. Additionally, independent oversight must be established to prevent judicial overreach and procedural violations in military and anti-terrorism courts. Further recommendations are provided in the **Counterterrorism Measures** chapter.

Policy

Addressing Public and Political Pressure on Judges

As discussed above, judges face immense pressure when delivering fair judgment, particularly in murder and blasphemy cases, fearing violent repercussions for acquitting defendants on grounds of weak or insufficient evidence. This is further compounded by mob presences outside courthouses, threatening both judges and defence lawyers. To ensure judicial independence, the government should implement stronger security measures for judges handling sensitive cases and target people or groups who attempt to intimidate the judiciary. Moreover, public awareness campaigns must educate citizens on due process rights and counteract narratives that equate harsh sentencing with justice.

Performance Monitoring of Judges

There is a critical need to develop and implement a transparent, performance-based system for evaluating judicial conduct. Such a system should rely on objective benchmarks, such as adherence to legal standards, consistency in applying sentencing guidelines, and the quality of judicial reasoning. By establishing clear criteria and accountability mechanisms, this evaluation system would promote higher standards of judicial conduct, enhance public confidence in the legal process, and ultimately contribute to fairer sentencing outcomes.

Reforming Police Investigations and Evidence Collection

A major issue in Pakistan's criminal justice system is the poor quality of police investigations, which often rely on coerced confessions, fabricated evidence, and weak forensic methods. Many death sentences are based on flawed investigations where due process is ignored, and evidence is manipulated to secure convictions. To address this, Pakistan must implement comprehensive police reforms that ensure all investigations in capital cases meet strict legal

and forensic standards. This requires significant training and capacity-building in police forces, including best practices when handling forensic evidence and evidentiary techniques using modern technology.

CCTV cameras should be installed in police stations, and the digital recording of investigations should be explored in police stations across Pakistan. This would reduce the use of torture and coercion in extracting confessions and provide transparency. Additionally, stricter rules on evidence collection must be instituted, requiring police to rely on forensic and scientific methods rather than verbal testimonies alone.

Moreover, police accountability mechanisms should be strengthened. Establishing independent oversight bodies to investigate police misconduct, particularly in cases involving forced confessions or procedural violations, is essential. One way this could be achieved is by empowering public prosecutors at the local level to ensure greater oversight of police investigations. Prosecutors should have the authority to review the strength of evidence before cases proceed to trial, preventing weak or fabricated cases from advancing in the judicial system. Strengthening prosecutorial oversight would improve case integrity and ensure that only well-founded cases proceed to trial.

Additionally, investigative procedures may be enhanced via comprehensive training modules for police officers focusing on evidence collection, crime scene preservation, and chain of custody procedures. This would ensure that forensic evidence is properly documented and preserved, reducing the likelihood of tampering or procedural errors. To that end, police officers must receive mandatory training on the Juvenile Justice System Act, with strict monitoring to ensure its proper implementation. All necessary age-determination procedures, including ossification and dental tests, should be conducted to prevent the wrongful prosecution of minors under adult criminal law.

Violence against Women

Chapter Summary

This chapter presents an in-depth analysis of gender-based violence (GBV) in Pakistan, situating it as a critical area of concern within the national human rights framework. GBV, including domestic violence, sexual violence, honour-based crimes, and cyber harassment, affects individuals across socio-economic and geographic contexts. The Government of Pakistan has undertaken a series of legislative, policy, and institutional measures to strengthen protections for women and girls, expand survivor support services, and improve access to justice. As of 2023, 480 special courts had been established to adjudicate GBV cases, and helplines, mobile apps, and protection centres have been introduced to improve access to redress. Despite these developments, challenges such as underreporting, procedural barriers, and disparities in service accessibility persist, particularly in rural and underserved regions.

Pakistan is a State Party to several international treaties that affirm the obligation to prevent and respond to violence against women, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT). These obligations are reinforced through national constitutional provisions—particularly Articles 9, 14, 25, and 26—which guarantee the rights to life, dignity, and equality before the law. The legal framework includes federal and provincial legislation, such as the Anti-Rape (Investigation and Trial) Act, 2021; the Protection against Harassment at the Workplace Act, 2010; and provincial domestic violence laws. While comprehensive in scope, further harmonisation across provinces, clearer procedural guidance, and strengthened enforcement mechanisms are identified as areas for continued alignment with international standards.

Implementation and oversight of GBV-related frameworks involve coordination between police, prosecution services, judiciary, medico-legal officers, and social support institutions. Specialised GBV courts have improved access to justice, and National Human Rights Institutions (NHRIs) such as the National Commission on the Status of Women (NCSW) and National Commission for Human Rights (NCHR) support monitoring, advocacy, and legal intervention. Provincial commissions and departments oversee service delivery through protection centres, shelters, and helplines. Nonetheless, procedural challenges such as delays in FIR registration, medico-legal examinations, and case backlogs, as well as coordination gaps between relevant agencies, highlight opportunities for enhancing institutional capacity, training, and inter-agency collaboration.

The chapter identifies a range of potential reform measures aimed at further strengthening Pakistan's response to gender-based violence. Legislative directions include the enactment of a domestic violence law for the Islamabad Capital Territory, harmonisation of provincial laws, and clarification of procedural ambiguities. Institutional recommendations include increased allocation of GBV courts, standardised and mandatory training for justice sector professionals, improved coordination mechanisms, and enhanced data collection and monitoring frameworks.

Additional priorities include expanding survivor support services, enhancing access in remote areas, and promoting public awareness campaigns to address social norms contributing to underreporting. These reforms align with Pakistan's constitutional commitments and international obligations, and provide an opportunity to further reinforce the rights and protections of women and vulnerable groups.

Situational Analysis

The Government of Pakistan has taken significant steps to improve the protection and promotion of women's rights, as guaranteed under the Constitution and reinforced by Pakistan's obligations under international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR).

Pakistan has made considerable strides to enhance the legal and institutional framework to address gender-based violence (GBV). These include legal reforms, capacity-building initiatives, and support services to victims as part of wider ongoing efforts to safeguard women's rights and ensure their access to justice and protection.

Legal Reforms and Policy Advancements

Pakistan has developed a strong legal foundation to address GBV. Notably, the enactment of the Anti-Rape (Investigation and Trial) Act, 2021 introduced mechanisms for gender-sensitive investigations and improved procedures for medical and forensic examination. Furthermore, amendments to the Pakistan Penal Code, 1860 addressing domestic violence, honour-based crimes, and sexual offences have contributed to aligning Pakistan's domestic legal framework with international human rights standards.[486]

Provincial governments have also undertaken key reforms. For example, Punjab passed the Protection of Women Against Violence Act, 2016, which introduced a comprehensive model incorporating crisis centres, legal aid, medical assistance, and shelter services.[487] Other provinces, such as Sindh and Balochistan, have also enacted similar legislation.[488]

While there has been progress in the expansion of GBV courts and support services, further enhancement of judicial efficiency remains an opportunity for reform. Between January and December 2023, 48,395 new cases were instituted at 480 courts designated to adjudicate

[486] Pakistan. Fifth Periodic Report Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: CEDAW/C/PAK/5. United Nations Committee on the Elimination of Discrimination Against Women., para 50; Pakistan. Follow-up to the Fifth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women: CEDAW/C/PAK/FCO/5. United Nations Committee on the Elimination of Discrimination against Women, 2023, para 4.

[487] Pakistan. Follow-up to the Fifth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women: CEDAW/C/PAK/FCO/5. United Nations Committee on the Elimination of Discrimination against Women, 2023, para 4

[488] Ibid., para 5.

gender-based violence cases across Pakistan.[489] In 2023, there was an overall increase of 81% in the pendency of GBV cases across all categories of GBV cases.[490] In addition, of the 30,295 cases GBV decided across Pakistan in 2023, convictions were only secured in 1,451 cases, representing a conviction rate of less than 5%.[491] Conversely, violence against women cases across Pakistan saw a 64% acquittal rate in 2023.[492] This indicates a need to invest more in efficient judicial processes to ensure access to justice for victims.

Support services for women survivors of violence are provided through federal and provincial government programmes, including shelter homes (*Dar-ul-Aman*), crisis centres, legal aid units, and psychosocial support services. In Punjab, Women Protection Centres run by the Social Welfare Department offer integrated services under one roof.[493] At the national level, the Ministry of Human Rights operates a Helpline for Legal Advice on Human Rights Violations, which received over 131,000 inquiries in 2022–2023, including 853 calls specifically concerning women's rights, encompassing domestic violence, harassment, inheritance disputes, and access to justice.[494] While there are challenges in the functioning of existing mechanisms, ongoing efforts are focused on ensuring uniformity in service provision, enhancing institutional capacity, and expanding outreach through digital platforms and mobile service delivery units.

Key Areas of Focus

Challenges in reporting GBV incidents are influenced by socio-cultural norms, fear of stigma, and a lack of trust in the legal system. Survivors may face difficulties in filing First Information Reports (FIRs), obtaining timely medical examinations, or navigating complex legal procedures.[495] These barriers, coupled with societal attitudes, often result in underreporting, especially in cases of sexual violence and domestic abuse.[496] Efforts to counter these challenges include expanding the availability of female police officers, increasing awareness of legal protections, and establishing women-only reporting desks at police stations.[497] Training

[489] Law & Justice Commission of Pakistan. *Unveiling Shadows: Gender-Based Violence Cases – 2023.* Islamabad: Law & Justice Commission of Pakistan, August 2, 2024. 2.http://ljcp.gov.pk/nljcp/assets/dist/Publication/gbv.pdf.

[490] Ibid.

[491] Ibid, 6.

[492] Ibid, 7.

[493] Social Welfare & Bait-ul-Maal Department, Government of Punjab, *Women Shelter Homes*, accessed May 15, 2025, https://swd.punjab.gov.pk/women_shelter_homes.

[494] Pakistan. Follow-up to the Fifth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women: CEDAW/C/PAK/FCO/5. United Nations Committee on the Elimination of Discrimination against Women, 2023, paras 8-12.

[495] See Fatima Bokhari & Sevim Saadat. *Accountability for Rape: A Case Study of Lodhran.* Lahore: Center for Human Rights, University College Lahore, 2019. 19. https://cfhr.com.pk/wp-content/uploads/2022/01/Accountability-for-Rape-A-case-study-of-Lodhran.pdf.

[496] Ibid.

[497] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 10.

programs for law enforcement and judicial officers are also being implemented to promote trauma-informed, survivor-centric approaches.[498]

Honour-based crimes continue to be an area of concern, particularly in rural areas. Recent events in Balochistan have sparked further debate on the issue,[499] which persists despite legal provisions against such crimes in the PPC. The Government is committed to strengthening the rule of law to take swift action against perpetrators and removing the impunity of *jirgas* and *panchayats* that order such killings.[500] While these mechanisms are recognised for their cultural relevance, steps are being taken to ensure that such forums operate within the bounds of constitutional rights and legal protections and do not pass decisions that are harmful to women.

Pakistan is also addressing the evolving landscape of cyber-based GBV. The Prevention of Electronic Crimes Act, 2016 (PECA) provides a legal framework for prosecuting cyber harassment and misuse of personal information.[501] Regulatory and enforcement authorities are enhancing their response capabilities through the Federal Investigation Agency's Cyber Crime Wing (now the National Cyber Crimes Investigation Agency) and awareness campaigns promoting digital safety, particularly for women and girls.[502]

Overall, while Pakistan has taken considerable steps to bring its legal and institutional frameworks into conformity with international human rights standards on gender-based violence, focused attention remains necessary to address implementation challenges. This includes standardising services across provinces, improving procedural responsiveness, and strengthening institutional capacity to contribute to the full realisation of women's rights under both national and international commitments.

Legal Analysis

International Law

CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which entered into force in 1981, is the primary international human rights treaty which addresses women's issues. The Convention outlines that "extensive discrimination against

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[498] Ibid., para 8.

[499] Abid Hussain, "Pakistan Arrests 13 Suspects as 'Honour Killing' Video Goes Viral," *Al Jazeera*, July 21, 2025. https://www.aljazeera.com/news/2025/7/21/pakistan-arrests-over-a-dozen-suspects-as-honour-killing-video-goes-viral

[500] Nazish Brohi. *Women, Violence and Jirgas: Consensus and Impunity in Pakistan.* 2nd ed. Islamabad: National Commission on the Status of Women, 2017. https://ncsw.gov.pk/SiteImage/Downloads/Women,%20Violence%20and%20Jirgas%20Consensus%20and%20Impunity%20in%20Pakistan.pdf.

[501] Digital Rights Foundation. *Online Violence Against Women in Pakistan: Submission to UNSR on Violence Against Women.* 2017. https://digitalrightsfoundation.pk/wp-content/uploads/2017/12/UNSR-Submission-by-DRF.pdf.

[502] "3,171 Complaints of Tech-Facilitated Gender-Based Violence Reported in 2024: DRF," *Dawn*, April 24, 2025, https://www.dawn.com/news/1906339

women continues to exist", and emphasises that such discrimination "violates the principles of equality of rights and respect for human dignity".[503] Critically, neither CEDAW nor any other international human rights treaty specifically identifies violence against women in its text.

Despite not including the word 'violence' in its text, CEDAW has been interpreted to include violence against women as an extreme form of discrimination. As explained by Rashida Manjoo, the former UN Special Rapporteur on Violence against Women, "States must acknowledge that violence against women is not the root problem, but that violence occurs because other forms of discrimination are allowed to flourish."[504] Though the Convention includes reference to addressing some specific forms of violence against women, including child marriage and forced marriage,[505] it is silent on other, more common forms of violence against women, such as domestic violence and sexual violence. Violence against women is, however, addressed in the General Recommendations adopted by the Committee on the Elimination of Discrimination against Women (the Committee) without ratification by treaty members.[506]

In CEDAW General Recommendation No. 12 (1989) on violence against women, the Committee recommended that States parties include information about legislation in force to protect women against violence, measures adopted to eradicate violence against women, support services available to women, and statistical data on incidence of violence against women in their periodic reports to the Committee.[507] In CEDAW General Recommendation No. 19 (1992), the Committee explicitly included gender-based violence as a form of discrimination covered under CEDAW.

> The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.[508]

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[503] Convention on the Elimination of All Forms of Disscrimination Against Women, 1981 (CEDAW), Preamble.

[504] Rashida Manjoo. *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence Against Women, Its Causes and Consequences, 66th Session of the General Assembly Third Committee*. October 10, 2011. https://www.un.org/womenwatch/daw/documents/ga66/RAPPORT_on_VAW.PDF.

[505] CEDAW, art. 16.

[506] See CEDAW General Recommendation No. 12: Violence against women (1989) https://www.refworld.org/legal/general/cedaw/1989/en/53527. CEDAW General Recommendation No. 19: Violence against women (1992) https://www.refworld.org/legal/resolution/cedaw/1992/en/96542. CEDAW General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992), https://docs.un.org/en/CEDAW/C/GC/35.

[507] UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 12: Violence against women (1989) https://www.refworld.org/legal/general/cedaw/1989/en/53527.

[508] UN Committee on the Elimination of Discrimination Against Women (CEDAW). CEDAW General Recommendation No. 19: Violence against women (1992) https://www.refworld.org/legal/resolution/cedaw/1992/en/96542.

Although not legally binding, the Declaration on the Elimination of Violence against Women (DEVAW), adopted by the UN General Assembly in 1993 in Resolution 48/104, provided the first global framework for analysis and practical steps for action on violence against women at the national and international levels.[509] In the Declaration, the Assembly recognised that violence against women is "a manifestation of historically unequal power relations between men and women" and provided a definition of violence against women in Article 1.[510] It also called upon States to include, in submitting reports as required under relevant human rights instruments of the United Nations, information on violence against women and measures taken to implement the Declaration.[511]

In its General Recommendation No. 35 (2017) on gender-based violence against women, the Committee noted that in many States "legislation addressing gender-based violence against women is non-existent, inadequate or poorly implemented."[512] It recognised that the prohibition of gender-based violence against women had evolved into a principle of customary international law and, as such, was binding on all States.[513] It also provided an updated road map for preventing and combating violence against women. It recommended that States implement the following:

- Ensure that all forms of gender-based violence against women are criminalised and introduce or strengthen, legal sanctions commensurate with the gravity of the offence, as well as civil remedies;

- Repeal all legal provisions, including in customary, religious and indigenous laws, that are discriminatory against women and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence;

- Adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women's civil, political, economic, social and cultural rights, and to promote the empowerment, agency and voices of women;

- Adopt and implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings;

- Ensure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged

[509] Declaration on the Elimination of Violence against Women, UNGA Res 48/104 (20 December 1993).

[510] Ibid, art. 1.

[511] Ibid, art. 5.

[512] UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992), https://docs.un.org/en/CEDAW/C/GC/35.

[513] Ibid, para 2.

perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.

- Provide effective reparations to victims/survivors of gender-based violence against women including monetary compensation, the provision of legal, social and health services, and satisfaction and guarantees of non-repetition;
- Develop and evaluate all legislation, policies and programmes in consultation with civil society organisations, in particular women's organisations; and
- Establish a system to regularly collect, analyse and publish statistical data on the number of complaints about all forms of gender-based violence against women.

Domestic Law

Constitutional Framework

Article 9

Article 9 of the Constitution guarantees a person's rights to life and liberty. It states, "No person shall be deprived of life or liberty save in accordance with law." The provision protects two distinct rights: life and liberty. The sanctity of the right to life is paramount. It "cannot be violated, discriminated or abused by any authority"[514] and it applies not only to citizens but to all persons within Pakistani jurisdiction.[515]

In *Kamal Shah and 2 others v the State*, honour killings were held to violate the Article 9 right to life.[516] Subsequently, in *National Commission on Status of Women and others v Government of Pakistan and others*, the Supreme Court held that "honour killings for retribution of the patriarchal concept of honour or compelling women to be wed without their consent as a means of settling disputes is hit by Articles 4, 10-A and 25 read with Article 8 of the Constitution which enjoins that no custom in derogation of any fundamental right can prevail under the law."[517] There are no traditions so sacred that can justify a violation of fundamental rights protected in the Constitution.[518] Similarly, gender-based violence impairs women's and girls' rights to life and liberty, as clarified in *Gul Sher v Additional Sessions Judge*,[519] which are absolute rights.[520]

[514] *Benazir Bhutto v President of Pakistan,* PLD 1998 SC 388.

[515] *Rahil Azizi v State*, PLD 2024 Islamabad 231.

[516] 2009 PCrLJ 547.

[517] PLD 2019 SC 218.

[518] *Muhammad Siddique v. The State*, PLD 2002 Lahore 444.

[519] *Gul Sher v Additional Sessions Judge,* PLD 2023 Lahore 171, para 7.

[520] *Atif Zareef and others v. The State*, PLD 2021 SC 550.

Article 14

Article 14 of the Constitution pertains to the inviolability of the dignity of a person. The provision contains two parts, each containing distinct yet connected rights. Clause (1) protects the dignity of man and the privacy of the home, the latter being subject to law. Clause (2) protects all persons from torture for the purposes of extracting evidence.

Since the term 'dignity' has not been defined in the Constitution, it has been interpreted to encompass multiple different concepts. including bodily integrity, honour and reputation, and the inherent equality between all persons irrespective of differences. In *Atif Zareef and others v the State*, the Supreme Court held that "Dignity means human worth: simply put, every person matters. No life is dispensable, disposable or demeanable."[521]

The right to bodily integrity is a key facet of the right to dignity which ensures that all persons exercise autonomy over their bodies and are not subject to external interference or force upon their bodies. Gender-based violence impairs a women's and girl's rights bodily integrity and the trial process if it involves reporting the sexual history of a rape survivor amounts to discrediting her independence and autonomy and violating her right to dignity.[522] In *Sadaf Aziz v Federation of Pakistan*, the 'two-finger' virginity test for rape victims was held to be a violation of Article 14 as an invasive infringement on the privacy of a woman's body as well as her dignity.[523] Similarly, in *Uzma Naveed Chaudhary v Federation of Pakistan*,[524] sexual harassment at the workplace was found to be a violation of Article 14 as well.[525]

Articles 25 and 26

When read in conjunction with the articles of the Constitution providing for gender equality[526] and the mainstreaming of women in public and political life,[527] it is clear that ensuring the equal protection of women is a constitutional imperative in Pakistan. Article 25 grants equality to all citizens in Pakistan, while Article 26 grants equal rights to access public spaces. Both Articles allow the State to make special provisions to promote the equal participation of women and children as members of society.[528]

In particular, Article 25(2) prohibits discrimination based on sex. As mentioned above, discrimination refers to dissimilar treatment of persons in like circumstances. In *Hammad Abbasi v Superintendent, Central Adyala Jail, Rawalpindi*,[529] the term 'discrimination' was clarified to involve "an element of unfavourable bias" in favour of one thing over another.

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[521] Ibid, [11].

[522] Ibid.

[523] *Sadaf Aziz v Federation of Pakistan*, 2021 PCrLJ 205, paras 27-28.

[524] PLD 2022 SC 783.

[525] Ibid, para 14.

[526] Constitution of the Islamic Republic of Pakistan, 1973, art. 25.

[527] Ibid., arts. 25 & 26.

[528] Ibid., arts. 25(3) & 26(2).

[529] PLD 2010 Lahore 428.

While Article 25(1) discusses equality broadly, Article 25(2) places a specific prohibition on discrimination on the basis of sex.

Thus, the courts have interpreted the term 'discrimination' quite broadly to encompass a high degree of protection towards women under Article 25(2) beyond discrimination in the workplace or educational establishments. The right mandates equitable treatment and greater protective measures for women - both in law and in fact - in all facets of life.

Similarly, while the principles of policy, outlined in Articles 28 to 40 of the Constitution, are not legally binding, they facilitate an interpretation of fundamental rights in harmony with their Constitutional setting[530] and reiterate the role of women. Article 34 provides that steps should be taken to "ensure full participation of women in all spheres of national life."[531] Article 37 of the Constitution also encourages promotion of social justice and eradication of social evils. As a result, the principles of policy aid in a pro-women interpretation of the Constitutional fundamental rights in Pakistan.[532]

Legislation

Following the 18th Amendment to the Constitution in 2010, substantial powers were devolved from the federal government to the provinces, which now have the ability to enact specific legislation for the protection of women and girls.

Federal

Anti-Rape (Investigation and Trial) Act, 2021

The Anti-Rape (Investigation and Trial) Act 2021 was introduced to ensure expeditious redressal or rape and sexual abuse crimes against women and children. It establishes Special Courts that try cases under the Act,[533] which must try the cases and issue a verdict within four months.[534] The Act also sets up Anti-Rape Crisis Cells that are responsible for conducting medico-legal examinations, collecting evidence, conducting forensic examinations and registering the FIR.[535] The Act also outlaws the two-finger virginity test,[536] implementing the *Sadaf Aziz* ruling.[537] The Act also provides for victim and witness protection through rules notified by the Ministry of Law and Justice to ensure concealment of identity of victims and witnesses, concealment of identity and provision of safe-houses and dar-ul-amans.[538] The Act

[530] 2015 SCMR 1739.

[531] Constitution of the Islamic Republic of Pakistan, 1973, art. 34.

[532] Shazia Shaheen & Khadija Ali. *The Justice Prelude: A Socio-Legal Perspective on Women's Access to Justice.* Islamabad: Strengthening Participatory Organisation, February 2017. https://spopk.org/wp-content/uploads/2020/06/women_access_to_justice.pdf.

[533] Anti Rape (Investigation and Trial) Act, 2021, sec. 3.

[534] Ibid, sec. 16.

[535] Ibid sec. 5.

[536] Ibid, sec. 13.

[537] *Sadaf Aziz v Federation of Pakistan,* 2021 PCrLJ 205.

[538] Anti Rape (Investigation and Trial) Act 2021, sec. 5.

also requires the establishment of a Sex Offenders Registry, which is a publicly available database containing names and details of registered sex offenders convicted under the Scheduled offences.[539] Several rules have been framed under the Act. These are:

- Anti-Rape (Sex Offenders Register) Rules, 2023: these rules establish Pakistan's first national Sex Offenders Register, maintained by NADRA. It ensures secure data sharing to prevent and investigate sexual violence cases.

- Anti-Rape (Investigation) Rules, 2022: these rules mandate Special Sexual Offences Investigation Units in every district. They detail roles and coordination procedures for effective rape and abuse investigations.

- Anti-Rape (Trial Procedure) Rules, 2022: these rules guide rape case trials to ensure timely justice and victim protection. They set protocols for hearings, legal roles, and safeguarding victim dignity.

- Anti-Rape (Crisis Cell and Medico-Legal) Rules, 2022: these rules set up Anti-Rape Crisis Cells offering FIR registration, medical aid, and counseling. They centralise services to support victims efficiently and empathetically.

Criminal Law Amendments

Several amendments to the Pakistan Penal Code, 1860 (PPC) have been made to add provisions to strengthen the protection of women against violence.

- Protection of Women (Criminal Laws Amendment) Act, 2006: the Protection of Women (Criminal Laws Amendment) Act, 2006 amends the PPC and CrPC to provide relief and protection to women against abuse of the law and bring the laws relating to *zina* and *qazf* (as defined in their respective Hudood Ordinances) in conformity with the stated objectives of the Constitution and the injunctions of Islam. It inserted several new sections into the PPC, creating offences for kidnapping, abducting or inducing women to compel them for marriage;[540] kidnapping or abducting in order to subject a person to unnatural lust;[541] selling a person for the purposes of prostitution;[542] buying a person for the purposes of prostitution;[543] rape;[544] cohabitation caused by a man deceitfully inducing a belief of lawful marriage;[545] enticing or taking away or detaining

[539] Ibid, sec. 24.

[540] PPC, sec. 365B. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 2.

[541] Ibid, sec. 367A. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 3.

[542] Ibid, sec. 371A. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 4.

[543] Ibid, sec. 371B. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 4.

[544] Ibid, sec. 375. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 5.

[545] Ibid, sec. 493A. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 6.

with criminal intent a woman;[546] and fornication.[547] Notably, the Act outlined rape as an offence punishable with death or imprisonment for not less than ten years.

- Criminal Law Amendment Act, 2010: the Criminal Law Amendment Act, 2010 amends Section 509 of the PPC. It replaces the original section with the offence of sexual harassment. As a result, a wide definition of sexual harassment has been included in the law as an offence.

- The Criminal Law (Second Amendment) Act, 2011/The Acid Control and Acid Crime Prevention Act, 2011 inserts sections 336A and 336B into the PPC under which perpetrators of acid crimes can be punished with up to life imprisonment and a fine of no less than one million rupees. The Act also penalises unauthorised sale of corrosive substances, with increasing punishments for repeat offenders. Acid crimes are also listed in the third schedule of the Anti-Terrorism Act, 1997 thereby categorising acid crimes as acts falling within the definition of terrorism which can be tried in Anti-Terrorism Courts (ATCs).

- Criminal Law (Third Amendment) Act, 2011/ Prevention of Anti-Women Practices Act, 2011: the Prevention of Anti-Women Practices Act, 2011 criminalises several discriminatory customary practices against women in Pakistan, including giving women in marriage as badla-e-sulh, wanni or swara (punishable with 3-7 years imprisonment and/or a fine), depriving women of inheritance through illegal means (punishable with 5-10 years imprisonment or a fine up to 1 million rupees), forced marriages (punishable with 3-10 years imprisonment and 500,000 rupee fine), and the practice of marrying women to the Holy Quran (punishable with 3-7 years imprisonment and 500,000 rupee fine). All these offences are made non-compoundable and non-bailable under the Act.

- Criminal Law (Amendment) (Offences related to Rape) Act, 2016: the Criminal Law (Amendment) (Offense of Rape) Act, 2016 introduced significant legal reforms to strengthen protections for survivors of rape and ensure more robust accountability for perpetrators by amending the PPC, CrPC and Qanun-e-Shahadat. It introduces harsher penalties, including life imprisonment and fines, for rape, gang rape, custodial rape, and sexual violence against minors and persons with disabilities. It mandates that survivors' statements be recorded in the presence of a female officer or relative,[548] medical examinations be consent-based, and legal aid be provided when needed by the Provincial Bar Councils.[549] The Act prohibits publishing a survivor's identity,[550] ensures trials are held privately and completed within three months,[551] and requires

[546] Ibid, sec. 496A. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 7.

[547] Ibid, sec. 496B. Inserted by Protection of Women (Criminal Laws Amendment) Act, 2006, sec. 7.

[548] Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016, sec. 9.

[549] Ibid., sec. 10.

[550] Ibid., sec. 6.

[551] Ibid., sec. 12.

DNA evidence collection by certified practitioners. Public officials who obstruct investigations or conduct them negligently face imprisonment or fines under the Act.[552]

- Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016: the Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act 2016 introduces stricter measures against honour-based crimes by amending key sections of the PPC and CrPC. It classifies honour killings under *fasad-fil-arz*, allowing courts to impose harsher punishments based on the gravity and social impact of the offence. It also makes honour-based murder punishable by death or life imprisonment, and crucially, even if the victim's family pardons the offender, the court is still bound to sentence them to life imprisonment.

- Criminal Law (Second Amendment) Act, 2016: the Criminal Law (Second Amendment) Act 2016 introduces significant protections for children by amending the PPC. New sections (292A, 292B, 292C) criminalise exposing children to seduction and child pornography. Section 328C penalises cruelty to children, including physical or psychological abuse, neglect, or abandonment. Sections 377A and 377B make sexual abuse of minors and child trafficking criminal offences, with corresponding punishments.

- Criminal Law (Amendment) Act, 2021: In 2021 through Criminal Laws (Amendment) Act, 2021 the definition of rape was amended to be more inclusive and gender-neutral. Before the amendment, the definition of rape under Section 375 of the Pakistan Penal Code (PPC) was primarily focused on the male perpetrator. The amendment also expanded the definition of rape under PPC.

Prevention of Electronic Crimes Act, 2016

The Prevention of Electronic Crimes Act (PECA), enacted in 2016, establishes a legal framework for addressing electronic crimes in Pakistan, including investigation, prosecution, and adjudication. Section 21 criminalises the use of electronic means that harm a person's reputation or breach their privacy, with punishments of up to seven years in prison, a fine of up to five million rupees, or both. Section 22 penalises the production, distribution, or transmission of pornographic content involving underage girls with similar punishments.

Apart from federal laws, the provincial governments have passed legislation to combat gender-based violence within their jurisdictions.

Punjab

The Punjab Protection of Women Against Violence Act, 2016

[552] Ibid, secs. 3 & 4.

The Punjab Protection of Women Against Violence Act 2016 seeks to prevent and punish acts of violence (including domestic violence) committed against women in Punjab. The Act also includes protection against economic abuse and psychological violence under the definition of 'violence'.[553] The Act specifies various measures for its implementation. These include a telephone helpline, Protection Centres and shelter homes[554] with medical teams, psychological treatment and legal help, and sensitisation and awareness measures.[555]

The Act also establishes a legal framework for redress and remedy for victims which include Protection Orders, Residence Orders and/or Monetary Orders, depending on the nature of the complaints received.[556] The Act establishes a District Women Protection Committee for each district to oversee the running of the Protection Centres.[557] The Act appoints District Women Protection Officers for each district to oversee the implementation of the Act, including supervising and coordinating the protection system, training staff, approving rescue operations, and filing petitions, among other responsibilities.[558]

However, there are some procedural and substantive issues with the Act. Firstly, the definition of domestic violence does not include women who may be abused by men in the same house who they do not have blood relations with at the time of the violence. The definition also does not include children which is necessary when looking at the problem in a holistic manner where often times female children are married off and subjected to domestic abuse. Secondly, the Act provides that where a false complaint is made, the victim will be sentenced to imprisonment and a fine.[559] However, this does not take into consideration the pressure that may be placed on a woman to retract her statements which can lead to the complaint being considered false.

According to data received by the NCHR from the Punjab Police, zero cases of domestic violence were registered under the Punjab Protection of Women against Violence Act, 2016,[560] whereas media tracking conducted by SSDO showed 44 cases of domestic violence during a single month within the same timeframe.[561] This indicates a deficiency in the legislation and its implementation in Pakistan.

Sindh

Sindh Domestic Violence (Prevention and Protection) Act, 2013

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[553] Punjab Protection of Women Against Violence Act 2016, sec. 2.

[554] Ibid, sec. 13

[555] Ibid, sec. 3

[556] Ibid, secs. 7-9.

[557] Ibid, sec. 11.

[558] Ibid, sec. 14.

[559] Ibid, sec. 19.

[560] Khadija Ali & Meerum Inam. *Domestic Violence Policy Brief.* Islamabad: National Commission for Human Rights, March 2023. 6. https://nchr.gov.pk/wp-content/uploads/2023/03/Domestic-Violence-Policy-Brief.pdf.

[561] Ibid.

The Sindh Domestic Violence Act, 2013 aims to prevent and punish domestic violence, broadly defining domestic violence as physical, psychological, and gender-based abuse against women, children, and other vulnerable persons in a domestic relationship. Unlike similar laws in other provinces, Sindh's Act is more inclusive, covering various types of relationships beyond marriage, including those based on kinship, adoption, or cohabitation.[562] It incorporates multiple provisions of the PPC within the ambit of the Act and makes them cognisable under the Act's framework.

The Act also provides for the passing of Protection, Residence and Monetary Orders, but also Custody Orders for children or adults to a service provider (i.e., a government facility or organisation for the protection of an aggrieved person).[563] The Act authorises the Magistrate of the First Class as the designated court for complaints under the Act.[564] The Act establishes a Protection Committee under Section 17 and empowers it to facilitate the protection of domestic violence victims.[565] Similarly, the Sindh Government can also appoint Protection Officers under Section 21 who provide support to individual victims, such as forwarding a complaint to the Protection Committee, securing access to legal aid, and facilitating a safe place of residence, among others.[566]

However, the Act faces procedural ambiguities. It does not clearly state whether offences under the Penal Code are governed by its procedures or by the Criminal Procedure Code, creating confusion about whether offences are cognisable, compoundable, or bailable.[567] Additionally, the Act potentially conflicts with Section 377 of the PPC, leaving it to the courts to clarify which law takes precedence. In Sindh, it took six years to secure the first conviction under the Sindh Domestic Violence (Prevention and Protection) Act, 2013.[568]

Sindh Domestic Violence (Prevention and Protection) Rules 2016

The Sindh Domestic Violence (Prevention and Protection) Rules 2016 were notified by the Women Development Department in 2016 under Section 29 of the Act. The Rules further define the composition, tenure and functions of the provincial and district-level committees and protection officers provided by the law.

Khyber Pakhtunkhwa

Khyber Pakhtunkhwa Domestic Violence Against Women Act, 2021

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[562] Sindh Domestic Violence (Prevention and Protection) Act, sec. 2(1)(a) & (e).

[563] Ibid, secs. 11-13.

[564] Ibid, sec. 2(d).

[565] Ibid, sec. 18.

[566] Ibid, sec. 22.

[567] Barrister Rida Tahir. A Roadmap for Addressing Domestic Violence in Sindh through Implementation of the Domestic Violence (Prevention and Protection) Act 2013 and Rules 2016. Karachi: Sindh Commission for Human Rights (SCHR), 2024. https://shrc.org.pk/downloads/reports/Study-Addressing-Domestic-Violence.pdf.

[568] Ibid.

The Khyber Pakhtunkhwa Act specifically targets domestic violence against women, defining it broadly to include physical, psychological, emotional, economic, and sexual abuse (though explicitly excluding "ordinary marital relations").[569] Domestic relationships are limited to familial contexts, excluding domestic help and non-family cohabitants.[570]

The Court is empowered to pass Protection Orders (restraining the accused from further violence and harassment), securing residence and alternative accommodations, and Monetary Relief covering medical, economic losses, and maintenance.[571] Unlike other provinces, the Act directly criminalises domestic violence itself (with penalties of 1-5 years imprisonment plus fines), in addition to providing civil remedies.[572]

District Protection Committees (chaired by the Deputy Commissioner and including government officials, civil society, and religious representatives) and Secretaries facilitate implementation, victim assistance, mediation (optional), and maintain comprehensive records.[573] The government supports this with public awareness campaigns, a toll-free helpline, and shelter homes.

Procedural ambiguities stem from dual criminal-civil frameworks, potentially causing conflicts between this Act's penalties and PPC standards. Additionally, introducing mediation in section 8 of the Act could inadvertently pressure victims into reconciliation. Unlike the inclusive Sindh and Balochistan Acts, the KPK law protects only women and explicitly excludes certain sexual abuses in marriage, reflecting a more conservative approach. It is punitive, directly criminalising domestic violence, distinguishing it from other provinces' frameworks.

Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013

The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013 aims to eliminate the harmful practice of Ghag, where a woman is forced into marriage without her consent by proclaiming her as someone's wife. The law criminalises this practice, imposing penalties, including imprisonment and fines, on perpetrators and anyone aiding the act.[574] It provides for legal protection for women, granting them the right to seek recourse by making the offence of Ghag triable by the Court of Sessions,[575] and preventing forced marriages under this custom by prohibitting the custom.[576]

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[569] Khyber Pakhtunkhwa Domestic Violence Against Women Act, 2021, secs. 2(1)(j) & (p).

[570] Ibid, sec. 2(1)(i).

[571] Ibid, secs. 14-15.

[572] Ibid, sec. 3.

[573] Ibid, sec. 6.

[574] Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013, secs. 3-5.

[575] Ibid, sec. 6.

[576] Ibid, sec. 3.

Balochistan

Balochistan Domestic Violence (Prevention and Protection) Act, 2014

The Balochistan Act broadly defines domestic violence to include physical, psychological, emotional, sexual, and economic abuse,[577] covering women, men, children, elderly, mentally ill, and domestic servants within domestic relationships. Relationships covered include those by blood, marriage, adoption, employment, and shared households.[578]

The Act provides comprehensive relief, including Protection Orders prohibiting further violence, contact, or harassment;[579] Residence Orders preventing eviction and securing accommodation;[580] Monetary Relief for compensation covering losses, medical expenses, and maintenance;[581] and Custody Orders, particularly protective of minors.[582] Interim orders can be swiftly issued without a full trial.[583] Implementation involves establishing Protection Committees and Protection Officers in each Tehsil. Their role includes victim assistance, facilitating medical treatment, lodging, legal support, and maintaining incident records.[584]

Ambiguities include coordination between civil remedies under this Act and criminal proceedings under the PPC and procedural complexities regarding parallel cases. Notably, breaches of orders carry criminal penalties. Balochistan's law is inclusive (covering all genders and vulnerable groups), resembling Sindh's model, but relies heavily on local committees rather than specialised infrastructure, contrasting with Punjab's centralised system.

Institutional Analysis

Police and Investigation

The police, specifically investigating officers (IOs) are the first point of contact for victims seeking access to justice.[585] Several problems exist in the police's handling of issues relating to violence against women. A major issue reported across all provinces is that the registration of FIRs takes place on the discretion of of police officers.[586] Police are reported to file a 'kacha parcha' or an informal complaint as a screening device to investigate whether the case merits

[577] Balochistan Domestic Violence (Prevention and Protection) Act, 2014, sec. 4.

[578] Ibid, sec. 2(f).

[579] Ibid, sec. 8.

[580] Ibid, sec. 8.

[581] Ibid, sec. 9.

[582] Ibid, sec. 10.

[583] Ibid, sec. 11.

[584] Ibid, secs. 15 & 19.

[585] National Police Bureau. *Handbook of Criminal Investigation in Pakistan 2021.* Islamabad: National Police Bureau, 2021. https://rsilpak.org/wp-content/uploads/2021/02/criminal-investigation-handbook_pakistan_rsil.pdf.

[586] Nazish Brohi. *Gap Analysis for Service Providers for Gender-Based Violence in Punjab and Sindh.* Karachi: Legal Aid Society, 2020. 48. https://www.las.org.pk/media/pdfs/rpandp/Gap-Analysis-of-Service-Providers-for-Gender-Based-Violence-in-Punjab-and-Sindh.pdf.

a formal FIR.[587] Women's rights lawyers, advocates, activists and survivors narrate how filing of the FIR remains one of the biggest hurdles, and frequently they have to approach senior officers and use contacts to get a case registered, while it is meant to be an automatic process.[588] From a sample of 63 cases examined which were decided by courts in Punjab in 2016 and 2017, it took an average of 19 days for a victim to get an FIR registered.[589] Furthermore, several reports indicate that police accept bribes to pursue (or even drop) cases, and that the police engage in victim-blaming, making the process of filing a case even more difficult.[590] In a gap analysis of rape cases in Sindh in 2021, the Legal Aid Society found that investigations took on average 1.6 months, contrary to the 14 day legal mandate.[591]

Medico-Legal Officers

Medico-Legal Officers play a crucial role in documenting evidence of violence, as medico-legal examinations are required to establish that violence was inflicted on the body in cases involving violence against women. These examinations are mandatory in all rape cases and when physical violence is alleged, such as in cases of domestic violence.[592] In domestic violence situations, older medical reports from doctors in private hospitals can sometimes be used, provided the doctors are willing to testify that the injuries they treated were due to deliberate physical violence.[593] However, despite their importance, delays in conducting these examinations or failure to perform them within the critical 72-hour window often weaken the evidence, making it difficult to secure convictions.[594]

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[587] Ibid, 35.

[588] Ibid, 39.

[589] Fatima Yasmin Bokhari. *Accountability for Rape: A Case Study of Lodhran.* Lahore: Centre for Human Rights, University College Lahore, 2018. 19. https://cfhr.com.pk/wp-content/uploads/2022/01/Accountability-for-Rape-A-case-study-of-Lodhran.pdf.

[590] Farida Shaheed & Sohail Warraich. *Barriers to Access and Uptake of Public Sector GBV Services by Women Survivors of Violence*. Islamabad: United Nations Population Fund, 2023. 2. https://pakistan.unfpa.org/sites/default/files/pub-pdf/2024-10/Barriers-TO-Access-Uptake-Of-Public-Sector-GBV-Services-By-Women-Survivors-Of-Violence.pdf.

[591] Legal Aid Society. *Gap Analysis on Investigation and Prosecution of Rape and Sodomy Cases: Strengthening the Criminal Justice System's Response to Sexual Violence in Sindh.* Karachi: Legal Aid Society, 2021. https://www.las.org.pk/media/pdfs/rpandp/Gap-Analysis-on-Investigation-and-Prosecution-of-Rape-and-Sodomy-Cases-R.pdf.

[592] Legal Aid Society. *Gap Analysis of Investigation and Prosecution of Rape and Sodomy Cases in Islamabad Capital Territory: A Mixed-Methods Gap Analysis of Rape and Sodomy Acquittals in the Islamabad Capital Territory of Pakistan between 2017 and 2020.* Karachi: Legal Aid Society, 2022. https://www.las.org.pk/media/pdfs/rpandp/GAP-Analysis-ICT.pdf.

[593] Farida Shaheed & Sohail Warraich. *Barriers to Access and Uptake of Public Sector GBV Services by Women Survivors of Violence*. Islamabad: United Nations Population Fund, 2023. 2. https://pakistan.unfpa.org/sites/default/files/pub-pdf/2024-10/Barriers-TO-Access-Uptake-Of-Public-Sector-GBV-Services-By-Women-Survivors-Of-Violence.pdf.

[594] Ibid.

Judiciary and Specialised Courts

In Pakistan, specialised courts have been established to address violence against women and ensure more effective and gender-sensitive legal responses. In 2017, the Lahore High Court launched Pakistan's first GBV Court, designed to streamline cases involving female survivors, provide support, ensure speedy and confidential trials, and protect survivors from harassment and reprisals. Though the statutory requirement under section 344-A CrPC is that the trial be concluded within "three months from the date of taking cognisance of the matter", a study of the GBV Model Court in Lahore cites the average duration of trials to be significantly longer, with some being concluded over a three year period.[595] Of the 13 cases that resulted in conviction, only two trials were concluded within a year.[596] The Supreme Court further expanded this initiative in June 2019 by establishing 1,016 special courts to handle domestic violence cases.[597]

Additionally, the Anti-Rape Act has facilitated the establishment of specific courts to address rape cases.[598] While the provinces and ICT have notified several courts to deal with GBV cases, challenges remain, including the lack of awareness and training among judges, prosecutors, police officers, and medical personnel in dealing with such cases in a gender-sensitive manner, as noted by the CEDAW Committee. By the end of 2023, there was a backlog of 39,655 cases before GBV courts across Pakistan, with the highest pendancy in Punjab with 34,350 cases before 196 courts.[599]

National Human Rights Institutions

All three of Pakistan's national human rights institutions - the National Commission on Human Rights (NCHR), the National Commission on the Status of Women (NCSW) and the National Commission on the Rights of the Child (NCRC) - play an important role in addressing violence against women and girls. However, the NCSW has a specific mandate to address discrimination (including violence) against women, and will be explored below.

National Commission on the Status of Women

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[595] Punjab Commission on the Status of Women. *Special Mechanisms to Address Violence Against Women in Punjab: A Study of Model Gender-Based Violence Court in Lahore & Violence Against Women Centre in Multan.* Lahore: Punjab Commission on the Status of Women, 2020. 13. https://pcsw.punjab.gov.pk/system/files/PCSW%20Report%20Merged%20Version%20-%20AAK%20comments%20-%20May%2021._0.pdf.

[596] Ibid.

[597] Amy Woodyatt and Sophia Saifi, "Pakistan to Open More than 1,000 New Courts to Fight Violence Against Women," *CNN*, June 21, 2019, https://edition.cnn.com/2019/06/20/asia/pakistan-court-violence-women-intl-scli/index.html.

[598] Anti Rape (Investigation and Trial) Act 2021, sec. 3.

[599] Law & Justice Commission of Pakistan. *Unveiling Shadows: Gender-Based Violence Cases – 2023.* Islamabad: Law & Justice Commission of Pakistan, August 2, 2024. 2.http://ljcp.gov.pk/nljcp/assets/dist/Publication/gbv.pdf.

The NCSW plays a crucial role in promoting women's rights and gender equality. It is mandated to review laws, policies, and programs, make recommendations for reforms, and advocate for women's empowerment and protection from discrimination. The NCSW operates provincial units as well. These are:

- The Punjab Commission on the Status of Women (PCSW),
- The Sindh Commission on the Status of Women (SCSW),
- The Khyber Pakhtunkhwa Commission on the Status of Women (KPCSW), and
- The Balochistan Commission on the Status of Women (BCSW).

The Commissions can also take up complaints from victims of discrimination and abuse and refer those complaints to relevant law enforcement agencies to conduct investigations into said complaints. Despite their importance, they face challenges including limited resources, coordination issues, and leadership instability, such as delays in appointing new chairpersons for commissions like the PCSW, which hinders their effectiveness. Thus, there is a need to strengthen the function and mandates of the Commissions to allow them to continue advocating against violence against women.

Shelters and Victim Support

The Family Protection & Rehabilitation Centre for Women (FPRC), under the Ministry of Human Rights, provides free shelter, medical and legal aid, and counseling to women victims of violence. It also organises recreational and awareness activities on issues like mental health, domestic violence, and child wellbeing. Special learning classes are held for victims' children. The Social Welfare departments of the provincial governments also operate shelter homes, called Dar ul Amans, that provide victims support, such as medical care, counselling, legal aid and vocational training. These are also overseen by provincial Commissions on the Status of Women. However, many of these Dar ul Amans operate with significant resource constraints, including a lack of funding, shortage of staff and a lack of essential supplies to accommodate victims.[600]

Summary of UN Observations

Several UN Treaty Body Committees and States have made recommendations to Pakistan to prohibit all forms of violence against women, guarantee that instances of violence against women are thoroughly and promptly investigated and prosecuted, and provide victims with adequate support and protection.

[600] National Commission for Human Rights (Pakistan), *More Than Shelter: Needs Assessment of Dar ul Amans and Shelters in Pakistan* (Islamabad: NCHR, December 2023), https://nchr.gov.pk/wp-content/uploads/2023/12/More-Than-Shelter.pdf

Human Rights Committee

The Human Rights Committee urged Pakistan to adopt and enforce legislation that prohibits all forms of violence against women, including marital rape, and to adopt the Domestic Violence Bill to ensure full alignment with the ICCPR.[601] It called for the effective enforcement of laws against honour killings and harmful traditional practices, the prohibition of *qisas* and *diyat*, and compliance with the Supreme Court's rulings against jirgas and panchayats.[602] The Committee further emphasised the need for prompt and thorough investigations into violence against women, prosecution and appropriate punishment of perpetrators, access to remedies and reparations for victims,[603] and the provision of shelters and comprehensive support services, including legal, medical, financial, and psychological assistance.[604]

Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights reiterated the necessity of enforcing existing laws that criminalise violence against women, including anti-honour killing laws, and monitoring their enforcement.[605] It called for timely investigations and prosecution of such cases with appropriate penalties.[606] Additionally, it highlighted the importance of nationwide training for police, prosecutors, judges, and journalists on women's rights and violence against women.[607] The Committee also urged the State to ensure victim access to support services—legal, medical, financial, and psychological—by establishing sufficient shelters and counselling centres and increasing the presence of female police officers.[608]

Committee against Torture

The Committee against Torture called on Pakistan to strengthen national and provincial legislation criminalising all forms of violence against women and ensure such laws are effectively implemented.[609] It stressed invalidating and prohibiting recognition of judgments by jirgas or panchayats, especially those exculpating honour-based crimes or imposing corporal punishment.[610] CAT also recommended ensuring effective investigations and prosecutions, redress for victims, and mandatory awareness and training for officials on their duty to protect

[601] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 17(a).

[602] Ibid, para 17(d).

[603] Ibid, para 17(b).

[604] Ibid, para 17(c).

[605] UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Initial Report of Pakistan, E/C.12/PAK/CO/1, (2017), para 60(a).

[606] Ibid, para 60(b).

[607] Ibid, para 60(c).

[608] Ibid, paras 60(d) & (e).

[609] United Nations Committee against Torture (CAT), Concluding Observations on the initial report of Pakistan, CAT/C/PAK/CO/1, (2017), para 31(a).

[610] Ibid, para 31(c).

women from violence.[611] It emphasised the importance of immediate access to protection and support services, including shelters and psychological care.[612]

Committee on the Elimination of Discrimination against Women

The CEDAW Committee recommended adopting comprehensive legislation criminalising all forms of gender-based violence against women, including domestic violence and marital rape, with no exemptions.[613] It urged the development of a national action plan to combat such violence[614] and the implementation of systematic capacity-building for law enforcement and judicial personnel on gender-sensitive procedures.[615] CEDAW also called for inclusive shelters, strengthened support services, and legal counselling for victims.[616] It stressed the need for adequate funding, staff training, and regular monitoring of services,[617] as well as systematic data collection on violence against women and enforcement outcomes.[618]

Committee on the Rights of the Child

The CRC Committee urged Pakistan to apply a zero-tolerance approach to gender-based crimes committed in the name of honour and ensure that such cases are prosecuted under the Penal Code without recourse to sharia-based settlements.[619] The Committee emphasised the need for public awareness and training efforts targeting community leaders, officials, and the media to eliminate misogynistic attitudes relating to 'honour'.[620] It also recommended that effective protection, including shelters and support services, be made available for women and children who are victims or at risk of honour-based violence.[621]

[611] Ibid, paras 31(b) & (e).

[612] Ibid, para 31(d).

[613] United Nations Committee on the Elimination of Discrimination against Women, Concluding Observations on the fifty periodic report of Pakistan, CEDAW/C/PAK/CO/5, (2020), para 32(a).

[614] Ibid, para 32(b).

[615] Ibid, para 32(c).

[616] Ibid, para 32(d).

[617] Ibid, para 32(d).

[618] Ibid, para 32(e).

[619] United Nations Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Pakistan, CRC/C/PAK/CO/5, (2016), para 27(a).

[620] Ibid, para 27(b).

[621] Ibid, para 27(c).

Recommendations

Legislative

Enact Legislation Against Domestic Violence in ICT

The ICT Domestic Violence Bill, 2020 should be enacted into law to provide a functioning grievance redressal mechanism for victims of domestic violence as well as making protection and support mechanisms available for victims.

Harmonise Domestic Violence Legislation in the Provinces

The Sindh Domestic Violence (Prevention and Protection) Act, 2013 does not make clear whether offences are cognisable which sometimes results in the police's refusal to lodge an FIR. Section 6 of the Sindh Domestic Violence (Prevention and Protection) Act, 2013 should be amended to clarify that the offences in the Act are cognisable and non-bailable, allowing police to take immediate action. Several provinces have notified Protection Officers or Protection Committees which are responsible for victim assistance, facilitating medical treatment, legal support, and maintaining incident records which creates uncertainty on whether cognisance of offences should be taken by Protection Officers or local police. Schedule II of the CrPC should be amended to clarify this. The Khyber Pakhtunkhwa Domestic Violence Against Women Act, 2021 and Punjab Protection of Women Against Violence Act, 2016 restrict a "complainant" or "aggrieved person" to a woman, leaving out other vulnerable groups who may be at threat of domestic violence. Both Acts must be amended to include "any woman, child or any vulnerable person" as included in the Sindh and Balochistan Acts. The Punjab and Balochistan Acts include wide definitions of a domestic relationship, and consider it to include consanguinity, marriage, and adoption or employment. The Sindh and Khyber Pakhtunkhwa Acts should be amended to include persons who are related through employment in their definitions of "domestic relationship" to protect domestic workers who may face domestic violence. The Khyber Pakhtunkhwa and Sindh Acts outline punishments for committing the offences outlined in their Acts in section 3(2) and section 6(1) respectively, while the Balochistan and Punjab Acts do not refer to punishments. The Balochistan and Punjab Acts should be amended to clarify these punishments.

Institutional and Procedural

Sensitisation of Police, Prosecutors, Judges and Relevant Departments

While numerous trainings on pro-women laws have laid important groundwork, there is now an opportunity to significantly enhance their impact by leveraging technology and data. Mandatory, certification-based programs should be introduced for judges, prosecutors, police, and other officials, with certification required for postings to GBV courts and units such as the SSIOU. These trainings can be made more accessible and engaging through AI-driven tools, mobile platforms, and interactive content, covering legal standards, trauma-informed approaches, and the impact of institutional bias. Linking certification to career incentives like promotion points or allowances can further boost uptake. To ensure continued improvement, a

robust feedback loop should be established to evaluate performance and guide future training efforts.

Ensure that police file FIRs in all Violence Against Women Cases

In several violence against women cases, instead of filing an FIR as per law, police write a 'parcha' which they investigate and then use to decide whether an FIR will be filed or not. This is often used to allow and enable 'razinama' and out of court settlements between the families of the victim and perpetrator. The practice of 'kacha parcha' must be eliminated across the police and the legal requirement to file an FIR must be reiterated. Citizens should be given access to and awarenes about helplines where they can report police misconduct including the use of 'kacha parcha'. Strict actions must be taken against police who create delays in registered FIRs, especially in complaints concerning gender-based violence.

Ensure Timely Medical Examinations

Delays in FIR registration often lead to late medico-legal examinations, resulting in inconclusive reports and weak evidence that hinders prosecution in violence against women cases.[622] Medico-legal examinations should be conducted within 72 hours in accordance with SOPs. Vacant posts for medico-legal officers should be filled urgently, especially in high-incidence areas. The severe shortage of qualified officers, where only 10.45% of medical officers in Punjab meet qualifications required to carry out medico-legal work, creates a legal gap, as untrained officers' testimony does not qualify as expert evidence under the Qanun-e-Shahadat Order, 1984.

The Government should support medical universities in developing standardised medico-legal forms and consider establishing a specialised cadre of medico-legal officers with dedicated training, structure, and sufficient women representation. Facilities like the VAWC must be equipped with adequate personnel and resources. Additional forensic labs and DNA testing facilities should be set up to ease the burden on existing labs. Public awareness for victims is also needed to encourage timely examinations and evidence preservation. Lastly, data from the Health Information and Management System should guide resource allocation and training in GBV hotspots.

Ensure Strict Enforcement of Sections 166 and 186 of the PPC Relating to the Conduct of Public Servants

Sections 166 and 186 of the Pakistan Penal Code offer important tools for ensuring accountability of public servants, including police officers, in cases involving violence against women. Under these provisions, failure to carry out an investigation properly is a punishable

[622] Fatima Yasmin Bokhari. Accountability for Rape: A Case Study of Lodhran. Lahore: Centre for Human Rights, University College Lahore, 2018. 22. https://cfhr.com.pk/wp-content/uploads/2022/01/Accountability-for-Rape-A-case-study-of-Lodhran.pdf.

offence with imprisonment of up to three years, a fine or both.[623] Similarly, intentionally hampering, misleading, or jeapordising an investigation or prosecution is punishable with the same.[624] To strengthen enforcement, these legal provisions should be widely publicised, and citizens should be encouraged to use existing accountability mechanisms, such as the Ministry of Human Rights Helpline 1099, when public officials neglect their duties. Additionally, performance evaluations, promotions, and postings of public servants should take into account any unresolved complaints or misconduct related to GBV cases, creating a clear incentive for improved performance and accountability.

Strengthen the Role of National Human Rights Institutions in Legal Interventions

National Human Rights Institutions (NHRIs) such as the NCHR, NCSW, and NCRC should actively exercise their mandate to intervene in cases of violence against women, particularly where victims face societal pressure to withdraw or are unable to pursue justice. This power, provided under their respective Acts, requires no legislative amendment but must be operationalised more effectively. NHRI leadership, specifically the Chairpersons of NCHR and NCSW, should prioritise this task within their mandate by establishing internal procedures to identify eligible cases, particularly when victims have indicated an intention to resile. They should coordinate with police, courts, and legal aid providers to receive timely information and act swiftly. Public awareness campaigns should also highlight NHRI intervention as a tool for victims seeking justice when institutional or social obstacles exist, drawing on examples like the Usman Mirza case where such action led to a conviction despite the victims withdrawing.

Establish Special Committees to Oversee Enforcement of Women-related Legislation

The system of appointing a Special Committee to oversee the implementation of legislation has proved successful in the case of the Special Committee to Monitor Implementation of Anti-Rape (Investigation and Trial) Act, 2021. It has enabled the notification of several rules under the Act, including the Anti-Rape (Sex Offenders Register) Rules, 2023, the Anti-Rape (Investigation) Rules, 2022, the Anti-Rape (Trial Procedure) Rules, 2022 and the Anti-Rape (Crises Cell and Medico-Legal) Rules, 2022. This model should be replicated, especially at the provincial level, to enable swift notification of rules to facilitate implementation of gender-based violence legislation. These special committees should comprise individuals from relevant Federal or Provincial ministry, division, department, authority or office, members of the legal or medical profession, legislators, retired judges, serving or retired public servants, civil society or non-governmental organisations, as deemed fit by the relevant authority.

Increase the Number of Courts Assigned to Adjudicate GBV Cases

There are currently 480 courts across Pakistan assigned to adjudicate a pendancy of 39,655 GBV cases.[625] From 1st January till 31st December 2023, the pendency of cases before GBV

[623] Pakistan Penal Code, sec. 166(2). Added by Act XLIV of 2016, sec. 3.

[624] Pakistan Penal Code, sec. 186(2) Added by Act XLIV of 2016, sec. 4.

[625] Law & Justice Commission of Pakistan. *Unveiling Shadows: Gender-Based Violence Cases – 2023.* Islamabad: Law & Justice Commission of Pakistan, August 2, 2024. 2.http://ljcp.gov.pk/nljcp/assets/dist/Publication/gbv.pdf.

courts increased by 81%.[626] More GBV courts must be notified across the country but especially in Punjab where pendency increased by more than 100% and Sindh where there were only 27 courts assigned to adjudicate GBV cases.[627]

Improve Coordination Between MoHR, WDD, NHRIs and Police

It is essential to institutionalise coordination mechanisms between the Ministry of Human Rights, Women Development Departments (WDDs), NHRIs, and Police. Evidence from federal and provincial consultations reveals significant gaps in communication, clarity of roles, and follow-through between departments. District-level officers, such as those from the Social Welfare Department (SWD) and WDD, are often unaware of the legal procedures and responsibilities, while the Police operate in silos without clear channels of collaboration. This lack of coordination hampers implementation despite provincial-level directives. Therefore, a formalised inter-agency coordination framework should be developed, with clear execution plans, designated focal persons, regular joint trainings, and district-level notification systems to ensure all actors are aligned in their roles and responsibilities. Regular monitoring and joint review meetings can further reinforce accountability and support a unified response to violence against women.

Establish a single-window system to collect, analyse and publish information on violence against women

According to desk research and consultations with relevant ministries and departments at the federal and provincial levels, there is no institutional mechanism to collect data on gender-based violence. Data collection is conducted on an ad-hoc basis with poor coordination between the Ministry of Human Rights and provincial departments. An online, centralised dashboard should be created for gender-based violence data. It should include data on the numbers of complaints about all forms of gender-based violence against women, the number and type of orders of protection issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction and the amount of time taken for the disposal of cases. As per CEDAW recommendations, the system should include information on the sentences imposed on perpetrators and the reparations, including compensation, provided to victims/survivors. This information should be published in the form of an annual gender parity report, following the example of the Punjab Gender Parity Report published by the PCSW and WDD in Punjab.

Increase Funding and Conduct Fiscal Analysis for Effective Implementation of Women Protection Laws

Ensure sustained and adequate human and financial resource allocation at the national, provincial, and local levels for the effective implementation of laws and policies addressing all forms of gender-based violence against women. This includes funding for prevention, victim/survivor protection and support services, investigation and prosecution of cases, reparations, and institutional support to women's organisations. Budget allocations should not

[626] Ibid.

[627] Ibid.

be confined to isolated funding cycles but must reflect an ongoing commitment, with specific provisions for cross-cutting functions such as training, data collection and analysis, monitoring and evaluation, legislative and policy reviews, and institutional strengthening which take place across different departments.

A detailed fiscal analysis of women protection legislation should be conducted to assess the duties and powers assigned by the law, the entities responsible for implementation, their current institutional and financial capacities, and the costs required to effectively fulfill these mandates. This analysis should inform realistic, fully-costed implementation plans. NHRIs, such as the National Commission on the Status of Women, can play a vital role in conducting or coordinating this analysis and providing clear costing proposals. These can serve as a basis for government budgeting processes and offer guidance to development partners seeking to support effective, targeted implementation.

Policy

Raise Awareness and Promote Education about Women's Rights

To foster respect, equality, and long-term behaviour change, public education on women's rights must go beyond passive information sharing to actively build community consciousness and social transformation. Women's rights and protections—both legal and grounded in Islam and Shariah—should be integrated into the Single National Curriculum from an early age. Community-based interventions, including village and neighbourhood forums, should be used to help people identify signs of GBV, intervene safely, and access support. A comprehensive media strategy should be developed with PEMRA to engage news and entertainment media in violence prevention. Mass media platforms (TV, radio, social media, print) must be used to share culturally relevant messages, raise awareness about support services (hotlines, shelters, counselling, legal aid), and promote gender justice across society.

Address Social and Cultural Norms that Perpetuate Violence Against Women

By working with religious leaders, community leaders and the media, messages to dismantle the cultural norms which perpetuate violence against women should be promoted. The judgement of the Federal Shariat Court which declared that no provisions of the Punjab Protection of Women against Violence Act 2016 (PPWVA) are against the injunctions of Islam[628] must be broadly circulated to tackle the wrongly held beliefs that women have no right to complain against family members or that laws protecting women against violence are discriminatory against males or un-Islamic. The approach used by the NCHR in their domestic violence brief, where they drew on Islamic jurisprudence, including interpretations by judges of the Federal Shariat Court and examples of legislation protecting women in other Muslim countries, must be adopted in all messaging related to violence against women. Misconceptions about gender-based violence must be addressed head-on with the help of clerics who can refer

[628] Federal Shariat Petition Nos. 03-I, 01-I, 02-I & 01-L of 2016.

to the Quran and Sunnah to clarify that speaking out against violence against women does not undermine the family system but upholds justice and compassion, central tenets of Islam.

