

Child Protection Legislation in Pakistan: Bringing International Child Rights Obligations and Local Values Together

Tahira Jabeen

Abstract

Pakistan as party to the United Nations Convention on the Rights of the Child is bound to establish a formal child protection system. However, according to the traditional societal values, child and family matters are considered to be a private affair allowing least state intervention. Being a federation, child protection in Pakistan is a provincial subject. The progress in enacting child protection legislation varies from province to province. Khyber Pakhtunkhwa has promulgated Khyber Pakhtunkhwa Child Protection and Welfare Act in 2010, and drafted Khyber Pakhtunkhwa Child Protection and Welfare Rules 2013. Sindh has enacted the Sindh Child Protection Authority Act 2011, and Sindh Child Marriage Restraint Act 2013. The Punjab Destitute and Neglected Children Act was promulgated in 2004, and revised in 2007. The Balochistan Child Welfare and Protection Bill has been approved by the cabinet and approval from the Provincial Assembly is shortly expected. This paper highlights the salient features of these laws and the in-built struggle to find a balance between the country's international obligations and the local societal values relating child protection. Three major issues concerning the current legislation emerge, namely: the challenge of defining the concept of child protection for practice; the establishment of formal administrative and institutional structures (including secondary legislation) mandated to implement the legal provisions; and the need for systematic effort to cope with the environment of a societal reluctance. Suggestions are offered to address these issues for the evolving child protection system to head in the right direction and to be effective and efficient.

Keywords: Child protection, legislative provisions, legal and administrative implications, societal values, Pakistan

Introduction

Pakistan has ratified a number of international treaties which provide children with special protections. Amongst these international

commitments, the United Nations Convention on the Rights of the Child (UNCRC) is most significant as it shapes the national policy guidelines on children's issues. The UNCRC gives special emphasis to children's protection rights. Articles on protection against discrimination (Article 2), registration after birth (Article 7), protection against abuse, neglect and exploitation within the family or in care (Article 19), adoption (Article 21), disability (Article 23), protection from economic exploitation, from the illicit use of drugs, from sexual exploitation and abuse, from abduction, sale and trafficking and all other forms of exploitation, from torture and other cruel, inhuman and degrading treatment, protection in armed conflicts (Articles 32-38), and children in conflict with the law (Article 40) all concern a child's right to protection in all kinds of difficult circumstances. However, it is Article 19 of the UNCRC, which serves as the policy guideline for a formal child protection system as well as provide the definition of child protection as used in this article;

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from 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 parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Pakistan, being a federation, comprises four provinces that have considerable autonomy in terms of policy and legislation, and child protection is a provincial subject. Further, these provinces have significant demographic, political, socioeconomic and cultural differences among them. Therefore, progress in enacting child protection legislation varies from province to province. Khyber Pakhtunkhwa (KP) has promulgated Khyber Pakhtunkhwa Child Protection and Welfare Act in 2010, and drafted Khyber Pakhtunkhwa Child Protection and Welfare Rules 2013. Sindh has enacted the Sindh Child Protection Authority Act 2011, and Sindh Child Marriage Restraint Act 2013. The Punjab Destitute and Neglected Children Act was promulgated in 2004, revised in 2007, and Punjab Child Marriage Restraint Act in 2014. The Balochistan Child Welfare and Protection Bill has been approved by the cabinet and approval from the Provincial Assembly is awaited. In addition, Punjab and Sindh have adopted Standard Operating Procedures (SOPs) for Child Protection Units at the district level while Khyber Pakhtunkhwa is in the process of adaptation of the SOPs.

This article is organized in such a way that it, first, highlights the salient features of various provincial child protection laws and the in-built struggle to find a balance between the country's international obligations and the local institutional structures and societal values relating child protection. Based on this analysis, the article then discuss three major issues concerning the current legislation, namely: the challenge of defining the concept of child protection; the establishment of formal administrative and institutional structures mandated to implement the legal provisions; and the need for and/or scope of secondary legislation to cope with the environment of a societal reluctance. At the end, suggestions are offered to address these issues for the evolving child protection system to head in the right direction and to be effective and efficient.

