

## A Doctrinal Analysis of Right to Education via Legislative and Judicial Discourse in Pakistan

Ammar Ali Sheikh \*

Syed Mudasser Fida Gardazi †

Adnan Rahman ‡

**Abstract:** *Education is conditio sine qua non for the development of a country. Therefore, international human rights law emphasizes the right to education with its categorical implementation throughout the globe. The constitutional backing in Pakistan was a principle of policy (Article 37) initially which was later on supplemented by the eighteenth Amendment. The Amendment not only recognizes the right to education but devolves its implementation to the provinces as well. Since the last decade, various legislations have been made on the federal and provincial levels. The study investigates these legislative measures with an evolutionary backdrop of the efforts, while the detailed analysis on the availability of the right to education in the country shows a few vaguenesses and implementing lacunae. Hence, it strongly recommends the enhancement of financial support and eradication of administrative constraints to provide this fundamental right.*

**Key Words:** Human Rights, Education, Legislation, Eighteenth Amendment, Pakistan, Legal Obligation

### Introduction

#### The Rationale

The significance of education for society is so evident that it does not need any explanation. Still, unfortunately, Pakistan remained unsuccessful in achieving the desired literacy level, let alone education for our masses, even after 73 years of independence and ten years of availability of the right to education [Article 25-A] in the constitution. The implementation of the right to education in provinces is poor, and it gives the impression that the provinces are not taking the constitution seriously. The implementation process is full of defects, and vague legislation slackens the application of this basic right. As of now, 23 million children are still out of school [Taimoor, S. 2017]. Robust and meaningful lawmaking is required to implement the educational policy in a real sense. The education sector should be addressed as a priority with implementation breakthrough by making the right to education not only the words of the constitution but also by doing effective legislation in this behalf. Education was provided via Principles of Policy under Article 37 of the constitution, which advocates that the state shall promote the

educational interest of the backward classes [Constitution 1973]. This right was not provided under the chapter of fundamental rights before the 18<sup>th</sup> constitutional Amendment.

Almost every country in the world has included education as a matter of right into their respective Constitutions either directly or indirectly. Pakistan, being a member of international organizations and signatory of the United Nations Declaration of Human Rights, 1948 [UDHR], has to fulfill some international legal commitments and obligations. UDHR, under Article 26, provides for the right to education for everyone and dictates that education shall be free at least in the earlier stages [United Nations 1948] Cairo Declaration on Human Rights in Islam, 1990 also provides education. Article 9 of the said Declaration confirms that the educational guarantee is to be provided by states. Another international document, International Covenant on Economic, Social, and Cultural Rights, 1966 [ICESCR], warranted the right to education [Cairo Declaration 1990].

\* Adjunct Faculty Member in Law, University of Azad Jammu & Kashmir, Muzaffarabad (UIJK), Pakistan.  
Email: [jammalaralishikh@gmail.com](mailto:jammalaralishikh@gmail.com)

† Assistant Professor, Department of Law, University of Azad Jammu & Kashmir, Muzaffarabad, Pakistan.

‡ Lecturer in Law, University of Azad Jammu & Kashmir, Muzaffarabad, Pakistan.

The Convention on Elimination of all kinds of Discrimination against Women (CEDAW) emphasized on girls' education. The UN Convention on the Rights of the Child, 1989 (CRC) went one step higher and not only acknowledged it but asserted that it should be given on an equal basis. Under its Article 28 (1), it advocates that the member states shall advance in respect of children's education [[Convention 1989](#)].

In the case of Pakistan, free and compulsory primary education is one of the main responsibilities taken by the state as provided by the constitution, but it has been kept at the stage of rhetoric, and no drastic concrete efforts were made to afford primary education to every child. The parliament of Pakistan generally initiates legislation to allocate financial assistance, which shows the least attention towards the appraisal of this fundamental right. The defective and vague legislation regarding this important right gave birth to many difficulties, and the development of the right to education in Pakistan is still unsatisfactory. Citizens of Pakistan had been deprived of taking true benefits of Article 25-A, so meaningful legislation is a need of time for the promotion of education. The Article provides:-

“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.” [[Constitution 1973 Article 25-A](#)].

This was a milestone regarding constitutional development declaring the right to education as the fundamental right of the people. At the same time, the provinces were vested with many legislative powers in this regard due to the abolition of concurrent lists.