Refugees, internally displaced persons, and stateless persons

Chapter Summary

The protection of refugees, internally displaced persons (IDPs), and stateless persons constitutes a significant dimension of Pakistan's human rights framework. As one of the largest refugee-hosting countries globally, Pakistan is currently home to over 1.3 million registered Afghan refugees and an estimated 2.2 million unregistered individuals, alongside several communities at risk of statelessness and those displaced internally due to natural disasters or conflict. While administrative frameworks have supported humanitarian responses over the years, the absence of a dedicated legal structure presents an opportunity to further develop rights-based, consistent protections across all categories of displacement and legal identity. Integrating these populations into national planning remains critical to ensuring equitable access to services and strengthening social cohesion.

Pakistan's international human rights obligations relevant to these populations derive from instruments such as the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), and the Convention on the Rights of the Child (CRC), among others. Although not a party to the 1951 Refugee Convention or the 1954 Convention on Statelessness, Pakistan has entered into formal cooperation agreements with the UN High Commissioner for Refugees (UNHCR), including the 1993 Cooperation Agreement and the 2003 Tripartite Agreement on voluntary repatriation. Domestically, protections under Articles 9 and 14 of the Constitution extend to all persons in Pakistan, regardless of citizenship. The Foreigners Act, 1946, Pakistan Citizenship Act, 1951, and Naturalisation Act, 1926, provide the foundational legal basis for regulating entry, residence, and nationality. However, harmonisation with international standards on asylum procedures, non-refoulement, and access to nationality remains an area for potential legislative development.

Institutional responsibility for refugees and stateless persons is shared across several federal bodies, including the Ministry of Interior, the Ministry of States and Frontier Regions, and the National Database and Registration Authority (NADRA), in coordination with provincial authorities and UN agencies. The National Disaster Management Authority (NDMA) and its provincial counterparts coordinate IDP response and rehabilitation. While initiatives such as the issuance of Proof of Registration (PoR) and Afghan Citizen Cards (ACC), mobile registration units, and disaster response frameworks are operational, there is scope to enhance data collection, administrative outreach, and inter-agency coordination. Institutional capacities can be strengthened further through targeted training, development of grievance redress mechanisms, and the integration of displacement and statelessness considerations into national development and resilience strategies.

This chapter provides a comprehensive examination of refugees, IDPs, and stateless persons, placing it in context with Pakistan's constitutional framework and international human rights

commitments. It identifies areas where legislative and institutional enhancements can further align domestic practices with international standards under treaties such as the ICCPR, CAT, and CRC. Key opportunities include the enactment of a dedicated refugee protection law emphasising non-refoulement, a legal framework for the reduction of statelessness, and a national policy on internal displacement. Procedural improvements may include expanded registration systems, improved service access, and community-based engagement. Strengthening inter-provincial coordination and law enforcement sensitisation, alongside broader integration into climate and disaster resilience planning, can support Pakistan's commitment to inclusive and humane protection for all displaced and stateless populations.

Situational analysis

Pakistan has historically demonstrated a longstanding commitment to providing refugee and humanitarian assistance to vulnerable populations fleeing conflict, persecution, and natural disasters. In doing so, the country has played a vital regional and international role in responding to forced displacement. Despite this, the legal and policy frameworks governing the status of refugees, internally displaced persons (IDPs), and stateless persons remain areas for further development. Strengthening these frameworks presents an opportunity to align more comprehensively with Pakistan's constitutional protections and international human rights obligations.

Refugees

Pakistan is currently one of the largest refugee-hosting countries in the world. The UN Convention on the Status of Refugees, 1951 defines a 'refugee' as someone who

> "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."[629]

According to data from the United Nations High Commissioner for Refugees (UNHCR), there are 1,362,402 registered refugees in Pakistan,[630] along with an estimated 2.2 million unregistered individuals.[631] The majority of these refugees are from Afghanistan, having sought refuge over several decades due to political instability, conflict, and humanitarian crises in their country of origin.

Although Pakistan is not a signatory to the 1951 UN Convention on the Status of Refugees or its 1967 Protocol, it has consistently hosted (and continues to host) displaced populations

[629] UN Convention on the Status of Refugees, 1951, art. 1(A)(2),

[630] UNHCR, "Pakistan," UNHCR Operational Data Portal, accessed 18 March 2025, https://data.unhcr.org/en/country/pak. as of 28 February 2025

[631] Ibid.

through administrative frameworks developed in partnership with the UNHCR. For example, refugee registration and management processes are supported by the Government in coordination with the UNHCR and the International Organisation for Migration (IOM), and ongoing efforts are being made to improve the efficiency and coverage of these mechanisms.

Given the scale and complexity of refugee management, the Government continues to explore long-term policy options to support refugee communities while safeguarding national interests. Measures such as the issuance of Proof of Registration (PoR) and Afghan Citizen Cards (ACC) facilitate access to services and temporary protection, although administrative delays in registration can impact service access for certain groups.[632] The Government has reaffirmed its commitment to upholding principles of non-refoulement and human dignity and continues to work closely with international partners to ensure the protection of registered refugees and asylum seekers while maintaining border integrity and public safety.[633]

Internally Displaced Persons (IDPs)

The UN Office for the Coordination of Humanitarian Affairs (OCHA)'s Guiding Principles define 'internally displaced persons' as:

> Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.

Pakistan has experienced recurring internal displacement due to both natural disasters and localised conflict. The 2022 floods, which affected approximately 33 million people, represent one of the most significant displacement events in recent history.[634] In 2023, over 732,000 persons were displaced due to environmental disasters, while 2,800 individuals were displaced as a result of conflict.[635] IDP management in Pakistan is coordinated by the National Disaster Management Authority (NDMA), Provincial Disaster Management Authorities (PDMAs), and humanitarian partners. However, there is currently no consolidated legal framework on ensuring rights-based protection to IDPs.

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[632] Amnesty International, "Pakistan: Government Must Stop Harassing and Arbitrarily Arresting Afghans Seeking Refuge," *Amnesty International,* June 20, 2023, accessed March 18, 2025, https://www.amnesty.org/en/latest/news/2023/06/pakistan-government-must-stop-harassing-and-arbitrarily-arresting-afghans-seeking-refuge/.

[633] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 135.

[634] Consultative Group on International Agricultural Research (CGIAR), "The Hidden Crisis of Disaster Displacement and Host Community Struggles in Rural Areas of Pakistan," *PreventionWeb*, April 19, 2024, accessed March 18, 2025, https://www.preventionweb.net/news/hidden-crisis-disaster-displacement-and-host-community-struggles-rural-areas-pakistan.

[635] Internal Displacement Monitoring Centre (IDMC), "Pakistan," accessed March 18, 2025, https://www.internal-displacement.org/countries/pakistan/.

In response to sudden-onset emergencies, temporary camps are set up to provide immediate shelter, basic medical care, and food distribution. However, ongoing efforts are being made to enhance the resilience of disaster response mechanisms, including improved planning for durable solutions such as voluntary return, local integration, or relocation. Particular attention is given to addressing the needs of vulnerable groups, including women, children, and persons with disabilities, who may face increased risks in displacement settings.[636] As part of ongoing climate resilience initiatives, the Government continues to work toward integrating displacement-related considerations into broader national planning processes to reduce exposure to climate-related and conflict-induced displacement.[637]

Stateless Persons

The UN Convention Relating to the Status of Stateless Persons, 1954 ('UN Statelessness Convention') defines a stateless person as "a person who is not considered as a national by any State under the operation of its law."[638] In Pakistan, communities at risk of statelessness include Bengalis, Biharis and Rohingyas who predominantly reside in Karachi.[639]

Ethnic Bengalis include those who resided in Pakistan prior to the separation of the province of East Pakistan from West Pakistan to form the independent state of Bangladesh in 1971 and remained in Pakistan since then. They are stateless because they are not awarded citizenship by the Pakistani state, despite many of them having lived in the country prior to 1971. Although many received manual ID cards, the digitisation process that began in 2000 meant that many faced hurdles in attaining registration.[640]

Similarly, Biharis are an Urdu-speaking group who moved to East Pakistan after the Partition of British India in 1947.[641] After 1971, many migrated to mainland Pakistan under a tripartite agreement between India, Bangladesh and Pakistan.[642] The Rohingyas are a Muslim ethnic group from Myanmar who are not recognised as an ethnic group by the State of Myanmar and, therefore, not entitled to citizenship.[643] Many fled to Bangladesh and Pakistan since then, with the numbers increasing after the crackdown on the Rohingya population by the Myanmar Government that began in 2017.

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[636] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 237.

[637] Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, para 44.

[638] UN Convention Relating to the Status of Stateless Persons, 1954, art. 1.

[639] UNHCR, "Pakistan - Stateless or at Risk of Statelessness," accessed March 18, 2025, https://reporting.unhcr.org/pakistan-stateless-or-risk-statelessness-17.

[640] Bilal Kuchay, "Stateless Ethnic Bengalis in Pakistan: A Struggle for Recognition," *Al Jazeera*, September 29, 2021, accessed March 18, 2025, https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan.

[641] Areeba Naveed, "The Stateless in Pakistan," *BIPP Policy Brief Series*, Policy Brief #PB-83-2024, June 28, 2024, accessed March 18, 2025, https://sjbipp.org/publications/PB/pdf/PB-83-2024.pdf., 2

[642] Ibid

[643] Peggy Brett and Kyaw Yin Hlaing, "Myanmar's 1982 Citizenship Law in Context," *Policy Brief Series No. 122* (2020), Torkel Opsahl Academic EPublisher, accessed March 18, 2025, https://www.toaep.org/pbs-pdf/122-brett-kyh/.

These communities often have historical ties to Pakistan, with many residing in the country since the 1970s or earlier. Challenges arise in cases where individuals lack formal identity documentation or face difficulties accessing the Computerised National Identity Card (CNIC) system due to gaps in historical records or procedural complications. Limited access to registration can impact access to basic rights and services, including education, healthcare, and formal employment.

The Government acknowledges the need for further policy clarity and administrative outreach to facilitate documentation and resolve issues affecting stateless communities. Pakistan has engaged with UNHCR on statelessness-related programming and continues to examine best practices for aligning domestic registration procedures with global standards on identity and legal recognition.[644] The Government has also acknowledged the need for improved data collection and community engagement to strengthen Pakistan's response to statelessness.[645]

In conclusion, Pakistan plays a pivotal role in the region by hosting large populations of refugees, responding to internal displacement, and addressing the challenges of statelessness. While the current legal and policy landscape provides a foundation for humanitarian protection, there remain opportunities for further development of comprehensive frameworks that address evolving needs. Continued engagement with international partners, civil society, and community stakeholders will support inclusive, rights-based approaches and reinforce Pakistan's ongoing commitment to humanitarian protection, social inclusion, and national security.

Legal Analysis

International Law

ICCPR

The protection of aliens against unlawful expulsion

Article 13 of the ICCPR provides for the protection of aliens who are 'lawfully in a State's territory' against unlawful expulsion. The connection is relevant because an alien 'lawfully in a territory' includes refugees, stateless persons, migrant workers and other non-nationals who are legally permitted to be in a State Party's territory.[646]

According to Article 13 of the ICCPR, an alien who has legal entitlement to residence in a particular State can only be expelled for a lawful reason. The lawfulness of the decision

[644] United Nations High Commissioner for Refugees (UNHCR), *Pakistan: Stateless or at Risk of Statelessness*, 2020, https://reporting.unhcr.org/pakistan-stateless-or-risk-statelessness-17.

[645] Ibid.

[646] Taylor PM, *A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights* (Cambridge: Cambridge University Press, 2020), 359

depends upon the domestic State's requirements for entry and stay.[647] These grounds must also be compatible with the other provisions of the ICCPR.

Before a decision is passed, the alien must be allowed to argue his/her case before a competent authority with the assistance of legal representation. A 'competent authority' does not have to be a judicial court, but can be an administrative authority as well.[648] An exception to this is where there are "compelling reasons of national security", such as urgent orders of expulsions or deportation. For example, the HRC upheld the denial of a chance for an appeal in *Karker v. France*[649] as the author was supporting a terrorist movement. Nevertheless, this can only be sought in extreme circumstances, and the norm is to afford the alien a chance to seek a review of the decision for his/her expulsion.

The rights to recognition and nationality

The right to recognition refers to one's ability to have legal subjectivity and, therefore, be recognised as a legal person in the State they reside in. Article 6 of the UDHR guarantees the right to recognition as a person before the law. This is further reinforced under Article 16 of the ICCPR.

While there is little commentary on the provision from the HRC, academics have highlighted that it is fundamental to the protection of one's inherent dignity of their person.[650] It is connected to the concept of legal capacity, but differs from 'equal recognition before the law', which entitles one to seek legal remedy for the violation of one's rights. The right to recognition includes registration at birth, receiving national identification and other means to indicate the individual's status as a subject of the law of a particular country. The right extends to persons in a State's territory who are not citizens or nationals of the State, such as stateless persons, refugees, economic migrants and others.

Closely related to the right to recognition is the right to nationality. While the primary subjects in international law are States, individuals have some legal personality in the legal framework by virtue of their ties to a State. While human rights law does apply to those without a nationality, most individuals exist legally or are 'seen' through their relationship to a state and thereby have access to rights due to that existence.

Under international law, every individual has the right to a nationality and cannot be arbitrarily deprived of their nationality. Each state determines for itself through its domestic law who its citizens are, so long as it complies with international law principles such as those relating to non-discrimination. Therefore, rendering entire groups or communities stateless or denying them nationality may run afoul of human rights prohibitions relating to discrimination.

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[647] United Nations Human Rights Committee, *General Comment No. 15: The Position of Aliens Under the Covenant*, HRI/GEN/1/Rev.1 at 18, April 11, 1986, para 9

[648] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 363

[649] Ibid., 365; *Karker v. France*, CCPR/C/70/D/833/1998, 26 October 2000, paras 2.1, 9.3

[650] Ibid., 445.

There is a presumption against depriving an individual of nationality because it strips that person of the protection of the state, and the attendant multiplicity of civil, political, economic, social and cultural rights it gives to citizens. Individuals feel a sense of belonging and identity due to their nationality and taking it away also affects their right to work, to join associations, to access social security, property rights, political participation and the freedom of movement in leaving and re-entering the country. While there is a presumption against a lack of nationality, international law does allow for a revocation of citizenship as a punishment. For instance, the crime of terrorism or other serious crimes which threaten national security may result in a state stripping an individual of their nationality.

Denying someone nationality could render them stateless. A stateless person is someone who is not recognised as a national of any country through its domestic law. There are three main ways in which nationality is acquired or conferred by States: by descent (*jus sanguinis* – law of the blood), birth on the territory (*jus soli* – law of the soil) or by way of naturalisation (including *jus domicili* or long residence). Therefore, determining statelessness requires analysis of every State's laws for which the individual could be considered a national and any decisions which may have had an impact on their status.

Agreements with the UNHCR

1993 Cooperation Agreement

In 1993, Pakistan signed a cooperation agreement with the UN Human Rights Commissioner for Refugees (UNHCR).[651] The Agreement established the mandate of the UNHCR in Pakistan and allowed it to establish and maintain offices in the country. The Agreement establishes a framework for cooperation between the Government of Pakistan and the UNHCR in the contexts of international protection of and humanitarian assistance to refugees and other persons of concern to the UNHCR.

2003 Tripartite Agreement

In 2003, Pakistan entered into a tripartite agreement with Afghanistan and the UNHCR for the voluntary repatriation of Afghan citizens living in Pakistan.[652] The Agreement sets up a Commission to facilitate the voluntary return of Afghan refugees with valid Proof of Registration (PoR) cards from Pakistan and their subsequent reintegration. The parties must ensure that decisions to return are voluntary (the primary responsibility of this lies with the UNHCR), and that Afghan citizens can return to either their former places of residence or any other place in Afghanistan. The Agreement is largely administrative and sets out the responsibilities of each of its parties. It places the majority of the responsibility for ensuring

[651] United Nations. Agreement between the Government of the Islamic Republic of Pakistan and the United Nations High Commissioner for Refugees. Signed September 18, 1993. United Nations Treaty Series 1733, no. I-30256: 307–319

[652] UNHCR, Government of Pakistan, and Government of Afghanistan. Tripartite Repatriation Agreement between UNHCR and the Governments of Pakistan and Afghanistan. March 17, 2003. UN High Commissioner for Refugees (UNHCR).

voluntary repatriation with the UNHCR, while Pakistan and Afghanistan must ensure the safe repatriation of Afghan PoR holders back to Afghanistan.

Domestic Law

The Constitution of Pakistan

Refugees

There is no direct constitutional provision that guarantees the rights of refugees, IDPs, stateless persons or related rights, such as the right to seek asylum and the protection of aliens against unlawful expulsion, in the Constitution. In the absence of a coherent legal framework on refugee protection, the judiciary has interpreted certain fundamental rights expansively to account for the right to seek asylum in Pakistan. In *Rahil Azizi v. the State*,[653] the Court held that the denial of an exit permit for an asylum-seeker to Australia (where she was granted a humanitarian visa by the UNHCR) due to an FIR lodged against her for illegal entry into the country was unconstitutional. The Islamabad High Court accepted the presence of asylum seekers in Pakistan awaiting a decision by the UN High Commissioner on Refugees (UNHCR) office in Pakistan as an exception to the unlawful entry of aliens under the Foreigners Act, 1946.

Certain constitutional protections are available to all persons residing in Pakistan, regardless of citizenship status. It was held in the case of *Rahil Azizi v. the State* that "the Constitution guarantees the right to liberty as well as the right to dignity of every person who for the time being is in Pakistan under Articles 9 and 14."[654] The term 'every person' indicates that there is no distinction between citizens and aliens, and thus, extends the protection of these rights to non-citizens as well. It was also held in *Rahil Azizi v. the State* that illegal entry alone cannot constitute an offense under the Foreigners Act 1946 as *mens rea* (illegal or guilty intent) is also needed. In other words, there is no illegality where an individual chooses to take refuge in Pakistan.

Similarly, in *Rahil Azizi v. the State*, the Court stated states:

> Pakistan is not a contracting party to the 1951 Refugee Convention. But the principles enshrined in the Refugee Convention are relevant for our purposes in view of the doctrine of incorporation attracted while interpreting statutory provisions i.e. incorporating principles of international law that do not contradict but rather supplement provisions of statutory law. Article 31 of the Refugee Convention thus becomes a useful aid to interpret section 14 of the Foreigners Act, read with provisions of ICCPR, CAT, the agreement entered into by and between the State of Pakistan and UNHCR, and Articles 4, 9 and 14 of the Constitution.[655]

653 PLD 2024 Islamabad 31

654 Ibid.

655 Ibid., para 23

In *Aamir Aman v. Federation of Pakistan through Secretary, Ministry of Interior, Islamabad*,[656] the Karachi High Court held that the unlawful expulsion of aliens falls within Article 9. In this case, a group of Turkish nationals who were lawfully permitted to work in Pakistan had been denied extensions to their visas, and consequently required to leave the country. The Government had given no reasons for the denial of their visas.[657] The Court held that before being granted exit permits, the petitioners should have had a chance for their case to be heard, as well as to know the grounds of the denial of their visa extension.[658] The Court had cited an earlier judgment in *Roman Catholic Diocese of Islamabad v. Federation of Pakistan*,[659] where the cancellation of the appellants' missionary work visas was upheld as they were later engaged in employment, and therefore violated the terms of their entry.

IDPs

While there is scant case law on the issue of IDPs, in 2014, the Supreme Court heard a public interest petition lodged by the Balochistan Bar Association regarding the killing, kidnapping, abduction and forced disappearances of Balochi lawyers. In light of the deteriorating situation of law and order, many people were displaced in certain areas. While this was not the main issue at hand, the Court ordered the Federal Government and the Provincial Government to take steps for the rehabilitation of over 150,000 IDPs in Dera Bugti and to secure their lives and property while also restoring civil administration.[660]

Stateless Persons

The case law on stateless persons (mainly Bengalis) predominantly concerns their right to citizenship, and is discussed below.

Legislation

Foreigners Act, 1946

The Foreigners Act regulates the conditions for entry of foreigners into Pakistan. Under Section 3, the Federal Government can make orders to prohibit, regulate or restrict the entry into, departure from, or continued presence in Pakistan. Attempts to contravene, abet or attempt to abet a contravention, of the Act are punishable offences under Section 13, as well as assisting illegal entry[661] or employing illegal entrants.[662] The Act is supplemented by the Foreigners Order, 1951, which outlines the discretionary authority of Pakistani officials to allow the entry or exit of foreigners into and from Pakistan.

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656 PLD 2020 Karachi 533

657 Ibid., para 4

658 Ibid., para 19

659 2015 MLD 1714

660 *President Balochistan High Court Bar Association v. Federation of Pakistan,* 2012 SCMR 1958

661 Foreigners Act, 1946, sec. 13A

662 Ibid., sec. 13B

The Foreigners Act allows for the deportation of a foreigner who does not have permission to stay in Pakistan. Under Section 14B, the Federal Government can order for a foreigner's deportation if he/she is pending trial (and if such order is permitted by the court), or while he/she is undergoing any sentence passed under the Foreigners Act.

Currently, the Foreigners Act is the only legislative framework that applies to refugees coming into Pakistan. It has been criticised heavily as it does not make specific provisions for refugees as exceptions for the illegal entry into Pakistan. While such an exception was upheld in *Rahil Azizi v the State*, this has not since been reflected in the Foreigners Act nor any other legislative act in place.

The Naturalisation Act, 1926

The Naturalisation Act, 1926, governs the framework for the granting of Pakistani nationality for those who are not originally of Pakistani descent. Section 3 of the Act outlines the conditions for the granting of a certificate of naturalisation, which include that the applicant is not a minor, not previously a citizen of Pakistan, and has "has resided in Pakistan throughout the period of twelve months immediately preceding the date of the application, and has, during the seven years immediately preceding the said period of twelve months, resided in Pakistan for a period amounting in the aggregate to Act less than four years",[663] among others. Section 4 lays out the requirements for the application. If the Federal Government is satisfied that the applicant meets the criteria set out in Section 3, it may grant the applicant a certificate of naturalisation under Section 5 of the Act.

Despite this Act being in place, many Afghan refugees and stateless persons qualify for a certificate of naturalisation. Nevertheless, many are denied a certificate of naturalisation, and therefore denied citizenship by naturalisation. In the past, Afghans who had migrated to Pakistan before 1979 were retroactively stripped of their citizenship in the wake of the 2014 Army Public School terrorist attack.[664] Thus, even those who have been recognised as citizens after having naturalised are vulnerable to government decisions to strip away their citizenship.

The Pakistan Citizenship Act, 1951

The Citizenship Act, 1951, governs the citizenship framework of Pakistan. The Act covers four main types of attaining citizenship: by birth,[665] by descent,[666] by migration,[667] and by naturalisation.[668] Under Section 11, minors can also be registered as citizens of Pakistan. The

[663] Naturalisation Act, 1926, sec. 3(c)

[664] Riaz Ahmad, "No Country for Old Afghans: 'Post-1951 Immigrants to Be Considered Illegal'," *The Express Tribune*, April 2, 2015, accessed March 18, 2025, https://tribune.com.pk/story/863329/no-country-for-old-afghans-post-1951-immigrants-to-be-considered-illegal.

[665] Pakistan Citizenship Act, 1951, sec. 4

[666] Ibid., sec. 5

[667] Ibid., sec. 6

[668] Ibid., sec. 9 - see discussion on Naturalisation Act

Act also makes provisions for renouncing citizenship,[669] e.g., by attaining citizenship of another country, as well as the deprivation of citizenship.[670] The Act further provides for the granting of a certificate of domicile to any person who has resided in Pakistan for one year before making an application for said certificate.[671]

Despite this law in place, many refugees and stateless persons who are born in Pakistan are not granted Pakistani citizenship.[672] The Citizenship Act does not include any discriminatory language that requires Pakistani parentage for those seeking citizenship by birth; however, it is administered in a manner that discriminates against children of Afghan refugees and stateless persons. Many Afghan refugees repatriated in 2023 under the Illegal Foreigners Repatriation Plan were returning to a place they were entirely unfamiliar with and had never stepped foot in prior to the repatriation order.[673]

Similarly, many Bengalis, Biharis and Rohingyas are denied citizenship despite having lived in the country for a long time, with some people having resided in Pakistan for well over forty years.[674] The children of these stateless persons are also therefore unable to gain citizenship, particularly because of the difficulty of establishing "a paper trail to determine their nationality".[675] This denial of citizenship consequently results in a denial of basic facilities, such as healthcare, education, formal employment, and social security.

The NADRA Ordinance, 2000

The National Database and Registration Authority Ordinance, 2000 (NADRA Ordinance), was promulgated in 2000 to establish the NADRA as the federal authority to oversee the registration of citizens, foreigners and emigrants;[676] the maintenance of a National Data Warehouse of all citizens, foreigners and emigrants, known as the citizen Database;[677] and the issuance of identification cards and documentation, among other functions.[678]

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669 Ibid., sec. 14A

670 Ibid., sec. 16

671 Ibid., sec. 17

672 Nasir Iqbal, "Afghan Children Born in Pakistan Entitled to Citizenship, Says New Plea," *Dawn*, December 1, 2023, accessed March 14, 2025, https://www.dawn.com/news/1794097.

673 Lynzy Billing, "Afghan Refugees Born in Pakistan Are Leaving Their Lives for the Unknown," *New Lines Magazine*, accessed March 14, 2025, https://newlinesmag.com/spotlight/afghan-refugees-born-in-pakistan-are-leaving-their-lives-for-the-unknown/.

674 https://migrationletters.com/index.php/ml/article/view/9996/6604 630

675 Tahera Hasan, "The Unbearable Statelessness of Being," *Dawn*, October 8, 2023, accessed March 14, 2025, https://www.dawn.com/news/1779871

676 NADRA Ordinance, 2000, secs. 8-9

677 Ibid., sec. 7

678 Ibid., Chapter VI

Case Law - Citizenship

In terms of a right to nationality and citizenship, the judiciary has interpreted the relevant laws differently. in *Ghulam Sanai v the Assistant Director,*[679] the Court rejected a claim brought by the son of an Afghan refugee for citizenship by birth. The Court held that Sections 4 (citizenship by birth) and 5 (citizenship by descent) of the Citizenship Act must be read together. It held that since his father was not a Pakistani citizen, the son could not claim citizenship either.

In *Saeed Abdi Mahmud v NADRA*,[680] the son of Somali refugees who was born in Pakistan wanted to apply for Pakistani citizenship. However, NADRA denied him citizenship, after which he instigated judicial proceedings. The Court directed NADRA to provide him citizenship as the language used in Section 4 of the Citizenship was "straightfoward and unambiguous."[681] However, the Court also said that Afghan refugees are not entitled to citizenship under the Act given that they are dealt with under the Foreigners Act and administratively by the UNHCR.[682] By singling out Afghan refugees as not entitled to citizenship, the Court's discriminatory approach is concerning as there is nothing in the text of the Citizenship Act that confirms this, nor does the Foreigners Act state that it applies particularly to Afghan refugees.

However, recently, the judiciary has interpreted Section 4 of the Citizenship Act more literally. In *Hafiz Hamdullah Saboor v. Government of Pakistan*,[683] the Islamabad High Court held that Section 4 of the Citizenship Act allows for a person to be granted citizenship as a right upon birth. The application of this section is not conditional on other factors. Nevertheless, the case law indicates a confusing approach towards the issue which is not fully reflective of the text of the Act.

The superior judiciary has made pronouncements related to the legal recognition of Bengali persons. In *Qazi Qasim and another v. the State*, the Sindh High Court held that by virtue of being of Bengali descent, a person is not entitled to have their citizenship revoked and later be deported as a sentence for a criminal offence under the Foreigners Act. Rather, the Citizenship Act allows the granting of citizenship to those who were in Pakistan before the year 1975, and that said citizenship would pass on to future generations - in this case, the petitioners.[684] A similar ruling was upheld in *Alam v. State.*[685]

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[679] PLD 1999 Peshawar 18

[680] 2013 CLC 1588 Islamabad

[681] Fatima Bokhari, "Who Belongs? The Foreigners Act 1946 and Pakistan Citizenship Act 1951," *Human Rights Commission of Pakistan*, 2024, accessed March 18, 2025, https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf. 6

[682] 2013 CLC 1588 Islamabad, para 16.

[683] WP 3748/2019 (202) (Islamabad)

[684] 2019 PcrLJ 135 Karachi

[685] 2007 YLR 1897 Karachi

Institutional Analysis

Ministry of Interior and Narcotics Control

The Ministry of Interior and Narcotics Control is the federal ministry responsible for internal security and law enforcement, immigration, citizenship and border control. It oversees key institutions such as the Federal Investigation Agency (FIA) and the National Database and Registration Authority - both being agencies relevant to the implementation of laws and policies related to refugees in particular.

Repatriation and Management Policy for Afghan Refugees 2017

The Federal Cabinet approved the Repatriation and Management Policy for Afghan Refugees in February 2017.[686] The Policy allowed for the registration of around 840,000 undocumented Afghan nationals living in Pakistan with an Afghan Citizen Card, allowing them to stay in Pakistan indefinitely subject to administrative decisions.[687] The Policy focuses on securing the (eventual) voluntary return of Afghan refugees rather than helping them integrate into Pakistani society despite having potentially lived in Pakistan for the majority of their life.

The Illegal Foreigners Repatriation Plan 2023

In 2023, the Ministry of Interior announced the Illegal Foreigners Repatriation Programme, ordering undocumented Afghan refugees to return to Afghanistan by the end of November 2023; however, initially, Proof of Registration (PoR) card holders[688] were also reported to be targeted under this scheme.[689] As a result, there was a 222% increase in the number of refugees and asylum seekers being arrested, detained and deported from the previous year.[690] Since 2023, Pakistan has forcibly repatriated over 800,000 undocumented Afghan migrants back to Afghanistan. This is also a violation of Pakistan's international obligations against non-refoulement, and has been a characteristic practice in Pakistan's approach to refugee law and policy.

As part of the Plan, in 2025, the Prime Minister approved a multistage plan to return around 3 million refugees back to Pakistan, including both documented and undocumented migrants, with the first phase including the moving out of Afghan refugees from Islamabad and

[686] UNHCR, "Pakistan: Refugee Policy Review," *Global Focus*, accessed March 18, 2025, https://reporting.unhcr.org/pakistan-refugee-policy-review.

[687] Ibid, 6

[688] A Proof of Registration card is a document issued by NADRA to registered Afghan refugees allowing them temporary legal stay in Pakistan. It is used for identification purposes.

[689] UNHCR, "Annual Results Report – 2023 Pakistan," *UNHCR Global Focus*, June 2024, , 13, accessed March 18, 2025, https://reporting.unhcr.org/sites/default/files/2024-06/Asia%20-%20Pakistan%20ARR%202023_0.pdf.

[690] Ibid, 13

Rawalpindi.[691] This has drawn significant criticism from national and international audiences, as it is perceived as a violation of the obligation of non-refoulement, which is considered a norm of customary international legal value.[692]

NADRA

The National Database and Registration Authority (NADRA) under the Ministry of Interior is responsible for registering Afghan refugees in the national database.[693] Afghan refugees are given Proof of Registration cards, with the database being integrated with the UNHCR. There are 11 designated PoR Card Modification Centres across Pakistan which can modify and replace existing PoRs and registration of infants and children. NADRA also issues Afghan Citizen Cards (ACCs) to those who were previously undocumented, i.e., not registered as refugees. NADRA also conducts registration of refugees in relatively remoter areas through mobile registration units. NADRA works with the UNHCR and IOM to issue these identification cards to Afghan refugees.

Ministry of States and Frontier Regions

The Ministry of States and Frontier Regions is the primary federal authority responsible for the administration of the frontier regions of Pakistan. The Chief Commissionerate for Afghan Refugees is attached to the Federal Ministry, with equivalent Provincial Commissionerates operating at the provincial levels. The Commissionerates oversee the registration, support and development of Afghan refugee communities. They provide shelter, education, utilities, healthcare and community development to contribute to the formal economy through initiatives such as the RAHA programme, providing support to refugee host communities.[694] The Commissionerate collaborates with the UNHCR in implementing its refugee policies.

Police

Several reports of the police harassing and abusing refugees have been published. This includes the detention and harassment of Afghan refugees including those with valid documentation, resulting in numerous arbitrary arrests and detentions.[695] In other reports, police have seised property, stolen livestock, demanded bribes, threatened sexual assault and bulldozed homes, as well as destroy legitimate documentation to expel many Afghan refugees, creating a "coercive

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[691] Abid Hussain, "Please Don't Do This: Afghan Families in Pakistan Caught in Crackdown," *Al Jazeera*, February 14, 2025, accessed March 18, 2025, https://www.aljazeera.com/news/2025/2/14/please-dont-do-this-afghan-families-in-pakistan-caught-in-crackdown.

[692] The right of non-refoulement is contained in the UN Refugees Convention, but Pakistan has not ratified or acceded to this treaty. Nevertheless, it is a well-established norm of customary international law, and therefore binds Pakistan.

[693] Ibid, 5

[694] UNHCR, "Pakistan: Refugee Policy Review," *Global Focus*, accessed March 18, 2025, https://reporting.unhcr.org/pakistan-refugee-policy-review.

[695] Amnesty International, "Pakistan: Renewed Arrests, Detention and Harassment of Afghan Refugees Must Stop," *Amnesty International*, January 8, 2025, accessed March 18, 2025, https://www.amnesty.org/en/latest/news/2025/01/pakistan-renewed-arrests-detention-and-harassment-of-afghan-refugees-must-stop/.

environment for Afghans to force them to return to life-threatening conditions in Afghanistan."[696] The systematic nature of such reports indicates that these are widespread and that police are acting upon instructions, which is a considerable violation of Pakistan's human rights obligations.

Police attitudes towards stateless persons are quite similar. These are reflective of wider societal attitudes towards Bengalis, Beharis and Rohingyas, particularly in Sindh where the populations of these groups are high. Some reports indicate that Bengalis are not treated as Pakistanis and that they are inherently criminal. As a result, they are subject to police harassment for bribes and a lack of police protection.[697] Where offences are committed against members of these communities, the police may refuse to file a formal complaint.[698]

Summary of UN Observations

Several UN Treaty Bodies have criticised Pakistan's approach to refugees, asylum seekers, IDPs and stateless persons. Common recommendations across the various Concluding Observations included the establishment of a legislative and institutional framework on refugee rights law, particularly emphasising non-refoulement, and the adoption of the UN Refugee Convention, its 1967 Protocol and the UN Statelessness Convention. Each treaty body also emphasised the need for enhanced data collection systems that takes into account refugees, asylum-seekers, IDPs and stateless persons.[699]

Human Rights Committee

In terms of additional recommendations, the Human Rights Committee (HRC) recommended that Pakistan increase efforts to facilitate birth certificates for children born in Pakistan, including refugee, asylum-seeking and stateless children in line with citizenship laws.[700] With regards to stateless persons, the HRC recommended that Pakistan adopt all necessary measures to prevent statelessness including by responding to citizenship requests by foreign children at risk of statelessness.[701]

Committee on Economic, Social and Cultural Rights

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[696] Human Rights Watch, "Pakistan: Widespread Abuses Force Afghans to Leave," *Human Rights Watch*, November 28, 2023, accessed March 18, 2025, https://www.hrw.org/news/2023/11/28/pakistan-widespread-abuses-force-afghans-leave.

[697] Zoha Waseem, "Stateless and Vulnerable: Race, Policing, and Citizenship in Pakistan," *PoLAR: Political and Legal Anthropology Review*, November 8, 2023, accessed March 18, 2025, https://polarjournal.org/2023/11/08/stateless-and-vulnerable-race-policing-and-citizenship-in-pakistan/.

[698] Ibid.

[699] E.g., Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding Observations on the Fifth Periodic Report of Pakistan*, CEDAW/C/PAK/CO/5., para 42(d)

[700] Human Rights Committee (HRC), *Concluding Observations on the Second Periodic Report of Pakistan*, CCPR/C/PAK/CO/2.. para 37

[701] Ibid, para 39

The Committee on Economic, Social and Cultural Rights (CESCR) recommended that Pakistan ensure that all registered Afghan refugees be allowed to stay in Pakistan until it is safe for them to either return to Afghanistan or resettle in another country.[702] It further recommended that Pakistan extend registration to unregistered Afghans residing in Pakistan, and that all cases of police abuse against unregistered Afghans are promptly and thoroughly investigated.[703]

Committee Against Torture

The Committee Against Torture (CAT) recommended that Pakistan amend the Extradition Act, 1972, and the Foreigners Order, 1951, to fully comply with its obligations of non-refoulement to protect refugees and asylum seekers. It also recommended that Pakistan investigate reports of abuse against Afghans and other actions by public authorities to coerce them to return to Afghanistan.[704]

Committee on the Rights of the Child

The Committee on the Rights of the Child (CRC) has made several recommendations related to the rights of refugee, asylum-seeking and stateless children. These include ensuring the registration of children born to refugees, asylum seekers and stateless persons, integrating refugee and asylum-seeking children into education systems on equal terms with nationals, the provision of adequate housing, and protection against bonded labour and child marriages.[705] The Committee also recommended that the humanitarian needs of internally displaced children are met, including housing, food, sanitation, healthcare and education, and that special measures are taken to protect internally displaced children from sexual abuse, harassment, abduction and trafficking.[706]

Committee on the Elimination of All Forms of Racial Discrimination

The Committee on the Elimination of All Forms of Racial Discrimination (CERD) recommended that Pakistan continue working with UNHCR and IOM for technical assistance in these matters. The Committee further recommended that Pakistan implement and enforce strict guidelines for law enforcement agencies to prevent harassment, intimidation and excessive use of force against Afghan migrants, refugees and asylum-seekers, as well as safe reporting channels.[707] Similar to the HRC, it also recommended that immigration detention be used in accordance with human rights standards and as a last resort.

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[702] Committee on Economic, Social and Cultural Rights (CESCR), *Concluding Observations on the Initial Report of Pakistan*, E/C.12/PAK/CO/1.para 26

[703] Ibid.

[704] Committee Against Torture (CAT), *Concluding Observations on the Initial Report of Pakistan*, CAT/C/PAK/CO/1, para 35

[705] Committee on the Rights of the Child (CRC), *Concluding Observations on the Fifth Periodic Report of Pakistan*, CRC/C/PAK/CO/5., para 66

[706] Ibid, para 68.

[707] Ibid.

Universal Periodic Review.

In Pakistan's 4th Universal Periodic Review, Sudan recommended that Pakistan continue with its current policies for the treatment of refugees, which Pakistan supported. Afghanistan recommended that Pakistan ensure the human rights of refugees within its territory, which it noted. Furthermore, Cote d'Ivoire and Ukraine recommended that Pakistan ratify the UN Refugee Convention and its Protocol, the UN Convention on Statelessness, 1954, and the UN Convention on the Reduction of Statelessness, Pakistan noted both of these recommendation as well.[708]

Recommendations

Legislative

Pass a comprehensive refugee protection law emphasising the protection against non-refoulement

Pakistan requires a comprehensive refugee protection law to ensure a consistent rights-based approach to the treatment of its refugee and asylum-seeker population. This law should define a refugee in line with the UN Refugee Convention and its 1967 Protocol, and should emphasise a commitment to *non-refoulement*, i.e., a commitment against forced return of refugees. The law should establish a central institution responsible for the administration of asylum-seekers and refugees, including guidelines on processing cases for asylum seekers, and should continue collaborating with UNHCR and IOM in its administration. The law should adopt a rights-based approach by highlighting various protections afforded to refugees.

Pass a law on the reduction of statelessness, including mandatory registration of recognised groups of stateless persons

Communities such as Bengalis, Beharis and Rohingyas continue to face several barriers and discrimination due to a lack of citizenship and documentation. A dedicated law would streamline the identification and naturalisation process for stateless persons, particularly those with historical ties to Pakistan. Mandatory registration would facilitate their inclusion in social services, preventing intergenerational cycles of exclusion and ensuring access to citizenship where applicable. The law will need to identify clear conditions for citizenship for stateless persons. This includes proof of residency requirements along with a timeline threshold (such as a minimum of five years). It should also outline a procedural framework for grievance redressal, particularly given that a lack of registration can be a barrier to access to remedy.

Amend the Foreigners Act to provide an exception to illegal entry for the purposes of asylum seeking

[708] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

The Foreigners Act should be amended to provide an exception to the criminal offence of illegal entry into the country for asylum seekers. This should be recognised as a defence under the statute and allow asylum seekers wrongfully arrested and detained under Section 13 of the Act, subject to due process.

Policy

Comprehensive refugee registration policy

Along with the rights-based refugee law recommended above, the Federal Government should develop a comprehensive refugee registration policy that balances interests of refugee protection with the State's national security concerns. The policy should be developed by the Ministry of Interior and the Ministry of States and Frontier Regions in consultation with the UNHCR and the IOM. The policy should outline requirements for registration, security screening and the identification of designated refugee residential areas. The policy should identify the UNHCR and the NADRA as the primary institutions responsible for registration of refugees. Furthermore, the policy should outline conditions for refugees to access legal employment and social services, such as healthcare and education.

Registration policy for stateless persons as a unique category, with registration of children as Pakistani citizens as per the Citizenship Act

A registration policy for stateless persons should be formulated by the Ministry of Interior and NADRA. While stateless persons themselves can be registered under a separate new category, their children should be registered as Pakistani citizens in conformity with Section 4 of the Citizenship Act. The policy should also outline the requirements for converting statelessness identification into Pakistani citizenship, incorporating the legislative recommendation in the section above as the foundation for the policy.

Sensitisation and awareness of law enforcement agencies to prevent harassment against Afghan refugees, Bengalis, Beharis and Rohingyas

Stateless and refugee communities in Pakistan often face discrimination and harassment from law enforcement due to their precarious legal status. Conducting training programs and awareness campaigns for police and other authorities would reduce instances of arbitrary detention, extortion, and deportation, fostering a more humane and rights-based approach to their treatment. These training programs should be developed by the Ministry of Interior in collaboration with the UNHCR and IOM, and should also be complemented with internal policies for disciplinary action against police officers who continue to discriminate against and harass these communities.

Develop a distinct IDP protection and humanitarian assistance policy in coordination with the provincial governments which includes provisions for disaster management

Pakistan frequently experiences internal displacement due to conflict, terrorism, and natural disasters. A dedicated policy on IDPs would improve coordination between federal and provincial authorities, ensuring timely humanitarian assistance and long-term rehabilitation efforts, while also managing international donation requests for humanitarian supplies. Integrating disaster management provisions would enhance Pakistan's preparedness and response to climate-induced displacement. This policy should be developed by the Ministry of Interior in collaboration with the National and Provincial Disaster Management Authorities.

Strengthen anti-terrorism and counter-insurgency efforts as a means of preventing internal displacement

Conflict and violence, particularly in regions like Khyber Pakhtunkhwa and Balochistan, continue to be major drivers of internal displacement. Strengthening counter-terrorism and insurgency efforts while ensuring compliance with human rights standards would contribute to long-term stability, reducing forced displacement and fostering a more secure environment for affected population.

Discrimination

Chapter Summary

This chapter provides an overview of discrimination as a multidimensional human rights concern in Pakistan, intersecting across gender, religion, ethnicity, language, and other social categories. In line with constitutional commitments to equality and human dignity, the Government of Pakistan has adopted a variety of legislative, institutional, and administrative approaches to promote inclusive development and mitigate exclusionary practices. While significant progress has been achieved in key sectors, including the introduction of quotas, protections against harassment, and targeted welfare schemes, continued efforts are being made to promote equitable access to education, employment, healthcare, and political participation. Disparities in outcomes among different population groups—particularly women, religious minorities, and ethnic communities—highlight ongoing opportunities for policy engagement and institutional strengthening.

Pakistan is a State Party to core international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and others. These instruments obligate the State to prevent, prohibit, and remedy both direct and indirect discrimination across all spheres of life. Domestically, Articles 25 to 27 of the Constitution enshrine the principles of equality before the law, non-discrimination in access to public places, and equal opportunity in public employment. Complementary statutes—such as the Protection Against Harassment of Women at the Workplace Act, the Hindu Marriage Act, and provincial property rights laws—support these rights in practice. Judicial interpretations have further expanded the understanding of de jure and de facto equality. Nevertheless, areas remain where additional alignment with international best practices may strengthen protection, particularly regarding intersectional discrimination and group-based rights recognition.

Implementation and oversight mechanisms are facilitated by a network of institutions including the National Commission on Human Rights (NCHR), the National Commission on the Status of Women (NCSW), ombudsman offices at federal and provincial levels, and the Federal Ombudsperson for Protection Against Harassment. These bodies conduct investigations, offer policy guidance, and engage in public outreach. Employment and education quotas have been notified for women and minority groups across provinces, and administrative measures such as conditional cash transfers and mobile voter registration units support broader access and participation. While these institutional frameworks contribute positively to non-discrimination objectives, opportunities exist to enhance coordination, data management, complaint categorisation, and capacity-building to ensure more consistent and timely delivery of protections and services.

This chapter identifies avenues for further enhancing Pakistan's equality and non-discrimination framework. Suggested considerations include the adoption of comprehensive

federal and provincial anti-discrimination legislation, the establishment of dedicated anti-discrimination ombudspersons, and procedural reforms to support equal access to public services and redress mechanisms. Constitutional amendments to Articles 25–27 may provide greater definitional clarity and broader legal safeguards. In addition, the development of a National Action Plan focused on equality and inclusion, alongside efforts to improve inter-provincial coordination and strengthen the mandates of human rights institutions, offers a pathway toward more inclusive and equitable outcomes. These actions would complement Pakistan's constitutional vision and international commitments to dignity and equality for all citizens.

Situational Analysis

Equality and non-discrimination are foundational principles of the Constitution of Pakistan, and are core elements of Pakistan's international human rights commitments. The Government of Pakistan has developed legislative, institutional, and administrative mechanisms to address and mitigate discriminatory practices across social, economic, political, and cultural domains. Dedicated chapters in this report address specific forms of discrimination in further detail, including **Disability Rights, the Rights of Religious Minorities, Transgender Rights,** and **Violence Against Women**. Whereas the aforementioned chapters focus on discrimination along civil and political, as well as socio-economic, lines, this chapter focuses on intersecting forms of socio-economic and cultural discrimination, highlighting both the current context and opportunities for further action.

Gender-Based Discrimination

Pakistan continues to engage with national and international stakeholders to improve gender equality across all sectors. Gender disparities persist in education, economic participation, health outcomes, and political representation. According to the 2024 Global Gender Gap Index by the World Economic Forum, Pakistan ranked 145 out of 146 countries, with notable gaps in economic participation, educational attainment, and health indicators.[709]

The Government of Pakistan acknowledges these disparities and has implemented a range of legislative and institutional responses to address them. These include the enactment of key laws, such as the Protection Against Harassment of Women at the Workplace Act, and the establishment of the National Commission on the Status of Women (NCSW) and its provincial commissions.[710] Additionally, provincial departments have enhanced budgeting for inclusive

[709] World Economic Forum. *Global Gender Gap Report 2024*. Geneva: World Economic Forum, 2024. https://www3.weforum.org/docs/WEF_GGGR_2024.pdf.

[710] Pakistan. Fifth Periodic Report Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: CEDAW/C/PAK/5. United Nations Committee on the Elimination of Discrimination Against Women., para 72.

education policies that aim to enhance women's participation and reduce gender-based exclusions.[711]

Educational access remains a priority area, with a significant number of girls out of school across various age groups.[712] Barriers to equitable access to education include traditional gender roles, geographic remoteness of schools in some districts, and limited access to secondary schools. Programs such as the Benazir Income Support Programme's conditional cash transfers are being used to encourage greater school enrollment for girls, particularly in rural areas.[713]

Women's participation in the labour force is currently estimated at 21%.[714] This is due to a number of factors, including mobility constraints, socio-cultural expectations, and access to technical and vocational training.[715] To address this, the provincial governments have enacted various schemes to encourage greater female workforce participation, such as the Punjab's Self-Employment Scheme[716] and the enforcement of female employee quotas.[717]

In terms of political participation, Pakistan has reserved seats for women at federal, provincial, and local levels. Nevertheless, efforts are ongoing to close the gap in electoral participation.[718] The Election Commission of Pakistan (ECP) has taken steps to enhance women's registration as voters and participation in elections through the Gender and Disability Electoral Working Group, the Women Parliamentary Caucus, provincial Women Empowerment Policies, and engaging universities to encourage greater female electoral participation.[719]

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[711] Pakistan. Follow-up to the Fifth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women: CEDAW/C/PAK/FCO/5. United Nations Committee on the Elimination of Discrimination against Women, 2023, para 27.

[712] UNESCO Institute for Lifelong Learning. *Global Alliance for Literacy: Pakistan Country Profile*. Hamburg: UIL, 2022. https://www.uil.unesco.org/sites/default/files/medias/files/2022/11/gal_country_profiles_pakistan.pdf?hub=90.

[713] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 13.

[714] UN Women Pakistan. *Summary of the National Review on the Status of Women in Pakistan*. Islamabad: UN Women Pakistan, 2023. https://pakistan.unwomen.org/sites/default/files/2023-07/summary_-nrsw-inl_final.pdf.

[715] Ibid.

[716] Pakistan. Fifth Periodic Report Submitted Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: CEDAW/C/PAK/5. United Nations Committee on the Elimination of Discrimination Against Women., para 148.

[717] Ibid, paras 143-148; Pakistan. Third Periodic Report Submitted under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: E/C.12/PAK/3. United Nations Committee on Economic, Social and Cultural Rights, 2023, paras 54-46.

[718] Human Rights Watch. "Pakistan Faces Severe Voter Gender Gap." November 20, 2023. https://www.hrw.org/news/2023/11/20/pakistan-faces-severe-voter-gender-gap.

[719] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 141.

Religious Discrimination

The Government of Pakistan recognises religious diversity as part of its social fabric and has reinforced its commitment to ensuring the rights of religious minority communities. According to the 2023 census, religious minorities constitute approximately 3.6% of the population, including Hindus (including Scheduled Castes), Christians, Sikhs, and Parsis.[720]

The Constitution guarantees the right to profess, practice, and propagate religion, and multiple legal and administrative frameworks have been established to support religious freedom. These include minority welfare funds, religious site restoration projects, and education and job quotas.[721] Federal and provincial governments have instituted quota systems in education and employment to facilitate equitable access for minorities.[722] Efforts are being made to raise awareness of these quotas among beneficiary groups to support greater uptake.[723]

In terms of employment, certain government job advertisements have historically allocated roles such as sanitary work to minority communities.[724] Upon discovery, these advertisements were banned by the provincial governments, which have since emphasised their commitment to promoting dignity and equality in public service employment.[725]

Ethnic Discrimination

Pakistan's population consists of various ethnic groups, including Punjabi, Sindhi, Pashtun, Baloch, Saraiki and Hazara communities, among many others. The demographic diversity of its provinces reflects a rich history and culture, with the evolution of multiple languages. As part of its federal governance model, Pakistan employs proportional representation, which has implications for fiscal and political allocation of resources among provinces, emphasising the need for equitable development across all regions.

Balochistan, a province endowed with significant natural resources, continues to be an area of development focus. The Government of Pakistan is investing in infrastructure, education, and job creation in the province, including through the China-Pakistan Economic Corridor (CPEC) and other development programs. These initiatives are aimed at addressing historical disparities

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[720] Pakistan Bureau of Statistics. *Population and Housing Census 2017: Table 9*. Islamabad: PBS, 2017. https://www.pbs.gov.pk/sites/default/files/population/2017/tables/pakistan/Table09n.pdf.

[721] Pakistan. Twenty-Sixth Periodic Report Submitted under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination: CERD/C/PAK/26. United Nations Committee on the Elimination of Racial Discrimination, 2022, para 38

[722] Ibid., para 125

[723] Ibid.

[724] NCHR. *Understanding the Plight of Minorities in Pakistan: A National Report*. Islamabad: NCHR, 2022, 11-12. https://nchr.gov.pk/wp-content/uploads/2022/05/Minority-Report-compressed.pdf.

[725] Ibid.

associated with the political representation of Balochistan by ensuring equitable development.[726]

Some ethnic communities face particular challenges related to language preservation.[727] The Government of Pakistan recognises the importance of linguistic diversity and has taken steps through educational and cultural programs to promote regional languages. The promotion of mother-tongue-based multilingual education, especially in early grades, is increasingly being integrated into provincial education policies.[728]

The Hazara community in Balochistan has experienced incidents of violence linked to their sectarian identity.[729] The Government has responded through enhanced law enforcement presence, targeted security operations, and social protection measures. Ongoing efforts by the Ministry of Interior and provincial authorities aim to improve community security and promote interfaith and interethnic harmony.[730]

Pakistan has established a constitutional and legal framework that prohibits discrimination and promotes equal rights for all citizens. The State continues to engage in legislative reform, institutional strengthening, and inclusive development. Gender parity, minority rights, and ethnic inclusion remain important priorities for the future; through dialogue, reform, and targeted interventions, the Government is committed to ensuring that the principles of equality and dignity are realised for all communities across Pakistan.

Legal Analysis

International Law

ICCPR and ICESCR

The right to equality and non-discrimination is a fundamental cornerstone to the international human rights system. The right to be treated equally under the law and to be equally treated under the law without discrimination has subsequent ramifications on the protection of other rights. The right is an absolute and non-derogable right that creates obligations to respect, protect and fulfil upon States.

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[726] Musarrat Jabeen, Ehsan Inamullah, Mariam Arif, and Rubeena Batool. "The Legacy of Poverty, Marginalization and Underdevelopment in Balochistan: Historical, Political and Social Factors." *OIDA International Journal of Sustainable Development* 4, no. 12 (2012): 91–96. https://ssrn.com/abstract=2158812.

[727] Saira Irfan, "Preserving Pakistan's Indigenous Languages," *Aware Pakistan*, March 1, 2024, https://awarepakistan.com/articles/107132/preserving-pakistans-indigenous-languages/.

[728] Pakistan. Combined Sixth and Seventh Periodic Reports Submitted under Article 44 of the Convention on the Rights of the Child: CRC/C/PAK/6-7. United Nations Committee on the Rights of the Child, 2024, para 5.

[729] NCHR, *Understanding the Agonies of Ethnic Hazaras* (Islamabad: National Commission for Human Rights, 2018), https://www.nchr.gov.pk/wp-content/uploads/2023/09/Understanding-the-Agonies-of-Ethnic-Hazaras.pdf.

[730] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 140.

Under Article 7 of the UDHR, "All are equal before the law and are entitled without any discrimination to equal protection of the law". Article 2 of both the ICCPR and the ICESCR requires States Parties to ensure the enjoyment of the respective Covenant's rights "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Under Article 3 of the ICCPR and the ICESCR, States Parties must ensure equal rights of men and women in the enjoyment of the respective Covenant's rights. This is further espoused under Article 26 of the ICCPR, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law".

The ICCPR does not define the term discrimination. However, the term has been defined in Article 1 of the CERD, CEDAW and CRPD. The HRC defines 'discrimination' as

> any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

Accordingly, States must take measures to ensure that there is no discrimination between men and women in the enjoyment of all rights, and, on a broader scale, between persons of any kind on the grounds mentioned in the aforementioned paragraph.

State Obligations

Measures taken by the State may include enacting legislation that prohibits and penalises discrimination, education of the population and of State officials, and the removal of specific obstacles that prevent the equitable participation of both sexes in both public and private spheres, taking into account the specific factors faced by each group.[731] From a civil and political rights perspective, this includes the protection from non-discrimination when availing the rights set out in the ICCPR, including (but not limited to) the rights to life, dignity, fair trial and political participation.[732] The same applies to rights under the ICESCR, such as equal access to opportunities in employment and education, as well as equal access to healthcare, social protection and an adequate standard of living, among other rights.

The HRC also clarified that there are some instances where distinction may be warranted, or where the differentiation is 'reasonable and objective' and thus not considered 'discrimination' in a manner contrary to the Covenant.[733] These include the prohibition of the death sentence to juvenile offenders, segregation of juvenile offenders and adults, and other such rights. The HRC further clarified that affirmative actions to "diminish or eliminate conditions" perpetuating discrimination do not constitute discrimination in and of themselves.[734]

[731] Ibid., para 3

[732] Ibid., para 9

[733] Ibid., para 13

[734] Ibid., para 10.

The non-discrimination obligation under Article 3 of the ICCPR is more comprehensively dealt with under the CEDAW, which sets out different ways in which women can be discriminated against, and requires States Parties to take various measures to eradicate such discrimination between the sexes. The Article 3 right should also be read in light with Article 26, which guarantees equality before the law and equal protection of the law.

Equal Protection Before the Law

Article 26 of the ICCPR provides the right to equality before the law and equal protection of the law. It requires that the law prohibits discrimination and guarantees all persons "equal and effective protection against discrimination on any ground." This is a separate autonomous right from Articles 2(1) and 3.

The notion of equality before the law seeks to prevent the arbitrary application of the law such that it creates unjustly different outcomes for people in similar circumstances. Thus, where detrimental treatment for someone is not based on "reasonable and objective grounds", and is based on grounds such as race, religion, gender, ethnicity, nationality or other grounds, such treatment is a violation of Article 26.[735]

Equal protection before the law seeks to ensure equality in legislative drafting and subsequent equal access to an effective legal remedy.[736] The notion of equal protection of the law requires legislation to be non-discriminatory in its drafting and must also afford special protections or measures to prevent discrimination. It thus creates both a negative and positive obligation for State legislatures.[737]

The notion of 'discrimination' depends on whether the differential treatment in questions is based on 'reasonable and objective grounds'. Whereas this does not entitle individuals to identical treatment regardless of circumstances, it "requires that objectively equal fact patterns be treated equally, but also that objectively unequal fact patterns be treated unequally."[738] Thus, where one person is more qualified than another for a particular job, hiring the more qualified candidate constitutes differential treatment based on reasonable and objective grounds.

States Parties must also take measures to prevent indirect discrimination, which is where the law is not drafted in a discriminatory manner, but may inevitably have discriminatory effects when applied on an equal basis. The HRC has clarified that indirect discrimination can be proven, "only if the detrimental effects of a rule or decision exclusively or disproportionately affect persons having a particular race, colour, sex, language, religion, political or other

[735] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 731; *Borzov v. Estonia* CCPR/C/81/D/1136/2002, 26 July 2004, para 7.2.

[736] Ibid., 730.

[737] Ibid., 731-732.

[738] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 731, citing Nowak, *ICCPR Commentary* (2005), 605–6.

opinion, national or social origin, property, birth or other status. Rules or decisions with such an impact do not amount to discrimination if they are based on objective and reasonable grounds."[739]

States may implement special measures, such as affirmative action, which are not considered discriminatory under Article 26. The HRC has clarified that these measures seek to "diminish or eliminate conditions which cause or help to perpetuate discrimination."[740] Such measures are particularly important for the protection of minorities and other vulnerable groups. However, as the CESCR has clarified, such measures should also be:

> legitimate to the extent that they represent reasonable, objective and proportional means to redress de facto discrimination and are discontinued when substantive equality has been sustainably achieved. Such positive measures may exceptionally, however, need to be of a permanent nature, such as interpretation services for linguistic minorities and reasonable accommodation of persons with sensory impairments in accessing healthcare facilities.[741]

Thus, the right to equality before the law and equal protection of the law is a key right to ensuring legal protection to all persons irrespective of differences, as well as equal access to legal remedies in the event that they have been discriminated against. This right is closely related to Articles 2 and 3 of the ICCPR and the ICESCR.

Specific Non-Discrimination Obligations

Apart from the general non-discrimination obligations under the ICCPR and the ICESCR, the other UN core human rights treaties that Pakistan has ratified create specific non-discrimination obligations, often as their essence.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an inherently anti-discriminatory treaty focusing on discrimination against women in all aspects of life. The Convention prohibits discrimination in cultural practices, wihtin the family, political participation, nationality, education, employment, healthcare, and much more. Such anti-discrimination measures must be codified in law and supplemented with additional administrative measures to ensure their enforcement, which can include quotas as temporary affirmative action.

Similarly, the Convention on the Elimination of Racial Discrimination (CERD) adopts an anti-discrimination approach towards people of different races, colours, descent or national or ethnic origins within a State's jurisdiction. The CERD requires States Parties to condemn and prohibit racial discrimination, along with measures ensuring the adequate development and protection of certain racial groups to ensure the full enjoyment of human rights. The CERD

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[739] Taylor PM, A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (Cambridge: Cambridge University Press, 2020), 740, citing *Althammer et al. v. Austria*, CCPR/C/78/D/998/2001, 8 August 2003, para 10.2.

[740] Ibid., 742.

[741] United Nations Committee on Economic, Social and Cultural Rights. *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (Art. 2, Para. 2, of the Covenant)*. E/C.12/GC/20. July 2, 2009, para 9.

also requires States to condemn and eradicate racial segregation and apartheid, and restrict speech or propaganda that favours one racial group over another, among other provisions.

Domestic Law

Article 25 of the Constitution

Article 25 of the Constitution protects the right to equality and non-discrimination. The Article reads as follows:

> 1. All citizens are equal before law and are entitled to equal protection of law.
>
> 2. There shall be no discrimination on the basis of sex.
>
> 3. Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

There are three kinds of rights under Article 25. The first clause guarantees equality before the law and equal protection of the law. The second clause ensures no discrimination between men and women. The third clause allows the State to make special provisions, such as quotas or special laws, for the protection of women and children.

Equality and Equal Protection of the Law

The first clause provides for equality before the law and equal protection of the law. These protect citizens from discrimination by the State or any other entity. The term 'equality before the law' entails that no one is above the law, and that everyone is subject to the law.[742] The term 'equal protection of the law' entails that everyone in like circumstances will receive equal treatment under the law. Together, both ensure the primacy of the rule of law over arbitrary decision-making, often based on discretion.

As clarified by the Supreme Court in *Asdullah Mangi and others v. Pakistan International Corporation and others*,[743] the concept of equality does not entail "absolute equality" but rather similarity of treatment between individuals in like circumstances.[744] While dissimilar treatment of people in dissimilar situations is not discrimination,[745] dissimilar treatment of people in similar situations does amount to discrimination. This has been expanded to prohibit unfair treatment caused by corruption, nepotism and favouritism, as this interferes with equal

[742] *Jibendra Kishore v. Province of East Pakistan,* PLD 1957 SC 9, 22

[743] 2005 PLC CS 771

[744] Also see: *Shabbir Alibhai v. Pakistan Employees Cooperative Housing Society*, 2017 CLC 1683 Karachi; *Abid Hussain Sherazi v. Secretary M/O Industries and Production, Government of Pakistan,* 2005 SCMR 1742

[745] 2018 PLC CS 26; *Mst. Ayesha Shabbir v. The Registrar Islamabad High Court, Islamabad*, 2018 PLC CS 1026 Islamabad

treatment.[746] In *Jibendra Kishore v. Province of East Pakistan*,[747] the Supreme Court drew a distinction between reasonable and unreasonable differentiation, with the latter amounting to discrimination in violation of Article 25. The Court held that

> classification of persons or things is in no way repugnant to the equality doctrine provided the classification is not arbitrary or capricious, is natural and reasonable and bears a fair and substantial relation to the object of the legislation.[748]

The Court further held that "classification that proceeds on irrelevant considerations, such as differences in race, colour, or religion, will certainly be rejected by the courts."[749] This has further been expanded to include people from different ethnic groups,[750] persons with disabilities[751] and transgender persons.[752]

For classification to be considered reasonable, it must "be based on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out", and "the differentia must have [a] rational nexus to the object sought to be achieved by such classification."[753] In *Dr. Mobashir Hassan and others v. Federation of Pakistan and others*,[754] there should not be any "artificial grouping for [a] specific purpose causing injustice to other similarly placed individuals." The 'intelligible differentia' test has become the standard test upon which courts determine whether different treatment violates Article 25. Examples of 'intelligible differentia' include the nature of one's job,[755] qualifications and level of education,[756] and income levels for tax purposes, and [757] among many more.