1. Analysis

This section analyzes the salient features of various provincial child protection laws and the in-built struggle to find a balance between the country's international obligations and the local institutional structures and societal values relating child protection.

1.1. Khyber Pakhtunkhwa

KP have promulgated the Khyber Pakhtunkhwa Child Protection and Welfare Act 2010 (KPCPW Act 2010). In addition, the Khyber

Pakhtunkhwa Child Protection and Welfare Rules, 2013 have been drafted.

The Act provides for ‘the care, protection, maintenance, welfare, training, education, rehabilitation and reintegration of Children at Risk in the Khyber Pakhtunkhwa’ (KPCPW Act 2010). The Act is comprised of nine parts including: i) preliminaries such as title and definitions, ii) establishment of the Child Protection and Welfare Commission, its powers and functions, appointment of Chief Child Protection Officer, establishment of committees, and progress report, iii) establishment and functions of Child Protection Units, appointment and duties of Child Protection Officers, establishment and recognition of Child Protection Institutions, iv) child protection and welfare fund, v) establishment, powers and functions of Child Protection Courts, vi) rescue, care, protection and rehabilitation of children at risk, vii) sentencing of a child, viii) offences and penalties covering issues such as corporal punishment, violence against children, harmful traditional practices, child trafficking and child pornography, ix) miscellaneous topics such as discharge of or transfer from a Child Protection Institution, international obligations and complaints against the Commission (KPCPW Act, 2010).

The Act, however, does not clearly define the concept of child protection and/or related concepts of social protection, children’s right to protection, protection of children’s rights. As a result, currently the Child Welfare Commission, Child Protection Units and Child Protection Committees are engaged in a process whereby they are trying to deliver child protection as well as delivering social welfare services and realizing child rights (McMillan, 2013). This gives them a broad spectrum of work which unavoidably drifts in to the mandates of other government departments and public services, particularly social protection services. This lack of conceptual clarity between children’s universal rights, child protection rights, child welfare and social protection undermines the efficiency of the CPUs and compromises the long term sustainability of the child protection system.

In the developing country context of Pakistan, it is an undeniable truth that poverty is one of the greatest impediments to children’s rights and child protection. Poverty has a profound impact on parents’,

families', communities', children's and young people's capacity to copewith adversity. Because of income poverty and poor access to social services such as health and education, children from poor households face a high risk of remaining vulnerable, especially in terms of lack of education and getting involved in child labour, and poor into adulthood(Jabeen, 2013). This, in turn, creates low-income and vulnerable families, and perpetuate the cycle of chronic poverty and deprivation, which is, in the long run, beyond the capacity of the poorly resourced Commission to deal with.

The Commission's task is compounded by the Pakistani culture of charity, and difficulty in provision of services through some strict eligibility criteria as the Commission seeks to be 'everything to everybody' and fail to hold other executive departments to account for their own mandates(McMillan, 2013). In order to function efficiently and to be sustainable, the parameters of the child protection units must be clearly laid out as dealing with child protection rights and their focus should be on those forms of violence, abuse, exploitation and willful neglect which fall within the scope of the Article 19 of the UNCRC.

Further, while the UNCRC requires the state parties to establish formal child protection systems, the role of families and communities in protecting children could not be ignored. While the Act states that 'the Commission may constitute such committees as it deems necessary and delegate any of its powers and functions or assign duties in connection to its powers and functions as the Commission may deem necessary for giving effect to the provisions of this Act'(KPCPW Act, 2010) and that it shall be the duty of the Child Protection Units to 'develop consultative community structures and prepare them to support initiatives for the prevention of abuse, neglect and exploitation through the formation of Child Protection Committee'(KPCPW Act 2010), it does not state specifically what the function of the committees should be.