Prior to the inclusion of Article 25-A, the right to life as enunciated by Article 9 of the constitution was being interpreted to provide and promote the right to education on the basis that the expression 'life' also includes all the essentials for a quality life, including education.

The Higher Judiciary interpreted Article 9 of the constitution for the application of the right to education, and there are many reported cases in this regard. However, after the eighteenth Amendment, the federating units enacted their own laws regarding education in furtherance of Article 25-A of the constitution. The Right to Free and Compulsory Education Act, 2012, for Islamabad, the capital territory legislated by the parliament, upholds that all children between the ages of five to sixteen are entitled to free and compulsory education. [[Education Act 2012](#)] The Provincial Assembly of Sindh enacted the 'Right of Children to Free and Compulsory Education Act, 2013, which makes all five to sixteen-year-old

children eligible for free and compulsory education by law [[Education Bill 2013](#)]. Balochistan assembly passed the 'Balochistan Compulsory Education Act, 2014'. The 'Punjab Free and Compulsory Education Act was also approved in 2014. And the 'Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act was passed in 2017 [[KP Education Act, 2017](#)].

## Objective

The legislation regarding the right to education is in the queue to implement their purposes. Therefore, the study aims to critically analyze the availability of the right to education in light of Article 25-A of the constitution.

## Research Question

The basic question of the study is about the availability of the right to education and its effective and meaningful legislation in Pakistan.

## Limitations

The study is strictly limited to the constitutional units of Pakistan, i.e., federal capital territory (Islamabad) and all four provinces, which is not extended to administratively controlled areas like Azad Jammu and Kashmir and Gilgit Baltistan. Moreover, the right to education understudy is about basic education for the children below the age of 16 years; therefore, the material about higher education is not described.

## Methodology

The adopted method herein is a descriptive and qualitative analytical legal study based upon primary sources such as international and local legislative instruments, while secondary sources as books, research articles, and judicial interpretations. Moreover, the study relies on the data and information asserted by the local and international governmental and non-governmental organizations in their reports relating to legal developments on the right to education in Pakistan.

## Right to Education in Post 18<sup>th</sup> Constitutional Amendment Scenario

After the 18<sup>th</sup> Amendment right to education was incorporated in the constitution of Pakistan. Education has always been provided by the constitution but was not specifically mentioned in the chapter of fundamental rights prior to the 18<sup>th</sup> Amendment. After the 18<sup>th</sup> Amendment, the concurrent legislative list was abolished from the constitution, and the subject of education was devolved to the provinces to legislate upon and to

take measures for ensuring better education in the province. With the insertion of Article 25-A, the provinces became fully responsible for the implementation and application of the Right to education [18<sup>th</sup> Amendment].

Powers regarding the implementation of Article 25-A were conferred upon the provinces.

The ability of provinces is now seriously challenged, and there has been an extraordinary delegation of power in the context of education because following important responsibilities were shifted to the provinces, namely: planning, policy, curriculum and syllabus, Islamic education, standards of education, Pakistan study centers, and higher education.

**Table 1.** Comparison of responsibilities between center and provinces regarding education before and after 18th Amendment

Previously	Present
Syllabus - a combined function of federal and unit's legislatures	Conferred on provinces
Planning- a combined function of federal's and unit's governments	Conferred on provinces
Center of Excellence and Area Study Centers; jointly available	Conferred on provinces
Standards of Education - jointly to federal and unit functionaries	Conferred on provinces [grade 12 transferred to Part-II of the federal legislative list]
Islamic Education - a combined function of federal and unit	Conferred on provinces

### Subsequent Legislation and Policy Frameworks on Education

It is mentioned earlier that to promote the educational setup in the country and to ensure its quality, many education policies have been made. Moreover, in almost all five years, plans for the development in the country, education has been kept on top priorities. But unfortunately, child education continued to be a big question mark all the time, and illiteracy remained the dominant threat for the country; however, at least education was declared as a fundamental right. Meanwhile, the legislative powers are transferred to the provinces, which results in the following legislation and policies.

