



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Report submitted by Pakistan under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, due in 2013\*

[Date received: 1 March 2019]

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\* The present document is being issued without formal editing.

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**Abbreviations**

ADP	Annual Development Plan
AJK	Azad Jammu and Kashmir
BISP	Benazir Income Support Programme
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCO	Children Complaint Office
CJCC	Criminal Justice Coordination Committee
CORs	Concluding Observations and Recommendations
CPMIS	Child Protection Management Information System
CPP	Child Protection Policy
CPUs	Child Protection Units
CPWA	Child Protection and Welfare Act
CPWB	Child Protection and Welfare Bureau
CPWC	Child Protection and Welfare Commission
CRM	Child Rights Movement
Cr.P.C.	Criminal Procedure Code
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
FATA	Federally Administered Tribal Areas
FCR	Frontier Crimes Regulation
FIA	Federal Investigation Agency
GB	Gilgit Baltistan
ICCPR	International Covenant on Civil and Political Rights
ICESER	International Covenant on Economic, Social and Cultural Rights
ICT	Islamabad Capital Territory
JJSO	Juvenile Justice System Ordinance, 2000
KP	Khyber Pakhtunkhwa
MNCH	Maternal Newborn and Child Health
MoLJHR	Ministry of Law, Justice and Human Rights
NADRA	National Database and Registration Authority
NCCWD	National Commission for Child Welfare and Development
NCHR	National Commission for Human Rights
NCPC	National Child Protection Center
NCRC	National Commission on the Rights of the Child
NCSW	National Commission on the Status of Women
NEP	National Education Policy
NGOs	Non Government Organizations
NJP	National Judicial Policy

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NPA	National Plan of Action
OPSC	Optional Protocol on Sale of children, Child Prostitution and Child Pornography
PBM	Pakistan Bait-ul-Maal
PCCWD	Provincial Commissions for Child Welfare & Development
PESRP	Punjab Education Sector Reform Programme
PFCR	Parliamentary Forum on Child Rights
PHC	Primary Health Care
PPC	Pakistan Penal Code
PSDP	Public Sector Development Programme
PWDs	Persons With Disabilities
SAIEVAC	South Asia Initiative to End Violence Against Children
SCPA	Sindh Child Protection Authority
SCPAA	Sindh Child Protection Authority Act
SJA	Sindh Judicial Academy
SWD	Social Welfare Department
UNCRC	United Nations Convention on the Rights of the Child

## Introduction

1. Pakistan signed the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography on 26 September 2001. The Protocol was ratified on 5th July 2011 and entered into force on 5th August 2011, in line with article 14 (2) of the Optional Protocol. This initial report is submitted pursuant to Article 12 (1) of the Optional Protocol.
2. Pakistan submitted its Fifth Periodic Report (CRC/C/PAK/5) on the implementation of the UNCRC in June 2014 which was reviewed on May 25–26, 2016.
3. The Government of Pakistan has adopted several measures to implement the Optional Protocol. In this respect, significant legislative measures including enactment of Criminal Law (Amendment) Act, 2016 that amended Pakistan Penal Code (PPC), 1860 and Code of Criminal Procedure, 1898. For the protection of the child and in line with the provisions of the Optional Protocol on Sale of Children (OPSC), acts involving child trafficking, child prostitution and child Pornography and sale of child have been criminalized. The said Act introduces the following new sections in the PPC:
  - (a) Section 292-A Exposure to Seduction;
  - (b) Section 292-B Child Pornography;
  - (c) Section 292-C Punishment for Child Pornography;
  - (d) Section 328-A Cruelty to a Child;
  - (e) Section 369-A Trafficking of Human Beings;
  - (f) Section 377-A Child Abuse;
  - (g) Section 377-B Punishment for Child Abuse.
4. At the regional level, Pakistan plays a leading role in mitigating the suffering of the SAARC -children by undertaking measures for ending violence against children under the South Asia Initiative to End Violence against Children (SAIEVAC).
5. The implementation mechanism for the Optional Protocol includes several federal and provincial institutions/bodies. Among others, National Commission for Child Welfare and Development (NCCWD) is one of the core institutions working for the protection and promotion of child rights at national level. The NCCWD was established in December 1980. It was previously working under the Ministry of Social Welfare and Special Education but after the 18th Constitutional Amendment (through which the subjects of Social Welfare and Special Education were devolved to the provinces), the NCCWD was transferred to the Capital Administration and Development Division (CADD) to function at the ICT level. Later on, it was placed within the Ministry of Law, Justice and Human Rights. Presently, the NCCWD is working under the administrative control of Ministry of Human Rights.
6. The NCCWD acts as an advisory body to the Government of Pakistan on matters related to child rights and protection. Through coordination with provincial governments, it ensures the implementation of child rights. In addition, it liaises and coordinates with the Provincial Commissions for Child Welfare & Development and Children Complaint Offices. Further, it works closely with international and national non-governmental organizations for the promotion and protection of child rights in Pakistan. The role of the NCCWD, among other things, is to create a child friendly society that places the children at the centre of development, recognizes their individuality, respects and values their voices, observes their best interest in every sphere of life and protects them from violence, abuse and exploitation.
7. The NCCWD also assesses the impact of constitutional, legal and administrative provisions which have a bearing on welfare and development of children, and suggests measures to the State to provide full opportunities for their complete growth. Its mandate includes suggesting amendments and additions to the Constitution and national laws, where feasible, so as to bring them into harmony with the UNCRC and the OPSC. It is also tasked to formulate legislation to deter child abuse in all its forms, including physical violence, child mutilation, exposure to drugs, child labor and protection to children who are differently abled (mentally or physically) or otherwise in need of social protection and services.