The use of discretionary powers is not in and of itself discrimination. Rather, discretion that is an "improper or capricious exercise or abuse of discretionary authority, and the person against whom that discretion is exercised faces certainly appreciable disadvantages which he would not have faced otherwise" will be considered a violation of Article 25.[758] Where discretion is limited by the law is used on a rational basis, it will not be considered discriminatory.

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[746] *Suo Moto Action Regarding Allegation of Business Deal between Malik Riaz Hussain and Dr. Arsalan Iftikhar Attempting to Influence the Judicial Process*, PLD 2012 SC 664, para 20.

[747] PLD 1957 SC 9, 39

[748] Ibid.

[749] Ibid

[750] *Malik Toti Khan v. District Magistrate*, PLD 1957 (WP) Q 1.

[751] *Malik Ubaidullah v. Government of Punjab, 20*21 PLC (CS) 65 SC; *Mst. Beena v. Raja Muhammad,* PLD 2020 SC 508

[752] *Dr. Muhammad Aslam Khaki v. Senior Superintendent of Police, Rawalpindi* 2013 SCMR 187

[753] *I.A. Sharwani v. Government of Pakistan*, 1991 SCMR 1041

[754] PLD 2010 SC 265

[755] *Atiq Ahmed, Superintendent Anti-Terrorism Court No.1 Gilgit Baltistan v. Provincial Government through Chief Secretary GB, Gilgit, 20*24 PLC (CS) 441 GB, para 9;

[756] *Muhammad Zada v. Government of Khyber Pakhtunkhwa through Secretary Education*, 2023 PLC (CS) 1027 Peshawar; *Nabi Bux Jahejo v. Province of Sindh through Secretary Agriculture*, 2010 PLC(CS) 902 Karachi

[757] *Service Global Footwear Limited and another v. Federation of Pakistan and others*, PLD 2023 Lahore 571

[758] *Allah Yar v. General Manager, Railways Headquarters, Lahore and another*, 2001 SCMR 256, para 8

A distinction must also be made between *de jure* and *de facto* equality as well. A law that is *de jure* non-discriminatory can be prone to discriminatory application, thereby being discriminatory *de facto*. In *Jibendra Kishore*, the Supreme Court held that

> where a statute is not ex facie discriminatory but is capable of being administered in a discriminatory manner the party challenging the constitutionality of that statute must show that it has actually been administered to the detriment of a particular class and in a partial, unjust and oppressive manner.

Thus, the Court has adopted an expansive approach to incorporate *de facto* discrimination within the ambit of Article 25(1). An example of this is *Musarrat Uzma Usmani v. Government of Punjab*,[759] where a quota system that allocated more seats to boys than girls, thereby denying admission to girl students who scored higher than some of the boys, was held to violate Article 25 - the Court ordered that the seats reserved for 'boys' should be changed to 'open seats' which could be applied for by anyone.

No Discrimination on the Basis of Sex

Article 25(2) prohibits discrimination based on sex. As mentioned above, discrimination refers to dissimilar treatment of persons in like circumstances. In *Hammad Abbasi v. Superintendent, Central Adyala Jail, Rawalpindi*,[760] the term 'discrimination' was clarified to involve "an element of unfavourable bias" in favour of one thing over another. While Article 25(1) discusses equality broadly, Article 25(2) places a specific prohibition on discrimination on the basis of sex.

The right has socio-economic and cultural implications. For example, in *Pakistan International Airlines Corporation through Chairman and others v. Samina Masood and others*,[761] the difference in retirement age of male stewards and female air hostesses was considered to be discrimination and not based on intelligible differentia, given that they perform the same duties and were paid the same. More significantly, the right has social and cultural implications. In *Danishmand v. Chairman, BISE, Swat*,[762] the denial of female students to a scholarship having scored higher than the male students was held to be a violation of Article 25(2). In , it was held that the neglect of maternity health care amounts to discrimination based on sex in violation of Article 25(2).[763] It was also held that the State had a duty to ensure safe motherhood. Similarly, the right against forced marriage and domestic violence was held to violate Article 25(2).

The right also has important political and legal implications. In *Mst Sarwari Bibi v. Arshad Ali Khan*[764], it was held that if a female candidate was the most suitable candidate for the position

[759] PLD 1987 Lahore 178

[760] PLD 2010 Lahore 428

[761] PLD 2005 SC 831

[762] YLR 2012 Peshawar 80

[763] *Sabeen Asghar v. Province of Punjab*, PLD 2023 Lahore 416

[764] 2007 YLR 702

of *lambardar* (village headman) on the principle of primogeniture, then a law that only allowed male *lambardars* violated Article 25(2). A similar ruling was upheld in *Nasreen Iqbal v. Member (Revenue)*.[765] In terms of the legal implications, the Supreme Court held that the 'two-finger' virginity testing for rape victims was a violation of Article 25(2).[766] The Federal Shariat Court also struck down a provision in the Qanun-e-Shahadat Order 1984 that allowed a man prosecuted for rape to show that the prosecutrix was of "generally immoral character."[767]

Thus, the courts have interpreted the term 'discrimination' quite broadly to encompass a high degree of protection towards women under Article 25(2) beyond discrimination in the workplace or educational establishments. The right mandates equitable treatment and greater protective measures for women - both in law and in fact - in all facets of life.

Special Provisions for Women and Children

Article 25(3) allows the State to implement 'special provisions' for the protection of women and children. The term 'special provision' includes affirmative action and other related measures to women and children who are recognised as vulnerable groups in Pakistan.[768] This relates closely to Article 25(2).

In *Miss Rabia Khan v. Province of Sindh*, the Karachi High Court clarified that while Article 25(2) prohibits gender-based discrimination, Article 25(3) allows 'positive discrimination' for the protection of women. While the courts have held several cases on reserving quotas for women in education,[769] the concept of 'special provision' has also been expanded. This includes making special provisions to ensure women have access to legal assistance in complicated cases of inheritance,[770] conjugal-oriented parole schemes in prisons for certain categories of prisoners,[771] and a delineation of the rights of women in marriages.[772]

Article 26 of the Constitution

Article 26 of the Constitution of Pakistan guarantees the right of all citizens to access public places without discrimination. The article is reproduced below:

> 26. Non-discrimination in respect of access to public places
>
> (1) In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth.

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765 PLD 1993 Lahore 423

766 *Sadaf Aziz v. Federation of Pakistan*, 2021 PCrLJ 205

767 *Capt (Retd. Mukhtar Ahmad Shaikh v. Government of Pakistan*, PLD 2009 FSC 65.

768 Fazal Karim, *Judicial Review of Public Actions*, 2nd ed. (Karachi: Pakistan Law House, 2006), vol. 1, 1371

769 *Ehsanul Haque v. Federation of Pakistan*, PLD 1976 Lahore 501

770 *Fazal Jan v. Roshan Din*, PLD 1990 SC 661

771 *Dr Muhammad Aslam Khaki v. State*, PLD 2010 FSC 1

772 *Muhammad Riaz v. Government of Punjab*, PLD 2021 Lahore 33

(2) Nothing in clause (1) shall prevent the State from making any special provision for women and children.

This fundamental right underscores the principle of equality and inclusivity in accessing services and amenities provided by the State.

Case Law Jurisprudence

The judiciary in Pakistan has played a key role in interpreting and reinforcing the principles of Article 26. In *Darshan Masih v. State*,[773] the Supreme Court addressed the issue of bonded laborers being denied access to public amenities and held that such discrimination was in clear violation of Article 26. The Court emphasised the State's duty to ensure that all citizens, regardless of their socioeconomic status, have equal access to public facilities and amenities. In another significant case, *Moulvi Iqbal Haider v. Capital Development Authority*[774] the Court reaffirmed the principle that the right of access to public places of entertainment or resorts is a fundamental right of every citizen.

In a recent landmark judgment[775], the Court reiterated the right of differently abled persons to be treated without discrimination in regards to access to public spaces; in fact, it called for the duty of the state to make accommodating arrangements for disabled persons. The court noted that "government, government agencies, regulatory bodies and other establishments are duty bound to provide adequate means to PWDs for accessing places of entertainment, shopping, eating, recreation etc. Under Art. 14 of the Constitution, PWDs have an inviolable right to have dignified access to public places."

Legislation – Gender-based Discrimination

The Protection of Women Against Harassment at the Workplace Act, 2010

The Protection of Women Against Harassment at the Workplace Act is a significant piece of legislation pertaining to the equality of women at the workplace. It sets out a procedure for employees who face sexual harassment by their employers. The Act's definition of an employee includes:

> a regular, contractual, piece-rate, gig, temporary, part- time, freelance employee whether employed through express or implied contract on daily, weekly, monthly or hourly basis, and shall include a student, a performer, an artist, a sportsperson, an intern, trainee, a domestic worker, a home-based worker or an apprentice whether working for remuneration or not, or whether working on a voluntary basis or otherwise [776]

[773] PLD 1990 SC 513

[774] PLD 2006 SC 394

[775] *Mst. Sana Khursheed v. Government of Punjab etc,* PLD 2022 Lahore 346

[776] Protection Against Harassment of Women at the Workplace Act, 2010, sec. 2(f).

It also defines 'employer' expansively under Section 2(g) to include persons "responsible for the direction, administration, management and control of the management,"[777] as well as authorities employed by a Federal Ministry, Federal Government or Provincial Government, office bearers of an organisation, contractors, persons managing online businesses and an employer of home-based workers (among others). Furthermore, the Act defines harassment as:

> (i) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or
>
> (ii) discrimination on the basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind set or notion, resulting in discriminatory behavior on basis of gender against the complainant.[778]

Thus, the Act incorporates interpretation of the term harassment to include any form of discrimination beyond the traditional definition of sexual harassment.

The Act requires each employer to have an Inquiry Committee that undertakes inquiries into allegations of sexual harassment and issues penalties accordingly. [779] A party can appeal from the award of penalties to the Federal Ombudsperson Against Harassment at the Workplace to either the President or the Governor, who will enquire further into the complaint.[780] The Act also provides a Code of Conduct Against Harassment of Women at the Workplace in its Schedule, which all organisations are required to incorporate into their company policies to ensure compliance with the law.

The Enforcement of Women's Property Rights Act, 2020

The Enforcement of Women's Property Rights Act ensures the protection of women's property rights in the Islamabad Capital Territory. Punjab and Khyber Pakhtunkhwa have enacted similar legislation to apply to their respective jurisdiction.

It is pertinent to mention here that in the case of *Saleem Ahmed Jan v. Deputy Commissioner*,[781] the Islamabad High Court examined the vires of the provisions of this Act. The Islamabad High Court declared sections 3, 4, 5, 6, 7, 8, 9, and 11 of this Act unconstitutional and struck them down in the case of Saleem Ahmed Jan supra. The court in this case also declared sections

[777] Ibid, sec. 2(g)(ii)

[778] Ibid., sec. 2(h)

[779] Ibid., ss 4-5

[780] Ibid., ss 8-10

[781] *Saleem Ahmed Jan VS Deputy Commissioner & others,* 2024 CLC 953.

10(ii) and 12 of the Federal Ombudsmen Institutional Reforms Act, 2013 unconstitutional. After declaring these provisions to be unconstitutional, it was observed that

"And once such provisions are declared unconstitutional, there is nothing that remains within the Act of 2020 that can be preserved to enable the Ombudsman to continue to discharge any useful function under the Act of 2020 in a constitutional manner.

However, the judgment of the single judge of the Islamabad High Court was challenged and subsequently suspended by the divisional bench in the intra-court appeal. This case remains sub judice in the intra-court appeal and has not been resolved to date. Since the judgment of the single judge has been suspended by the divisional bench, the ombudsman is, therefore, performing its functions under the 2020 Act. Therefore, the salient features of the Act are examined below.

Under Section 4 of this Act, a woman deprived of ownership or possession of her property, by any means, may file a complaint to the Ombudsman (an official appointed under Section 7 of this Act). The Ombudsman may conduct a preliminary investigation or refer the matter to the concerned Deputy Commissioner if the matter requires further probe or investigation. Under Section 5 of this Act, if the Ombudsman concludes that the complainant has been illegally deprived of ownership or possession, he shall direct the Deputy Commissioner or state functionary or any private person to restore or confer possession or title of the disputed property. The Ombudsman can also request police assistance to execute such an order. Under Section 8 of this Act, the complainant shall also be entitled to the loss of rent per the prevailing market rate if it is concluded that the deprivation of ownership or possession of the disputed property was illegal.

Apart from these laws, the majority of laws protecting the rights of women from discriminatory practices focus on gender-based violence. These will be explored separately under the **Violence Against Women Chapter**. Furthermore, the rights of transgender persons are explored in detail separately in the **Transgender Rights** chapter.

Legislation – Religious Minorities

There is no substantive piece of legislation that explicitly protects religious minorities from discrimination in employment, education, healthcare or other social services. The majority of case law pertaining to religious minorities focuses on the non-discriminatory right to practice and profess their religious beliefs, which is explored in detail in the **Rights of Religious Minorities** chapter. However, each religious minority group has its own legislative framework governing marriages and divorces.

Christian Marriages and Divorce Laws

The Christian Marriages Act regulates the framework to conduct and register marriages between Christian people in Pakistan. The Act prescribes the persons by whom Christian marriages may be solemnised, the time and place at which Christian marriages may be

solemnised, the manner in which Christian marriages may be registered, and conditions of marriage of native Christians.

The Divorce Act, 1869, applies to applications for the dissolution of marriages by Christian applicants. The Act lays down the grounds upon which a husband and/or wife can file for the dissolution of marriage under Section 10. The Act also provides for a decree of nullity whereby the marriage be declared null and void under Section 18, with the grounds for doing so provided under Section 19. The Act also makes provisions for judicial separations, protection orders, and the restitution of conjugal rights, as well as damages, alimony, and settlements for property. The Act further makes provisions for the custody of children.

The Hindu Marriages Act, 2017

Section 4 of the Hindu Marriages Act states that if the conditions outlined are fulfilled, which includes the parties being of sound mind and capable of giving valid consent at the time of marriage, both parties are not below the age of eighteen, the parties to the relationship are not within the degrees of prohibited relationship, and neither party has a spouse living at the time of marriage. Section 5 of this law states that Hindu marriages may be solemnised in accordance with the customary rites and rituals. Further matters dealt with through this Act include: registration of Hindu marriages, judicial separation, void marriage, termination of marriage, financial security of wife and children, remarriage, and the courts to which petitions under this Act are to be presented.

The Parsi Marriage and Divorce Act, 1936

The Parsi Marriage and Divorce Act, 1936, governs the framework for Parsi marriages and divorces. Chapter II of the Act governs the validity of Parsi marriages, re-marriages, and the registration of both marriages and divorces. The Act establishes Parsi Matrimonial Courts under Chapter III, as well as the appointment of delegates to aid in the adjudication of such cases. Chapter IV outlines matrimonial suits, including those for nullity, dissolution and grounds for divorce. The Chapter also provides for suits for judicial separation, the restitution of conjugal rights, the payment of alimony, and the custody of children.

Legislation – Ethnic and Linguistic Discrimination

There is a critical gap in the protection of ethnic and linguistic groups and minorities. Pakistani legislation does not recognise or protect ethnic and linguistic groups and minorities against discrimination in education, employment, healthcare, or in the access of other social services.

Institutional Analysis

National Human Rights Institutions

National Commission on Human Rights

The National Commission on Human Rights conducts research and advocacy on key human rights issues in Pakistan. It can receive complaints of rights violations and consequently conduct investigations of said complaints. It can also forward complaints to relevant law enforcement agencies and authorities. Furthermore, it engages in advocacy and awareness-raising campaigns on key human rights issues, and conducts law and policy reform. The NCHR has provincial offices that can receive complaints within each province and work towards human rights advocacy and policy reform at the provincial levels.

In terms of discrimination, the NCHR has produced several knowledge products on the matter. For example, it documented socio-economic discrimination against religious minorities in its *Unequal Citizens* report, and released two films on the subject.[782] Between 2021 and 2022, the NCHR received 16 cases of discrimination - however, it is unclear on what grounds (education, employment or access to social services) these complaints were made on. The NCHR has separate reporting categories for minority rights, of which it received 41 complaints between 2021 and 2022, as well as for harassment and sexual harassment (19 and 1 cases respectively). This indicates a lack of clarity in the reporting categorisation process due to unclear definitions.

The NCHR has a dedicated Minority office which oversees its work on religious minority rights. It successfully lobbied governments to ban discriminatory advertisements targeting Christian citizens for sanitary worker positions, and enforcing the proper implementation of minority quotas in multiple public sector organisations. It also lobbied for the notification of Hindu Marriage Registrars under the Hindu Marriages Act.[783] Thus, the NCHR has been active in advocating for anti-discriminatory measures against religious minorities.

However, the NCHR does not have enforcement power after it completes an inquiry or investigation into certain reported human rights violations. As a watchdog organisation, it is limited to referring investigations to law enforcement agencies or to the courts. While it can follow up on cases and mandate action by law enforcement agencies, it has an inherent lack of enforcement capacity.

National Commission on the Status of Women

The National Commission on the Status of Women (NCSW) is a national human rights institution that works towards gender equality and the empowerment of women and girls. Like

[782] NCHR, *Minority Report* (Islamabad: National Commission for Human Rights, 2022), https://nchr.gov.pk/wp-content/uploads/2022/05/Minority-Report-compressed.pdf.

[783] NCHR. "Policy Making." Accessed April 7, 2025. https://nchr.gov.pk/policymaking/.

the NCHR, it conducts law and policy reform and advocacy, research and knowledge production, and complaint investigation and referral. Its priority areas include violence against women, economic empowerment and political participation.[784] The NCSW has provincial sub-offices that can take up complaints within each province and conduct awareness-raising activities. It has published extensively on key gender discrimination issues, such as child marriage, the impact of climate change on women and girls, and formal and informal legal systems.[785]

However, the NCSW faces several challenges, which it highlighted in its Annual Report 2022-23.[786] According to the NCSW, it lacks a sufficient budget to carry out its functions adn activities. Furthermore, it faces additional setbacks due to delays in appointments and limited staff. It also faces issues in communication and coordination with the Ministry of Human Rights and other relevant bodies, which hinders its ability to conduct activities.[787]

Federal Ombudsman (*Wafaqi Mohtasib*) and Provincial Ombudsmen

The Federal Ombudsman is a quasi-judicial administrative body established at the federal level. Equivalent Ombudsman offices are established at the provincial levels as well.

The Ombudsmen can take up cases pertaining to maladministration on behalf of any agency, which includes any establishment under the Federal Government (and under the provincial governments in the case of Provincial Ombudsmen). The term 'maladministration' includes decisions, processes, recommendations, or acts of omission or commission that are (among other categories) "perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory."[788] The Ombudsmen offer swift recourse to justice for discriminatory decisions; according to the Federal Ombudsman's 2023 Annual Report, a complaint is disposed of within 45 days of its registration, with its implementation being monitored for up to a further 45 days.[789] A similar timeline was observed at the Punjab Ombudsman as well.[790] Unlike a traditional court, the Ombudsman has an Implementation Wing which oversees the implementation of a decision.

The Ombudsman system is an effective approach to the handling of disputes. For example, the Federal Ombudsman resolved 193,030 out of 194,106 cases, reflecting a 99.4% disposal rate.

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[784] National Commission on the Status of Women (NCSW). "Priority Areas." Accessed April 7, 2025. https://ncsw.gov.pk/Detail/NmY4ZTAwYjUtZDc1MC00NWQ5LTgxOTgtY2I2Yzg3NTdiNDM0.

[785] NCSW. "Publications." Accessed April 7, 2025. https://ncsw.gov.pk/Detail/ZmEyMGJhODgtMjliMi00OGM1LTg1YzctMjYxNjRiZjc3NzMy.

[786] NCSW. *Annual Report 2022-2023*, 64 https://drive.google.com/file/d/1yBBDY1ph-48L3MS4VswEcqt_MlRA6ez1/view.

[787] Ibid.

[788] Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, sec. 2(2).

[789] Federal Ombudsman of Pakistan. *Annual Report 2023*, 15. Islamabad: Wafaqi Mohtasib Secretariat, 2023. https://mohtasib.gov.pk/SiteImage/Downloads/Annual%20Report%202023_compressed%20(1).pdf.

[790] Office of the Ombudsman Punjab. *Annual Report 2023*, vii. Lahore: Office of the Ombudsman Punjab, 2023. https://ombudsmanpunjab.gov.pk/system/files/ANNUAL%20REPORT%202023_.pdf.

A similar rate was also observed at the Punjab Ombudsman, reflecting the effectiveness of the system.[791] However, it is unclear how many such cases pertain to socio-economic discrimination of individuals on the lines of gender, religious minority or ethnic minority groups. Rather, the term 'discriminatory' is used more broadly to reflect government decisions that do not conform to the law, rules or regulations. The Ombudsman is therefore resorted to more in cases of general administrative issues as opposed to cases involving equality and non-discrimination.

Federal Ombudsperson Secretariat for Protection Against Harassment at Workplace (FOSPAH) and Provincial Ombudspersons

The Federal Ombudsperson Secretariat for the Protection Against Harassment at the Workplace (FOSPAH) is a quasi-judicial administrative body set up to provide grievance redressal against claims of sexual harassment and the enforcement of women's property rights. It has regional offices in each province as well, which receive complaints within their jurisdiction. Unlike the *Wafaqi Mohtasib*, FOSPAH takes up claims specifically under the Prevention Against Harassment at the Workplace Act, 2010, and the Enforcement of Women's Property Rights Act, 2021 (and its provincial equivalents). Apart from its quasi-judicial role, the FOSPAH engages with private sector companies to train them on anti-harassment law, policies and best practices. It also engages in capacity-building and awareness raising among the general public.

According to the FOSPAH's Annual Report in 2023, it received 681 cases in 2023 and 857 in 2022. The majority of harassment cases are from Islamabad and Punjab, largely from the private sector and registered by women, indicating their greater vulnerability to harassment at the workplace than men. The FOSPAH has been a successful example of a dedicated and efficient grievance redressal mechanism set up to protect the socio-economic rights of women, namely protection against harassment and the enforcement of the right to inheritance.

Establishment Division

The Establishment Division of the Federal Government has notified employment quotas into the civil service under the Civil Servants Act. These are as follows:

- Merit 7.5%
- Punjab (Including Federal Area of Islamabad) 50%
- Sindh 19% further sub-allocated in the following ratio:
    - Urban Areas of the Sindh - 7.6%.
    - Rural Areas of the Sindh - 11.4%.
- Khyber Pakhtunkhwa 11.5%
- Balochistan 6%
- Federally Administered Tribal Areas (FATA) 3% (will be merged with Khyber Pakhtunkhwa by 2030)
- Gilgit–Baltistan 1%

[791] Ibid.

- Azad Kashmir 2%
- Women Reserved Quota: 10% Women quota will be observed / calculated from the share of each province / region

A 5% quota for religious minority representation was also established at the federal level. However, as explored above, these quotas are largely unfulfilled at both the federal and provincial levels.

The current quota system reflects the population distribution across the provinces. While this ensures proportional representation, half of the entire civil service is made up of persons from Punjab. The quota system should be amended to allocate more seats to the least represented provinces, i.e., Balochistan, the FATA, Gilgit Baltistan and Azad Kashmir.

Provincial Governments

The Provincial Governments have each notified government employment and education quotas for both women and members of religious minority communities. For women, each provincial government (except Punjab) has set a 10% quota for employment, with Punjab setting it at 15%. Each provincial government has set a 5% employment quota for religious minorities. However, as the Sindh Human Rights Commission points out, "the job quota for minorities remains underexploited due to existing complexities in public sector systems".[792]

Similarly, for education in public sector universities, a 2% quota is established for religious minority groups across all provinces. Some universities also include quotas from underrepresented regions, however, this differs across different universities, indicating that this is not a part of policy. Nevertheless, many of these quotas also remain vacant, particularly because minority candidates simply did not apply for the posts or did not meet the entry criteria.[793] This speaks to a larger issue of the access to education for children belonging to minority groups, which requires a large-scale concerted governmental effort to eliminate socio-economic conditions leading to such educational disparity.

Summary of UN Observations

Human Rights Committee

In its Concluding Observations, the Human Rights Committee recommended that Pakistan should enact comprehensive legislation that prohibits all forms of discrimination, including intersectional, direct, and indirect discrimination, across all spheres, while ensuring victims have access to effective remedies. Authorities must enhance the monitoring and reporting of discrimination complaints, conduct prompt and thorough investigations, hold perpetrators

[792] Sindh Human Rights Commission. *Rights of Minorities in Sindh: Status, Challenges, and the Way Forward*. Karachi: SHRC, 2024. https://shrc.org.pk/downloads/reports/Project-Rights-of-Minorities-in-Sindh.pdf.

[793] Nabila Feroz Bhatti, "Educational Quota: Halfway to a Solution," *The Express Tribune*, October 27, 2024, https://tribune.com.pk/story/2505536/educational-quota-halfway-to-a-solution

accountable with appropriate sanctions, and provide victims with adequate redress. Additionally, Pakistan should implement strong preventive measures by offering training and awareness programs for civil servants, law enforcement, the judiciary, public prosecutors, and religious and community leaders while promoting respect for diversity among the general public.[794]

The HRC made further recommendations pertaining to gender equality. According to the HRC, Pakistan should intensify efforts to ensure both legal and practical equality between men and women while combating patriarchal attitudes and gender stereotypes in families and society. The government must also promote the full and equal participation of women in political, economic, and public life, particularly in decision-making roles, by implementing special measures, enhancing civic education for young girls and women, and conducting awareness campaigns on the importance of women's involvement in decision-making processes.[795]

Committee on Economic, Social and Cultural Rights

Similarly, the Committee on Economic, Social and Cultural Rights recommended that Pakistan consider revising Articles 25–27 of the Constitution to explicitly prohibit discrimination on all grounds, including color, language, political or other opinion, national or social origin, property, disability, sexual orientation, gender identity, or other status. Additionally, it recommended that the Government adopt comprehensive anti-discrimination legislation that bans direct, indirect, and multiple forms of discrimination while ensuring effective remedies for victims through judicial and administrative proceedings.[796]

Committee on the Elimination of All Forms of Discrimination Against Women

The CEDAW Committee made several recommendations pertaining to ensuring gender equality. Pakistan should amend Article 25 of the Constitution to include a comprehensive definition of discrimination against women, covering all internationally recognised grounds and encompassing direct, indirect, and intersecting forms of discrimination in both public and private spheres.[797] The government must ensure that anti-discrimination laws include enforcement mechanisms and sanctions.[798] Parallel justice systems and informal dispute resolution mechanisms must align with the Convention and not discriminate against women, while public awareness should be raised to encourage judicial remedies over informal mechanisms. Pakistan should eliminate physical, economic, and communication barriers to justice for women and strengthen the judicial system through adequate resources and regular

[794] United Nations Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, UN Doc. CCPR/C/PAK/CO/2, November 7, 2024, para 11.

[795] Ibid., para 15.

[796] United Nations Committee on Economic, Social and Cultural Rights. Concluding Observations on the Initial Report of Pakistan. UN Doc. E/C.12/PAK/CO/1, July 20, 2017, para 20.

[797] United Nations Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CEDAW/C/PAK/CO/5, March 27, 2020, para 16.

[798] Ibid.

capacity-building on women's rights.[799] Electoral laws should be amended to increase women's representation in legislative bodies to at least 30%, provide mechanisms for complaints against disenfranchisement, and take measures to ensure more women are appointed as judges, including to the Supreme Court.[800] The government must also amend Section 10 of the Citizenship Act to allow Pakistani women to confer nationality to foreign spouses equally and consider ratifying international conventions on statelessness.

In terms of education, the CEDAW Committee recommended that Pakistan should enact legislation and implement measures to increase girls' school enrollment and reduce dropout rates, particularly at the secondary level, by ensuring parental accountability, re-entry policies for young mothers, and retention programs. The school curriculum should include gender equality education, positive portrayals of women in public life, and age-appropriate sexual and reproductive health education for adolescents. To support continued education, especially for girls in poverty, rural areas, or those who are pregnant, the government must strengthen initiatives that promote enrollment, attendance, and reintegration while eliminating financial barriers to education.[801]

To ensure gender equality in the workforce, Pakistan should enforce equal pay for equal work, promote shared family responsibilities through flexible work arrangements and childcare facilities, and support women's transition from the informal to the formal economy with labour protections, social security, and vocational training.[802] Gender-informed data collection should be enhanced, particularly regarding women in informal employment. Measures should be introduced to increase women's participation in leadership and managerial positions, including quotas and fast-track selection processes. The CEDAW Committee also recommended that Pakistan improve women's access to healthcare, particularly in rural areas, by allocating adequate resources and ensuring safe and accessible medical services. Efforts should be strengthened to reduce maternal mortality and expand access to affordable contraceptives.[803]

The government should tackle intersecting discrimination against women and girls from ethnic and religious minority groups, such as Ahmadi, Christian, Dalit, Hindu, Roma, Sheedi, and Sikh communities, by providing disaggregated data on their challenges. Additionally, Pakistan should enhance its capacity to collect gender-disaggregated data on ethnicity, religion, migration status, and disability to assess the impact of policies aimed at improving women's rights, in line with international recommendations.[804]

[799] Ibid, para 20.

[800] Ibid., para 36.

[801] Ibid., para 40.

[802] Ibid., para 42.

[803] Ibid., para 44.

[804] Ibid., para 48.

Committee on the Elimination of All Forms of Racial Discrimination

The CERD Committee also made several recommendations pertaining to non-discrimination of racial and ethnic groups. Key recommendations will be explored below.

According to the CERD Committee, Pakistan should take concrete steps to reduce poverty and unemployment among ethnic minority groups, including the Sheedi and Baloch communities, by ensuring equal access to employment opportunities, vocational training, and small business development support such as financial literacy programs and mentorship. The government must reinvest revenues from natural resource exploitation into local communities, particularly Baloch areas, and conduct thorough consultations to obtain free, prior, and informed consent from affected groups before granting licenses.

To improve living conditions, the CERD Committee recommended that Pakistan should enhance infrastructure and access to essential social services such as clean water, sanitation, and electricity in areas where ethnic minorities reside. Discriminatory employment and advertising practices that target non-Muslim ethnic minorities for sanitation work must be actively prevented and addressed. Before approving resource exploitation projects, the government should ensure independent social, environmental, and cultural impact assessments and meaningful consultations with affected communities. Socioeconomic factors contributing to higher morbidity and mortality rates among ethnic minorities, particularly women and scheduled castes, must be addressed through poverty alleviation, education, and improved living conditions. Investments in healthcare infrastructure, including equipping facilities with medical equipment and trained personnel such as midwives and obstetricians, should be prioritised in rural and ethnic minority communities.

To combat high dropout rates among ethnic minority students, the Committee recommended that the government should implement targeted educational programs, provide instruction and testing in native languages, and offer additional academic support services to ensure equal access to quality education. Furthermore, Pakistan should ensure the effective implementation of the national curriculum across all administrative levels and conduct a thorough review of educational materials and teaching methods to eliminate racist stereotypes, including in both registered and unregistered madrasas. Efforts should be made to promote tolerance, intercultural understanding, and respect for diversity among students and the broader public.

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, Several Member States urged Pakistan to adopt comprehensive legal and policy measures to eliminate discrimination and protect the rights of religious minorities, women, and other marginalised groups. Norway, Romania, and Italy emphasised the need to safeguard religious minorities from violence, persecution, and incitement, and to ensure equality before the law regardless of belief. Other recommendations included prosecuting religiously motivated violence, upholding international human rights commitments, and paying special attention to the intersectional vulnerabilities of women, girls, and children within minority communities.

Further calls were made for the elimination of harmful gender stereotypes and discriminatory practices, including child and forced marriages and so-called "honour" crimes, as highlighted by Belgium and Costa Rica. Sierra Leone and Cameroon recommended concrete actions to promote the effective participation of minorities—including women and faith-based groups—and to consolidate protections for migrants and persons with disabilities. Iraq also encouraged efforts to close the gender wage gap, underlining the broader need to ensure substantive equality across all sectors of society.[805]

Recommendations

Legislative

Draft a holistic equality and anti-discrimination law

Each provincial government should draft and pass a comprehensive Equality and Anti-Discrimination Act that explicitly prohibits discrimination based on gender, religion, caste, ethnicity, disability, and other marginalised identities. A federal equivalent statute should also be passed. The statutes can draw upon existing equality and anti-discrimination statutes, such as South Africa's Promotion of Equality and Prevention of Unfair Discrimination Act, 2000.

Like the South African law, the law should clearly define these groups to conform with internationally recognised definitions, such as Article 2 of teh ICCPR, which requires States to ensure non-discrimination on the grounds of ' race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' This law should ensure equal access to education, employment, and public services, and it should codify the relevant quotas into law, rather than by notification. The law should apply to both public-sector and private-sector organisations, with mandatory reporting requirements for private-sector organisations. It should ensure strict penalties for violations with hefty fines and imprisonment for repeat offences.

The Act should further establish an Equality and Non-Discrimination Commission that oversees its enforcement. Each provincial government should establish a provincial Commission and the federal law should establish a federal Commission The Commission would be responsible for monitoring complaints of workplace and educational discrimination and forwarding them to relevant authorities, including law enforcement agencies, the Securities and Exchange Commission Pakistan, and ombudsperson offices. It would also be responsible for carrying out audits of companies, including their hiring practices and their current workforces, to ensure that they are complying with the law. The Commission can also serve as the investigative arm of the Anti-Discrimination Ombudsperson (explored below) to carry out fact-finding missions on behalf of complainants, which would then be submitted as evidence to the Ombudsperson. Furthermore, the Commission should have a research and reporting wing that conducts research into international legal developments and best practices for ensuring

[805] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

equality and non-discrimination, and should have a designated information management cell that conducts report writing, data analysis and other related information management activities.

The law should also include a sample Equality and Non-Discrimination Policy (similar to the Code of Conduct in the Schedule to the Prevention of Harassment At the Workplace Act, 2010) which sets out standard company equality and non-discrimination policies, such as inclusive hiring practices, transparent wage structures and a clarification of acts that can be considered anti-discriminatory. The law should legally mandate establishments with over 35 employees to adopt said policy and deposit said policy instruments with the Commission and the Securities and Exchange Commission, Pakistan.

Amendments to Articles 25, 26, and 27 of the Constitution

The Constitution of Pakistan should be amended to strengthen protections under Articles 25 (Equality of Citizens), 26 (Non-discrimination in Public Spaces), and 27 (Equal Employment Opportunities). Currently, Article 25(2) only prohibits discrimination on the basis of sex, but does not prohibit discrimination on other key grounds, such as religion, ethnicity, disability or caste. These Articles should be amended to reflect these grounds which have been interpreted to be part of the right to equality and non-discrimination by the courts. This will ensure that the Constitutional text reflects emerging jurisprudence as well as Pakistan's international legal commitments.

Provincial Anti-Discrimination Ombudspersons

Each province should establish an independent Anti-Discrimination Ombudsperson tasked with monitoring, investigating, and addressing complaints of discrimination. This role can be assigned to existing Ombudspersons empowered to hear cases under the Prevention Against Harassment at the Workplace Act, 2010, and the Enforcement of Women's Property Rights Act, 2021. The Ombudsperson structure, as opposed to traditional courts, ensures swift and accessible recourse to justice and follow-up procedures on implementation. These offices should have the power to enforce the above anti-discrimination law and also provide legal aid to victims. Furthermore, the Ombudsperson should contribute to continued policy recommendations to the government to address systemic inequalities across education, employment, and access to public services.

Policy

Develop a national action plan on socio-economic equality and non-discrimination, targeting vulnerable groups

A comprehensive national action plan (NAP) on addressing the socio-economic conditions of vulnerable groups should be established at the federal level in consultation with the provincial departments. The NAP should prioritise education, employment, healthcare, access to social services and political participation. It should identify the most vulnerable segments of the Pakistani population, including religious, ethnic and linguistic minorities (as well as

intersectionalities) and seek to alleviate their social and economic conditions through concerted policy efforts. These measures can include targeted financial aid incentives in schools and universities, vocational training programmes and apprenticeships, corporate trainings on sensitisation and diversity inclusivity, and nationwide awareness campaigns. The NAP should set achievable targets to fill employment and educational quotas, and develop a national coordination mechanism where provincial governments can maintain regular communication with other provinces and regularly share best practices.

Interventions under the NAP must be based on a comprehensive needs assessment. For example, to determine the barriers to filling minority quotas in employment, a comprehensive survey must be conducted to determine the factors barring minority candidates from applying to or securing employment in vacant posts. This will then inform the nature of interventions, such as the need to bolster access to education, vocational training or others.

Amend federal quotas to reduce the gaps caused by proportional representation in the civil service

The civil service quota breakdown indicates a clear flaw in the proportional representation system. Despite Punjab having a higher population, other provinces provide valuable economic and human resources to the federal government, as well as to other provincial governments, which is not adequately reflected in the proportional representation system. It is therefore necessary that certain amendments to the quotas be made to allow for greater representation from underrepresented regions in such a manner that balances the need for proportionate representation as well as the equitable encouragement of increased participation from marginalised communities, such as Balochistan, Gilgit Baltistan and AJK.

Increase female quotas to 15% in employment

Female representation in the workforce should be increased through a 5% increase in the employment quota system throughout the province. This will ensure consistency amongst the provinces, given that Punjab has already increased its quota to 15%.

Enhance the Roles of the NCHR and NCSW

The NCHR and NCSW are the main institutions that handle complaints by religious minorities and women respectively pertaining to the violations of human rights. The funding, capacity and powers of these institutions must be enhanced (particularly the NCSW) to continue contributing to law and policy reform, advocacy, community outreach and engagement on issues relating to discrimination. Furthermore, consolidated data collection and systemisation tools should be developed for these institutions to ensure that complaints received and registered are appropriately categorised according to legal definitions, as opposed to arbitrary definitions, and that coordination is made easier with law enforcement, government and other stakeholders.

Transgender Rights

Chapter Summary

The rights of transgender persons represent a significant and evolving area within Pakistan's human rights framework. The enactment of the Transgender Persons (Protection of Rights) Act, 2018 marked a notable legislative milestone, providing protections in areas such as education, employment, healthcare, and access to public services. The Act affirms the right of individuals to self-identify their gender and outlines protections against discrimination. Progress has been observed in administrative recognition, such as the inclusion of a third gender category on national identity cards, and the introduction of employment quotas in certain provinces. However, transgender persons continue to face social stigma and barriers to effective realisation of their rights, particularly in accessing justice, education, healthcare, and formal employment sectors.

Pakistan's international human rights obligations relevant to transgender rights derive from treaties such as the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). These instruments obligate State Parties to uphold non-discrimination, equality before the law, protection from violence, and access to essential services. The domestic legal framework is grounded in constitutional guarantees under Articles 9, 14, and 25, which collectively ensure the right to life, dignity, and equality for all citizens. The 2018 Act reinforces these rights with specific provisions for the transgender community. Recent judicial interpretations have affirmed the rights to identity and equal treatment, although certain provisions of the Act were reviewed by the Federal Shariat Court in 2023. The Supreme Court is currently seised of an appeal, and its decision will be determinative in guiding the future legal trajectory of transgender protections.

Implementation and oversight mechanisms are supported by institutions such as the Ministry of Human Rights, provincial Human Rights Departments, and national human rights bodies including the National Commission for Human Rights (NCHR), Federal Ombudsman, and the National Commission on the Status of Women (NCSW). The Transgender Protection Centre, established under the Ministry of Human Rights, offers legal aid, healthcare referrals, and temporary shelter. Several provinces have introduced employment quotas and are exploring tailored outreach strategies. Nonetheless, opportunities remain for further institutional strengthening, particularly through capacity-building of law enforcement, sensitisation of healthcare personnel, and the establishment of grievance redressal mechanisms at the provincial level. Enhancing coordination among stakeholders and expanding data collection can support more effective policy formulation and implementation.

Looking forward, key areas for future development include the adoption of province-specific transgender rights legislation aligned with the federal framework, along with the formulation of accompanying rules and procedural guidelines. Institutional reforms may focus on expanding legal aid services, establishing oversight mechanisms such as Public Safety

Commissions, and ensuring the accessibility of justice, healthcare, and education. Capacity-building for law enforcement and judiciary, along with targeted public sensitisation campaigns, can contribute to improving service delivery and reducing stigma. Strengthening community-based support structures and enhancing the role of representative bodies will be essential in fostering inclusive governance and rights-based development for transgender persons across Pakistan.

Situational Analysis

Pakistan has taken significant legislative steps to protect and promote the rights of transgender persons. Most significantly, the State passed the Transgender Persons (Protection of Rights) Act, 2018, which provides a robust rights-based framework affirming the rights of transgender individuals to self-identify their gender and prohibits discrimination in education, employment, healthcare, and public accommodations. Under Section 2(n), the Act provides a broad and inclusive definition of "transgender person," acknowledging the diversity of gender identities present in Pakistan's cultural and social context.

Pakistan has also taken progressive measures at the federal and provincial levels to enhance the visibility and inclusion of transgender individuals. These include the recognition of transgender identity on national identity cards, voting rights, property inheritance rights, and efforts to establish employment quotas. However, consistent and effective implementation of these rights, particularly across the provinces, remains a key area for development to ensure that transgender persons can enjoy the protections afforded to them under the law.

Protection Against Violence

While legal safeguards are in place against violence, transgender persons continue to be at risk of physical and psychological violence. The Government acknowledges that incidents of such violence targeting transgender individuals have been reported, particularly in urban centers as well as certain regions of Khyber Pakhtunkhwa and Sindh.[806] These include forms of abuse such as physical assault, harassment, and in some cases, more severe forms of violence.[807]

In Khyber Pakhtunkhwa, data recorded between 2019 and 2023 indicates a steady increase in reported cases of violence against transgender persons.[808] The Government has taken steps to improve the protection framework through the sensitisation of law enforcement personnel and the strengthening of complaint and referral mechanisms, such as the Transgender Protection

[806] Umer Farooq.. "Convictions Rare Despite Rising Violence Against Transgenders in Khyber Pakhtunkhwa." Dawn, August 14, 2024. https://www.dawn.com/news/1852144; Subrang Society. Access to Justice for Transgender People in Pakistan: A Report. 2022.

[807] Alamgir Alamgir. "We Are Struggling to Seek Justice: A Study of the Criminal Justice System and Transgender Experiences in Pakistan." *International Journal of Transgender Health* 25, no. 2 (2024): 199–214. Accessed February 13, 2025. https://pmc.ncbi.nlm.nih.gov/articles/PMC11044753/. , 201

[808] Ibid.

Centre in Islamabad.[809] Furthermore, provincial police departments are working toward increasing institutional capacity to respond to complaints of gender-based violence more effectively. Several provinces have also established special reporting desks in police stations specifically for members of the transgender communities to register complaints.[810] These indicate positive steps towards addressing violence against transgender persons and affording them access to justice.

Access to Employment

The right to employment without discrimination is provided under Article 18 of the Constitution and is reinforced under the Transgender Persons Act. Despite transgender individuals facing barriers in entering the formal labourmarket, the federal and provincial governments have made positive efforts to promote inclusivity through public sector hiring policies.

For instance, Sindh and Khyber Pakhtunkhwa have introduced a 0.5% job quota for transgender individuals in government departments.[811] Punjab also recommended a quota at the local government level in 2021.[812] However, gaps in the effective implementation of quotas remain and require further attention,[813] along with a holistic approach to increasing awareness, workplace sensitisation, and providing skills development programs.

Furthermore, strengthening coordination between provincial service commissions, provincial human rights departments, and transgender rights organisations offers an avenue for improved outreach and employment facilitation. Additionally, vocational training and economic empowerment schemes have been developed in Punjab, such as the Tahaffuz Darsagh, to equip transgender individuals with necessary education and skills to enter the workforce.[814]

Healthcare and Social Support

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[809] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 20-21.

[810] Punjab Police. "Special Police Reporting Desk Set Up for Transgender People." https://punjabpolice.gov.pk/node/8421; Ahtesham Khan, "Police Establish Desks for Transgender Community," *The Express Tribune*, November 21, 2023, https://tribune.com.pk/story/2447448/police-establish-desks-for-transgender-community-1.

[811] Tahir Siddiqui. "Sindh Fixes Jobs Quota for Transgender Persons." Dawn, July 5, 2022. https://www.dawn.com/news/1698210; Rija Sohaib, "KP Fixes Quota in Govt Jobs for Transgenders," ProPakistani, November 21, 2024. https://propakistani.pk/2024/11/21/kp-fixes-quota-in-govt-jobs-for-transgenders/.

[812] "Punjab LG Dept Recommends Two Percent Employment Quota for Transgender People." 24 News HD, May 24, 2021. https://24newshd.tv/24-May-2021/punjab-lg-dept-recommends-two-percent-employment-quota-for-transgender-people

[813] "Report Reveals Ministries Failed to Follow Trans Job Quota." The Express Tribune, November 6, 2022. https://tribune.com.pk/story/2384284/report-reveals-ministries-failed-to-follow-trans-job-quota

[814] News Desk, "Transgenders in Punjab to Receive Technical Training under New Programme," *The Express Tribune*, April 11, 2025, https://tribune.com.pk/story/2539309/transgenders-in-punjab-to-receive-technical-training-under-new-programme.

Access to healthcare remains a critical area of focus for transgender communities. While the Transgender Persons Act guarantees the right to healthcare, additional policy measures are needed to address stigma in healthcare settings and ensure access to critical health services. Transgender individuals, especially those involved in informal or high-risk sectors such as sex work, may experience higher exposure to health vulnerabilities, including HIV/AIDS and mental health issues.[815]

To address these needs, the Ministry of Human Rights, in collaboration with provincial departments and healthcare providers, has explored strategies to enhance access to healthcare through targeted services, training for medical staff, and community outreach initiatives. Among these is the Transgender Protection Centre in Islamabad, which offers basic health facilities and psychological counselling as part of various other services.[816] The Government is also reviewing options to improve transgender individuals' access to civil registration and medical records, recognising that identification challenges can impede service delivery and continuity of care.[817]

Social Perceptions and Cultural Barriers

Stigma and discrimination remain significant barriers to the full social inclusion of transgender persons. Negative societal perceptions may impact individuals' ability to access services, participate in community life, or seek protection from law enforcement. Transgender students continue to face barriers to educational access and participation due to social stigma and lack of institutional support. Reports of exclusion, bullying, and harassment in educational institutions have highlighted the need for more inclusive learning environments.[818]

Public sensitisation campaigns and media engagement play a vital role in shifting public perceptions and promoting respect for diversity. The Government continues to collaborate with national and provincial human rights institutions, international organisations, media stakeholders, and community leaders to counter harmful stereotypes and promote the dignity and rights of all citizens, including transgender persons. National human rights institutions, such as the National Commission for Human Rights (NCHR) continues to engage in awareness-raising on the need for mainstreaming transgender persons.[819]

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[815] Muhammad Fazeel, Qasim Shahzad Gill, and Ghulam Mustafa. 2024. "Transgender Rights in Pakistan: Navigating Legal Framework, Practices and Challenges." *Global Legal Studies Review* IX (II): 1-13. https://doi.org/10.31703/glsr.2024(IX-II).01; 12.

[816] The Newspaper's Staff Reporter, "First Transgender Protection Centre Opens in Islamabad," Dawn, October 14, 2021, https://www.dawn.com/news/1651873

[817] Human Rights Commission of Pakistan**.** *Khunsa Persons (Protection of Rights) Bill 2023.* Report 2024-02. Lahore: Human Rights Commission of Pakistan, 2024.

[818] Muhammad Fazeel, Qasim Shahzad Gill, and Ghulam Mustafa. 2024. "Transgender Rights in Pakistan: Navigating Legal Framework, Practices and Challenges." *Global Legal Studies Review* IX (II): 1-13. https://doi.org/10.31703/glsr.2024(IX-II).01; 11

[819] NCHR, *Report on Transgender Persons: A Need for Mainstreaming*, Islamabad: NCHR, 2017, https://nchr.gov.pk/wp-content/uploads/2023/09/Report-on-Transgender-Persons-A-Need-for-Mainstreaming-2017.pdf.

Pakistan has established a strong legal foundation for the protection and inclusion of transgender persons through the enactment of the Transgender Persons (Protection of Rights) Act, 2018. Continued investment in institutional mechanisms, public awareness, and provincial implementation will further strengthen these efforts. Further progress requires cross-sectoral collaboration among human rights bodies, provincial governments, law enforcement, healthcare institutions, and civil society to build a more inclusive and rights-respecting society for all.

Legal Analysis

International Law

Transgender rights are increasingly acknowledged in international human rights law, which promotes legal protections, equality, and access to identity recognition, healthcare, and justice. Although no single treaty is dedicated solely to transgender rights, various human rights agreements and legal interpretations affirm the right to gender identity under broader human rights principles, which will be explored in this section.

Equality and Non-Discrimination

The right to equality and non-discrimination is a fundamental cornerstone to the international human rights system. The right to be treated equally under the law and to be equally treated under the law without discrimination has subsequent ramifications on the protection of other rights. The right is an absolute and non-derogable right that creates obligations to respect, protect and fulfil upon States. The elements of the international right are explored in greater detail in the **Discrimination** chapter.

Domestic Law

The Constitution of Pakistan

While the Constitution of Pakistan 1973 does not explicitly mention the rights of transgender persons, it does lay down fundamental rights which apply equally to transgender persons..

Article 9

Under Article 9, all citizens are guaranteed the rights to life and liberty, which can only be limited in accordance with law. The term ‘all’ citizens indicates that the law applies equally to all persons irrespective of gender differences. The judiciary has proactively incorporated a wide variety of rights under this ambit of the right to life to establish a minimum standard of living under Article 9. This includes access to electricity,[820] nutritious food,[821] water,[822] recreational

[820] *KESC Labour Union v Federation of Pakistan*, CLD 2023 Karachi 718

[821] *Adeel-ur-Rehman and others v. Federation of Pakistan and others*, 2005 PTD 172

[822] *Salt Mines Union case,* 1994 SCMR 2061; *Haroon Farooq v Government of Punjab*, CLC 2023 Lahore 1

spaces,[823] healthcare[824] and access to a clean environment,[825] among others. Thus, the right to life creates obligations beyond mere conditions of survival to encapsulate conditions for a life of quality and dignity, particularly when read with Article 14. This would entail that such requirements for a right to life are equally owed to transgender persons.

Article 14

Article 14 of the Constitution guarantees the right dignity of all persons. This includes bodily integrity, honour and reputation, and the inherent equality between all persons irrespective of differences. In *Atif Zareerf and others v the State*, the Supreme Court held that "Dignity means human worth: simply put, every person matters. No life is dispensable, disposable or demeanable."[826] The Court also interpreted the right to include a protection against violence.[827] In *Tahir Naqash v the State*,[828] the Supreme Court found three key elements to the right to dignity:

> first, every member of the human family has value - no one can be dismissed, ignored, mistreated or abused as if their humanity means nothing; second, each person's worth is equal to every other person and no one's life is more important than any other person; third, human dignity inheres in the human person and cannot be taken away.[829]

Thus, Article 14 ties in with Articles 9 and 25 (explored below) to ensure the respect of the dignity of all persons, entitling them to constitutional and legal protections as citizens of the State.

Article 25

Article 25 provides for the right to equality of all citizens, where Article 25(2) specifically prohibits discrimination on the basis of sex. Similarly, Article 26 prohibits discrimination in respect of access to public spaces, specifically access to public spaces and resorts. To remedy this, the Parliament passed the Transgender Persons (Protection of Rights) Act, 2018.

Legislation

The Transgender Persons (Protection of Rights) Act, 2018

The Transgender Persons (Protection of Rights) Act seeks to extend additional protections to members of the transgender community in Pakistan. It emphasises the right to recognition of transgender persons under Section 3 and to have themselves registered under NADRA to obtain

[823] *Akram Ali v Province of Sindh*, CLC 2022 Karachi 1634

[824] *Suo Moto Case No. 7 of 2017*, PLD 2019 SC 318, para 12.

[825] *Shehla Zia v WAPDA*, PLD 1994 SC 693

[826] Cited in *Gul Sher v Additional and Sessions Judge/Ex Officio Justice,* PLD 2023 Lahore 171, para 7.

[827] *Atif Zareef and others v. The State*, PLD 2021 SC 550

[828] PLD 2022 SC 385

[829] Ibid, para 10.

identity documentation. The Act emphasises the rights of a transgender person, such as non-discrimination, education, employment, healthcare, property and inheritance, political representation and others. It also prohibits harassment against a transgender person. The Act creates several obligations upon the Government, including the establishment of protection centres and safe houses[830], separate prisons[831], training and sensitisation initiatives and vocational training.[832] Where rights have been breached, the Act appoints the Federal Ombudsman, the National Commission for the Status of Women and the National Commission of Human Rights as the relevant complaint procedures.[833]

Notwithstanding the milestone that the enactment of the Transgender Persons Act was, it has faced several practical and legal challenges. These include discrimination in employment, access to healthcare, social stigmas and violence (as introduced in the Situational Analysis).

Lack of Provincial Laws on Transgender Persons

Due to the 18th Amendment, provincial assemblies are empowered to create their own laws. However, the federal government has a significant role in protecting and promoting human rights through various mechanisms, and therefore may legislate on it.[834] The Transgender Persons (Protection of Rights Act) 2018 law applies to all of Pakistan. Given that it pertains to fundamental rights and anti-discrimination, areas within the federal purview, it applies uniformly across all provinces. Consequently, provincial departments and authorities are obligated to implement and adhere to this Act. They can issue directives or notifications to enforce its provisions within their respective jurisdictions.[835] While provincial governments have implemented the provisions of this act by, for example, determining quotas for transgender persons in employment and public services, much more needs to be done to make transgender rights a priority.

Thus, the passing of provincial Transgender Protection Acts may align priorities and make it an agenda at the provincial level.[836] This will also allow for the creation of designated institutions at the provincial (and sub-provincial) levels to formally oversee the implementation of provincial Transgender Protection Acts. Furthermore, this can facilitate the formation of grievance redressal mechanisms at the provincial levels as well. Provincial governments can

[830] Transgender Persons (Protection of Rights) Act, 2018, sec. 6 (a)

[831] Ibid

[832] Ibid

[833] Ibid, sec. 18

[834] See: Constitution of Pakistan 1973, Fourth Schedule (Federal Legislative list), no. 32, 13, 55 and 56.

[835] Ibid, Article 143 of the Constitution states: If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-e-Shoora (Parliament) which Majlis-eShoora (Parliament) is competent to enact, then the Act of Majlis-eShoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.

[836] Nimra Nawaz and Hussnain Safdar, "Transgender Rights in Pakistan: A Complete Study under the Constitution and Pakistan Law," *Pakistan Journal of Humanities and Social Sciences* 11, no. 2 (2023): 1620, https://doi.org/10.52131/pjhss.2023.1102.0467.

engage more directly with transgender communities within their provinces and formulate policy interventions accordingly, rather than within the framework of the federal act.

Case Law

In *Dr. Muhammad Aslam Khaki and Others vs. S.S.P. (Operations) Rawalpindi*,[837] the Supreme Court of Pakistan passed a landmark judgment recognising the rights of transgender persons to be recognised as a third gender category on national identity cards. The Court interpreted the rights to life, dignity and equality under Articles 9, 14 and 25 respectively, to hold that transgender persons were entitled to equal treatment as all other citizens. The Court directed the National Database and Registration Authority (NADRA) to formulate a third gender category and register transgender persons to provide them with computerised national identity cards (CNICs), allowing them to avail further rights and services such as voter registration, healthcare, employment, education and other social services.

Conservative political groups have challenged the validity of certain sections of the Transgender Persons Act before the Federal Shariat Court. The Court gave a decision regarding certain parts of the act being incompatible with Islam. In 2023, legal challenges to the Transgnder Persons (Protection of Rights) Act, 2018, mounted in the Federal Shariat Court. On May 19, 2023, the Federal Shariat Court of Pakistan rendered parts of the Transgender Persons Act 2018 incompatible with Islamic principles.[838] In particular, the Court declared Sections 2(1)(f), 2(1)(n)(iii), 3 and 7 of the Act contrary to Islamic principles. Sections 2 (1)(f) and 2 (1)(n)(iii) define "gender identity" and clarify that a transgender person is anyone whose "gender identity or gender expression differs from the social norms and cultural expectations based on the sex they were assigned at the time of their birth". Similarly, Section 3 allows transgender persons the right to be "recognised as per their self-perceived gender identity", while Section 7 provides the right to inherit according to their self-perceived gender identity. The judgment seems to have revoked transgender persons' right to self-perceived gender identity and therefore, their right to inherit according to the gender-identity they profess.

This has significant implications for the rights of transgender persons. Firstly, this exacerbates concerns about anti-transgender person violence whereby the vast majority of transgender people in Pakistan face physical assaults.[839] Secondly, the marginalisation intensifies existing social stigmas against transgender persons.[840] Thirdly, the decision has clarified that transgender persons may not self-identify their gender, but may be recognised on the basis of being a 'third' gender category, often referred to as 'intersex' persons.[841] Thus, this effectively renders Section 3 of the Transgender Persons Act 2018 as void, which provides the right to a

[837] PLD 2013 SC 188

[838] *Hammad Hussain etc. v. Federation of Pakistan,* PLD 2023 FSC 301

[839] Shah HBU, Rashid F, Atif I, et al. "Challenges faced by marginalised communities such as transgenders in Pakistan". Pan Afr Med J 2018; 30: 96.

[840] Mehr Muhammad Adeel Riaz and Mehrub Moiz Awan. "Transgender Rights in Pakistan: Implications of Federal Shariat Court Ruling." *The Lancet Psychiatry* 10, no. 8 (2023): 20. https://www.thelancet.com/psychiatry.

[841] *ibid*

transgender person to be "recognised as per his or her self-perceived gender identity". In doing so, the verdict may perpetuate sociocultural and economic marginalisation, hindering transgender individuals' ability to challenge discrimination and access essential services.[842]

It must be noted, however, that the decision of the Federal Shariat Court has been challenged in the Supreme Court by the transgender community and thus deemed to be suspended until the decision of the Supreme Court by virtue of Article 203D of the Constitution which states "no such decision shall be deemed to take effect before the expiration of the period within which an appeal therefrom may be preferred to the Supreme Court or, where an appeal has been so preferred, before the disposal of such appeal." Thus, the Shariat Appellate Bench of the Supreme Court will review the decision of the FSC and will give a final verdict on the issue.[843]

Institutional Analysis

The Transgender Protection Center.

The Ministry of Human Rights (MoHR) is responsible for ensuring compliance with international human rights treaties, including CEDAW, ICCPR, and UNCAT. The Transgender Persons (Protection of Rights) Act, 2018 falls under its mandate. In 2021, a Transgender Protection Centre was opened under the MoHR.[844] The Centre provides legal aid, basic health facilities, psychological counselling and temporary shelter as well.[845] Furthermore, it has been beneficial to the extent that it has engaged members of the Transgender community in its administrative operations. For example, by appointing Reem Sharif (a transgender person) to the position of Deputy Director of the Protection Center, this is the first time a transgender person has been employed by the government in such a senior position.[846] Furthermore, it has provided social services for transgender persons in the form of, for example, free medical camps where they received free consultations from specialists, complementary medicines, eyeglasses, and tests for HIV/AIDS, syphilis, hepatitis B and C, and diabetes.[847] However, other than occasional medical camps, there has been no launching of a nationwide programme to improve the situation of transgender persons and address structural barriers to their active inclusion in society and protection from violence.

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[842] Ibid.

[843] Hasnaat Malik, "Trans Community Challenges Shariat Court's Decision in SC," The Express Tribune, July 16, 2023, https://tribune.com.pk/story/2426498/trans-community-challenges-shariat-courts-decision-in-sc.

[844] Amjad Mahmood. "Transgender Persons Face Violence, Discrimination in Pakistan." *Dawn*, October 14, 2021. https://www.dawn.com/news/1651873.

[845] Ibid

[846] Myra Imran. "First Transgender Woman Appointed to Lead Ministry Division." Dawn, March 6, 2024. https://www.dawn.com/news/1808928.

[847] Ministry of Human Rights, Government of Pakistan. "The Transgender Protection Centre under MoHR Organised a Free Medical Camp at the KhawajaSira Learning Center in Islamabad." Ministry of Human Rights. Accessed April 1, 2025. https://mohr.gov.pk/NewsDetail/NGVkZTk3NjgtYTJhNC00Mzg2LTk4ZGYtNzg3ZjM4NDg4YjE3.

However, the institution faces various challenges in regard to transgender rights. Firstly, the decision of the Federal Shariat Court declaring the provisions of the Transgender Persons (Protection of Rights Act) 2018 as against the injunctions of Islam has resulted in the decline of many of the rights granted by the Act, as discussed above. Secondly, the MoHR has lacked effective implementation mechanisms of the Act. Although the creation of the Transgender Protection Centre is commendable, it does not seem to have a reach wide enough to counter the police abuse and societal stigmas against transgender persons, as seen in the Situational Analysis above.

Provincial Human Rights Departments

The provincial Human Rights departments are responsible for monitoring and enforcing human rights laws at the provincial level. The 2018 Act, being a Federal human rights statute applicable to the whole of Pakistan, these departments may issue directives or notifications to enforce the Act's provisions within their respective jurisdictions.[848] However, no province has enacted a rights based transgender-specific law. The 1099 helpline under the Transgender Citizens Complaint Management System (TCCMS) operates only at the federal level under the Ministry of Human Rights.[849] The lack of dedicated complaint mechanisms at the provincial level is a concern which can be addressed by the passing of provincial transgender rights protection laws.

Law Enforcement Agencies

The primary law enforcement agency of concern here is the police. Factors such as police culture, training procedures, gender stereotypes, and direct contacts with transgender individuals all have a role in shaping police personnel' attitudes about Pakistan's transgender community. It is noted that "police officers' thoughts and attitudes about transgender persons can be severely impacted by a lack of awareness and education about transgender populations".[850] Officers' attitudes about the transgender community may be heavily influenced by cultural stereotypes. Efforts to address bias among police officers face unique challenges, particularly where cultural beliefs and law enforcement protocols overlap.[851] The intersection of faith-based values and official procedures can create conflicts, making it difficult to ensure unbiased policing while respecting religious sensitivities.[852]

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[848] Constitution of Pakistan 1973, art. 143

[849] Imtiaz Ahmed. "Trans Community Still Awaits Implementation of Rights Law." *Dawn*, October 2, 2022. https://www.dawn.com/news/1712831.

[850] Muhammad Qasim Arslan, Urooj Fatima, and Syeda Rafia. "Perception in Uniform: A Study of Police Attitudes Towards the Transgender Community in Pakistan." *Pakistan Languages and Humanities Review* 7, no. 4 (October-December 2023): 633 https://doi.org/10.47205/plhr.2023(7-IV)55, 633.

[851] Ibid.

[852] Ibid.

Reports indicate that transgender individuals are arbitrarily arrested, harassed, and abused by law enforcement.[853] In Pakistan transgender communities are generally disrespected by the police; therefore, they are therefore reluctant to visit police stations to report their First Information Reports (FIR's). A senior guru[854] in Peshawar, attested that police always have an indignant attitude towards them whenever they visit a police station to lodge any complaints or to discuss any security issues.[855] Similarly, despite filing FIRs, there is often minimal follow-up or thorough investigation. In fact, the police often do not effectively entertain the complaints of transgender persons, thereby failing to even file an FIR in the first place.

Furthermore, there is a lack of data on the prevalence of mental illnesses or psychological trauma in the transgender community of Pakistan. This inadequate security situation is compounded by societal misconceptions that unfairly link these insecurities to the activities of the *khawaja sira* communities, such as singing, dancing, and engaging in sex work.[856] This also distorts the true reality of how many transgender persons are victims of violence and abuse, as their reluctance to report to the police results in a much lower figure of cases being reported overall, and indicates significant issues in data collection.

