

**The State of Economic, Social and
Cultural Rights in Pakistan:
A Joint Civil Society Shadow Report
on
Economic Social and Cultural Rights**

April 2017

Acknowledgement:

This report has been produced by the **Coalition for Alternate Report on the International Covenant on Economic, Social and Cultural Rights (ICECSR)** comprising of these organizations. The final draft has been compiled and edited by Moniza Inam.

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- South Asia Partnership (SAP)
- NOWCommunities
- Workers Education and Research Organization (WERO)
- Hisar Foundation
- Pakistan Fisherfolk Forum
- Human Rights Commission of Pakistan
- Peshraft Foundation for Human Rights
- The Pakistan Institute of Labour Education & Research (PILER)
- Urban Resource Centre (URC)
- Orangi Pilot Project (OPP)
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Introduction

Pakistan ratified the ICESCR in 2008 and committed itself to implementation of the Covenant in letter and spirit by incorporating these rights in its constitution and legal system as well as to respect, protect and fulfil all its international obligations. Unfortunately, even after eight years, Pakistan is yet to make any significant progress in effectively implementing these rights by incorporating these rights in relevant legislation.

Without these two essential steps, no country can progress towards the realisation of ESC rights and make living conditions better for the teeming millions. Islamabad is supposed to present its report to the UNOHCHR in 2010 and share it publically too in the country which they never did. And this is the first time; Pakistan is presenting its report to the Committee.

As one speaker in the consultation remarked aptly, “The Pakistan government signs these treaties to get foreign aid (read dollars) and international recognition to ward off the appalling reputation it has achieved for treating its women, poor and minorities. However, when it comes to implementation they use many pretexts to avoid them on flimsy grounds as these rights are against their cultural values and traditions and they simply don’t have the resources to implement them.”

In the ICESCR Article 2.1, it has been mentioned clearly that the state parties have the obligations to incorporate these rights in domestic legal system through appropriate legislation. There are two legal models of incorporating these rights in the domestic jurisprudence, one is the doctrine of incorporation (monist) and the other is the doctrine of transformation (dualist). Pakistan follows dualistic model system so it is obligatory for Islamabad to recognise ESC rights within the constitution and they should be made part of the first chapter dealing with the fundamental rights in order to make them more effective. However, with the passage of the 18th Amendment, a new window of opportunity has been opened as now provincial assemblies can also legislate directly to include them in their respective jurisprudence.

Methodology

For writing this report, an evidence-based advocacy approach was utilized. Different organisations and human rights activists working for the rights have contributed voluntarily and made an alliance called “**Coalition for the Alternate Report for the ICESCR**” to develop this report. Consultation meetings were also held in different cities to take output from civil society organisations and include their perspective in the report. This report covers Article 6 to 15 excluding Article 9 on the right to Social Security. As Pakistan is present its report first time there is a genuine dearth of expertise on writing the Citizen’s Report for the CESC and the Coalition strongly feels that with the passage of time the quality will improve tremendously.

The “**Coalition for the Alternate Report for the ICESCR**” is particularly thankful to Moniza Inam, the coordinator who devoted her time and energy to make this endeavor successful and all other writers who contributed.

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Article 6 - The Right to work

Overview

The concept regarding right to work entails that people have a human right to work and to engage in productive employment and that they should not be prohibited from doing so. The right to work is enshrined in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights where the right to work emphasizes economic, social and cultural development.

The Constitution of Pakistan provides a range of provisions with regards to workers' rights in Part II: Fundamental Rights and Principles of Policy.

- Article 11 prohibits all forms of slavery, forced labour and child labour
- Article 17 provides for a fundamental right to exercise the freedom of association and the right to form unions
- Article 18 describes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business
- Article 25 lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone
- Article 37(e) makes provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment

Pakistan has ratified 36 ILO conventions (of which 33 are in force) including **conventions on the freedom of association and protection of the right to organize, right to organize and collective bargaining convention, abolition of forced labour, equal remuneration, against discrimination (employment and occupation), on minimum age, and on worst forms of child labour.**

Main laws to deal with industrial relations, employment and service conditions, occupational health and safety, wages/remunerations, social safety nets/social security are:

- Industrial Relations Act 2012
- Factories Act 1934
- The Shops and Establishment Ordinance 1969
- The Workmen's Compensation Act 1923
- Bonded Labour System (Abolition) Act 1992
- The Minimum Wages Ordinance 1961
- The Payment of Wages Act 1936
- The Industrial & Commercial Employment (standing orders) Ordinance 1968
- Protection against Harassment of Women at Workplace Act 2010

Issues

The promotion and implementation of the right to work and decent work should be a significant priority for the government through creating employment opportunities that are productive, provide fair wages, ensure occupational safety and health and a mechanism of social protection in terms of achieving equitable, inclusive and sustainable development to reduce poverty. But the reality is different as the workers in Pakistan are facing some major problems which undermine their right to work such as:

Weak Implementation of Laws

Though the existing labour laws are meant to regulate working conditions, provide protections to the workforce to ensuring safe work environment, proper remuneration, equality of treatment, non-discrimination and also provide mechanism for enforcement but the situation and status of the workers depicts that **the laws are not being implemented in real spirit** so the majority of workers are far from claiming and enjoying their rights.

Unorganized workers

Due to the lack of information about rights under existing laws, weak implementation of the laws and hurdles by the employers, according to estimates only less than 3 percent workers are organized in trade unions in all over the country which includes huge public sector as well. But in reality, in the private sector, including formal and informal sectors the organizing rate is not more than one percent. Trade unions, associations, informal sector workers lack organizational skills, conceptual and thematic understanding and opportunities to acquire these skills to strengthen their organizing.

Occupational Safety and Health

There is no independent legislation on occupational safety and health issues (OSH) in the country. The main law, which governs OSH issues, is the chapter 3 of Factories Act, 1934. It has general provisions regarding health and safety at the workplace such as cleanliness, disposal of waste and effluents, ventilation and temperature, dust and fume, lighting, compulsory vaccination and inoculation, precautions in case of fire, work on or near machinery in motion, cranes and other lifting machinery, safety of building, machinery and manufacturing process, precautions against dangerous fumes, explosive or inflammable dust, gas, etc. The above mentioned general provisions in chapter 3 of the Factories Act are out-dated and not sufficient to ensure the OSH related requirements of workers plus even these conditions are not met in most of the factories. After some major industrial accidents where workers loss of lives was in hundreds, the government has started some campaigns. It was only recently that some advertisements appeared in newspapers to adopt precautionary measures in some sectors.

Lack of Legal Coverage

Existing laws do not cover all kinds of workers, for example, agriculture workers (accept in Sindh province), own account workers (self- employed), contributing family workers (unpaid family helpers), employees in the category of casual, piece rate and apprentice, domestic and home based workers are mostly out of the preview of labour laws. This sector has become the major part of industrialization in Pakistan. However, no systematic data and baseline is available about the situation of informal sector workers in Pakistan.

Minimum Wages

The minimum wage for the year 2016-2017 was announced rupees 14000 (around 133 USD) per week for unskilled workers. Fair wages remain a big issue. According to some formal and informal estimates, majority of the employers do not implement even this not sufficient minimum wage.¹

Insufficient Social security and Insurance

The Employees' Old-Age Benefits Act is applicable on all firms (industrial or commercial, including banks) employing five or more workers, whether contractual or regular, are employed or were employed during the past 12 months. The laws remains applicable even if the number of persons employed is subsequently reduced to less than five. The problem is that most factories are not registered which makes it possible for employers not to implement this law. As social insurance programmes only apply on government employees thus making the lives of everyone who doesn't have a government job insecure.²

Implications

There is a **lack of information amongst workers about their rights**, regarding existing labour laws, situation and violations of workers' rights.

Now Systematic Government:

There is no systematic government campaign through its labour department to promote workers' rights. As majority of workers are not organized so **it is hard for workers to negotiate/bargain their rights.**

Independent estimates from social organizations reveal that there are approximately 12 million home based workers in Pakistan, making up almost 20 percent of the country's total labour force. The proportion of women in the home based sector is around 80 percent. **The home based workers are not covered under any law thus their rights as workers are violated** and being women, majority of the home based workers face different kinds of gender discrimination as well.