8. At the provincial level, Provincial Commissions for Child Welfare & Development (PCCWD) and Social Welfare Department SWD are the bodies delegated with powers to monitor the progress relating to the implementation of UNCRC and OPSC. At the district level, the Criminal Justice Coordination Committee, a body created under the Police Order 2002, works the protection of child. The Juvenile Justice System Ordinance (JJSO) is a permanent agenda of many of these committees as a result of which all stakeholders of the criminal justice system review the state of children who face legal proceedings.

9. Apart from NCCWD, PCCWD, SWD and CJCC, there are other institutions which are working within the realm of child rights relating to the Optional Protocol. In addition, the CPWA has been included in the training course at the Police Training College Hangu as a result of collaboration of the CPWC with the police department.

10. The implementation of the provisions of the UNCRC and OPSC was also challenged by natural calamities causing destruction of property and natural resources. These disasters posed a huge challenge to Pakistan for rebuilding villages, recovery and rehabilitation of the victims. In 2012 alone, 4.8 million people were affected by floods. Unfortunately, children were exposed to the difficult environment and natural calamities. This renders them comparatively more vulnerable to psychological distress, harm and disease. The situation on ground and corresponding mechanisms in place have an impact on the overall performance of Pakistan in relation to its commitment to the provisions of UNCRC and the OPSC.

### **Process of report writing**

11. This report is based on information gathered through different methods including recommendations emerging from a series of consultations with the stakeholders at the national and provincial levels. The stakeholders involved concerned government officials, members of the CSOs, UN, other international agencies, parents and children. Meetings with government officials and civil society members were organised during the pre-drafting phase of the report.

12. The desk review of the laws and policies was conducted; research papers, reports, news articles in print and electronic media were studied; follow up meetings were carried out to verify the information. The purpose of the desk review was to comprehensively analyze legal regime relating to Optional Protocol and general principles of UNCRC. All relevant federal and provincial laws were reviewed as per international standards set by the Committee from time to time. Previous state reports and Concluding Observations and Recommendations (CORs) of the Committee to the last submitted reports by Pakistan were also reviewed.

13. After the desk review, provincial consultations were organized. The basic purpose of the pre-drafting consultations with the relevant stakeholders was two-fold:

- (a) To collect data; and
- (b) To conduct a gap analysis of the international standards relating to the rights of children and responsibility of Pakistan under the Optional Protocol and the existing (and proposed) Pakistani legal regime.

14. Pakistan is already a party to the UNCRC, and has submitted its 5th Periodic Report. Therefore, the data collected during those reports was updated and analyzed, wherever needed and available. Similarly, during the pre-drafting consultations, efforts were made to engage with the CORs of the Committee to articles of UNCRC which are directly related to substantive rights and enforcement mechanisms contained within the Optional Protocol. Pre-drafting consultation process not only served the above mentioned two broad aims but also helped in achieving the following goals:

- (a) To bring all the stakeholders together;
- (b) To raise awareness about the rights of children as contained within OPSC;
- (c) To share the processes of report writing with the stakeholders;
- (d) To collect and analyze data relating to OPSC;

- (e) To verify the data already collected for already submitted reports (especially UNCRC and CEDAW);
- (f) To analyze CORs of the Committee to corresponding (relevant articles) of UNCRC;
- (g) To collect feedback, comments, inputs and for drafting of the report;
- (h) To understand and analyze the factors and difficulties which affect the degree of fulfillment of the obligations under the OPSC.

15. After the pre-drafting consultations, the report was drafted, and a zero draft was shared with the relevant stakeholders, from government and non-government organizations. Subsequently, a national consultation was convened with the aim of cross verification of the data and analysis in the zero draft.

## **Information on compliance relating to OPSC**

### **Article 1**

#### **Prohibition of Sale of Children, Child Pornography and Child Prostitution**

16. The Government of Pakistan is committed to implementing the provisions of Optional Protocol effectively. Numerous measures have been taken by Pakistan to implement the Optional Protocol. In this respect, the Government of Pakistan has amended Pakistan Penal Code, 1860 (“PPC”) and Code of Criminal Procedure, 1898 through Criminal Law (Amendment) Act, 2016 in order to protect the child by criminalizing the acts involving child trafficking, child prostitution and child pornography and sale of child.

17. The National Commission for Human Rights Act, 2012 has been promulgated by Pakistan for promotion and protection of human rights in the country as provided in the UNCRC and other regional and international commitments of Pakistan pertaining to the protection of human rights. Child Protection Centers have been established by federal and provincial governments. At federal level, the Ministry of Human Rights has been established to comprehensively provide policy guidelines and oversee the implementation of international human rights treaties. Various child protection related legislations are promulgated including National Commission on the Rights of the Child Act, 2017, Juvenile Justice System Act, 2018 and ICT Child Protection Act, 2018.

18. Pakistan hosted a meeting in May 2005, in which SAARC countries decided to establish the South Asia Forum for Ending Violence Against Children (SAF). The said Forum was later on transformed into the South Asia Initiative to End Violence Against Children (SAIEVAC) in June 2010.

### **Article 2**

#### **Definition of Sale of Children, Child Pornography and Child Prostitution**

19. Article 3 of the Constitution of Islamic Republic of Pakistan, 1973 mandates the State to eliminate all forms of exploitation against its citizens which includes children. Furthermore, Article 11 of the Constitution prohibits all forms of slavery, forced labour and trafficking. Constitution is the supreme law of the land, and prohibits acts of exploitation against children including, but not limited to, those mentioned in Article 11 of the Constitution. Specific definitions related to sale of children, child pornography and child prostitution are covered under Prevention and Control of Human Trafficking Ordinance, 2002 and PPC.