Nevertheless, certain police departments are taking positive initiatives to facilitate the protection of transgender persons. For instance, in 2023, the Inspector General Police of Punjab announced that "Protection Cen-ters" were being established in all districts of the province to provide legal and social protection to the members of transgender commu-nity. The IG Punjab said that in these protection centers, the members of transgender community would be provided with legal assistance, social protection and complete aware-ness and guidance regarding all their problems.[857]

Existing Grievance Redressal Mechanisms

Section 18 of the Transgender Persons (Protection and Rights) Act 2018 provides grievance redressal mechanisms such as the Federal Ombudsman, National Commission for the Status of Women and the National Commission of Human Rights (NCHR). These are alternative mechanisms to the civil and criminal courts.

The Federal Ombudsman is a quasi-Judicial body with the power to issue summons and address grievances of petitioners. In 2018, a commissioner for transgender persons was appointed at the Wafaqi Mohtasib Secretariat/the Federal Ombudsman of Pakistan to redress the grievances

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[853] Ibid.

[854] A *guru* is a teacher in the hijra system, under whose apprenticeship a *chela* (student) learns the principles of the hijra subculture and through whom a *chela* is identified. A *guru* is the counterpart of a "patriarch" in the hijra system.

[855] Ibid., 205.

[856] Ibid.

[857] Punjab Police. "Police Protection Centres Being Set Up for Transgenders: IGP." Punjab Police, February 28, 2023. https://punjabpolice.gov.pk/node/12232.

of the community.[858] Transgender individuals can lodge complaints through the Ombudsman's website or helpline. The appointment of a specific Commissioner for complaints by Transgender community is commendable as it will ensure that their complaints are given priority as opposed to the normal procedure where caseload precludes seeing issues of transgender community as a priority.

Similarly, the National Commission for the Status of Women (NCSW) is a statutory body that examines policies and laws affecting women's development and gender equality. It also monitors mechanisms for redressal of violations of rights and individual grievances. The NCSW reviews laws and policies to ensure they are inclusive of transgender rights.[859] Unlike the Federal Ombudsman, the NCSW is not an adjudicative body and so it may not be the most effective grievance redressal forum, however, it is useful in regards to advocacy for transgender rights to policy makers and courts for the redressal of transgender community's issues.[860]

In similar light, the NCHR is an autonomous body responsible for the protection and promotion of human rights in Pakistan. It has the authority to investigate human rights violations and recommend corrective measures. They have published various reports highlighting the need for mainstreaming transgender individuals and have proposed practical recommendations for their upliftment. Transgender individuals can file complaints directly with the NCHR regarding human rights violations.

The NCHR, while not a judicial or quasi-judicial body, still possesses various powers of grievance redressal. For example, Section 9 of the NCHR Act[861] allows the Commission to investigate complaints either via petitions or even through suo-moto actions where violations of human rights or its abatement occurs by a public servant. In addition, it also has the power to summon and enforce the attendance of witnesses and examine them on oath, require discovery and production of documents, receive evidence on affidavits, requisitioning any public record or issuing commissions for the examination of witnesses or documents.[862] While its decisions are not considered to be legally binding, it may refer matters to relevant courts.[863] However, the NCHR does not have a specific body or tribunal for the grievances of transgender persons, which perhaps may have been the legislative intent behind section 18 of the Transgender Persons (Protection and Rights) Act 2018. It will generally entertain complaints regarding abuses of human rights, which includes those of Transgender Persons.

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[858] Gulf Times. "Ombudsman Gets Commissioner for the Transgender Community." Gulf Times, January 8, 2018. https://www.gulf-times.com/story/577451/ombudsman-gets-commissioner-for-the-transgender-community.

[859] Ministry of Human Rights, Government of Pakistan. "National Commission on the Status of Women (NCSW)." Ministry of Human Rights. Accessed April 1, 2025. https://www.mohr.gov.pk/Detail/MjRjMDg2MmMtYTYxNS00N2QwLTgwMWMtZTk3MGMzZjdhYTg5.

[860] National Commission on the Status of Women Act, 2012.

[861] National Commission for Human Rights Act, 2012.

[862] Ibid, sec. 13.

[863] Ibid, sec. 13(3).

Summary of UN Observations

Human Rights Committee

The Human Rights Committee (ICCPR) has called on Pakistan to take stronger action against discrimination, urging the government to implement clear legal protections that explicitly prohibit hate speech, harassment, and violence against transgender individuals.[864] It has also emphasised the need to uphold and fully enforce the Transgender Persons (Protection of Rights) Act, 2018, warning against any legislative changes that might weaken its impact.[865]

Committee on the Elimination of Discrimination Against Women

The Committee on the Elimination of Discrimination Against Women (CEDAW) has raised alarms about the forced sterilisation and non-consensual gender reassignment surgeries that some transgender individuals are subjected to. It has stressed that those responsible must be held accountable, and victims should have access to justice, compensation, and proper medical care. The Committee has also urged Pakistan to take proactive steps to prevent such violations from happening in the first place.[866]

Committee on the Rights of the Child

Similarly, the Committee on the Rights of the Child (CRC) has highlighted the severe gender disparities and discrimination that transgender children face, calling for urgent reforms. It recommends public education and awareness campaigns to combat societal prejudice and legal inequalities. Additionally, the Committee stresses the importance of engaging religious leaders, law enforcement, and the judiciary in efforts to shift harmful cultural attitudes and ensure transgender children enjoy their full rights.[867]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, Mexico, Chile and the Kingdom of the Netherlands recommended laws to eliminate discrimination based on sexual orientation, to legislate in all provinces to protect rights of transgender persons and intersex people and to amend Articles 25 to 27 to recognise those belonging to a sexual & gender-based minority as protected grounds on the basis of which discrimination is prohibited, and enact a comprehensive anti-discrimination law prohibiting discrimination.[868] Pakistan noted all these

[864] Human Rights Committee. Concluding Observations on the Second Periodic Report of Pakistan. CCPR/C/PAK/CO/2. Geneva: United Nations, November 7, 2024. para 13.

[865] Ibid.

[866] Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Fifth Periodic Report of Pakistan. CEDAW/C/PAK/CO/5. Geneva: United Nations, March 10, 2020. paras 42-43.

[867] Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. CRC/C/PAK/CO/5. Geneva: United Nations, July 11, 2016. Para 19.

[868] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

recommendations. Given that the recommendations were phrased as ‘sexual orientation’, such legal interventions are not consistent with Pakistan’s commitment to ensuring conformity of its laws with Islamic law, and were therefore not supported.

Recommendations

Legislative

Passing provincial Transgender Persons Acts

Given that provincial governments have the jurisdiction to legislate on human rights issues in their territories, they should pass province-specific equivalents of the Transgender Persons Act and operationalise them within their provinces. The laws should incorporate the definition of ‘Transgender persons’ as per the federal Act subject to the decision of the Supreme Court on the appeal from the Federal Shariat Court decision.

The laws should nominate institutions to oversee their implementation. This could include the establishment of a Commission for the Protection of Transgender Persons, which can be the main institution responsible for overseeing the implementation of these Acts. Its functions should include data collection and reporting, coordination with relevant stakeholders (police, healthcare providers, employers, etc.) and grievance redressal. Alternatively, this jurisdiction can be given to provincial Commissions on the Status of Women, given that they already conduct work in this area. The nominated institution must include adequate representation from the transgender community to ensure an equitable approach towards its implementation.

The laws should also include a list of offences with specific penalties. These can include causing bodily injury to a transgender person, harassment, verbal abuse, medical negligence and other similar offences. While the drafting of such provisions can be similar to their equivalent provisions in the Pakistan Penal Code, 1860, the penalties should be enhanced to reflect the higher vulnerability of transgender persons to such crimes.

Pass Rules under each Transgender Persons Act

Currently, the federal Transgender Persons Act merely states the recognition of rights of transgender persons, without providing a procedural framework for their implementation. The lack of rules reduces the Act to a declaratory statute without operational significance. Individual rules for each set of rights, such as education, healthcare, employment, voting, inheritance and other rights, need to be clarified through a consultative process within each province. The rules must also outline processes for grievance redressal under each nominated institution.

Policy

Legal Aid Provision

Transgender persons, being one of the most vulnerable groups in society, often have to face the abuse of law enforcement and society in general, for which recourse to the courts is very important. However, transgender persons are unable to afford the high costs of court procedures and legal representation. This necessitates legislative amendments in the Act to make arrangements for Legal Aid for transgender persons in order to enhance their access to justice.[869] In addition, as mentioned above, the creation of Rules to accompany the act becomes necessary since that could include measures to incorporate legal aid for transgender persons and provide Standard Operating Procedures in regards to its functioning. This could perhaps be overseen by the Ministry of Law and Justice, with guidance from the Pakistan and the Provincial Bar Councils.

Sensitisation of Law Enforcement and Judiciary

To ensure the protection and rights of transgender individuals, it is essential to sensitise and train law enforcement agencies, including the police, on gender-related issues and the specific needs of the transgender community. Integrating a specialised module on preventing gender-based discrimination into police training curricula will help create a more inclusive and unbiased law enforcement system. Officers must be equipped with the knowledge and skills to handle cases involving transgender individuals with sensitivity, respect, and fairness.[870]

Additionally, stronger and more transparent accountability mechanisms must be introduced within the police force to curb abuse of power and discriminatory practices. The establishment of Public Safety Commissions can serve as an oversight body to monitor police conduct and ensure greater institutional accountability. Furthermore, access to police reporting mechanisms should be made easier and more inclusive, particularly for women, transgender individuals, and children, by implementing victim-friendly procedures that encourage reporting and ensure a safe environment for those seeking justice.

Equally important is the need to sensitise the judiciary, especially at the District and Sessions Court levels, to enhance their understanding of the legal rights and challenges faced by transgender individuals. Regular judicial training programs should be introduced to ensure that judges and court officials are equipped to handle cases involving transgender persons fairly, ultimately improving access to justice and reducing bias in legal proceedings.[871]

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[869] Centre for Fundamental Rights (CFHR). *Rights of Transgender Persons in Pakistan.* Islamabad: CFHR, 2020; 7 https://cfhr.com.pk/wp-content/uploads/2022/01/Rights-of-Transgender-Persons-in-Pakistan_2020.pdf.

[870] Subrang Society. *Access to Justice for Transgender People in Pakistan: A Report.* 2022; 8

[871] Ibid.

Improving Access to Healthcare

Institutional and structural reforms are urgently needed to improve transgender individuals' access to both physical and mental healthcare. As a marginalised community, they face significant barriers in receiving adequate medical attention, making it the state's responsibility to ensure inclusive and accessible healthcare services. Equally important is the training and sensitisation of healthcare providers to enhance their understanding of transgender-specific health concerns. Many transgender individuals face discrimination and mistreatment in medical settings due to a lack of awareness among healthcare professionals. Therefore, equipping medical practitioners with the necessary knowledge and competency to cater to transgender patients is crucial in fostering an inclusive and respectful healthcare environment.[872]

Further improvements should focus on expanding access to general health services for transgender individuals, ensuring they receive the same quality of medical care as other citizens. Additionally, specialised healthcare services for gender transition-related needs must be made available, addressing both medical and psychological aspects of gender identity.

Awareness Raising and Community Engagement

The discussion above has made clear, among various other things, the societal stigma that is against transgender persons. To remedy that, the government must systematically increase awareness and understanding of transgender issues among the general public and healthcare providers through education and training programs. Furthermore, it must strengthen civil society by encouraging the development of community-based organisations and initiatives aimed at improving the visibility and acceptance of transgender individuals in Pakistani society.[873] This is likely to improve the overall societal outlook towards treatment of transgender persons which may then translate into fair treatment by law enforcement and the judiciary.

[872] Aurat Foundation. *Transgender Community in Pakistan*. Gender Equity Program, September 2016, 39 https://cfhr.com.pk/wp-content/uploads/2022/01/Rights-of-Transgender-Persons-in-Pakistan_2020.pdf.

[873] Nimra Nawaz and Hussnain Safdar, "Transgender Rights in Pakistan: A Complete Study under the Constitution and Pakistan Law," *Pakistan Journal of Humanities and Social Sciences* 11, no. 2 (2023): 1629, https://doi.org/10.52131/pjhss.2023.1102.0467

Freedom of Assembly

Chapter Summary

This chapter provides a comprehensive examination of the right to freedom of assembly in Pakistan, an essential component of democratic participation and civic engagement. Enshrined in Article 16 of the Constitution, this right allows citizens to gather peacefully and unarmed to express collective interests. Public assemblies have addressed a broad range of social, economic, and political concerns across the country. Between January 2021 and March 2022, 503 public assemblies were recorded, with varying levels of engagement and response from state institutions. While most gatherings proceeded peacefully, certain events presented challenges in terms of security, traffic management, and coordination, highlighting the importance of structured procedures and responsive administrative mechanisms.

Pakistan is a State Party to the International Covenant on Civil and Political Rights (ICCPR), where Article 21 guarantees the right to peaceful assembly, subject to restrictions grounded in public safety, public order, or the rights of others. Domestically, Article 16 of the Constitution provides similar protection, subject to reasonable legal restrictions. Several laws provide a regulatory framework for public gatherings, including Section 144 of the Code of Criminal Procedure (CrPC), the Police Order 2002, and the Prevention of Seditious Meetings Act, 1911. In 2024, Pakistan enacted the Peaceful Assembly and Public Order Act for the Islamabad Capital Territory, which outlines procedures for obtaining permission for assemblies and designates restricted zones. While the Act aims to regulate assemblies for public order, opportunities exist to review aspects of the law to ensure proportionality and alignment with Pakistan's international obligations, including provisions related to prior authorisation and the breadth of administrative discretion.

Institutional responsibility for the management of public assemblies is shared across multiple actors, including District Administrations, police departments, and home ministries at the provincial and federal levels. District Magistrates are typically responsible for assessing applications, issuing orders, and coordinating security measures in consultation with police. The police oversee crowd management and ensure compliance with applicable laws. Coordination frameworks exist, but there is scope for developing standard operating procedures, enhancing data transparency, and improving the consistency of administrative responses. Greater clarity on decision-making processes, appeal mechanisms, and the proportional application of security measures can help reinforce public confidence in institutional handling of assemblies.

The chapter identifies several opportunities for further strengthening the framework governing peaceful assembly. These include potential legislative amendments to clarify procedural safeguards, review restrictions under Section 144 CrPC, and align the Peaceful Assembly and Public Order Act with international standards. A shift from a permission-based to a notification-based model, development of standardised protocols, and training on rights-based policing are suggested to improve institutional responsiveness and facilitate peaceful

assemblies. Enhancing transparency, establishing independent appeals mechanisms, and incorporating human rights principles into crowd management strategies can further support the effective realisation of this constitutional right, contributing to a more participatory and accountable governance framework in Pakistan.

Situational Analysis

The right to peaceful assembly is constitutionally recognised as a vital component of democratic participation and civic engagement in Pakistan. This right is enshrined in Article 16 of the Constitution of Pakistan and is further supported by Pakistan's obligations under the International Covenant on Civil and Political Rights (ICCPR). The legal framework recognises the importance of balancing individual liberties with public order, security, and the broader national interest.

In recent years, Pakistan has witnessed a broad spectrum of public assemblies organised by civil society groups, political parties and citizens' collectives, among others. These assemblies have addressed a diverse set of concerns, including calls for administrative redress, economic justice, gender equality, health and education reform, and accountability in law enforcement.

According to the Human Rights Commission of Pakistan (HRCP), between January 2021 and March 2022, a total of 503 assemblies took place across the country.[874] The highest number of assemblies were recorded in Khyber Pakhtunkhwa (162), followed by Sindh (71), Gilgit-Baltistan (68), Punjab (62), and Balochistan (62).[875] Additionally, 30 assemblies occurred simultaneously across multiple provinces. These gatherings spanned thirteen distinct themes, with justice, politics, education, gender, and administrative accountability among the most frequently raised concerns.[876]

Reactions to assemblies have varied across regions and circumstances. According to the same HRCP monitoring exercise, around 54% of assemblies received no formal response from governmental authorities, while 15% were met with constructive or facilitative engagement by relevant institutions.[877] Approximately 12% of assemblies were accompanied by incidents involving confrontations or disruptions.[878] These instances highlight the continuing need to strengthen coordination mechanisms between organisers, local administrations, and law enforcement to support peaceful, lawful demonstrations while minimising risks to public safety.

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[874] Human Rights Commission of Pakistan, *A Year of Protests: The Right to Peaceful Assembly from 2021 to 2022*, 2023, accessed March 3, 2025, https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2023-A-year-of-protests-The-right-to-freedom-of-peaceful-assembly-from-2021-to-2022.pdf.

[875] Ibid.

[876] Ibid.

[877] Ibid., p. 9.

[878] Ibid.

The Islamabad Capital Territory (ICT), as the seat of the Federal Government, has historically been a focal point for a wide range of peaceful and lawful gatherings, although some high-profile protests in recent years have posed challenges to law enforcement and local administration. In October and November 2024, public assemblies in Islamabad attracted significant national and international attention. Although most demonstrators exercised their rights peacefully, certain incidents resulted in confrontations between demonstrators and law enforcement.[879] Furthermore, road closures led to operational difficulties in maintaining public order and transport continuity. In response to these developments, the Government introduced new legislation, the Peaceful Assembly and Public Order Act, 2024, aimed at clarifying the procedural and legal framework surrounding public assemblies in the capital.[880]

While challenges persist in balancing security and public order with the freedom of assembly, the evolving legal and institutional frameworks—including the enactment of dedicated legislation in ICT—offer opportunities to strengthen governance and public engagement around this right. Continued dialogue, training, and regulatory clarity will support Pakistan's objective of fostering a democratic culture grounded in constitutional freedoms and public accountability.

Legal Analysis

International Law

ICCPR

The right to peaceful assembly under Article 21 of the ICCPR is an important political right. The right covers the right to "non-violent gathering by persons for specific purposes,"[881] with the term 'peaceful' meaning "[without] the use of physical force that is likely to result in injury or death, or serious damage to property".[882] The right is a qualified and derogable right that creates obligations to respect, protect and fulfil.

According to the Human Rights Committee, the term 'assembly' is broad and covers "demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs."[883] This can cover both coordinated and spontaneous assemblies and does not require a minimum number of participants to be considered an 'assembly' - a single protestor can still

879 Rasool Dawar, 'PTI Claims Govt Planned Violence, Suspends 'Peaceful' Protest' (The News, 27 November 2024) https://www.thenews.com.pk/latest/1255446-pti-claims-govt-planned-violence-suspends-peaceful-protest

880 'NA Passes Bill Seeking Up to Three-Year Jail Term Over 'Unlawful Assembly'' (The News, 6 September 2024) https://www.thenews.com.pk/latest/1227635-na-passes-bill-seeking-up-to-three-year-jail-term-over-unlawful-assembly accessed 3 March 2025

881 United Nations Human Rights Committee, *General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, CCPR/C/GC/37, September 17, 2020. para 4.

882 Ibid, para 15. The HRC clarifies that isolated incidents of violence in largely peaceful assemblies do not result in the assembly being considered a 'violent' assembly.

883 Ibid, para 6.

be considered an assembly for the purposes of Article 21. Furthermore, the right applies to various mediums where assemblies can be held - in public or private, in person or online.

The right creates an obligation of respect for States. States must not interfere with a citizen's right to commence or join peaceful assemblies by prohibiting or disrupting assemblies that comply with the law, without legitimate cause.[884] Similarly, States must not enact stringent legal restrictions on the right to assembly, such as unnecessary administrative and bureaucratic requirements, that effectively hinder free peaceful assembly, and refrain from excessive use of force when enforcing security at assemblies.[885]

Under an obligation to protect, States also have a duty to ensure that private entities respect the right to assembly for others, thereby creating an obligation to protect. Thus, businesses should not penalise their employees for taking part in peaceful protests, and the State should protect participants from experiencing violence and abuse from individuals not participating in said assemblies as well.[886]

Obligations to fulfil can include positive measures such as rerouting traffic, providing police support to protect participants from abuse from State and non-State actors alike, and taking other measures necessary to prevent undue disruptions. States must also actively monitor assemblies to ensure they do not become violent and maintain oversight of the various bodies responsible for upholding the right and providing legal remedies where necessary.[887]

Limitations

The right to peaceful assembly can be restricted in very limited cases; blanket restrictions on assemblies are not permitted under Article 22. Article 22 states that "No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." Examples of these include:

- National security - limiting assemblies that threaten the existence of a nation or its independence;

- Public safety - limiting assemblies that could become violent and pose a threat to the safety of persons and property, or requiring the removal of face coverings for security checks to enter an assembly;

- Public order - limiting assemblies on major transport routes that would cause significant disruption to daily functioning;

[884] Ibid., para 23

[885] Ibid., para 74

[886] Ibid., para 31

[887] Ibid., para 29

- Protection of public health - limiting assemblies during an epidemic or pandemic to limit infection;

- Protection of morals - limiting assemblies that contravene the moral standards of a State, such as against a religious belief;

- Rights and freedoms of others - apart from limitations discussed above, limiting assemblies that entail a disproportionate burden or restriction on the daily functioning of life particularly for those not participating in those assemblies.

Domestic Law

Article 16 of the Constitution

Article 16 protects the right to freedom of assembly, which includes taking part in public meetings, processions and demonstrations. It allows citizens the freedom to meet with each other in any number provided the assembly is peaceful and unarmed. The Article states that

> Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

The right is confined to unarmed gatherings and for peaceful purposes, which can only be restricted by laws that have as their object the maintenance of public order. The restrictions imposed must, however, be reasonable, and it is for the court to decide in each case whether

Case Law Jurisprudence

The majority of case law has focused on the extent to which this right may be restricted as per the law and public order. Nonetheless, several cases have emphasised its importance. In *Noman Abid v. SHO, Clifton, Karachi*,[888] the Sindh High Court emphatically declared that "every citizen shall have the right to assemble peacefully and without arms" and that "such right has to be construed liberally and is to be given full effect until a reasonable restriction on it is imposed by law in the interest of public order."

The right to freedom of assembly is a qualified right. In *Abdul Hameed Qadri v. DM Lahore*,[889] the Court stated that "the danger to human life and safety and disturbance of public tranquillity fall within the purview of the expression 'public order', and if an order is passed by the district magistrate to prevent danger to human life and safety and the disturbance of public tranquillity, it is an order passed in the interest of public order, if the restrictions imposed by the District Magistrate are reasonable restrictions.".

[888] PLD 2011 Karachi 99

[889] PLD 1957 Lahore 213

However, the courts have laid down requirements on when this right may be restricted. Three requirements must be satisfied in order for the restriction to be reasonable:

1. It must be shown that the restriction in question has been imposed by law. Thus, the executive cannot restrict this right for "reasons of administrative expediency or convenience";

2. The Court must be satisfied that the restriction so imposed by law is 'reasonable';

3. The restriction must be relatable to the matter specifically provided for in relation to the fundamental right in question.[890]

Legislation

The Code of Criminal Procedure, 1898

The "reasonable restrictions" referred to in the above sections primarily originate from Section 144 of the Code of Criminal Procedure, 1898 (CrPC). This allows the District Magistrate to authorise temporary restrictions on assemblies to prevent disturbances and nuisances. This is in sharp contrast to the nature of the right; however, as the case law jurisprudence above has shown, it balances the freedom granted by the right with the need for security in society.

In addition, Section 107 empowers a Magistrate to obtain security for keeping the peace, from any person who is likely to commit a breach of the peace. Section 112 provides that the Magistrate acting under section 107 has to make an order in writing setting forth the substance of the information received, the amount of the bond, the term for which it is to be in force and the number, character and the class of 'sureties' (if any) required.[891]

The Peaceful Assembly and Public Order Act, 2024

The Peaceful Assembly and Public Order Act, 2024**,** has been enacted to regulate public gatherings within the Islamabad Capital Territory. It mandates that all public, political, or religious gatherings of more than fifteen people must secure prior written permission from the District Magistrate at least seven days before the event.[892] Applications must detail the purpose, timing, location (limited to government-designated areas), and logistics of the assembly.[893] Based on security reports, the District Magistrate has the authority to evaluate law and order conditions and decide whether to grant or deny permission.[894] No assembly is permitted

[890] *All Pakistan Muslim League v. Government of Sindh,* 2012 CLC 1558

[891] M. Waqar Rana and Hamid Khan, Comparative Constitutional Law (Pakistan Law House, 2014), 625

[892] Peaceful Assembly and Public Order Act, 2024, sec. 3.

[893] Ibid, sec. 3(2).

[894] Ibid, sec. 4.

without official approval, and gatherings near sensitive zones—such as designated Red Zones—are strictly prohibited.[895] Authorities may revoke permissions if new threats arise.

The Act empowers the District Magistrate to impose bans on assemblies that threaten national security, disrupt public life, or coincide with other events that could cause unrest.[896] A multi-tiered appeal mechanism allows aggrieved parties to contest decisions before the Chief Commissioner and, subsequently, the Secretary of Interior.[897] Assemblies that defy dispersal orders or act in defiance of the law may be declared unlawful, allowing police to disperse them by force.[898] Participation in an unlawful assembly is punishable by up to three years in prison, with repeat offences extending to ten years.[899]

While the Act emphasises regulation for the sake of security and public order, its restrictive provisions raise concerns about potential overreach. By placing all authority in the hands of the District Magistrate and confining assemblies to designated zones, the Act significantly restricts the space available for spontaneous or symbolic protest. The broad discretion afforded to law enforcement, combined with severe penalties and ambiguous criteria for denial, could raise concerns about its limitations on the right to peaceful assembly.

The Prevention of Seditious Meetings Act, 1911

This Act gives a provincial government the power to declare the whole or any part of a Province to be a proclaimed area. Such a declaration would preclude the possibility of any public meeting or for "exhibition or distribution of any writing or printed matter relating to any such subjects". The only possibility of freedom of movement in such a situation would require "written notice of the intention to hold such meeting and of the time and place of such meeting to the District Magistrate at least three days in advance".[900]

The Police Order, 2002

The 2002 Police Order (PO) was passed as an executive order under the Provisional Constitutional Order No. 1 of 1999 to "redefine the police role, its duties and responsibilities" and "reconstruct the police for efficient prevention and detection of crime and maintenance of public order." [901] Chapter XIII of the Order encompasses several provisions that authorise law enforcement to undertake various actions that directly and indirectly affect the right of citizens to assemble in public spaces. According to Article 118, the "Head of District Police" is generally empowered to "issue orders to give effect to the provisions" of any municipal law or

[895] Ibid.

[896] Ibid, sec.5.

[897] Ibid, sec.6.

[898] Ibid, sec.7.

[899] Ibid, sec.8.

[900] The Prevention of Seditious Meetings Act, 1911., sec. 4

[901] Police Order, 2002, preamble.

rules, currently in force, provided that such an order is enacted in cases of "emergency" and solely for "maintaining public order or preventing public nuisance."[902]

Similarly, Article 119[903] authorises "a police officer not below the rank of a sub-inspector" to issue "such directions as may be necessary" to (a) regulate the conduct and actions of individuals participating in processions or assemblies on roads or streets; (b) prevent obstructions during processions and assemblies, in the vicinity of places of worship during times of worship, and when a street or public place or place of public resort may be crowded or prone to obstruction; and (c) maintain order on streets, mosques, churches, or other places of worship and places of public resort when these may be crowded or prone to obstruction.[904]

The Police Act, 1861

Provisions of Police Act regulate the right to peaceful assembly in public spaces, with a focus on maintaining public order and safety. Section 30[905] gives the police power to issue licences defining the conditions on which assemblies or processions were to take place to avert a disturbance of the public peace and to disperse any assembly or procession conducting itself contrary to the conditions of the licence. Police can set routes and timings, and may require organisers to obtain a license if the event might disturb public peace.[906]

Similarly, Section 30A gives police the power to stop any procession or disperse an assembly that violates the license conditions. If the gathering refuses to follow orders, it is treated as an unlawful assembly.[907] Furthermore, Section 31 places a duty on the police to maintain order in public areas. This includes ensuring that processions or gatherings do not block roads or disturb people, especially near places of worship.[908]

Institutional Analysis

District Administration

District Administrations, through Deputy Commissioners (DCs) and other administrative officers, serve as key actors in regulating and managing public assemblies in Pakistan. Their authority to control and limit assemblies often derives from broader public order laws, such as Section 144 of the Code of Criminal Procedure (CrPC) or Peaceful Assembly and Public Order Act, 2024. District Administrations possess the power to issue orders under Section 144 CrPC, enabling them to ban public gatherings that they believe may cause disruption of public order. While Section 144 and the Peaceful Assembly and Public Order Act permit these restrictions,

[902] Ibid., sec. 118.

[903] Ibid., sec. 119.

[904] Ibid.

[905] The Police Act, 1861,sec. 30.

[906] Ibid.

[907] Ibid, sec.30A.

[908] Ibid, sec.31.

the District Administration is expected to apply it judiciously and temporarily, rather than as a blanket measure. The duration of the restriction can vary, and in certain cases, the order may be extended for periods of up to two months.

The District Administration, in collaboration with police authorities, plays a central role in regulating the security of protests. They coordinate the location, time, and route for assemblies. Protest organisers are often required to seek approval from the district administration to hold large public demonstrations. The District Magistrates evaluate whether the proposed location and timing are feasible, taking into account public safety and potential disruption. If the administration denies permission, it is typically on the grounds of security concerns or because the event could disrupt public order. Conversely, if approval is granted, they may impose conditions, such as timing restrictions and limitations on the use of loudspeakers.

However, several factors influence the decisions of the administration. Since they are not judicial officers but rather part of the executive branch, they often deny or restrict assemblies that could be politically inconvenient for the ruling party, particularly when opposition groups are involved.[909] In certain instances, parties are prevented from exercising their right to assemble despite court orders; instead, the administration employs delaying tactics.[910] Opposition parties and activist groups frequently accuse the District Administration of acting in bad faith by issuing blanket bans on protests or enforcing laws in a biased manner. There are no standardised protocols in place for managing assemblies, and there are no clear do's and don'ts for both the District Administration and the police. Several questions arise with regard to district administration, regarding which there is not sufficient data. They include:

- What is the standard procedure for District Administrations to assess and approve or deny public assembly permits?
- How much discretion do District Administrations have in determining the location, timing, and nature of protests?
- How are District Administrations ensuring the transparency of their decisions regarding the permission of protests?
- How effectively do District Administrations coordinate with police and other law enforcement bodies?
- What steps are taken to ensure that police actions align with human rights standards during protests?
- How does the District Administration evaluate the security risks associated with protests, and who provides input into these assessments?
- How does the District Administration track and report incidents related to public assemblies?

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[909] The Express Tribune, 'PTI Allowed to Hold Public Meeting' (The Express Tribune, 5 July 2024) https://tribune.com.pk/story/2476752/pti-allowed-to-hold-public-meeting accessed 3 March 2025; News Desk, 'Law will take its course, Sheikh Rashid warns JUI-F protesters' (The Express Tribune, 11 March 2022) https://tribune.com.pk/story/2347313/law-will-take-its-course-sheikh-rashid-warns-jui-f-protesters

[910] Awais Yousafzai, 'Deadlock Persists Despite Nod for PTI to Hold Protest on 22nd' (The News, 2 August 2024) https://www.thenews.com.pk/print/1215795-deadlock-persists-despite-nod-for-pti-to-hold-protest-on-22nd;

- What systems are in place to ensure accountability for officials involved in the decision-making and management of assemblies?
- To what extent are District Administrations influenced by political considerations in their decisions regarding public assemblies?

Police

Law and order is primarily a provincial subject, so each province has its own home department and policies regarding public assemblies. All four provinces, along with Gilgit-Baltistan (GB) and Azad Jammu & Kashmir (AJK), maintain Home Departments that oversee policing and public order. These departments issue regulations and no-objection certificates (NOCs) for rallies and have the authority to impose bans on gatherings in the interest of security.

Police forces are responsible for crowd control and ensuring that the assembly does not disrupt public order. However, incidents of violence by law enforcement during protests have been noted by civil society organisations. According to the HRCP, excessive force has been reported in several instances, particularly during political protests or movements advocating for ethnic rights, where police have used tear gas, rubber bullets, and sometimes live ammunition.[911] While the use of force by the police is authorised under certain conditions, it is frequently reported to be excessive.[912] There are several questions that arise, with insufficient data, with regard to the use of management and force by police against individuals who are exercising their right to assembly.

Political pressures or government directives may influence how police handle protests, potentially affecting their decisions on deployment and tactics. The determination of the appropriate level of force in a protest situation is likely made by senior officers based on threat assessments, crowd dynamics, and intelligence inputs. Training programs for police officers should also include components that help distinguish between peaceful protestors and those involved in unlawful behavior. There should be established protocols to ensure that arrests made during protests are legally justified and procedurally sound. It is possible that specific cases exist where police officers have been held accountable for human rights violations committed during protest responses. Additionally, mechanisms are assumed to be in place for tracking and reporting data related to protests, including the number of events, use of force, arrests, and casualties.

[911] Human Rights Commission of Pakistan, *A Year of Protests: The Right to Peaceful Assembly from 2021 to 2022*, 2023, accessed March 3, 2025, https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2023-A-year-of-protests-The-right-to-freedom-of-peaceful-assembly-from-2021-to-2022.pdf.
[912] Ibid.

Summary of UN Observations

Human Rights Committee

The UN Human Rights Committee has recommended that Pakistan should ensure its laws regarding peaceful assembly are fully aligned with the ICCPR, ensuring any restrictions imposed are in strict adherence to Article 21.[913] Furthermore, allegations of excessive use of force, enforced disappearances, torture, and arbitrary detention must be investigated impartially and promptly. Those responsible should face justice, and victims should receive full reparation.[914] Additionally, the HRC recommended that Pakistan should guarantee the right to peaceful assembly for all groups, including women's organisations, ethnic and religious minorities, opposition groups, and political parties. Media coverage of these assemblies should be free and unrestricted,[915] and law enforcement officials should receive appropriate training in non-violent crowd control methods, as well as in the proper use of force, in line with international standards.

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, the freedom of assembly was not a prominent agenda item.[916] A few States, namely Yemen and Lithuania, recommended that Pakistan guarantee the freedom of assembly along with other related rights, such as freedom of expression and association. Pakistan supported these recommendations, indicating its commitment to upholding the right to peaceful assembly under international and constitutional law.

Recommendations

Legislative

Amend Section 144 of the Code of Criminal Procedure (CrPC)

Section 144 of the CrPC. should be amended, as it gives broad and unchecked discretionary authority to district administrations, enabling them to impose sweeping bans on peaceful gatherings. The power given under section 144 represents an unjustifiably excessive limitation on the fundamental right to peaceful assembly and is being misused for political purposes under the pretense of necessity. Amendments should be brought in the Section 144 CrPC to ensure time-bound, proportionate, and necessary restrictions on assemblies.

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[913] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 51(a).

[914] Ibid, para 51(b).

[915] Ibid, para 51(c).

[916] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

Amend Chapter IX of the CrPC

Chapter IX of the CrPC. which empowers law enforcement authorities to use “force” to disperse assemblies, should be revised to incorporate precise guidelines and standardised procedures. These amendments must clearly outline when the use of force is warranted, how it should be applied, and the proportionate level of force appropriate to each situation. It must also include a framework for accountability and responsibility for excessive force, which can be further

Amend Preventive Detention Laws:

Amendments should be made to laws such as the Maintenance of Public Order Ordinance (MPO) to prohibit the use of preventive detention against peaceful protesters and to impose judicial oversight on any detention related to assemblies.

Legislature should precisely define "public order", — limiting it to situations involving actual or imminent violence, serious disruption, or threats to public safety. Peaceful protests should not be included in this definition. Similarly, the provisions regarding the power to arrest individuals without committing an offense for extended periods should be amended, and prior judicial review or, at the very least, immediate post-detention review by a High Court judge should be incorporated into the law. Additionally, detention periods should be reduced, and regular reviews should be established. Furthermore, an amendment should be introduced to create a fast-track appeal system through the courts to assess the legality and necessity of detention under the MPO.

Amend the Peaceful Assembly and Public Order Act, 2024

The Peaceful Assembly and Public Order Act, 2024, requires significant changes. Some of the changes in this Act, inter alia, to be recommended are:

- Section 2(a) of the Act sets an arbitrary limit by defining an assembly as a gathering of more than fifteen people in public spaces, unnecessarily restricting the right to peaceful assembly. Section 2 should remove any numerical limit on assemblies.

- In Sections 3 and 4 of the Act, the prior permission system should be replaced with a straightforward notification process, allowing organisers to inform authorities in advance for proper facilitation and monitoring. Spontaneous assemblies should be exempt from notification when advance notice is impractical.

- The power of district magistrate (deputy commissioner) to impose blanket bans in certain circumstances on all assemblies should be repealed.

- Appeals against order of district magistrate must be heard by an independent court or tribunal, not routed through bureaucratic channels.

- The power to disperse an ongoing assembly should be governed by strict, clearly defined criteria to prevent misuse and protect the right to peaceful protest.

Administrative Reforms

Shift from Permission to Notification Model

Pakistan should transition from requiring prior permission to implementing a simple notification system for public assemblies. Organisers should notify authorities in advance, rather than seek approval, while maintaining flexibility for spontaneous protests. This is more in line with the 'right' to peaceful assembly, allowing citizens to exercise it more effectively.

Standardised Operating Procedures

Clear SOPs should be established for District Administrations regarding the processing of notifications, the assessment of public order risks, coordination with police, and the efficient facilitation of assemblies. This should also include training programmes for officers to ensure a rights-based approach to monitoring protests in line with Pakistan's international and constitutional obligations.

Transparent Decision-Making

In case of denying or restricting the right to assembly, the district administration should be required to provide written, publicly accessible reasons for any administrative restriction or denial of a protest, including timelines, rationale, and potential alternatives.

Independent Appeals Mechanism

A fast-track appeals process should be established before an independent court for any protest ban or conditions imposed by district authorities. This should be complemented by internal checks to ensure that administrative decisions regarding protests remain free from political influence or bias against opposition groups or movements.

Police Reforms

Rights-Based Crowd Management Protocols and Specialised Human Rights Training

Clear internal guidelines should be established for police and law enforcement agencies regarding the management of assemblies, emphasising the principles of minimal force, de-escalation, and the facilitation of peaceful protest. This should be complemented with institutionalised training for all ranks in the management of protests, human rights law, effective communication strategies, and crowd psychology.

Ban on Arbitrary Force

All provincial police forces should be instructed to prohibit the indiscriminate or preemptive use of tear gas, baton charges, or mass arrests during peaceful gatherings.

Clear Chain of Command and Mandatory After-Action Reports

Any use of force during a protest should necessitate senior-level authorisation, such as from an SSP or DIG. Officers on the ground must operate under direct supervision and provide real-time reports. Furthermore, all provincial governments should establish a system requiring police to submit comprehensive reports following any assembly that involves crowd control, the use of force, or arrests, with both internal and external reviews.

Disability Rights

Chapter Summary

The protection and promotion of the rights of persons with disabilities (PWDs) constitutes a significant aspect of Pakistan's human rights framework. With estimates of disability prevalence ranging from 0.48% to 2.49% due to definitional and methodological variances in census data, the issue affects a substantial segment of the population. PWDs in Pakistan experience barriers across multiple sectors, including employment, education, health, infrastructure, and access to justice. Recognising this, the Government of Pakistan has prioritised disability inclusion through various constitutional, legal, policy, and institutional measures. Recent developments include increased visibility in planning instruments, expanded social protection initiatives, and targeted efforts to improve accessibility and public awareness.

Pakistan is a State Party to the United Nations Convention on the Rights of Persons with Disabilities (CRPD), ratified in 2011, and has also ratified complementary treaties such as the ICCPR, ICESCR, and CEDAW, all of which affirm equality, dignity, and non-discrimination. The CRPD obliges Pakistan to ensure full and equal enjoyment of all human rights by persons with disabilities and to adopt necessary legislative, administrative, and other measures. At the domestic level, various provinces have enacted legislation aligned with the CRPD, including the Sindh Empowerment of Persons with Disabilities Act (2018), Punjab Empowerment of Persons with Disabilities Act (2022), and ICT Rights of Persons with Disabilities Act (2020). While these laws provide for inclusive education, accessibility, protection from discrimination, and employment quotas, there remain opportunities for standardisation and enhanced implementation across provinces, particularly in harmonising legal definitions, ensuring reasonable accommodation, and closing gaps in access to justice.

The implementation and oversight of disability-related policies and laws are carried out by federal and provincial social welfare departments, special education authorities, and dedicated disability rights bodies such as the National Council for the Rehabilitation of Disabled Persons (NCRDP) and provincial disability councils. Courts have also played an important role in affirming the rights of PWDs through landmark decisions on employment quotas, accessibility, legal capacity, and equal parental rights. However, practical challenges persist, including inconsistencies in service delivery, gaps in infrastructure accessibility, limited enforcement of employment quotas, and barriers to legal recourse. Strengthening interprovincial coordination, ensuring operational capacity of enforcement institutions, and enabling systematic data collection are areas identified for further development to improve rights realisation for PWDs.

Looking ahead, a comprehensive reform agenda may include legislative alignment across all provinces, faithful implementation of existing laws, and institutional measures to ensure disability-inclusive development. Policy directions may encompass the introduction of a national special education strategy, improved disability registration systems, and increased public sector accountability for quota compliance. Administrative improvements, such as enhanced infrastructure accessibility and service provision, can be complemented by targeted

awareness campaigns and stakeholder training. Participation of PWDs and their representative organisations in policymaking, service design, and monitoring processes can further ensure inclusive and contextually responsive outcomes. These actions collectively aim to strengthen Pakistan's compliance with its human rights obligations and promote the full and equal participation of persons with disabilities in all spheres of life.

Situational Analysis

Pakistan has a sizeable population of persons with disabilities (PWDs). The 1998 census recorded the disability prevalence at 2.49%,[917] while the 2017 census reported a lower figure of 0.48%.[918] The 2023 census further found that 3.1% of the population have a disability, while a further 9.6% of the population have a functional limitation.[919] This variation has been attributed to differences in data collection methods, definitional inconsistencies, and broader challenges related to stigma and underreporting.[920] Nevertheless, the 2023 census findings indicate the Government of Pakistan's commitment to improving disability identification and classification systems to ensure greater visibility of PWDs in national statistics and planning processes.[921]

One key priority area for focused law and policy interventions is the employment status of PWDs. The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 laid the groundwork for the reservation of employment quotas in the public sector. While implementation has progressed incrementally across provinces, there is room for continued improvement. According to multiple sources, PWD employment levels remain low,[922] suggesting an opportunity to further bolster and incentivize inclusive hiring practices and raise awareness among employers regarding the contributions of PWDs.

The CRPD encourages State Parties to ensure accessibility in all domains, including public transport and the built environment. In terms of physical accessibility and inclusive infrastructure, Pakistan has acknowledged the importance of inclusive urban planning and continues to enhance compliance with accessibility standards through collaboration between federal, provincial, and municipal authorities, and continues to make efforts toward inclusive

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[917] Pakistan Bureau of Statistics, *Disabled Population by Nature of Disability and Sex: Census 1998*, Islamabad: Government of Pakistan, 1998, https://www.pbs.gov.pk/sites/default/files/disability/disablity_data_1998.pdf

[918] Aatik Arsh, Haider Darain. "Persons with Disabilities in Pakistan," *Annals of Allied Health Sciences* 5, no. 2 (July–December 2019): 7–8.

[919] Pakistan Bureau of Statistics, *Disability and Functional Limitation by Region and Gender: Table 16 – National*, Islamabad: Government of Pakistan, 2023, https://www.pbs.gov.pk/sites/default/files/population/2023/tables/table_16_national.pdf.

[920] Disability:IN, "Pakistan," Disability:IN Global Directory, accessed April 4, 2025, https://disabilityin.org/country/pakistan/.

[921] Pakistan. Initial Report Submitted under Article 35 of the Convention on the Rights of Persons with Disabilities: CRPD/C/PAK/1. United Nations Committee on the Rights of Persons with Disabilities, 2020, para 207.

[922] British Council, *Moving from the Margins: Mainstreaming Young Persons with Disabilities in Pakistan*, Islamabad: British Council, 2019, https://www.britishcouncil.pk/sites/default/files/mypd_2019.pdf.

education and accessible public services.[923] The National Policy for Persons with Disabilities, 2002, complemented by the 2006 National Plan of Action, emphasises inclusive education and universal design standards in public facilities to make them accessible for PWDs.[924] The Accessibility Code of 2006, developed by the Ministry of Social Welfare and Special Education, establishes building regulations and minimum legal requirements to make public buildings accessible to PWDs.[925] Nevertheless, implementation of the Code, as well as other policy measures, across provinces remains a continued work in progress.

The Government has also made legislative and policy strides to support inclusive education. Provinces have taken measures to strengthen the enrollment of children with disabilities in mainstream education systems, with the objective of fostering an inclusive learning environment.[926] Nevertheless, the issue of physical accessibility in schools, especially in rural areas, continues to present opportunities for improvement. Infrastructure development, training of special education professionals, and the expansion of school transportation networks are among the areas being explored to address this gap. [927] Further improvements and investment opportunities in educational accessibility include the expansion of assistive technology and adaptive resources in educational settings, including ramps, auditory aids, and inclusive curricula.[928]

Public awareness and social attitudes continue to influence the lived experience of PWDs in Pakistani society.[929] The Government recognises that overcoming stigma and promoting positive perceptions are essential for advancing the rights and inclusion of persons with disabilities. National and provincial awareness campaigns have sought to challenge misconceptions, while media platforms are increasingly being leveraged to promote positive messaging.[930] The Ministry of Human Rights, in partnership with civil society, has engaged in dialogue and outreach to emphasise the moral, legal, and social responsibility of ensuring equitable treatment of PWDs.[931]

Religious and cultural values play a significant role in shaping social responses to disability in Pakistan. Islamic teachings emphasise compassion, protection, and support for vulnerable

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[923] Pakistan. Initial Report Submitted under Article 35 of the Convention on the Rights of Persons with Disabilities: CRPD/C/PAK/1. United Nations Committee on the Rights of Persons with Disabilities, 2020, para 10.

[924] Ibid, para 12.

[925] Pakistan. Ministry of Social Welfare and Special Education. *The Accessibility Code of Pakistan 2006*. Islamabad: Government of Pakistan, 2007. https://cbid.org.pk/wp-content/uploads/2024/02/Acccessibility_Code_of_Pakistan_2006_.pdf.

[926] Pakistan. Initial Report Submitted under Article 35 of the Convention on the Rights of Persons with Disabilities: CRPD/C/PAK/1. United Nations Committee on the Rights of Persons with Disabilities, 2020, paras 137-139.

[927] Ibid., paras 124-126.

[928] Ibid.

[929] Bilal Idrees; Rehan Ilyas. "Discrimination and Stigmatization of Physically Disabled Student in a General Educational Environment in Pakistan: A Case Study". Academia.edu, 2013.

[930] Pakistan. Initial Report Submitted under Article 35 of the Convention on the Rights of Persons with Disabilities: CRPD/C/PAK/1. United Nations Committee on the Rights of Persons with Disabilities, 2020, para 22-23.

[931] Ibid.

groups, including persons with disabilities.[932] This ethical framework continues to underpin many community-based and philanthropic initiatives that complement government services.

Overall, Pakistan is making considerable progress in terms of legal recognition, institutional development, and the mainstreaming of disability in national policies. However, the Government acknowledges that continued efforts are needed to enhance data reliability, expand employment and education opportunities, improve physical accessibility, and challenge social stigma. These areas offer substantial scope for further policy enhancement, institutional strengthening, and public engagement, in alignment with the values of equality, dignity, and inclusive development.

Legal Analysis

International Law

The earliest milestone in disability rights was the Declaration on the Rights of Disabled Persons,[933] adopted in 1975. It emphasised the inherent dignity of disabled individuals and actively discouraged discriminatory attitudes and practices in various areas of public life. The declaration also aimed to promote self-reliance and enhance the quality of life for persons with disabilities.[934] It defined a disabled person as "any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of deficiency, either congenital or not, in his or her physical or mental capabilities".[935] Thus, the 1975 Declaration adopted a welfare-oriented perspective, viewing disabled persons as needing support to function effectively in society and to foster social inclusion.

Convention on the Rights of Persons with Disabilities

Subsequently, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) was adopted by the UN General Assembly in 2006 and officially entered into force in May 2008. By June 2017, 174 states had ratified the Convention.[936]

The CRPD represents a landmark achievement in advancing an inclusive society and is considered the first legally binding international treaty that enables communities to hold their governments accountable for upholding the rights of PWDs and improving their quality of life. Importantly, the CRPD frames disability through a human rights lens, emphasising respect for the inherent dignity and equality of persons with disabilities on par with those without

[932] Sajjad S. "Issues at Job faced by the employees with disabilities". Delhi Bus Rev. 2009; 9 (2): 47-60; Al-Aoufi, Al Zyoud N, Sahiminan N. "Islam and the Cultural conceptualization of disability.: Int J Adolesc Youth. 2012; 17 (4)L 205-219

[933] United Nations General Assembly, *Declaration on the Rights of Disabled Persons*, Resolution 3447, December 9, 1975, https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-rights-disabled-persons.

[934] United Nation (1975). Declaration on the Rights of Disabled Persons. GA Res 3447 (XXX), UN GAOR, 30th sess, 2433rd plen mtg, Supp No 34, United Nation Doc A/Res/3447/(XXX) (9 December 1975).

[935] Ibid.

[936] UN Convention on the Rights of Persons with Disabilities, 2006 (CRPD)..

disabilities. Its core aim is to eliminate discrimination and ensure comprehensive support for the empowerment and welfare of disabled individuals.[937].

The CRPD requires States Parties to recognise the legal capacity of persons with disabilities on an equal basis,[938] ensure their access to justice,[939] guarantee freedom from exploitation and abuse,[940] provide for inclusive education,[941] enable equal access to employment,[942] and uphold overall equality and dignity for PWDs.[943] In essence, it moves disability away from a charity or medical issue to a human rights issue – affirming that PWDs, by virtue of being human, are entitled to all fundamental rights and freedoms without discrimination. These principles are also reinforced by other human rights treaties that Pakistan is a party to, such as the ICCPR and the ICESCR.

Domestic Law

The Constitution of Pakistan

While the Constitution does not explicitly enumerate disability in its non-discrimination provisions, the superior judiciary have interpreted fundamental rights broadly to include persons with disabilities. Article 9 protects the right to life and liberty and Article 14 guarantees the inviolability of human dignity for every citizen. Article 25 also guarantees the right to equality and non-discrimination for all citizens. Additionally, Article 38(d) of the Principles of Policy directs the State to provide basic necessities—including for citizens who cannot earn livelihoods due to infirmity or sickness—underscoring a constitutional ethos of support for vulnerable persons.

Case Law

The Pakistani courts have developed a significant jurisprudence on disability inclusion in justice. The following landmark cases illustrate how the superior courts have addressed criminal justice accommodations, civil law equality, procedural fairness, and due process for persons with disabilities.

The Supreme Court of Pakistan has significantly advanced the rights of PWDs through several landmark rulings. In *Safia Bano v. Home Department, Punjab*, [944] the Court barred the execution of prisoners with severe mental illnesses who cannot comprehend the reason for their

[937] Theresia Degener. "A New Human Rights Model of Disability." In *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, edited by Valentina Della Fina, Rachele Cera, and G. Palmisano, 41–60. Cham, Switzerland: Springer, 2017.

[938] CRPD, art. 12.

[939] Ibid, art. 13.

[940] Ibid, art. 16.

[941] Ibid, art. 24.

[942] Ibid., art. 27.

[943] Ibid., preamble.

[944] PLD 2021 SC 488

execution, establishing legal safeguards to protect the dignity and rights of such individuals. The judgment emphasised humane treatment and called for regular psychiatric assessments by specialised medical boards. Complementing this, in *Dr. Shahnawaz Munami v. Pakistan*,[945] the Court addressed structural accessibility, mandating public authorities to implement accessibility laws and ensure barrier-free access to infrastructure like courts and public transport. This ruling highlighted that accessibility is a constitutional right, not a discretionary benefit, and directed compliance with existing accessibility codes.

Employment rights were central to *Malik Ubaidullah v. Government of Punjab*,[946] where the Court clarified that disability quotas must be applied across all job categories and sanctioned positions, reinforcing the idea that employment of PWDs is a right, not charity. It also banned derogatory terminology in official use and pushed for respectful language and accommodations to enable PWDs to work. The Court built on these principles in *Mubarak Ali Babar v. PPSC*,[947] where it upheld that reserved quotas for PWDs cannot be reallocated to general merit, reinforcing the constitutional importance of affirmative action to ensure substantive equality. Similarly, in *Zia Ullah Khan v. NAB*,[948] the Court declared that public institutions must make reasonable accommodations in employment and not disqualify candidates based on physical disabilities if they can perform the job. It ordered compliance with quota policies and invalidated restrictions limiting PWDs to lower-grade jobs.

In civil and family law, *Mst. Beena v. Raja Muhammad*[949] established that physical disability alone cannot justify denial of parental custody. The Court stressed that the welfare of the child is paramount and that disability cannot be presumed to be detrimental without evidence. This ruling reinforced the equal personal rights of PWDs, including in family life, and aligned domestic jurisprudence with international human rights standards. Collectively, these judgments mark a transformative shift in Pakistan's legal landscape, affirming that PWDs are entitled to dignity, equality, and full participation in society across all domains—from criminal justice and public infrastructure to employment and family life.

Provincial Disability Rights Laws

Previously, the affairs of PWDs in Pakistan were governed by the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981, which primarily focused on access to employment and rehabilitative services. However, following Pakistan's ratification of the CRPD, most provinces—except for Khyber Pakhtunkhwa—passed new legislation to align with the country's international obligations. These include the

- The Punjab Empowerment of Persons with Disabilities Act, 2022;

[945] 2020 SCMR 1713

[946] PLD 2020 SC 599

[947] 2023 SCMR 518

[948] 2023 SCMR 742

[949] PLD 2020 SC 508

- The Sindh Empowerment of Persons with Disabilities Act, 2018;
- The Khyber Pakhtunkhwa Disabled Persons Employment and Rehabilitation Act, 2012;
- The Balochistan Persons with Disabilities Act, 2017, and
- The ICT Rights of Persons with Disabilities Act, 2020.

These laws incorporate the rights included in the CRPD. The efficiency with which such laws were passed is commendable. However, their holistic implementation is still lacking in many areas. Currently, Khyber Pakhtunkhwa lacks a rights-based law on disability rights; it still governs PWDs according to the Disabled Persons Employment and Rehabilitation Act. While a draft law has been prepared,[950] it has not been passed after several attempts. Thus,

Policy Measures

Beyond laws, Pakistan formulated a National Policy for Persons with Disabilities in 2002[951] and a National Plan of Action in 2006[952] to guide institutional measures, such as inclusive education programs, rehabilitation services, and improved accessibility in public infrastructure. However, since Pakistan's ratification of the CRPD, there has not been an update to the Policy or Action Plan.

In addition, the Directorate-General of Special Education developed the Accessibility Code in 2006, which remains a significant policy document guiding the design of public buildings for accessibility. This Code applies to all public buildings and includes provisions for ramps and lifts, Braille signage, hearing aids and assistance, designated parking, and special bathrooms. The Code includes both mandatory requirements as well as preferred standards, However, it has not been updated since its inception in 2006 and is in need of considerable revision to incorporate international best practices that have been developed since, particularly in light of the CRPD.

A major legislative focus has been workforce inclusion via quota systems. Initially set at 1% in 1981, the quota for persons with disabilities in public (and often private) employment has gradually increased. Provincial legislation now sets quotas at different rates:

- Punjab: 3%;[953]

[950] Consultation held with Representatives from the Government of Khyber Pakhtunkhwa (March 5, 2025).

[951] Government of Pakistan, Ministry of Women Development, Social Welfare & Special Education, *National Policy for Persons with Disabilities, 2002* (Islamabad: Government of Pakistan, November 25, 2002), https://dgse.gov.pk/SiteImage/Downloads/National%20Policy%20for%20Persons%20with%20Disability.pdf

[952] Government of Pakistan, *National Plan of Action to Implement the National Policy for Persons with Disabilities, 2006–2011* (Islamabad: Ministry of Social Welfare and Special Education, 2006), https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/10/Pakistan_National-Plan-of-Action-to-implement-the-National-Policy-for-Persons-with-Disabilities-2006-%E2%80%93-2011.pdf

[953] Punjab Empowerment of Persons with Disabilities Act, 2022, sec. 31

- Sindh: 5%;[954]
- Khyber Pakhtunkhwa: 2%;[955]
- Balochistan: 5%;[956]
- ICT: prescribed by the Federal Government, currently at 2%.

While the increase in quotas is promising, there is conisiderable room for improvement in their compliance. In the wider workforce, the World Bank estimates that 71% of disabled individuals in Pakistan are unemployed.[957] In the public sector, disabled persons remain severely under-represented despite the quotas. Across Pakistan, several public jobs reserved for PWDs lie vacant or are filled by non-disabled substitutes - a fact acknowledged by officials.[958] the Supreme Court discovered that multiple departments had left their disability quota seats empty, effectively forcing qualified PWD candidates to remain jobless or resort to begging.[959]

Private sector hiring of PWDs is even more negligible, as enforcement mechanisms for quotas in private companies are not enforced effectively. Government "disability employment cells" exist in name within labouroffices but often lack staffing or authority to inspect and sanction non-compliance. In practice, there is little consequence when an employer ignores the quota law. Meanwhile, budget allocations for disability-focused programs (such as assistive devices, accessible infrastructure, or support allowances) are modest and often under-utilised. Advocates note that even the funds that are allocated frequently fail to reach those in need due to bureaucratic hurdles and low awareness of available programs.[960]

Institutional Analysis

In Pakistan, various government departments and agencies are tasked with the protection and promotion of the rights of persons with disabilities (PWDs). Historically, the Ministry of Social Welfare and Special Education held this responsibility at the national level.

[954] Sindh Empowerment of Persons with Disabilities Act, 2020, sec. 11(12)

[955] Khyber Pakhtunkhwa Disabled Persons (Employment and Rehabilitation) Act, 2012, sec. 10

[956] Balochistan Persons with Disabilities Act, 2017, sec. 10(3)

[957] Zulfiqar Kunbhar, "Pakistan: Persons with Disabilities Demand True Inclusion," *FairPlanet*, December 22, 2023, https://www.fairplanet.org/story/pakistan-persons-with-disabilities-demand-true-inclusion/

[958] See e.g.: Establishment Division, Government of Pakistan, *Office Memorandum-Observance & Implementation of 2% Disability Quota (F.No. 34/3/86-R-V)*, 25th November 2022 https://establishment.gov.pk/SiteImage/Misc/files/F(2).pdf

[959] Mughees Ahmed, Abdul Basit Khan, and Fozia Nasem, "Policies for Special Persons in Pakistan: Analysis of Policy Implementation," Berkeley Journal of Social Sciences 1, no. 2 (February 2011): 1–10, .

[960] *Dawn News*, "Caring for Pakistan's Persons with Disabilities," April 2, 2022, accessed February 19, 2025, https://www.dawn.com/news/1680910.

Federal Government

At the national level, the National Council for the Rehabilitation of Disabled Persons (NCRDP) was established under the Disabled Persons' (Employment and Rehabilitation) Ordinance of 1981. This law also mandated the creation of Provincial Councils for the Rehabilitation of Disabled Persons (PCRDPs). At the district level—the smallest administrative unit in the country—the Ministry of Social Welfare appoints a Social Welfare Officer. This officer is responsible for coordinating and managing services for PWDs within their respective districts, ensuring localised implementation of social welfare initiatives. Similarly, the Ministry of Human Rights has, in recent years, taken on a policy role for disability inclusive legislation (for example, by drafting the ICT 2020 Act and has worked on national action plans).

However, since the 18th Amendment to the Constitution, the Federal Government's role remains limited and there is no single high-level agency driving a nationwide disability strategy. The result is that efforts are often siloed: each province (and territory) implements its own schemes with varying degrees of effectiveness, and horizontal coordination among them is weak. This institutional fragmentation makes it difficult to uniformly enforce standards or share data and best practices.

Provincial Departments – Social Welfare Departments

The 18th Amendment to the Constitution devolved social welfare and special education to the provinces, making these areas provincial responsibilities. Consequently, the federal government now plays a limited role in social welfare, with most functions being managed at the provincial level. Each province's Ministry of Social Welfare is now authorised to oversee and implement all social welfare-related functions, including the protection and promotion of the rights of PWDs. These ministries coordinate with relevant departments through the Directorate of Social Welfare, which is primarily responsible for delivering services to PWDs within the provinces. These departments are tasked with services such as issuance of disability registration cards, job placement, and running special education centers.

The provincial governments have also constituted new specialised bodies under their recent laws – for example, Provincial Councils or Commissions on Rights of Persons with Disabilities in Balochistan and ICT[961], a Provincial Council on Rights of Rights of Persons with Disabilities in Punjab[962], and a dedicated Department of Empowerment of Persons with Disabilities in Sindh.[963] These are positive interventions by the provincial governments indicating their commitment to protecting the rights of PWDs in their jurisdictions.

Provincial governments have made positive interventions to operationalise these laws as well. For example, the Government of Punjab launched the 'Himmat Card' to provide financial support and assistance to PWDs who are unable to work as a means of economic self-

[961] ICT Rights of Persons with Disability Act, 2020

[962] Punjab Empowerment of Persons with Disabilities Act, 2022

[963] Sindh Empowerment of Persons with Disabilities Act, 2018

sufficiency.[964] The Social Welfare Department also hosts the Disabled Persons Information Management System (DPIMS) which operates as a centralised information management system for initiatives taken by the Government for PWDs, as well as a coordination mechanism between the Government and registered NGOs working towards PWD rights. However, such efforts are disparate across provinces owing to resource constraints, the availability of data, and political will.

Courts and Access to Justice

The legal system in Pakistan presents substantial accessibility barriers for persons with disabilities (PWDs), particularly in the context of court infrastructure and institutional support. Despite some recognition of disability rights in judicial precedent, the structural and procedural setup of courts often fails to accommodate the needs of PWDs. For instance, Islamabad's district courts, although recently relocated to a more modern facility, remain inaccessible due to a non-functional elevator, lack of special bathroom facilities, and the absence of sign language interpreters or legal aid schemes specific to PWDs. While the Islamabad High Court offers slightly improved access, including elevators and designated bathrooms, practical challenges such as overcrowding and absence of disability support services persist. Similarly, Balochistan—despite pioneering disability legislation—struggles with infrastructural and institutional constraints, especially in rural areas, where PWDs are more likely to rely on informal dispute resolution mechanisms.

Systemic limitations are compounded by the absence of institutional mechanisms for inclusion, such as affirmative action for PWD lawyers or structured legal aid programs. Measures that do exist—like stipends for disabled lawyers—are discretionary and reliant on individual goodwill, rather than being embedded in policy. Although Section 17 of the ICT Rights of Persons with Disabilities Act 2020 mandates accommodations like interpreters and attendants in judicial settings, implementation remains incomplete due to the lack of dedicated budgets, staff training, and enforcement protocols. This gap between legal guarantees and practical access continues to impede equal participation of PWDs in the justice system, underscoring the need for comprehensive policy execution, infrastructure upgrades, and sensitisation across the judiciary.

[964] Government of Punjab, Social Welfare and Bait-ul-Maal Department, *Himmat Card*, accessed April 17, 2025, https://swd.punjab.gov.pk/himmatcard.