¹ <http://www.paycheck.pk/main/salary/minimum-wages>

² <https://tribune.com.pk/story/1180888/shortcomings-highlighted-eobi-verge-collapse-needs-restructuring-says-report/>

In recent years, **a number of industrial disasters that claimed hundreds of lives across the country** relating to fires, machines, boilers, confined spaces, working at height, electrocution and gas leakages were reported which highlights the vulnerability of workers towards health and safety related matters:

- Garment factory in Karachi caught fire on 11 September 2012 which killed 257 people and more than 600 were seriously injured.³
- On same date, a shoemaking factory in Lahore caught fire when sparks from a faulty electricity generator flew into chemicals and 20 people died.⁴
- Ten workers were killed in a mining accident on 12 March 2016 at the Al-Hussaini coal mine in the area of Orakzai region, in Khyber Pakhtunkhwa province.⁵
- Explosion and fire at Gadani shipbreaking yard on 1st November 2016 killed 20 people and injured 59 others.⁶

As a matter of fact, lot of **people suffer from work-related illnesses** like cancer, stress, musculoskeletal disorders and deafness, respiratory, skin and asbestos-related diseases which are often unspoken. Factories of death, a report published in a newspaper highlight the plight of workers in a stone - crushing factory.⁷

Poor labour inspection is a major cause of non-compliance with laws in different factories. While the number of inspectors increased from 293 in 2001 to 337 in 2012, there is only one labour inspector for every 250,000 workers in the formal non-agriculture sector of the economy.⁸

Even available limited social insurance has not been implemented properly. Under the law, a factory owner must pay seven percent of a worker's salary to the Employees' Old Age Benefits Institution (EOBI) and seven percent to the Social Security Department. The amount deductible from a worker's salary towards the EOBI is one per cent of the salary and none for social security. Niaz Khan, (General Secretary: Textile Power-Loom and Garment Workers Federation) explains that because the factory owner has to pay up to 13 percent of a worker's salary from his own coffers, he finds ways to circumvent the law. At present, he explains, 1.1 million workers in the Punjab are registered with the Social Welfare Department but only 600,000 of them have social welfare cards. There were lot of concerns about the capacity and functioning of the department as well.⁹

³ <https://tribune.com.pk/story/435258/karachi-garment-factory-fire-kills-20/>

⁴ <https://www.dawn.com/news/748653>

⁵ <https://www.dawn.com/news/1245376>

⁶ <https://tribune.com.pk/story/1271626/fire-breaks-gadani-shipbreaking-yard/>

⁷ <https://www.dawn.com/news/1119917>

⁸ <https://www.dawn.com/news/1150581>

⁹ Swimming around Social Safety Nets – the status of social protection in Pakistan: a research report by Labour Education Foundation – page 11 &12

Questions:

- What is the government doing to improve the occupational safety and health of workers in formal sectors and what is its planning to ensure the OSH of workers in informal sector?
- What the government is doing to introduce relevant laws to protect the rights of home based workers and domestic workers?
- What is the government doing to enhance minimum wage objectively and to bring all kinds of workers under social insurance?

Recommendations:

- There is an urgent need to introduce independent, up to date health and safety legislation and independent enforcement mechanisms as more than 80 years old Factories Act is inadequate and outdated and its scope is limited to factories and not to all individuals at all workplaces.
- The government needs to reform its labour inspection system by hiring more labour inspectors and training them.
- There is a dire need to promulgate laws to recognize home-based workers and other informal sector workers as workers to enable them to claim the same rights as available for formal sector workers including freedom of association. Promulgation and implementation of laws for home based and domestic workers to bring them in the domain of national legislation is an ongoing demand.
- The wages of home-based workers must be calculated in accordance with the minimum or living wage which also should cover the costs of production absorbed by the home based workers such as workplace, equipment and utilities.
- The government must ratify and implement the ILO Conventions on Homework 177 and 189 on domestic workers and develop an effective implementation mechanism with appropriate allocation of budget.

Article 7 - Trade Union Rights

Overview

Labour governance is among the weakest organs of governance structure and performance. Highly restrictive labour laws combined with a near total lack of enforcement workers' fundamental rights. Though there is a considerable array of laws and statutory provisions for workers to access legal protection and entitlements, individual workers are powerless and vulnerable to benefits from available protections and entitlements in the environment of flagrant violations and circumventions of laws.

In the absence of enforcement, helpless individual workers are left with sole recourse to their representative trade unions — if they exist and are allowed to function freely. But do workers have the freedom of to form and associate in trade unions and exercise the right to collective bargaining?

Article 17 of the Constitution of Pakistan states:

Every citizen shall have the right to form associations or unions, subject to any reasonable restriction imposed by law.¹⁰

In reality, these restrictions under law are widely expansive. The 18th Constitutional Amendment from 2010 devolved labour to provincial jurisdictions but the absence of appropriate tripartite consultation and extraordinary hold-up in the formulation and enactment of provincial labour laws has deteriorated compliance and the uniform application of the ratified ILO Conventions No. 87 (Freedom of Association) and No. 98 (Right to Collective Bargaining)¹¹.

Issues

In the last few years, the provinces have enacted the most important labour law — namely, the Industrial Relations Act (IRA). These IRA laws set up the structure of unions and provide procedures for the establishment and registration of unions, collective bargaining, the role of labour authorities, the management of industrial disputes and labour adjudication processes.

Some problems with the Industrial Relations Act (IRA)

Exclusion:

¹⁰ Constitution of Pakistan Art. 17

¹¹(2015) European Union GSP Plus and Challenges of labour Standards Compliance in Pakistan, A report by Pakistan Workers Federation

The IRAs have exclusionary framework depriving workers in several categories¹², its exclude public sector employees in state administration, security staff in vital installations, clerical staff, healthcare workers, and teachers.

Lack of coverage:

Agriculture workers in the provinces of Punjab and Khyber Pakhtunkhwa and Informal sector workers, home-based workers are not covered. The Essential Services Maintenance Act prohibits the organization of workers' unions in certain public sectors, as well private units connected to the supply and services to the armed forces. The workers in Export Processing Zones and Special Economic Zones are excluded from the coverage of IRAs.

Limitations of the Legal framework:

The legal framework (in IRAs) lacks the provisions to form unions based on occupational, sectors or general unions and to participate in collective bargaining. This is of crucial importance for effective- collective representation of workers engaged in both the formal and informal economies.¹³

IRAs allow only permanently employed workers (or workers with employment contract) can form or join unions; most workers are employed on casual basis to impede the right to unionize. Workers in the same enterprise and occupation are assigned different employment status, such as permanent (regular fixed wages) and casual (daily wagers, hired through contractors, piece rate). Only half (women only 40%) of these wage-earning employees have regular and fixed wage status. The rest have casual employment status without legal employment protection and entitlements.

Barely one in five of the entire workforce can potentially exercise the core rights of unions and collective bargaining. Understandably, this divisive practice serves two ends: first, to decimate workers' collective strength in an enterprise; and secondly, to dodge legal entitlements of majority of workers including wages, job security, medical and health facilities, and social welfare contributions¹⁴.

Questions:

1. The current labor laws are in violation of ICESCR and ILO standards. What time frame the state of Pakistan will give it to make it in conformity of international obligations?
2. Right of association is currently restrictive and does not allow all citizens to form and join the union as also guaranteed in the constitution. How and when a separate national legislation will be done to allow all workers except security personals to exercise their right of association?

¹² (2015) Status of Labour Rights in Pakistan, Report by PILER

¹³ (2015) European Union GSP Plus and Challenges of labour Standards Compliance in Pakistan, A report by Pakistan Workers Federation

¹⁴ ibid

3. The government never initiated any debate with stakeholders to include implementation mechanism of IESCR compliance in labor legislation. When the government has planned to call tripartite labor conference to discuss these issues.

Recommendations:

1. The Pakistan's Constitution, Universal Declaration of Human Rights (UDHR), the ILO Conventions (including the core conventions), the ILO declaration of Principles and the UN International Covenant on Economic, Social and Cultural Rights (ICESR) should form the basis of the national labour policy and legislative framework. This blueprint, adopted by consensus, must be adhered to in letter and spirit by the provinces in drafting/amending laws and in framing policies and procedures;
2. Policies and laws must be drafted anew, or amended, by the provinces, or the federation as the case may be, to grant fundamental rights (including the right to associate and collective bargaining) to informal workers in all sectors, i.e. agriculture, fisheries, small industries, mines & quarries, home-based work, domestic service. The labour policy should be formed in line with the ILO Conventions.
3. The right to organize, collective bargain and industrial relations are two separate subjects. Hence there should be a separate law for trade unions to facilitate union formation in all sectors on the pattern of the Trade Unions Act 1926;

Article 9 - Protection for Mothers (including maternity benefits) and Child Labour

Child Labour

Overview

The International Labour Organisation (ILO) defines child labour as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. Child Labour in Pakistan, ranges from light work to more serious and hazardous work and exists in a number of sectors with varying degrees of prevalence. Most child labour is informal sector, mainly agriculture and domestic labour, but can also be found in many manufacturing processes and industries as well.