Pakistan has also signed the UNCRC optional protocol on the Sale of Children, Child Prostitution and Child Pornography 2000. However, the Act does not address the issues of internal trafficking of children, sale of children by their parents due to poverty or other reasons, commercial sexual exploitation of children, and child prostitution, the

last being an issue of special significance in the province, that is, it is customary in KP for wealthy men to keep young boys for pleasure (Wijngaarden & Rani, 2011). Ironically, the community based child protection committees hardly ever report this issue.

Another shortcoming in the law is about child protection court. Instead of establishing a separate court for child protection, section 15 of the Act provides that the government may in consultation with Peshawar High Court notify different courts of sessions as child protection court. Similarly, the high court may confer powers of the court for a local area upon a session judge or an additional session judge. Considering the regular courts having already been overburdened, assigning them more responsibilities would neither be in the interest of justice nor children at risk or in need of protection, who need a speedy response by the very nature of child protection problems.

While the Act defines a child as a person under 18 years of age as provided in the UNCRC, it lacks power to implement this definition in various situations. For example, protection issues involving child labour and child marriage. With regard to child labour, The Employment of Children Act, 1991 (child as a person under 14 years) The Shops and Establishments Ordinance, 1969 (child as a person under 12 years) and The Factories Act, 1934 (child as a person under 15 years) can be seen as a case in point as each has its own definition of the child. Similarly, the KP child protection system may not protect a girl child who is married and is in an abusive relationship with her husband and/or in-laws as the marriageable age in The Child Marriage Restraint Act, 1929 is 16 years for a female. Currently, underage marriages are considered a norm and are common in the province leaving a question mark on the relevance and effectiveness of the child protection law.

1.1.1. Sindh

Until recently, the provincial legislation governing the provision of child protection in Sindh province has been the Sindh Children Act 1955 - one of the oldest child rights related laws in the country. It allows for the creation of juvenile courts to deal with matters relating to children who have been

victims of abuse and who are in conflict with the law; currently such courts are not actively functioning.

The provincial government of Sindh has enacted a new legislation in the form of the Sindh Child Protection Authority Act 2011 (SCPA Act 2011) and is in the process of legislating the related Sindh Child Protection Authority Rules. The legislation is approved and in force, the Authority has finally been notified in 2015, yet it is dysfunctional as the Rules have not been passed.

The preamble of the Sindh Child Protection Authority Act 2011 states that it will: 'provide for the establishment of an Authority known as the Sindh Child Protection Authority *and to ensure the rights of the children in need of special protection measures*' (emphasis added). However, the text of the Act mostly deals with matters related to the establishment of the Authority, except for Clauses 15 (appointment of the child protection officers), 16 (child protection units), and 17 (protective measures), which could result in variation in interpretation and the need for and/or scope of secondary legislation. In addition, there is a lack of clarity in the division of roles and responsibilities between the Authority and the Social Welfare Department, which leaves the staff involved in child protection and social welfare in limbo, each thinking that they would lose their job if the other is given the mandate of child protection, which, consequently affect their functioning and the quality of services being provided.

Further, the Act does not explain the procedure to deal with a child who has been identified to be at risk and/or in need of protection. No elaborative assessment procedure for identification and assessment of the children at risk or in need of protection are given. The Act provides for the setting up of child protection units at Union, Taluka, Town or District level, but, the function of Child Protection Units (CPUs) has not been made clear in the law. Although Sindh has adopted the SOPs for CPUs, due to the fact that the line departments are not bound by the Act to work with CPUs, neither it provides the powers and authority required by the child protection staff to perform such tasks, following the SOPs seems almost impossible. All these gaps in the Act leave too much to be covered in the secondary legislation.

Another issue related to the lack of powers at the service delivery (CPU) level is the poor influence of the child protection staff in the traditional conservative and patriarchal system of the tribal societies dominated by feudal lords and spiritual leaders. As a result, in cases involving serious abuse/exploitation of a child, such as child sexual abuse, both traditional leaders and communities pressurize parents to compromise with offenders. These compromises range from compensation money to forced (child)

marriages; and poverty, illiteracy and lack of awareness, but also power of offenders (versus (lack of) power of child protection system) being the reasons for such compromises (Sahil, 2015). In short, this is a paradox where the child protection staff are aware of an incident of abuse, however, are unable to offer necessary protection to the child and her/his family because the Act does not equip them to do so, which results in perpetuation of the patterns of abuse.