20. Sale of Children is covered under definition of human trafficking. The Prevention and Control of Human Trafficking Ordinance, 2002, covers trafficking of children and women, which is a criminal offense under the said Ordinance. Section 2(h), thereby has defined human trafficking that encompasses the selling of persons. Therefore, this section covers aspects of ‘sale of children’ as defined within Article 2(a) of the Optional Protocol.

21. Child Pornography under Section 292-B of PCC, has been defined as taking, with or without the consent of the child or with or without the consent of his parents or guardian, any photograph, film, video, picture or representation, portrait, or computer-generated image or

picture, whether made or produced by electronic, mechanical, or other means, of obscene or sexually explicit conduct.

22. Child Prostitution is covered under Section 377-A of PCC (Sexual Abuse) which provides that whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage in, or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without the consent where age of person is less than eighteen years, is said to commit the offence of sexual abuse.

23. Furthermore, there are various other Federal and Provincial legal provisions that cover offences related to implement OPSC. At Federal level, Sections 360, 361, 362, 370, 371 of PPC also define different aspects of crimes related to Optional Protocol. At Provincial level, explanation of sale of children, child prostitution and child trafficking are defined in the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010. Provincial legislation also protects children from exploitation and prostitution. Section 3(e) of the Punjab Destitute and Neglected Children's Act, 2004, defines a 'child' as a natural person who has not attained the age of 18 years. Section 3(r) of the said Act defines 'prostitution' in as illegal intercourse for hire, whether for money or kind. Section 40 of the Act, apart from outlawing child prostitution, also prohibits exposing a child to immoral conditions, which covers aspects of child pornography as defined within Article 2(c) of the Optional Protocol. The Section 7 of the Punjab Suppression of Prostitution Ordinance 1961 also prohibits prostitution, and contains specific offences relating to prostitution of children. Section 13 (u) of the Punjab Control of Goondas Ordinance, 1959, another provincial statute of Punjab, also covers aspects of pornography by outlawing 'obscene objects'.

### **Article 3**

#### **Criminalization of Sale of Children, Child Pornography and Child Prostitution**

24. The requirement to criminalize the sale of a child for purposes of sexual exploitation largely overlaps with the requirement to criminalize acts concerning child prostitution and child pornography. The term 'sexual exploitation' is understood as prostitution, pornography, or other sexual abuse in the context of the sale of children. National and provincial legislation have made strict laws for punishing offenders for child trafficking, sexual exploitation.

25. Sale of Children is punishable under Section 369-A of PPC which provides that whoever involves himself in human trafficking shall be punished with imprisonment for a term which shall not be less than five years and may extend up to seven years, or fine which shall not be less than five hundred thousand rupees and may extend up to seven hundred thousand rupees, or with both.

26. Sexual Abuse has been criminalized under Section 377-B of PPC which provides that whoever commits the offence of sexual abuse shall be punished with imprisonment of either description for a term which may extend to seven years and liable to fine which shall not be less than five hundred thousand rupees or with both.

27. Child Pornography has been criminalized under Section 292-C of PPC providing that whoever commits an offence of child pornography shall be punished with imprisonment of either description for a term which shall not be less than two years and may extend up to seven years, or fine which shall not be less than two hundred thousand rupees and may extend up to seven hundred thousand rupees, or with both.

28. Specifically focusing on the minors and underage children, the procurement of a minor girl for illicit intercourse is an offence under Section 366-A of PPC punishable up to ten years and fine. Likewise, offence of importation of a girl under the age of twenty one (21) from foreign county for illicit intercourse is punishable under Section 366-B of PPC with imprisonment up to ten years and fine. Section 371-A and 371-B of PPC dealing with the offence of selling and buying a person for prostitution or illicit intercourse carry imprisonment up to twenty five years and fine. Furthermore, under Section 365-B, kidnapping of a woman to compel her for marriage is liable to be punished for life.

29. The punishment for kidnapping under Section 363 of PPC is up to seven years and fine, whereas the punishment under Section 364-A for kidnapping or abduction of child below the age of 14 is a minimum of 7 years and may extend to 14 years.

30. The word 'obscene' which also covers the prohibition on child pornography in national legislation carries a punishment under Section 292 of PPC of up to three months and/or fine, under Section 293 up to six months and/or fine and under Section 294 up to three months and/or fine.

31. Additionally, Section 3(i) of Prevention and Control of Human Trafficking Ordinance, 2002 provides the punishment for human trafficking: 'Whoever knowingly plans or executes any such plan for human trafficking into or out of Pakistan for the purpose of attaining any benefit, or for the purpose of exploitative entertainment, slavery or forced labour or adoption in or out of Pakistan shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.'

32. Section 40 of the Punjab Destitute and Neglected Children Act, 2004 makes the offences of child prostitution, sodomy and exposing a child to immoral conditions punishable by up to 3 years or a fine up to fifty thousand rupees. Similarly, Sections 7 to 10 of the Punjab Suppression of Prostitution Ordinance, 1961, extensively cover and penalize the causing, encouraging, abetting, procuring, importing and keeping of any girl for the purposes of prostitution and makes these offences punishable by up to 3 years and fine.

33. Sections 56 and 57 of the Sindh Children Act, 1955, have enacted similar provisions with respect to causing and encouraging seduction of young girls and outrage of modesty. Section 58 of the said Act covers a new aspect in respect of sexual exploitation of children. The Child Protection Authority under the Sindh Child Protection Authority Act, 2011, is mandated to initiate through relevant authority, prosecution of offenders where children are subjected to sale, prostitution or child pornography.

34. The Khyber Pakhtunkhwa Child Protection and Welfare Act 2010, under Section 50, covers the offence of exposing a child to seduction and carries a punishment of up to seven years or a fine which may extend to ten thousand rupees or with both. The Section 40 of the Act defines the crimes whereas Section 48, lays down the punishment for child pornography, which is up to seven years imprisonment with a minimum term of three years and fine.