Child labour in Pakistan

Child labour in Pakistan is manifested in various forms, some more exploitative than others but each affecting a child's capacity to live a stable physical and emotional life. The more extreme forms of child labour involve children being employed in conditions of slavery where they are forced to work in life threatening conditions. These forms of underage employment are practiced in brick kilns, farms, coal mines, streets, and homes (domestic servitude), all of which fall in the informal economic sector which remains unmonitored by state authorities, allowing employers to capitalize on children's poverty. Children are also self-employed as shoe polishers, rag pickers, street vendors and car washers.

Ground realities

Although Article 11 of the Constitution of Pakistan prohibits all forms of slavery, forced labour and child labour, it is not fully implemented. There are no official national statistics on underage employment in the country as the last (and only) National Child Labour Survey was conducted in 1996 which estimated that there were 3.3 million child labourers in the country.¹⁵ Recent estimates indicate that 11 to 12 million children, half of them below the age of 10, are employed as child labourers across the country.¹⁶

Issues:

Few of the major issues regarding child labour in Pakistan include the following:

1. *The Lacunae in the Employment of Children Act (ECA), 1991.*

- I. The ECA was passed in 1991 and, to date; it remains the country's core legislation against the employment of underage children. The Employment of

¹⁵ http://www.sparcpk.org/2015/sopc2014/CL_Final.pdf

¹⁶ <http://www.dawn.com/news/1110366>

Children Act **defines a child** as a person below 14 years of age, and an adolescent as a person below 19 years of age (but older than 14). The minimum age for admission to employment in sectors like mines, factories, shops and many commercial and industrial establishments was lowered from 15 to 14 years instead of being raised.

- II. In compliance with ILO C138, the law provides **exceptions where a child is not to be employed** in any occupation, establishment or process recognized as hazardous to children. Any contravention of the ECA is punishable with imprisonment, which may extend to one year or with a fine of up to Rs20,000 or both.
- III. The Act obliges the government to appoint Inspectors to ensure compliance with the act, but the government **has directed labour inspectors appointed under the Factories Act 1937** to conduct child labour inspections under the ECA 1991.
- IV. The ECA **also does not cover the major sectors** where child labour is prevalent, like domestic work, agricultural sector and informal sector such as family undertakings.

2. Pakistan's Regressing Economy's Role in Child Labour

- i Poverty, combined with natural calamities -ones that the country of Pakistan is not fully equipped to handle- has an adverse effects on the children of Pakistan. Poverty, rising **inflation rates**, deteriorating security situation, natural disaster, and poor enforcement of laws and policies; the burgeoning informal sector remains a major impediment against the complete eradication of child labour in Pakistan. The significant impact of several of the community characteristics, notably water supply in both countries, and the presence of electricity in Pakistan, on child schooling reiterate the importance of such variables noted before in the discussion on child labour. Improvement in social infrastructure and living conditions provide effective means of increasing school enrolments. The significance of several of the price coefficients in the Pakistani results points to a strong link between price movements and child schooling.¹⁷
- ii Pakistan stands second in the world for the **highest number of out-of-school children**, at 68 million.¹⁸ In the case of boys, the low quality of education, high poverty levels, perception of value of education and greater opportunity for child labour in urban areas, makes the more poor boys and their families opt for work rather than school. Girls are also forced to dropout from schools as daughters are needed at home to help with housework and take care of younger siblings, a form of gender-specific, unpaid and unappreciated labour. Drop-outs, coupled with population growth, is further contributing to the intensification of child labour.

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https://www.researchgate.net/profile/Ranjan_Ray/publication/24059069_Analysis_of_Child_Labour_in_Peru_and_Pakistan_A_Comparative_Study/links/540ecc600cf2f2b29a3af386.pdf

¹⁸ <http://www.dawn.com/news/1021255>

- iii Prevalence of economically active children who are not enrolled in schools tends to be higher than children who are enrolled¹⁹.

3. Underage domestic labourers:

- i Child domestic workers are hired by dubious 'employers' from rural areas and taken to work in cities to work in the homes of middle and upper middle class families. There is **no formal employment contract**, and arrangements are made informally between the employers and the child's family. In majority of the cases, the work performed by child domestic labourers is not counted as child labour. This is especially the case when children accompany their domestic worker parents (especially mothers) to their workplace. These children may be asked to perform menial tasks which may become more labour intensive and complex as the age of the child increases: in many cases these children have their career marked out for them and they adopt their parental profession after the latter become old²⁰.
- ii Apart from economic exploitation, child domestic workers are often exposed to cruel and unsafe working environments where they are frequently subjected to physical and **psychological violence**. In this regard, it is very common for employers to delay a child domestic labourer's monthly pay or prevent him/her from visiting his/her parents and family²¹. Furthermore, underage workers in homes are often subjected to sexual and physical abuse in which both adults and children emerge as perpetrators. This is especially relevant in case of physical violence against child domestic workers whereby children in the employer's household may mistreat domestic servants (especially children) as a way of instituting and maintaining a master-slave relationship with their 'inferiors'. In fact, incidents of violence against child domestic workers rise every year. In majority of the cases, the victim or his/her parents do not report the matter to law enforcement agencies because their economic vulnerability and lack of influence in the corrupt police department.
- iii Underage domestic labourers of children remain unrecognized and unprotected. Starting from January 2010 to September 2013, about 44 cases of **torture on Child Domestic Labourers** were reported in the media²². There are 24 cases in which Child Domestic Labours died due to sever torture inflicted upon them by their employers. Track record of these cases has shown that situation as a whole is alarming, where general acceptance of internal trafficking, severe torture, abuse and exploitation, forced labour, slavery and murder of helpless and innocent child domestic labours persists in the society.²³

¹⁹ <http://www.sparcpk.org/2015/Childlabor.html>

²⁰ <https://www.hrw.org/news/2013/02/25/protect-15-million-child-domestic-workers>

²¹ <http://sparcpk.org/2015/SOPC2015/Child%20Labor.pdf>

²² <http://www.sparcpk.org/2015/Childlabor.html>

²³ <http://www.sparcpk.org/2015/Childlabor.html>

Questions:

- What does the government plan on doing about the lack of proper monitoring of informal sectors that impede the appointment of Inspectors to conduct investigations on child labourers and ensure compliance with ECA 1991?
- Are the provincial governments formulating policies to secure the rights of home-based and domestic workers, which often include underage workers with no formal employment contracts?

Recommendations

- The Employment of Children Act needs to be amended to increase bar from 14 years to 16 years and the scope of the law should be expanded to include sectors where child labour is prevalent, like agriculture and domestic work.
- The provinces should undertake child labour surveys to assess the magnitude of underage employment in their territories. This can be instrumental in coming up with effective policies to counter child labour in Pakistan.

Protection for Mothers

Overview

Maternal health can be **defined** as the health of a woman during pregnancy childbirth and postpartum period, and encompasses the health care dimensions of family planning, preconception, prenatal and postnatal care in order to ensure a positive and fulfilling experience in most cases and reduce maternal morbidity and mortality in other cases. Prenatal care, skilled birth attendance with emergency backup such as doctors, nurses and midwives, emergency obstetric care to address unsafe abortions, obstructive labour, and 6 weeks of postnatal care constitute as a complete protection of mothers.

Issues:

- Pakistan has the worst indicators for maternal morbidity and mortality in South Asia.** There have been some improvements in important health indicators, particularly infant mortality rates, under-5 mortality rates, and maternal mortality rates. However, the leading cause of death, (20.3% of total) to women (ages 12-49) is pregnancy and related complications. Pakistan's maternal mortality ratio is 276 deaths per 100,000 live births- the highest in South Asia after Afghanistan.²⁴
- The Pakistan Demographic Health Survey (PDHS) 2006-07 showed the Maternal Mortality Rate (MMR) to be 276/100,000. The MMR was particularly bad in the rural areas with a ratio of 319/100000 against 175/100000 in urban areas. Approximately 23% deaths of rural women of reproductive age were caused by pregnancy and childbirth related complications, as compared to 14% among urban women. Other factors that increased the MMR were: low quality of health facilities, lack of

²⁴ UNICEF data (<https://data.unicef.org/topic/maternal-health/maternal-mortality/>)

knowledge about available facilities, and shortage or absence of female health staff in hospitals and health centres. In spite of awareness regarding contraceptives, their use is limited because of women's limited power to make decisions, even regarding their own bodies. Anaemia in women is a common finding, particularly among poorer communities and during pregnancy it is frequently associated with maternal death and morbidity.²⁵

1 Lack of accessibility to healthcare

- i One of the biggest issues regarding women's health is of access to healthcare. The problem starts with the **socio-cultural structures** which hamper women and girls access. They are not encouraged to step out of the home to get outside treatment. There is also a taboo in many areas of a female patient being examined or treated by a male doctor. With lesser number of female doctors, this often results in families preferring not to allow their women access to health as opposed to allowing a male to examine them.
- ii There are **high costs associated with health care**, especially private healthcare if the quality of public healthcare is not relied upon. Therefore poverty is a major barrier to access to healthcare.
- iii There is in certain cases difficulty in physical access to the facility. If the facility is a **long distance away**, social and familial restrictions placed on women's movement, or high costs of travel hampers their ability to even reach the facility.
- iv **Lack of education and awareness among women** limits women and girls informed decisions about access to healthcare because they are unable to identify the symptoms. This results in a reliance on traditional beliefs and practices, many of which can be harmful.