Child Protection Committees exist across Sindh and are functional with varying levels of success. Many of these committees have been set up with support from the “Promoting Children’s Rights in Cotton Farming Project¹”. Despite availability of the guidance on setting up the committees there exist the same challenges of transparency as well as capacity as has been seen in the other provinces. The committees struggle to deal with serious cases of abuse and protection due to the sensitivity and potential threats on matters including family feuds and land disputes. There are complaints regarding committee members exploiting their role by reporting fabricated cases to the CPU which formed part of family feuds or based on conflict with fellow members of the committee (McMillan, 2013). This indicates the necessity of establishing a formal child protection system clearly in line with the provisions of the UNCRC Article 19.

1.2. Punjab

Punjab was the first province to enact a child protection specific legislation in Pakistan: the Punjab Destitute and Neglected Children Act in 2004 (PDNC Act, 2004), later revised in 2007. The legislation provides for ‘the rescue, custody, care, protection and rehabilitation of destitute and neglected children of Punjab’(PDNC Act, 2004). These functions are administered through establishment of the Child Protection and Welfare Bureau (CPWB) which provides gate keeping and services through district based child protection units with designated child protection officers, drop in centres and child protection institutions. The CPWB is also responsible for the registration and monitoring of child protection institutions in Punjab.

¹IKEA funded project implemented by UNICEF Pakistan alongside government and community level partners in Pakistan’s cotton farming regions. The project is a multispectral community-building initiative to help improve the lives of children through interventions including teacher’s training, improved water and sanitation, and health services.

The Act provides for a Children's Welfare Fund. However, there are similar issues with regard to the Fund as noted in the case of KP. It also allows for the provision of Child Protection Courts to deal with child protection matters. At the moment, there is one child protection court located in Lahore. The Act covers special offences relating to children which include unauthorized custody, cruelty to children, employing children for begging, giving children intoxicating drugs, and exposure to seduction among others. The Act also outlines the discharge of a child or transfer between child protection institutions.

The CPWB is administered by the Home Department which is mandated to maintain law and order, prevention and control of crime and administration of the police department. The nature of a child protection allegation suggests that a criminal offence has been committed against a child; therefore, a child protection agency would require a strong working relationship with police/law enforcement agencies. Due mainly to their administration under the Home Department, the CPWB have a good working relationship with the police and are able to call upon them in the execution of child protection intervention (McMillan, 2013). The CPWB have conducted a range of orientation and training workshops with police. Nonetheless, considering the hard core policing style of the Punjab police, the question arises whether the department that has a responsibility for the prevention and control of crime should be a child protection agency or whether they should provide a support to a child protection agency? (Jabeen, 2013).

The CPWB follow clear legal procedures in their interventions with children by ensuring that all cases go through a judicial admission and review process. The CPWB also has a good working relationship with the judiciary who are more responsive in dealing with children's issues due to the status of the CPWB. The physical presence of the Child Protection Court in the premises of the CPWB facilitates the process further. This appears to be one of the strengths of the Punjab child protection model.

On the down side, though, due to the CPWB being administered by the Home Department there is a strong sense of their activities being very much concerned with 'cleaning up the visible elements of poverty in society' such as the presence of street and/or begging children at public places, making child protection a law and order issue and not a child rights matter (McMillan, 2013). It also reflects the punitive approach of the Home Department as children who work or live on the street are seen as vagrants or perpetrators of

anti-social acts (Boyden, 1997). During a “rescue mission”², the Bureau’s Child Protection Officers could remove such children from the street forcefully, take them into custody, produce them before the Child Protection Court and place them in the Child Protection Institution (Jabeen, 2013). This “forceful benevolent” approach, in fact, deprives children of many of their fundamental rights such as right to be heard in decisions effecting their lives.