35. There are also other provincial statutes that cover pornography by outlawing obscene objects. In this respect, Section 13 (u) of the Punjab Control of Goondas Ordinance 1959 provides that any person who publishes, distributes, circulates, sells or offers for sale any obscene book or picture or other object shall be punished under Section 21 and 21-A up to two years.

36. Under Article 11 of the Constitution of Pakistan, no child below the age of fourteen shall be engaged in any factory, mine or other hazardous employment. Section 374 of the PPC prohibits 'unlawful compulsory labour' and sets a punishment of imprisonment for up to five years, or a fine, or both.

37. The Employment of Children Act, 1991, prohibits the employment of children in certain occupations and processes set forth in Section 3, Part II of the Act. 'Child' under this legislation, means a person who has not completed his fourteenth year of age. Furthermore, The Factories Act, 1934, and Mines Act, 1923, also prohibit the employment of a 'child'. Moreover, under the Bonded Labor System (Abolition) Act, 1992, bonded labor is generally prohibited for all ages without any age caveat. Other laws prohibiting and governing child labour include Khyber Pakhtunkhwa Factories Act, 2013, and Shops & Commercial Establishments Ordinance, 1969. Similar provisions to prohibit exploitation of children though forced labour are set out in Section 59 of the Sindh Children's Act, 1955.

38. Other requirements of the Article 3 of the OPSC are broadly covered by under the provisions of PPC and the Guardian and Wards Act, 1890. Under the Guardian and Wards Act, 1890, Act an application for change in guardianship can be filed.

#### **Article 4**

##### **Jurisdiction**

39. The laws relating to jurisdiction are covered under PPC, in respect of offences committed within and outside Pakistan. Section 2 states that ‘every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within Pakistan’.

40. Dealing with intra-territorial jurisdiction in respect of offences committed within Pakistan, this section lays down that every person shall be liable to punishment if the offence under the PPC is committed within the territory of Pakistan (territory of State, under the international law includes the land plus the portion of the sea washing its coast up to three miles into the sea), without distinction of nation, rank, caste or creed. A foreigner who enters into the territory of Pakistan shall also be tried under National law.

41. Sections 3 and 4 of PPC lay down extra-territorial jurisdiction laws. According to these sections, every citizen of Pakistan and every person in the service of the State, regardless of citizenship, is liable to be tried in Pakistan, for any offence committed beyond the territory of Pakistan on foreign lands. Furthermore, the offence if committed abroad will be dealt with in the same way as it had been committed within the territory of Pakistan. Moreover as Section 4 points out, this law extends to ‘any person on any ship or aircraft registered in Pakistan wherever it may be’.

42. Cr.P.C. provides for the jurisdiction of the criminal courts. According to Section 177 of Cr. P. C every offence shall be tried in a Court within the local limits of whose jurisdiction the offence was committed. However, Section 179 of Cr.P.C. provides for exception to the general rule mentioned in Section 177 to the effect that jurisdiction may be exercised by the court where the consequence of the act follow. Section 168 of Cr.P.C. deals with powers to issue summons or warrants for offence committed beyond local jurisdiction, and Section 186 deals with liability for offences committed outside Pakistan. Other laws include the Transfer of Offenders Ordinance, 2002, Vienna Convention on Diplomatic Relations, 1961, and the OPSC.

#### **Articles 5 and 6**

##### **Extradition and Mutual Legal Assistance**

43. Extradition treaties or arrangements between States provide for matters related to the extradition of fugitives from law.

44. The Extradition Act, 1972, is the governing law which deals with extradition related matters. It outlines extraditable offences in its schedule and include, among others, rape, procuring or trafficking in women or young-persons for immoral purposes, kidnapping, abduction or false imprisonment or dealing in slaves, stealing, abandoning, exposing or unlawfully detaining a child. It also lays down the processes involved in extraditing offenders under the Act.

45. Pakistan provides legal assistance in criminal matters on the basis of bilateral treaties and international conventions, to which Pakistan and the State requesting assistance are a party. The mechanism is laid down in Cr.P.C.

#### **Article 7**

##### **Seizure and confiscation**

46. Provisions of Article 7 of the Optional Protocol are subject to the provisions of national law. Provisions in criminal procedural laws for confiscation and seizure of the article cover all cases including those where the victim is a child.

47. Section 51 of Cr.P.C. authorizes a police officer to search any arrested accused and take into custody any material to be found in the accused person’s custody. Section 53 of Cr.P.C. empowers the authorities to seize offensive weapons. Furthermore, Section 523 of Cr.P.C. elaborates the procedure to be adopted by the police upon seizure of property taken under Section 51 of Cr.P.C. The sub section (1) of Section 523 of Cr.P.C. provides for the procedure to deal with the seized or confiscated case property.

48. Moreover, Custom Act 1969 also has provision for the seizure and confiscation of goods provided if their transportation is found illegal. The goods may be confiscated under this law if there are not declared or have some material, possession of which is considered illegal under any other law. Section 157 of the Custom Act 1969, describes the “extent of confiscation”. Section 168 of this Act is also relevant that further describes, “Seizure of things liable to confiscation”.

49. Additionally, Section 4 of the Juvenile Smoking Act, 1959, provides “seizure of tobacco smoked by a juvenile in a public place”. The use of drugs among children often begins with smoking. Various studies on drug abuse found that often children are intoxicated through drugs or tobacco and consequently, they are used for prostitution or any other form of sex. Thus the Section is preventive in nature and protects children against the falling a prey to the crimes described in the Protocol. Thus criminal procedural authorizes the law enforcement agencies for the seizure and/or confiscation of any goods, material, article etc. and any proceeds derived from use of the such goods used for the committing an offence against children described in the Optional Protocol.