2 Women's lack of decision-making power and autonomy also results in poor health outcomes, as women are often not in a position to make decisions regarding their health. Men or elders in a family often make such decisions. As discussed above, in many situations, the preferred choice is not to allow a woman treatment rather than allow her to be examined by a male or an outsider²⁶.

- i Women also lack the power to decide matters related to **family planning**. The MDG report reflects that there is increased awareness and use of contraceptives among women, from 28% to 30.8% in 2008-09, but socio-cultural norms in the country remain a formidable barrier to its wider adoption. Also, contraceptive failure and misuse remains a problem. Discernible change in the patriarchal mindset and socio-cultural norms that

²⁵ <http://ayubmed.edu.pk/JAMC/23-2/Ghazala.pdf>

²⁶ Poverty, Gender Inequality and Their Impact on Maternal and Newborn Health in Pakistan., RAF Pakistan 2012 report, Seema Khan, DFID/AusAid, 2012

reflect gender biases will have to take place before women can be sufficiently empowered to take decisions regarding family size and family planning. Without these changes increase in availability of contraceptives will have limited impact.

3 Lack of availability of quality healthcare facilities and hospitals.

- i While Pakistan has a good network of primary health facilities and hospitals, many of these facilities are in disrepair, damaged, destroyed or **are too far** from remote communities.
- ii Majority of the Basic Health Units (BHUs) and Rural Health Centres (RHCs) are not functional. With the exception of very few facilities, EMONC is **not available on a 24-hour basis** in tertiary care centres.
- iii Majority of private hospitals and maternity homes are expensive and are not providing proper obstetrical care to women as per **international standards**. Very few private setups are providing free care to needy women.
- iv A very small number of hospitals and maternity homes are operating with international standards of care. As these facilities are extremely **expensive**, very few people can afford their services.²⁷

4 The Lady Health Workers (LHW) program does not receive sufficient support:

- i The Lady Health Workers (LHW) program, one of the most successful programs in the health sector in terms of access to ordinary women, is not given sufficient support.
- ii Some of the weaknesses of the program include **low salaries** (below even the government standardized minimum wage) and **irregular payments**.
- iii The contractual nature of the job poses a **constant threat** to job security and is a source of anxiety to the women.
- iv Political influence and **nepotism in the selection of LHWs** is common.

Questions:

- What formal measures are being taken to make women and girls can acquire, access and process information related to health at all stages of their life?

Recommendations:

- Establish a link between the factors that public sector facilities depend upon, i.e. human resources, infrastructure, transportation and communication, is crucial.
- An urgent need for investments into maternal education, women empowerment, child survival, better water, sanitation and hygiene is necessary.

²⁷ Poverty, Gender Inequality and Their Impact on Maternal and Newborn Health in Pakistan., RAF Pakistan 2012 report, Seema Khan, DFID/AusAid, 2012

Article 10 - Rights in a Family / Marriage with Free Consent:

Overview

The institute of family in Pakistan has all the hallmarks of a patriarchy, where men are the primary authority figures and women are subordinates. The preference for sons due to their productive role often dictates the allocation of household resources in their favour.

Traditionally, male members of the family are given better education and are equipped with skills to compete for resources in the public arena while female members are imparted domestic skills to be good mothers and wives. Autonomy lies with the male members of the family, and women's access to and control over property, employment, education, health, etc, is restricted. Although the legal age of consent for marriage is 16 to 18 years and polygamy is restricted – though still legally permissible – very few repercussions exist and both are still carried out under various guises of culture and religion. Practices like Vani, Dowry, Vatta Satta, Marriage to Quran, occurring primarily due to disputes over property or to regulate women's share, are perpetuated by women's own family members.

Issues

There are also incidents of male relatives using force or resorting to murder, when their female relatives approach a court of law to claim their share in inheritance or refuse to give up their legal rights to inheritance. According to a research analysis conducted by Awaz²⁸, the ownership of land is greater for men, as compared to women, with a ratio of 65 % for men and 15 % for women. Courts in Pakistan have been upholding the rights of women to inherit property; however, very few cases are actually brought to the notice of courts.

1. The age of consent for marriage:

- a. The minimum legal age of marriage for girls has not been effectively dealt with in any forum; it is different in every province and mostly lower than boy's age of consent. Currently, there is a great deal of confusion about the age of adulthood for girls specifically, as it varies in different existing laws in Pakistan. Under the Child Marriage Restraint Act 1929, the age of a female child is identified below the age of 16²⁹. The Hudood Ordinances 1979 identify female adulthood at the age of 16 or puberty. This latter age is used across different legislations due to the Islamic nature of the 1979 Ordinances. The age of puberty is also used as the age of adulthood for girls in numerous court cases, who declare marriages with female children valid due to the fact that they have reached puberty. This is in direct contravention of international standards and international conventions ratified by Pakistan.
- b. Furthermore, there is little **implementation of the Child Marriage Restraint Act 1929**, punishing persons involved in child marriages, including the parents, the registrar and even the groom, if above the age of 18³⁰. Apart from the law not being implemented properly, it is also extremely outdated, with fines and punishments not being enough of a deterrent to offenders and

²⁸ <http://awazcds.org.pk/Downloads/rstudies/Inheritance%20Rights.pdf>

²⁹ http://www.na.gov.pk/uploads/documents/1397730973_450.pdf

³⁰ <http://www.sparcpk.org/2015/Other-Publications/CM.pdf>

potential offenders.³¹ The government seems unwilling to address this issue³². It also seems unwilling to confront religious political parties on controversial issues regarding women and has often compromised on the subject of women's rights.³³

2. Dissolution of marriages and rights of a divorced woman:

- a. Under the current Muslim Laws there are a **number of contradictions in the laws**, which again create hurdles in their fair implementation. For example, the Dissolution of Muslim Marriages Act, 1939³⁴, speaks about various grounds on which a woman can claim divorce. Under Section 5 of the Act, the right to dower of a wife filing a divorce suit under this law is not affected. Whereas; under procedural law, Family Courts Act 1964³⁵, Section 10 clause says if during the suit for dissolution of marriage, the reconciliation attempted by the judge fails, the wife has to return the *Haq Mehr* (dower) received at the time of marriage, thus creating difficulties for the woman in getting a divorce.
- b. Apart from entitlement to maintenance for a limited period, the **property rights of divorced woman** are not defined in any law. Although a provision pertaining to a wife's property and her personal belongings was added to the Family Courts Act 2002³⁶, which is to some extent already being used by women to secure property acquired by them during the subsistence of the marriage, there still remains no concept of marital property and a division of combined assets at the time of dissolution of a marriage.³⁷
- c. In cases of violence and discrimination, **women from non-Muslim communities** face double jeopardy on account of gender and religious difference³⁸. The existing personal laws of Pakistani Christians need urgent revision as they place women at a disadvantageous position during settlement of family disputes.³⁹ At present, adultery is recognized as the only ground for dissolving marriages under Christian law; while except for the Hindu Women's Right to Separate Maintenance and Residence Act, 1946, personal status laws of Hindus remain uncodified. No law on inheritance exists for non-Muslim communities. Forms of violence which minority women face are: abduction, forced marriages with Muslim men, and conversion of women from the Hindu and Christian communities.⁴⁰
- d. **Clause 18 of the marriage contract** allows the husband to delegate his right of divorce to the wife, but in practice families and elders usually cross out this clause before handing over the contract to the bride, on the pretext that it is

³¹ <http://www.sparcpk.org/2015/Other-Publications/CM.pdf>

³² <https://tribune.com.pk/story/1027742/settled-matter-bill-aiming-to-ban-child-marriages-shot-down/>

³³ <http://www.aljazeera.com/news/2016/01/pakistan-child-marriage-160118062004700.html>

³⁴ <http://lgkp.gov.pk/wp-content/uploads/2014/03/Dissolution-of-Muslim-Marriages-Act-1939.pdf>

³⁵ <http://punjablaws.gov.pk/laws/177.html>

³⁶ [https://www.af.org.pk/Acts_Fed_Provincial/Acts_Federal_since_2002/Acts%20Fed%202002/Ordinance%2002/Family%20Courts%20\(Amendment\)%20Ordinance,%202002.pdf](https://www.af.org.pk/Acts_Fed_Provincial/Acts_Federal_since_2002/Acts%20Fed%202002/Ordinance%2002/Family%20Courts%20(Amendment)%20Ordinance,%202002.pdf)

³⁷ Women's Right of Inheritance and its implications., National Commission on the Status of Women P 65

³⁸ Life On The Margins. study on the minority women in Pakistan, NCJP, p 60

Available at: www.ncjppk.org

³⁹ Human Rights Commission of Pakistan, Annual Report 2010, p 136

⁴⁰ Human Rights Commission of Pakistan, Annual Report 2010, p 136

a bad omen to talk of divorce when the marriage is being solemnized⁴¹. If the right of divorce has not been delegated to her at the time of marriage then she must seek relief under the law, applying for dissolution of marriage, if any of the issues fall within the prescribed reasons why dissolution is allowed, or apply through *khula* whereupon the process must be taken through the courts.