A related issue of this ‘forceful benevolence’ is the overcrowding in the child protection institutions, which have become ‘dumping places’ for vulnerable children as parents and/or families, especially from poor socioeconomic background, were either not willing to take their child, such as a runaway child, or seen by the child protection staff as not fit/unable to take care of their children. This is despite the availability of ample evidence, from around the world, to demonstrate that institutionalization should be the last resort to ensure safety and well being of children (MacLean, 2003). Although, rehabilitation and reintegration (into families and communities) are a part of the Bureau’s mandate, however, how effective are these services could be easily judged from the ratio of rehabilitated and reintegrated children as provided in the annual reports of the CPWB (CPWB, 2008; 2014).

The amendments 2007 expand the provisions of the Act to cover a range of actions which constitute an offence against a child as noted earlier. It must be noted though, that this does not, however, widen the scope for intervention in event of such offences as it is only concerned with the nature of those offences and the possible penalties imposed upon the perpetrators of these offences. In short, the Act continues to have a limited mandate dealing presumably with poor and destitute children, and not those, for example, who experience abuse at home or school.

In papers, child protection committees have been set up in various districts, however, there is no evidence regarding the effectiveness or functions of the committees³. There is a clear lack of awareness about child

²During a ‘rescue mission’ a Child Protection Officer, accompanied by a uniformed police officer from the Home Department, can ‘remove’ a child from the street by force.

³2015 Kasur child abuse case is but one example of the lack of the Bureau’s and/or the Committee’s presence and relationship with communities. District Kasur is adjacent to Lahore – the Bureau’s head office, however, neither the series of abuses over a period of six or seven years could be noticed by the Bureau before media broke the news nor the Bureau played any significant role in pursuing the case and/or helping victim children and families (Nation, 2016).

abuse/protection issues among communities as shown in the 2015 Kasur child abuse case among others. In fact, the Joint Investigation Team, formed in the aftermath of the Kasur case, found flaws in the preventive mechanism at the local level (Tribune, 2016). While the CPWB lack interaction with communities, it conducts provincial level meetings with other departments such as health and education. These meetings tend to be issue based as opposed to having any strategic purpose, though (McMillan, 2013), which, further narrowed the functionality and effectiveness of the CPWB.

Further revision of the Act is required in order to increase the compliance with the UNCRC and internationally validated standards of child protection. Revision is also integral to ensure the functionality of a system designed to guarantee all children's right to protection in all situations of harm or potential risk, and is not limited to those who are destitute and neglected.

1.3. Balochistan

The Balochistan Child Welfare and Protection Bill 2014 (BCWP Bill 2014) has been approved by the cabinet and approval from the Provincial Assembly is awaited. The Bill 'provides for the protection of children from violence, harm, injury, abuse, neglect or negligent treatment, maltreatment and exploitation in Balochistan'(BCWP Bill, 2014). It 'provides for care, maintenance, welfare, training, education, reintegration and rehabilitation' of children in need of protection, and 'support the family to provide care and protection to their children'(BCWP Bill 2014). The Bill also outlines the parental responsibility and guardianship.

The Bill details the child protection process from child protection notification, initial investigation, comprehensive assessment, child protection plan, community based services, supervision order, removal and placement of the child, appointment of guardians, to review of protective services and placements. However, the capacity to carry out the process is seriously wanting. Till the Bill is passed and the act is enforced the district level Social Welfare Officers of the Social Welfare Department are declared child protection officers. This means they have additional responsibility of child protection alongside their regular work. Even if they could manage their double workload, these officers, coming from different social sciences background, may or may not have any Social Work, Case Management training to perform child protection activities.