Summary of UN Observations

Human Rights Committee

The Human Rights Committee urged the enforcement of the *Safia Bano* judgment (2021) and called for legislation to prohibit the sentencing and execution of persons with psychosocial or intellectual disabilities, highlighting a grave gap in the criminal justice system.[965]

Committee on Economic, Social and Cultural Rights

Similarly, the ICESCR Committee emphasised the need to improve the national data collection system, including disaggregated census data by disability, to enable assessment of the enjoyment of Covenant rights.[966] It also called for constitutional reform to explicitly include disability as a protected ground against discrimination and recommended aligning domestic legislation with the CRPD by recognising denial of reasonable accommodation as a form of discrimination.[967] In the realm of education, the Committee recommended the development of a comprehensive legislative and policy framework for inclusive education to ensure that children with disabilities are not excluded or placed in segregated settings.[968]

Committee on the Elimination of All Forms of Discrimination Against Women

The CEDAW Committee noted intersecting forms of discrimination faced by women with disabilities, particularly from religious and ethnic minorities, and recommended the adoption of temporary special measures to accelerate substantive equality, including in political participation, employment, and education.[969] It also called for systematic collection of gender-based violence data disaggregated by disability, among other factors.

Committee on the Rights of the Child

The CRC Committee echoed these concerns, urging Pakistan to prevent the abandonment of children with disabilities by providing appropriate family support, launching awareness campaigns to combat stigma, and ensuring access to inclusive education.[970] It further recommended infrastructural improvements to ensure barrier-free access to schools, healthcare, and public buildings, alongside more efficient disability diagnosis systems and disaggregated

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[965] Human Rights Committee. Concluding Observations on the Second Periodic Report of Pakistan. CCPR/C/PAK/CO/2. Geneva: United Nations, November 7, 2024. para 22

[966] Committee on Economic, Social and Cultural Rights, Concluding Observations on the Initial Report of Pakistan, UN Doc. E/C.12/PAK/CO/1 (13 July 2017), para 10 & 24

[967] Ibid., para 24

[968] Ibid., para 80

[969] Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Fifth Periodic Report of Pakistan. CEDAW/C/PAK/CO/5. Geneva: United Nations, March 10, 2020, para 14.

[970] Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. CRC/C/PAK/CO/5. Geneva: United Nations, July 11, 2016. para 46.

data collection.[971] Additionally, in the context of internal displacement, the CRC highlighted the need for tailored physical and psychological rehabilitation services for displaced children with disabilities.[972]

Recommendations

Legislative

Khyber Pakhtunkhwa Rights-Based Legislation

The Khyber Pakhtunkhwa Government should draft and pass rights-based legislation for PWDs in consonance with the other provincial governments and in line with Pakistan's international obligations under the CRPD. The law should be further operationalised by a dedicated Provincial Council on the Rights of Persons with Disabilities, including monitoring its implementation, collecting data on the law's implementation, and hearing grievances of PWDs in the province.

Amendment to Article 25 of the Constitution

Article 25 of the Constitution guarantees the right to equality. Article 25(2) only prohibits discrimination on the basis of sex. This provision should be amended to include discrimination on the basis of disability to reflect the jurisprudence of the superior judiciary as well as Pakistan's international obligations.

Harmonise quotas across provinces

Differences in quotas across the provinces highlight inconsistent approaches in affording PWD employment opportunities. Therefore, each province should increase its employment quota to 5% across public sector employment opportunities (at the minimum).

Policy

Development of provincial policies and action plans

Given that the last policy frameworks for PWDs were created in 2002 and 2006, an updated approach is necessary to operationalise provincial laws and address gaps such as unfulfilled quotas, discriminatory cultural attitudes, and ensure accessibility to public buildings - amongst other priority areas. Policies should be developed along with action plans to ensure time-bound, specific and measurable interventions, and should be developed in consultation with civil society organisations working for PWD rights, activists and other relevant stakeholders for a holistic approach.

[971] Ibid.

[972] Ibid., 68.

Update the Accessibility Code

The Accessibility Code should be updated to reflect advancements in technology, architecture and sciences to ensure that the greatest possible means are used to create accessible public spaces for PWDs. This should be done in consultation with international and national experts in accessible building design, sensory aid technologies and disability rights activists. The Accessibility Code should also take into account additional accommodations for women and children with disabilities, and should incorporate a broad understanding of disability as per Pakistan's updated legislation and international commitments under the CRPD.

Ensuring greater access to justice

Access to justice is crucial to allow PWDs to seek redressal for their grievances under Pakistani disability rights laws. However, when fora for seeking justice are inherently inaccessible, it prevents PWDs from coming forward with their grievances, ultimately discriminating against them. Thus, provincial governments must prioritise making courthouses accessible, ensuring access to interpreters and Braille alternatives, functioning elevators and other relevant facilities to ensure PWDs are not discriminated against.

Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

Chapter Summary

Torture and other forms of cruel, inhuman, or degrading treatment or punishment represent a significant area of concern within Pakistan's human rights framework, particularly in the context of criminal justice and custodial environments. Article 14 of the Constitution of Pakistan guarantees the dignity of individuals and explicitly prohibits the use of torture for the purpose of extracting evidence. Despite these legal protections, studies and reports from national and international stakeholders have documented incidents of custodial abuse, including physical and psychological mistreatment. Vulnerable groups, such as women and children, are reported to be particularly affected in certain contexts. The passage of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 marks a substantive step toward addressing these concerns, by defining and criminalising torture in line with Pakistan's commitments under international human rights law.

Pakistan is a State Party to the United Nations Convention Against Torture (UNCAT), which establishes a non-derogable prohibition on torture and obligates State Parties to take legal, administrative, and judicial measures to prevent, investigate, and punish acts of torture. This obligation is reinforced by provisions in the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR). Domestically, the Torture and Custodial Death Act (2022) criminalises torture by public officials and outlines procedural requirements for investigation, overseen by the Federal Investigation Agency (FIA) under the supervision of the National Commission for Human Rights (NCHR). However, certain aspects of the Act, such as the omission of psychological torture in its definition, reliance on general penal provisions, and potential deterrents to complainants through penalties for alleged mala fide complaints, may benefit from further review to enhance alignment with international standards and jurisprudence under Articles 7 and 14 of the Constitution.

Institutional mechanisms for preventing and redressing torture include the police, FIA, judiciary, and NCHR. The judiciary has issued landmark rulings recognising both physical and psychological torture as violations of constitutional protections. The NCHR and prison oversight committees also play a role in documenting and responding to custodial abuse. Despite these measures, challenges remain in terms of investigative impartiality, resource constraints, training capacity, and clarity regarding inter-agency roles. Effective oversight is further complicated by operational gaps in the investigative mandate of the FIA and limited authority and resources allocated to the NCHR. Coordination mechanisms and case-handling protocols would benefit from further development to ensure comprehensive, prompt, and impartial investigations.

Moving forward, potential areas for reform include legislative amendments to expand the definition of torture, establish standalone penal provisions, and revise clauses that may inhibit

reporting. Institutional strengthening could focus on the creation of specialised investigative units, improved inter-agency coordination, and development of guidelines in line with international standards such as the Istanbul and Méndez Protocols. Capacity building efforts may involve enhanced training in modern investigative techniques, forensic methodologies, and non-coercive interviewing practices. Administrative enhancements such as the integration of surveillance technologies in detention settings and the expansion of access to legal aid and complaint mechanisms can contribute to greater transparency and accountability. These measures collectively support the realisation of Pakistan's constitutional guarantees and obligations under international human rights law.

Situational Analysis

The Constitution of Pakistan guarantees the dignity of the individual as inviolable under Article 14 and prohibits torture for the purpose of extracting evidence under Article 14(2). As a State Party to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), Pakistan is obligated to ensure that no one is subjected to torture or other forms of inhumane or degrading treatment. These obligations require the adoption of legislative, administrative, and procedural safeguards, including prompt investigations and access to remedies.

Torture, particularly in places of detention, continues to be a priority area in the criminal justice system. A study conducted by Yale University in collaboration with Justice Project Pakistan, examined 1,867 medico-legal certificates from Faisalabad between 2006 and 2012.[973] The study identified clinical evidence of abuse in 1,424 cases.[974] Furthermore, women and children were found to be disproportionately affected.[975] The study also recorded instances of sexual abuse and psychological mistreatment, highlighting the need to reinforce safeguards for women and children during custodial processes.[976] While these findings were on a localised sample and a specific time period, these underscore the importance of institutional reforms aimed at improving custodial standards and oversight.

The Government of Pakistan continues to prioritise institutional strengthening and capacity-building in the criminal justice system. Legal provisions under the Torture and Custodial Death (Prevention and Punishment) Act, 2022 (TCDA), the Pakistan Penal Code, 1860, and the Code of Criminal Procedure, 1898, as well as constitutional guarantees, provide a framework to protect individuals against torture. In recent years, initiatives have been introduced to enhance accountability, including the establishment of oversight mechanisms such as the National Commission on Human Rights (NCHR), which has the mandate to investigate complaints of

[973] Justice Project Pakistan. 'Policing as Torture: A Report on Systematic Brutality and Torture by the Police in Faisalabad, Pakistan. Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic. 2014. https://www.jpp.org.pk/report/policing-as-torture/

[974] Ibid, 40.

[975] Ibid.

[976] Ibid.

human rights violations, including complaints of custodial abuse.[977] A 2022 monitoring report by the NCHR on prison conditions at Adiala Jail reflected that some inmates reported experiencing coercive practices.[978] It has also been observed that individuals from economically disadvantaged backgrounds may face obstacles in seeking redress, while stigma, complex procedures, and fear of reprisals may discourage formal complaints of custodial abuse.[979] The Government continues to work on enhancing complaint and redressal systems, with ongoing support for legal aid programs and prison reform projects in collaboration with civil society and development partners.[980]

To address gaps in institutional protections, the Federal Government passed the TCDA, which aims to criminalise torture and establish specific procedures for investigating allegations of custodial abuse. The Act is a significant development in line with Pakistan's commitments under UNCAT and reflects the Government's resolve to address concerns related to inhumane treatment and custodial safeguards.[981] The importance of ensuring that complaint mechanisms are accessible and effective remains a priority.

Challenges remain in implementing uniform standards of oversight, medical examination procedures and law enforcement training. Allegations of coercive interrogation techniques, including physical stress positions and extended detention without medical care, have been reported by various sources.[982] These practices highlight the need for continued investment in police training, enhanced accountability mechanisms, and strengthened coordination between law enforcement and prosecutorial services.

Instances of custodial deaths have been reported in national media and through civil society submissions. The Human Rights Commission of Pakistan (HRCP) noted 26 such cases in the first half of 2023.[983] Ensuring prompt and impartial investigations, as required under international law, remains a core component of Pakistan's criminal justice reform agenda, indicated by the TCDA and continued efforts to build capacity in the sector.

While Pakistan has taken important legislative and institutional steps toward addressing torture and custodial abuse, there remains substantial scope for further reforms. Enhancing training, expanding legal awareness, ensuring independent oversight, and supporting victims' access to

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[977] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 41.

[978] NCHR, *Report on Torture at Adiala Jail*, November 2022, https://nchr.gov.pk/wp-content/uploads/2022/11/Report-on-Torture-at-Adiala-Jail.pdf.

[979] Ibid.

[980] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 82.

[981] Ibid., para 28.

[982] NCHR, *Report on Torture at Adiala Jail*, November 2022, https://nchr.gov.pk/wp-content/uploads/2022/11/Report-on-Torture-at-Adiala-Jail.pdf., 13.

[983] Human Rights Watch. "This Crooked System": Police Abuse and Reform in Pakistan. September 25, 2016, 35. https://www.hrw.org/report/2016/09/25/crooked-system/police-abuse-and-reform-pakistan.

remedy are key areas for continued development. These steps will contribute to fulfilling Pakistan's constitutional and international human rights obligations and reinforcing public trust in the justice system.

Legal Analysis

International Law

The prohibition of torture and cruel, inhuman or degrading treatment or punishment is one of the few *jus cogens* human rights norms in the ICCPR. It emphasises the importance of human dignity and autonomy. It creates obligations to respect and protect.

Article 5 of the UDHR sets out the right to not be 'subjected to torture or to cruel, inhuman or degrading treatment or punishment'. This was reiterated in Article 7 of the ICCPR with the addition that nobody should be subjected to scientific experimentation. It was not until the adoption of the UN Convention against Torture (UNCAT) that 'torture' was properly defined. Torture is one of the few human rights norms which is accepted as *jus cogens*, i.e., from which no derogation is permitted, even in times of war or public emergency or exceptional circumstances. As a result, it gives rise to an obligation *erga omnes* to take action against all those who torture as a duty owed to all States.

The term 'torture' is defined in the UNCAT. It includes three main elements that combined constitute torture: the intentional infliction of severe pain or suffering (whether physical or mental), for a specific purpose (such as to obtain information, to intimidate, to punish, or for any other reason based on discrimination), and with the involvement of a public official (who may instigate, consent or acquiesce to the torture). Treatment that is not intentional or does not cross a high threshold of severity will constitute cruel, inhuman or degrading treatment or punishment. The Committee Against Torture recognised that indifference or inaction by State authorities can *de facto* provide permission for torture or ill-treatment to occur and therefore the State bears responsibility for such conduct.

The UNCAT obliges States to take all necessary legislative, administrative, judicial and other appropriate measures to prevent acts of torture. It also includes steps that states must take to prevent, prohibit, and redress torture in order to guarantee non-repetition of the conduct. This includes an obligation of non-refoulement, i.e. not to expel individuals to a state where they are at risk of torture or ill-treatment. The Committee Against Torture has stated that 'substantial grounds' regarding a risk of torture exists whenever the risk is 'foreseeable, personal, present or real.' In its General Comment No. 4, it has established that this risk may arise from non-state actors as well. A State must also criminalise torture under its domestic law, establish universal jurisdiction over torture, properly train officials, make sure evidence extracted as a result of torture is not used in any proceedings, and ensure remedies for victims.

Domestic Law

Article 14 of the Constitution

Article 14(2) of the Constitution prohibits the use of torture for the purposes of extracting evidence. It forms part of Article 14 as torture inflicted upon a person is a violation of one's dignity. In *Ibrahim alias Taig v. State*,[984] it was held that Article 14 provides a guarantee "that no person shall be subjected to torture or humiliation to extract evidence or compel him to make a disclosure or confession" due to the significance of the right to dignity.

Legislation

Police Order, 2002

The Police Order 2002 provides a rules framework to govern police conduct across Pakistan. Under Section 156 of the Police Order 2002, any police officer that inflicts torture or violence to any person in his custody shall be sentenced to imprisonment of up to five years along with a fine. However, as indicated above, this section has rarely been enforced and thus been prone to abuse.

Torture and Custodial Death (Prevention and Punishment) Act, 2022

The Torture and Custodial Death (Prevention and Punishment) Act, 2022 (TCDA) aims to prevent and punish instances of custodial torture, death and rape perpetrated in State custody. Section 2(n) of the TCDA incorporates most elements of the definition of torture as provided under the UN Convention Against Torture (UNCAT), and criminalises acts done by a 'public official', i.e., a person acting on behalf of the State or with the consent or acquiescence of a State official. Section 3 of the TCDA also reinforces the inadmissibility of statements extracted through torture.

It sets out an investigation and trial framework for complaints received under the Act, appointing the Federal Investigative Agency (FIA) as the designated investigative authority while under the supervision of the National Commission for Human Rights. While investigating a public official, the FIA must inform the competent authority to which the public official is accountable, who will then take action accordingly.

Key Gaps

The Act's promulgation is a significant step towards meeting Pakistan's international obligations, yet various challenges still remain.

Definitional Issues

[984] 2024 PCrLJ 190

The definition of torture duplicates the UNCAT definition but does not include "psychological torture". This would therefore exclude acts such as extended solitary confinement or forcing someone to watch someone else being tortured - instances that have been documented in the Situational Analysis above.

Case law has shown at various instances that psychological torture is equally as important as physical torture when interpreting article 14 of the Constitution. For example, in *Saifuddin Saif v. Federation of Pakistan,*[985] the Lahore High Court held that blindfolding, confinement in dark, underground cells, and being held incommunicado amount to mental torture and are violative of Article 14(2) of the constitution. Similarly, in *Asfandyar Wali v. the State*, the Peshawar High Court clarified that torture did not involve only physical pain but also included mental suffering, and that torture during police custody is "an act of wanton assault directed against the sanctity of human dignity which is impermissible in a civilised society."[986] Thus, by excluding psychological torture from the definition, the definition falls short of both Pakistan's international obligations as well as existing interpretations of Article 14(2).

Prosecution of Custodial Death

The TCDA lacks clarity on how deaths in custody will be reported and how subsequent investigations will be carried out. Section 176 of the Code of Criminal Procedure, 1898 (CrPC), does contain a procedure whereby a Magistrate may conduct inquiry into the cause of death in police custody. Section 7 of the TCDA notes that public officials accused of torture shall either be suspended or transferred after conducting a departmental enquiry, which has to be concluded within seven days. Subsequent to the enquiry, if a credible case of torture is made against the public official, they shall not continue their service in the same department or at all, as the case may be.

Interestingly, the TCDA does not establish standalone punishments, but instead relies on the provisions relating to bodily hurt in the existing Pakistan Penal Code, 1860 (PPC). This approach fails to acknowledge the distinct nature of custodial torture, particularly given the power dynamics between the prison officer (operating in a culture of impunity) and the prisoner. The PPC includes different punishments depending on the severity of the category of hurt caused, as opposed to a specified punishment for the offence of 'torture', which includes the infliction of pain and suffering for various purposes (as defined under the UNCAT). Furthermore, in 'hurt' cases, the courts have the power to award discretionary punishments, varying from case to case when the nature and seriousness of the crime of torture merits a distinct punishment. Even though the TCDA allows for the death penalty under Section 302[987] as a punishment for custodial death, this raises significant issues given Pakistan's inconsistent application of capital punishment and its failure to restrict it to only the 'most serious

[985] PLD 1977 Lahore 1174

[986] PLD 1978 Peshawar 38

[987] Section 302 of the PPC defines the penalty for *qatl-i-amd*, i.e., intentional homicide, which is the death penalty by way of *qisas* (retribution), death or imprisonment for life as ta'zir (a discretionary punishment), or imprisonment for a term not exceeding 25 years

crimes.'Overall, it is unclear how the TCDA will intersect with the provisions of the PPC in the absence of penal provisions of its own.[988]

Malafide Complaints and Manipulation

Section 11 of the Act notes "Whoever files a malafide complaint shall, after it is established that the complaint was malafide, be punished with the same punishment as is prescribed under section 8 for the perpetrators under this Act." This provision can be used to harass and coerce complainants to not file complaints of torture, particularly given the difficulties in evidence.[989] Given that victims already struggle to come forward, the provision discourages the reporting of incidents, and could have a counterintuitive effect of subjecting the victim to further violence if they are found to have reported.

Institutional Analysis

Police

As indicated in the Situational Analysis, the police is the primary institution responsible for custodial torture. There are several structural reasons for this, which are discussed below.

Faults in the Criminal Justice System

It is widely acknowledged that the justice system requires significant reform for policing to improve. Persistent delays in the judicial process and the inability to secure prompt convictions are often cited as key obstacles. As such, these inefficiencies are used to justify custodial torture or extrajudicial killings of suspected criminals by the police. Additionally, concerns are raised over the ease with which accused individuals secure bail, allowing them to evade justice and, in some instances, retaliate against the officers who arrested them.[990]

The judicial system continues to rely significantly on human testimony and witness accounts. Consequently, in cases where convincing witnesses are not produced, the accused may be acquitted. This reliance on testimonial evidence has been cited as a factor contributing to the use of coercive methods during interrogations. Additionally, the absence of strict time limits on appeals has led to prolonged legal proceedings, which can impact the overall efficiency of the justice system. It is important to acknowledge that such delays may inadvertently favour individuals with greater resources, while those with limited means often face considerable challenges in navigating extended legal processes.[991]

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[988] Ibid., 7.

[989] Ibid.

[990] Human Rights Watch. "This Crooked System": Police Abuse and Reform in Pakistan. September 25, 2016, 70-71. https://www.hrw.org/report/2016/09/25/crooked-system/police-abuse-and-reform-pakistan.

[991] *Ibid.*

Financial Constraints and Flawed Investigative Techniques

Resource constraints is one of the major impediments to the proper functioning of the Police in regards to torture and inhumane treatment. Resource constraints preclude the possibility of modern investigation techniques which could be used to build cases via circumstantial evidence. As a result, police officers have to rely on confessional statements which are extracted through torture. While it is clear in the Qanun-e-Shahadat Order 1984 that confessional statements made to the police are inadmissible in court unless the same confession is confirmed in the Court,[992] the police still find it useful to extract evidence through torture since that can lead to information regarding recoveries of the property of the crime.

Certain legal provisions also incentivise the use of torture. For example, Article 40 of the Qanun-e-Shahadat Order 1984 (QSO) seems to provide an exception to the inadmissibility rule, wherein it is stated that confessions made during police custody can be proven to be true if supported by a discovery of fact, such as the confession leading to the recovery of any material relevant to the investigation. Thus, with legal incentives, outdated investigation techniques and financial constraints, torture becomes an acceptable method for some police officers to extract confessions and end cases.

To that end, corruption is a particular issue in police structures. This is particularly dangerous for the accused who may have been the victim of *mala fide* complaints. Such complainants may leverage their financial influence to illicitly incentivise the police into using coercive measures against the accused for personal motives.[993]

Police Recruitment and Training Structure

The Pakistani law enforcement system maintains distinct career pathways for its senior and junior officers. For the prestigious Police Service of Pakistan (PSP) cadre, selection occurs through a highly competitive annual examination administered by the Federal Public Service Commission (FPSC) as part of the Central Superior Services (CSS) recruitment process.[994] Eligibility mandates possession of at least an undergraduate degree. Candidates who successfully clear this rigorous selection are appointed as Assistant Superintendents of Police (ASPs) and undergo comprehensive training - beginning with a twelve-month foundational program at Lahore's Civil Services Academy, followed by nine months of specialised law enforcement instruction at Islamabad's National Police Academy.[995]

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[992] Qanun-e-Shahadat Order 1984, art. 38

[993] Human Rights Watch. “This Crooked System”: Police Abuse and Reform in Pakistan. September 25, 2016, 56. https://www.hrw.org/report/2016/09/25/crooked-system/police-abuse-and-reform-pakistan.

[994] Commonwealth and Human Rights Commission of Pakistan. Police Organisations in Pakistan. New Delhi: Commonwealth Human Rights Initiative, 2010, https://www.humanrightsinitiative.org/publications/police/police_organisations_in_pakistan.pdf.

[995] Ibid.

For entry-level positions, recruitment occurs through provincial and district selection committees. The multi-stage selection process evaluates candidates through physical fitness tests, written examinations, medical assessments, background screenings, and personal interviews. Educational prerequisites vary by position, with constable roles requiring secondary school completion while Assistant Sub-Inspector (ASI) positions demand college qualifications. Selected candidates receive their professional preparation at regional police training institutions.

These provincial academies conduct both initial training programs and career advancement courses. However, the quality of instruction for junior ranks remains substandard, with most training facilities operating with inadequate resources and infrastructure. This systemic deficiency results in poorly prepared investigative personnel who often lack fundamental skills in complaint documentation, legal procedure application, evidence collection techniques, and proper investigative methodologies.

The absence of adequate training leads to a significant gap in knowledge regarding modern investigative techniques. As a result, law enforcement officials often rely on outdated and traditional methods, which prioritise coercion, intimidation, and physical abuse over scientific and forensic approaches to evidence collection. This reliance on archaic techniques not only undermines the credibility of investigations but also increases the likelihood of false confessions and miscarriages of justice.

Federal Investigation Agency

The Federal Investigation Agency (FIA) is the institution that is designated by the Torture and Custodial Death Act to investigate complaints of torture under the Act.[996] However, there are various issues with this designation.

Institutional Conflicts and Investigative Impartiality

The FIA's designation as the sole authority to investigate complaints of torture creates significant conflicts of interest. As a federal law enforcement body, the FIA wields the same powers as provincial police forces, including arrest, detention, and search authority under the Code of Criminal Procedure. This parallel structure raises concerns about the agency's ability to impartially investigate torture allegations, particularly when its own officers, many of whom are former provincial police personnel may be complicit in such abuses.

The legislation fails to address scenarios where FIA officials are accused of torture, leaving a critical gap in accountability. This oversight is evident in documented cases, including the 2021 arrest of four FIA officers in Multan and a 2022 allegation by a senator against the agency's

[996] Torture and Custodial Death (Prevention and Punishment) Act, 2022, sec. 5

cybercrime unit.[997] Without clear protocols to handle such conflicts, the FIA's role as an impartial investigator remains compromised.

Critical Gaps in Investigative Capacity

The FIA's effectiveness in torture cases is further undermined by systemic operational deficiencies. The agency lacks the authority to perform essential investigative functions, such as ordering autopsies, compelling testimony, or conducting immediate medical examinations of complainants. These shortcomings hinder the collection of time-sensitive evidence, particularly in cases involving physical or sexual abuse, where delays can render critical proof unusable.

Moreover, unlike its approach to other federal crimes, the FIA has not established specialised units or dedicated complaint mechanisms for torture cases. This institutional neglect contradicts international standards, including the Istanbul Protocol, which mandates prompt and thorough documentation of abuse. Without these foundational capacities, the FIA's investigations risk being superficial or inconclusive.

Weak Oversight and Resource Constraints

The National Commission for Human Rights (NCHR) is tasked with supervising torture investigations conducted by the FIA under the TCDA, but operates under severe limitations.[998] However, the legislation does not define the NCHR's supervisory role with clarity, nor does it establish concrete collaboration protocols with the FIA.

Compounding these challenges, the NCHR lacks structured mechanisms for receiving and processing torture complaints, particularly when such torture is committed in police custody.[999] Despite identifying custodial abuse as a significant portion of its caseload, the NCHR remains underfunded and understaffed, and is therefore unable to conduct thorough or independent investigations. With adequate resources and institutional support, the NCHR could leverage its independence to serve as a more effective check on law enforcement.[1000]

The Judiciary

The judiciary is the primary arbiter in regards to preventing torture, cruel, inhumane and degrading treatment, which is prohibited under Article 14 the Constitution. As a general rule,

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[997] "Swati Asks CJP, COAS to Investigate 'Torture'." The Express Tribune, October 29, 2022. https://tribune.com.pk/story/2384183/swati-asks-cjp-coas-to-investigate-torture.

[998] Torture and Custodial Death (Prevention and Punishment) Act, 2022, sec. 5

[999] Justice Project Pakistan and The Advocates for Human Rights. "Submission for the Committee Against Torture's List of Issues." January 2025. https://www.theadvocatesforhumanrights.org/Res/JPP%20and%20TAHR%20Submission%20for%20CAT%20List%20of%20Issues.pdf.

[1000] Rabiya Javeri Agha, "Eradicating Torture," *Dawn*, June 26, 2024, https://www.dawn.com/news/1842059/eradicating-torture.

the Judiciary considers evidence obtained via torture to be inadmissible in court.[1001] In addition, the Sessions Court holds exclusive jurisdiction to try offences under the Act, with appeals lying to the High Court within 30 days.

The superior judiciary has given various judgements recognising the prohibition against torture and the intention to enforce it. The Lahore High Court, in the landmark *judgement of Saifuddin Saif v. Federation of Pakistan (1977)*[1002], set a powerful precedent by interpreting the constitutional guarantee of human dignity to include mental agony. The court held that tactics like blindfolding detainees, holding them in dark cells, or cutting them off from communication constitute "mental torture" and violate Article 14(2) of the Constitution. This early case established that torture isn't limited to physical abuse – a principle that aligns with modern human rights law and has been cited in later judgments and human rights reports.

Similarly, where there has been evidence of torture, the Judiciary has been quick to acquit the accused in the cases where they are implicated. In fact, it has gone so far as to argue that where a confession is given to the police, the Judicial Magistrate is duty bound to "provide an atmosphere free from fear so that he [the accused] could get his statement recorded truthfully and voluntarily."[1003] The commitment against torture was also reaffirmed in *Muhammad Shahbaz Shabeer v. Additional Sessions Judge*[1004] where the court emphatically held "torture in any form to extract evidence is prohibited…. the basic prohibition exists in Article 14 (2) of the Constitution which provides that no prisoner shall be subjected to torture for the purpose of extracting evidence.

Apart from judgments, judges have also attempted to visit detention facilities in order to inspect the implementation of their judgments. For instance, the Chief Justice of the Islamabad High Court visited Central Jail, Rawalpindi in September 2022 to meet a number of prisoners who complained of excessive torture and inhuman and degrading treatment.[1005] The Honorable Chief Justice directed NCHR to finalise the inquiry and submit a detailed final report.[1006] Thereafter, the NCHR team visited Central Jail, Rawalpindi again on several occasions, and met with more inmates to gather information for the preparation of this final inquiry report.[1007]

[1001] Qanun-e-Shahadat Order 1984, art. 38

[1002] PLD 1977 Lahore 1174

[1003] *Muhammad Anas v the State*, 2023 PCrLJN 59 Sindh.

[1004] Terence J. Sigamony, "Gill Submits Application Against ASJ to IHC MIT," Business Recorder, August 26, 2022, https://www.brecorder.com/news/40193932/gill-submits-application-against-asj-to-ihc-mit.

[1005] NCHR. *Report on Torture at Adiala Jail*. Islamabad: NCHR, November 2022. 1.

[1006] Ibid.

[1007] Ibid.

Summary of UN Observations

Human Rights Committee

The Human Rights Committee (ICCPR) has called on the state to take immediate action to eliminate torture, urging amendments to domestic laws to align them with international standards such as the ICCPR and UNCAT. The Committee emphasised the importance of independent and impartial investigations into all allegations of torture, custodial deaths, and ill-treatment, in line with international protocols such as the Istanbul and Minnesota Protocols.[1008] It stressed the need to prosecute perpetrators with penalties proportionate to the gravity of the crime and to ensure full reparations for victims. Further, it underscored the necessity of establishing accessible and secure complaint mechanisms for those deprived of liberty, alongside protections for complainants from reprisals.[1009] The Committee also recommended Pakistan ratify the Optional Protocol to the Convention Against Torture and emphasised accountability for the torture and enforced disappearances of journalists, human rights defenders, and civil society actors.[1010]

Committee Against Torture

The Committee Against Torture (CAT) similarly urged Pakistan to reaffirm the absolute prohibition of torture at the highest levels of government and issue a public warning that any official involved in torture would be held personally accountable.[1011] It recommended legal reforms to ensure that torture is clearly outlawed across all law enforcement bodies, particularly the police, and that officers responsible are prosecuted and appropriately punished.[1012] The CAT also stressed the importance of training police and security forces in non-coercive methods of investigation and forensic techniques to reduce dependency on confessions. Additional concerns included the need for protective measures for victims and witnesses, the suspension of officers under investigation, and the establishment of independent and effective police oversight bodies.[1013] The Committee highlighted the absence of an independent mechanism to receive complaints of torture and called for amendments to existing military and anti-terrorism legislation to eliminate any form of immunity for perpetrators.[1014] Moreover, it recommended specific legislative reforms to incorporate a comprehensive definition of torture, including psychological harm, and called for the abolition of all forms of corporal punishment, which are deemed to violate the Convention.[1015]

[1008] Human Rights Committee. Concluding Observations on the Second Periodic Report of Pakistan. CCPR/C/PAK/CO/2. Geneva: United Nations, November 7, 2024. para 29

[1009] Ibid.

[1010] Ibid., para 31

[1011] United Nations Committee Against Torture, Concluding Observations on the Initial Report of Pakistan (CAT/C/PAK/CO/1) (Geneva: United Nations, 2017), para 7.

[1012] Ibid.

[1013] Ibid., para 8.

[1014] Ibid., para 10.

[1015] Ibid., para 15 and para 31.

Committee on the Rights of the Child

The Committee on the Rights of the Child (CRC) has expressed grave concern about the use of torture and ill-treatment of children, especially by law enforcement officials. It urged Pakistan to promptly launch independent inquiries into such cases and to ensure justice for victims, including through appropriate penalties for perpetrators.[1016] The CRC also recommended that Pakistan review and reform its laws to exempt children from inhumane punishments, particularly those arising under hadood offences.[1017] Additionally, it called for the elimination of all forms of violence against children, including corporal punishment in all settings, and for systematic monitoring of detention facilities to prevent abuse.[1018] The Committee encouraged the government to address the root causes of trafficking and exploitation of children—such as poverty, gender discrimination, and lack of education—and to ensure victims receive the psychological and social support necessary for recovery and reintegration. It also recommended the clarification of laws on internal trafficking and the prosecution of all reported cases of sale and abuse of children.[1019]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, Jordan and Paraguay recommended tougher penalties in preventing torture and compliance with the bill for the prevention and punishment of torture and death of detainees. In addition, Latvia recommended to formulate formulate comprehensive rules and procedures for the investigation, documentation and prosecution of torture in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles). Similarly, Estonia noted the need to criminalise torture and enforced disappearences.[1020] Pakistan supported all these recommendations, indicating a commitment to strengthen efforts against torture.

[1016] Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. CRC/C/PAK/CO/5. Geneva: United Nations, July 11, 2016, para 33.

[1017] Ibid.

[1018] Ibid., para 35.

[1019] Ibid., para 76.

[1020] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

Recommendations

Legislative

Amend the TCDA to Include Psychological Torture

The definition of torture under Section 2(n) of the TCDA should be amended to include psychological torture. This should be substantiated with the recognition of mental suffering along with physical abuse (the latter already included in the definition). This is further in line with case law and will bring the use of extended solitary confinement, sleep deprivation, sensory deprivation and other similar acts under the purview of the TCDA.

Provide Specific Penalties under the TCDA

The current approach of referring to the penalties in the Pakistan Penal Code does not capture the gravity and motives for committing torture while in police custody. Therefore, the TCDA should be amended to include penalties for custodial torture, death and rape. Along with mandatory imprisonment sentences and fines, the penalties should include a disqualification from public office and a lifetime ban on public service.

Draft Rules for Investigation and Prosecution of Custodial Torture, Death and Rape

While the TCDA provides for the punishment of public officials that commit torture[1021], the lack of comprehensive rules accompanying the TCA creates ambiguity as to investigation and accountability methods.[1022] Thus, comprehensive rules regarding the investigation and punishment of torture must be drafted, which outline the role of the FIA Investigating Officer, the procedure for recording a victim's statement (including anonymity measures), medical examinations, the use of modern investigative techniques and other relevant rules.

Repealing Provision Against Mala Fide Complaints

Section 11 of the TCDA, which punishes *mala fide* complaints with the same punishment as the alleged offence, may deter victims from coming forward. Eliminating or reformulating the punishment for frivolous complaints would encourage reporting while still allowing genuine cases to surface. This provision also prevents access to justice, which is a fundamental element of the right to fair trial. Therefore, the provision should be repealed. Alternatively, civil liability measures can be imposed for

[1021] Torture and Custodial Death (Prevention and Punishment) Act, 2022, sec. 8.

[1022] Wajih Ahmad Sheikh,. "LHC Asks FIA to Handle Torture, Death and Rape Cases in Custody." Dawn, June 1, 2024. https://www.dawn.com/news/1836936/lhc-asks-fia-to-handle-torture-death-and-rape-cases-in-custody.

false complaints. This can still discourage false complaints while remaining proportionate to the crime.

Establish Independent Joint Investigation Teams

Designating the FIA to conduct investigations into torture may give rise to a conflict of interest, particularly if FIA officers themselves are responsible for committing torture. The Federal Government can establish and nominate Joint Investigative Teams (JIT) and fact finding committees with representation from the prosecution, FIA, intelligence agencies, Bar Associations, and the NCHR to ensure impartiality when conducting investigations into complaints of torture. The JIT should report directly to the relevant Home Departments or the Federal Ministry of Interior to take action against the offender.

Policy

Capacity Building and Training

A sustained reduction in torture will only be achieved by addressing the root causes and incentives that perpetuate abusive practices. One key step is to enhance the capacity and professionalism of law enforcement through training, education, and resource allocation. Currently, many police officials resort to methods of abuse because they lack training in modern investigative techniques and have limited forensic resources at their disposal. The Government must invest in upgrading police investigative capacity which includes providing modern equipment, capacity in forensics, and staffing, to ensure officers are not pressured to rely on coerced confessions.

Comprehensive training programs on lawful evidence-gathering should be mandatory. Pakistan should incorporate the Méndez Principles on Effective Interviewing, which promote non-coercive, scientifically grounded interrogation techniques as an alternative to torture and confession-driven investigations, and introduce its principles not only to law enforcement in their trainings, but also conduct awareness programmes for the general public, so that confidence in institutions may be restored and the public becomes aware of the possibility of complaining against torture.

The use of CCTV cameras in Investigations

The use of closed circuit television (CCTV) cameras in police stations can help maintain a record of investigations and interrogations, and eliminate the possibility of the use of torture in police stations. A report by the European Committee for the Prevention of Torture to Ireland reported in 2006 that the amount of ill-treatment of detainees had reduced greatly partly due to audio-video recordings of interrogation

rooms.[1023] Additionally, a report by Amnesty International in 2010 revealed that CCTV cameras successfully reduced misbehaviour by the police in Spain by 40%.[1024]

A similar system should be adopted across police lock-ups, interrogation rooms and detention centres in Pakistan.[1025] In *Dr. Yasin Zia v. Government of Punjab*[1026] the Lahore High Court ordered the installation of CCTVs in each police station as its monitoring had become essential to improve the working of police and for minimising illegal detention, and custodial abuse. Efforts to incorporate technology in law enforcement have yielded positive results, such as the Punjab Safe Cities programme.[1027] While this will require considerable financial investment, as well as rules on data protection and handling, this may significantly lower incidences of torture.

[1023] Penal Reform International, 'Video Recording in Police Custody: Addressing Risk Factors to Prevent Torture and Ill-Treatment' (2006) https://cdn.penalreform.org/wp-content/uploads/2013/11/Factsheet-2-cctv-v6_final.pdf accessed 23 November 2024 ('PRI').

[1024] Nishant Nagori, 'CCTV Cameras in Police Stations: A Comprehensive Step to Deter Custodial Violence?' (2021); Amnesty International, Amnesty International Report 2010 - Spain (Amnesty International, 28 May 2010).

[1025] Momina Khurshid. "The Use of CCTV Cameras to Curb Custodial Torture under Pakistani Law." *RSIL Law Review* 8 (2024).

[1026] (PLD 2016 Lahore 94)

[1027] Islamabad Police. "Safe City." Islamabad Police. Accessed 28th March, 2025. https://islamabadpolice.gov.pk/safecity.php.

Counterterrorism Measures

Chapter Summary

This chapter examines the legal, institutional, and operational dimensions of counterterrorism measures in Pakistan, focusing on the balance between national security imperatives and human rights protections. In 2024–2025, Pakistan faced a marked increase in militant activity, particularly in Khyber Pakhtunkhwa and Balochistan, involving groups such as Tehreek-e-Taliban Pakistan (TTP), Baloch Liberation Army (BLA), and Islamic State Khorasan Province (ISKP). In response, the State implemented a range of counterterrorism strategies including military operations, intelligence-led surveillance, and legal reforms. These actions aim to dismantle terrorist networks, prevent cross-border threats, and maintain internal stability. While these efforts have contributed to national security, there is an ongoing need to ensure that counterterrorism operations are implemented in accordance with constitutional guarantees and international human rights obligations.

Pakistan is a State Party to multiple international legal instruments that shape its counterterrorism obligations, including United Nations Security Council Resolutions 1373 and 1267, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT). These frameworks require the State to criminalise terrorism and its financing, prevent safe havens, and uphold due process and protections against torture. Domestically, the Anti-Terrorism Act (ATA), 1997 remains the central legislation governing terrorism-related offences. Complementary laws include the Anti-Money Laundering Act and regulations for surveillance and asset freezing. Recent judicial interpretations, including the Supreme Court's guidance in the *Ghulam Hussain* case, have reinforced the need to limit the definition of terrorism to acts motivated by political, sectarian, or ideological aims. Opportunities exist to further harmonise the ATA with international standards, particularly regarding its definitional scope, evidentiary provisions, and procedural safeguards.

Key institutional stakeholders in counterterrorism include the National Counter Terrorism Authority (NACTA), provincial Counter Terrorism Departments (CTDs), the Federal Investigation Agency (FIA), and the Financial Monitoring Unit (FMU). These entities coordinate intelligence, investigation, and enforcement functions, while designated Anti-Terrorism Courts (ATCs) oversee adjudication. Judicial oversight mechanisms and specialised training have been introduced to improve procedural consistency and promote adherence to legal standards. Despite these initiatives, certain challenges persist, such as delayed judicial outcomes, limited implementation of oversight provisions in surveillance laws, and concerns around accountability in high-risk operations. Strengthening institutional coordination, ensuring timely registration of detainees, and expanding data transparency are identified as areas for procedural enhancement.

The chapter highlights several opportunities for further development of Pakistan's counterterrorism framework. These include legislative amendments to narrow the definition of terrorism in the ATA, repeal of Section 21-H (relating to police confessions), and formal

activation of judicial oversight mechanisms for surveillance under Section 19C and the Investigation for Fair Trial Act (IFTA). Institutional reforms such as centralised detainee registries, mandatory public reporting on counterterrorism operations, and targeted training for law enforcement and judicial personnel are also recommended. These measures can contribute to a more rights-compliant and effective counterterrorism regime, reinforcing Pakistan's dual commitment to national security and the protection of fundamental rights.

Situational Analysis

Pakistan has faced significant security challenges in recent years, with a marked increase in militant activity across several regions of the country. In 2024 and early 2025, the internal security situation deteriorated significantly, characterised by heightened threats from non-State actors and were responded to with intensified counter-terrorism operations.[1028] The Government of Pakistan continues to implement a multi-dimensional security strategy, combining intelligence-based interventions, military operations, and legislative reforms to address terrorism and maintain public safety, while ensuring that such measures are implemented in line with constitutional guarantees and international legal obligations.

Rise in Militant Activity

The security situation in Khyber Pakhtunkhwa and Balochistan remained of particular concern during this period. Militant groups including Tehreek-e-Taliban Pakistan (TTP), the Baloch Liberation Army (BLA), and the Islamic State Khorasan Province (ISKP) carried out coordinated and complex attacks targeting security personnel, infrastructure, and civilians.[1029] In 2024, KP recorded the highest number of terrorist incidents nationwide, with over 295 reported events. Meanwhile, Balochistan witnessed a 119% increase in militant activity compared to the previous year.[1030] These developments reflect evolving tactics by insurgent groups. In August 2024, the BLA launched a series of sophisticated operations, including attacks on security installations in Turbat and Bela, demonstrating their growing capacity for prolonged engagements.[1031] These incidents resulted in significant loss of life and disrupted public infrastructure, underscoring the dynamic nature of Pakistan's internal security threats.

Counter-Terrorism Measures and Military Operations

In response to the evolving security threats, Pakistan significantly expanded its counter-terrorism efforts. Intelligence-based operations, drone surveillance, and precision airstrikes were employed to dismantle terrorist networks and infrastructure, particularly in border

[1028] Pak Institute for Peace Studies (PIPS), *Pakistan Security Report 2024: An Abridged Version*, January 2025, accessed March 26, 2025, https://www.pakpips.com/web/wp-content/uploads/2025/01/Overview_PIPS-Security-Report-2024.pdf.
[1029] Ibid.
[1030] Ibid.
[1031] South Asia Terrorism Portal, "Pakistan: Timeline (Terrorist Activities) – February 2025," accessed March 26, 2025, https://www.satp.org/terrorist-activity/pakistan-Feb-2025.

areas.[1032] In December 2024, Pakistan conducted targeted air operations in Afghanistan's Paktika province, eliminating over 70 TTP militants and dismantling facilities linked to suicide vest production and operational planning.[1033] These actions were taken in pursuit of national security objectives and with the aim of preventing cross-border militancy.

Domestically, military and paramilitary forces increased their presence in regions prone to higher security risks. Security operations also targeted insurgent infrastructure in Balochistan following large-scale attacks on civilian targets, including a deadly train incident in early 2025 that resulted in multiple civilian and law enforcement casualties.[1034] These efforts aimed to restore law and order, protect citizens, and prevent future terrorism-related incidents.

The Anti-Terrorism Act, 1997 (ATA) continues to serve as a key legislative instrument in the counter-terrorism framework. It facilitates preventive detention of those considered a threat to the security of the nation, the prosecution of terrorism-related offences, and the freezing of assets for designated entities. Nonetheless, there is increasing recognition of the need to ensure that such measures are implemented in a manner consistent with procedural safeguards and human rights protections.

Safeguarding Human Rights during Security Operations

The Government remains committed to ensuring that counter-terrorism measures do not compromise fundamental rights protected under the Constitution and international obligations. Pakistan's submissions to treaty bodies such as the ICCPR and CAT reiterate this commitment, particularly in the context of arrest and detention protocols, investigation standards, and custodial safeguards.[1035]

Acknowledging public concerns regarding due process and accountability, the Government has taken steps to enhance judicial oversight of counter-terrorism detentions, including increased scrutiny of pre-trial procedures and expanded access to legal representation.[1036] Capacity-

[1032] Ag Afp and Arshad Aziz Malik, "Pakistani Airstrikes Against Terrorist Bases in Afghanistan Leave 71 Dead," *The News International*, December 26, 2024, accessed March 26, 2025, https://www.thenews.com.pk/print/1265530-pakistani-airstrikes-against-terrorist-bases-in-afghanistan-leave-71-dead.

[1033] Ibid.

[1034] Saadullah Akhter, "'A Rain of Rockets and Bullets': Survivors of Pakistan's Train Hijacking," *Al Jazeera*, March 12, 2025, accessed March 26, 2025, https://www.aljazeera.com/features/2025/3/12/a-rain-of-rockets-and-bullets-survivors-of-pakistans-train-hijacking

[1035] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 7; Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 5.

[1036] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 74

building initiatives are underway for law enforcement agencies, prosecutors, and judicial officers to promote adherence to human rights standards during anti-terrorism proceedings.[1037]

Where incidents of custodial mistreatment or allegations of extrajudicial measures arise, the relevant authorities are mandated to undertake impartial inquiries.[1038] The State recognises the importance of upholding transparency and accountability in security operations and continues to strengthen institutional mechanisms in this regard.

Regulation of Political Activity and Freedom of Expression

The Government of Pakistan acknowledges the importance of safeguarding freedom of expression and association, including during times of heightened security. In periods of unrest, such as in early 2024, temporary measures were introduced to maintain public order and prevent incitement to violence. These included restrictions on certain digital communication platforms, enhanced monitoring of content under the Prevention of Electronic Crimes Act, 2016 (PECA), and the invocation of national security provisions in cases involving incitement or inflammatory speech.[1039]

The use of the ATA in politically sensitive contexts has been scrutinised by many.[1040] In response, efforts are ongoing to review the proportionality and consistency of its application and to avoid conflating peaceful political activity with activities that may constitute threats to national security.[1041]

Regional Security Cooperation and Border Management

Pakistan continues to engage with regional partners to address cross-border threats, particularly in areas along the Afghanistan-Pakistan border.[1042] These efforts are rooted in Pakistan's policy of peaceful coexistence and mutual respect for sovereignty. The Government remains open to diplomatic channels and confidence-building measures to prevent cross-border militancy and ensure long-term stability in South Asia.

Given Pakistan's complex security environment, the State remains committed to protecting its citizens from terrorism and insurgent violence, while ensuring that counterterrorism measures

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[1037] Ibid.

[1038] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 51

[1039] South Asia Terrorism Portal, "Pakistan: Timeline (Terrorist Activities) – June 2024," accessed March 26, 2025, https://www.satp.org/terrorist-activity/pakistan-Jun-2024.

[1040] South Asia Terrorism Portal, "Pakistan: Timeline (Terrorist Activities) – September 2024," accessed March 26, 2025, https://www.satp.org/terrorist-activity/pakistan-Sep-2024.

[1041] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 51

[1042] AG AFP and Arshad Aziz Malik, "Pakistani Airstrikes Against Terrorist Bases in Afghanistan Leave 71 Dead," *The News International*, December 26, 2024, accessed March 26, 2025, https://www.thenews.com.pk/print/1265530-pakistani-airstrikes-against-terrorist-bases-in-afghanistan-leave-71-dead.

are implemented in accordance with constitutional protections and human rights principles. Opportunities for further development include enhancing judicial oversight of anti-terror measures, reinforcing complaint and redress mechanisms, and promoting inclusive dialogue to build resilience against extremist narratives.

Legal Analysis

International Law

Pakistan's counter-terrorism efforts operate within a web of international legal obligations. As a United Nations member, Pakistan is bound by UNSC Resolutions like 1373, which requires states to criminalise terrorism financing and deny safe haven to terrorists, and 1267 establishing sanctions against designated terror entities. Pakistan has ratified multiple UN counter-terrorism conventions, including the International Convention for the Suppression of the Financing of Terrorism and the 1997 International Convention for the Suppression of Terrorist Bombings, committing to incorporate their provisions into domestic law. Additionally, Pakistan is a state party to core human rights treaties such as the ICCPR and CAT, which continue to apply during counter-terrorism operations.

International Covenant on Civil and Political Rights

Key ICCPR rights include the right to life, prohibition of torture, liberty and security of person, and fair trial guarantees, all of which must be respected in counter-terrorism operations. Some rights (like the right to life and the torture ban) are non-derogable even during emergencies.

Under Article 14 of the ICCPR, terrorism suspects are entitled to be presumed innocent, to counsel, and to a fair, public hearing by an independent court. Pakistan is obliged to provide effective remedies for rights violations; however, human rights bodies note deficiencies – for example, victims of wrongful detention or abuse often lack redress, and confessions obtained by coercion have been admitted in terrorism cases, contrary to Article 14(3)(g).

Covenant Against Torture

Articles 2 and 4 of the CAT require Pakistan to treat torture as a criminal offense with appropriate penalties, without exceptions for security emergencies. Article 15 of the CAT bans the use of any statement extracted by torture as evidence, particularly relevant since terrorism suspects have allegedly been coerced into confessions. The CAT's obligations thus require Pakistan to train its law enforcement and military to use lawful interrogation methods, prosecute any use of torture in counter-terrorism, and ensure victims have a right to remedy.

United Nations Security Council Resolutions

UNSCR 1373 imposes broad counter-terrorism obligations on all UN members, directly shaping Pakistan's legal regime. Under Resolution 1373, Pakistan must criminalise terrorist acts and financing, freeze terrorist assets, prevent terrorist safe havens, and share information

with other states. In compliance, Pakistan expanded offenses for terrorism financing and money laundering (through amendments to the Anti-Terrorism Act and the creation of the Anti-Money Laundering Act) and set up mechanisms to freeze assets of suspected terrorists. UNSCR 1373 also pushed Pakistan to become party to the major anti-terrorism conventions and to tighten border controls to stop movement of terrorists.

UNSCR 1267 and its successor resolutions (such as 1989, 2253) created the UN sanctions regime targeting Al-Qaeda, the Taliban, ISIL, and affiliated individuals. Pakistan, via the United Nations (Security Council) Act, 1948, gives domestic effect to these binding resolutions .[1043] Pursuant to 1267, Pakistan maintains a list of proscribed organisations and individuals (mirroring the UN Sanctions List) whose assets are frozen, and travel banned. For example, groups like Lashkar-e-Taiba and Jaish-e-Mohammed were banned and their leaders' assets seised following their UNSC designation.

Other Treaties and Conventions

Pakistan has joined a number of global treaties addressing specific acts of terrorism – for example, the International Convention for the Suppression of the Financing of Terrorism, the SAARC Regional Convention on Suppression of Terrorism, and earlier conventions on offenses like aircraft hijacking, hostage-taking, bombings, etc. These oblige Pakistan to criminalise such acts, cooperate in prosecution/extradition, and foster international cooperation.

Though not a treaty, recommendations from the Financial Action Task Force have effectively acted as international obligations for Pakistan in countering terror financing. To get off FATF's "grey list," Pakistan legislated stricter controls via amendments to the ATA and passing laws like the AMLA 2010. These laws operationalise UNSC resolutions (1267, 1373) by providing a legal basis for freezing assets and shutting down funding channels of terrorist groups. Compliance with these international financial standards has become an important aspect of counter-terrorism law enforcement (e.g. banning of charities linked to militant organisations and arresting individuals involved in financing).

Domestic Law

The Constitution of Pakistan

Article 9

Article 9 declares that "no person shall be deprived of life or liberty save in accordance with law." This is the Constitution's guarantee of the right to life and personal security. It forbids the state from arbitrarily killing or detaining individuals. Any use of lethal force by security forces (for example, during raids or firefights) must be lawful. Extrajudicial killings of terror

[1043] Financial Monitoring Unit (Pakistan), *Guidelines on Compliance of UNSC Resolutions for Banks, DFIs & Exchange Companies*, accessed March 26, 2025, https://www.fmu.gov.pk/docs/Guidelines_Compliance_UNSC_Resolutions_for_Banks_DFIs_&_ECs.pdf.

suspects violate Article 9.[1044] Likewise, the practice of enforced disappearances violates Article 9 because it effectively deprives persons of liberty outside the law.[1045]

Under Pakistani law, terror suspects can be detained, but only under legal process – e.g., the ATA allows remand of suspects for investigation, and the Maintenance of Public Order law permits preventive detention for public safety. If those procedures[1046] are not followed, the detention becomes "without lawful authority," breaching Article 9. Furthermore, capital punishment can be awarded for terrorism (and Pakistan has executed convicted terrorists), but when read with Article 10A, such deprivation of life must follow a fair trial and judicial sentence. The superior judiciary has also interpreted the right to life broadly to include a right to livelihood and dignity; draconian measures that severely impact the lives of individuals or communities (such as blockades or displacement in conflict zones) have been challenged under Article 9.[1047]

Article 10

Article 10 provides detailed procedural safeguards for persons under arrest or detained, which are crucial in terrorism cases. Under Article 10 (1) and (2), anyone arrested must be informed of the grounds of arrest and has the right to consult and be defended by a legal practitioner of their choice. In ordinary cases, the detainee must be produced before a magistrate within 24 hours and cannot be held further without judicial authority. These guarantees apply to terror suspects as well – for example, if police arrest someone under suspicion of terrorism, they must promptly explain the charge and bring the person to court within a day, unless a lawful exception applies.

The exception is preventive detention: Article 10(4) – (7) permits preventive detention under special laws for certain periods, but with conditions. If a person is detained without charge under a law intended to prevent them from committing terrorism, Article 10(4) requires that a Review Board of senior judges review the detention before 3 months elapse. The detainee must have an opportunity to be heard by this Board, and the Board can approve further detention only if sufficient cause is shown. Without such approval, the person must be released after 90 days. Additionally, Article 10(5) mandates that the detaining authority communicate the grounds of detention to the person within 15 days (except facts it considers against public interest to disclose).

In practice, these safeguards have sometimes been ignored, leading courts to order releases. Article 10(7) also limits the total period of preventive detention (e.g. no more than 8 months in

[1044] Hamza Ahmed, "The Shadow of Impunity: Understanding Extrajudicial Killings in Pakistan," *Centre for Human Rights*, August 23, 2024, accessed March 26, 2025, https://cfhr.com.pk/2024/08/23/the-shadow-of-impunity-understanding-extrajudicial-killings-in-pakistan/.

[1045] National Commission for Human Rights (Pakistan), *The Unending Saga of Enforced Disappearances*, accessed March 26, 2025, https://www.nchr.gov.pk/wp-content/uploads/2023/09/The-Unending-Saga-of-Enforced-Disappearances.pdf.

[1046] See Article 10 of the Constitution of Pakistan

[1047] Tahir Pervaiz Malik, "Expanding Literature of Human Right to Life in Pakistan," *Bazyaft* 32 (2018) 1-18, accessed March 26, 2025. https://pu.edu.pk/images/journal/bazyaft/PDF/22_v32_2018.pdf.

certain cases of public order, 12 months for graver threats, within any 24-month period) – a clause aimed at preventing indefinite detention without trial. However, this limit doesn't apply to enemy aliens or persons acting on behalf of an enemy state.

Article 10-A

Article 10-A of the Constitution explicitly guarantees that "for the determination of his civil rights and obligations or in any criminal charge against him, a person shall be entitled to a fair trial and due process." Under Article 10-A, courts must uphold the principles of due process – such as the accused's right to be heard, to have a lawyer, to examine witnesses, and to have an impartial judge.

The existence of Article 10-A has been used by petitioners to challenge extraordinary courts and summary procedures. For example, when military courts were authorised to try civilians (after the 2014 Peshawar APS attack), critics argued it violated Article 10-A due to secrecy and limited appeal procedures. The Supreme Court, in the 21st Amendment case, controversially upheld the temporary use of military courts, but that was via a constitutional amendment ousting fundamental rights review;[1048] once that amendment expired, Article 10-A resumed full force.[1049]

In 2023, when the government again attempted to use the Army Act to court-martial civilians for alleged terrorism following the May 9 riots, the Supreme Court ruled that such trials violated Article 10-A and declared them unconstitutional.[1050] The Court found that Section 2(1)(d) and Section 59(4) of the Pakistan Army Act, 1952, which allowed military trials for civilians, were ultra vires the Constitution, emphasising that fundamental rights—including the right to a fair trial by an independent and impartial court—could not be set aside by ordinary legislation. Consequently, the Court ordered that all 103 accused persons be tried under ordinary criminal law in civilian courts.[1051]

However, following this, the federal and provincial governments filed intra-court appeals, arguing that the ruling weakened the military's ability to handle security threats. A six-member Supreme Court bench, in a 5-1 majority decision, suspended the October ruling, allowing military trials to proceed, though it imposed a restriction on military courts from announcing final verdicts until the appeals were resolved. This move delayed the full enforcement of Article 10-A, keeping the accused under military jurisdiction despite the earlier declaration that such trials were unconstitutional. The Lahore High Court Bar Association and human rights groups

[1048] Zafar Iqbal and Ishtiaq Ahmad Choudhry, "Supreme Court Judgment in 21st Constitutional Amendment and Pakistan Army (Amended) Act 2015 Case – Implications or National Security of Pakistan" *Pakistan Vision* 18, no. 1 (June 2017): 13-30, accessed March 15, 2025 https://pu.edu.pk/images/journal/studies/PDF-FILES/Article-2_v18_1_jun17.pdf.

[1049] International Commission of Jurists, "Pakistan: As Military Courts Lapse, Government Must Prioritise Reform of the Criminal Justice System," March 30, 2019, accessed March 26, 2025, https://www.icj.org/pakistan-as-military-courts-lapse-government-must-prioritise-reform-of-the-criminal-justice-system/.

[1050] Jawwad S. Khawaja v. Federation of Pakistan, PLD 2024 SC 337

[1051] Ibid.

strongly objected, maintaining that Article 10-A had already been upheld by the Supreme Court and that the suspension undermined its enforcement.[1052]

Despite the Supreme Court's original ruling in favor of Article 10-A, military trials continued under the December 2023 suspension. In December 2024, the Court conditionally allowed military courts to announce verdicts for 85 civilians still in custody for their alleged involvement in the May 9 riots, while directing that those eligible for sentence remissions be released. However, these verdicts were made subject to the Court's final decision, which is expected in 2025.[1053]

Article 13

Article 13 provides two key protections: (a) no person shall be prosecuted or punished for the same offense more than once (double jeopardy), and (b) no person accused of an offense shall be compelled to be a witness against himself (self-incrimination).

Article 13(a) prevents the state from repeatedly trying a person for a terror offense once acquitted or convicted. For instance, if a suspect is tried and acquitted by an Anti-Terrorism Court (ATC) for a terrorist act, the government cannot simply re-arrest and re-charge that person for the same incident under another statute – that would violate the double jeopardy rule unless new evidence leads to a different charge altogether.

This is significant because the legal system has at times had parallel jurisdictions (military courts vs civilian courts). Questions have arisen whether a person convicted by a military court could subsequently be retried by a civilian court for the same conduct.[1054] The intention of Article 13 is to forbid such forum shopping for a conviction. Once a case is decided by either an ATC or any (other) competent court, Article 13 serves to shield the person from duplicate prosecution for that crime.

Concerning Article 13(b), the Qanun-e-Shahadat Order 1984 (QSO) already embodies the protection against self-incrimination through Article 39, which prohibits the use of confessions made in police custody unless given in the immediate presence of a Magistrate. This principle ensures that statements extracted under coercion or duress cannot be used as evidence in court. Additionally, Pakistan is a signatory to the CAT and the ICCPR, both of which prohibit the use of torture to obtain confessions. Under Article 14(3)(g) of the ICCPR, no person can be compelled to testify against themselves or confess guilt, reinforcing the constitutional guarantee under Article 13(b).

[1052] Dawn.com, "Special Report: May 9, Mayhem and Military Trials — A Year On," *Dawn*, June 25, 2024, accessed March 26, 2025, https://www.dawn.com/news/1832279/special-report-may-9-mayhem-and-military-trials-a-year-on.

[1053] Ibid.

[1054] Nasir Iqbal, "What about Civil Charges against Military Court Convicts, SC Asks," *Dawn*, January 18, 2025, accessed March 26, 2025, https://www.dawn.com/news/1885967.

However, Section 21-H of the ATA is particularly contentious as it allows confessions made before a police officer to be admissible in court. This contradiction increases the risk of coerced statements being used as evidence. Given that forced confessions undermine fair trial rights, Section 21-H presents serious concerns regarding due process and the prohibition of torture, and has been acknowledged as such by the HRC in its comments.[1055]

Article 14.

Article 14 affirms the inviolability of the dignity of every person and the privacy of home. Importantly, Article 14(2) says "no person shall be subjected to torture for the purpose of extracting evidence." It forbids security forces from using torture or degrading treatment on suspects to obtain confessions or intelligence.

However, despite these constitutional protections, reports indicate that torture remains a systemic issue, particularly in counter-terrorism operations. Law enforcement agencies continue to use physical and psychological coercion during interrogations, in direct contravention of Article 14. These abuses persist due to legal loopholes, weak oversight mechanisms, and a lack of accountability.[1056]

The ATA provide broad powers to law enforcement agencies, yet they lack adequate safeguards to prevent violations of human dignity. Detainees accused of terrorism are particularly vulnerable to coercive interrogation techniques, including forced confessions, extended solitary confinement, and physical abuse. Despite the constitutional inadmissibility of evidence obtained through torture, forced confessions remain a common feature in anti-terrorism prosecutions.[1057]

Article 16

Article 16 guarantees the right of citizens to assemble peacefully and without arms, subject to reasonable restrictions in the interest of public order. This right intersects with counter-terrorism in multiple ways.

First, the state may restrict rallies or gatherings by groups perceived as security threats (for example, banning assemblies by a proscribed terrorist organisation). Such restrictions must have a legal basis and meet the test of necessity for public order. Under the ATA, organisations declared unlawful are prohibited from holding public meetings, and their members can face arrest for participating in assemblies. Article 16 permits such limitations as long as they are

[1055] United Nations Human Rights Committee, *Concluding Observations on the Second Periodic Report of Pakistan*, CCPR/C/PAK/CO/2, November 7, 2024, paras 26-27.

[1056] Justice Project Pakistan, *Pakistan's Implementation of the Convention Against Torture*, June 2023, accessed March 16, 2025, https://jpp.org.pk/wp-content/uploads/2023/06/Pakistan's-Implementation-of-the-Convention-Against-Torture-.pdf.

[1057] Ibid.

narrowly tailored to prevent violence or disorder. For instance, gatherings by militant groups can be prohibited to prevent recruitment or incitement to violence.[1058]

Beyond the proscription of specific organisations, counter-terrorism laws have also been used to limit broader political and civil society gatherings. The Maintenance of Public Order Ordinance 1960 (MPO) enables authorities to preemptively detain protest leaders if their activities are deemed a threat to public peace, often without due process or sufficient evidence. Additionally, Section 144 of the CrPC. prohibits assemblies of five or more people in designated areas, frequently leading to the disruption of protests under vague security justifications. Courts have ruled that such restrictions must be justified by concrete evidence rather than general claims of national security, but these measures remain a widely used tool for suppressing political demonstrations.[1059]

Article 19

Article 19 guarantees freedom of speech and expression and freedom of the press, but explicitly allows the government to impose reasonable restrictions in the interest of Islam's glory, national security, public order, decency or morality, contempt of court, or incitement to an offense.