3. Custodial Rights of Women:

- a. All personal laws, including Muslim personal law, do not recognize the mother as an equal guardian. **The Guardian and Wards Act privileges the rights of the male guardian** above those of the child and the mother, as Section 19 (b)⁴² asserts that no one can be appointed guardian of the property of a child if the father is alive and is not unfit.
- b. Unfortunately, **the concept of joint custody has not been clearly defined** either in the Islamic school of law or under any statutory Muslim family law⁴³.

Questions

- What measures has the state of Pakistan taken to make registration of Nikkah/Marriage contract, an easily accessible process for women?
- Why does the government of Pakistan continually give into the regressive opinions of religious leaders on property and marital rights of women, instead of promoting more progressive ones?

Recommendations:

- The State should ensure that men and women get equal share in inheritance as in the case of Turkey and Somalia where male and female children inherit equally from the father's estate.
- Capacity of religious leaders should be built; dialogues on the adverse effects of child marriage and gender sensitivity should be included.
- The age of the girl too should be raised to 18 and only after ascertaining that the marriage has the girl's voluntary consent.

⁴¹http://www.slate.com/articles/double_x/doublex/2010/02/i_should_have_read_my_islamic_marriage_contract.html

⁴² Family Courts (Amendment) Bill, 2008; Guardians and Wards (Amendment) Bill 2008

⁴³ <http://www.zklawassociates.com/wp-content/uploads/2012/03/Guardianship-Custody-Visitation-Child-Support.pdf>

Article 11 - Right to adequate standard of living (food, clothing and housing)

The Right to Food

Overview

Constitutional and Policy Frameworks

Guiding Principles of the Constitution

The Constitution of the Islamic Republic of Pakistan has directive principles that contribute to the realization of the right to adequate food. **Article 38 (d) of the Constitution of Pakistan ensures provision of basic necessities of life including food for the citizens of Pakistan.** It says: "The State shall provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment".⁴⁴

Provincial Powers

The 18th constitutional amendment in 2010 has involved the devolution of 17 subjects to the provinces including food and agriculture sector. Now the provinces are being given more powers away from the central government in order to bring services closer to the people.

Federal Administration

The federal "Ministry of National Food security and Research" was set up on October 26, 2011 because, after the adoption of the 18th Amendment, some functions listed in the federal legislative list related to the Ministry were retained at the federal level and keeping in view the importance of food security and better execution of related functions. According to a notification issued by the Cabinet Division, the new ministry includes economic coordination and planning in respect of food, import and export of food grains and food stuff including imports and exports of food grains, coordination with aid/assistance agencies in respect of food sector, PARC and other federal agriculture research organizations, plant protection-pesticides import and standardization, aerial spray and plant quarantine.⁴⁵

National Zero Hunger Action Plan

To address the unprecedented hunger and malnourishment in the country, newly established Ministry of National Food Security and Research launched a "National Zero

⁴⁴ Food and Agriculture Organization (1998), "The right to food in national constitutions", The Right to Food in Theory and Practice, Food and Agriculture Organization of the United Nations, ISBN 92-5-104177-6, archived from the original on 17 July 2012.

⁴⁵ www.mnfsr.gov.pk

Hunger Action Plan” in March 2012. The program is a five year plan **that aims to reach to a total of 61 million food insecure people across the country with a total cost of 16 billion US dollars.** World Food Program and Ministry of National Food Security have also signed an agreement, under which some 500,000 metric tons of wheat, donated by government of Pakistan will be converted by WFP, into nutritious food commodities that will be used to combat hunger among the most vulnerable sections of society particularly malnourished children, pregnant women and primary school children.

The program also features school feed program and establishment of —zero hunger shops in 45 extremely food insecure districts in Pakistan. Some of the other salient interventions of Zero Hunger Plan include, 1) **Support to food insecure households,** 2) **Cash/food support in disaster hit areas,** 3) **expansion of farm outputs and market access,** 4) **Targeted social safety nets,** 5) **Rationalization of market prices of food commodities,** 6) **Improved nutritious quality of food intake (fortified food),** 7) **Diversification of food,** 8) **Food processing industry even at community level,** 9) **Food and nutrition awareness and education program,** 10) **food security surveillance,** 11) **research for food policy/production, quality improvement, storage, distribution,** and 12) **Enhanced coordination among various federal and provincial ministries, and public-private-civil society partnerships.**⁴⁶

Pakistan Vision 2025

The State has adopted “**Pakistan Vision 2025**” policy framework in 2014 and the food security and nutrition is among one of its important seven pillars.

- 1 The government have initiated program focused at short terms results including food stamps and safety net schemes (e.g. BISP⁴⁷, Watan cards, fund under Zakat & Ushar,⁴⁸ etc.).
- 2 Pakistan is a signatory to the International Covenant on Economics, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR) under which, article 25-1 ensures the respect of right to food for everyone.

Issues

Food Availability

According to FAO, Food availability addresses the supply side of food security and is determined by the level of food production, stock levels and net trade.⁴⁹ Food Availability related challenges are as under:

⁴⁶ http://www.sdpi.org/policy_outreach/event_details164.html, National Zero Hunger Action Plan and Policy Outreach

⁴⁷ Benazir Income Support Programme (BISP)

⁴⁸ Zakat and Ushar are Islamic taxes

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Government Priorities

Food and agriculture is least prioritized and neglected sector in Pakistan. Agriculture, horticulture and livestock and other supporting sectors (irrigation, transportation, trade policies, labor policies, etc.) has not seen any major reforms or policy support to improve food production.

Pressures from Urbanization

Due to urbanization, declining water resources, climate change, and soil degradation by erosion and salinisation, it is difficult to expand the area available for crop production.

Water Shortage

Pakistan, once a water-surplus country, is now a water-deficit country and the low water availability will not be able to continue self-reliance in agricultural production.

Regulation of Crop Prices

Prices for crops produce are not adequately regulated and hence farmers are not able to receive adequate price and their low purchasing power force them to compromise on quality of farm inputs (seeds, fertilizers) and farm operations.

Ecological Degradation

Degradation of ecological system and reduction of productivity of food crops in some areas (due to water logging, salinity, pesticide use, etc.) **Due to local interventions i.e. use of chemicals in agriculture, deforestation and industrial pollution, and natural disorders, the ecosystems of the country have been affected negatively.** As a consequence, cultivable land is consistently decreasing and weathers are consistently changing that have had an impact on food production. The country lacks conducive environment for new investments in the agriculture sector without which it is not possible for Pakistan to tackle emerging challenges such as declining water availability, regional climate change, water logging and increasing salinity.

Corporate Farming

Food Sovereignty being compromised as food sector is being controlled by the corporate sector i.e. Monsanto, Engro, etc. and the market forces. The government has repeatedly failed to protect right of its peoples to produce, distribute and consume food for themselves, rather than on the demands of markets and corporations.⁵⁰

Food Exports

Bulk of food has been exported by the government and vested interest groups despite food insecurity prevailing in the country.

⁴⁹ <http://www.fao.org/docrep/013/a1936e/a1936e00.pdf>, An Introduction to the Basic Concepts of Food Security.

⁵⁰ <http://envirocivil.com/environment/food-security-issues-and-challenges-in-pakistan/>

Inequitable Land Ownership

Land ownership is uneven and there is lack of security of land tenure. About 40% of the total farm area is operated by only 7% large farmers with average land holdings of 10 hectare or more whereas 81% of the farmers are small with average holding less than 5 hectares.