## **Article 8**

### **Protection of Child Victims**

50. Pakistan’s National and Provincial Laws recognize vulnerability of child victims and witnesses and have accordingly adopted procedures to recognize their special needs. The ICT Child Protection Act, 2018, Section (17) provides that the Court will ensure that the child is provided with appropriate care or alternative care services. Section (20) provides that under no circumstances a girl-child will be taken into care or remain under the care of a male child protection officer or a male caregiver. The Punjab Destitute and Neglected Children Act, 2004 provides that a child protection officer will produce the victim/destitute and neglected children before the Court within twenty-four hours. If immediate production of the child before the Court is not possible due to any reason, will immediately be taken to the nearest child protection institution for temporary custody till his production before the Court within the stipulated time. The Sindh Child Protection Authority Act, 2011, Section 10(1) b & q, provides that the Authority will ensure the rights of the children in need of special protection measures. The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, Section (15) provides that the Court will issue orders in respect of handing over the custody of a child at risk either to his parents, guardian, a suitable person or a Child Protection Institution. It also provides that the Court will make an order in respect of protection and care of a child at risk, considers continuity in his upbringing and take into consideration the ethnic, religious, cultural, linguistic background and all other relevant factors in the best interest of the victim/child at risk. While making the orders the Court will prefer keeping the child at risk in parental care, or extended family care, or non-kinship care than placement of a child at risk in a Child Protection Institution. It also provides for periodically or quarterly review of the intervention plan to protect children at risk, to ensure its continuity and capacity to meet the assessed needs. The Act provides for follow-up of children at risk after their release from the Child Protection Institution or jail for about six months. The Balochistan Child Protection Act, 2016, Section 4(5) provides that no child will be removed from its family home and environment by state intervention unless the removal is deemed by the Court to be in the best interests of the child in order to protect him/her from threat of/or significant harm, after considering all views, including those of the child.

51. The KP Child Protection and Welfare Act, 2010 provides that the Court will inform the child at risk of the situation and obtain his views before making an order in respect of his custody and care. The ICT Child Protection Act, 2018 section (17) provides for seeking views of the child where the child is of sufficient age and level of maturity. The Prevention and Control of Human Trafficking Ordinance, 2002, Section 6 provides for the provision of legal assistance to the victim. The Sindh Child Protection Authority Act, Section 17(1) provides that a child protection officer in case of a child in need of special protection measures will ask relevant authorities for an appropriate action.

52. The ICT Child Protection Act, 2018, Section (28) provides that no report of a child will be disclosed in media which leads to the identification of the child, nor any picture of such child be published, save that, for reasons to be recorded in writing, the Court may permit

such disclosure, if in opinion of the Court such disclosure is in the best interests of the child. It also provides that any person who contravenes will be punishable by the Court with fine which may extend to fifty thousand rupees. The Sindh Child Protection Authority Act, Section 17(3) provides that whenever a child is taken into custody, he shall immediately be taken to the nearest Child Protection Institution for temporary custody till appropriate orders are passed by the appropriate authorities. The KP Child Protection and Welfare Act Section (20) provides that the Child Protection Officer upon information or complaint, may take into protection a child at risk and shall produce him before the Court within twenty-four hours of taking the child at risk into such protection. It also provides that the Court will finally decide a case within four months from the date of production of a child at risk before it. In the event of the expiry of 60 days period before the final decision of the Court, the Court will communicate, in writing, to the concerned District Judge, the reasons, if any, of the delay.

53. The Punjab Destitute and Neglected Children Act, 2004, Section 4(2) provides that in case of any dispute as to the age of a child, the Court shall decide the same in the first instance. The KP Child Protection and Welfare Act, Section 19 provides that in case of any dispute as to the age of a child at risk, the Court shall decide the same in the first instance based on the medical report of the Medical Superintendent of the district concerned whose advice about the age of the child at risk will be final for the purposes of this Act.

### **Articles 9, 10 and 11**

#### **All measures to ensure compliance with OPSC**

54. Government of Pakistan in collaboration with international, regional and national including provincial stakeholders has taken various legislative and policy initiatives to implement the OPSC. Accordingly, different programs have been launched. Laws relating to child protection at federal and provincial level are being implemented which provide for undertaking action against the perpetrators involved in sale of children, child prostitution and child pornography.

55. A National Action Plan on Human Rights is in place since 2016 which includes measures relating to Child Rights. Under the Action Plan, a National Policy Framework on Human Rights is being developed by Ministry of Human Rights to protect human rights including protection of children from abuse, violence, discrimination & exploitation including sale of children, child prostitution and child pornography.

56. A National Child Policy was prepared in 2006 approved by the then Cabinet. Under the policy, the right of child to protection is ensured i.e. "The State shall in partnership with community draw up plans for the identification and rehabilitation of child victims and ensure that they are able to recover, physically, socially and psychologically, and re-integrate into society". Similarly, the Government takes strict measures to ensure that children are not used in the conduct of any illegal activity, namely, trafficking of narcotic drugs and psychotropic substances, begging, prostitution, pornography or armed conflicts. The State in partnership with community ensures that such children are rescued and immediately placed under appropriate care and protection.

57. Ministry of Law, Justice and Human Rights in collaboration with the South Asia Initiative to End Violence Against Children (SAIEVAC), organized a Workshop in Islamabad in March, 2014 to adopt a unified Advocacy and Communication Strategy to address the issues of violence against children in accordance with recommendations of the United Nations Global Study on violence against children. National delegations from Afghanistan, Bangladesh, Bhutan, Maldives, Nepal, Pakistan and Sri Lanka comprising senior government's officials/SAIEVAC National Coordinators, representatives of SAIEVAC Secretariat, representatives from NACGs, INGOs and facilitators participated in the Workshop.