In terms of the administrative framework for child protection in the province, the Bill provides for the establishment of a Child Welfare and Protection Bureau, Child Protection Units, Children's Advocacy Service, and Children's Homes. However, the arrangement between the Child Protection Units and the Children's Advocacy Service might result in making the whole process legalistic and languid. This, as the international experience suggests⁴, is not very conducive to efficiency and effectiveness of the proposed system, especially considering the nature and scope of child protection services. In addition, declaring a court of sessions or guardian court as child protection court, which have already been overburdened, would slow down the process whereas many child protection issues demand a speedy response.

Some serious crimes against children including child pornography, sexual abuse, child prostitution, commercial sexual exploitation of children had not been included. In addition, traditional harmful practices and the role of traditional justice system such as *Jirga* is missing from the bill. It is vital to include these in any child protection legislation as the same traditional community leaders who head the tribal courts (*jirga*) that decide on honor killings and child marriages as a means for dispute settlements, also make up the legislature. For example, in August 2008, Senator Israrullah Zehri from Baluchistan defended the tribesmen from his province who shot and buried alive five women, three of whom were aged between 16 and 18 years. The Senator told the Upper House that 'These are centuries-old traditions and I will continue to defend them' (Telegraph, September 1, 2008). The Senator's comment echoes the issues faced in Sindh as discussed in section 2.2, and reflects the struggles that the child protection legislation is faced with in various jurisdictions across Pakistan.

2. Discussion

Above analyses highlighted the salient features of the child protection legislation that governs Pakistan's formal child protection system. At the same time, the analyses covered various conceptual issues, legislative gaps, administrative bottlenecks and societal barriers, which make the task of children's safety and well being an uphill one. Among these, three major issues concerning the current legislation stand out in terms of their

⁴ Bob Lonne and colleagues (2009) in *Reforming Child Protection* provide an exhaustive analysis of the failure of child protection systems in the Anglophone countries. A main reason of this failure was found to be the too legalistic systems.

implications for bringing together the international child rights standards and domestic realities.

2.1. The challenge of defining the concept of child protection for practice

Article 19 of the UNCRC, which requires the state parties to establish a formal child protection system, provides for 'protection against abuse, neglect and exploitation within the family or in care'. Therefore, almost all child protection legislation and documentation officially recognize Article 19 as the policy guideline. In practice though, child protection get mixed up with child welfare and/or social protection as noted above, especially in KP but also in Punjab and Sindh. For example, based on data from September 2012 to September 2013 in KP, McMillan concluded that 'the CPUs have been dealing overwhelmingly with issues of access to education, health and disability services' (2013, p7). Compared with 2392 cases of educational issues, there were 158 cases of 'violence abuse', 12 of physical violence, and 11 of sexual violence, which falls under the child protection provided in the Article 19 of the UNCRC (McMillan, 2013).

The reasons for this have also been touched upon, such as, poverty. However, a major reason as identified in the SOPs for CPUs (UNICEF, 2014) and by independent researchers (McMillan, 2013) has been the lack of conceptual clarity on the part of child protection staff who come with diverse academic backgrounds⁵ and may or may not have experience in child protection as the field is comparatively new in Pakistan. Another reason is the placement of child protection services within the existing administrative set up, which influence the concepts and definitions used. For example, in Punjab, Home department's punitive child protection approach compared with KP and Sindh, where child protection is placed within the social welfare department, which is more familiar with welfare than rights. Therefore, it is important to clarify the concept of child protection (as per the UNCRC Article 19), and establish consensus on the overlap and difference between the protection of children's over all rights and specific protection rights, and demarking the link and difference between social protection, social welfare and child protection in the local context.

⁵These include various social sciences such as sociology and political science, administrative sciences including business and public administration, psychology, law and teaching among others. A small ratio have social work qualification – the field most relevant to child protection practice.

2.2. The establishment of formal administrative and institutional structures

In nature, child protection is a multidisciplinary and yet a specialized field of practice. It demands the establishment of formal administrative and institutional structures (including secondary legislation such as rules of business, and standard operating procedures) mandated to implement the legal provisions, and provide children and families quality services. As the above analysis reveals, provinces need a lot more to do to establish a fully functional child protection system. Currently, some jurisdictions have umbrella legislation. However, either it is not in line with the international standards, eg, the Punjab Destitute and Neglected Children Act, or such legislation has left too much to be covered in secondary legislation, eg, the Sindh Child Protection Authority Act. Such legislation have serious practical implications as noted in the analysis, for example, in Sindh, the line departments are not bound by the Act to cooperate with the CPUs, or in Punjab, only certain categories of children are provided protection services in specific situations and not all children in all circumstances.