Gender Inequality in Land Ownership

Women's land ownership and control have important connections with food security. However, the link between these has largely remained unexplored; and there has been negligible research to determine how many women own or control land in Pakistan.⁵¹

Pressure on Supply Side

The growing populations of urban areas and new urban settlements are currently making food security even more challenging. **The fertile land outside cities available and used earlier for food cultivation, livestock and dairy farming is now increasingly been converted into housing sectors.** As consequence, rural agriculture sector has got immense pressure to produce and provide food to huge numbers of urban settlers. Kitchen gardening has traditionally been the central feature of urban households and a source of fresh vegetables and fruits. Houses were often had a garden space in the backyard for kitchen gardening that has completely been abandoned due to population and housing pressure.

Population Bulge

Pakistan's current estimated population is over 195 million⁵² – making it the sixth largest in the world – with population growth rate 1.9 percent. As a consequence, a lot more food is currently needed to meet dietary requirements of the masses. Yet the agriculture sector has been suffering from decline for the past three decades. Productivity remains low; yields per unit area are low, and critical investments in developing new plant varieties, farming technology and water infrastructure are not being made.

Technological Shifts in Agriculture

With the introduction of modern agricultural technologies in the country, agriculture has become a rich-men business. **While poor farmers are failing to meet the increased cost of agricultural production and are suffering economic losses; the rich-ones and opportunist investors have replaced common food crops with non-food cash crops such as cotton, tobacco, sunflower, etc. or food crops being grown for foreign markets only.**

⁵¹ <http://www.sdpi.org/publications/files/Microsoft%20Word%20-%20project%20report%2018.pdf>

⁵² Pakistan Population Statistics in 2016 (<https://timesofislamabad.com/pakistan-population-statistics-in-2016/2016/08/25/>)

Questions:

1. What steps is the State party taking to increase production and availability of food crops in order to fulfill its constitutional obligations and obligations under international human rights law?
2. What steps are being taken by the State to allocate sufficient financial resources towards food production sector as a matter of priority?

Recommendations:

Policy Making

With 18th constitutional amendment where provinces are empowered to deal with food and agriculture subjects independently, the provinces should legislate to protect right of the people to food and implement policies to ensure food and nutrition security for all. These governments must allocate sufficient financial resources towards food production sector as a matter of priority and ensure that food reaches to everyone who cannot afford to buy it from the market and do not let the market forces increase the prices of food for corporate greed.

Equitable Land Distribution

Denial of women's right to land has a deep structural nexus with food security. The State must acknowledge women working in farm fields as farmers and give them their right to land and ensure that women farmers are mainstreamed in national level networks, their contribution as farmers is acknowledged and the real producers of food have control over their produce for just and equitable distribution of the produce. While it is not easy to expand country's cultivable land, the only solution to increase yield per unit area is crop intensification. Small holder farming, family farming and farming with security of land tenure have demonstrated potentials to increase per unit production that should be explored through comprehensive land and agrarian reforms in the country.

Food Sustainability

Stable food production systems and sufficient food stocks are crucial to ensure Food Sustainability. **According to FAO Even if your food intake is adequate today, you are still considered to be food insecure if you have inadequate access to food on a periodic basis, risking a deterioration of your nutritional status.** Adverse weather conditions, political instability, or economic factors (unemployment, rising food prices) may have an impact on your food security status.⁵³ Listed below are key Food Sustainability related challenges in the country:

⁵³ <http://www.fao.org/docrep/013/al936e/al936e00.pdf>, An Introduction to the Basic Concepts of Food Security.

Food production Systems

Pakistan does not possess stable food production systems **due to inadequate irrigation water, lack of proper food value chains, and weak agricultural sector policies**. A common thread is a decline in the capacity of the public sector to make and execute policy, provide incentives, promote an environment conducive to rural business, and make investments that enable Pakistani farmers, domestic traders, processors, importers, and exporters to make the best use of Pakistan's physical and human resources.⁵⁴

Food Prices

Cost of food in Pakistan increased 4.64 percent in March of 2017 over the same month in the previous year. Food Inflation in Pakistan averaged 5.24 percent from 2011 until 2017, reaching an all-time high of 12.99 percent in November of 2013 and a record low of -1.06 percent in September of 2015.⁵⁵ Under this uncertain food prices scenario in the country, the food security of masses remains at risk.

Natural Calamities

Pakistan recently faced three big disasters 2005 earthquake and 2010 and 2011 floods that literally rendered millions of more people at the verge of hunger. The floods have destroyed not only the crops but also seeds, cattle, smallholders land, and other means of livelihood of subsistence farmers and the poor living in villages and added around 30 million more to the bracket of vulnerable people, particularly women (in terms of food insecurity).

Self-Sufficiency

Pakistan in spite of producing bumper crops of wheat and rice has to import the commodity because of inadequate storage and processing facilities. The self-sufficiency in food grain and suitable provisions for its storage are interlinked with food security.

⁵⁴ http://pdf.usaid.gov/pdf_docs/Pnado507.pdf

⁵⁵ <http://www.tradingeconomics.com/pakistan/food-inflation>

Questions:

1. What steps are the State party taking to increase Food Sustainability in order to ensure that its population, household or individual has access to adequate food at all times?
2. What steps are being taken by the State to allocate sufficient financial resources towards Food Sustainability as a matter of priority?

Recommendations:**Stabilize food production**

The State must ensure averting food crisis by stabilizing food production with greater investments in agricultural infrastructure to increase crop production and expand storage facilities, to better ensure grain produced is not wasted and to strengthen social safety nets.

Disaster Management

The State must strengthen capacity of its national and provincial Disaster Management Authorities by all means. It is recommended that Community Based Disaster Risk Management (CBDRM) programmes be prioritized for better and sustainable solution to natural disasters and to build peoples' resilience to such future shocks.

Food Accessibility

According to FAO, an adequate supply of food at the national or international level does not in itself guarantee household level food security. Concerns about insufficient food access have resulted in a greater policy focus on incomes.⁵⁶

Some salient challenges in this regards are:**Lack of Strategy**

The government does not hold a long term policy / strategy on how it will ensure improving availability, access and utilization of food for most vulnerable groups.

Weak Market Governance

Market control mechanism in terms of supply chain, price control and making food goods available are weak.

Politics

The food has remained a subject of politics and surplus food remained available in one corner of the country but poor people were allowed to die of hunger at other corner at the same time.

⁵⁶ <http://www.fao.org/docrep/013/al936e/al936e00.pdf>, An Introduction to the Basic Concepts of Food Security.

Unawareness of Rights

In a country where almost half the population (48.6%) does not have access to sufficient food for active and healthy life, right to food has fast emerged as the most major challenge. Along with the issues of production, it is also a challenge of accountability of food governance and necessitates a mandatory legal framework where people can actually claim this right.

Poverty

Income poverty has a major influence on purchasing power specifically among rural poor and more specifically women headed households to access nutritious food. Poor families in Pakistan, who already spend more than 60% of their income on food, higher food prices further reduce their ability to pay for medical care and their children's education and if this trend goes on, the food crisis badly undermines gains in poverty reduction. Food is predominantly produced in rural areas of Pakistan, yet a majority of poor have lower economic access to food as compared to urban areas.⁵⁷

Absence of Long-Term Strategy

Government have initiated programs focused at short terms results including food stamps and safety net schemes (e.g. BISP, Watan cards, fund under Zakat & Ushar etc.) however lack a holistic long term strategy.

Food Price Inflation

Food price inflation in Pakistan has been alarming since last four years while the purchasing power of the poor people has deteriorated significantly.

⁵⁷ <http://siteresources.worldbank.org/PAKISTANEXTN/Resources/FoodSecurityStrategy.pdf>

Questions:

1. What steps is the State party taking to increase Food Accessibility in order to overcome people's ongoing insufficient food access?
2. What steps are being taken by the State to allocate sufficient financial resources towards Food Accessibility as a matter of priority?

Recommendations:**Effective Strategies**

The State must develop and implement a realistic and technically sound "National Food Security Strategy" and the primary focus of such a strategy should be ensuring food security in extremely food insecure districts.

Support Programmes

The State must start a comprehensive livelihood support programme across the country to upgrade income of common people and increase their food purchasing power.

Strengthen Existing Programmes.

It is important to strengthen food stamps and safety net schemes and the State must develop and adopt a holistic long term strategy in this regards.

Food Utilization

According to FAO Food Utilization or absorption is commonly understood as the way the body makes the most of various nutrients in the food. Sufficient energy and nutrient intake by individuals is the result of good care and feeding practices, food preparation, diversity of the diet and intra-household distribution of food. Combined with good biological utilization of food consumed, this determines the nutritional status of individuals.⁵⁸

Main challenges in Food Utilization:**Food Consumption**

Food use pattern is not diverse and Pakistani society depend on similar food types for majority of their food needs, putting pressure on wheat, rice, potato, etc.

