

## Child Protection in Khyber Pakhtunkhwa: A Brief Review of the Child Protection and Welfare Act, 2010

Hussain Ali \*

Ashraf Ali †

Muzammil Shah ‡

**Abstract:** *Child protection is the prevention and response to child violence and abuse, including illegal child engagement in labor; within and outside the country trafficking, sexual abuse of children and child rights violation due to customary laws. The Pakistani state adopted and is the signatory to various international documents and instruments. The Khyber Pakhtunkhwa government in the year 2010 passed a law entitled; Child Protection and Welfare Act for children rights protection in the province. In the present research study, the researchers reviewed systematically various international documents and instruments as well as the provincial government child protection law. Pakistani state adopted various documents and signed international instruments for child protection. For the protection of children, units are established in all most all the districts in the province under the act. The research study highlighted that a strong reporting and referral mechanism is required about the abused children in the province.*

**Key Words:** Child, Protection, Welfare, Sexual Abuse, Trafficking, Khyber Pakhtunkhwa

### Introduction

It is a well-known fact that children in any country are the future generation and require special attention. It is the responsibility of every state to provide equal opportunities to their children, and no one should be abuse on the basis of belonging to any race, religion, family, living place, language, gender, culture, class and disability ([Jamal, 2010](#); [Unicef, 1989](#)). In Pakistan, like other developing countries, children are facing various social problems, and their rights are violating by the family, community, and even the state is not fulfilling their international commitment toward child protection ([Ali, 2004](#); [Bhalotra, 2003](#)). In the country, children are engaged in the public auto workshop as child labor; they are performing various activities in the agriculture sector and industries ([Naeem, 2011](#)). Child marriage is one of the social problems which is culturally approved and practising in the country, especially in rural areas ([Nasrullah, 2014](#)). In the country, children are abuse, and some of the illegal organizations are involved in child trafficking ([Huda, 2006](#)). Child marriage is one of the big issues related to child rights violations in Pakistan. According to the [Girls, not Brides Report \(2017\)](#), in Pakistan, nearly forth (21%) of girls are engaged early than

18 years, and three percent are engaged before 15 years of age. The same report statistically highlighted that Pakistan is one of the highest numbers of child brides in the world. In Pakistan, a high number of children aged between 10 to 14 years are working as labor. According to Thomson Reuter Foundation in Pakistan, more than 12.5 million children are engaged in child labor (Thomson, 2017). Pakistan's labor force survey (2014-15) statistically showed 61 percent are boys and 88 percent are working as child labor from rural areas in the age between 10-14 years (Pakistan Bureau of Statistics, 2015). A report published by Alif Ailaan indicated that 25 million children in Pakistan are out of school, and they are facing various hurdles in accessing schools (Ailaan, 2018). According to the Academy of Educational Planning and Management report, The Pakistan education statistics (2016-17) stated that there are 22.84/51.53 million children are out of school (5-16 years) (NEMIS, 2018). In the country, child abuses are reporting daily, which is an alarming situation. It is reported that more than 12 children were abused in the first six months in the year of 2018. According to a report released by Sahil, an NGO, the number of

\* Lecturer, Department of Sociology, Abdul Wali Khan University Mardan, KP, Pakistan.

† Chairman/Associate Professor, Department of Law, Abdul Wali Khan University Mardan, KP, Pakistan.

‡ Superintendent, Department of Law, Abdul Wali Khan University Mardan, KP, Pakistan.

Email: [muzammil2009@gmail.com](mailto:muzammil2009@gmail.com)

child abuse in 2018 shows a 31 percent increase in child abuse as compared to the first six months in the year of 2017. The report further statistically highlighted that 2,32 children were reported abused in the first six months of 2018 as compared to 1 764 abuse cases among children from January to June 2017 from all over the country ([Sahil, 2018](#)). It is highlighted in various reports that child trafficking in Pakistan is one of the big issues facing children. Children trafficking are recorded for the purpose of illegal begging on roadsides, domestic workers, and prostitution and are engaged in the agricultural field as bonded labor ([Miko, 2003](#)).

To protect children rights, Pakistan has adopted various international and regional documents as well as become a signatory to some international instruments. The Pakistani state revised the existing laws related to child protection and also introduced new laws and programs for child protection. In this brief review paper, the researchers first shortly discussed some of the international documents and instruments adopted and signed by the state.

### Geneva Declaration and Child Rights

The LON adopted 1924 the Geneva Declaration. The declaration recognized children rights and made adults responsible for children. It is stated that children are required special attention ([Verhellen, 2000](#)).