58. Ministry of Law, Justice & Human Rights in collaboration with Madadgaar National Helpline organized two day National Conference in Nov 2015. The objective of the conference was to identify gaps in existing protection mechanism of Children, Youth and Women and to come up with mechanism to address these issues. The event was attended by Government officials, Civil Society Organizations, Lawyers, Media, NGO partners, Referral

Partners, Academia, Human Rights activists, Youth and relevant ministries representatives. National Response Centre for Cyber Crime (NRC) of FIA is also dealing with technology based crimes in Pakistan.

59. A National Conference on Child abuse was held in October, 2015 at Islamabad. The objectives of the Conference were to sensitize the masses on the core issue of child abuse including sale of children, child prostitution and child pornography. The representatives from the Federal Ministries, Provincial Departments (Law, Home, Social Welfare and Labour), Child Protection and Welfare Bureau, AJ&K, Civil Society Organizations working on Child Rights, Students and Children were invited in the National Conference. The representatives of provincial Governments including AJ&K exchanged views and discussed measures taken and the future plans to be taken by their respective Governments. At the end, a Deceleration to combat child abuse from the country was unanimously adopted.

60. During the reporting period, 1,679 persons were arrested by FIA for their alleged involvement in human trafficking. The Government is committed to take action against those involved in trafficking, bonded labour, selling human beings and violating human rights. The FIA, with the help of police and Rangers, takes action against elements and organized groups involved in human trafficking. Consequently, in 2014-15, FIA arrested 46 most wanted criminals and 1,236 proclaimed offenders involved in human smuggling.

61. Prevention of Electronic Crimes Act, 2016 aims at ensuring safe and productive use of internet, protection of national assets as well as civic safety through robust cyber security, protection of children against unsuitable material, curbing hate speeches and inappropriate glorifications, prevention from cyber terrorism, unauthorized interceptions and financial crimes, as well as enabling conducive environment for the multinational IT and e-commerce organizations for business investment and operations in the country.

62. The FATA Child Protection Policy has been launched for the promotion and creating a protective environment for children and to ensure their protection against all forms of violence, abuse, discrimination, neglect and exploitation. It is a momentous step undertaken taken for millions of children of FATA.

63. The Government, in collaboration with the stakeholders, has established 13 Drop-in Centers/Child Protection Centers/Education and Counseling Centers. These centers are functional for working children, children on the streets and children who are victims of violence and commercial sexual exploitation, where they receive non-formal education, psycho-social support, counseling, legal aid, personal rehabilitation.

64. Pakistan Bait-ul-Mal has started a pilot project of Sweet Pakistan Homes for orphan and needy/homeless children across the country. In this regard, a few orphan homes have been established in Islamabad, Gilgit, Muzaffarabad, Lahore, Rawalpindi, Rahim Yar Khan, Bahawalpur, Multan, Faisalabad, Larkana, Nawabshah, Mirpur Khas, Mardan and Quetta, while the project would be extended to different areas across the country. These orphan homes provide quality education, health and better living to the children of 4–6 years of age group and PBM will support them till the beginning of their career.

65. The Provincial Governments of Punjab and Khyber Pakhtunkhwa have established Child Protection & Welfare Bureau/ Child Protection and Welfare Commission/Units to address issues of violence against children. The Social Welfare Department, AJ&K is also running three Child Protection Units for protection and rehabilitation of the vulnerable children including those victims of violence.

66. The Department of Social Welfare Government of Punjab has established 8 Centers “NIGEBAN”, one each at Divisional Headquarter for the rehabilitation of lost, runaway, kidnapped children and children victims of violence with specific provision of protection and care. Such children are also provided services in child care institutions like SOS Children’s Villages or other orphanages for proper care, upbringing and rehabilitation on long-term basis. During their stay at such institutions, children are provided with boarding, lodging, recreational and medical facilities.

67. Eight Welfare Homes are functioning in KP for homeless, runaway, victims of violence, destitute children and child beggars. Children are provided with clothing, food and education, etc at these Centers. Similar Centers are also working in Sindh and Balochistan.

68. Pakistan also actively participates in regional processes for implementing measures to advance children rights to protection. Pakistan is a signatory to the SAARC Regional Convention on Combating the Crime of Trafficking in Women and Children for Prostitution (Jan. 2002). In addition Pakistan was part of the biennial South Asia Regional Ministerial Meetings, as regional reviews for tracking of progress on the implementation of the Beijing Platform for Action, and facilitating cross-regional peer learning and sharing of best practices.

69. SAIEVAC is a regional mechanism for ending violence against children. The SAIEVAC is focusing on five thematic areas i.e. child labour, child trafficking, child sexual abuse and exploitation, child marriages and corporal punishment. Pakistan is playing a leading role in implementation of the joint agenda of ending violence against children.

70. In May 2012, SAIEVAC organized Follow-up Regional Consultation (FURC) of the UN study on violence against children (VAC). The main objectives of the consultation were to: identify and review progress; highlight gaps in implementation that still remain; showcase and promote relevant good practices, strengthening the ownership, accountability and commitment by South Asian governments to end VAC, and to examine existing national plans of action and develop regional road map for implementation of UNVAC study for the next 5 years. Seven thematic areas were identified as priorities in Pakistan; Violence and Abuse, Child Trafficking, Corporal Punishment, Child Pornography, Early Marriages, Rigorous Imprisonment and Child Labour and Exploitation. Through the SAARC, SAIEVAC and South-South Cooperation's platform, the child-victims are assisted in their physical and psychological recovery, social reintegration and repatriation.