One of the most significant concerns is the vague and broad definition of terrorism under Section 6(2)(p) of the ATA, which criminalises "disseminating, preaching, or teaching ideas" that could be interpreted as promoting terrorism. While this provision is intended to curb radicalisation, its lack of precise language means it could also be used to silence speech unrelated to terrorism. The law does not provide clear parameters distinguishing legitimate political speech from incitement, leaving it open to arbitrary interpretation by authorities.[1060] This creates a chilling effect, discouraging open debate on national security and counter-terrorism policies for fear of legal repercussions.

Journalists and media outlets have faced legal action under the ATA for reporting on militant groups, insurgencies, or the state's counter-terrorism operations. The justification for these measures is often framed as preventing the glorification of terrorism, yet restrictions on media coverage extend beyond this scope. Legal actions against journalists covering sensitive security matters indicate an effort to control the narrative on counter-terrorism, raising concerns over the suppression of investigative journalism and state accountability.[1061]

[1058] Research Society of International Law, *Human Rights and Pakistan's Counter-Terrorism Legislative Landscape*, December 2018, accessed March 17, 2025, https://rsilpak.org/wp-content/uploads/2018/12/1st-Report-Human-Rights-and-Pakistan%E2%80%99s-Counter-Terrorism-Legislative-Landscape-Final.pdf.

[1059] Research Society of International Law, *Human Rights and Pakistan's Counter-Terrorism Legislative Landscape*, December 2018, accessed March 17, 2025, https://rsilpak.org/wp-content/uploads/2018/12/1st-Report-Human-Rights-and-Pakistan%E2%80%99s-Counter-Terrorism-Legislative-Landscape-Final.pdf.

[1060] Research Society of International Law, *Human Rights and Pakistan's Counter-Terrorism Legislative Landscape*, December 2018, accessed March 17, 2025, https://rsilpak.org/wp-content/uploads/2018/12/1st-Report-Human-Rights-and-Pakistan%E2%80%99s-Counter-Terrorism-Legislative-Landscape-Final.pdf.

[1061] Ibid.

Beyond restrictions on the press, counter-terrorism provisions have been invoked against political dissent. Authorities have used ATA provisions on incitement to criminalise speech critical of the government, security forces, or counter-terrorism policies. Political activists and opposition figures have been detained or charged under the ATA for statements that do not explicitly incite violence but are deemed threatening to national security. While courts have questioned the misuse of the ATA in political cases, enforcement remains inconsistent, and cases against activists, academics, and civil society members continue.[1062]

Legislation

The Anti-Terrorism Act, 1997

The ATA is Pakistan's primary anti-terrorism law, providing a comprehensive code that defines terrorism, establishes special courts, and sets out procedures and penalties. Since its enactment, the ATA has undergone numerous amendments to expand its scope and introduce harsher measures for enforcement. While the law was designed to combat terrorism, its broad language and special procedures have raised concerns about due process, misuse, and the blurring of lines between terrorism and ordinary crimes.

Definition of Terrorism

One of the most contentious aspects of the ATA is its definition of terrorism under Section 6. Section 6(1)(b) includes "any action that involves grievous violence against a person or property" or anything that causes or is likely to cause death, injury, or damage, or creates a sense of fear or terror in society. This broad definition meant that even ordinary crimes, such as a bank robbery or a personal revenge killing, could be prosecuted as terrorism if they frightened the public.[1063]

In 2019, the Supreme Court of Pakistan addressed this issue in the landmark *Ghulam Hussain* case.[1064] The Court emphasised that the definition of terrorism should focus on the intent and motivation behind the act, rather than solely on its effects. The judgment highlighted that actions driven by personal enmity or private disputes, even if they result in public fear, do not constitute terrorism unless there is a deliberate design to intimidate the public or coerce the government. This interpretation aligns the ATA's application with international standards, ensuring that only acts with a political, ideological, or sectarian objective are prosecuted as terrorism.[1065]

The Third Schedule

[1062] Ibid.

[1063] Reema Omer, "Definition of Terrorism," *Dawn*, November 4, 2019, accessed March 17, 2025, https://www.dawn.com/news/1514768.

[1064] Criminal Appeals No. 95 and 96 of 2019

[1065] Kamran Adil, "Ghulam Hussain Case and the Application of Terrorism Charges in Pakistan," *Research Society of International Law*, November 13, 2019, accessed March 18, 2025, https://rsilpak.org/2019/ghulam-hussain-case-and-the-application-of-terrorism-charges-in-pakistan/.

The Third Schedule of the ATA further expands on what constitutes a terrorism-related offense by listing a range of crimes that, if committed with terrorist intent, fall under the jurisdiction of ATCs. While originally meant to ensure swift prosecution of serious offenses tied to terrorism, the expansion of the schedule over time has led to legal ambiguities regarding its application. Crimes such as murder, kidnapping for ransom, extortion, hijacking, and the use of explosives are included in the schedule, but the broad language has allowed for prosecution of non-terrorist offenses under the ATA, leading to inconsistent application of the law.[1066]

The overreach of the Third Schedule has been particularly evident in cases where ordinary criminal acts have been charged as terrorism due to their impact rather than intent. In several instances, violent crimes arising from personal disputes or gang-related activities have been prosecuted in ATCs, simply because they were deemed to have caused fear in the public. Courts have increasingly scrutinised such applications, arguing that the mere presence of public fear does not transform a crime into terrorism.[1067] The Supreme Court ruling in the Ghulam Hussain case reinforced this position, emphasising that terrorism must be defined by motive rather than effect, thereby limiting the indiscriminate use of ATCs for cases that should otherwise fall under the ordinary criminal justice system.

Investigative Powers

Beyond violent acts, the ATA also criminalises terrorism financing, recognising the role financial support plays in sustaining militant organisations. Sections 11H to 11K prohibit the funding, possession, and movement of assets intended for terrorism. The law makes it an offense to collect, receive, provide, or use money or property for terrorist purposes, even if the funds are not ultimately used in an attack. The scope of these provisions extends beyond individuals to organisations, businesses, and financial entities that knowingly or unknowingly contribute to terrorism financing.

To enforce these provisions, the ATA grants extensive investigative powers to law enforcement agencies, particularly under Section 19C, which deals with special investigation techniques (SITs) for counter-terrorism cases. Section 19C explicitly permits the use of undercover operations, interception of communications, access to computer systems, and controlled deliveries to track and disrupt terrorism financing networks. These measures allow investigators to monitor financial transactions, gather intelligence, and prevent funds from being used for terrorism. However, the law requires that such surveillance and investigative activities be pre-approved by a judge and must be limited to 60 days, extendable for another 60 days with judicial authorisation.[1068]

[1066] Research Society of International Law, *Human Rights and Pakistan's Counter-Terrorism Legislative Landscape*, December 2018, accessed March 17, 2025, https://rsilpak.org/wp-content/uploads/2018/12/1st-Report-Human-Rights-and-Pakistan%E2%80%99s-Counter-Terrorism-Legislative-Landscape-Final.pdf.

[1067] Ibid.

[1068] Anti-Terrorism Act, 1997, section 11D.

Despite these provisions, Section 19C has never been used, leaving a legal vacuum in counter-terrorism intelligence operations. Compounding this issue is the Investigation for Fair Trial Act, 2013 (IFTA), which was intended to regulate electronic surveillance through judicial oversight but has also never been operationalised due to the government's failure to designate agencies under the law.

The Islamabad High Court, in its 2024 judgment, confirmed that no entity or agency in Pakistan has been legally authorised to conduct surveillance, wiretapping, or interception of communications for counter-terrorism purposes. The federal government admitted before the court that it had not issued any authorisation for surveillance under existing laws, including the Pakistan Telecommunication (Re-Organisation) Act, 1996, and the Telegraph Act, 1885. The court ruled that any unauthorised surveillance would violate fundamental rights under Articles 9, 10A, 14, and 19 of the Constitution and warned that intelligence officials and law enforcement personnel engaging in extra-legal wiretapping could face criminal liability.[1069]

This ruling underscores a fundamental flaw in the counter-terrorism framework—intelligence gathering for counter-terrorism purposes has been occurring outside any statutory bounds. Without the implementation of Section 19C or IFTA, law enforcement agencies have relied on unregulated methods that lack judicial oversight, transparency, and procedural safeguards. This raises serious concerns about the admissibility of intelligence-based evidence in ATCs, as courts have no formal guidelines on whether such material meets the standards set by the QSO or the ATA for admissible evidence.

Institutional Analysis

The National Counter Terrorism Authority (NACTA)

The NACTA was established in 2008 by executive order and later given a formal statutory basis through the NACTA Act of 2013.[1070] The NACTA operates under the Ministry of Interior (though its Board includes the Prime Minister and provincial leaders) and is empowered to coordinate among all federal and provincial stakeholders in countering terrorism.[1071] As a federal authority, the NACTA's jurisdiction covers all of Pakistan, but its role is primarily strategic and coordinative rather than operational. Under the NACTA Act, it is mandated to receive and collate terrorism-related intelligence from all agencies, formulate comprehensive counter-terrorism strategies, and advise the federal government on CT efforts. The NACTA can develop national action plans against terrorism and monitor their implementation by relevant agencies. Notably, the Act requires all federal and provincial bodies to cooperate with the NACTA's coordination efforts. However, the NACTA itself has no arrest or direct

[1069]"Audio Leaks Case: IHC Rules Phone Tapping Without Law 'Illegal'," *The Express Tribune*, June 25, 2024, accessed March 26, 2025, https://tribune.com.pk/story/2473832/audio-leaks-case-ihc-rules-phone-tapping-without-law-illegal.
[1070]Saddam Hussein, "National Counter Terrorism Authority (NACTA) – A Critical Review," *Center for Research and Security Studies*, accessed April 7, 2025, https://crss.pk/national-counter-terrorism-authority-nacta-a-critical-review/.
[1071]Ibid.

enforcement powers; it issues policies, threat assessments, and facilitates information sharing.[1072]

The NACTA's work is policy-oriented, and it does not conduct raids or detentions, so it has not been directly implicated in abuses. In fact, part of its mandate is to suggest legal reforms for counter-terrorism, which could include advising on protections for due process. The main critiques of the NACTA have been about its effectiveness and resourcing, rather than rights violations. Observers note that for years after its creation, turf wars and limited funding hampered the NACTA's ability to fully coordinate CT efforts.[1073]

Provincial CTDs

Counter Terrorism Departments **(CTDs)** are specialised units within each provincial police force, created by administrative orders under existing police laws. The establishment of provincial CTDs was first proposed in the National Internal Security Policy 2014-18, which called for urgent counter-terrorism measures in response to the rising wave of terrorist attacks. One of the key contours of NISP 2014-18 was the reorganisation of all provincial CTDs and the establishment of a Federal Rapid Response Force in collaboration with them. Additionally, Agenda Item No. 8 of the National Action Plan (NAP) reinforced this by mandating the creation and deployment of counter-terrorism forces across Pakistan to combat terrorist threats in a structured manner.[1074]

Prior to these federal policy interventions, provinces had some rudimentary counter-terrorism structures. In Punjab, for example, the provincial government reorganised the Crime Investigation Department into the CTD in 2010.[1075] Other provinces undertook similar initiatives: Khyber Pakhtunkhwa set up its CTD in 2014[1076], while Sindh and Balochistan also converted their CIDs into CTDs during the 2010s. While no new statute was needed—since the Police Order 2002 and the ATA provided a sufficient legal mandate—official notifications in each province formally established the CTDs as dedicated branches for terrorism-related cases. These departments operate under provincial Home Departments but derive their investigative powers from the ATA and the CrPC, similar to regular police forces.[1077]

[1072] National Counter Terrorism Authority Pakistan. "About Us: Organisation." Accessed April 7, 2025. https://www.nacta.gov.pk/about-us/organisation/.

[1073] Syed Irfan Raza. "PM Dissatisfied with Performance of Nacta." *Dawn*, September 26, 2018. https://www.dawn.com/news/1435057

[1074] Dr. Farhan Zahid. "The Role of CTDs in Countering and Minimising Terrorism." *Center for Research and Security Studies*. Accessed April 7, 2025. https://crss.pk/the-role-of-ctds-in-countering-and-minimising-terrorism/.

[1075] Abdul Manan. "Counter Terrorism Department Formed." *The Express Tribune*, September 25, 2010. https://tribune.com.pk/story/54242/counter-terrorism-department-formed.

[1076] Chief Minister Khyber Pakhtunkhwa. "Establishment of Counter Terrorism Department (CTD)." December 23, 2014. https://cmkp.gov.pk/order_law_details.php?nId=12.

[1077] Farhan Zahid, "The Role of CTDs in Countering and Minimising Terrorism," Center for Research and Security Studies, accessed April 7, 2025, https://crss.pk/the-role-of-ctds-in-countering-and-minimising-terrorism/.

A CTD's jurisdiction is the province it is set up in (with the Islamabad Capital Territory having its own separate CTD). These departments are responsible for investigating all terrorism and extremism-related offenses under the ATA in their province. They register First Information Reports (FIRs) for terrorism incidents at special CTD police stations and are empowered to conduct the full spectrum of investigations and arrests for such cases.[1078] CTD officers have the same powers of arrest, search, and interrogation as regular police, but focus exclusively on terrorism, sectarian violence, and high-profile organised crime. CTDs can also seek the formation of Joint Investigation Teams for complex cases under the ATA.[1079]

CTDs have faced serious allegations of human rights abuses, chiefly regarding extrajudicial killings and excessive use of force. CTD units often engage militants in armed encounters, but in some cases these "encounters" have been accused of being staged. A notorious example is the 2019 Sahiwal incident in Punjab, where CTD officers opened fire on a family car, killing a couple, their daughter, and a family friend, then claimed they had killed terrorists – a version refuted by eyewitnesses who said the victims were unarmed innocents shot in cold blood.[1080] The incident led to public outrage and a Joint Investigation Team inquiry, though the CTD officials were later acquitted, highlighting accountability issues.[1081]

There are also reports of torture in custody; with the ATA's allowance of the use of confessions recorded by police (rather than a magistrate) in terrorism cases serving as means of incentivising torture to extract confessions.[1082] In provinces like Balochistan, CTD officials have been accused of involvement in enforced disappearances, often in collaboration with intelligence agencies.[1083] Courts have occasionally rebuked CTDs – for instance, the Supreme Court demanded answers from the Punjab CTD Punjab over the Sahiwal killings.[1084]

Federal Investigation Agency – Counter Terrorism Wing (FIA-CTW)

The Federal Investigation Agency (FIA) was created by the FIA Act 1974 as a federal law enforcement body. Initially focusing on crimes like smuggling, narcotics, and immigration, the FIA's mandate was extended to terrorism in the early 2000s. In 2003, the government formally assigned counter-terrorism functions to the FIA, leading to the establishment of a dedicated

[1078] Abdul Manan, "Counter Terrorism Department Formed," The Express Tribune, September 25, 2010, https://tribune.com.pk/story/54242/counter-terrorism-department-formed.

[1079] Anti-Terrorism Act, 1997, sec. 19

[1080] Mian Ramzan, Wasim Riaz, and Dawn.com, "Parents, Teenage Daughter among 4 Killed during CTD 'Encounter' in Sahiwal; PM Seeks Report," Dawn, January 19, 2019, https://www.dawn.com/news/1458520

[1081] Wajih Ahmad Sheikh, "All Six Police Personnel Acquitted in Sahiwal Killings Case," Dawn, October 25, 2019, https://www.dawn.com/news/1512791.

[1082] Huma Yusuf, "Pakistan's Anti-Terrorism Courts," CTC Sentinel 3, no. 3 (March 2010), https://ctc.westpoint.edu/pakistans-anti-terrorism-courts/.

[1083] Abid Hussain, "'Kill and Dump Policy': Baloch Protest Man's Custodial Murder in Pakistan," Al Jazeera, January 9, 2024, https://www.aljazeera.com/news/2024/1/9/kill-and-dump-policy-baloch-protest-mans-custodial-murder-in-pakistan.

[1084] Aqeel Afzal, "SC Seeks Report on 2019 Sahiwal Tragedy," The Express Tribune, June 30, 2021, https://tribune.com.pk/story/2308094/sc-seeks-report-on-2019-sahiwal-tragedy.

Counter-Terrorism Wing (CTW) within the agency.[1085] The CTW operates under the broad investigative mandate of the FIA Act, with terrorism—particularly cases involving inter-provincial or international linkages—falling within its jurisdiction under the ATA. The wing plays a key role in investigating terrorism-related offenses, including financial crimes linked to terrorist activities and cyberterrorism threats.[1086]

The Financial Investigation Unit (FIU) within the CTW is responsible for preventing and combating financial and economic crimes across Pakistan. Given the increasing link between terrorism and illicit financial networks, the FIU has emerged as a critical entity in countering money laundering, terrorist financing, and hawala/hundi networks. It is a member of all National Task Forces on financial crime and counter-terrorism and is part of the AML/CFT desk, collecting and analyzing data from operational FIA units and zones on money laundering, terrorist financing, and hawala transactions, which it shares with the FATF Secretariat. The FIU also collaborates with financial regulatory bodies and law enforcement agencies to strengthen compliance with international financial crime regulations. Additionally, it plays a leading role in the National Risk Assessment working group, contributing to policy formulation on financial crime risks.[1087]

The Cyber Terrorism Investigation Unit (CTIU) within the CTW was established to address the increasing threat of cyberterrorism. The CTIU supervises inquiries and investigations related to cyberterrorism, focusing on cases involving online radicalisation, terrorist recruitment, and digital propaganda. It oversees the Digital Forensic Laboratory, which specialises in retrieving, analyzing, and securing digital evidence to support counter-terrorism operations. The CTIU is also responsible for maintaining the National Criminal Database, a centralised system for tracking terrorism-related criminal records. Additionally, it compiles and publishes the Red Book of Most Wanted Terrorists to assist law enforcement agencies in tracking and apprehending high-profile suspects.[1088]

Financial Monitoring Unit (FMU)

The Financial Monitoring Unit (FMU) is Pakistan's Financial Intelligence Unit, established under Section 6 of the AMLA 2010. The AMLA 2010 gave the FMU a statutory basis as an autonomous financial intelligence department under the federal government. The FMU's creation fulfills Pakistan's international obligations to the FATF which require each country to have an FIU to combat money laundering and terrorism financing. The AMLA defines FMU's functions and powers, such as receiving Suspicious Transaction Reports (STRs) and Currency Transaction Reports (CTRs) from financial institutions and other reporting entities. [1089]

[1085] Federal Investigation Agency, "Counter Terrorism Wing," accessed April 7, 2025, https://www.fia.gov.pk/ctw.

[1086] Ibid.

[1087] Ibid.

[1088] Ibid.

[1089] Anti-Money Laundering Act, 2010, sec. 6(4)(a)

Once the FMU receives these reports, it has the power to analyze and query additional information. It can request further details from reporting entities or relevant databases if something needs clarification.[1090] If during analysis the FMU finds reasonable grounds to suspect that a transaction or account is linked to terrorist financing or money laundering, it is empowered to disseminate financial intelligence to law enforcement agencies. For instance, it may forward a case to the FIA's Counter-Terrorism Wing or to a provincial CTD for investigation and possible prosecution.[1091] The FMU itself does not have powers to arrest or seise assets – that remains with LEAs like FIA, CTDs, NAB, etc.

Summary of UN Observations

Human Rights Committee

The Human Rights Committee (HRC) has consistently expressed serious concerns about Pakistan's use of counter-terrorism laws, particularly the Anti-Terrorism Act (ATA), citing its vague and overly broad definition of "terrorism" as a major issue.[1092] The Committee warns that the ATA facilitates arbitrary arrests, warrantless searches, the use of confessions obtained in police custody, and expedited judicial procedures that violate the fair trial guarantees enshrined in Articles 14 and 15 of the ICCPR. It has called on Pakistan to revise the Act to ensure its provisions are legally precise and aligned with international due process standards.[1093] The Committee is equally alarmed by the trial of civilians, including juveniles, in military courts lacking transparency and procedural safeguards, and has urged Pakistan to criminalise enforced disappearances and hold perpetrators accountable for extrajudicial killings and related abuses.[1094]

The HRC has also raised red flags over Pakistan's use of counter-terrorism legislation to restrict fundamental freedoms, including freedom of expression, peaceful assembly, and movement. It criticised practices such as internet shutdowns, the blocking of websites, and the application of laws like the Peaceful Assembly and Public Order Act (2024) and Section 144 of the Criminal Procedure Code to suppress protests and detain activists. Furthermore, the Committee highlighted the arbitrary use of administrative tools such as the Exit Control List (ECL) and the Fourth Schedule to restrict the movement of journalists, activists, and minorities.[1095] It recommended the establishment of independent oversight mechanisms to prevent such abuses and ensure that any restrictions are necessary, proportionate, and legally justified under Article 12 of the ICCPR.

[1090] Ibid, sec. 6(4)(b).

[1091] Ibid, sec. 6(4)(c).

[1092] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024) para 27

[1093] Ibid, para 43

[1094] Ibid, para 27

[1095] Ibid, para 35

Additionally, the Committee has expressed concern over widespread allegations of torture and ill-treatment by law enforcement, military, and intelligence agencies.[1096] It noted the absence of comprehensive domestic legislation criminalising torture and emphasised that coercive interrogation practices, especially those aimed at extracting confessions in counter-terrorism cases, violate Pakistan's obligations under the ICCPR and the Convention Against Torture (CAT).[1097] The HRC has called for an outright prohibition on the use of evidence obtained under duress and urged Pakistan to take robust preventive and accountability measures to eliminate torture in all its forms.

Committee Against Torture

The Committee Against Torture made similar recommendations to the HRC. First, it recommended that Pakistan repeal or amend the ATA and other legislation to ensure legal safeguards against torture, including presentation before a magistrate and possibilities of a *habeas corpus* petition.[1098] It also recommended that Pakistan stop using military courts for terrorism-related cases, transfer criminal cases brought against civilians to the normal criminal judicial system, and that civilians tried under military courts should be given the opportunity for appeals.[1099]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review (UPR), a significant number of states expressed concern over the country's counter-terrorism framework and its compatibility with international human rights standards. Countries such as Argentina, Lithuania, and Paraguay emphasised the need to align anti-terrorism measures with human rights obligations, particularly regarding freedom of expression, association, and assembly. Specific concerns included the use of these laws against children and the continued use of the death penalty. India notably called for credible and verifiable action against terrorism originating from Pakistani territory. Simultaneously, concerns were raised about the use of military courts, enforced disappearances, and the intimidation of journalists and human rights defenders, with countries like Norway, Sweden, the United States, and Switzerland urging Pakistan to strengthen protections and investigate violations.[1100]

Additionally, several states highlighted the misuse of counter-terrorism laws to suppress political dissent, restrict freedom of movement, and disproportionately target vulnerable groups, including women and minorities. Lithuania and Norway called for legal reviews to prevent political suppression, while the United States and Switzerland pushed for oversight of

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[1096] Ibid, para 29.

[1097] Ibid.

[1098] United Nations Committee Against Torture. *Concluding Observations on the Initial Report of Pakistan*. UN Doc. CAT/C/PAK/CO/1, June 1, 2017, para 13

[1099] Ibid.

[1100] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

control lists and accountability for their misuse. Concerns were also raised about the treatment of juveniles under the Anti-Terrorism Act (ATA), with countries like Sweden and Paraguay advocating for reforms to protaect children from harsh legal provisions and military courts. Furthermore, issues related to gender-based violence and religious discrimination were underscored, with Switzerland, Belgium, and India drawing attention to how counter-terrorism operations have been used to harass minority women, reinforcing the need for comprehensive legal and institutional reforms.[1101]

Recommendations

Legislative

Amendment to the definition of terrorism in the ATA

The current definition of terrorism in Section 6 is excessively broad, allowing for the prosecution of ordinary crimes and political activities under the ATA, this definition should be amended to specify that terrorism applies only to acts committed with a clear political, ideological, or sectarian motive, in line with international legal standards and the Supreme Court's Ghulam Hussain ruling.

Repeal Section 21-H of the ATA

Section 21-H, which permits confessions made before police to be used as evidence in court, should be repealed. The risk of torture and coerced confessions under this provision undermines the right to a fair trial and contradicts constitutional protections under Article 14. Thus, the section should be repealed to ensure that extrajudicial confessions are inadmissible, and that all confessions must be made before a judicial magistrate or a judge to be considered admissible in an anti-terrorism trial.

Remove lesser offences from the Third Schedule

The Third Schedule of the ATA must be revised by removing offenses that do not meet the threshold of terrorism, ensuring that ordinary crimes (e.g., property disputes, political protests) are not prosecuted under the ATA. This will help reduce the backlog of anti-terrorism courts and restrict their jurisdiction to the most serious offences.

Establish protocols for intelligence-based surveillance

Under the FATF Action Plan, the Government of Pakistan committed to introduce the concept of Special Investigative Techniques (SITs) under Pakistan's AML/CFT framework so that intelligence based information could be converted into evidence. Accordingly Section 19C was inserted into the ATA but has not been operationalised through Rules.

[1101] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

The Government should immediately operationalise Section 19C of the ATA by establishing a clear legal framework for intelligence-based surveillance, ensuring it complies with constitutional protections on privacy (Article 14) and fair trial rights (Article 10-A). Furthermore, the Government should introduce judicial oversight for all interceptions, electronic surveillance, and covert operations under Section 19C, ensuring that approval and oversight mechanisms align with those established under the IFTA, 2013. All surveillance activities should be subject to prior judicial authorisation and periodic review by an independent judicial body to prevent abuse and ensure compliance with constitutional protections. The correct implementation of this framework will have a major impact on improving conviction rates in ATA cases and reduce the risk of extrajudicial measures in counter-terrorism efforts.

Operationalisation of the Mutual Legal Assistance Act, 2020

Despite the MLA Act's robust framework, incoming and outgoing requests face procedural delays and role ambiguity. The federal government should map and formally assign responsibilities for each MLA step—from request drafting through judicial authorisation—issue clear SOPs and establish an oversight committee to monitor turnaround times and address inter-jurisdictional bottlenecks.

Policy

Establishment of an Independent Reviewer of Counter-Terrorism Legislation

Pakistan's Anti-Terrorism Act has been amended nearly twenty-five times since 1997, yet no mechanism exists to assess the cumulative impact of these changes on human rights or operational effectiveness. An independent expert—vested with a statutory mandate and reporting directly to Parliament—should be appointed to review all CT laws, gather empirical evidence on their application, and recommend reforms; this model follows the UK's Independent Reviewer of Terrorism Legislation, which has provided authoritative, evidence-based guidance since 2001.

Mandatory public reporting on counter-terrorism operations

Mandate public reporting on counter-terrorism operations, including statistics on arrests, detentions, prosecutions, and judgements. Judgements especially should be transparently reported, so as to ensure that they align with fair trial principles.

Immediate registration of detainees

Law enforcement and intelligence agencies should be required to immediately register all detainees in a centralised database accessible to the judiciary, human rights bodies, and families of detainees. The registry itself should be regularly audited to prevent secret detentions and to ensure that counterterrorism operations comply with fair arrest and detention standards.

Issuance of Sentencing Guidelines for ATA Offences

The High Courts should develop and publish comprehensive sentencing guidelines for all offences under the Anti-Terrorism Act, drawing explicitly on the UN's principles of proportionality, legitimacy and respect for human rights. These guidelines must set out clear baseline ranges and factors for aggravation and mitigation—such as the offender's role, risk of recidivism, impact on victims and prospects for rehabilitation—while safeguarding against arbitrary or excessive punishments. Uniform adoption across provinces will promote consistency, enhance judicial transparency and ensure that counter-terrorism sentencing fully aligns with Pakistan's constitutional guarantees and its obligations under the ICCPR.

Introduction of Immersive, Technology-Driven Training Modules and Certification Programmes

Over the past two decades, hundreds of ATA-focused trainings—primarily classroom-based and funded by international partners—have been delivered, yet their practical impact remains largely unmeasured and uneven. The advent of modern technology and AI creates an opportunity to transform these efforts into immersive, simulation-based curricula—use of SIT's, encrypted-communications intercept scenarios, forensic-financial analysis exercises and mock ATC hearings—that mirror real-world challenges. To ensure genuine effectiveness, each program must incorporate robust feedback loops: standardised pre- and post-training assessments, periodic refresher evaluations and formal impact reviews. Finally, a structured certification regime should be established—developed jointly by NACTA, federal and provincial academies and expert partners—so that only those officers, prosecutors and judges who hold a recognised CT certification may be posted to CTDs, CT prosecution units or ATC benches.

Integration of Criminal-Justice Databases for ATA Cases

Police, prosecution and ATC records remain siloed in each province, delaying investigations and hampering oversight. A unified, interoperable platform should be established—linking CTD case files, prosecution logs and ATC orders and judgments—to allow for comprehensive performance analytics.

Formation of an Inter-Provincial Working Group of CT Justice Actors

Best practices and lessons from successful CT prosecutions are not routinely shared across provinces. A standing working group under NACTA comprising CTD, CT prosecutors, and ATC judges—should meet quarterly to review case studies, identify systemic bottlenecks and harmonize investigative and prosecutorial approaches.

Development of an Online Counter-Terrorism Knowledge Repository

Prosecutors and judges lack a single, authoritative reference for evolving CT jurisprudence and procedure. An online portal should be launched to host curated case law, up-to-date legislative

texts, model SOPs, investigative checklists and thematic guidelines (e.g., counter-terrorism financing, technology), accessible to all CT practitioners under secure login.

Definition of Indicators for Effective CT Policing and Prosecution

There is no agreed framework to measure CTD or prosecutor performance, making cross-provincial comparison impossible. NACTA in consultation with the Ministry of Interior and provincial Home Departments should jointly define KPIs—such as case clearance rate, average investigation time, and acquittal ratio etc. and publish scorecards to drive accountability and peer learning.

Conduct of a Fiscal and Infrastructure Analysis for ATA Implementation

Budget allocations for CTDs and the capacity of ATCs have never been systematically assessed, obscuring resource shortfalls. A joint study by NACTA, provincial finance departments, and each High Court should quantify CTD and prosecution staffing and equipment needs, audit ATC facilities and support services, and recommend targeted investments to ensure equitable, sustained service delivery nationwide.

Censorship and Freedom of Expression

Chapter Summary

Freedom of expression is a constitutionally protected right in Pakistan and a central element of the country's human rights framework. Article 19 of the Constitution guarantees the right to freedom of speech and press, subject to reasonable restrictions in the interests of national security, public order, morality, and other defined grounds. Pakistan has a diverse and growing media landscape, including print, electronic, and digital platforms. Recent years have witnessed dynamic developments in media regulation, technological access, and digital engagement. These changes have also introduced challenges related to regulation, journalist safety, misinformation, and the management of online content. Efforts to safeguard national interests and promote responsible expression have led to the introduction of new laws and regulatory mechanisms, with ongoing efforts to balance freedoms with security and public order concerns .

Pakistan is a State Party to international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR), which enshrines the right to freedom of expression under Article 19. The ICCPR permits restrictions on this right only when necessary, proportionate, and provided by law for legitimate aims. Other obligations arise from the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC), and related UN mechanisms. Domestically, the Prevention of Electronic Crimes Act (PECA), the Pakistan Penal Code (PPC), the Official Secrets Act, and the Pakistan Electronic Media Regulatory Authority (PEMRA) laws regulate expression in various forms. Amendments to PECA in 2025 introduced additional oversight through new regulatory institutions. These laws seek to address concerns such as cybercrime, hate speech, and misinformation. Opportunities remain for further alignment with international human rights standards, particularly in areas related to criminal defamation, sedition, and content moderation protocols.

Institutional oversight of freedom of expression involves multiple entities, including PEMRA, the Pakistan Telecommunication Authority (PTA), the Federal Investigation Agency (FIA), and the recently established Social Media Protection and Regulatory Authority (SMPRA). The judiciary plays a role in reviewing restrictions, while the Protection of Journalists and Media Professionals Act provides for dedicated safety mechanisms for media workers. Coordination across these institutions is ongoing, and steps have been taken to enhance transparency, training, and grievance redressal. Targeted initiatives focus on digital literacy, the safety of journalists, and improved access to media services in underserved areas. Strengthening institutional capacity, clarifying mandates, and improving procedural safeguards are areas identified for further development to enhance regulatory coherence and rights protection.

This chapter provides a comprehensive examination of censorship and freedom of expression, placing it in context with Pakistan's constitutional framework and international human rights commitments. It identifies areas where legislative and institutional enhancements can further align domestic practices with international standards under treaties such as the ICCPR. Future directions may include revisiting definitions and scope of content-based offenses, enhancing the independence of media regulators, strengthening judicial and parliamentary oversight, and ensuring proportionate and rights-respecting application of digital regulations. Broader reforms could include decriminalising defamation, refining PECA provisions, institutionalising support for journalists' safety, and establishing an independent oversight mechanism for content regulation. Collectively, these measures can contribute to a more enabling environment for freedom of expression, while ensuring that regulatory frameworks remain fair, transparent, and aligned with both constitutional values and Pakistan's international obligations

Situational Analysis

The right to freedom of expression and of the press is guaranteed under Article 19 of the Constitution of Pakistan, subject to reasonable restrictions in the interests of national security, public order, decency, or morality. As a State Party to the International Covenant on Civil and Political Rights (ICCPR), Pakistan recognises the importance of enabling a free media environment, ensuring the safety of journalists and recognising free speech, while also maintaining respect for constitutional order and societal values.

Over the past several decades, Pakistan has experienced significant media growth and digitisation, contributing to robust public discourse. At the same time, rapid changes in the political and technological landscape have created new challenges for media regulation, journalist safety, and the protection of digital rights.

Legal and Institutional Framework

Freedom of expression in Pakistan is regulated through various statutory instruments, including the Pakistan Penal Code, 1860 (PPC), the Prevention of Electronic Crimes Act, 2016 (PECA) and the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance, 2002. Recent legislative developments, including amendments to PECA, have been introduced to address emerging risks in the digital space, national security concerns, and misinformation.

In 2025, amendments were passed to the PECA to introduce provisions addressing the dissemination of false information online, while also establishing dedicated oversight mechanisms such as the Social Media Protection and Regulation Authority (SMPRA).[1102] These amendments aim to balance online freedoms with lawful and responsible digital conduct,

[1102] Amnesty International, 'Pakistan: Authorities pass bill with sweeping controls on social media' (24 January 2025) https://www.amnesty.org/en/latest/news/2025/01/pakistan-authorities-pass-bill-with-sweeping-controls-on-social-media/ accessed 3 April 2025.

and have generated ongoing debate regarding regulatory oversight and user rights.[1103] The Government has reiterated its commitment to ensuring that such frameworks are applied in a proportionate and transparent manner, with the goal of promoting responsible journalism and online safety.

Media Environment and Journalist Safety

The Government acknowledges that the safety of journalists is essential to a free and responsible media. In response to concerns about the risks faced by media professionals, Pakistan enacted the Protection of Journalists and Media Professionals Act, 2021, which provides for the establishment of protection mechanisms and complaint redressal systems for journalists and other media professionals.[1104] The Act also establishes a Commission to investigate threats and violence against journalists. Although the Act is currently not operational, efforts are ongoing to fully operationalise these mechanisms and to ensure coordination between law enforcement and media organisations.

Furthermore, independent monitoring reports have highlighted cases involving threats, harassment, and attacks on journalists. [1105] These underscore the need to strengthen protective frameworks, particularly for media professionals operating in conflict-affected or underserved regions.[1106] The Government continues to engage law enforcement and judicial actors in capacity-building support to improve investigative standards and ensure accountability in cases of violence against journalists.

The Government remains committed to prosecuting attacks on journalists and has invited collaboration from civil society and international partners to improve reporting and support systems. As part of broader reforms, training programs have been introduced for police and security personnel to sensitively handle complaints related to press freedom and freedom of expression.[1107]

Digital Regulation and Internet Access

[1103] Ibid.

[1104] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 117

[1105] Committee to Protect Journalists, '2024 is Deadliest Year for Journalists in CPJ History; Almost 70% Killed by Israel' (February 2025) https://cpj.org/special-reports/2024-is-deadliest-year-for-journalists-in-cpj-history-almost-70-percent-killed-by-israel/ accessed 3 April 2025.

[1106] CIVICUS Monitor, 'Pakistan: Authorities Bring Terrorism Charges Against Protesters, Arrest the Opposition and Target the Media' (24 May 2023) https://monitor.civicus.org/explore/pakistan-authorities-bring-terrorism-charges-against-protesters-arrest-the-opposition-and-target-the-media/ accessed 3 April 2025.

[1107] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 118.

The evolution of the digital media landscape has prompted the need for regulatory adjustments to address misinformation, hate speech, and cybercrime. The PECA framework and other sector-specific regulations together provide mechanisms for content moderation, user data protection, and redress. However, the implementation of these regulations continues to be refined in response to judicial scrutiny and stakeholder feedback.

In exceptional circumstances, temporary restrictions on internet access have been implemented to preserve public order and national security. [1108] Efforts are also being made to address the digital divide, particularly in rural and remote areas, where access to reliable internet and media services remains limited. Bridging this gap is a national priority, given the role of digital access in education, commerce, and civic participation. [1109] The Government recognises the socio-economic impacts of such measures and is working toward establishing regulations and protocols to ensure that connectivity restrictions are proportionate, lawful, and time-bound, in line with its commitments under international law.

Religious minorities and vulnerable groups are also entitled to full enjoyment of freedom of expression under the Constitution and international law. The Government continues to monitor the implementation of legal provisions related to religious speech, blasphemy laws, and anti-hate speech measures to ensure that enforcement is not misused and that safeguards against discrimination are upheld.[1110]

Overall, while notable steps have been taken to institutionalise protections and introduce regulatory clarity to the freedom of expression, further scope remains in harmonizing laws, ensuring effective implementation, and fostering a culture of tolerance and constructive discourse. Continued investment in legal reform, stakeholder consultation, and institutional development will enable Pakistan to further its commitment to upholding constitutional rights and international human rights standards on freedom of expression and media.

Legal Analysis

International Law

International Covenant on Civil and Political Rights

Under international law, Pakistan is obliged to protect and promote freedom of expression as a fundamental human right. Article 19 of the Universal Declaration of Human Rights 1948 enshrines the right to "hold opinions without interference" and "to seek, receive and impart

[1108] Ariba Shahid, 'Exclusive: Pakistan Point-of-Sale Payments Slump after Protest Violence' (*Reuters*, 11 May 2023) https://www.reuters.com/world/asia-pacific/pakistan-point-of-sale-payments-slump-nearly-50-after-protest-violence-2023-05-11/ accessed 3 April 2025.

[1109] Hafsa Adil, ''Ruined My Livelihood': Pakistan Internet Shutdown Hits Millions' (*Al Jazeera*, 11 May 2023) https://www.aljazeera.com/news/2023/5/11/pakistan-internet-shutdown accessed 3 April 2025.

[1110] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, para 94-102.

information and ideas through any media and regardless of frontiers".[1111] This broad guarantee was given binding force in Article 19 of the International Covenant on Civil and Political Rights 1966 (ICCPR). Article 19 of the ICCPR elaborates the right to freedom of expression in three parts: the right to hold opinions (which permits no restriction), the right to express and receive information and ideas, and the conditions under which expression may be restricted.[1112] Importantly, the ICCPR allows restrictions on expression if they are provided by law and are necessary and proportionate to achieve a legitimate aim such as protecting the rights or reputation of others, national security, public order, public health, or morals (Article 19(3) ICCPR).[1113] This means any limitation must be narrowly defined and must not jeopardise the essence of the right. Additionally, Article 20 of the ICCPR requires states to prohibit only the most extreme forms of expression (propaganda for war, or advocacy of national, racial or religious hatred that incites discrimination, hostility or violence).[1114] The UN Human Rights Committee's authoritative interpretation underscores that laws restricting speech must be formulated with sufficient precision and may not confer unfettered discretion on officials to curb expression.[1115] Vague or overly broad restrictions that grant officials sweeping censorial powers would violate Article 19.[1116]

Pakistan is also a party to other relevant international instruments and has made political commitments that call for upholding free speech. Pakistan has at times supported international resolutions on the safety of journalists and digital rights, acknowledging these issues at the global stage.[1117] However, domestically there remains a gap between rhetoric and reality. The Universal Periodic Review (UPR) process at the UN has yielded dozens of recommendations to Pakistan on freedom of expression – including calls to decriminalise defamation, amend or repeal the blasphemy laws to prevent abuse, and ensure protection of journalists – many of which remain unimplemented. Pakistan's current legal framework, as detailed below, diverges from international standards, underscoring the need for legal reform to bridge the gap between Pakistan's international commitments and its domestic laws.

Domestic Law

The Constitution of Pakistan

[1111] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III) (Article 19). https://www.un.org/en/about-us/universal-declaration-of-human-rights accessed 3 April 2025.

[1112] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) Art 19 and Art 20 https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights accessed 3 April 2025.

[1113] Ibid. Art. 19(3)

[1114] Ibid. Art. 20

[1115] UN Human Rights Committee, *General Comment No. 34: Article 19 (Freedoms of opinion and expression)*, CCPR/C/GC/34 (12 September 2011). Available at: https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf accessed 3 April 2025

[1116] Ibid.

[1117] UNESCO, 'Media Update: United Nations Pakistan, 7 December 2024' (7 December 2024) https://pakistan.un.org/en/285460-media-update-united-nations-pakistan-7-december-2024 accessed 3 April 2025.

Article 19

The Constitution of Pakistan (1973) guarantees freedom of speech and expression, and freedom of the press, under Article 19. Article 19 subjects these rights to "reasonable restrictions imposed by law" in the interest of a broad range of objectives: *"the glory of Islam, the integrity, security or defense of Pakistan, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence."* In effect, the Constitution itself provides an expansive list of grounds on which speech can be curtailed. Some of these terms (such as "glory of Islam" or "morality") are undefined and far exceed the narrower restrictions permitted under ICCPR Article 19(3). While the constitutional clause intends to allow only reasonable regulation, in practice it has often been invoked to justify sweeping censorship measures. Pakistan's superior courts have acknowledged that the right to free speech under Article 19 is not absolute, yet they insist that restrictions must remain reasonable and not serve as a pretext for suppressing dissent. For example, as early as 1965, in *Nawabzada Nasrullah Khan v. Government of West Pakistan*,[1118] the court observed that freedom of speech does not mean one can speak "where, when and how one chooses" irrespective of law – underscoring that some order is necessary – but conversely, the state may not arbitrarily suppress speech outside the scope of lawful restrictions.[1119] Subsequent cases such as *Raees Ghulam Sarwar v. Mansoor Sadiq Zaidi* in the Sindh High Court have reiterated that while Article 19 freedoms are subject to reasonable regulation, the restrictions themselves must not exceed what is reasonable.[1120]

Article 19A

It is notable that the Constitution also enshrines a separate, related fundamental right: Article 19A (inserted by the 18th Amendment in 2010) guarantees the right to access information on matters of public importance, subject to regulation by law. This right to information (RTI) is a positive development and aligns with emerging international best practice. Both federal and provincial legislatures have passed RTI laws to implement Article 19A. However, the impact of Article 19A has been undercut by broad secrecy laws and censorship – access to information is easily thwarted when information itself is withheld under expansive claims of national security or public order. Thus, the legal gap in Pakistan is not the absence of formal rights in the supreme law, but the breadth of the exceptions permitted and the lack of robust standards to confine those exceptions in actual practice.

Pakistan's superior judiciary has issued a number of significant judgments on freedom of expression, which have contributed to defining constitutional boundaries around state regulation and media freedom. In recent years, the Islamabad High Court has provided critical interpretations of the Prevention of Electronic Crimes Act, 2016 (PECA), particularly in

[1118] PLD 1965 Lah 642

[1119] Jawwad Raza Sultan, 'Things You Cannot Express - According to Pakistani Law' (CourtingTheLaw.com, 18 November 2019) https://courtingthelaw.com/2019/11/18/commentary/things-you-cannot-express-according-to-pakistani-law/ accessed 3 April 2025.

[1120] PLD 2008 Kar. 458 para 15.

relation to procedural safeguards. In a 2019 ruling, the IHC directed the Pakistan Telecommunication Authority (PTA) to ensure due process when exercising its powers under Section 37 of PECA, clarifying that the blocking of online content must adhere to rules that are narrowly tailored and transparent.[1121] This led to the formal promulgation of the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021.[1122] In a subsequent judgment in April 2022, the IHC invalidated an ordinance that sought to enhance penalties for online defamation under PECA, holding that the ordinance violated constitutional protections for freedom of expression and bypassed the legislative process.[1123]

The Supreme Court of Pakistan has also played a notable role in upholding media freedoms. In its 2019 decision in the *Faisabad Dharna* case,[1124] the Court affirmed the importance of freedom of expression and the independence of the press. The Court held that no state institution, including intelligence or security agencies, may interfere with media operations, and that restrictions on the distribution of print or broadcast media must be grounded in law. The judgment emphasised that all public authorities must operate within the bounds of legality and constitutional propriety. Similarly, in the context of the constitutional right of access to information under Article 19A, the judiciary has directed public institutions to disclose records of public interest, thereby reinforcing principles of transparency and accountability.[1125]

However, in areas involving national security or religious sensitivities, the courts have exercised restraint. For instance, while the Lahore High Court recently declared Section 124-A of the Penal Code (sedition) unconstitutional, a final determination from the Supreme Court is pending.[1126] Collectively, these decisions reflect an evolving jurisprudence that seeks to balance individual rights with institutional considerations, while recognising the foundational role of freedom of expression in a democratic society.

Legislation

Pakistan Penal Code, 1860

The Pakistan Penal Code, 1860 (PPC), contains several provisions that regulate forms of expression. Among these is Section 124-A, which addresses sedition. This provision criminalizes acts that seek to bring into hatred or contempt, or to excite disaffection, toward the government. The prescribed punishment includes life imprisonment or a term of up to three

[1121] Hasnaat Malik, 'PTA not empowered to block any website: IHC' *The Express Tribune* (Islamabad, 21 September 2019) https://tribune.com.pk/story/2061933/pta-not-empowered-block-website-ihc accessed 7 April 2025.

[1122] Hasnaat Malik, 'PTA not empowered to block any website: IHC' *The Express Tribune* (Islamabad, 21 September 2019) https://tribune.com.pk/story/2061933/pta-not-empowered-block-website-ihc accessed 7 April 2025.

[1123] Malik Asad, 'IHC strikes down Peca ordinance, terms it "unconstitutional"' *Dawn* (Islamabad, 9 April 2022) https://www.dawn.com/news/1684032 accessed 7 April 2025.

[1124] PLD 2019 SC 318

[1125] *The Express Tribune*, 'SC makes staff information public' (11 October 2023) https://tribune.com.pk/story/2441376/sc-makes-staff-information-public accessed 7 April 2025.

[1126] *Dawn*, 'LHC strikes down sedition law that criminalised criticism of federal, provincial governments' (30 March 2023) https://www.dawn.com/news/1744983 accessed 7 April 2025.

years, along with a possible fine. In recent years, this section has been invoked in cases involving journalists, activists, and political figures in instances related to public criticism of state institutions. Section 124-A has historically drawn attention due to its broad scope and origins in colonial-era legislation. In 2023, the Lahore High Court in *Haroon Farooq v. Federation of Pakistan & others*[1127] held that Section 124-A was inconsistent with Article 19 of the Constitution, which guarantees the right to freedom of expression. This judgment has been appealed and is currently pending before the Supreme Court; as such, the provision remains in force until a final decision is rendered.

In addition, the PPC addresses defamation through Sections 499 and 500, which provide criminal penalties for statements—spoken, written, or otherwise represented—that may harm an individual's reputation. These provisions operate alongside civil remedies for defamation and include penalties of imprisonment for up to two years or a fine. While some international standards emphasize the preference for civil remedies in such cases, citing concerns about proportionality and the potential impact on freedom of expression, Pakistan continues to retain both civil and criminal defamation frameworks within its legal system.[1128]

Prevention of Electronic Crimes Act, 2016

The Prevention of Electronic Crimes Act (PECA) serves as Pakistan's principal legal framework for addressing cybercrime. Enacted in 2016, PECA was introduced to respond to emerging threats in the digital space, including cyber fraud, hacking, online harassment, and the misuse of digital technologies. In addition to these core offenses, the legislation also includes provisions related to content regulation. For example, Section 20 of PECA addresses "offenses against the dignity of a natural person," and has been applied in cases involving online defamation. In 2022, the Islamabad High Court declared the punishment of imprisonment under this section unconstitutional, on the grounds that it disproportionately limited freedom of expression under Article 19 of the Constitution.[1129]

Separately, Section 37 of PECA empowers the Pakistan Telecommunication Authority (PTA) to remove or block online content in the interest of religion, national security, public order, decency, and morality. While these grounds are broadly consistent with constitutional language, concerns have been raised about the absence of detailed procedural safeguards to guide and review administrative actions taken under this provision.[1130]

[1127] Writ Petition No. 59599 of 2022, Haroon Farooq vs. The Federation of Pakistan & others PLD 2023 Lah. 1450. Available at: https://sys.lhc.gov.pk/appjudgments/2023LHC1450.pdf accessed 3 April 2025.

[1128] Sarah Zaman, 'Criminal Defamation Laws in Pakistan and Their Use to Silence Victims of Sexual Harassment' (LUMS Law Journal, 2021) https://sahsol.lums.edu.pk/law-journal/criminal-defamation-laws-pakistan-and-their-use-silence-victims-sexual-harassment accessed 3 April 2025

[1129] Order dated 08-04-2022 in *Pakistan Federal Union of Journalists v President of Pakistan* [2022] Writ Petition No 666/2022 (Islamabad High Court). https://cyrilla.org/fr/entity/ft0m8y0qme?file=1735560681212 4mhhrl104ei.pdf&page=4 accessed 4 April 2025.

[1130] *Meesha Shafi v Federation of Pakistan* [2022] Civil Petition No 1431/2022 (Supreme Court of Pakistan).

In January 2025, new amendments to PECA were enacted, forming part of the Pakistan Electronic Crimes (Amendment) Act 2025. These amendments introduced additional regulatory and enforcement mechanisms related to online content. A key provision created a new criminal offense for the intentional dissemination of "fake or false" information online, which is punishable by up to three years' imprisonment or a fine. The provision aims to address the increasing spread of misinformation and its potential impact on public order. However, some observers have noted that the law does not provide a detailed definition of "false information," relying instead on general terms such as material that may cause "fear, panic, disorder, or unrest." The 2025 amendments also established new regulatory institutions, including the Social Media Protection and Regulation Authority (SMPRA) and a Social Media Protection Tribunal. These bodies are tasked with content oversight and adjudication of digital offenses, and are authorised to take action against material deemed harmful to the ideology of Pakistan or reputationally damaging to individuals or institutions. The implementation of these changes has sparked debate on how best to balance regulation of harmful content with protections for legitimate expression, particularly in light of Pakistan's commitments under Article 19 of the ICCPR and the constitutional guarantee of freedom of speech.

Pakistan Electronic Media Regulatory Authority Laws (PEMRA)

The Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002, along with its subsequent amendments, provides the legal basis for the regulation of electronic media in Pakistan, including television and radio broadcasting. PEMRA's core mandate includes the issuance of licenses and the regulation of broadcast content to ensure adherence to national interest, cultural values, and public order. Within this framework, Section 27 of the Ordinance authorizes the Authority to prohibit the airing of content deemed contrary to the "ideology of Pakistan," or content likely to incite hatred, disturb public peace, or affect national security, among other categories. While such provisions are designed to preserve public interest, concerns have been raised regarding the broad and undefined language of these terms, which may allow for varied interpretation and uneven application.[1131]

Under Sections 29 and 30, PEMRA is also empowered to inspect broadcasting premises, seize equipment, and suspend or revoke licenses in cases of non-compliance. Content standards, including the PEMRA Code of Conduct, prohibit the broadcast of material that may be construed as disparaging towards national institutions. While the intention of these regulations is to ensure responsible broadcasting, the absence of independent appellate mechanisms and the broad scope of interpretation may contribute to a cautious editorial environment. Other statutory instruments, such as the Maintenance of Public Order Ordinance 1960, the Official Secrets Act 1923, contempt of court laws, and newly enacted provincial legislation—such as the Punjab Defamation Act 2024—also intersect with the regulation of public expression. These legal provisions are occasionally applied in combination, creating a complex regulatory

[1131] Digital Rights Foundation, 'Content Regulation and Model of the Council of Complaints of the Pakistan Electronic Media Regulatory Authority' (April 2023) 14 https://digitalrightsfoundation.pk/wp-content/uploads/2023/04/FINALVERSION_14-04-2023_Content-regulation-in-Pakistan-and-the-model-of-the-Council-of-Complaints-of-Pakistan-Electronic-Media.pdf accessed 7 April 2025.

landscape for the exercise of free speech. While regulation of speech to maintain public order is consistent with international practice, further refinement of procedural safeguards, clearer definitions of restricted content, and independent oversight mechanisms could enhance alignment with Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a State Party.

Protection of Journalists Laws

In 2021, Pakistan introduced two significant legislative measures to enhance the safety and protection of media professionals: the federal Protection of Journalists and Media Professionals Act, 2021, applicable nationwide, and the Sindh Protection of Journalists and Other Media Practitioners Act, 2021, applicable within Sindh province. These laws marked an important step towards addressing threats to media freedom and the security of journalists. Both Acts provide for the establishment of commissions mandated to monitor threats, investigate incidents of violence, and recommend protective and preventive measures. Sections 12 and 13 of the federal law outlines the duties of the State in ensuring a safe working environment for journalists, while Section 8 of the Sindh legislation similarly mandates the creation of a provincial commission to assess risks to media practitioners and to coordinate protection mechanisms.

Despite these legislative advancements, implementation challenges have limited their effectiveness. The federal Act includes a provision—Section 6—that imposes content-based obligations on journalists, including restrictions on disseminating information deemed false or inciting, without clearly defining such terms. This provision has raised concerns among press freedom advocates regarding its potential use as a regulatory tool over journalistic content. By contrast, the Sindh Act focuses more narrowly on protection mechanisms without imposing similar speech-related conditions. Nevertheless, both Acts have faced delays in operationalisation. The federal Journalist Protection Commission was constituted after a significant delay, and while the Sindh commission was formed in 2022, it initially lacked adequate administrative support. As a result, the existence of these laws has not yet produced measurable improvements in journalist safety. According to recent monitoring reports, incidents of violence and intimidation against journalists have continued, including in jurisdictions where protection legislation is in force. The United Nations Human Rights Committee, in its 2024 review, recommended the prompt implementation of the federal Act and the activation of its protective mechanisms. These observations underscore the importance of complementing legislative measures with institutional capacity, clear procedural safeguards, and consistent enforcement to ensure meaningful protections for journalists.

Institutional Analysis

Beyond the text of laws, institutional practices and failures in Pakistan significantly contribute to censorship and suppression of free expression. Key state institutions – regulators, law enforcement, and oversight bodies – often do not operate with the independence, transparency, or accountability required to protect free speech. This section examines how agencies such as

PEMRA, PTA, FIA, and the newly formed SMPRA (Social Media Protection Authority), among others, have functioned, and where gaps in governance exacerbate the problem. Real examples illustrate patterns of overreach, politicisation, and lack of redress that undermine freedom of expression.

Pakistan Electronic Media Regulatory Authority (PEMRA)

As the principal regulator for broadcast media in Pakistan, the Pakistan Electronic Media Regulatory Authority (PEMRA) is mandated under the PEMRA Ordinance to promote a free, fair, and responsible media environment through licensing, regulation, and enforcement of content standards. However, concerns have frequently been raised regarding the body's operational independence and its role in restricting media freedoms. One institutional limitation stems from the appointment process: the PEMRA Chairman and members are appointed by the federal government, and the statute permits the government to issue binding policy directives to the Authority. This structural framework has raised questions about PEMRA's autonomy and its ability to function as an impartial regulatory body.[1132]

In practice, PEMRA has been criticised for inconsistent application of its code of conduct and for disproportionately targeting broadcasters perceived as critical of the government or state institutions. Broad terms such as "content against the ideology of Pakistan" or "likely to cause hatred" have been invoked to justify program suspensions, license revocations, or fines, often without transparent procedures or guaranteed due process. For example, coverage of sensitive topics such as enforced disappearances or criticism of the military has been subject to sudden broadcast restrictions, while content aligned with prevailing official narratives is subject to less scrutiny..[1133] These actions have contributed to a culture of self-censorship in the media, where certain political viewpoints or critical reporting are either avoided or significantly downplayed. Reports of informal pressure—including directives conveyed through unofficial channels—further highlight the challenges to editorial independence. Enhancing PEMRA's structural independence, increasing transparency in decision-making, and establishing clear procedural safeguards are key to ensuring that the Authority upholds both freedom of expression and media accountability in line with constitutional and international standards.

Pakistan Telecommunication Authority (PTA)

The Pakistan Telecommunication Authority (PTA) is the principal regulator for telecommunications and internet services in Pakistan. Under Section 37 of the Prevention of Electronic Crimes Act, 2016 (PECA), the PTA was granted the authority to block or remove online content deemed unlawful. While this power was designed to address issues such as

[1132] Pakistan Electronic Media Regulatory Authority Ordinance 2002, s 6.

[1133] Committee to Protect Journalists, 'TV news channels blocked in Pakistan after airing opposition leader's live speech' (9 July 2019) https://cpj.org/2019/07/tv-news-channels-blocked-in-pakistan-after-airing/ accessed 7 April 2025.

extremism, hate speech, and obscenity, concerns have emerged regarding the procedural safeguards, transparency, and proportionality of PTA's content regulation practices.

A key institutional challenge lies in the absence of clearly defined procedural mechanisms to guide the PTA's decision-making and ensure accountability. For several years, content removal decisions were made without formal rules or publicly accessible criteria, a practice noted critically by the judiciary. Users and content creators often lacked avenues to appeal or contest such decisions. The lack of due process has led to perceptions of arbitrariness. For instance, the temporary bans imposed on TikTok and PUBG in 2020, and Wikipedia in 2023, were implemented on broad grounds such as "immorality" or "public harm," yet courts found that PTA had not sufficiently justified the proportionality or legality of such nationwide restrictions.[1134].These examples reflect an institutional approach that has sometimes prioritised content control over rights-based considerations such as freedom of expression and access to information.

In addition to content moderation, the PTA has played a key role in enforcing internet shutdowns at the request of security and government agencies. During periods of political unrest or national security concerns, PTA has coordinated with telecommunications providers to suspend mobile internet services or restrict access to specific platforms. These actions, typically carried out without judicial oversight or a published legal order, have raised serious concerns regarding legality, necessity, and proportionality under international human rights law.[1135] The absence of independent oversight mechanisms to review or authorise such shutdowns further compounds these concerns. Strengthening procedural transparency, establishing clear appeal processes, and subjecting content regulation and connectivity restrictions to judicial or parliamentary oversight are necessary reforms to ensure that PTA's regulatory functions are exercised in line with constitutional and international standards.

Federal Investigation Agency (FIA) – Cyber Crime Wing (now NCCIA)

Law enforcement agencies in Pakistan play a central role in regulating and, at times, suppressing expression, particularly through the investigation, arrest, and prosecution of individuals for online activity. The Federal Investigation Agency's (FIA) Cyber Crime Wing—currently proposed for elevation to a new National Cyber Crime Investigation Agency (NCCIA)—has been at the forefront of enforcing offenses under the Prevention of Electronic Crimes Act (PECA). However, the agency has faced criticism for pursuing cases against journalists, bloggers, and social media users based on broad or weak allegations. Journalists have reported being summoned by FIA officials over social media posts deemed to violate

[1134] Al Jazeera, 'Pakistan bans TikTok over "indecent" content' (9 October 2020) https://www.aljazeera.com/news/2020/10/9/pakistan-bans-tiktok-over-indecent-content accessed 7 April 2025; Geo News, 'PUBG temporarily banned in Pakistan' (1 July 2020) https://www.geo.tv/latest/295818-pubg-pta-temporarily-bans-battle-game-for-being-addictive-detrimental-to-health accessed 7 April 2025.

[1135] *Pakistan Today*, 'PTA blames govt as senators question legality of internet shutdowns' (3 January 2025) https://profit.pakistantoday.com.pk/2025/01/03/pta-blames-govt-as-senators-question-legality-of-internet-shutdowns/ accessed 7 April 2025.

PECA or the Pakistan Penal Code, with some alleging undue pressure to disclose sources or cease critical reporting.

Structurally, the FIA operates under the Ministry of Interior, creating potential for political influence over its operations. There is currently no independent internal mechanism within the agency to assess whether complaints involving speech merit legal action or whether they are politically motivated. The proposed NCCIA, established under amendments to PECA in 2025, presents an opportunity for reform, but without independent oversight or legislative accountability, there remains a risk of expanding state capacity to monitor and penalize online speech without necessary safeguards. Furthermore, jurisdictional overlap between agencies such as the FIA/NCCIA, the Pakistan Telecommunication Authority (PTA), and the newly created Social Media Protection and Regulation Authority (SMPRA) may lead to either fragmented enforcement or coordinated crackdowns, both of which raise serious concerns regarding proportionality, transparency, and the protection of freedom of expression.

Social Media Protection and Regulatory Authority (SMPRA)

Introduced by the PECA Amendment Act 2025, SMPRA is a new body tasked with regulating social media platforms. According to the law, SMPRA will have the power to require social media companies to register in Pakistan, comply with content removal orders, and even block platforms entirely or impose penalties for non-compliance.[1136] SMPRA's governing structure (a chair and members largely from government agencies) indicates that it will not be independent – rather, it centralises government control over online speech.[1137]

A key institutional concern surrounding SMPRA is the extent of its discretionary powers. As established under recent legislative reforms, SMPRA has the authority to determine what constitutes content "against the ideology of Pakistan" or "false news," with limited clarity on definitional thresholds. Coupled with the creation of a dedicated adjudicatory body—the Social Media Protection Tribunal—that does not meet the standards of full judicial independence, this structure raises significant questions about due process and checks on regulatory authority. The Human Rights Commission of Pakistan, among others, has cautioned that the framework may be used to disproportionately target political opponents, human rights defenders, journalists, and civil society actors under the pretext of addressing online harms. [1138]

[1136] Amnesty International, 'Pakistan: Authorities pass bill with sweeping controls on social media' (2 January 2025) https://www.amnesty.org/en/latest/news/2025/01/pakistan-authorities-pass-bill-with-sweeping-controls-on-social-media/ accessed 7 April 2025.

[1137] *The Express Tribune*, 'Govt moves to tame social media' (2 January 2025) https://tribune.com.pk/story/2523924/govt-moves-to-tame-social-media accessed 7 April 2025.

[1138] Human Rights Commission of Pakistan, "PECA Bill Curbs Fundamental Rights," January 25, 2025, https://hrcp-web.org/hrcpweb/peca-bill-curbs-fundamental-rights

Key Gaps

Judicial and Parliamentary oversight

Currently, there is no dedicated independent oversight mechanism for decisions related to freedom of expression. The PEMRA and PTA operate without external checks beyond judicial review. Consequently, the judiciary—particularly the Islamabad High Court and the Supreme Court—has become the *de facto* oversight body, stepping in on a case-by-case basis to provide relief.

However, this reactive form of judicial intervention does not replace the need for a formal, institutionalised oversight system. While parliamentary committees on information technology or human rights theoretically have the mandate to hold regulatory authorities accountable, in practice, political dynamics often prevent meaningful scrutiny. Ruling party members rarely challenge agencies aligned with the government's agenda. The lack of parliamentary insistence on independent regulation or on transparency reporting from agencies like the PTA reflects a broader governance deficit. In response, civil society and media organisations have taken on a watchdog role through monitoring and litigation, but their efforts lack statutory authority and enforcement power.