### United Nations Universal Declaration of Human Rights (UNUDHR) and Child Protection

The Universal Declaration of Human rights, adopted by the international organization General assembly in 1948. Pakistan is one of the 48 countries that vote in favor of the declaration. According to Article 25(2) of the Universal Declaration of Human Rights, motherhood and childhood are entitled to special care and help. All children, whether or not born in or out of wedlock, shall enjoy identical social protection ([Assembly, 1948](#)).

### Convention on the Rights of the Child (CRC)

The CRC was adopted by the UN in 1989 and ratified by Pakistan in 1990. According to Article 4 of the Convention on the Rights of the Child (CRC), Governments have a responsibility to take all accessible measures to make sure children's rights are respected, protected and fulfilled.

### Other International Instruments

Pakistan is also ratified other international instruments which are directly related to child rights and their protection: The CEDAW ratified

by the state in 1996 ([Nasrullah, 2014](#)), the declaration and agenda for action adopted at the issue of the world congress against commercial sexual exploitation of children the state signed in 1996. Among the other conventions, the state ratified the convention about child labor in the worst form, 2001.

The government of Pakistan at the federal and provincial levels passed various laws to protect children.

### Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 (KPCPWA, 2010)

The provincial government passed a KPCPWA, 2010. The act mainly focused on child rights protection and ensured their rehabilitation in the province.

### Parts of KPCPWA, 2010

The act is comprised of nine parts which are discussed briefly below.

#### Part-I (Preliminary)

The preliminary part of the act defined that this act shall be called the KPCPWA, 2010. This act shall be extended to all the provinces and came into force at once. In the first part of the act, various concepts and terminologies are defined, including; "Child"- a person less than 18 years of age. The act clearly stated that a "child shall be considered at risk" if he or she has no parent, working as child labor, living without a home, is homeless, immoral, abuses, parents are in poverty or is born in jail. The concept "Child Protection Institution" is defined as an institution or place which is used for the protection and rehabilitation of a child having risk in the society or reported by the authorities or community. According to the act, the child protection institution shall be established. The act defined corporal punishment as child injury. In the present act, "Protection" is defined as the provision of a safe home to a child with parental care and a loving environment. The concept "Sexual abuse" is defined as compiling a child to engage in sexual activity or sexual open conduct with or without the consent of a child.

#### Part -II (Commission of Child Protection)

This part of the act stated the establishment, composition and functions of an independent Commission established for child protection. It is stated in the act as soon as the act comes into force, the government shall establish the mentioned commission in the province. The composition of the commission described in the act as minister for social welfare (chairman), the government secretary of the same department

(vice-chairman), finance secretary, secretary to home and tribal affairs, secretary to laws parliamentary, secretary of local government, secretary education, the civil society representation is given to six persons, a provincial assembly elected members, lawyers and ulema as member of the commission. The secretary of the commission shall be the chief protection officer (CPO). The main function of the commission, in coordination with the line department in the province, review all the provincial laws related to or affecting children. One of the major functions of the commission is the introduction of new laws to the government for children protection and rehabilitation. The commission shall create awareness among the general masses about the children at risk. The commission shall establish a child protection unit and take control of all the units in the province. They shall monitor the implementation of laws for the purpose to protect child rights in the province. The commission shall provide food, shelter, education and training to the children through recognized institutions. Child corporal punishment shall be prohibited under the law and promote the programs related to child protection with funding agencies. The commission is responsible for making sure the birth registration of a child and protecting them from juvenile detention. The commission shall have the rapid response capability to deal with children issues in case of any natural or manmade disaster in the province. The commission should develop a mechanism for data collection related to children for best planning and implementation of the government programs in the province. According to the act for commission, there shall be a CPO of the commission. The commission shall form various committees for the smooth running of the commission function as well as delegate some powers to the committees to deal with child issues. The Chief Protection Officer shall be responsible for developing and preparing an annual report about the commission progress at the end of every financial year, which shall be circulated among the commission members.

### Part-III (Child Protection Unit (CPU))

The third part of the act stated the protection units for children at the district level, which are already established.

The act explained various functions of the CPU. The CPU shall perform the following major functions; the children receiving and registration when they are found at risk and need protection. The CPU shall assess all the needs of the child and their family, including shelter, food, health, education etc. The unit shall do such planning to

arrange the needs of the children and their families who are at risk. Make regular monitoring visits to check the status of the child at risk. The CPU shall make consultative meetings with the community and formulate the child protection committees for the prevention of child abuse and exploitation. The CPU shall maintain all the records of the activities and children at risk, and the same shall be submitted to the commission on a regular basis. The CPU team shall make regular contact and follow-up with released children for six months.

