

# Summary of the Concluding Remarks made by the Committee on the Rights of the Child on Pakistan's last two Periodic Report Submissions (2009 and 2015)

An IFE Commentary on Child Rights in Pakistan



**Authored by:**

Zeeba T. Hashmi

Founder and CEO

Ibtidah for Education

[www.ibtidahforeducation.com](http://www.ibtidahforeducation.com)

Low prioritization of the rights of children is hampering social development of Pakistan, especially in terms of health and education along with other problems that are in direct contravention of UN-CRC. The Convention on the Rights of the Child was signed and ratified by Pakistan after withdrawal of its initial general reservation on 23 July 1997. Pakistan is among the first countries to adopt the Convention and is thus bound to harmonize the articles of the Convention with its laws and policies both at federal and provincial levels. In this regard, Pakistan has faced challenges that were, and still are, obstructing full integration and internalization of Convention articles.

There are a total of 54 articles of the Convention that are categorized into following four subgroups:

- **The guiding principles**
- **Survival and development rights**
- **Protection rights**
- **Participation rights**

As a state-party, the responsibility rests with Pakistan to amalgamate these principles with the state's laws. It is also required from the state to submit its periodic reports to ascertain the progress the country has made so far in terms of child rights. The process of reporting includes publishing a list of issues, demanding specific answers from the state, and the Committee's Observations and Recommendations (COR). So far, Pakistan has submitted five periodic reports to the Committee as per its requirement.

Pakistan's 3<sup>rd</sup> and 4<sup>th</sup> combined periodic report was published in 2009 after holding deliberations with the State party. There was a total of 55 recommendations published, 29 of which were carried forward from COR's recommendations on Pakistan's 2<sup>nd</sup> periodic report.

Important features from fifty-five recommendations of COR to Pakistan's 3<sup>rd</sup> and 4<sup>th</sup> combined report are as follows:

1. **Adopt general measures** of implementation of previous recommendations, disseminate Convention and training, construct a strengthened legislative framework in accordance with the articles of the Convention and cooperate with civil society,
2. **Develop child rights indicators and ensure child protection monitoring and data collection** and provide child rights instruments in Pakistan with adequate funds
3. Define every human being **below the age of 18 as a child** in all legislative instruments and adopt general principles of **non-discrimination** on the basis of gender, religion, children with disabilities and children living in poverty and take actions in the best interests of the child in all judicial and administrative decisions
4. **Respect for the views of the child and to be heard** in accordance with their age in matters of any proceeding which may impact their lives
5. Simplify the procedures of **birth certificate and make it cost free**. Pakistan should also register birth certificates to the refugees and IDPs
6. Ensure **freedom of religion and ensure that religious minorities are governed by secular laws**

7. Comply with the principles of CAT (Convention against Torture and other Cruel, Inhuman, or degrading treatment or punishment). It must also end corporal punishment by repealing section 89 of the Pakistan Penal Code.
8. The state must use recommendations of the United Nations General Secretary's study on **Violence against Children**
9. Pakistan must annually increase the **health budget by 16%** and should address preventable health problems among children. It must also make The Child Nutrition and Breast Milk Ordinance operational. It must also address the concerns of the health of adolescents
10. **Raise the standard of living** through social protection programs, accessibility to clean water, and alleviate food and energy crises
11. Pakistan must raise **the budgetary level of education by 5% of GDP and 7% by 2015** and undertake efficient policies in districts with lowest enrolment rates, by making education free. It must also to expand on non-formal education opportunities and regulate madrassa through Madrassa Registration Ordinance
12. Pakistan should provide special **protection to vulnerable children** who are refugees and internally displaced, street children and children in armed conflict
13. Address the **issues of child labour** and establish minimum age limit for employment as enshrined in ILO Convention No. 138 and No. 182
14. Undertake studies on **sexual exploitation and abuse and trafficking** by reviewing its current legislation and to properly investigate such cases and bring the perpetrators to justice
15. State must also enhance the **JJSO administration** , extend its operation to tribal areas, raise the age of criminal, helping juveniles to access lawyers , set up sufficient number of juvenile courts and ensure that they are not jointly tried with adults
16. Pakistan should also **sign and ratify international human rights instruments**

In compliance to these recommendations, Pakistan ratified International Labour Organization (ILO) Convention 182 that concerns the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001. Pakistan also ratified the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (in 2011), and the Optional Protocol to the CRC on the involvement of children in armed conflict (OPAC).