Health Issues

⁵⁸ <http://www.fao.org/docrep/013/al936e/al936e00.pdf>, An Introduction to the Basic Concepts of Food Security.

Contaminated food and water has intensified health and hygiene related issues. Modern agricultural technologies have in fact affected the aroma, taste and the culture of food. New food varieties with increased use of chemical fertilizers and pesticides have had a severe health impact directly and indirectly. Direct health impacts involve consumption of contaminated food and water with chemical pesticides & fertilizers leading to lots of health problems including cancer, high BP, etc. **The indirect health impacts involve environmental degradation; climate change; extermination of local variety of food and uncultivated food; loss of biodiversity; etc.**⁵⁹

Quality Drinking Water

Indicators of quality water availability for drinking and sanitation, female literacy and immunization are worrying, which are clear from the poor state of utilization ranking.⁶⁰

Access to food is also influenced by sanitation, clean drinking water, and knowledge regarding proper food storage, processing, basic nutrition, and health facilities, infrastructure, etc. These aspects have peculiar urban/rural food security challenges. Water availability is major issue in Pakistan and it will become more complicated in future due to multiple factors e.g. climate change, population outburst, weak infrastructure etc.

Female Literacy

Situation of female literacy is seriously alarming. Majority of female across the country are very poorly educated or have no education at all. Breastfeeding is declining due to the poor nutritional status of mothers, and/or lack of awareness as many of the babies are drawn into a vicious cycle of malnutrition and disease that leave them physically and intellectually stunted for life.

⁵⁹ <http://envirocivil.com/environment/food-security-issues-and-challenges-in-pakistan/>

⁶⁰ <https://sdpi.org/publications/files/State-of-Food-Security-in-Pakistan-and-Policy-Options.pdf>

Questions:

1. What steps are the State party taking to increase Food Utilization in order to ensure food diversity and consumption of healthy food?
2. What steps are being taken by the State to allocate sufficient financial resources towards Food Utilization as a matter of priority?

Recommendation:**Resource Allocation**

The State must allocate sufficient financial resources towards Food Utilization as a matter of priority. Best recommended interventions include breast feeding, improved food intake, Vitamin A supplementation, improved health environment, improved education level of mothers, and increased per capita income.

More Holistic Approach

To improve Food Utilization, the State should tackle the issue holistically by improving widespread poverty, illiteracy, political instability, unemployment, rising food prices, regulations and implementation strategies.

Research & Development

The State must invest in continued research into food consumption patterns (nutritional needs) to reshape public health interventions. It is recommended to include academia and policy institutes in research and development. In addition, the State must foster public-private partnerships for service delivery.

The Right to Water

Overview

The right to water and sanitation is not specifically mentioned in the adequate standard of living, but it is considered as an important integral part of the right. Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living "including adequate food, clothing and housing". The use of the word "including" indicates that this group of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival. Moreover, the Committee has previously recognized that water is a human right contained in article general comment No. 6 (1995).²

The right to water is also inextricably related to the right to the highest attainable standard of health (art. 12, para.1) and the rights to adequate housing and adequate food (art. 11, para. 1) The right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.⁶¹

The right to water also includes obligation on states to prevent contamination of water from harmful elements such as industrial waste as well as freedom from arbitrary disconnection of water.

The Constitution of Pakistan

- The provision of water is recognized under Article 38 under Principles of policy; the same article that deals with other necessities of life.
- The constitution of Pakistan under Article 38 recognizes that the state shall provide the basic necessities of life to all citizens and water is included in that⁶².
- The National Drinking Water Policy (NDWP) 2009 formally recognizes that safe drinking water is a fundamental human right and that the provision of drinking water is a constitutional responsibility of the provincial governments.

Issues

Institutional Mismanagement

The provincial governments are slow to respond to this basic right and there remains a lot to be done for regulation of the performance of the municipal bodies in this regards which results in the violation of the rights to water in Pakistan. Micro governance of water has remained under municipal councils or corporations, and further down district administration deals with it. But these two tiers have never been effective as the local governance system of elected bodies and elected local representatives. However, the lack of

⁶¹ <http://www.refworld.org/docid/4538838d11.html>

⁶² With the Eighteenth Amendment, the issue of water was devolved from a federal concern to a provincial issue.

local government bodies due to political reasons leads to inefficiency in implementation of water policies.

Contaminated Water supply

A recent study by Pakistan Council of Research in Water Resources (PCRWR) states that only 72% of the water supply schemes were reported to be functional of which 84% supplied water not suitable for human consumption⁶³. Water facilities in Pakistan suffer from contamination mostly due to leakage of water supply pipes and pollutants entering from the sewerage pipes due to improper distribution.

- UN report highlights that contaminated water contributes to 40% deaths in Pakistan⁶⁴.
- World Bank study highlights that less than 8% of the urban wastewater is treated⁶⁵.
- A study by Ayub Agricultural Research Institute brings forth that over 65% of agricultural land in Punjab is now uncultivable due to the use of contaminated water to cultivate the land.

Inadequate Water Supply

UNDP's development advocate shares that 27.2 million Pakistani's still do not have access to safe water. In the face of this crisis the government has failed to respond adequately. Furthermore, due to the fragmented institutional structure for water management and lack of a national water policy Pakistan is moving from water stressed to a water scarce country

Lack of funds and budgetary allocation

In 2016, the water sector under Public Sector Development Program of the federal budget was allocated PKR 33 billion as compared to the previous year's allocation of PKR 31 billion. These funds are released in phases over the project completions stages with back to back budgetary allocations. Much of these funds are invested in construction of large and small dams, lining of water courses and flood dispersal structures. Due to sharp increase in population and climate driven environmental changes along with the growing industrial demand there has been a lot of focus on water conservation projects where the provincial governments demand for funds exceeds the budgetary supply. The budget allocation for water sector has significantly reduced over the years from PKR 70 billion to PKR 31 billion whereas the demand has risen to PKR 150 billion⁶⁶. In 2015, Sindh Irrigation Department demanded PKR 12bn against its allocation of Rs8.6bn for the year⁶⁷.

It is estimated that one MAF of water generates \$600m worth of economic benefits and Pakistan due to shortage of storing capacity wastes about \$18 billion annually since last 40 years by not utilizing over 30 MAF which eventually flows into the sea, notwithstanding environmental flows to the sea.

⁶³ <https://www.dawn.com/news/1319157>

⁶⁴ <http://aaj.tv/2012/04/contaminated-water-contributes-to-40-death-in-pakistan-un/>

⁶⁵ World Bank. 2005. Pakistan - Country water resources assistance strategy : water economy running dry. Washington, DC: World Bank.

⁶⁶ <http://nation.com.pk/business/16-Feb-2017/only-25pc-of-allocated-budget-released-for-water-power-sector>

⁶⁷ <https://www.dawn.com/news/1186764>

Regulation of Irrigation water and waste water management

Right to water can be extended to irrigation water. Over 95% of all ground and surface water is utilized in irrigation in Pakistan. While the irrigation system suffers from inequitable distribution among and within the provinces, it is estimated that up to 40% water is wasted while irrigating the fields⁶⁸. Groundwater quality is deteriorating rapidly as well. This issue should be given top priority.

Questions:

1. Why has the government been inactive about instituting a national water policy?
2. What is the government doing to ensure and improve water quality?
3. Are there any sustainable schemes in the pipeline for reuse, recycling and treatment of waste water and how successful have they been?

Recommendations:

Devolution of Powers

Whilst implementation of water policies should be the responsibility of the provincial governments, safeguarding of the natural resource base of water resources should be in the hands of a single federal institution with formation and implementation of National Water policy with consensus of provinces and all stakeholders.

Water Quality

Improve water quality and ensure provision of safe clean drinking water for all.

Equitable Water Usage

Fix Per capita water entitlement to be used for calculating and supplying water for domestic use to rural areas, cities and towns, beyond that price water per market.

Irrigation Water Efficiency

Enhance irrigation water efficiency by improving the delivery systems, establishing benchmarks for minimum crop water requirements, rehabilitating traditional systems and adopting new conservation technologies to save water

⁶⁸ <https://www.dawn.com/news/1264520>

Article 12 - The Right to Health

Overview

1. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for:
 - (a) The provision for reduction of stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Issues

The Constitution of Pakistan

The Constitution of Pakistan does not explicitly recognize the Right to Health; however, following the 18th Amendment to the Constitution, (for devolution of power from federal to provincial ministries) a series of amendments have been introduced; health is now regarded as a provincial subject, enabling each province to administer health departments according to their needs. This is considered a progressive step, for better outreach and administration of healthcare.