Enforcement and accountability

An institutional gap in Pakistan's media environment relates to the limited accountability for acts of violence or intimidation against journalists. This involves multiple institutions, including law enforcement, prosecutorial bodies, and the judiciary. While cases of violence against journalists—such as abductions or targeted attacks—have been documented over the years, convictions remain rare.[1139] Investigations are often inconclusive, particularly in cases where powerful actors or institutions may be involved. This trend may contribute to a perception that such actions can be carried out with minimal consequence.[1140]

Within state institutions, internal accountability mechanisms have had limited success in addressing such incidents. For example, in cases involving alleged unlawful detention or threats against journalists, formal disciplinary outcomes are uncommon. The Commission of Inquiry on Enforced Disappearances has received cases involving missing reporters and bloggers, yet outcomes remain limited, and transparency around investigations involving security institutions is not consistently available.[1141] Law enforcement agencies, which play a key role in ensuring public safety and protecting fundamental rights, have at times been

[1139] Freedom Network, *Pakistan Impunity Report 2022* (October 2022) https://www.fnpk.org/wp-content/uploads/2022/10/FINAL-Impunity-Report-2022.pdf accessed 7 April 2025.

[1140] Committee to Protect Journalists, *Acts of Intimidation: In Pakistan, journalists' fear and censorship grow* (September 2018) https://cpj.org/reports/2018/09/acts-of-intimidation-pakistan-journalists-fear-censorship-violence-military/ accessed 7 April 2025.

[1141] Amnesty International, *Pakistan: Enduring Enforced Disappearances Must End* (27 March 2019) https://www.amnesty.org/en/latest/press-release/2019/03/pakistan-enduring-enforced-disappearances/ accessed 7 April 2025.

described as ineffective or inconsistent in fulfilling these responsibilities—particularly where freedom of expression is concerned.[1142]

More broadly, regulatory functions over media and digital expression are concentrated in executive-led bodies such as PEMRA and PTA. These institutions operate without independent oversight specific to freedom of expression. In the absence of a dedicated ombudsperson or independent board, decisions made by these regulators are generally subject only to judicial review. While courts have provided relief in specific cases, this model reflects reactive rather than institutional oversight. Parliamentary committees—such as those on information or human rights—could potentially play a more active role, though political considerations may affect the extent of scrutiny.

Emerging regulatory proposals, including new authorities or tribunals, underscore the importance of institutional design in ensuring independence, transparency, and public accountability. Current frameworks highlight a broader governance challenge: the absence of independent, rights-respecting oversight mechanisms focused specifically on protecting free expression. Addressing this would involve considering structural reforms to existing institutions and ensuring that new bodies are equipped with safeguards that align with international principles.

Summary of UN Observations

Human Rights Committee

In its Concluding Observations, the HRC issued a series of pointed recommendations regarding freedom of expression.[1143] These included calls to repeal or amend laws that unduly restrict expression, to end practices like internet shutdowns and website blocking that lack due process, and to establish an independent oversight body for censorship decisions.[1144] The Committee specifically urged Pakistan to avoid adopting new vaguely worded censorship laws, such as the proposed E-Safety Authority Bill, without broad consultation.[1145] It also pressed for decriminalising defamation and preventing the misuse of sedition and anti-terror laws to silence government critics.[1146] Furthermore, the Committee addressed the climate of fear for journalists and activists: it recommended Pakistan investigate and prosecute attacks against journalists, human rights defenders, and critics, ensuring perpetrators are brought to justice and victims

[1142] Committee to Protect Journalists, *Acts of Intimidation: In Pakistan, journalists' fear and censorship grow* (September 2018) https://cpj.org/reports/2018/09/acts-of-intimidation-pakistan-journalists-fear-censorship-violence-military/ accessed 7 April 2025.

[1143] CCPR Centre, 'Human Rights Committee Presses Pakistan on Unanswered Issues' (27 October 2024) https://ccprcentre.org/ccprpages/human-rights-committee-presses-pakistan-on-unanswered-critical-issues accessed 7 April 2025.

[1144] Ibid.

[1145] Ibid.

[1146] Ibid.

compensated.[1147] The Committee also emphasised fostering a pluralistic media environment, urging implementation of the dormant Protection of Journalists and Media Professionals Act 2021 and the establishment of its commission as a step toward that.[1148]

Universal Periodic Review

During its Universal Periodic Review (UPR) at the UN Human Rights Council, Pakistan received recommendations to protect digital rights, and end arbitrary detention of journalists..[1149]

Recommendations

Legislative

Decriminalise Defamation and Amend Sedition Law

The Federal Government should amend the Pakistan Penal Code to abolish criminal defamation (Section 499/500), converting defamation into a solely civil matter.[1150] This would prevent the misuse of the law while still allowing remedies through civil damages.[1151]

Likewise, the Government should repeal or fundamentally reform the sedition law (Section 124-A PPC).[1152] The law should be modernised in line with democratic norms and narrowly tailored to the actual incitement of violence.[1153] Additionally, the Government review other speech-related offenses in PPC (such as Sections 505, 506 dealing with statements conducing to public mischief or intimidation) to ensure they comply with Pakistan's international human rights obligations.[1154]

Reform the Prevention of Electronic Crimes Act (PECA)

A comprehensive review of the Prevention of Electronic Crimes Act (PECA) 2016, including its 2025 amendments, is recommended to align the law more closely with international standards on freedom of expression. Particular attention should be given to narrowing overly

[1147] Ibid.

[1148] Ibid.

[1149] Human Rights Watch, 'Submission to the Universal Periodic Review of Pakistan' (30 March 2017) https://www.hrw.org/news/2017/03/30/submission-universal-periodic-review-pakistan accessed 7 April 2025.

[1150] Government of Pakistan, 'Pakistan Penal Code, Sections 499 & 500' (1860) https://www.pakistanlawsite.com accessed 7 April 2025.

[1151] Amnesty International, 'Pakistan: Freedom of Expression under Threat' (2021) https://www.amnesty.org/en/countries/asia-and-the-pacific/pakistan/ accessed 7 April 2025.

[1152] Government of Pakistan, 'Pakistan Penal Code, Sections 499 & 500' (1860) https://www.pakistanlawsite.com accessed 7 April 2025.

[1153] Ibid.

[1154] Government of Pakistan, 'Pakistan Penal Code, Sections 505 & 506' (1860) https://www.pakistanlawsite.com accessed 7 April 2025.

broad provisions that enable censorship, such as the new criminalisation of undefined "fake or false information." If such a provision is retained to address harmful misinformation, it should be clearly defined—for instance, limited to the intentional spread of demonstrably false content causing concrete public harm—and treated as a civil, not criminal, offense to uphold the principle of proportionality.

Section 37 of PECA, which grants the Pakistan Telecommunication Authority (PTA) wide discretion to block or remove content, should be amended to require judicial oversight. Alternatively, the section could be repealed and replaced with a new framework that involves either the courts or an independent, rights-based commission in content moderation decisions. Clear appellate mechanisms should be established, allowing decisions to be reviewed by the regular judiciary.

To prevent misuse of PECA provisions, the law should explicitly protect online expression that constitutes fair comment, public interest journalism, or factual reporting. This would help ensure that criticism of public institutions or figures is not targeted under vague legal pretexts. Future legislative revisions should be developed through an inclusive consultative process, engaging digital rights advocates, media professionals, and legal experts. Incorporating recommendations from the UN Human Rights Committee and aligning with Article 19 of the ICCPR would help ensure that PECA supports, rather than undermines, fundamental rights in the digital space.

Establish an Independent Media Commission/Ombudsman

To strengthen protections for press freedom and address concerns about arbitrary censorship, Pakistan should consider establishing an independent statutory Media Freedom Commission. This body should be composed of a diverse and balanced membership, including representatives from journalists' unions, bar associations, civil society organisations, and retired judges. Its mandate would be to provide independent oversight of censorship-related decisions and ensure alignment with constitutional and international free expression standards.

The Commission's core responsibilities could include reviewing complaints about censorship—such as suspensions of TV channels, takedown of content, or blocking of media websites—advising regulators like PEMRA and PTA, and publishing regular reports on the state of media freedom. To be effective, it should be empowered to review and, where appropriate, reverse decisions by PEMRA or PTA that unjustifiably restrict freedom of expression. This would offer an alternative, timely remedy outside the conventional court system and answer long-standing calls, including by the UN Human Rights Committee, for an independent mechanism to oversee censorship. For instance, if a broadcaster is taken off air, they could appeal to the Commission for interim relief while a full review is conducted. While the Commission's decisions may initially carry advisory or moral weight, it would serve as an important check on executive power and help foster a more accountable regulatory culture over time.

Reform PEMRA and Regulatory Appointments

To ensure PEMRA operates independently and in line with constitutional and international standards, targeted legal reforms are necessary. The appointment process for PEMRA's Chairman and Authority members should be revised to involve a bipartisan parliamentary committee, with clear professional criteria—such as expertise in media law or journalism—and fixed tenure protections to guard against political influence. This would help safeguard the regulator's impartiality and credibility.

Additionally, PEMRA's content regulation powers require narrowing and clarification. Vague terms like "ideology of Pakistan" and "decency" should be either precisely defined or replaced with language that aligns with the limited grounds for restricting expression under Article 19(3) of the ICCPR—such as incitement to violence or national security, interpreted narrowly. The law should also shift PEMRA's emphasis away from broad content control and toward promoting media pluralism, diversity, and fair licensing practices. To improve accountability, PEMRA must be legally required to publish all its orders, including the reasoning behind them, and to conduct open hearings for significant decisions like license suspensions. These steps would enhance transparency and allow for meaningful oversight. Similar principles should guide the structure and functioning of any provincial or local media regulatory bodies, including those overseeing cable or print media, ensuring that regulation across the country is fair, consistent, and rights-respecting.

Oversight of PTA and Internet Controls

PTA's regulatory role should be restructured to align with principles of legality, necessity, and proportionality. Amendments to the Pakistan Telecommunication (Re-organisation) Act—or related frameworks—should introduce judicial or independent oversight for major content restrictions. Specifically, any blanket internet shutdowns or platform bans must be subject to High Court review within 24 hours, with automatic restoration if the review is not completed in time. This would curb arbitrary disruptions and ensure legal accountability.

Transparency and user rights also need strengthening. PTA should be legally required to publish annual transparency reports outlining the number of URLs blocked, the legal grounds invoked, and how many content removal requests were declined. Moreover, affected individuals or platforms must be given notice and a clear avenue to appeal content restrictions—either through a court or a reformed Media Commission. Finally, PTA should be guided by rules requiring it to consider less intrusive alternatives before resorting to full blocks, such as notifying users or requesting voluntary removal of specific content. These reforms would help balance regulatory oversight with free expression rights in the digital space.

Implement the Journalist Protection Laws in Letter and Spirit

The Protection of Journalists and Media Professionals Act, 2021 was a positive legislative step, but it remains largely unimplemented (the Commission under the law has not been constituted).[1155] The government should immediately establish and operationalise the

[1155] Protection of Journalists and Media Professionals Act, 2021 (n.d.) [unpublished source].

Commission for the Protection of Journalists and Media Professionals (CPJMP) as envisaged by the Act.[1156] Provide it with adequate funding and staffing.[1157]

This Commission should monitor threats to journalists, facilitate quick police protection measures when journalists are under threat, and coordinate with law enforcement to ensure swift investigation of any attacks.[1158] The Act also provides for legal aid to journalists – the Commission should set up a mechanism to provide or fund legal representation for journalists facing retaliatory lawsuits or prosecutions.[1159]

Additionally, expand the mandate of the Commission (through rules or amendments) to include media professionals in digital media (e.g., bloggers, YouTubers) who are often at equal risk but might not be formally registered journalists.[1160] By fully implementing this Act, Pakistan can begin to address the climate of impunity – as urged by the UN Committee Against Torture and the Human Rights Committee – by giving journalists a channel to seek redress and protection.[1161]

Ensure Accountability for Violence and Harassment Cases

To address the ongoing impunity surrounding attacks on journalists, the government should establish special prosecutors or inquiry committees dedicated to resolving these cases. A one-time, high-level task force—comprising representatives from the Interior Ministry, police, journalist associations, and human rights organisations—could be mandated to review all unresolved journalist killings from the past decade and accelerate their investigation and prosecution.

In cases involving allegations of abduction or torture, particularly where state actors or security agencies are implicated, independent mechanisms such as judicial commissions of inquiry should be activated to ensure impartiality. Strengthening the witness protection system is also essential to encourage testimony, particularly in sensitive or high-profile cases. Where necessary, international observers or technical assistance could be engaged to bolster transparency and credibility. Taking concrete action against impunity will help deter future violations and reinforce state commitment to press freedom and rule of law.

[1156] Human Rights Watch, 'Pakistan: Urgent Reforms Needed for Journalist Protection' (n.d.) https://www.hrw.org/news/2025/02/20/pakistan-journalist-protection accessed 7 April 2025.

[1157] Amnesty International, 'Pakistan: Balancing Security and Freedom Online' (n.d.) https://www.amnesty.org/en/latest/news/2025/01/pakistan-online-freedom accessed 7 April 2025.

[1158] United Nations, 'Safety and Security of Journalists' (n.d.) https://www.un.org/en/safety-journalists accessed 7 April 2025.

[1159] Human Rights Watch, 'Access to Justice for Journalists in Pakistan' (n.d.) https://www.hrw.org/news/2025/03/05/journalist-legal-aid-pakistan accessed 7 April 2025.

[1160] Amnesty International, 'Pakistan: Balancing Security and Freedom Online' (n.d.) https://www.amnesty.org/en/latest/news/2025/01/pakistan-online-freedom accessed 7 April 2025.

[1161] CCPR Centre, 'Human Rights Committee Presses Pakistan on Unanswered Issues' (n.d.) https://ccprcentre.org/ccprpages/human-rights-committee-presses-pakistan-on-unanswered-critical-issues accessed 7 April 2025.

Uphold Fair Trial and Due Process in Free Speech Cases

To uphold freedom of expression and prevent misuse of laws against journalists, activists, or citizens, the government should issue clear directives—or legislate if necessary—requiring strict adherence to due process in all speech-related offenses. This includes ensuring that no arrests are made without strong evidence and lawful warrants, that pre-trial detention is avoided unless absolutely necessary, and that electronic devices are returned promptly if unrelated to active charges. Individuals accused of speech-related offenses, who are neither dangerous nor flight risks, should not be detained as a matter of course.

In parallel, the judiciary should be sensitised through regular training, potentially led in collaboration with the Ministry of Human Rights, to align with international standards on free expression. Judges should be encouraged to critically assess whether the speech in question truly constitutes a criminal offense under narrowly interpreted legal provisions—and dismiss cases that appear frivolous or retaliatory. Over time, the higher courts can also evolve protective jurisprudence, including recognising public interest defenses for whistleblowers or critics charged under secrecy or defamation laws, particularly when their expression aims to expose wrongdoing or contribute to public debate.

Policy

Promote a Culture of Tolerance and Pluralism through Policy

Beyond legislative reforms, creating a culture that values free expression is equally vital. The Ministry of Human Rights, in collaboration with the Ministries of Education and Information, should lead public awareness campaigns and incorporate curricula that promote open dialogue, tolerance for differing views, and media literacy. This can foster a more informed and respectful discourse across society.

Support for independent journalism should also be institutionalised. State advertising must be distributed equitably, without penalising critical outlets. Public broadcasters like PTV and Radio Pakistan can model pluralism by providing balanced coverage, including space for dissenting and minority voices. Additionally, the government should establish transparent channels of communication with social media companies to ensure content moderation focuses on curbing genuine harm without stifling political speech. A liaison unit could help align government requests with platform policies and promote transparency.

International partners can be engaged to provide capacity-building support, such as journalist safety training and digital security tools. Collectively, these steps—many already advocated by civil society and international observers—would help Pakistan address long-standing concerns around censorship, impunity, and regulatory overreach.

Enforced Disappearances

Chapter Summary

Enforced disappearances represent a significant human rights issue in Pakistan, with documented instances reported across various regions. The Commission of Inquiry on Enforced Disappearances has received over 10,000 cases since its establishment, resolving many while others remain pending, highlighting an ongoing need for continued attention.

Pakistan has international obligations under relevant human rights treaties, including the ICCPR and CAT, emphasizing protections against arbitrary detention, transparency, and accountability. Domestically, the Constitution of Pakistan explicitly safeguards individual rights under Articles 9 and 10, guaranteeing life, liberty, and protection against arbitrary detention. Current domestic laws, such as the Pakistan Penal Code and the Code of Criminal Procedure, provide relevant protections, but opportunities exist to further align these frameworks with international standards.

The primary institution addressing enforced disappearances, the COIED, operates under specific Terms of Reference, with a mandate to investigate cases and locate missing individuals. Additional oversight comes from the judiciary and law enforcement agencies, with procedural checks intended to prevent unlawful detentions. Opportunities remain to enhance these institutional mechanisms through improved coordination, increased resources, and expanded capacity, promoting transparency, independence, and effectiveness.

Situational Analysis

In the early 2000s, particularly following Pakistan's involvement in the global counterterrorism efforts starting in late 2001, there was a marked increase in the number of reported cases of enforced disappearances.[1162] The Commission of Inquiry on Enforced Disappearances (COIED) has played an important role in taking up such cases. For instance, as of June 30, 2024, the COIED had received over 10,000 cases,[1163] of which a substantial majority have been resolved while a smaller number remain pending.

Government submissions to UN treaty bodies further emphasise Pakistan's commitment to aligning domestic legislative and institutional practices with its international human rights obligations. For example, in its periodic report under the Convention Against Torture, the Government of Pakistan noted that while enforced disappearances have persisted, significant efforts have been undertaken to strengthen legal protections, improve oversight mechanisms,

[1162] International Commission of Jurists, *No More Missing Persons: The Criminalization of Enforced Disappearances in South Asia* (Geneva: International Commission of Jurists, August 2017).
[1163] Abdullah Momand, "Missing Persons Commission Logs 197 New Cases in 2024 So Far," *Dawn*, July 1, 2024, https://www.dawn.com/news/1843174.

and enhance inter-agency coordination.[1164] The report highlights that the COIED operates in close cooperation with both Federal and Provincial stakeholders and that its establishment is seen as an important measure in ensuring accountability and providing a forum for affected families.[1165]

Similarly, the periodic report submitted under the International Covenant on Civil and Political Rights underscores the legislative, policy, and administrative steps taken by the Government to address and prevent such incidents. The submission details the constitutional safeguards—as provided in Articles 9 and 10—and outlines ongoing efforts to reform procedural practices and increase the independence and capacity of investigative bodies.[1166] The report further states that these initiatives are part of a broader strategy to ensure compliance with international benchmarks, and that opportunities remain for further refinement of both policies and institutional coordination.[1167]

Legal Analysis

International Law

Enforced disappearance is recognised as a grave violation of human rights under international law. It encompasses the abduction, arrest, or detention of an individual by state authorities (or their agents) without acknowledgment, thereby placing the person outside the protection of the law. The international legal framework pertaining to enforced disappearances primarily focuses on preventing such acts, ensuring accountability, and providing justice to victims. Although Pakistan is not a party to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), it is a signatory to other key international treaties that indirectly address enforced disappearances.

International Covenant on Civil and Political Rights

Article 9

Article 9(1) prohibits arbitrary arrest or detention. The term 'arbitrary' in this context refers to any arrest or detention conducted in a manner that may be inappropriate, unjust, unpredictable, not following due process of law, unreasonable, unnecessary or disproportionate, or a combination thereof. Article 9(1) also states that the grounds for one's arrest and detention must be legally prescribed and the manner in which the arrest and detention are conducted must be in conformity with the law.

[1164] Pakistan. Second Periodic Report Submitted under Article 19 of the Convention Against Torture: CAT/C/PAK/2. United Nations Committee Against Torture, 2022, para 72-73.
[1165] Ibid.
[1166] Pakistan. Second Periodic Report Submitted under Article 40 of the International Covenant on Civil and Political Rights: CCPR/C/PAK/2. United Nations Human Rights Committee, 2022, paras 71-73.
[1167] Ibid.

Paragraphs (2) - (5) provide a framework for legal arrest and detention. A detainee must be informed of the grounds of his/her arrest immediately, unless a delay is absolutely necessary in exceptional circumstances,[1168] and must promptly be notified of the charges against him/her. Under paragraph 3, all detenues must be brought promptly before a judge or other legally authorised officer "to bring the detention of a person in a criminal investigation or prosecution under control".[1169] The term 'promptly' has been clarified to be within 48 hours of one's arrest, and any further delay must be exceptional and justified accordingly. The judge or officer must determine "whether the individual should be released or remanded in custody for additional custody or to await trial."[1170] Paragraph 4 also gives a person deprived of liberty the right to challenge the lawfulness of the detention, with paragraph 5 reinforcing a right to compensation for unlawful deprivation of liberty.

The protection against arbitrary arrest or detention creates obligations to respect and protect upon the State. As the State is the primary actor involved in the deprivation of liberty, it is the responsibility of the State to ensure that law enforcement agencies under its control act within the confines of the right. Thus, law enforcement officials must refrain from engaging in the unlawful confinement of an individual's person or using excessive force in the process. They must also ensure the fulfillment of the relevant procedural rights contained in paragraphs 2 - 5 of Article 9, which should be provided for under the law.

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Enforced disappearances often involve torture and inhumane treatment, making UNCAT highly relevant. Please refer to the chapter on **Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** in this Report for a detailed analysis of the international legal provisions on this issue.

Domestic Law

The Constitution of Pakistan

The practice of enforced disappearances constitutes a serious violation of human rights, as it places individuals beyond the protection of the law, rendering them susceptible to torture, extrajudicial killings, and other forms of inhumane treatment. While Pakistan's Constitution and legal framework do not explicitly employ the term "enforced disappearances," various constitutional provisions and legal statutes indirectly prohibit this practice by guaranteeing the fundamental rights of citizens, including protection from arbitrary detention, the right to life and liberty, and the right to a fair trial. This legal framework underscores the significance of constitutional safeguards in protecting individuals from state overreach.

[1168] United Nations Human Rights Committee, *General Comment No. 35: Article 9 (Liberty and Security of Person)*, CCPR/C/GC/35, December 16, 2014, para 27.

[1169] Ibid., para 32

[1170] Ibid., para 36

Articles 9 and 10 of the Constitution:

Article 9 of the Constitution guarantees the rights to life and liberty of an individual. It stipulates that "no person shall be deprived of life or liberty save in accordance with law." This provision safeguards two distinct rights: life and liberty.

Article 10 of the Constitution of Pakistan establishes safeguards for individuals against arbitrary arrest and detention. This right encompasses three primary components. First, an individual must be apprised of the grounds for their arrest "as soon as may be."[1171] Second, an individual must be afforded the opportunity to be represented by legal counsel of their choice or be provided with representation by the State if necessary.[1172] Third, the arrested individual must be presented before a Magistrate within 24 hours of their arrest.[1173] Further, Article 10 delineates a comprehensive procedural framework for the legality and review of preventive detention orders.[1174] For the sake of convenience, the relevant provisions of Article 10 of the Constitution is reproduced as follows:

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in :custody beyond the said period without the authority of a magistrate.

Case Law Jurisprudence

The right against unlawful arrest and detention has been accorded particular significance by the superior judiciary since it constitutes a fundamental civil liberty. In addition to standard arrest and detention procedures in criminal trials, the Supreme Court, in *Human Rights Case No. 29388-K of 2013*,[1175] determined that Article 10 extends protection against enforced disappearances. In *Mst. Wahdul Mai v. District Police Officer,* **[1176]** the Lahore High Court noted that the Article 10 safeguards pertaining to arrest and detention are of such significance that law enforcement officers are supposed to learn it by heart. Consequently, the court mandated the inclusion of Chapter I (Fundamental Rights) of the Constitution of Pakistan, 1973 as a compulsory subject in the curricula of all law enforcement agency members' training programs.

[1171] Constitution of Pakistan, 1973, art. 10(1).

[1172] Ibid, art. 10(2)

[1173] Ibid., art. 10(3)

[1174] Ibid., arts. 10(4)-(8)

[1175] PLD 2014 Supreme Court 305.

[1176] *Mst. Wahdul Mai v. District Police Officer, 20*16 PCr.LJ 103.

Article 10 of the Constitution of Pakistan is designed to safeguard individuals against unlawful arrests and detentions. It ensures that no person is taken into custody without proper legal justification and provides safeguards to prevent abuse of authority by law enforcement agencies. The article comprises two primary sections: general protections against arbitrary detention and provisions for preventive detention under specific circumstances.

Under Article 10 of the Constitution of Pakistan, several safeguards protect individuals from arbitrary arrest and detention. First, an arrest must be based on pre-existing, reasonable, and substantial grounds. [1177] Additionally, the detaining authority must inform the arrested individual of the reasons for their arrest as soon as possible, which, when read with Article 10(2), must be done within 24 hours. [1178]

The second component is the right to legal counsel. This is different from the right to legal counsel under Article 10A - the right under Article 10(1) is the right to legal counsel at the time of arrest, whereas the right under Article 10A (as has been interpreted by the courts) is the right to legal counsel during trial. This right must be afforded in all cases, regardless of the seriousness of the crime.[1179] The right to 'consult' begins at the investigation stage, which itself begins upon arrest.[1180] In *Bazal Ahmed Ayubi v. Province of West Pakistan*,[1181] the Lahore High Court held that a law that allowed for the detention of an individual without affording him a right to legal counsel was unconstitutional.

The third right stipulated under Article 10 of the Constitution is the right to be presented before a Magistrate within 24 hours of one's arrest. This provision is significant as it enables judicial review of the detaining authority's assessment regarding the necessity of an individual's arrest and/or detention.[1182]

Legislation

Pakistan Penal Code, 1860

Within the framework of the Pakistan Penal Code (PPC), 1860, enforced disappearances are prohibited and constitute a criminal offense under various provisions. The PPC criminalises unlawful abduction, wrongful confinement, and clandestine detention, all of which are elements of enforced disappearances. The PPC recognises certain offences that deprive one of one's liberty. These include the following:

- Wrongful restraint - obstructing a person from proceeding in any direction;[1183]

1177 *Iffat Razi v. Government of Punjab and others*, PLD 2002 Lahore 194.

1178 Karim (n 3), 840, citing *Government of East Pakistan v. Rowshan Bijaya Shaukat Ali*, PLD 1966 SC 286.

1179 Karim (n 3), 851.

1180 Ibid., 853.

1181 PLD 1957 Lahore 388

1182 *Government of East Pakistan v. Rowshan Bijaya Shaukat Ali*, PLD 1966 SC 286, 297.

1183 PPC sec. 339.

- Wrongful confinement - obstructing a person such that they cannot proceed beyond certain circumscribing limits;[1184]
- Criminal force - using force against another person without their consent such that it may cause injury, fear or annoyance;[1185]
- Assault - making (or preparing to make) a gesture which causes the other to apprehend the use of force against them;[1186] and
- Kidnapping and abduction.[1187]

Code of Criminal Procedure, 1898

Within the framework of Cr.P.C of Pakistan, enforced disappearances are prohibited and fundamentally contravene legal provisions pertaining to arrest, detention, and the presentation of an accused before the court. The Cr.P.C establishes rigorous legal procedures for arrests and custody, with the objective of ensuring that no individual is subjected to arbitrary or clandestine detention.

The Cr.P.C addresses arrest and detention procedures, as well as the right to seek legal advice and representation. Section 61 of Cr.P.C. provides that a person arrested is not to be detained for more than twenty-four hours, and he shall be produced before a magistrate who may remand him to police custody.[1188] The magistrate to whom an accused person is forwarded under this section 167 may remand the accused to police custody from time to time for a term not exceeding fifteen days in the whole, whether he has or has not jurisdiction to try the case.[1189] Similarly, it provides that a person accused of an offence before a criminal court, or against whom proceedings are instituted under this code in any such court, shall have the right to be defended by a pleader.[1190]

The Maintenance of Public Order Ordinance, 1960

The Maintenance of Public Order (MPO) Ordinance, 1960 confers upon the government and law enforcement agencies the authority to detain individuals in the interest of public order, albeit within prescribed legal parameters. The MPO allows preventive detention to maintain public order, subject to the safeguards of Article 10. The MPO has been adopted by the various provincial governments. This section will analyse the Punjab Ordinance as an example. Section 3 of the Punjab Maintenance of Public Order Ordinance stipulates that if the government deems it necessary to detain a person to prevent them from acting in a manner that jeopardises public safety or the maintenance of public order, it may issue a written order directing their arrest and detention. It further provides that no person shall be detained under

[1184] Ibid., sec. 340.

[1185] Ibid., sec. 350.

[1186] Ibid., sec. 351.

[1187] Ibid., ss 359 - 365B.

[1188] Code of Criminal Procedure, Section 167.

[1189] Ibid.

[1190] Ibid., sec. 340.

this section for a period exceeding three months unless the Board, before the expiry of the period of three months, has reviewed his case and reported that there is, in its opinion, sufficient cause for such detention[1191] and if the detention of a person is required for more than three months, the Government shall, as early as possible but not later than two weeks before the expiry of such period, request the Chief Justice of the Lahore High Court to appoint a Board to be known as the Review Board[1192] and the Board shall consist of a chairman and two other persons, each of whom is or has been a judge of the Lahore High Court.[1193]

Thus, the MPO provides a legal framework for preventive detention but which is mandated by legal procedures, written orders, judicial review, and communication of reasons—none of which are adhered to in cases of enforced disappearances.

The Security of Pakistan Act, 1952

Similarly, the Security of Pakistan Act 1952, allows the detention of individuals threatening state security. However, the Act does not authorise enforced disappearances. While it grants preventive detention powers, it mandates formal procedures, judicial oversight, and the communication of detention orders. Enforced disappearances, which involve secret detentions, lack of judicial oversight, and denial of legal rights, violate the requirements of this law.

Section 3 of the Act stipulates that the Federal government may issue an order directing the detention of a person if it deems it necessary to detain them to prevent them from acting in a manner detrimental to Pakistan's defence, external affairs, or security. It further provides that the authority making such order shall communicate to the person the grounds on which the order has been made to enable him to make representation in writing against the order,[1194] and his case shall be referred to the board, which shall review his case before the expiration of three months and may report that there is sufficient cause for such detention, and his detention shall not continue unless the board has reviewed his case and reported that there is sufficient cause for such detention.[1195] The Chief Justice of Pakistan will appoint the board, which includes a chairman and two other individuals, all of whom are or have served as Supreme Court or high court judges.

The Anti-Terrorism Act, 1997

The Anti-Terrorism Act (ATA), 1997 provides special legal powers for law enforcement agencies to combat terrorism. However, it does not permit enforced disappearances, as it requires due process for detention and custody. Section 11EEE (1) allows for preventive detention in cases where a proscribed person is suspected of committing terrorist acts. The section clarifies that the Government can arrest and detain an individual preventively for a

[1191] Punjab Maintenance of Public Order Ordinance (MPO), 1960, sec. 3(5).

[1192] Ibid., sec. 3(5)(a).

[1193] Ibid., sec. 3(5)(b).

[1194] Security of Pakistan Act, 1952, sec. 6.

[1195] Ibid., sec. 6A.

maximum period of twelve months. Orders under this section must be made in writing. Section 11EEE(2) states that provisions of Article 10 of the Constitution apply mutatis mutandis to arrest and detention under Section 11EEE(1).

Institutional Analysis

The Commission of Inquiry on Enforced Disappearances (COIED)

As elaborated in the situational analysis section, the COIED was established by the Government of Pakistan with the mandate to investigate and ascertain the whereabouts of individuals subjected to enforced disappearances. Its objective was to address the increasing number of cases and identify those responsible for such actions. However, despite this significant mandate, the COIED has faced challenges that have hindered its ability to perform effectively. Its existence has been called into question time and again, even by superior courts of Pakistan. In one case it was observed that "The Commission is a burden on the exchequer and it ought to justify its continued existence."[1196]

Furthermore, the composition of the COIED plays a critical role, as the effectiveness of such commissions largely depends on the expertise, credibility, and impartiality of their leadership and members. Ideally, appointments to the commission should ensure high standards of professional competence, impartiality, integrity, and a demonstrated commitment to human rights principles.[1197] Additionally, it has been suggested that commissions benefit from inclusive representation, including balanced gender representation and participation from groups particularly vulnerable to human rights issues.[1198] However, concerns have been raised regarding the transparency and openness of the appointment processes under the Commission of Inquiry (COI) Act, 2017, which delegates authority for appointing commission members solely to the federal government. Some stakeholders have noted that the absence of a clear, transparent, and consultative mechanism for these appointments may negatively affect public perceptions of the commission's neutrality, competence, and independence.[1199] Instances from the commission's history, where appointments have been subject to criticism,[1200] further highlight the importance of strengthening procedural clarity and accountability in the selection process to maintain public trust and confidence in the COIED's operations.

The scope of inquiry established for the COIED is limited in certain critical aspects. Section 3(3) of the COI Act provides that the Commission shall conduct the inquiry and perform its functions in accordance with the Terms of Reference specified in the notification. The Ministry

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[1196] Voicepk.net. "COIED is a Burden on Exchequer, Must Justify Its Existence: IHC." Voicepk.net, June 2022. https://voicepk.net/2022/06/coied-is-a-burden-on-exchequer-must-justify-its-existence-ihc/.

[1197] United Nations, *UN Impunity Principles*, Principle 7, "Guarantees of Independence, Impartiality, and Competence."

[1198] International Commission of Jurists, *Entrenching Impunity, Denying Redress: The Commission of Inquiry on Enforced Disappearances in Pakistan*, September 2020.

[1199] Ibid.

[1200] Asad, Malik. "PAC May Probe Former NAB Chief's Video Scandal." *Dawn*, June 23, 2022. https://www.dawn.com/news/1696274.

of the Interior issued a notification constituting the Commission in 2011 and also specified some of the Commission's TORs.[1201] A notable limitation in the Commission's Terms of Reference is that it permits the registration of FIRs exclusively for cases involving individuals who remain "untraced." Consequently, once a missing individual has been located, the Commission is unable to file FIRs against alleged perpetrators, even though enforced disappearance constitutes a crime irrespective of the victim's recovery.[1202] This legal gap has resulted in increased scrutiny of Pakistan by international human rights bodies and civil society organisations.

Summary of UN Observations

Human Rights Committee

The UN Human Rights Committee has recommended that Pakistan, should pass laws defining enforced disappearances, ensuring that the associated penalties are commensurate with the gravity of the offence.[1203]It further asks Pakistan to review or repeal the Actions (in aid of Civil Power) Regulation, 2011, to prevent secret detention.[1204] Furthermore, it recommends that Pakistan ensure prompt, impartial investigations of enforced disappearances and extrajudicial executions, prosecuting perpetrators.[1205] This includes discovering the fate and whereabouts of disappeared persons and, in the event of death, identifying them, returning their remains and providing families with updates and reparations.[1206] The HRC also recommends that Pakistan assess the effectiveness of the Commission on Enforced Disappearances, ensuring its independence and transparency, [1207] and that it considers ratifying the International Convention on Enforced Disappearance.[1208]

Committee Against Torture

The Committee against Torture, while showing its concern about enforced disappearances and the lack of statistical data on prosecutions, convictions, and investigations regarding enforced disappearances,[1209] has recommended that Pakistan criminalises enforced disappearance as a distinct offence with appropriate penalties, and ensures that all cases of enforced

[1201] International Commission of Jurists, *Entrenching Impunity, Denying Redress: The Commission of Inquiry on Enforced Disappearances in Pakistan*, September 2020..

[1202] International Commission of Jurists, *Entrenching Impunity, Denying Redress: The Commission of Inquiry on Enforced Disappearances in Pakistan*, September 2020.

[1203] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 23(a).

[1204] Ibid, para (b).

[1205] Ibid, para (c).

[1206] Ibid, para (d).

[1207] Ibid, para (e).

[1208] Ibid, para (f).

[1209] United Nations Committee Against Torture. Concluding Observations on the Initial Report of Pakistan. UN Doc. CAT/C/PAK/CO/1, June 1, 2017.,, para 44.

disappearances are thoroughly investigated, and perpetrators are prosecuted.[1210] It also asked Pakistan to strengthen the National Commission of Inquiry on Enforced Disappearances by increasing its independence, resources, and capacity.[1211] Finally, it recommended that Pakistan collect and submit disaggregated data on torture, enforced disappearances, and human rights violations to assist the Committee in assessing compliance with the Convention.[1212]

Universal Periodic Review

In Pakistan's 4th Universal Periodic Review, several States, such as Spain, Ukraine, Greece and Uruguay recommended that Pakistan ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Pakistan noted these recommendations. Other States, such as Estonia, recommended that Pakistan take steps towards criminalising torture and enforced disappearances. Furthermore, the USA recommended that Pakistan end the extra-legal use of force and the use of enforced disappearances, while Ireland recommended that Pakistan establish an independent inquiry into all suspected cases of enforced disappearances. Pakistan supported these recommendations.

Recommendations

Explicitly Criminalize Enforced Disappearance

Pakistan should consider explicitly criminalizing enforced disappearance under national law. This could be achieved by incorporating a distinct offence into the Pakistan Penal Code or by enacting separate legislation. Establishing clear legal provisions and penalties would reaffirm the seriousness of enforced disappearance as a violation of human rights.

Enhance the Independence of the Commission of Inquiry on Enforced Disappearances

The COIED should be restructured to ensure full operational independence. Safeguarding the commission from undue government influence by granting it complete autonomy, adequate resources, and the legal authority to secure cooperation from relevant agencies is essential. Alternatively, establishing a new, independent body dedicated to addressing enforced disappearance cases may be considered.

Improve Coordination Between Civilian and Security Agencies

Developing formal mechanisms for information sharing and coordinated efforts between civilian authorities, law enforcement, and intelligence agencies is essential. Improved coordination would support more thorough and impartial investigations, contributing to a more effective response to enforced disappearance cases.

[1210] Ibid, para 25.

[1211] Ibid.

[1212] Ibid, para 45.

Transition to Intelligence-Based Evidence in the Criminal Justice Framework

Given the parallel increase in terrorism-related incidents and enforced disappearance cases, it is advisable to develop legislative frameworks that enable specialized intelligence to be converted into admissible evidence in criminal prosecutions. International practices under frameworks such as the US Foreign Intelligence Surveillance Act (FISA) and the UK's Regulation of Investigatory Powers Act (RIPA) – along with FATF mandates for the use of Special Investigative Techniques in AML/CFT cases – illustrate the benefits of this approach. In Pakistan, although Section 19-C of the Anti-Terrorism Act, 1997, and Section 9-A of the Anti-Money Laundering Act, 2010 have already been amended in compliance with the FATF Action Plan, they have not yet been operationalized through detailed rules. Implementing these rules would facilitate a transition from reliance on eyewitness testimony to the inclusion of intelligence-based evidence, thereby strengthening the rule-of-law framework and enhancing the effectiveness of investigations into both terrorism and enforced disappearances. For more information, please see the chapter on Pakistan's Counter-Terrorism Framework in this Report.

Blasphemy Laws

Chapter Summary

Pakistan's blasphemy laws prescribe severe penalties - including the death penalty - for offenses against religion. Over recent decades, these laws have increasingly been invoked, often under controversial circumstances. Both human rights observers and Pakistan's superior courts have documented a consistent pattern of misuse, where false or unsubstantiated allegations frequently serve personal vendettas. The mere accusation of blasphemy often incites mob violence, resulting in extrajudicial killings and creating an atmosphere of fear and intimidation among judges, law enforcement personnel, and society more broadly. Although there have been no judicial executions carried out under the blasphemy laws, numerous accused individuals have been killed by vigilantes, and many others endure prolonged imprisonment awaiting trial.

This chapter provides a comprehensive analysis of Pakistan's blasphemy laws, examining them in the context of constitutional guarantees and international human rights obligations. It reviews institutional implementation mechanisms and evaluates relevant judicial precedents and proposes targeted recommendations for reform. It further addresses disparities in enforcement across provinces, and offers specific legislative, institutional, and procedural measures aimed at safeguarding fundamental rights and mitigating abuses of the blasphemy provisions.

Situational Analysis

Pakistan has experienced an increase in blasphemy-related incidents in recent years. Statistical data indicates that, while only 11 individuals were detained on blasphemy charges in 2020, by mid-2024, this figure had risen to 767 cases. [1213] The majority of these cases (approximately 75%) were recorded in Punjab (581 cases), followed by Sindh (120), Khyber Pakhtunkhwa (64), and Balochistan (2).[1214]

A significant proportion of recent accusations involve online activity and social media platforms. Reports by the FIA and independent inquiries highlight the role of organised groups in targeting individuals online, often using deceptive tactics such as fake identities or fabricated content to trigger blasphemy charges.[1215] A Punjab Special Branch investigation, titled "The Blasphemy Business," identified systematic entrapment schemes exploiting cyber laws for

[1213] National Commission for Human Rights, *Blasphemy Report October 2024* (2024) https://nchr.gov.pk/wp-content/uploads/2024/10/Blasphemy-Report-Oct-2024.pdf 12-15.

[1214] National Commission for Human Rights, *Blasphemy Report October 2024* (2024) https://nchr.gov.pk/wp-content/uploads/2024/10/Blasphemy-Report-Oct-2024.pdf 12-15.

[1215] Voicepk.net. "Innocents Trapped in False Blasphemy Cases Demand Justice." *Voicepk.net*, January 2025. https://voicepk.net/2025/01/innocents-trapped-in-false-blasphemy-cases-demand-justice/.

personal or political gain.[1216] Frequently, appropriate digital forensic examinations have been overlooked, raising concerns regarding the validity of digital evidence presented in court.[1217] Non-Muslims, who represent around 3-4% of Pakistan's population, account for a substantial number of the accused, particularly Ahmadis, Christians, and Hindus.[1218]

Children and persons with mental disabilities are also vulnerable. Minors as young as eight years old and mentally impaired individuals have faced charges. In 2024, the Supreme Court specifically addressed this issue in the *Zaigham Hassan* case, emphasizing that accused individuals found to be of unsound mind should ordinarily be granted bail with sureties, rather than held in detention.[1219] Nonetheless, lower courts frequently remand such vulnerable individuals into lengthy custodial periods. A notable instance reported by the NCHR involved a legally blind individual who claimed mistreatment by FIA officials and alleged fabrication of evidence.[1220] Such cases underscore concerns regarding due process protections afforded to vulnerable accused persons.

Patterns of misuse and procedural abuse in blasphemy allegations are well-documented. A significant number of cases stem from personal vendettas, sectarian animosity, or opportunistic motives, rather than genuine religious grievances. In the landmark case of Asia Bibi, the Supreme Court explicitly noted that blasphemy charges were frequently "false, fabricated and fictitious," often resulting from personal disputes.[1221] Even minor disagreements have escalated into serious accusations, as exemplified by the case of Asia Bibi, whose charges arose from a local dispute regarding drinking water.[1222] Investigations in similar cases often reveal evidentiary inconsistencies, including delays in filing FIRs, unreliable testimonies, and apparent fabrication of evidence.[1223] Despite weaknesses in evidence, accused persons often spend extensive periods incarcerated before acquittal by appellate courts. The Supreme Court has recognised the devastating social repercussions associated with mere accusations, noting in the *Zubair Saeed* case that even if acquitted, the accused often experience lasting harm to their reputations and social standing.[1224]

Extrajudicial violence and mob justice have further exacerbated this situation, undermining state authority and the rule of law. From 1947 to 2021, at least 89 individuals accused of

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[1216] Special Branch, Punjab Police. *The Blasphemy Business: A Suspicious Gang Trapping Youth in Blasphemy Cases and Extorting Money*. January 2024, 2-4.

[1217] National Commission for Human Rights, Blasphemy Report October 2024 (2024) https://nchr.gov.pk/wp-content/uploads/2024/10/Blasphemy-Report-Oct-2024.pdf, 18-20.

[1218] United States Commission on International Religious Freedom, *2023 USCIRF Annual Report* (April 2023) https://www.uscirf.gov/.

[1219] *Zaigham Hassan v. State*, PLD 2024 SC 75.

[1220] National Commission for Human Rights, Blasphemy Report October 2024 (2024) https://nchr.gov.pk/wp-content/uploads/2024/10/Blasphemy-Report-Oct-2024.pdf, 19.

[1221] *Mst. Asia Bibi v. State*, PLD 2019 SC 64.

[1222] Ibid.

[1223] Ibid.

[1224] *Zubair Saeed v. State*, PLD 2024 SC 681.

blasphemy were reportedly murdered by mobs or vigilantes.[1225] One prominent example was the killing of university student Mashal Khan in 2017, who was attacked following unverified online blasphemy allegations.[1226] Law enforcement has struggled to effectively intervene, as illustrated by the 2023 riots in Jaranwala, Punjab, where properties belonging to Christian residents were damaged following blasphemy allegations. Such incidents highlight challenges faced by authorities in managing public order during blasphemy-related crises.

Accused individuals have also faced attacks while in police custody or within court premises. Notable incidents include the killing of an accused person during a court hearing in Peshawar in 2020, underscoring serious security lapses in judicial environments. Judicial and legal personnel involved in blasphemy cases have themselves faced threats or violence. For instance, Lahore High Court Judge Arif Iqbal Bhatti was assassinated in 1997 after acquitting an accused, and human rights lawyer Rashid Rehman was murdered in 2014 for defending a blasphemy suspect.[1227] The assassinations of Punjab Governor Salman Taseer and Federal Minister Shahbaz Bhatti in 2011 further illustrate the risks posed to officials who publicly question or challenge blasphemy laws. Salman Taseer's killer, Mumtaz Qadri, was executed in 2016, yet certain segments of society continue to express admiration for vigilante actions, complicating law enforcement and judicial processes.[1228]

The increasing reliance on cyber-related blasphemy allegations introduces additional complexities. Growing internet usage has facilitated accusations involving platforms such as Facebook, WhatsApp, and YouTube. The Prevention of Electronic Crimes Act 2016, used in conjunction with PPC provisions, provides law enforcement with enhanced authority to investigate online blasphemy claims. However, there are ongoing concerns regarding entrapment and privacy violations, particularly due to methods employed by private complainants who utilize digital communications to generate evidence. The Pakistan Telecommunication Authority exercises broad powers in content removal, having blocked over 100,000 URLs by 2024 on grounds of religious offensiveness, leading to significant constraints on digital expression.[1229]

The societal and political implications of blasphemy laws in Pakistan remain profound. A substantial segment of society perceives these laws as essential for protecting religious values, influenced particularly by religious-political groups, notably Tehreek-e-Labaik Pakistan (TLP), who persist on a stringent approach towards blasphemy.[1230] Following Asia Bibi's

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[1225] Nafees, Muhammad. "Blasphemy Cases in Pakistan: 1947–2021." Centre for Research and Security Studies, 2021. https://crss.pk/blasphemy-cases-in-pakistan-1947-2021/; Ali, Kalbe. "89 Citizens Killed over Blasphemy Allegations since 1947: Report." *Dawn*, January 26, 2022. https://www.dawn.com/news/1671491.

[1226] BBC News, 'Mashal Khan Case: Death Sentence for Pakistan 'Blasphemy' Murder' (BBC, 9 February 2018) https://www.bbc.com/news/world-asia-42970587

[1227] United States Commission on International Religious Freedom, *2023 USCIRF Annual Report* (April 2023) https://www.uscirf.gov/, 26.

[1228] Gabriela Knaul, *Report of the Special Rapporteur on the Independence of Judges and Lawyers: Mission to Pakistan* (United Nations Human Rights Council, 4 April 2013) A/HRC/23/43/Add.2.

[1229] Pakistan Telecommunication Authority, *Annual Report* (2023-2024), 57.

[1230] The Express Tribune, "Govt, TLP Agree to Stringent Anti-Blasphemy Measures," *The Express Tribune*, June 15, 2023. https://tribune.com.pk/story/2421900/govt-tlp-agree-to-stringent-anti-blasphemy-measures

acquittal in 2018, large-scale protests orchestrated by TLP significantly disrupted public order, illustrating the sensitivity and complexity of addressing blasphemy-related issues politically.[1231] Conversely, misuse of blasphemy laws contributes to insecurity among minority communities and adversely affects public trust in the judicial system. The widespread impact of notable cases, including international reactions to Asia Bibi's trial and Salman Taseer's assassination, underscores Pakistan's ongoing challenge to balance respect for religious beliefs with protection of individual rights and rule of law.

There is growing recognition, including within the judiciary and civil society, of the need for balanced reforms that prevent misuse of blasphemy laws while upholding respect for religious sensitivities. This situational context provides the foundation for a detailed examination of legal and institutional gaps and supports the formulation of targeted recommendations to address these challenges effectively.

Legal Analysis

International Law

International human rights law does not explicitly mandate or prohibit blasphemy legislation; however, several international treaties and conventions to which Pakistan is a state party impose clear obligations concerning freedom of expression, freedom of religion, fair trial guarantees, and protection from discrimination and torture. Pakistan ratified the ICCPR and CAT in 2010, and the CRC in 1990, obliging it to align domestic legislation and practices accordingly.

International Covenant on Civil and Political Rights

Freedom of Religion

Article 18(1) of the ICCPR protects the right to freedom of thought, conscience, and religion, covering both the right to hold and manifest religious beliefs or no beliefs at all. Importantly, the Committee underscores:

> "Article 18 distinguishes the freedom of thought, conscience, religion, or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience."[1232]

The Human Rights Committee has recommended that laws must explicitly protect freedom of religion and belief, and any restrictions should only target direct incitement to hatred or violence, rather than mere dissent or nonconformity.[1233]

[1231] Harrison Akins, Pakistan's Blasphemy Law (United States Commission on International Religious Freedom, October 2019), 32.

[1232] United Nations Human Rights Committee. *General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion).* CCPR/C/21/Rev.1/Add.4, Forty-eighth session, 30 July 1993, para. 2.

[1233] United Nations Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, UN Doc. CCPR/C/PAK/CO/2, November 7, 2024.,para 47c.

Freedom of Expression

The freedom of expression is provided under Article 19 of the ICCPR. Article 19(1) of the ICCPR guarantees that every individual possesses the right to hold opinions without interference. Article 19(2) affirms the right to freedom of expression, permitting individuals to disseminate information and ideas in any form. Blasphemy laws, by restricting the free exchange of ideas and opinions, impose a limitation on the fundamental right to freedom of expression. Although Article 19 of ICCPR does not explicitly prohibit blasphemy laws, in General Comment No. 34 (2011) on Article 19, the UN Human Rights Committee (UNHRC) unequivocally stated that blasphemy laws are generally incompatible with human rights standards unless drafted properly.[1234]

> Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers."

Right to Fair Trial

The right to a fair trial, outlined comprehensively in Article 14 of the ICCPR, ensures equality before courts, public hearings by competent and impartial tribunals, presumption of innocence, protection against self-incrimination, and the right to appeal. Given the gravity and societal implications of blasphemy allegations, fair trial rights are particularly critical. Pakistan's blasphemy trials frequently exhibit serious due process violations, including prolonged pre-trial detention, inadequate legal representation, and intimidation of judges and defense lawyers.[1235]

Non-Discrimination and Minority Rights

Blasphemy laws have disproportionately impacted Pakistan's religious minorities, violating ICCPR Article 26 (equality before the law) and obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Authorities often disproportionately target minorities or permit procedural irregularities under pressure from majority groups, exemplified by events such as the Jaranwala attacks on Christian communities in 2023.[1236]

[1234] United Nations Human Rights Committee. *General Comment No. 34: Article 19, Freedoms of Opinion and Expression.* CCPR/C/GC/34, 102nd session, Geneva, 11–29 July 2011.

[1235] Gabriela Knaul, *Report of the Special Rapporteur on the Independence of Judges and Lawyers on Her Mission to Pakistan* (Geneva: United Nations, 2013), A/HRC/23/43/Add.2, 4 April 2013

[1236] National Commission for Human Rights. *Jaranwala: Incident Report*. Islamabad: NCHR, 2023. https://www.nchr.gov.pk/wp-content/uploads/2023/10/Jaranwala-Report.pdf.

Additionally, Pakistan's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) intersect with blasphemy issues, as minority women frequently face heightened vulnerability and violence linked to blasphemy accusations.[1237]

Domestic Law

The Constitution of Pakistan

Article 19

Article 19 of the Pakistan Constitution provides the freedom of speech and expression:

> Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interests of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.

The freedom of expression and press are the essential pre-requisites of democracy. As the article suggests, the right is not absolute whereby reasonable restrictions may be imposed upon it. In the notable case of *Nawabzada Nasrullah Khan v. Government of West Pakistan*,[1238] the Court recognised that freedom of speech and press is not absolute at all times and in all circumstances, and it does not mean that one can talk or distribute where, when and how one chooses. Similarly, in *Raees Ghulam Sarwar v. Mansoor Sadiq Zaidi*,[1239] the Sindh High Court held that the freedom envisaged in Article 19 is not absolute but subject to reasonable restrictions. The freedom, as interpreted by the superior judiciary, is not absolute in any sense and is subject to reasonable restrictions.

Article 20

Article 20 guarantees the fundamental right of freedom of religion and reads as follows:

> 20. Freedom to profess religion and to manage religious institutions.
>
> Subject to law, public order and morality:-
>
> every citizen shall have the right to profess, practice and propagate his religion; and every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."

[1237] United Nations Committee on the Elimination of Discrimination Against Women. *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women*. UN Doc. CEDAW/C/GC/28, December 16, 2010.

[1238] PLD 1965 Lahore 642.

[1239] PLD 2008 Karachi 458.

In *Zaheeruddin v. State*,[1240], the Supreme Court of Pakistan ruled that offences punishable under sections 298-B and 298-C, P.P.C., are within the scope of the Constitution and do not violate Article 20 of the Constitution. The Court observed that the freedom to profess religion is 'subject to law, public order, and morality', and upheld administrative orders restraining members of the Ahmadi community from performing the intended centenary celebrations and ceremonies in public, observing that they can perform such activities in private.[1241]

Furthermore, Article 25 ensures equality before the law, and Article 8 invalidates laws inconsistent with fundamental rights. Yet, Article 227 requires all laws to conform with Islamic injunctions, reinforcing the Islamic constitutional framework. This tension was notably manifested in the Federal Shariat Court's 1990 ruling in *Muhammad Ismail Qureshi v Federation of Pakistan*,[1242] which declared that life imprisonment as an alternative penalty under Section 295-C violated Islamic injunctions, effectively mandating capital punishment and significantly limiting legislative flexibility to amend the penalty.

Offences against Religion under PPC

Section 295-A (enacted in 1927) criminalizes "deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs," carrying up to 10 years imprisonment. Section 295-B (added in 1982) punishes "defiling, damaging or desecrating a copy of the Holy Qur'an" with life imprisonment. Section 295-C (added in 1986) prescribes death or life imprisonment for "use of derogatory remarks in respect of the Holy Prophet (PBUH)," which effectively became a mandatory death penalty following a 1991 Federal Shariat Court ruling.[1243]

Section 298 and its sub-clauses criminalize acts considered offensive to specific religious sentiments or practices: Section 298-A targets derogatory remarks about the family or companions of the Prophet Muhammad PBUH (3-year imprisonment), while Sections 298-B and 298-C (both enacted in 1984) specifically prohibit members of the Ahmadiyya community from identifying as Muslims or preaching their faith, punishable by up to 3 years imprisonment.

While Section 295-A is broadly worded to cover insults against any religion, Sections 295-B and 295-C specifically protect Islamic texts and personages, reflecting constitutional directives and legislative changes made during General Zia-ul-Haq's regime. The terminology used ("outraging religious feelings," "derogatory remarks") is broadly interpretable, allowing potential misuse. This ambiguity has been acknowledged by legal critics and courts alike.

[1240] *Zaheeruddin v. State*, 1993 SCMR 1718.

[1241] Ibid.

[1242] Muhammad Ismail Qureshi v. Federation of Pakistan, PLD 1991 FSC 10

[1243] Muhammad Ismail Qureshi v. Federation of Pakistan, PLD 1991 FSC 10

Key Gaps

Ambiguity in the Law

A fundamental fair trial requirement mandates clearly defined criminal offences. The UN Special Rapporteur on the Independence of Judges and Lawyers observed that vague blasphemy laws foster abuse, persecution, and selective enforcement contrary to constitutional and international human rights norms.[1244] Several provisions related to offenses against religion are drafted in vague terms, violating the principle of legality.

Lack of Explicit Criminal Intent Requirement in the Law

Secondly, under international human rights law, every individual accused of a criminal offence is entitled to the presumption of innocence until proven guilty, and the burden of proof lies with the prosecution to establish every aspect of the crime, including the requisite criminal intent (mens rea), before a conviction can be secured. The law does not explicitly mandate intent or deliberate malice to determine criminal culpability. The broad language of certain sections allow for strict liability, meaning an individual can be convicted regardless of intent, which is a significant concern given the severe penalties associated with the offences.

Judicial Independence and Safety

Judicial independence is frequently seen in a limited sense, mainly referring to the lack of political interference in the judiciary. However, international standards, such as the ICCPR define it more broadly to include safeguarding judges from threats, harassment, and reprisals whether these come from state or non-state actors. Judges who hear blasphemy cases have reported being harassed, intimidated, and threatened to convict individuals accused of committing blasphemy. For example, Justice Pervez Ali Shah, the judge who sentenced the murderer of Governor Salman Taseer on false blasphemy charges, was forced into exile after facing severe threats and intimidation.[1245]

Obstruction of Legal Representation

Lastly, although the law permits every accused individual to be defended by counsel of their choice, in blasphemy cases, many of the accused are often unable to engage a lawyer of their preference due to the legitimate fear of intimidation and attacks by complainants. An illustrative example is the murder of lawyer Rashid Rehman Khan, who was killed after receiving multiple threats to withdraw from a blasphemy case. Rashid was representing Junaid Hafeez, a Fulbright scholar, on blasphemy charges. [1246]

[1244] Gabriela Knaul, *Report of the Special Rapporteur on the Independence of Judges and Lawyers on Her Mission to Pakistan* (Geneva: United Nations, 2013), A/HRC/23/43/Add.2, 4 April 2013.

[1245] Gabriela Knaul, *Report of the Special Rapporteur on the Independence of Judges and Lawyers on Her Mission to Pakistan* (Geneva: United Nations, 2013), A/HRC/23/43/Add.2, 4 April 2013

[1246] Ali Sethi, "Pakistan's Tyranny of Blasphemy", *New York Times,* 20 May 2014, accessed at: http://www.nytimes.com/2014/05/21/opinion/pakistans-tyranny-of-blasphemy.html?_r=0

Case Law

In the recent *Mubarak Ahmad Sani v. the State* case,[1247] the Supreme Court noted that religious compulsion contradicts the divine accountability scheme in the Hereafter, citing freedom of faith as one of Islam's fundamental tenets. The Court further held that the Constitution enshrines the principle of no religious compulsion, as mentioned in the Holy Qur'an, as a fundamental right in Article 20.[1248] The Court also observed that emotions often override facts when dealing with cases pertaining to offenses against religion, which is a keen observation on the misuse of the blasphemy law.[1249]

Nevertheless, in terms of the blasphemy law, the superior judiciary's interpretations reflect constitutional tensions. In the seminal case *Zaheer-ud-Din v. State,*[1250] the Supreme Court upheld Sections 298-B and 298-C against constitutional challenges, drawing an analogy to causing panic by falsely shouting "fire" in a theatre.[1251] The Court ruled that Ahmadi religious expressions, such as calling their worship "azan" or identifying their faith as Islam, could provoke public disorder and thus were legitimately restricted.[1252] This judgment was notable for prioritizing collective religious sentiments over minority religious expression rights guaranteed by Articles 20 and 25, reflecting broader judicial accommodation for blasphemy-related restrictions.[1253]

The Supreme Court's acquittal of Asia Bibi marked a critical jurisprudential shift.[1254] The Court overturned Bibi's death sentence based on procedural and evidentiary grounds, emphasizing the principle of presumption of innocence and rigorous standards of proof required in capital cases.[1255] Chief Justice Mian Saqib Nisar and Justice Asif Saeed Khosa highlighted material inconsistencies in witness testimonies and procedural irregularities such as delayed registration of the FIR and coercive circumstances surrounding alleged confessions.[1256] The judgment explicitly cited the earlier case *Mumtaz Qadri v. State,*[1257] reinforcing that false accusations of blasphemy must also face legal accountability.[1258]

[1247] 2024 SCMR 1303

[1248] Ibid.

[1249] Ibid.

[1250] 1993 SCMR 318

[1251] Ibid.

[1252] Ibid.

[1253] Ibid.

[1254] *Mst. Asia Bibi v. the* State, PLD 2019 SC 64

[1255] Ibid.

[1256] Ibid.

[1257] PLD 2015 Islamabad 85

[1258] Ibid.

Subsequent Supreme Court rulings have further exposed investigative shortcomings and procedural gaps. In *Zubair Saeed v. State*,[1259] concerning an online blasphemy allegation under Section 295-C, Justice Qazi Faez Isa sharply criticized procedural irregularities, such as inappropriate charges and failure to comply with mandatory senior-level police investigations as stipulated by Section 156-A Cr.P.C.[1260] The Court underscored violations of the accused's constitutional rights to liberty (Article 9) and due process (Article 10A), highlighting that procedural lapses could irreversibly harm the accused's life and reputation.[1261]

In *Zaheer Ahmad v. State*,[1262] involving Ahmadi individuals accused of online religious content dissemination under Sections 295-A, 298-C, and cyber laws, the Supreme Court denied bail due to substantial digital evidence.[1263] The Court however emphasized judicial stringency in cases involving online religious offences and emphasized rigorous assessment of evidence.[1264]

Institutional Analysis

Police

In Pakistan, the police are the primary law enforcement agency dealing with blasphemy cases. Their duties include registering FIRs, investigating cases, apprehending suspects, and preparing reports for trial in court. Nonetheless, their work is complicated by religious influences and challenges related to training, resources, and maintaining neutrality.

When someone is accused of blasphemy, the matter is reported to the local police, who are, as per law, responsible for conducting an investigation, collecting evidence, and, if there is enough proof, apprehending the suspect. Nonetheless, due to the delicate nature of the crime, police officers often feel compelled to act swiftly, which can result in rushed investigations and accusations due to mob pressure. In 2012, Rimsha Masih,[1265] a 14-year-old Christian girl, was wrongfully charged with blasphemy and detained by the police, even though there was no substantial evidence against her. She was accused of burning pages of the Holy Quran, which sparked several public protests. To calm the situation, the police arrested Rimsha immediately and forcing her family to flee. Although the police quickly arrested Rimsha, the accusations were later proved false, leading the Islamabad High Court to quash the FIR against her

The police are also ill-equipped to handle such sensitive and volatile cases due to insufficient training in legal procedures and curbing public religious pressures that accompany blasphemy accusations. The lack of adequate training in these areas has serious implications. In 2004, to

[1259] PLD 2024 SC 681

[1260] Ibid.

[1261] Ibid.

[1262] 2022 SCMR 1477

[1263] Ibid.

[1264] Ibid.

[1265] Salman Masood, 'Pakistani Christian Girl in Blasphemy Case Freed on Bail' *CNN* (11 September 2012) https://edition.cnn.com/2012/09/11/world/asia/pakistan-rimsha-masih-blasphemy/index.html accessed 10 March 2025.

prevent the coercion of lower-ranked police officers into conducting biased investigations, the Parliament enacted an amendment to the Code of Criminal Procedure (CrPC).[1266] The newly introduced provision, Section 156-A, stipulates that in cases under Section 295-C, only officers of the rank of Superintendent of Police or higher are authorised to conduct investigations. However, the provision is rarely followed by the police.[1267] Indeed, in the *Zubair Saeed* case,[1268], the absence of senior police officers during the investigation process was noted as a factor for the framing of improper charges, indicating rushed investigations and a lack of proper training.