#### Right to Free and Compulsory Education Act, 2012

“Right to Free and Compulsory Education Act” passed by the Parliament of Pakistan in 2012 ensures the right to free and compulsory education for the children between the ages of five to sixteen years irrespective of their sex, ethnicity, and race. The said Act also puts duties on the government to create schools in the capital territories as well as impose duties on parents to ensure that their children attend school. This Act provides for the registration of schools as well as for the establishment of a School Management Committee, advocating that no fee or any kind of charges are to be taken from the child upon admission [Education Act 2012].

#### The Right of Children to Free and Compulsory Education Act, 2013

The Sindh legislative assembly passed “The Sindh Right to Children to Free and Compulsory

Education Act, 2013” [Education Bill 2013] This Act imposes duties on the Government of Sindh and the local authorities to take measures for the preparation of feasibility within the two years of the commencement of the Act and to improve literacy in the province. Furthermore, by virtue of this Act, the creation of schools, bringing the students to the schools, and new enrolments comes within the responsibilities of the Government. The Act also imposes a duty on the Government to make necessary arrangements for pre-school education for children above three years. No school is permitted to take admission fee from children. The terms and conditions for the services of teachers and duties thereon are also provided by the Act. Under this Act, Schools are also responsible to provide the medical facility. A proper setup for the registration of schools is necessitated by the Act. This was a major breakthrough for the uplifting of the literacy in the province of Sindh and was a bold setup for treating education as a matter of right. Still, 50% schools are without water, and 55% of the children are out of Schools. [Situation Analysis 2020]

#### Balochistan Compulsory Education Act, 2014

In February 2014, The Balochistan Compulsory Education Act was enacted. The whole province of Balochistan, except the tribal areas, comes within its area of operation, and it grants education as a fundamental right to the children between the ages of five to sixteen years [Balochistan Education Act 2014] The government is responsible to take measures for free and compulsory education, the creation of schools, and improving the literacy rate in the province under this Act. Attendance of school staff and

establishment of school attendance authority is also ensured by the Act. Parents are imposed with the duty to cause their child to attend school except by a justified excuse. Still, 70% of children in Balochistan are not enrolled in schools, and 73% of schools in the province have no lavatory [[Situation Analysis 2020](#)].

### **Punjab Free and Compulsory Education Act, 2014**

The Punjab Free and Compulsory Education Act enacted in 2014 provides for the free and compulsory education to children between the ages of five to sixteen years [[Punjab Education Act 2014](#)]. Under this Act, the government and local authorities are responsible for the establishment of new schools and for starting grants-in-aid system for securing the attendance of children in schools. This Act also imposes duty on parents to cause their child to attend school. This Act created the *Taleem* Fund consisting of government grants, voluntary funds, and alumni contributions which are to be used for the well-being of students by an authorized committee. No admission fee can be charged upon admissions by any school authority. The Act also imposes some duties on teachers regarding their attendance and completion of curriculum within the given time. Still, 38% of children are out of school, and 7% of schools have no electricity [[Situation Analysis 2020](#)].

### **Free Compulsory Primary and Secondary Education Act, 2017**

The Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, 2017 consists of 9 sections under which education is made a basic fundamental right of every child between the ages of five to sixteen years, making it the responsibility of the government to provide free and compulsory education [[KP Education Act, 2017](#)]. This Act also addresses the issue of non-attendance of the teachers. School attendance authority and *Taleem* Fund is also provided under the Act. The fund consists of all grants made by the provincial government, local governments, and voluntary contributions. Still, 36% of children are out of school, and 13% of schools are without boundary walls [[Situation Analysis 2020](#)].

### **National Education Policy, 2017**

After the Eighteenth Amendment in 2010, the implementation of the National Education Policy, 2009 (NEP) was stopped. Meanwhile, the provinces remain hesitant to frame their respective policies, which seriously affect

educational development. To meet this deficiency, Inter-Provincial Education Ministries Conference was held in 2015 in Muzaffarabad, Azad Jammu & Kashmir, where all the stakeholders agreed to revise the National Education Policy, and Ministry of Federal Education and Professional Training was entrusted to facilitate this revision. A draft of educational policy consisting of 18 well-discussed chapters was proposed [[National Education Policy 2017](#)]. The draft of the policy was approved after a series of conferences in consultation with the federal and provincial governments. The prime focus of the policy was Education and literacy improvement from early childhood to higher education, including quality, quantity, and management [[National Education Policy 2017 Chapter 2](#)]. The important subjects of the policy were Islamic education as a part and the spreading of Islamic ideology, the teachings of the Holy Quran, and Sunnah.