The government shall appoint a Child Protection Officer in every district for the performance of the function of CPU in their respective district. The commission may establish one or more child protection institutions in the province.

### Part-IV (Fund for Welfare of Children at Risk)

Under this act government shall establish a welfare fund for children at risk. The fund shall be consisting of donations, grants and other approved sources of funding from the government. All the funds shall be used for the welfare of the children at risk.

### Part-V (Courts Under the Act)

Different session courts shall be notified as child protection courts in consultation with Peshawar High Court. The Peshawar High Court may give the powers for the local area to session judge. Under the act, certain functions and power shall be performed by the court, including; it is the responsibility of the notified courts that children at risk shall be given in the custody of a person or institution. The court shall first inform the child at risk before taking the order of his custody. Under the functions of the court, it is clear that the court shall keep in consideration the child at risk. It clarifies the act that the court shall make the order of custody with priority to parental care, non-kinship care than placement in the child protection institution if a child is at risk. The court shall bind under the act to deal with the case of a child at risk within four months of production. The appeal against the order of the session court shall be placed in Higher Court within the period of one month. Under the act, the court shall transfer the case of a child at risk to another court for the best interest of child justice.

### Part-VI (Rehabilitation)

A child with less than 18 years is dealt with under this act. If a child is reported at risk, the district child protection officer shall rescue and produce

the child before the court within 24 hours. The publication of a child at risk name, picture and other address shall not be published in any print and electronic media which cause the identification of child exploitation. The warrant shall be issued by the court for the production of a child on the information of a person received on oath or solemn by the court. Under the act, the commission shall protect a child at the risk of early marriage based on customary practices in accordance with federal laws.

### **Part-VII (Sentencing of Child)**

The act stated that any child more than 12 and less than 15 years shall be staying in the community through a probation officer. The child found in crime with 14 years of age / shall spend half-sentence in imprisonment or fine. There is a system of juvenile justice for the treatment of a child of 15 years or more and less than 18 years.

### **Part-VIII (Offences and Penalties)**

Under this act, if corporal punishment in any form under any circumstances is recorded to a child, shall be imprisonment for six months or with a fine which may be extended to 50000 rupees or both. Similarly, it is stated in an act of violence against a child is committed, the person imprisonment shall be three years and a fine. It is further stated that violence against a child is committed by a group of more than two persons the imprisonment for ten years, and a fine. The act explained that whoever commits the harmful practice related offence shall be punished for three years and fined. It is mentioned in the act that the offence related to organs of a child there is life imprisonment or death sentence and shall be also fine extended to one million rupees. If any person found engaged a child in narcotics drugs shall be punished for four years and fine which is extendable more than fifty thousand rupees. If a child is involved by somebody in pornography, there shall be three years imprisonment and a fine. The act defines the offence and penalty for child trafficking and mentions that for any person involved in child trafficking in the country, the punishment is notified with life imprisonment or punished for 14 years and a fine. If a person is found in sexual abuse, the punishment under the

act is for fourteen years with a minimum of seven years and a fine.

### **Part-IX (Miscellaneous)**

In this act, sections 56 to 67 deal with miscellaneous matters. The commission and court are authorized to order the release of a child at any time from the custody of a person or child protection institution. All of the appointed officers under this act shall be considering the public servant as per PPC section 21 (Act XLV of 1860).

### **Conclusion**

The present research study concluded that children in Pakistan, like other developing countries, are facing various social problems, including trafficking, abuse, labour, marriage, deprivation from the education of a child in the province. The Pakistani state is adopted various international documents and ratified various international conventions since independence for the purpose of child protection at risk in the country. In this connection, Pakistan passed new national laws and modified the existing legal system to ensure the child. In this connection, the child protection act, 2010 passed in this province is a great achievement of the provincial parliament. This act covers child protection and rehabilitation currently at risk in the province. Under this act, a provincial Child Protection Commission is established, which is comprised of both the provincial government officials and representatives of civil society, media and lawyers. Further, the Child Protection Commission established the Child Protection Unit in all the districts of the province. The main function of the CPUs in the districts is to monitor the child at-risk situation in their respective district and provide protection to the child at risk. The protection is provided either in the family, community or child protection institution. The act legalized child protection courts, which are issuing orders about child protection. In the act, various strict penalties and punishments are defined for persons involved in child abuse and exploitation. Currently, the act is working with true spirit in the province as a whole, and it is greatly contributing to child protection and rehabilitation.

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