71. A project "Ending Violence against Children in Pakistan" is being implemented with the support of SAARC Development Fund (SDF). Under this project, various training programs on child rights and child protection have been organized for the public and volunteer sector stakeholders and media at national and provincial level including AJ&K and Gilgit Baltistan. A training Manual has also been prepared for future use. Information, Education and Communication (IEC) Material on child rights and child protection have been developed and disseminated among relevant stakeholders.

72. SAARC Seventh Technical Committee Meeting on Women, Youth and Children was held in July, 2015 in Pakistan, hosted by the Ministry of Human Rights. The progress made in the area of protection by the Member States has been reviewed. The meeting came up with a set of recommendations to further improve the situation of Women, Youth and Children in South Asia which are being implemented.

73. Ministry of Human Rights in collaboration with SAIEVAC had also organized a one day consultation as national preparation for the South Asia Regional Technical Consultation on "Stepping up Protection of Children with Disabilities" in October, 2014 with the participation of children and their chaperons. The progress and concrete results achieved in addressing violence against children with disabilities have been reviewed and successful approaches and lessons learned shared.

74. 4th Technical Consultation on "Stepping up Protection of Children with Disabilities" in South Asia was held in December, 2014, in Colombo, Sri Lanka. The Consultation provided a forum for strengthening the protection of children with disabilities through awareness raising, enhanced cross-regional learning, strategy exchange, opportunities for joint advocacy, and through the additional strengthening of partnerships. Children from all SAARC countries, including Pakistan, actively participated in the meeting.

75. In order to address the root causes that contribute to the vulnerability of children to sale, child prostitution, child pornography and child sex tourism, Pakistan is playing a leading role at various forums like South-South Cooperation, SAIEVAC and SAARC to address these issues. Pakistan is providing financial and technical assistance through existing multilateral, regional, and bilateral programs to protect children from sale, prostitution and pornography.

## **Institutional support, independent monitoring and evaluation**

76. Standing Committees on Human Rights: The National Assembly and the Senate have Standing Committees on Human Rights. These bodies offer insights on public policy and keep a check on the human and child rights situation in the country, receive complaints dealing with child rights violations, conduct inquiries, hold hearings and make recommendations.

77. Human Rights Cell at the Supreme Court of Pakistan and District and Sessions Judges: The Human Rights Cell at the Supreme Court of Pakistan works under the direct supervision of the Chief Justice of the Supreme Court. The Court takes up cases, using its suo motu powers that require relief on an urgent basis and/or constitute a pattern of human rights violations including child rights violations. Similar cells operate at provincial High Courts. District and Session Judges have been tasked with monitoring detention venues and providing redress to juveniles/prisoners as part of the NJP.

78. The NCHR: The NCHR came into existence in 2012. The Commission keeps a close look on the situation of human rights as well as child rights. The Commission has the power to investigate human rights violations complaints; conduct visits to places of detention; review laws, recommend amendments to existing laws or new legislation; and develop a NPA for promotion and protection of human rights.

79. The NCSW: Initially, NCSW was established through a Presidential Order in 2000 in order to review measures taken by the Government for women development and to ensure gender equality. Subsequently, to improve the functioning of NCSW by making it an autonomous body the National Commission on the Status of Women Act, 2012 was enacted. The Commission has powers equal to that of a Civil Court for ensuring attendance of witnesses and summoning of documents.

80. Federal and Provincial Ombudsmen and CCOs: An independent statutory body, the Federal Ombudsman, has been given the mandate to redress citizens' grievances against government departments. The Ombudsman appointed a Commissioner for children, in May 2013, the role of whom is to advocate and create awareness about child rights. Under the Ombudsmen, which operate at federal and provincial levels, CCOs have been established, which are tasked with addressing complaints about child protection – whether it be at school, home and public services. Complaint boxes have been placed at public and private schools in cities across the Punjab. These cities include Lahore, Sargodha, Multan, Rawalpindi, Faisalabad, Gujranwala, Mianwali, Kasur, Muzaffargarh, Chakwal, Shakar Garh (Ikhlaspur), Katas Raj, Essa Khel, Bhalwal and Khushab. Children can use the boxes to file complaints against teachers, parents or anyone else who violate child protection laws.

81. The SCPA: SCPA was established under the SCPAA. The SCPA oversees and establish CPUs at district levels. Protection officers are appointed to deal with children's issues and to monitor violence cases that arise in their areas. At present the department has nine CPUs. Furthermore, CPUs have established at Ghotki. Under the SCPAA, a Child Protection Officer may apply to the nearest magistrate for taking into custody a child who is subjected to sale, prostitution or sexual exploitation and take necessary measures for welfare of the child including social rehabilitation, re-integrative and reformatory services.

82. The KP Child Protection and Welfare Commission: In KP, the CPWA which was set up in 2010, keeps an eye on the status and rights of children by reviewing provincial laws while monitoring the province for implementation as well as violation of laws. It can suggest changes to existing laws or recommend that a new law be legislated. The CPWA also implements policies for protection, rehabilitation and reintegration of children at risk.

83. Directorate of Human Rights, Department of Law, KP: Under the recently promulgated KP Promotion, Protection and Enforcement of Human Rights Act 2014, a grievance redress mechanism cell has been constituted. The cell will have competence to hear any or all complaints relating to "human rights" as defined within the Constitution of Pakistan and/or international treaties which have been ratified by Pakistan.

84. Directorate of Human Rights, Peshawar High Court, KP: In order to protect fundamental human rights as enshrined in the Constitution, a Human Rights Directorate has

been constituted in the Peshawar High Court. The directorate can redress the grievance of children relating to the rights contained with the Optional Protocol.

85. Punjab Health Care Commission: The Health Care Commission, established in 2010, oversees public, private and non-governmental healthcare establishments in order to improve the quality of health service delivery.