The true spirit of Article-25A is aimed to achieve by universalization of primary education for boys by 2020 and for girls by 2025. Teachers' competency and commitment is also discussed. Secondary education is addressed by the policy and recommendations for the up-gradation of 50% primary schools to the middle schools, 40% middle to secondary, and 20% secondary to higher secondary schools made. The separation of the academic cadre from the administrative one and an increase in the budget to improve the quality of education was proposed. The availability of subject specialists like science and math specialists is also focused by the policy [[National Education Policy 2017 Chapter 7](#)].

The policy proposed the improvement of libraries, promotion of reading culture, strengthening of e-library system, and capacity building of the professionals for libraries. Provisions regarding the promotion of Physical education, health, and sports at the educational institutions were also included in the draft of the policy. Moreover, the private sector in education and the main issues of the private institutions are also focused. The policy suggests revising and improving the existing curriculum of *Deeni Madaris*. Allocation of adequate financial resources to uplift the standards of education by capacity building programs and making and sharing of a financial database is also discussed [[National Education Policy 2017 Chapter 18](#)].

### **Education Policy Framework, 2018**

National Education Policy Framework 2018 is a brief document that has identified some key areas in the education sector like improving quality education, enrollment of out-of-school children, imparting skills development to youth, and

introducing a uniform education system and reiterated to resolve these challenges by 2023 [[National Education Policy Framework 2018](#)].

## Results and Discussions

From the time when the Right to Education in the Constitution of Pakistan was incorporated, a lot of reforms have been made prevalent in Pakistan's educational regime. Responsibilities to ensure free and compulsory education are conferred on respective Governments under Article 25-A and Article 37 of the Constitution. This was a landmark achievement regarding educational development in the country, though a number of important steps ought to be taken for opulent enforcement of this right instead of mere incorporation. The laws enacted by Federating units and federal is appreciate able step after the 18<sup>th</sup> Amendment but being a new constitutional concept there is lack of expertise in the exercise of the right to education and some loopholes are also present, needed to be addressed for the accomplishment of better educational goals. These responsibilities have to be realized by the provinces, and the policy-making process needs to be strengthened. 2% decline in the literacy rate of Pakistan is witnessed by a recent survey [[Annual Status of Education Report 2019](#)] which is quite alarming. This shows that there is a delay ineffective policy enforcement too. The five-year plans also remain almost unsuccessful in uplifting the educational standards. In this situation, the future of the educational system in the country is also imperceptible. The present Education Policy of 2018 where embarks on the accomplishment of educational goals before 2023, at the same time, the analysis of previous policies shows that the attainment of goals set by this policy are doubtful. After the Eighteenth Amendment in 2010, the Provinces are responsible for education, but it is also observed that the situation was handled in a very light manner by the Provinces as the necessary legislation in this regard delayed, and some provinces, after enacting laws regarding education extended those to particular areas only and overlooked the rest.

According to the UNESCO report of 2005, the financial arrangements for education in Pakistan have been inadequate, and this gives birth to the situation in which educational policies could not be implemented effectively [[UNESCO 2005](#)]. None implementation of educational policies is also due to the attitude and lack of interest in public servants. Arbitrary use of powers in the educational sector by the concerned authorities also contributed to this. The unproductiveness of administrative structure and

governing bodies serves as a hurdle in producing better results. In these circumstances, the development in the education arena is seen as an endless struggle.

## Gaps in the Implementation of Educational Policies

The Education Development Index of 2012 shows that Pakistan is at 113<sup>th</sup> rank out of 120 countries of the world [[UNESCO 2012](#)]. According to the figures collected in 2010 by the Government of Pakistan, the literacy rate in Pakistan is only 59%. Poor financial disbursement for the educational sector serves as a reason for this condition. Allocation of 4% budget for education before 2018 was announced by the previous Government, but no developments were made in this regard [[Pakistan Muslim League Manifesto 2013](#)]. There is a noticeable increase in the number of drop-outs at the primary level. No positive impact was shown by the policies which were framed and formulated in the past to uplift the education sector. A national educational policy is viable for national progress and attainment of educational goals, but even after many policies, the area of policy-making faces problems.