Further, for legislation to be implemented, specific administrative structures with clear lines of authority are required. This is not the case in Pakistan. In the Punjab province, there is an ongoing struggle between the Home and the Social Welfare departments with regards to the ownership of the Child Protection and Welfare Bureau. Similarly, in Sindh, the relationship between the Social Welfare department (which runs the CPUs currently) and the Child Protection Authority is not clear. These situations have serious implications for the nature and quality of child protection services as highlighted in the analysis. It seems the governments enact legislation to fulfill their international obligations, however, how the legislation is put into practice is determined mainly by the domestic realities, which include resource constraints and children's issues being a low priority policy area (Jabeen, 2013).

2.3. The need for systematic effort to cope with the environment of a societal reluctance.

As noted earlier, formal child protection is a new system in Pakistan. In fact, until recently, there has been a strong sense of confidence that Pakistani children are well protected within a strong family system and close knit communities of clans and tribes (Jabeen, 2013). While abuse incidences, such as Kasur child abuse, have shaken this confidence, there is still a societal reluctance towards taking private/family matters such as child protection

issues to a formal system as noted in Sindh, for example. Some reasons for such reluctance have been discussed earlier. These include poor literacy, lack of awareness, and patriarch social relations among others. As provided in the UNCRC Article 19, states parties shall take all appropriate legislative, administrative, *social and educational* measures to protect the child, which include educating people that children are rights bearing human beings with dignity and worth, and any risk to their safety and well being should (and could) be addressed in the same manner as in the case of an adult citizen as well as children having special entitlements as children, of which protection is paramount.

3. Conclusion and recommendations

Pakistan's formal child protection system is comparatively new. Pakistan, being a federation, child protection is a provincial subject. Therefore, progress in enacting child protection legislation varies from province to province. Currently, some jurisdictions have umbrella legislation. However, either it is not in line with the international standards or such legislation has left too much to be covered in secondary legislation such as by-laws and rules. Similarly, child protection administrative structures are either temporary arrangements within other government departments or are not provided clear legal mandate and powers (and human and financial resources in some cases) to carry out the complex task of child protection. In addition, societal environment is not very conducive and/or supportive to deal with the sensitive issues involving child protection. There are traditional social structures as well as cultural norms and values that influence the very concept of child abuse and protection and how these issues could be addressed and/or prevented.

Such a situation requires a systematic and sustained effort on the part of all stakeholders including families, communities and the state. The state needs to make effort to fulfill its international child protection obligations in letter and spirit, that is, enacting a child protection legislation which is in line with the provisions of the UNCRC, establishing institutional structures and mechanisms which follow international standards, and educating people as a part of preventive measures. Communities have a vital role in creating a protective environment for all children. Together, community members could reconsider the social relations and cultural norms in terms of risk factors and protective factors in the safety and well being of their children, and promote the protective relations and norms. They could support families and share the responsibility of keeping children safe, more so when a child/family is victim of abuse or exploitation. Rather than standing with the offender and

pressurizing parents/families to compromise and thus perpetuating patterns of abuse in the name of societal values and cultural norms, communities could side with the victim and challenge such values and norms to prevent further harm. As family is the first and most suitable institution (in most situations) for a child to live in safety, it should be provided all possible support in maintenance of a child's safety and well being. Such support includes better access to public services necessary for children such as health and education, social protection in situations of economic hardship, and awareness and education regarding better parenting.