The fifth periodic report was submitted in 2015, and the Committee's concluding remarks expressed concerns over non-compliance to recommendations it previously made back in 2009. It further expressed 38 areas of concerns and made 41 relevant recommendations for compliance. The List of Issues revolved around the following:

- **Legislation and harmonization of child welfare authorities especially since devolution of powers**, there is a need for adopting provincial law-making that's aligned with national laws and international commitments. This includes better coordination and harmony among all child welfare authorities in respective provinces.
- **Extremely low spending on health and education**. The Committee also expressed concern that the budget is not allocated from the child-rights perspective and there is a lack of framework to ensure systematic budget tracking mechanism for spending on children.
- **Low and restricted coordination with Civil Society**, the Committee also showed concern over legal restrictions on NGOs can affect child-rights work delivery

- **Definition of the Girl-child**, except for in Sindh where the age of the girl-child has been raised until 18, the Committee continues to be concerned that the legal age of majority for girls is 16 in the federal areas and other provinces.
- **Discrimination** based on sex/gender, age, ethnic and religious background, and discrimination resulting from certain laws as in inheritance for girls are found widespread.
- Deaths caused by **acts of terrorism & violence, honor killings, and national calamities etc.** The Committee cited APS school massacre in 2014 and deaths caused by malnourishment in Thar as major points of concern while substantiating on this point. The Committee also expressed concern over police attitudes in handling cases of honor crimes and the placement of *Qisas and Diyat* laws that let the perpetrators off easily.
- **Children (under 18 years) facing death penalties** is something over which the Committee expressed a serious concern, coupled with their lack of legal access to plead for their case based on the crimes they committed before reaching age of majority.
- On **freedom of religion**, the Committee also expressed concerns over non-Muslim children having to read derogatory statements sometimes found in text-books and has recommended that non-Muslims children should be able to choose to profess or not about their religion in schools, etc.
- The Committee also expressed serious concerns over **sexual exploitation** of children, or their getting subjected to worst form of torture while in custody. It has further expressed concerns over the government failing to prevent such exploitations from happening.
- The Committee has expressed concern over **exclusion of many children with disabilities** from educational institutes. The Committee noted that only 0.04% of CWDs avail inclusive educational centers, whereas they're completely inaccessible for a majority. In rural areas, such centers are absent.
- In light of the growing number of suicides or attempted suicides by children, the Committee has regretted over low resources for **mental health for children**.
- Low awareness on **adolescent health** and low awareness on **reproductive health and rights** are also among the concerns of the Committee
- In terms of the right to **free and compulsory education**, the Committee expressed concerns over gaps and disparities along rural-urban, gender, economic and quality divides. It also noted a large number of children to be out of school and drop-out ratio to be very high. It also expressed concerns over **attacks at schools and target killing of teachers by armed groups** during the reporting period.
- The Committee also expressed concern over **non-regulation of Madrassahs** and the unchecked curriculum having a tendency for hate-speech and crimes. It also expressed concern of Madrassahs becoming recruitment grounds for banned groups.
- The Committee expressed concerns over lack of legal framework to assist and facilitate **stateless and refugee children**. It also called for taking appropriate measures to safeguard **internally displaced children**.
- The Committee expressed concerns over **child labour**, and their widespread employment in hazardous and slave-like conditions.

It is noteworthy that Pakistan has not yet submitted its 6th and 7th Periodic Reports that were due in June, 2021.

Since 18<sup>th</sup> amendment, Pakistan has enacted the following bills which are listed below:

1. The KP Child Protection and Welfare Act (CPWA), 2010.
2. The Sindh Child Protection Authority Act (SCPAA) 2011.
3. The Sindh Protection of Human Rights Act 2011.
4. The Sindh Human Rights Commission Act 2011.
5. the Punjab Employment of Children Act (Amendment) 2011.
6. The right to free and compulsory education Act 2012.
7. The Acid Control and Acid Crime Prevention Act 2012.
8. The National Commission for Human Rights Act, 2012.
9. The Juvenile Justice System (Amendment) Ordinance 2012.
10. Punjab Promotion of Breastfeeding Act 2012.
11. KP Borstal Institutions Act (BIA) 2012.
12. The National Commission on the Rights of Children Bill 2013
13. The Sindh Right of Children to Free and Compulsory Education Act 2013.
14. The Sindh Child Marriage Restraint Act 2013.
15. The Punjab Compulsory and Free Education Ordinance 2014.
16. The Balochistan Free and Compulsory Education Act 2014,
17. Balochistan Promotion of Breastfeeding Act 2014.
18. The Balochistan Domestic Violence (Prevention and Protection) Act, 2014.
19. The Sindh School Education Standards and Curriculum Act, 2014.
20. The Punjab Protection Of Women Against Violence Bill 2015.
21. the Punjab Child Marriage Restraint Act 2015.
22. The Sindh Bonded Labour System (Abolition) Act, 2015.
23. The Balochistan Child Protection Act, 2016.
24. Punjab Restriction on Child Employment Act, 2016.
25. Punjab Education Foundation (Amendment) Act, 2016.
26. The Punjab Prohibition of Child Labour At Brick Kilns Bill 2016.
27. The Sindh Prohibition of Corporal Punishment Act, 2016.
28. The Sindh Prohibition of Employment of Children Act, 2017.
29. National Commission on the Rights of the Child Act, 2017.
30. Punjab Destitute and Neglected Children Act (Amendment), 2017.
31. Prevention of Trafficking in Persons Act, 2018.
32. Prevention of Smuggling of Migrants Act, 2018.
33. Juvenile System Services Act, 2018.
34. Protection of Transgender Persons Act, 2018.
35. The Punjab Domestic Workers' Act (2019) *No child under the age of 15 be employed as domestic help.*
36. Zainab Alert, Response and Recovery Act, 2020.
37. The Khyber Pakhtunkhwa Home-based Workers (Welfare and Protection) Act, 2021.
38. The Balochistan Employment of Children (Prohibition & Regulation) Act, 2021.