It is observed that many policies were introduced in the country regarding education but failed to enhance the educational system in the real sense because of some major reasons [[Ministry of Education 2009](#)]

## Right to Education in Khyber Pakhtunkhwa

Clause 1 Sub-Clause 2 of Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act state the extent of the Act as:

“It shall extend to such districts in the Province of Khyber Pakhtunkhwa as the Government may by notification specify in the Official Gazette [[KP Education Act Section 1](#)]”

By virtue of the above-mentioned clause, this Act applies only to certain areas as specified by Provincial Government and rest of the areas of the province kept out from its operation. The fundamental right to education as provided by Article-25 of the Constitution gives no distinction in the availability of this fundamental right all over the country.

Section 4 of the said Act provides for excuses for non-attendance. Clause (b) of section 4 purports that a reasonable excuse for non-attendance includes a case where the child is receiving education otherwise than in school, which is adequate in the opinion of school

authorities [\[KP Education Act Section 4b\]](#). No procedure to determine whether the said otherwise education is an appropriate substitute of the formal school education or not is set by this section. Mechanism to determine that such education is sufficient or not no procedure is laid down by the Act. The same section in clause (c) affords that where there is no school within a distance of 2 kilometers radius, it will be considered as a valid excuse for non-attendance [\[KP Education Act Section 4c\]](#).

### Right to Education in Islamabad Capital Territory

Section 18 of the Right to Free and Compulsory Education Act 2012 speaks about the Duties of Teachers; it imposes a duty on the teachers to maintain regularity and responsibilities towards children at one end while it has no Clause regarding limitations relating to private tuition by teachers on the other, which resulted in uncaring behavior of teachers during official hours.

The Act under its section 29 empowers the Government to make rules for carrying out the provisions of the Act [\[Education Act 2012 Section 29\]](#). But no time limit for making such rules is provided, and because of this, the desired rules are still not formulated by the respective Government. It amounts as a serious threat against the implementation of the Act.

Free Compulsory Primary and Secondary Education Act, 2012, under its Section 8, enumerate the Duties of Parents. Clause (2) of the said section states the excuses for non-attendance. Clause (b) of Sub Section (2) of the said section states that a reasonable excuse for non-attendance includes a case where there is no school in the neighborhood [\[Education Act 2012 Section 8\(2\)\(b\)\]](#). Parents' liability to cause their children to attend school is ousted by the said clause, and this is against the spirit of the Act. The Act should contain suitable measures i.e free transportation for children belonging to far areas.

The Rules regarding reimbursement to private schools are not enumerated. Under section 15 of the Act, it is provided that registration of the schools can only be possible if they full fill the norms and standards, but no norms and standards are defined by the Act.

Furthermore, Section 17 of the Act provides Terms and Conditions of the Service of Teachers. [\[Education Act 2012 Section 17\]](#). No qualification standards for teachers are stipulated under the Act. No specific plan for the training of teachers is stated. Furthermore, Right to Free and Compulsory Education Act (2012) under Section 22 provides for the Education Advisory Council.

[\[Education Act 2012 Section 22\]](#). The Council is responsible for the implementation of the Act. But it is still vague which authority will check the implementation process.

### Right to Education in Balochistan

The Balochistan Compulsory Education Act was passed by the provincial assembly on 28<sup>th</sup> January 2014, and it extends to the whole of Balochistan except tribal areas. It has been eight years since the Act was passed, but there are no rules made for the actual realization of this Act.

Balochistan Compulsory Education Act 2014 under its Section 1 Sub Section (2) enumerates that the Section 1 (2) "It extends to the whole of Balochistan except the Tribal Areas."

This ousts Tribal Areas from the operation of this Act. The fundamental right to education as given by Article 25-A of the constitution gives no distinction in the application of this right all over the country.

Section 3 of the Act imposes a duty on parents for causing their child to attend school, but at the same time, it is seen that the Act contains provisions that make it child-specific. Education is a matter of national importance in the developed as well as underdeveloped countries, and Balochistan depicts poor situation among all the provinces of Pakistan in this regard. The Act contains no provisions which stress upon adult education. Section 11 of the Act states that:

Section 11 "The Government may make rules for the purpose of carrying into effect the provisions of this Act." [\[Education Act Section 11\]](#).