References

- Boyden, J. (1997). 'Childhood and policymakers', in A James & A Prout (eds), *Constructing and reconstructing childhood: new directions in the Sociology of childhood*, 2nd edn, The Falmer, London.
- Child Protection & Welfare Bureau (Home Department) Government of Punjab. (2007). *Punjab Destitute and Neglected Children Act. (2004, revised 2007)*. Child Protection & Welfare Bureau (Home Department) Government of Punjab, Lahore.
- Child Protection and Welfare Bureau (CPWB). (2008). *Annual report*. CPWB, Lahore.
- Child Protection and Welfare Bureau (CPWB). (2014). *Annual report*. CPWB, Lahore.
- Child Protection and Welfare Commission, Department of Social Welfare & Community Services, Khyber Pakhtunkhwa. (2010). *Khyber Pakhtunkhwa child protection and welfare act, 2010. Khyber Pakhtunkhwa Act No. XIII of 2010*. Retrieved July 20, 2015, from <http://kpcpwc.gov.pk/#>
- Child Protection and Welfare Commission, Department of Social Welfare & Community Services, Khyber Pakhtunkhwa. (2013). *Khyber Pakhtunkhwa child protection and welfare rules (draft)*. Child Protection and Welfare Commission, Department of Social Welfare & Community Services, Khyber Pakhtunkhwa, Peshawar.
- Department of Social Welfare, Government of Balochistan . (2014). *Balochistan child welfare and protection bill*. Department of Social Welfare, Government of Balochistan, Quetta.
- Jabeen, T. (2013). *Child protection policy in Pakistan*. PhD Thesis, the Australian National University, Canberra, Australia.
- Lonne, B., Parton, N., Thomson, J. & Harries, M. (2009). *Reforming child protection*. Routledge, Oxon.
- MacLean, K. (2003). The impact of institutionalization on child development. *Development Psychology*, 15(4), 853-884.
- McMillan, N. (2013). *Assessment of Child Protection Units (Pakistan)*. Unpublished report, UNICEF, Islamabad.

- Nation. (2016). *Justice 'served' to Kasur child abuse victims*. Retrieved April 20, 2016, from <http://nation.com.pk/national/19-Apr-2016/justice-served-to-kasur-child-abuse-victims>
- Office of the Special Representative of the Secretary-General for Children and Armed Conflict. (2015). *Pakistan*. Retrieved July 24, 2015, from <https://childrenandarmedconflict.un.org/countries/pakistan/>
- Sahil. (2015). *Seeking justice...complaint procedure*. Sahil, Islamabad.
- Sindh Child Protection Authority Act. (2011). Sindh Act No. XIV of 2011. Retrieved June 15, 2015, from www.pas.gov.pk/.../acts/Sindh%20Act%20No.XIV%20of%202011.pdf
- Telegraph. (2008). *Pakistani women buried alive for choosing husbands*. Retrieved July 17, 2015, from <http://www.telegraph.co.uk/news/worldnews/asia/pakistan/2660881/Pakistan-women-buried-alive-for-choosing-husbands.html>.
- Tribune. (2016). *Kasur child abuse scandal: Punjab government makes no headway on suggestions*. Retrieved April 20, 2016, from <http://tribune.com.pk/story/1060117/kasur-child-abuse-scandal-punjab-govt-makes-no-headway-on-suggestions-says-nchr/>
- UNICEF. (2014). *Standard Operating Procedures for Child Protection Units*. UNICEF- Pakistan, Islamabad.
- United Nations Convention on the Rights of the Child (UNCRC). (1989). Retrieved November 15, 2015, from www.unicef.org/crc/
- Van Wijngaaden, J. W., & Rani, B. (2011). Male adolescent concubinage in Peshawar, Northwestern Pakistan. *Culture, Health & Sexuality*, 13(9), 1061-1107.

About the Author

The author **Tahira Jabeen** earned her PhD from Australian National University. She was awarded merit scholarship for her doctoral studies in ANU. She is serving as Assistant Professor in the Department of Social Work, University of the Punjab. Her research interests include child protection, qualitative research, civil society, social and public policy. She can be reached at tahira.dsw@pu.edu.pk.