Additionally, forensic and evidence-handling capacities remain weak. The NCHR's 2024 report observes multiple instances where law enforcement did not properly preserve or examine crucial evidence, including digital data in cyber-blasphemy allegations. Failure to conduct proper forensic analysis potentially leads to overlooking exculpatory evidence and may disregard indications of entrapment or fabricated evidence.[1269] Police personnel also frequently lack specialised training for sensitively managing blasphemy investigations, particularly regarding witness questioning, evidence handling, and accused protection during transit or detention.[1270]

The Federal Investigation Agency

The Federal Investigation Agency (FIA) has jurisdiction over cybercrime-related matters under PECA 2016. The Cyber Crimes wing of the FIA has apprehended individuals involved in blasphemy under Section 11 of PECA, which addresses hate crimes.[1271] The FIA manages 15 Cyber Crime units nationwide, each equipped with Anti-Blasphemy Cells that respond promptly to incoming reports. Hundreds of blasphemy complaints have been lodged with the FIA.[1272]

Recent allegations have emerged regarding the misuse of blasphemy laws by certain officials of the FIA.[1273] It has been claimed that the FIA, in collaboration with private entities, has engaged in entrapment schemes.[1274] These operations typically involve female operatives using pseudonyms to entice individuals into sharing blasphemous content online. Once individuals are ensnared, they face severe legal consequences under blasphemy laws. This *modus operandi*

[1266] Code of Criminal Procedure, 1898, sec. 156-A.

[1267] Pakistan Blasphemy Girl: Christian Girl Accused of Blasphemy Released on Bail' (CNN, 20 November 2012) https://edition.cnn.com/2012/11/20/world/asia/pakistan-blasphemy-girl/index.html.

[1268] PLD 2024 SC 681

[1269] National Commission for Human Rights (NCHR), Report on the Misuse of Blasphemy Laws (October 2024), 27–29.

[1270] Ibid., 33–35.

[1271] "Cyber Crime Wing" *Federal Investigation Agency* https://www.fia.gov.pk/ctw.

[1272] Waqar Gillani, "FIA gets a blasphemy cell" *The News* (16 October 2022) https://www.thenews.com.pk/tns/detail/999933-fia-gets-a-blasphemy-cell.

[1273] Imaan Zainab Mazari-Hazir, "The Untold Plight of Over 700 Jailed Pakistanis Trapped in Blasphemy Cases" *Dissent Today* (21 December 2024) https://dissenttoday.net/featured/pakistan-blasphemy-business-group-extremism/.

[1274] Ibid.

has resulted in numerous wrongful arrests and has raised significant concerns about the integrity of the legal process. In response to these alarming practices, the NCHR initiated an independent inquiry between October 2023 and October 2024, which highlighted the involvement of FIA officials in facilitating entrapment operations, raising serious questions about their role and accountability in these cases.[1275] However, a writ petition was filed, and the finding of NCHR was challenged. The Lahore High Court has stayed any possible adverse action on the basis of a report of the NCHR.[1276] Nevertheless, the alleged misuse of blasphemy laws by certain FIA officials underscores the need for comprehensive reforms within Pakistan's law enforcement.

The Judiciary

The judiciary in Pakistan is tasked with ensuring the trial of individuals accused of blasphemy under the PPC. These offenses are adjudicated by judicial magistrates or the Courts of Sessions, with appeals against the decisions of the court of session being submitted first to the High Court and subsequently to the Supreme Court of Pakistan. In most cases, higher courts have exonerated accused individuals following protracted legal proceedings. Such judgments frequently incite public dissent, particularly in cases of significant public interest. Documented instances include agitators crowding courtrooms, staging protests, and in severe cases, threats or actual violence against judges. Consequently, judges may opt for convictions even when evidentiary standards are questionable, anticipating appellate relief rather than risking personal safety through immediate acquittals.[1277]

Trial delays constitute another significant gap. Delays result partly from frequent judicial and prosecutorial transfers, procedural adjournments, and difficulties in witness summoning. Such delays violate the constitutional right to a speedy trial under Article 10A and extend pre-trial incarcerations, often for many years, given that some blasphemy offences effectively preclude bail. While appellate courts, including Lahore High Court and Supreme Court, have occasionally intervened to expedite proceedings or grant bail citing unreasonable delays, systematic and uniformly implemented measures such as secure courtrooms or video-linked testimony remain absent.[1278]

Inter-Agency Coordination

No dedicated inter-institutional oversight mechanism currently exists to supervise blasphemy case management systematically. Police authorities, prosecutors, and the judiciary operate within isolated provincial frameworks, lacking coordinated oversight. This absence hampers detection and response to systemic misuse or sudden surges in allegations. While recent

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1275 National Commission for Human Rights, *Blasphemy Report October 2024* (2024) https://nchr.gov.pk/wp-content/uploads/2024/10/Blasphemy-Report-Oct-2024.pdf.

1276 Wajih Ahmad Sheikh, "LHC stays 'action' on NCHR report on blasphemy cases" *Dawn* (1 March 2025) https://www.dawn.com/news/amp/1894965.

1277 United Nations Special Rapporteur on the Independence of Judges and Lawyers, Report on the mission to Pakistan, A/HRC/23/43/Add.2 (April 2013), paras. 53–54.

1278 NCHR, Report on the Misuse of Blasphemy Laws (October 2024), pp. 22–24.

investigative efforts by NCHR highlight procedural irregularities and inter-agency coordination gaps, a formalized federal-provincial coordination framework for systematic case monitoring remains absent.[1279]

Additionally, the absence of comprehensive, official data collection across law enforcement, prosecutorial, judicial, and prison institutions impairs accountability, informed policymaking, and reporting accuracy to international bodies. A centralized database tracking blasphemy cases through their full procedural lifecycle—from FIR to final judicial outcomes—is notably lacking, complicating both domestic oversight and international treaty reporting requirements.[1280]

National Commission on Human Rights

The NCHR holds a crucial position in addressing human rights concerns in Pakistan, particularly in relation to blasphemy laws. Established under the National Commission for Human Rights Act, 2012, the NCHR's mandate is centered on the protection of human rights through the investigation of violations and the provision of recommendations to governmental bodies and the judiciary.

The NCHR plays a significant role as a watchdog organization to highlight key human rights violations, including the misuse of the blasphemy law. As mentioned above, in its October 2024 report on the misuse of blasphemy laws in Pakistan,[1281] the NCHR scrutinized the involvement of FIA officials in the entrapment of individuals accused of blasphemy. The report revealed instances where FIA officials collaborated with extremist groups to target specific individuals with blasphemy charges. The NCHR's mandate ensures that such issues are brought to public attention, advocating for reform and increased accountability within law enforcement and the judiciary.

Summary of UN Observations

Human Rights Committee

In its Concluding Observations, the UN Human Rights Committee has recommended that Pakistan should repeal or amend blasphemy laws to comply with ICCPR standards.[1282] It also recommended that Pakistan should end the use of cybercrime laws like PECA to prosecute online blasphemy and investigate abuses linked to them.[1283] Furthermore, it recommended that the State should more proactively prevent and investigate violent attacks, including mob

[1279] Ibid, 37–38.

[1280] Ibid, 38-39

[1281] Ibid.

[1282] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 47(c)

[1283] Ibid.

lynchings, against those accused of blasphemy, ensuring accountability.[1284] Finally, it recommended that the State should effectively prosecute those inciting violence or making false blasphemy accusations.[1285]

Committee Against Torture

The Committee Against Torture recommended that persons charged with blasphemy should not be held in solitary confinement for prolonged periods of time under the pretense of ensuring their safety.[1286]

Committee on the Rights of the Child

Similarly, the Committee on the Rights of the Child has expressed concern about the death penalty for blasphemy and its misuse. It recommends that Pakistan review and repeal its blasphemy laws to prevent misinterpretation and ensure children under 18 are exempt from criminal responsibility for such crimes.[1287]

Committee on the Elimination of All Forms of Racial Discrimination

The CERD Committee recommended that the Pakistani government should reform or repeal its blasphemy laws to align with international human rights standards by removing overly broad and vague provisions and severe penalties. It emphasised the need to uphold fair trial rights, referencing landmark Supreme Court cases like *Asia Bibi v. the State* and *Mumtaz Qadri v. the State*, and calls for protections against violence and reprisals, especially for those in custody. Additionally, it stressed the importance of maintaining the prosecution's burden of proof, enforcing strict evidentiary standards, and ensuring thorough investigations and accountability for all acts of mob violence or attacks related to blasphemy accusations.[1288]

Universal Periodic Review

In Pakistan's Universal Periodic Review (UPR), many States recommended making amendments to or repealing the blasphemy law, including Poland, the United States of America, Ireland, Italy and Greece. Pakistan noted all of these recommendations. Other States, such as the Netherlands and Germany, recommended that Pakistan strengthen legal and practical safeguards against the misuse of blasphemy laws, which Pakistan supported.[1289]

[1284] Ibid, para 47(d).

[1285] Ibid, para 47(e).

[1286] United Nations Committee Against Torture. Concluding Observations on the Initial Report of Pakistan. UN Doc. CAT/C/PAK/CO/1, June 1, 2017., para 27(f).

[1287] United Nations Committee on the Rights of the Child. Concluding Observations on the Fifth Periodic Report of Pakistan. UN Doc. CRC/C/PAK/CO/5, July 11, 2016., para 31(b).

[1288] United Nations Committee on the Elimination of Racial Discrimination. Concluding Observations on the Combined Twenty-First to Twenty-Third Periodic Reports of Pakistan. UN Doc. CERD/C/PAK/CO/21-23, September 26, 2016., para 16.

[1289] Human Rights Council, UPR of Pakistan (4th Cycle - 42nd Session) - Matrix of Recommendations, A/HRC/DEC/53/111, 10 July 2023, https://docs.un.org/en/A/HRC/DEC/53/111.

Recommendations

Legislative

Mandatory permission of government for initiating prosecution

Section 196 of the Cr.P.C. should be amended to include Sections 295-B and 295-C PPC, requiring provincial or federal government sanction before courts can take cognizance of blasphemy charges. This procedural safeguard already applies to Section 295-A PPC and would significantly reduce malicious prosecutions.

Mandatory formation of a Medical Board

The Cr.P.C. should be amended to mandate that, in all blasphemy cases, a medical board be constituted to evaluate the mental competency of the accused to stand trial, as well as their mental state at the time of the alleged offence. Codify the Supreme Court's guidance from landmark cases (e.g., Zaigham Hassan v. State) to ensure accused persons diagnosed with mental illness are provided medical treatment rather than prosecuted. This reform would uphold constitutional guarantees for fair trial (Article 10A) and address gaps highlighted by recent judicial rulings.

Policy

Strict Enforcement of Section 156-A Cr.P.C. (Investigative Oversight)

The Government should strengthen enforcement of Section 156-A Cr.P.C. to require investigation by a Superintendent of Police or higher before registration of FIRs and arrests in all blasphemy cases. Any investigation or arrest in violation of this rule should render the FIR void. This will ensure fewer false allegations of blasphemy.

Establish Joint Task Force

The Government should implement the NCHR recommendation to form a high-level Task Force comprising senior officials from the FIA, Special Branch, Intelligence Bureau, and relevant federal and provincial departments. This Task Force should objectively investigate reasons behind the rise in blasphemy allegations, examine potential misuse or entrapment by private entities, and evaluate procedural compliance by investigative agencies to recommend necessary reforms.

Enhanced Police and FIA Training

There is a need to develop specialised training for police and FIA officers on sensitive handling, evidence preservation, and digital forensics in blasphemy investigations. Training should also emphasise recognising potential false accusations, as well as sensitisation towards accused offenders belonging to religious minority communities.

Judicial Security Measures

The Government, through the police and the FIA, should implement protocols to ensure the security of judges, prosecutors, and defence lawyers involved in sensitive blasphemy trials. Options include secure court venues, restricted public gallery access, and availability of transfers to neutral venues upon credible threats.

Protection of Accused in Custody

The police and the prosecutorial departments should introduce stringent protocols to safeguard blasphemy accused from mob violence or custodial abuse, including secure transport arrangements, video-linked court hearings. Furthermore, secure detention conditions must comply with human rights standards.

Guaranteed Legal Representation and Witness Protection

The provincial governments should mandate state-provided legal counsel for blasphemy accused unable to afford private lawyers. Provincial bar councils should establish panels of vetted and trained defence lawyers for blasphemy cases to ensure competent representation. Similarly, the provincial governments must utilize existing witness protection laws to ensure the security of witnesses testifying for the defence or recanting coerced testimony. These should be complemented with protocols to facilitate safe relocation or protection measures for acquitted accused facing credible threats.

Access to Justice and the Right to a Fair Trial

Chapter Summary

The right to a fair trial, protected under Article 10-A of Pakistan's Constitution, is a key component of access to justice. While the legal framework includes procedural laws such as the CrPC, CPC, and QSO, challenges remain in implementation—particularly regarding judicial delays, access to legal aid, and the role of military courts.

Key issues include case backlogs, legal aid provision and military trials of civilians. Pakistan's courts continue to face significant backlogs, with over 2.4 million cases pending in lower courts and more than 57,000 in the Supreme Court as of 2023. These delays undermine timely justice and highlight the need for reforms in case management and dispute resolution systems. Efforts to expand legal aid—through the Legal Aid and Justice Authority Act, 2020, and provincial initiatives—aim to increase representation for underserved populations. However, gaps persist due to limited funding, coordination challenges, and underutilisation. Trials of civilians in military courts have raised questions about adherence to constitutional and international fair trial standards. Following the events of May 2023, several civilians were convicted in military courts. While the Supreme Court initially voided these trials, a later intra-court appeal upheld military jurisdiction, subject to the right of appeal in High Courts.

International human rights instruments such as the ICCPR and UDHR provide additional benchmarks, reinforcing principles like presumption of innocence, legal representation, and judicial independence. Domestic jurisprudence has further clarified the scope of fair trial rights, including protections against double jeopardy and retrospective punishment. Strengthening access to justice will require continued investment in legal aid, institutional coordination, and procedural reforms. Aligning military and civilian legal processes with constitutional guarantees and international standards remains an area for ongoing review.

Situational Analysis

The right to fair trial is a fundamental right enshrined under Article 10-A of the Constitution of Pakistan. The right is operationalised through procedural legislation such as the Code of Civil Procedure, 1908 (CPC), the Code of Criminal Procedure, 1898 (CrPC) and the Qanun-e-Shahadat Order, 1984 (QSO). Key areas of focus in terms of the right to a fair trial include speedy justice, access to legal aid, and the trials of civilians in military courts.

Backlog of Cases

While the Constitution protects the right to a fair trial, its implementation varies across the country. One significant issue is the backlog of cases. According to the Law and Justice Commission, over 2.4 million cases were pending before the lower courts across Pakistan in

the second half of 2023.[1290] At the Supreme Court, a backlog of over 57,000 cases was also recorded.[1291] Such backlogs result in long case processing timelines and delays in justice.[1292] The Government of Pakistan is committed to reducing judicial backlogs across the country through various means, such as bolstering alternative dispute resolution mechanisms.[1293]

Legal Aid and Access to Legal Counsel

Another fundamental element of the right to a fair trial is access to legal representation. The Government of Pakistan passed the Legal Aid and Justice Authority Act in 2020 to facilitate greater access to legal aid across segments of the population in criminal matters. Provincial governments have also established legal aid agencies that designate panels of advocates who will provide legal aid free-of-cost to eligible candidates, such as the Punjab Legal Aid Agency under the Punjab Public Prosecution Department.[1294] The federal and provincial governments continue to work towards ensuring greater and more widespread access to legal representation to those who may otherwise not be able to afford legal counsel as per their Article 10-A right.

Military Trials of Civilians

One key issue under the right to a fair trial is the conformity of trials conducted by military courts to the right to a fair trial. Pakistan has an extensive history of trying civilians in military courts, with numerous governments establishing these courts to adjudicate cases involving civilians, dating back to 1953. During Ayub Khan's regime (1958-1969), the Pakistan Army Act, 1952, was amended to permit the trial of civilians.[1295] In January 2015, following the terrorist attack on the Army Public School in Peshawar, the Government authorised military courts to try suspected terrorists for a period of two years. Subsequently, the Government passed the 21st Constitutional Amendment[1296] with a sunset clause, stipulating that military courts would cease to function after two years from their commencement. Nonetheless, their tenure was extended through the 23rd Constitutional Amendment, extending the operation of these courts for an additional period of two years.[1297]

The issue of military trials of civilians arose after the events of May 9 and 10, 2023, during which several military establishments were attacked by civilians. A total of 103 people were arrested and tried by military courts. The Supreme Court's constitutional bench allowed

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[1290] Associated Press of Pakistan. "2.4 Million Cases Pending in National Judicial System; 57,347 in SCP." *APP*, January 7, 2025. https://www.app.com.pk/national/2-4-million-cases-pending-in-national-judicial-system-57347-in-scp/.

[1291] Associated Press of Pakistan. "2.4 Million Cases Pending in National Judicial System; 57,347 in SCP." *APP*, January 7, 2025. https://www.app.com.pk/national/2-4-million-cases-pending-in-national-judicial-system-57347-in-scp/.

[1292] Muneer Bajwa, "Double Shifts for Justice: Can Lahore's Courts Handle the Backlog?" The Friday Times, February 12, 2025, https://thefridaytimes.com/12-Feb-2025/double-shifts-for-justice-can-lahore-s-courts-handle-the-backlog.

[1293] "Alternative Disputes Resolution to Reduce Backlog of Cases: PHC CJ," *Dawn*, February 7, 2025, https://www.dawn.com/news/1890231.

[1294] Public Prosecution Department, "Punjab Legal Aid Agency," Government of Punjab, accessed May 31, 2025, https://ppd.punjab.gov.pk/punjab-legal-aid-agency.

[1295] Hassan, Muhammad. "Military Court Trials of Civilians in Pakistan: Constitutional Rights, International Obligations and Sustainable Justice." *Policy Perspectives* 20, no. 2 (2023): 2. https://doi.org/10.13169/polipers.20.2.ra1.

[1296] The Constitution (Twenty-first Amendment) Act, 2015.

[1297] The Constitution (Twenty-third Amendment) Act, 2017.

military courts to pronounce reserved verdicts of the civilian who were in military custody pertaining to the 9 May incidents,[1298] after which the military courts convicted 25 civilians for their involvement in attacks on military installations. Later, 60 more civilians were convicted by the Field General Court Martial (FGCM) for their involvement.[1299]

On appeal, the Supreme Court declared military trials of civilians as null and void. However, in an intra-court appeal, the Court overturned this decision in a judgment announced on May 7, 2025 and held that military courts can try civilians under military jurisdiction while directing the Federal Government to ensure the right to appeal against such judgments in the High Courts.[1300] In response to this judgment, former Chief Justice Jawwad S. Khawaja recently filed a contempt petition against the Prime Minister for non-compliance with the judgment directing the Majlis-e-Shoora to amend the law to create the aforementioned right of appeal.[1301] The outcome of this contempt petition remains to be seen.

Legal Analysis

International Law

Under international human rights frameworks, certain standards are established to guide the conduct of judicial processes, particularly regarding fair trial guarantees, judicial independence, and procedural safeguards. These standards emphasize transparency, impartiality, and protection against arbitrary actions within legal proceedings, ensuring the upholding of individual rights and adherence to the rule of law.

The applicability of military tribunals to civilian cases raises questions within international human rights discussions, primarily regarding alignment with principles such as fair trial rights, judicial impartiality, and transparency in legal processes. International legal instruments and conventions provide guidelines aimed at preserving these rights and procedural standards, thus informing national discussions on appropriate judicial frameworks. Reviewing these international standards may offer insights into potential areas for procedural enhancement and alignment within domestic legal practices.

Right to Fair Trial

The right to a fair trial constitutes a fundamental cornerstone in the domain of human rights, particularly with regard to civil liberties. This right encompasses multiple elements, including the presumption of innocence, the right to legal representation, timely information about

[1298] Mehtab, Umer. "May 9 Riots: SC Constitutional Bench Conditionally Allows Military Courts to Pronounce Verdicts of 85 Civilians." *Dawn*, December 13, 2024. https://www.dawn.com/news/1878498..

[1299] Dawn. "Military Convicts 60 More People Over May 9 Riots." *Dawn*, February 20, 2025. https://www.dawn.com/news/1881338.

[1300] "May 9 and Military Courts: What the SC Decision Means for Civilians," *Dawn*, May 9, 2025, https://www.dawn.com/news/1909718

[1301] "Ex-CJP moves SC to try PM for contempt," The News International, July 29, 2025, https://www.thenews.com.pk/print/1331563-ex-cjp-moves-sc-to-try-pm-for-contempt.

charges, and the opportunity to question witnesses. It is important to note that this right is qualified and contains certain non-derogable elements.

Articles 10 and 11 of the UDHR provide a comprehensive framework for the right to a fair trial, establishing crucial legal protections that uphold justice, equality, and human dignity. Article 10 ensures that every individual is entitled, in full equality, to a fair and public hearing by an independent and impartial tribunal in the determination of their rights and obligations and of any criminal charge against them. Article 11 further elaborates on these principles by focusing on the rights of individuals charged with penal offenses, such as the presumption of innocence, a public trial, and protection against retroactive punishment, i.e., not being held guilty for an offense that was not declared a penal offense at the time it was committed.

Article 14 of the ICCPR provides binding effect to the right to fair trial under international law. Article 14(1) sets out a general guarantee of equality before courts and tribunals and entitles individuals to a fair and public hearing by a competent, independent and impartial tribunal established by law. Civilians should normally be tried in ordinary courts; if military or special courts are deemed strictly necessary to try civilians, their competence, independence, and impartiality must be ensured, and their necessity reviewed periodically by competent authorities. It also specifies the exceptional cases where media and public may be excluded from such hearings. Article 14(2) affirms the principle of the presumption of innocence of the accused until proven guilty as a key safeguard of the right to fair trial.

Article 14(3) lists various minimum guarantees that the accused must be afforded. Individuals charged with a criminal offense have non-derogable rights to ensure a fair trial, including the presumption of innocence and the rights to be promptly informed of charges in detail and in a language they understand; to have adequate time and facilities to prepare a defense, including confidential communication with a lawyer; to legal representation of their choice, with free legal assistance if they cannot afford it; to be present at their trial; not to be compelled to testify against themselves or to confess guilt; to obtain and examine witnesses under the same conditions as the prosecution; and to a public trial unless the court orders otherwise on security grounds with safeguards against abuse.

The right to equality before courts and tribunals applies to all individuals, not only citizens, who are in the territory or subject to the jurisdiction of the State party, including equal access to and treatment before them without discrimination. Article 14 requires independence and effective functioning of the judiciary, in particular in criminal cases. It also applies to military or special courts, as well as customary and religious courts. The Human Rights Committee has unequivocally asserted that the right to be tried by an independent and impartial tribunal "is an absolute right that may suffer no exception."[1302]

For legal proceedings to meet the standards of fairness, it is essential that the judge or panel of judges adjudicating the case operate with complete independence, free from external influence or undue pressure.[1303] The Human Rights Committee has explained the term impartiality to

[1302] United Nations Human Rights Committee. *General Comment No. 32: Article 14, Right to Equality Before Courts and Tribunals and to a Fair Trial.* CCPR/C/GC/32, 90th session, 23 August 2007.
[1303] ICCPR, art. 14.

mean that "judges must not harbor preconceptions about the matter put before them, and that they must not act in ways that promote the interests of one of the parties."[1304]

Domestic Law

Article 10-A of the Constitution

The right of fair trial, which is commonly understood to be a central element of natural law, is given constitutional status under Article 10A, which states that "For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process."

The article ensures that anyone accused of an offence, whether innocent or guilty, is entitled to the due process of law and is to be deemed innocent until proven guilty. As such, Article 10A has codified this principle and added constitutional value to it by according it the status of a fundamental right.

Case Law Jurisprudence

Article 10A is interpreted in various cases. In *Nadeem Asghar v. Province of Punjab*[1305], the court noted that Article 10A is all embracing and deals with rights and duties, which if violated can "result in loss of some personal benefit or advantage or curtail a privilege or liberty or franchise". Similarly, in *Muhammad Riaz v. Medical Superintendent, Services Hospital, Lahore*[1306], the Lahore High Court postulated that the "right to fair trial means the right to a proper hearing by an unbiased competent forum" and that such right "should be read in every statute even if not expressly provided for unless specifically excluded". This is in line with the maxim *audi alteram partem* ("no one may be condemned unheard") which is the basis of natural justice. This rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.[1307]

A core aspect of the right to fair trial is "due process". In *Sikandar Ali Lashari v. The State*[1308], the Court defined due process to "mean a legal requirement that the State must respect all legal rights that are owed to a person...Due process would balance the power of law of the land and protect the individual person which is analogous to the concept of natural justice and procedural justice." The meaning of due process was aptly summarised by the Supreme Court in *Muhammad Nadeem Arif v. Inspector General of Police Punjab, Lahore*[1309]*:*

1. He shall have due notice of proceedings which affect his rights;
2. He shall be given reasonable opportunity to defend;
3. That the Tribunal or Court before which his rights are adjudicated is so constituted as to give reasonable assurance of his honesty and impartiality; and

[1304] United Nations Human Rights Committee. *General Comment No. 32: Article 14, Right to Equality Before Courts and Tribunals and to a Fair Trial.* CCPR/C/GC/32, 90th session, 23 August 2007, para 21.
[1305] 2016 PLC (C.S.) 155
[1306] 2016 PLC (C.S.) 296
[1307] *Muhammad Ameer v. Mst. Fajjan*, 2012 CLC 1663
[1308] 2016 YLR 62
[1309] 2011 SCMR 408

4. That it is a court of competent jurisdiction.

Legislation

Ensuring the right to a fair trial requires following proper legal procedure, which is provided for under procedural law.

The Code of Criminal Procedure, 1898

Section 161 of the CrPC concerns the examination of witnesses during investigation, and Section 164 requires that their statements be recorded in front of a judge to ensure they are not subject to adverse influence. Similarly, Section 265-C mandates the provision of documents to the accused to prepare their defence, complying with disclosure obligations necessary for conducting a fair trial. These include the First Information Report (FIR), the police report, witness statements and the inspection note of the investigation officer. Furthermore, as per Section 352, trials must be conducted in open court to ensure transparency.

Section 340(1) guarantees the right of a person against whom proceedings are instituted to be defended by a pleader (i.e., a lawyer). Additionally, Section 342 allows the accused to explain their position in their defence, ensuring a chance to be heard, and prevents trials *in absentia*.

Additionally, Chapter II of the CrPC establishes the criminal judicial system by laying down the competence and the jurisdiction of the various criminal courts. These include Magistrates Courts, divided into three classes, the Additional Sessions Court and the Sessions Court. The CrPC grants different jurisdictions to these courts based on the seriousness of the crimes committed and the penalties associated.

The Code of Civil Procedure, 1908

The Code of Civil Procedure, 1908 (CPC) similarly sets out the procedure for conducting civil trials in the civil courts system. The jurisdiction of the various courts is established under Section 9, and Sections 15-24 set out the territorial jurisdiction for different civil suits. Order v. of the CPC mandates the proper service of summons and provides various opportunity to the defendant to be intimated of court proceedings. While it allows for *ex parte* decrees, the CPC provides multiple opportunities to set aside an *ex parte* decree, such as where summons was not properly served to the defendant.[1310] Similarly, in Order XI, discovery, disclosure and inspection is mandated which ensures transparency in civil disputes. The CPC also provides for appeals from decrees under Section 96, as well as revision under section 115.

The Juvenile Justice System Act, 2018

The Juvenile Justice System Act, 2018, establishes a unique legal system to deal with juvenile offenders , i.e., offenders under the age of 18, differently from adult offenders. The Act provides legal assistance to juvenile offenders as a right under Section 3. It establishes a distinct Juvenile Courts system to exclusively try cases involving juvenile offenders.[1311] The Juvenile Court procedure is different from a regular criminal court: it limits the number of persons who

[1310] Code of Civil Procedure 1908, Order IX, sec. 13

[1311] Juvenile Justice System Act, 2018, sec. 4

can be in attendance during a trial,[1312] and can determine whether it is in the best interests of the child to be in attendance during the trial or proceed in his/her absence.[1313] The Act prohibits sentencing a child to the death penalty, imprisonment, labour, being put in fetters, being handcuffed or given any corporal punishment at any time while in custody,[1314] and makes special provisions for female juveniles, e.g., investigation of cases involving female juveniles should only be done by female officers.[1315]

The Act further establishes a Juvenile Justice Committee which can receive cases from the police, prosecutors or the Juvenile Court by way of diversion and dispose of them within one month from the date of referral, and also inspect observation homes and Juvenile Rehabilitation Centres and take measures accordingly.[1316]

The Azad Jammu and Kashmir Government passed its own Juvenile Justice System Act to set up a similar legal system within its jurisdiction.

The Legal Aid and Justice Authority Act, 2020

The Legal Aid and Justice Authority Act, 2020, establishes the Legal Aid and Justice Authority at the federal level. The Authority oversees the delivery of legal aid to those who are unable to afford legal assistance or representation or are unable to afford access to justice.[1317] The Act sets out the manner in which an applicant applies for legal aid,[1318] and also establishes a panel of advocates and volunteers who provide legal aid services who are paid by the Authority's Fund for their services.[1319]

This Act is complemented by certain provincial legal aid laws along with other subsidiary rules. These include the Punjab Legal Aid Act, 2018, and the Khyber Pakhtunkhwa Legal Aid Act, 2019. Subsidiary rules include the Destitute Litigant Fund Rules, 1974, and the Pakistan Bar Council Free Legal Aid Rules, 1999. The latter establishes Free Legal Aid Committees at the provincial and district levels, which are overseen by the Pakistan Bar Council.[1320] The Law and Justice Commission of Pakistan also established District Level Empowerment Committees (DLECs) to oversee the administration of legal aid to deserving litigants within respective district jurisdictions.[1321]

[1312] Ibid., sec. 11(2)

[1313] Ibid., sec. 11(4)

[1314] Ibid., sec. 16 (subject to exceptions in proviso).

[1315] Ibid., sec. 17

[1316] Ibid., sec. 10

[1317] Legal Aid and Justice Authority, sec. 2(1)(i)

[1318] Ibid., sec. 9.

[1319] Ibid., secs. 11, 13, 17.

[1320] Sindh Human Rights Commission. *Mapping of Legal Aid Mechanisms in Sindh Province*. Karachi: SHRC, November 30, 2023. https://sohris.com/mapping-of-legal-aid-mechanisms-in-sindh.

[1321] Peace & Justice Network. "District Legal Empowerment Committees (DLECs)." Accessed May 31, 2025. https://pjn.org.pk/home/page/28.

The Pakistan Army Act, 1952

The Pakistan Army Act, 1952, governs the functioning of the Pakistan Army. Chapter V of the Act lays down several offences which are cognisable by the Court Martial, which operate as a distinct legal procedure from the regular judiciary.

Section 2(1)(d) of the Act extends the jurisdiction of the Act to civilians who are accused of 'seducing or attempting to seduce any person subject to this Act from his duty or allegiance to Government' or having committed an offence under the Official Secrets Act, 1923, in relation to any defence, arsenal, naval, military or air force establishment or vessel.[1322] While this does not explicitly state that civilians can be made subject to the Act, the term 'persons not otherwise subject to this Act' includes those persons who are not 'officers, soldiers and others of the Pakistan Army' or part of the Navy or Air Force. Furthermore, Section 59 extends jurisdiction of the Court Martials to civil offences, with Section 59(4) extending jurisdiction to offences committed by persons subject to the Act under Section 2(1)(d).

Composition of military courts

According to the Army Act, a military court comprises three to five active-duty officers of the armed forces.[1323] There is no stipulation that these military officers possess legal qualifications or training. The officers remain subject to the military chain of command.

The military courts, designated as courts-martial, are categorised into four types established under this act. These categories are as follows:

- General Courts Martial - These tribunals are convened either by the Chief of Army Staff of Pakistan or by an individual authorised by the Chief.[1324] These courts must comprise a minimum of five officers who meet the requirements stipulated by the relevant legislation.[1325]
- District Courts Martial - These tribunals can also be convened either by the Army Chief or by an authority warranted by the Chief.[1326] These courts must consist of three or more officers.[1327]
- Field General Courts Martial - These courts may be convened by any individual appointed by the Army Chief or the Federal Government, or by an officer of brigadier rank or above.[1328] The composition of these courts should comprise three or more officers, with a minimum of three.[1329]

[1322] Pakistan Army Act, 1952, sec. 2(1)(d).
[1323] Section 85 of the Army Act, 1952.
[1324] Ibid, sec.81.
[1325] Ibid, sec.85.
[1326] Ibid, sec.82.
[1327] Ibid, sec.86.
[1328] Ibid, sec.84.
[1329] Ibid, sec.88.

- Summary Courts-Martial - As stipulated in the Act, any commanding officer possesses the authority to convene these courts. These courts can be constituted by a single officer; however, the attendance of two officers is mandated.[1330]

Right of appeal

Individuals convicted by military courts and sentenced to capital punishment, life imprisonment, imprisonment exceeding three months, or dismissal from service possess the right to appeal the verdicts and sentences to a military appellate tribunal. A military appellate tribunal is presided over by "an officer not below the rank of Brigadier". The Chief of Army Staff, or any other officer appointed by him, also serves on the appellate tribunal.[1331]

The judgment rendered by a military tribunal, when subsequently affirmed by a military appellate court, is considered definitive and is not subject to further appeal in civilian judicial forums, including the High Court or the Supreme Court of Pakistan. Nevertheless, the High Courts and the Supreme Court retain the authority to conduct reviews of military court decisions on limited grounds of mala fide, coram non judice or without jurisdiction.

In *Lt. Asim Bashir v. Federation of Pakistan*[1332] the Supreme Court of Pakistan held as follows:

> The parameters authoritatively settled by this Court to examine the vires of a finding/sentence recorded by a Court Martial provide a limited space to examine hypothesis of any mala fide lurking behind the prosecution or any juridical flaw in holding of the Court Martial that may be viewed as coram non judice or without jurisdiction and in so doing a High Court shall not attempt to search for a contra view of evidence, competently recorded during a Court Martial.

Similarly in case of *Masoom Jan v. Federation of Pakistan*[1333] it was held that:

> it is settled principle, High Court, in exercise of its judicial review under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, has the mandate to positively interfere with the decisions of the Criminal Courts/Military Courts, against which no right of appeal is available to the accused/convicts if the case of prosecution was based on no evidence or insufficient evidence, void, quorum non-judice, without jurisdiction and based on *malafide* or malice in law.

Evidence

According to the Army Act, the rules of evidence in proceedings before courts-martial are identical to those observed by regular civilian criminal courts.[1334] The Qanoon e Shahadat Ordinance, 1984 also provides that the ordinance will apply to judicial proceeding before the Court martial.[1335] However, court martial and other proceedings of the military courts are confidential in nature; therefore, it is disputable whether the provisions of the Qanoon e Shahadat Ordinance are actually adhered to or not in trials by military courts.

[1330] Ibid.

[1331] Ibid, sec 133-B.

[1332] 2021 SCMR 1176

[1333] 2020 PLD Pesh. 01.

[1334] Section 112, Pakistan Army Act, 1952.

[1335] Qanoon e Shahadat Ordinance, 1984, art.1 (2).

Secret Hearings

The Army Act does not stipulate that any proceedings in courts-martial or court-martial appeals be conducted in public. The Army Act provides that any person subject to this act who commits any offence against it may be tried and punished for such offence in any place whatsoever.[1336]

Article 12 of the Constitution

Article 12 of the Constitution protects individuals against retrospective punishment and reads as follows:

> 1) No law shall authorise the punishment of a person:-
>
> (a) for an act or omission that was not punishable by law at the time of the act or omission; or
> (b) for an offence by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offence at the time the offence was committed.
>
> 2) Nothing in clause (1) or in Article 270 shall apply to any law making acts of abrogation or subversion of a Constitution in force in Pakistan at any time since the twenty-third day of March, one thousand nine hundred and fifty-six, an offence."

Article 12 of the Constitution provides that a person cannot be punished for an act that was not an offence when the act was committed. For instance, a law passed in 2025 that forbids smoking in public places cannot be used to punish a person who smoked in a public place in 2023. Similarly, an increase in the penalty for an offence does not apply to acts committed prior to the amendment. However, as per clause 2, the Majlis-e-Shoora retains the authority to enact retroactive laws in cases of abrogation and subversion of the Constitution.

Case Law Interpretation

Article 12 has been upheld in several cases rather straightforwardly. In *Muhammad Afzal v. Senior Superintendent of Police*,[1337] the Lahore High Court held that no law can authorise punishment for a person for an act not punishable at the time of commission. In the *Jan Pervez v. Haji Fazal Hussain*, [1338] where a person was convicted by trial court under the Illegal Dispossession Act for an alleged illegal dispossession prior to the enactment of the law, the Peshawar High Court set aside the conviction, holding that it was prohibited by Article 12 of the Constitution. Similarly, in *Mirza Ali Khan v. Hidayat Ullah Khan*,[1339] it was observed that any person convicted and sentenced in derogation of the provision of Article 12 of the Constitution could not be sustained on any ground whatsoever. In *Abdur Rehman v. the State*,[1340] while converting sentences of the petitioner from life imprisonment to transportation for life, the Supreme Court held that no law could authorise punishment of a person for an

[1336] Ibid, sec 93.

[1337] *Muhammad Afzal v. Senior Superintendent of* Police, PLD 2005 Lahore 377

[1338] *Jan Pervez v. Haji Fazal Hussian*, PLD 2007 Peshawar 179

[1339] *Mirza Ali Khan v. Hidayat Ullah Khan*, 2014 PCr.LJ 78

[1340] *Abdur Rehman v. The State,* 1978 SCMR 292

offense by a penalty greater than the penalty prescribed by law for the offense at the time the offense was committed.

Legislation

All penal laws enacted by the Majlis-e-Shoora and the provincial assemblies provide that the law 'shall come into force at once', which means that the law shall be applied prospectively after the date of promulgation and thus in accordance with Article 12 of the constitution. However, in accordance with Article 12(2) of the Constitution, the High Treason (Punishment) Act, 1973 applies retrospectively. Section of the Act provides as follows:

A person who is found guilty—

(a) of having committed an act of abrogation or subversion of a Constitution in force in Pakistan at any time since the twenty-third day of March, 1956, or
(b) of high treason as defined in Article 6 of the Constitution, shall be punishable with death or imprisonment for life.

Article 13 of the Constitution

Article 13 of the Constitution protects individuals against double punishment and self-incrimination. The article is reproduced as below:

> Protection against double punishment and self incrimination
>
> 13. No person—
>
> (a) shall be prosecuted or punished for the same offence more than once; or
>
> (b) shall, when accused of an offence, be compelled to be a witness against himself.

Article 13 is a fundamental right with two primary postulates. First, it protects against 'double punishment', otherwise known as double jeopardy. Second, no person shall be made to be a 'witness against himself', also known as the protection against self-incrimination. Both facets shall be considered in turn.

Double Jeopardy

The protection against double jeopardy has roots in common law, being a fundamental right in most jurisdictions in the world. To that end, Article 13 of the Constitution of Pakistan sanctifies this well-settled principle. Case law has reiterated this constitutional right but has also laid down essential conditions for its applicability in *Nazir Ahmed v. Capital City Police Officer and another*:[1341]

1) There must have been a trial of the accused for the offence charged against him,
2) The trial must have been by a court of competent jurisdiction,
3) There must have been a judgment or order of acquittal,

[1341] 2011 SCMR 484

4) The parties in the two trials must be the same,
5) The fact-in-issue in the earlier trial must be identical with what is sought to be re-agitated in the subsequent trial.

Similarly, in *Alamdar Hussain Shah v. Abdul Basir Qureshi*[1342] the Supreme Court held that fresh prosecution for the same offence would be barred only where prosecution finally concluded and ended either in acquittal or conviction. This was further elaborated on in a number of cases whereby if an accused has served out the substantive/legal sentence for an offence, he cannot be awarded another sentence for the same offence.[1343] In any case, judicial precedents have made clear that the central requirement is that the first trial must have concluded which resulted in either acquittal or conviction.[1344]

There is a difference of judicial opinion as far as filing of multiple FIRs is concerned. Certain judgments argue that the concept of double jeopardy is only limited to conviction or acquittal and does not preclude multiple FIRs of the same incident. For example, in *Naushad Bibi v. Sher Khan*[1345] it was held that "protection against double jeopardy has been provided against double punishment and not the trial of the offence". Similarly, in *Khadim Hussain Pal v. The State,*[1346] it was held that mere lodging of FIRs will not attract double jeopardy. However, it is argued that it has now become settled law that multiple FIRs of the same incident are violative of Article 13 (a) and Section 403 of the CrPC In the landmark case of *Sughran Bibi v. The State,*[1347] the Supreme court made clear that "No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case*."* Thus, Article 13(1) also prohibits filing multiple FIRs for the same incident.

Legislation

The Code of Criminal Procedure, 1898

Section 403 is a procedural implementation of the fundamental right provided under Article 13 of the Constitution. Section 403(1) states that:

> "A person who has once been tried by a Court of Competent Jurisdiction for an offence and convicted or acquitted of such offence shall whiles such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under Section 236, or for which he might have been convicted under Section 237".

However, a person may be tried for a distinct offence for a separate charge than the one he/she was acquitted or convicted for.[1348] A convicted person can also be tried for a different offence

[1342] PLD 1978 SC121

[1343] See: *Abdul Haq v. Muhammad Amin*, 2004 SCMR 810; *Muhammad Azam v. The State*, 2003 PCr.LJ 1790; *Aziz Muhammad v. Qamar Iqbal*, 2003 SCMR 579

[1344] *Manzoor Ahmed v. The State,* PLD 2003 Karachi 97; *Azmat Bibi v. Asifa Riaz,* PLD 2002 SC 687

[1345] 2013 PCr.LJ 666

[1346] 2014 PCr.LJ 1698

[1347] PLD 2018 Supreme Court 595

[1348] CrPC, sec. 403(2)

"constituted by any act causing consequences, which together, with such act, constituted a different offence from that of which he was convicted" if the consequences had either not happened at the time of the earlier conviction or if they were not made aware to the Court.[1349] A person can also be charged with and tried for a different offence arising from the same facts.[1350]

General Clauses Act, 1897

Section 26 of the General Clauses Act, 1897, also provides for a protection against double jeopardy. It states that "Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.*"*

Self-Incrimination

Article 13 (b) of the Constitution embodies the principle of protection against compulsion of self-incrimination. The right against self-incrimination is seen as an essential safeguard in criminal procedure. This is also consistent with section 161 of the CrPC which provides the procedural mechanism to enforce the constitutional right. The right is based on the maxim *'nemo tenetur seipsum accusare'* which translates to 'no one is bound to accuse himself'. This is fundamentally in congruence with another core principle of criminal law, which is the 'presumption of innocence'.

Case Law Jurisprudence

As with Article 13 (a) above, Article 13 (b) also requires certain conditions to be satisfied in order for this protection to be claimed:

1) The person must be accused of an offence;
2) The elements of compulsion to be a witness must be present
3) It must be against him or herself.[1351]

In various cases, the courts have protected this right. In *Javaid v. The State,*[1352] the Court held that if accused persons declined to be examined on oath, that does not leave it open to be presumed that they are guilty, for it is the duty of the prosecution to prove the case against the accused beyond reasonable doubt. This was reaffirmed in the case of *Rashid Ahmad v. The State*[1353] whereby it was made clear that the provisions of Section 340(2) of the Cr.P.C do not have compulsive effect on the accused and no adverse inference can be drawn if the accused does not opt to make a statement.

[1349] Ibid., sec. 403(3)
[1350] Ibid., sec. 403(4)
[1351] *Muhammad Hayat etc. v. The State,* PLD 2002 Peshawar 118)
[1352] (1994 PLD 679 Supreme Court)
[1353] (2001 SCMR 41 Supreme Court)

Legislation

Code of Criminal Procedure, 1898

The primary legislation linked to this right is the Code of Criminal procedure, of which section 161 and section 340 (2) are important. They provide the procedural mechanism for the constitutional right to be put in effect. The relevant parts of the section are reproduced below:

> 161. Any police officer making an investigation....may examine orally any person supposed to be acquainted with facts and circumstances of the case.... such person shall be bound to answer all questions relating to such case put to him other than questions the answers to which would have a tendency to expose him to a criminal charge or penalty…

Similarly, Section 340 (2) reads:

> 340 (2). Any person accused of an offence before a Criminal Court or against whom proceedings are instituted.... he shall not be asked, and if asked, shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged.

These sections aim to prevent self-incrimination and ensure the courts protect this right.

Institutional Analysis

Legal Aid Providers

The Legal Aid and Justice Authority was set up by the Legal Aid and Justice Authority Act, 2020. The Authority oversees the delivery of legal aid to applicants facing criminal charges who are unable to afford legal representation on their own accord. The Authority was first established under the Ministry of Human Rights, but is now under the Ministry of Law and Justice. While the Authority has only recently been operationalised, the Government of Pakistan is committed to strengthening its impact in extending legal aid to those who are in need and supplementing existing legal aid networks.

Currently, there is a web of different legal aid providers across the country. These include the Pakistan Bar Council's legal aid providers, the District Legal Empowerment Committees under the Law and Justice Commission, provincial government legal aid providers and non-governmental *pro bono* legal service providers. This results in a lack of a clear management structure and relatively lower efficiency of legal aid provision.[1354] Other issues also include low disbursement rates of legal aid funds, lower publicity about these facilities and (consequently) their underutilisation.[1355] This provides an opportunity to harmonise legal aid structures across the country and make them more efficient and effective in allowing the most vulnerable to access to justice.

[1354] Sajjad Hussain Nekokara, "Importance of Legal Aid in Dispensation of Justice," *Pakistan Today*, July 8, 2024, https://www.pakistantoday.com.pk/2024/07/08/importance-of-legal-aid-in-dispensation-of-justice

[1355] Sajjad Hussain Nekokara, "Importance of Legal Aid in Dispensation of Justice," *Pakistan Today*, July 8, 2024, https://www.pakistantoday.com.pk/2024/07/08/importance-of-legal-aid-in-dispensation-of-justice

Military Courts

The Pakistan Army assumes an exclusive role in the administration of military trials when civilians are subjected to military jurisdiction. The Army is tasked with enforcing the Pakistan Army Act, 1952, which empowers military courts to adjudicate cases involving civilians accused of specific offenses, as mentioned in detail above. This prominent role of the Army in civilian trials has been a subject of controversy, as it confers substantial authority upon military officials without civilian oversight. The Army, through its intelligence agencies, gathers evidence and intelligence pertinent to military trials. These agencies are instrumental in determining the individuals to be tried, based on the evidence they collect. Furthermore, the Army itself prosecutes these cases and appoints military judges and legal officers from the Judge Advocate General (JAG) branch for adjudication of these cases.

When an offense is committed by a civilian that can be tried by a military court, an initial investigation is conducted by the military. If, prima facie, the civilian accused is found involved with the commission of such an offense, then a request is made to the relevant session court or Anti-Terrorism Court (ATC) for handing over the accused to the military. Thus, for example, a request of the commanding officer to hand over civilians accused in connection with the 9 May incident reads as follows:

> According to the initial investigation, the following accused persons are *prime facie* found involved with the commission of offences under the provisions of Official Secrets Act, 1923 read with Section 2(1)(d) and 59(4) of the Pakistan Army Act 1952.[1356]

The ATC or Session Court evaluates the request from the commanding officer and the police and will also hear the prosecution. It will consider whether the case warrants military jurisdiction. If the ATC or Session Court agrees that the case should be tried by a military court, it grants approval for the transfer of the accused individuals to military custody.

Several legal questions arise in such a situation:

- Who conducted the investigation prior to requesting Session or ATC Court to hand over the civilian to the military, and was the investigation impartial?
- Was the evidence thoroughly examined and deemed sufficient for referral to a military court, and who evaluated the evidence in military?
- From whom did the commanding officer take directions regarding the referral? Did the commanding officer make the decision to refer the case to a military court independently, or were they following orders from higher military authorities?
- If the commanding officer acted independently, what specific criteria or standards did they use to assess whether the case should be transferred to military courts?
- Was the referral process transparent, and is there accountability for the commanding officer's decision?
- Can the commanding Officer decision be challenged before higher military authorities?

[1356] "Ex-PTI MPA Among 16 Handed Over to Army for Trial," *The Express Tribune*, March 12, 2025, https://tribune.com.pk/story/2418556/ex-pti-mpa-among-16-handed-over-to-army-for-trial.

These are important questions that need to be answered; however, one would not find answers to any of these questions in the Pakistan Army Act, Rules, Code of Criminal Procedure or any other law. All these matters remain confidential. The questions surrounding the investigation, evidence, criteria for decision-making, and accountability highlight potential risks of bias and lack of transparency. Ensuring that the process of referral to military courts adheres to legal safeguards and constitutional principles is crucial to upholding the rights of civilians and maintaining the integrity of Pakistan's judicial system.

Summary of UN Observations

UN Human Rights Committee

The UN Human Rights Committee has recommended that Pakistan should review their legislation on military court legislation. [1357] It should also remove the jurisdiction of military courts over civilians, and their authority to impose the death penalty.[1358] It also recommends bringing the proceedings of military courts in full conformity with fair trial standards under articles 14 and 15 of the ICCPR[1359] and the release on bail of all civilians detained by military courts.[1360]

Committee Against Torture

Similarly the Committee against Torture has also recommended Pakistan end the use of military courts for terrorism-related prosecutions and transfer civilian cases to civil courts, ensuring the right to appeal to civil courts in cases involving civilians that have already been adjudicated under military jurisdiction.[1361] It also recommends repeal of the Actions (in Aid of Civil Power) Regulation, 2011, to remove the military's power to establish internment centres and ensure independent monitoring and access to detained individuals.[1362]

Recommendations

Increase investments in legal aid and harmonise committees

Given that the Legal Aid and Justice Authority has recently been operationalized, efforts must continue to expand its reach through provincial and district-level panels of advocates or lawyers. Furthermore, given the plethora of laws and rules pertaining to legal aid, the Authority should be designated as the main institution in charge of regulating legal aid across the country and should harmonise procedures, such as applications for legal aid, monitoring the payments of lawyers, and coordinating with provincial and district level bar councils.

[1357] UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Pakistan, CCPR/C/PAK/CO/2, (2024), para 43.
[1358] Ibid.
[1359] Ibid.
[1360] Ibid.
[1361] Ibid, para 13(b).
[1362] Ibid, para 13(c).

Bolster ADR mechanisms as alternatives to judicial dispute resolution

The Government should continue efforts to invest in alternative dispute resolution mechanisms, such as court-annexed mediation centres and arbitration, to reduce the backlog of cases in the courts system. This will ensure the speedy resolution of cases and will reduce the pressure on the court system and will allow more effective access to justice to those seeking dispute resolution.

Military courts to try civilians only in exceptional cases

The trial of a civilian in a military court should only be conducted in the most extreme circumstances, with clear and well-defined limitations that are reflected in the judgments of the miltary courts as well and are subject to appeals to the High Courts.

Improve transparency and accountability of the referral process

As discussed in detail above, the process through which civilians are referred to military courts must be transparent. All decisions, including the initial investigation, the sufficiency of evidence etc. should be publicly available to ensure accountability. The discretion of the commanding officer should not be unfettered. There should also be an independent oversight body to review military court referrals.

Ensure procedures of military courts meet fair trial standards

The military courts must be mandated by law to meet fair trial standards. At the minimum, they should include:

- Trial by independent and impartial judges free from the military chain of command;
- Full protection of the right to defence, including the right to confront witnesses;
- Representation of accused by a lawyer of one's choosing, or through defence counsel provided by the Legal Aid and Justice Authority;
- Judgment to be written by the judge who convicted the accused in accordance with CrPC, and it must include the essential findings, evidence, and legal reasoning.

Data Collection, Reporting and Coordination

Chapter Summary

Data collection, reporting, and coordination are essential pillars of an effective human rights governance system. In Pakistan, these administrative functions face significant challenges—including fragmented data systems across provinces, inconsistent reporting practices, and limited technical capacity—which undermine the country's ability to deliver accurate evidence-based interventions and meet its international human rights obligations. Furthermore, such data is required for international development indicators hosted by the World Bank, the World Economic Forum, and the UN Human Development Index - to name a few. The results of reports submitted to these organisations, based on improper collection of data, framing of reports and ineffective coordination, has considerable ramifications for Pakistan's global standings. The current shortcomings in data accuracy and interdepartmental coordination have a direct impact on Pakistan's performance in global human rights rankings and its reporting to UN treaty bodies.

Reporting is a key requirement of Pakistan's international human rights obligations, particularly under the UN system. Under each UN human rights treaty, States are required to report on their implementation and enforcement, after which the UN treaty bodies provide Concluding Observations to recommend areas for improving their compliance with the relevant treaty. Therefore, it is important that reporting guidelines, procedures and institutional arrangements are streamlined, standardised and regularly maintained.

In terms of coordination, while the provinces are individually responsible for their own human rights-related law, coordination is imperative to ensure collective efforts towards the implementation of human rights across the country. This becomes particularly important when the federal government passes a national policy or action plan that requires a coordinated and concerted effort towards a common human rights goal. Thus, the federal and provincial governments must strengthen existing coordination mechanisms or develop new initiatives to ensure regular communication and coordination across the board in all aspects of human rights compliance.

A reformed approach that emphasises a centralised, harmonised Human Rights Information Management System can quickly boost Pakistan's standing. By establishing uniform data standards, mandating regular and comprehensive reporting procedures, and ensuring robust interagency communication, the government can present improved and reliable data to international bodies. Strengthening these systems would not only facilitate more informed policy-making and resource allocation but also enhance Pakistan's compliance with its treaty obligations. Ultimately, improving data collection and coordination represents a strategic opportunity for the country to advance its human rights agenda, attract increased donor support, and enhance its global reputation as a state committed to upholding and transparently reporting on human rights standards.

Situational Analysis

To determine the shortcomings in data collection, reporting and coordination, RSIL conducted stakeholder consultations with government representatives from the Federal Government, Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan. The consultations were attended by key departments involved in the implementation of various human rights, including:

- Human Rights Department;
- Treaty Implementation Cells;
- Labour Department;
- Law and Justice Department;
- Social Welfare Department;
- Home Department; and
- The Police.

Consultations with the Federal Government and Punjab were held in person, while consultations with Sindh, Khyber Pakhtunkhwa and Balochistan were held online. The consultations focused on key administrative issues associated with human rights compliance to determine what systems are needed to improve Pakistan's data collection standards, reporting to international bodies, and maintaining effective interdepartmental and interprovincial coordination.

The various ministries and departments in the federal and provincial governments have different roles and responsibilities ascribed to them under their respective Rules of Business, which operates as a statutory code establishing the division of powers across the governments. While the Rules of Business indicate that provincial Human Rights Departments must ensure coordination between different governmental departments on human rights issues, stakeholders at the consultations mentioned that there is no formal coordination mechanism in place, and that such coordination occurs ad hoc or where there are donor-organised events. Similarly, the Rules of Business require the provincial Human Rights Departments to coordinate and collect data, information and reports on a regular basis on the implementation of human rights obligations. However, there are no data standardisation guidelines, which results in irregular reporting and a generally low quality of data.

Data and Reporting Systems

Human rights law and its implementation falls under the jurisdiction of the provincial governments after the 18th Amendment to the Constitution. The Federal Ministry of Human Rights remains the central reporting entity on behalf of the Government of Pakistan to the UN treaty bodies. It receives information from the Treaty Implementation Cells (TICs) established

in each province (except for Balochistan) that are responsible for implementing Pakistan's treaty obligations, monitoring implementation and reporting on compliance. A Human Rights Information Management System (HRIMS) was instituted at the federal level by the UN Development Programme, with similar softwares for each of the provinces as well, to facilitate easier reporting and data sharing.

As part of its continued efforts to improve reporting and monitoring, the Ministry is developing a National Mechanism for Reporting and Follow-up on the basis of the UN Office of the High Commissioner for Human Rights' (OHCHR) model. This will allow for a more streamlined procedure to ensure the reporting across the different provinces and will seek to improve coordination. Currently, an executive committee for the establishment of the NMRF has been notified.

While each province maintains its own information management system, each provincial system is isolated from the federal HRIMS. For example, Punjab has its own provincial HRIMS, but it operates distinctly from the federal HRIMS, which means there is no automatic data sharing between the provinces and the federal government. Any data sharing must be manually requested by the federal government, which can either be for reporting cycles or when a human rights violation of national concern occurs.

Another significant issue is the lack of clarity on what constitutes relevant data. According to the Sindh TIC, the federal government forwards the data requests received from each treaty body for each reporting cycle directly to the provincial Human Rights Departments and the TICs. The TICs must then sift through the data requests, highlight which indicators must be sent to each department, and then communicate these requests to each department individually, which is a time-consuming and inefficient process. Furthermore, data requests are transmitted through WhatsApp, with no standardisation, templates or guidelines. The current formal data sharing procedure is through letters transmitted between departments, which results in several delays as well as data quality issues where the letters do not mention the exact data that is required.

Lack of Capacity

A major concern is the lack of human and technical capacity in human rights reporting and monitoring. For example, at the Sindh TIC, a handful of officers must handle data requests and submissions from over 40 departments for each reporting cycle. Similarly, a lack of technical experts in human rights reporting, data collection and analysis remains a characteristic of each provincial government as well as the federal government.

Each provincial government highlighted the significant problem of transfer postings of persons responsible for human rights monitoring and reporting. According to the Balochistan Human Rights Department, the frequent transfer posting of focal persons and the absence of IT experts is a significant hurdle to ensuring the continued maintenance of an effective database. While such persons receive foundational training on how to collect human rights data and report it, such knowledge is also transferred out of the department once the relevant person is transferred

out. Thus, there is no institutional memory nor effective onboarding training on reporting. This inhibits the work of the TICs and other departments who report to the TICs that do not have continued reporting expertise.

Coordination between Departments, Provinces and the Federal Government

Coordination between provincial departments within the same province is predominantly maintained through informal means, such as through WhatsApp or through personal connections. Coordination also occurs at events organised by international organisations through donor-funded projects that involve intersecting roles of multiple governmental departments. However, there are no permanent coordination mechanisms or bodies that are mandated by law, such as through the provincial Rules of Business.

Similarly, there is little inter-provincial coordination in the human rights domain. This leads to a fragmentation of human rights compliance across the country, where one provincial government may be excelling in tackling a particular issue while another provincial government is struggling. During the consultations, many stakeholders indicated that a dedicated inter-provincial coordination mechanism could be a useful platform to share progress updates and best practices to allow for a greater concerted effort towards human rights compliance; however, how such an institution would fare constitutionally, given the delegation of human rights law to the provincial governments independently, complicates such a setup.

Resource Constraints

Each provincial department cited a lack of sufficient funds, technical equipment and trained personnel to ensure regular data collection, analysis and reporting. For example, in Balochistan and Sindh, the HRIMS installed is no longer functioning due to budgetary constraints and difficulties in managing the servers associated with the HRIMS, such as finding a suitable place for its storage. Many of these interventions are done through donor-funded projects. While the provinces felt that such initiatives were useful, there is an issue with ensuring their sustainability once the funding program concludes and when there is a lack of indigenous funding for such initiatives.

There is also great difficulty in securing funds from the Planning and Development Departments in each respective provincial government According to the KPK Human Rights department, projects and initiatives submitted to the Planning and Development Department are almost never approved because such projects are not on the government's agenda of priority areas to focus on. Consequently, the scale and effectiveness of human rights interventions suffer immensely.

Recommendations

Develop a harmonised HRIMS that the provincial TICs can directly enter information into

A centralised human rights information database should be set up and established at the Ministry of Human Rights that allows the provincial governments to enter data collected in accordance with key indicators identified by UN treaty bodies. This database should be accessible by all relevant institutions, such as the provincial departments, law enforcement authorities, prisons and national and sub-national human rights institutions to allow for regular and timely updating of information. The database should also have standard definitions that conform to international and domestic law, key indicators detailing the necessary information needed, and templates that can be used as points of reference by each line department.

Develop data standardisation guidelines and mandatory reporting timelines

Data standardisation guidelines need to be established by the Federal Ministry of Human Rights that must be circulated within each provincial government. Such guidelines should also be communicated within each provincial department to inform data collection and analysis procedures throughout the functions of each department. This must translate into effective data collection at the lowest levels; for example, a police officer who receives a complaint at the local level must also be trained on how to record information to make the data entry process easier.

Establish dedicated human rights information management cells at each provincial department dedicated to reporting and data collection

A dedicated human rights information management cell should be established at each relevant provincial department that is responsible for data collection, analysis and reporting into the federally-managed HRIMS system. The cell would regularly collect reports from the relevant officers in each department and enter them into the HRIMS system, which would ensure regular and timely updates that can be verified and checked by the Treaty Implementation Cell, provincial Human Rights Department and the Federal Ministry of Human Rights.

Recruit and train information technology experts to handle HRIMS systems

The human rights cells should be staffed by competent and trained personnel who are technical experts in data entry, analysis and reporting. They should further be trained to identify and understand key human rights indicators and data standardisation guidelines to ensure consistency in their work. Furthermore, they should be trained to understand the core obligations under each UN human rights treaty that Pakistan is a party to so that they understand what they are reporting for. This will also allow them to proactively address any gaps in data reports submitted by line department officers before entering them into the HRIMS, ensuring consistency in the quality standards of human rights-related data.

Institutionalise Treaty Implementation Cells and recruit technical experts as focal persons protected from transfers

The Treaty Implementation Cells operate in different manners across the four provinces - Balochistan currently does not have an established TIC, so reporting requirements are

submitted to the provincial Human Rights Department. For example, the TIC in Punjab falls under the domain of the General Administration Department, whereas the TIC in Sindh falls under the Human Rights Department. Furthermore, TIC staff indicate that there is a lack of institutional knowledge and memory on reporting guidelines and data collection best practices, with little support provided from the Federal Ministry particularly after the 18th Amendment's devolution of powers. Thus, there is a need to recruit technical experts as focal persons within each TIC, while also ensuring that such persons are protected from transfer postings for at least a minimum of three years. Rules must also be developed to ensure that there is sufficient onboarding training for new recruits (at the time of transferring personnel out) to retain institutional memory.

Federal Ministry should take charge of regular coordination between the provinces and facilitate easier reporting mechanisms

The Ministry of Human Rights should clarify what data it requires against individual indicators when it submits report requests to each provincial government. The provincial stakeholders mentioned that they receive little additional information or guidance on how to fill out the questionnaires submitted by the Ministry, and often have to scramble to submit reports back to the Ministry. In the process, the quality of this information is compromised, particularly when there are urgent requests. This process should be made more efficient through the integrated HRIMS indicated above, as well as a greater role taken on by the Federal Ministry to study, analyse and clarify the indicators that are forwarded to each provincial government.

The Ministry should remain in constant communication with the Treaty Implementation Cells and the Human Rights Departments to facilitate any issues they face in the reporting process, rather than completely delegating all authority to the provincial governments. It should play a more regular role in coordination by facilitating monthly meetings between nominated focal persons from each province to provide progress updates on human rights implementation. This platform will be beneficial for the sharing of areas of concern, best practices, and proposals for joint intervention when working towards national human rights policies.

Allocate greater financial, human and technical resources to human rights related interventions

A lack of resources is a common issue across all provincial governments. This includes a lack of financial resources to fund continued interventions and policy efforts, a lack of human resources to ensure efficient data collection and reporting, and a lack of technical resources to keep up with global developments and best practices in human rights implementation and reporting. Greater impetus and priority for human rights on the national agenda must come from the federal and provincial governments collectively to ensure that the relevant finances, personnel and technology are allocated where necessary, and are not treated as a lesser priority than other development projects. Funding such interventions through donor projects produces short-term benefits but is an unsustainable model in the long-term; therefore, the initiative must

be taken from within the federal and provincial governments to approve resource requests received from the Human Rights Departments - as well as other departments implementing Pakistan's human rights obligations.



Ministry of Human Rights
Government of Pakistan