No time limit is given for the formulation of such rules, and this is the reason that even after a decade, there is no proper implementation of the Right to Education in the province.

The Act does not contain any provisions concerning the duties of teachers and capacity building of teachers. Private tuitions by teachers are not barred under the Act. Moreover, no explicit provisions regarding incentives or guidelines for teacher's appointment and training provided under the Act.

Areas like education of special children, registration of private schools, *deeni madaris* and Islamic education are also not covered by the Act. Most importantly, the curriculum is not discussed in this Act and the procedure regarding the transfer of students from one institution to another is not provided. No provision regarding the Education Advisory Council is given under the Act. The Act also does not provide any provision regarding Norms and standards of schools.

## Right to Education in Sindh

The Sindh Right of Children to Free and Compulsory Education Act is detailed legislation consisting of thirty sections which provide almost all essential mechanism to guarantee better future standards regarding education. Though Sindh is the only province which is done with rules formulation under the Act to achieve the purpose of Act but there are still some imperfections.

The Act is child specific legislation which only addresses child education and has no provisions relating to adult education which is essential for the improvement of literacy in the province. Section 3 (1) of the Act provides that:

“Every child of the age of five to sixteen years regardless to sex and race shall have a fundamental right to free and compulsory education in a school” [\[Education Bill 2013 Section 3\]](#).

Another section purports that for determination of age of child as:

“For the purpose of admission to a school, the age of a child shall be determined on the basis of the birth certificate issued as may be prescribed.” [\[Education Bill 2013 Section 12\]](#).

Constitution of Pakistan 1973 by its Article 25-A provided education as a basic right for the children between the ages of five to sixteen years, but the constitution does not restrict other modes of education such as adult education and special education.

The Act of 2013 like the legislations of other provinces also provides an excuse for non-attendance if the school is not situated in a reasonable distance. This section ousted Government from a duty to facilitate improved transportation to a child living in remote areas as well as the creation of schools in such areas.

Section 17 of the Act discusses about the Duties of Teachers. The said Section under its Sub-Section (2) provides action in case of default of duties but it does not restrict private tuition by teachers. Due to this teacher performance can be compromised.

There is no explicit provision regarding the creation of special schools and *Deeni Madaris* which is vital for the enhancement of education in the province.

## Right to Education in Punjab

The Punjab Free and Compulsory Education Act 2014 provide ensured mechanism for the improvement of education. But there are some loopholes as well.

Section 24 of the Act vests provincial

Government with power to make rules to achieve the purposes of the Act. Till date no rules are formulated which halts the implementation of this Act in real sense. No time limit is given for making these rules which resulted in such delay [\[Education Act Section 24\]](#).

Similar to the legislations concerning education of other provinces, the duties of teachers are not properly defined as it does not restrict private tuitions given by Government teachers, the skilled qualification for teachers is not properly discussed and the prescribed qualification is also not defined.

Furthermore, the Act also provides excuses for non-attendance if in case there is no school in the vicinity. This ousts Government's as well as parents from the duty to cause a child to attend school and creation of new schools in such areas.

The Act gives no mechanism regarding Adult education and this serves as a big downfall in the literacy rate of the province as millions of adults are illiterate.

## Education Policy

The poor communication is one of the chief factors which inundated the educational policies. Lack of commitment and cooperation on the part of implementers are the main causes of non-implementation. The insufficient information creates distance between the beneficiaries and policy implementation. Implementation of education policies is also weakened due to weak administration. In past years policy formulation has faced a worst scenario. The poor system of capacity management of directorates of education at the policy formulation level is one of the main reasons for this mess.

After the addition of Article 25-A in the Constitution of Pakistan, National Education Policy 2017 is the first policy which embarks on enhancing the educational setup and literacy rate in Pakistan. Areas like Adult Education and *Deeni Madaris* are also focused by this policy for the very first time. In the past, many education policies have been drafted, but the implementations of these policies remain undone, and none of them has achieved its goals. Same is the case with National Education Policy, 2017. No proper mechanism is defined by the said policy for the accomplishment of its goals. The policy aims at improving literacy rate up to 90%, but the recent census shows 2% decline in the literacy rate, which is a big challenge to deal with. *Deeni Madaris* and Adult Education are made part of the policy but to improve this situation, no steps have been taken till now [\[National Education Policy 2017\]](#)