Though it is hoped that through enactment of these laws the conditions of children will improve, it has been noticed in several situations that there are administrative and social obstructions which make these laws hard to implement. The merger of FATA (tribal areas) with Khyber Pakhtunkhwa province has been the major policy shift for Pakistan during the last reporting period since devolution.

**How IFE Sees it?** As education is the main focus of study at Ibtidah for Education, we have tried to analyze these expressed concerns in light of their implications for education. Education and its depravity cannot be looked at in isolation and several socio-economic and cultural factors need to be roped in to develop a wholesome understanding of growing vulnerabilities for children in Pakistan. Rights violations, especially those caused by the non-uniformity of legal age definition of the girl across provinces and the federal areas, are the primary reasons why children are not recognized and acknowledged as children (especially girls and child-workers) because the application of law doesn't give them that respect. This is the reason why heinous crimes against girls below 18 years of age--such as forced marriages, conversion to other religions against consent--become legally complicated and remain unsolved. This is also the reason why many girl-children drop out of schools or never attend them because of traditional restrictions and the state fails to effectively intervene to safeguard their continuity of education and enjoyment of all fundamental rights of a person.

Second major concern is the abysmally low social development spending on education and health for children--which means that the fundamental right to free and compulsory education for all children aged 5-16 remains a far-fetched dream. Pakistan Coalition for Education in consortium with other organizations working for education here, presented a detailed evidence-backed concern for educational right depravity. In its alternate report to UNCRC in 2016, it expressed concerns over a lack of regulatory framework for the mushrooming growth of private actors in education might result in the state evading its primary responsibility of making education universal and accessible for all children. It has recommended<sup>1</sup> that the state party should adopt a regulatory framework from a human rights perspective, and for that they cited an analysis framework<sup>2</sup> developed by a group of organizations. The main focus of this framework is that:

1. private education institutes do not lead to extreme disparities
2. provides for an alternative choice to quality free education
3. do not lead to marketization of education, where primary focus of private institutions is on profit-making
4. they are subjected to democratic scrutiny and play their participatory part and
5. maintain quality

The debate both in favor and against reliance of the state on private or alternate education models becomes significant, especially in today's Pakistan where the incumbent government, led by Imran Khan's Pakistan Tehreek e Insaf, is attempting to centralize education by systematically taking back provincial autonomy over the subject. The problem of centralization of education further leaves open the unsettled issues such as who will be responsible for determining the quality standards (which the state claims can be addressed by the curriculum uniformity) at schools; and, the extent of exercising choice in attaining the type and character of education.

In our view, if Pakistan can uniformly determine the age of the child, irrespective of the gender of the child in its legislation--crucial problems as observed in judicial treatment of children will be resolved. This will help children develop their confidence in the state and will pave a way to undo the regressive cultures and mindset towards girls.

---

<sup>1</sup> [https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PAK/INT\\_CRC\\_NGO\\_PAK\\_23775\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PAK/INT_CRC_NGO_PAK_23775_E.pdf)

<sup>2</sup> [https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PAK/INT\\_CRC\\_NGO\\_PAK\\_23775\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PAK/INT_CRC_NGO_PAK_23775_E.pdf)

Secondly, the state needs to ensure socio-economic safety of its children, but it cannot be materialized without spending enough on education resources. UNCRC in its last periodic cycle recommended that Pakistan spent at least 7% on education by 2015. However, the actual spending continues to remain extremely low. As for its attempt of centralizing education, more chaos will be observed as different communities have certain requirements, expectations and demands from different education systems. The corresponding curricula has a major role to play to keep schools and educational institutes attractive for children. Article 25-A and the corresponding legislation in the Capital, and Provincial Assemblies, must have, by now, devised its rules of business for its implementation as a fundamental right. The only province to have developed the rules of business in Sindh.