86. In Punjab, Borstal Institute and Juvenile Jails (BI & JJ) have been set up in Bahawalpur and Faisalabad. They operate in accordance with provisions of and the Punjab Juvenile Justice System Rules 2002. In Balochistan, Borstal Schools Bill is in pipeline.

87. Government of Punjab established a CPWB in 2004. It provides care, rehabilitation, education and training to destitute and neglected children<sup>1</sup>. Additionally, The Punjab Destitute and Neglected Children Act 2004<sup>2</sup> was promulgated to consolidate the law for the rescue, protective custody, care and rehabilitation of destitute and neglected children in the Province of the Punjab other than those involved in criminal litigation.

88. The Government of Khyber Pakhtunkhwa established CPWC under the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, in order to act as focal point for effective supervision and coordination of child rights matters at provincial and local level, and is to implement policies on prevention, protection, rehabilitation and integration of children at risk. Furthermore, it is to review all provincial laws, rules and regulations affecting the status and rights of children and to propose new laws as and when needed and to prevent child labour, child sexual abuse, child trafficking and any form of violence against children<sup>3</sup>.

89. Realizing that lack of reliable and systematic data collection is a huge gap in the child protection work, the CPWC established Child Protection Information Management System (CPMIS) in Khyber Pakhtunkhwa province as per the mandate given under section 4(1(p)). The system was developed based on the review of existing data collection, analysis and utilization systems in different departments where they also maintain some child protection related indicators in their systems. These include Police, Probation, Prison, Child Care Institutions, Health, Education etc. Series of consultations and meetings have been conducted to ensure the CPMIS is made functional and data utilized for policy advocacy and better programming. Focal Points in each of the mentioned departments have also been provided relevant orientations and capacity building. Development of common operating procedures and protocols for these departments is in process.

90. In Balochistan, Child Protection and Welfare Act has been promulgated. The Act aimed at achieving protection of children from exploitation, harm, injury, abuse, neglect and maltreatment.

91. In FATA, the Department of Social Welfare-FATA has devised a plan to establish Social Welfare Complex in all agencies of FATA. The Complex will have offices of Social Welfare, Zakat & Ushr, Child Protection and Women Empowerment. The offices of Social Welfare and Zakat & Ushr are already working in all the agencies in FATA. Moreover, four CPUs have been established in four Agencies. The Department intends to establish CPUs in all the remaining Agencies.

92. In addition, the Department of Social Welfare-FATA with the assistance of a donor agency established five Child Protection Centers in Tehsil Saafi of Mohmand Agency in the year 2010. It has planned to establish Child Protection Center for three to four villages in Tehsil of all the agencies of FATA. Furthermore, FATA Commission for the Protection and Welfare of Children (FCPWC) will be established to work for the effective supervision and coordination of child rights and child protection activities.

<sup>1</sup> <http://cpwb.punjab.gov.pk/>.

<sup>2</sup> See details above in Legislative Compliance section.

<sup>3</sup> -do-.

## Preventive measures

93. Since August 2011, National Action Coordination Group to Eradicate Violence Against Children and Child Rights Movement under the chair of National Commission for Child Welfare and Development have done different activities to contribute to better enforcing the optional protocol on sale of children, prostitution and pornography:

(a) It hosted a regional meeting in June 2014 which was attended by 36 participants;

(b) A 2nd National consultation was arranged in September 2014 with the objective to update on the progress of the pro child legislation to counter CSA/CSEC and trafficking and 20 participants attended the meeting;

(c) A Child Rights Art Festival at a national level was arranged to create awareness on issues pertaining to the child sexual abuse wherein 30 schools took part and 2,500 participants children participated;

(d) A National consultation on Child Protection/ CSA was arranged in July 2015 with 84 participants including members of CRM, NACG, EVAWG alliance, media, CSOs, government representatives & policy makers, 6 Human rights youth taskforce members and 12 children;

(e) A research on internal child trafficking in Muree, Pakistan, was conducted in July 2015. It found that out of 1504 documented street children, 11.88% were internally trafficked from other areas of the country;

(f) A manual titled 'Cutputli' to protect child rights, was developed and 500 copies were printed and disseminated among more than 305 civil society organizations;

(g) NACG nominated 5 participants, in January 2015, to attend an orientation session on SAIEVAC (South Asian Initiative to Eradicate Violence Against Children) on the five thematic areas that included child abuse & exploitation, child marriage and trafficking.

94. Judicial personnel, including judges and magistrates: On 22nd September and 14th December 2011, Balochistan Judicial Academy organized one-day in service trainings for Judicial Officers on the administration of Juvenile Justice. On 5th and 12th July 2011 SJA organized two one- day trainings for judicial officers on the administration of juvenile justice and probation system. On 26th November 2011, KP Judicial Academy organized a training/consultation workshop of Judges (12), Police Officials, Probation Officers & Lawyers on JJSO 2000 & Legal Framework of Child Protection in Swat.

95. Law enforcement personnel: In Islamabad, from 2010 to 2012, 5000 police officials at National Police Academy Islamabad were trained on human rights and child rights in law enforcement.

96. Training of Teachers: Provincial Education Department KP organized trainings for teachers on Alternatives to Corporal Punishment for District Education Officers from Rawalpindi, Gujjar Khan, Taxila, Murree, Kallar Sayedan, Kotli Satyan and Kahuta. There are 275 teacher training institutions providing pre-service training (certificates, diplomas and degrees). In addition, there are 300 teacher training resource centres in the districts.<sup>4</sup>

97. Social workers: Pakistan has 127 registered fully functional public and private universities; of these about 70 universities offer courses on social work which implies each year hundreds of social workers are trained to serve society.

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<sup>4</sup> UNESCO Pakistan at <http://unesco.org.pk/education/teachereducation>.