The National Education Policy Framework, 2018 is the latest on basic education under the first 100-day plan of the government. The main areas addressed by the said policy are improving quality education, bringing 20 million children to schools, skill development for youth and introducing a uniform education system throughout the country within five years. The said policy claims that low budget allocation and weak management have crippled the system, which results in poor education outcomes [National Education Policy Framework 2018]. But at the same time, the goals and priorities set out in National Education Policy Framework 2018 are further compromised under the government's austerity measures targeting education in terms of budget cuts that have brought about more prominent disparity in access to education, sabotaging endeavors towards guaranteeing quality education for all.

### **Inference**

While studying all existing Federal and provincial laws on Right to education, it can be concluded that after the availability of the right to education in 2010 as a fundamental right, all the provinces enacted laws in this regard to ensure the availability of this right. There are loopholes in the said legislation which could be removed if considered adequately by the concerned governments. The National Education Policy Framework 2018 is a decent move but measures yet to be taken for the attainment of the goals set by the said policy.

A big hurdle in the actual realization of the right to education is that there is no proper forum which provides a common platform to all the provinces and federal to set a country wide curriculum and to answer all common problems. It is observed that lack of policy formulation, inconsistency, poor decision making and lack of leadership resulted in non-implementation of educational policies in a real sense.

### **Recommendations and Conclusion**

#### **Conclusion**

Soon after the independence of Pakistan in 1947, a movement on educational reforms was set out. Hence, eight educational policies and around 6 schemes were made to secure an improved educational system in the country. A lot of conferences had been organized but in spite of all these efforts a better literacy rate could not be achieved. However, none of the plans and policy put the desired results due to inconsistencies and lack of appropriate implementation mechanism. Article 37 (being a principle of policy) and Article

9 providing right to life of the constitution resulted as "the priority of education depends upon the availability of resources". Before 18<sup>th</sup> constitutional Amendment, right to education was not considered as an independent fundamental right in Pakistan but afterwards it has been recognized as a basic right and so the free and compulsory education for a child between 5 to 16 years of age under it. Parallel, the concurrent legislative list was deleted and the provinces were empowered to legislate and make policies for education in their territories. Hence, the federal capital territory and the provinces enacted their respective law which being first experience of legislation on education resulted in various flaws especially to launch programs via respective rules of business.

National Education Policy 2017, was the first and comparatively better educational policy after 18<sup>th</sup> Amendment which aimed at achieving 90% literacy rate by 2025. This policy, for the first time, provided guidelines to *deeni madaris* and focused on the adult education as well, but its results were compromised due to lack of implementation mechanism.

Furthermore, the lack of political will played an important role in the imprecise implementation of the educational policies. Other identified causes of hurdle in the proper implementation of policies were financial, moral and professional corruption. Since the last 10 years right to education is guaranteed 10 years, yet it appears as a start to achieve the already framed goals.

### **Recommendations**

After a careful analysis of the existing legislation and policies of the country, the following recommendations could be trailed to uplift and boost the educational system of Pakistan. The addition of some new Constitutional Articles, amendments in the prevailing laws and improved financial allocations are recommended. Furthermore, to establish a proper educational setup and for a proper implementation of laws regarding education, it is suggested that the learned class of society, civil society, governmental authorities, and educational staff should also play their respective part effectively. Following are the recommendations in detail:

### **Implementation Process**

The accountability process should be made independent. Steps for the better implementation of Article 25-A should be taken by the concerned governments. Moreover, Provinces like Khyber Pakhtunkhwa have extended the Compulsory Education Act to specific areas; the whole province should be benefited by this Act.



The existing laws provide for the establishment of the Education Advisory Council, which shall implement the law, but it is vague that which body will monitor this implementation and whether this monitoring body will be independent of the Education Advisory Council.

### **Budget**

Educational budget is inadequate and limited. It should be treated as a priority and financial disbursement should be increased up to 5.5% of GDP to tackle with the problems faced in the implementation policies regarding education. Furthermore, financial constraints can be overcome by practical measures taken for effectual planning and utilization of available resources.

### **Schools Teachers and Staff Management**

Enhancement in the teachers and staff competences is needed for improved implementation of the right to education. The skills of the teachers should be enriched by different capacity building programs at the schools level. There should be a prohibition for government teachers to give private tuitions.

Furthermore, the prevailing educational laws in the country provide for the infrastructure including school building, playgrounds, laboratories, teachers learning and for libraries which must be ensured.

### **Inter-Provincial Education Committee**

A Council for Educational Co-Operation should be introduced under the constitution of Pakistan, which would play an effective role in fair distribution of educational budget, curriculum development and the monitoring of the

educational system.

### **Policy Making**

To implement the educational policies effectively, a segment of civil society, scholars, social workers and teachers from all over the state should be involved.

### **Accountability**

With the devolution of education to provincial governments after 2010 the scope of the federal government's role in educational arena is constrained and the provinces are answerable to figure out the developing policy, planning, curriculum, standards and Islamic education. Thus, it is now the prime responsibility of provincial governments to take all necessary steps for the improvement of the right to education. An operative organism of answerability for the educational sector is the need of time.

To decrease corruption accountability system may be strengthened.

### **Awareness Campaigns**

Enrollments in educational institutions can be improved by conducting Awareness campaigns and advertisements by the concerned authorities. Social education regarding the importance of education, the responsibilities of teachers, the role of parents and the consequences in case denial should be promoted. Furthermore, adult education should be encouraged, by launching awareness campaigns and bypassing laws on it. People should be helped in realizing that illiteracy serves as a main factor behind all the social evils like unemployment, poverty and crimes.

## References

- Annual Status of Education Report 2019  
<http://aserepakistan.org/PUBLICATIONS-and-REPORTS> (accessed on 13-9-2020)
- Balochistan Compulsory Education Act Section 11
- Cairo Declaration on Human Rights in Islam 1990, Article 9
- Constitution of Islamic Republic of Pakistan 1973 Article 25-A
- Constitution of Islamic Republic of Pakistan 1973 Article 37
- Constitution of Islamic Republic of Pakistan 1973 as Amended after 18<sup>th</sup> Amendment
- Convention on the Rights of the Child, 1989 Article 28 (1)
- Islamabad, The Right to Free and Compulsory Education Act, 2012
- Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, 2017
- Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act Section 1 Sub-Section (2)
- Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, Section 4 Sub-Clause (b)
- Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, Section 4 Sub-Clause (c)
- National Education Policy 2017
- National Education Policy 2017 Chapter 18  
<http://mofept.gov.pk/Policies> (accessed on 22-8-2020)
- National Education Policy 2017 Chapter 2  
<http://mofept.gov.pk/Policies> (accessed on 22-8-2020)
- National Education Policy 2017 Chapter 7  
<http://mofept.gov.pk/Policies> (accessed on 22-8-2020)
- National Education Policy 2017  
<http://mofept.gov.pk/Policies> (accessed on 22-8-2020)
- National Education Policy Framework 2018  
<http://mofept.gov.pk/Policies> (accessed on 22-8-2020)
- National Education Policy, 2009 Ministry of Education
- Pakistan Muslim League Manifesto 2013
- Punjab Free and Compulsory Education Act Section 24
- Right to Free and Compulsory Education Act 2012
- Right to Free and Compulsory Education Act 2012 Section 17
- Right to Free and Compulsory Education Act 2012 Section 22
- Right to Free and Compulsory Education Act 2012 Section 29
- Right to Free and Compulsory Education Act 2012 Section 8(2)(b)
- Sindh, Right of Children to Free and Compulsory Education Bill 2013
- Situation Analysis of Children in Pakistan.  
<https://www.unicef.org/pakistan/reports/situation-analysis-children-pakistan> (accessed on 12-9-2020)
- Taimoor, S. (2017). *Article 25-A, Transition from Law to Implementation - 7 Years Down the Road, where do we stand?*
- The Balochistan Compulsory Education Act 2014
- The Education for All Development Index UNESCO (2012)
- The Punjab Free and Compulsory Education Act 2014
- The Sindh Right of Children to Free and Compulsory Education Bill 2013
- The Sindh Right of Children to Free and Compulsory Education Bill 2013 Section 3
- The Sindh Right of Children to Free and Compulsory Education Bill 2013 Section 12
- UNESCO (2005) Decentralization in education: National policies and practices.
- United Nations Declaration for Human Rights 1948 Article 26