The Right to Health is widely considered under the realm of Fundamental Rights, specifically the Right to Life, guaranteed to the citizens of Pakistan under the Pakistan Constitution. "No person shall be deprived of life or liberty, save in accordance with law (article 9)". The right to Health is therefore implicit in the Right to Life. It is the economic, social and cultural right to a universal minimum standard of health to which all individuals are entitled.

Evidence

A mixed pattern of health is prevalent in Pakistan. Wide socio economic disparities, unhygienic living conditions especially for socio-economically depressed communities, rural-urban divide, traditional and cultural factors that discriminate against some sectors of the populace, and unequal gender norms all have strong bearing on health status.

Inadequate availability of healthcare strongly impacts poverty —families already poor may be reduced to extreme poverty in the presence of serious illness of a family member. Particularly important is the impact of infant, young child and maternal morbidity and mortality

"Globally, Pakistan has the third highest burden of maternal, fetal, and child mortality. [there is] slow progress in achieving MDGs 4 and 5 and in addressing common social

determinants of health. The country also has huge challenges of political fragility, complex security issues, and natural disasters.

Analysis

In-depth analysis to measure progress towards MDGs 4 and 5, and identify principal determinants of health in relation to reproductive, maternal, newborn, child health and nutrition was undertaken in relation to new and existing public sector programmes, and the challenges posed by devolution of power from federal to provincial ministries in 2010.

The study found that 58% of an estimated 367 900 deaths (15 900 maternal, 169 000 newborn, 183 000 child deaths) and 49% of an estimated 180 000 stillbirths could be prevented in 2015."

Budgetary Allocation to Health

Health sector allocations are woefully inadequate, 1.0 percent of the annual GNP. Now down to a mere 0.6 per cent.

Generally, starkly visible socio economic disparities, sparse housing and shelter for the poor, limited water availability (in many areas, potable water is at a premium), illiteracy, a failing education system, health institutions struggling to keep pace with the country's growing needs. Lowered food security has led to alarming levels of stunting and chronic under- and malnutrition in children.

Annual social sector allocations have remained consistently low since the mid-1970s, especially in health. Consequently this sector is heavily donor-dependent. Currently the annual allocation to health is a mere 0.8 per cent of the GNP. According to the World Health Organization's Global Health Expenditure data Pakistan spends 0.9 per cent of its GDP on health in 2014 which should be increased to 6 percent.⁶⁹

For the population sector it is even less, a fact which has adversely affected health. In consequence, Pakistan has failed to comply with the MDGs especially MGD 3 and 5.

Question

Question

What percent of GDP is the health sector budget? And how much do you want to raise it to?

Gender status

Pakistan's gender status ranking according to the annual estimation by the World Economic Forum has gradually slipped down from position 112 in 2006 to 144 out of 145 countries. Although efforts are being made to reduce gender disparities, increase women's empowerment with pro-women legislation, increased school enrolment for girls, greater availability of health facilities for women there does not appear to be sufficient political will and determination to achieve positive change.

⁶⁹ <http://data.worldbank.org/indicator/SH.XPD.PUBL.ZS>

Questions

What are the reasons for this drop in Gender status and in failure to improve and equalize women's position in society?

What measures are being taken to improve women's Gender Status or comply with the (relevant) SDG goals?

Are there any plans to introduce "Gender Budgeting" i.e. specific allocation for improvement and action in every national financial allocation for women?

Women's Health and the Population Programme

Pakistan has the worst indicators for maternal morbidity and mortality in South Asia.

Anaemia in women, particularly during pregnancy, is common, more so among poorer communities; reflective of poor nutrition, with iron deficiency, since infancy. Anaemia during pregnancy is frequently associated with maternal death and morbidity.⁷⁰

"Nearly 375,000 women suffer every year from pregnancy related complications. Vesicovaginal Fistula (VVF), Recto-vaginal Fistula (RVF), depression, chronic pelvic pain, loss of uterus, infertility and pelvic inflammatory diseases are the major complications; all these conditions are preventable and no woman should suffer because of these conditions."⁷¹

More than 65 percent women deliver at home without the presence of skilled birth attendants.

In the majority of secondary and tertiary healthcare centres, emergency obstetrical care is not available on twenty-four hour basis. The four delays of pregnancy are the major contributory factors that cause women's death and pregnancy related morbidity in Pakistan.⁷²

Questions

What steps is the government of Pakistan taking to:

- Improve women's health, especially maternal health
- Reduce the present high rate of maternal mortality?
- Enhanced Contraceptive Prevalence Rate CPR
- Increase financial allocations for the population sector, with improved program for women's reproductive health and greater accessibility of family planning services and reproductive health care or a national level?

Communicable and non-communicable diseases

Pakistan's disease profile is a combination of high incidence of communicable diseases, including the world's highest incidence for polio. Communicable diseases are exacerbated by lack of hygiene, inadequate sanitation, and malnutrition. Breast and cervical cancers are notably high.⁷³

⁷⁰ <http://ayubmed.edu.pk/JAMC/23-2/Ghazala.pdf>

⁷¹ <http://archives.dailytimes.com.pk/karachi/19-Mar-2009/pregnancy-complications-in-pakistan-30-000-women-die-every-year>

⁷² [http://www.wfpak.org/pdfs/GBV-](http://www.wfpak.org/pdfs/GBV-RH/ResearchReports/Health%20of%20Women%20in%20Pakistan%20SOGP%20Annual%20Report%202009.pdf)

[RH/ResearchReports/Health%20of%20Women%20in%20Pakistan%20SOGP%20Annual%20Report%202009.pdf](http://www.wfpak.org/pdfs/GBV-RH/ResearchReports/Health%20of%20Women%20in%20Pakistan%20SOGP%20Annual%20Report%202009.pdf)

⁷³ <http://www.who.int/countries/pak/en/>

Nearly 7 cases of polio were identified last year;⁷⁴ concerted measures for polio eradication have followed. However, families are reluctant to permit vaccination, for fear that the polio vaccine will make their children sterile, they refuse to allow polio vaccination. Marked animosity towards polio workers, and their security guards, has led to their murders; the community refuses to allow vaccination of their children.⁷⁵

Questions

What steps have been taken by the Pakistan government to ensure the campaigns continued success till such time as polio is completely eradicated from the country?

RECOMMENDATIONS

- Particularly address polio control consistently. The quality and viability of anti-polio vaccine must be regularly checked and monitored: all children should be administered the polio vaccination to eradicate the disease. The media must be fully utilized to promote polio vaccination, and further steps should be taken to eliminate public resistance to vaccination. Greater protection should also be provided to polio workers.
- Health must be recognized as a fundamental human right in the Constitution; provision of this right must also become part of the devolution process. This will include speedy steps to adopt appropriate legislation with the necessary administrative, budgetary, judicial, promotional and other steps forward towards full realisation of health rights for all.
- As per WHO specifications, health allocation must be increased within the next 3 years to 6 per cent of the GDP. Specific stress needs to be placed on primary health care, and reduction of infant and maternal morbidity and mortality. Provide maximum available human and financial resources for the realisation of women's health rights. Specific needs of different groups of women should also be respected.

⁷⁴ <http://tribune.com.pk/story/840327/two-new-polio-cases-emerge-in-k-p-fata/>

⁷⁵ <http://www.dawn.com/news/1151027>

Article 13 & 14- Right to Education

Overview

Normative framework for Right to Education in national policies:

1. Education has been made a fundamental right recently as part of the 18th Constitutional amendment through which Article 25-A was added to the Chapter on “Fundamental Rights” and states: “The state shall provide free and compulsory education to all children of the age five to sixteen years in such a manner as may be determined by law”.⁷⁶ Prior to the 2010 amendment, education was added as a principle of policy⁷⁷ while the 1973 Constitution stated in Article 37-b that State shall “remove illiteracy and provide free and compulsory secondary education within minimal possible period”,⁷⁸ and in article 38(d) that the State shall “provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.”⁷⁹
2. Although the executive and legislative powers have been devolved to the provinces as a result of enactment of the 18th Amendment, the federal government still remains an important agent of implementation regarding Constitutional provisions and international law.
3. The Right to Education Compulsory Education Act 2012 affirms the free and compulsory Right to Education to all children aged five to fifteen. On the subnational level, federal capital⁸⁰ and all provinces have passed their provincial Right to Education laws except for the province of Khyber Pakhtunkhwa⁸¹.
4. The National Education Policy (NEP) 2009⁸² is the main policy instrument in the last two decades which has guided government’s interventions in education. The latest edition of this policy document is considered to be a “living document” intended to be updated periodically on needs basis. Designed as a corrective action oriented policy, it aims to rectify the past policies’ shortfalls through

⁷⁶ Section 9 of the Constitution (Eighteenth Amendment) Act, 2010 (10 of 2010), inserted a new Art. 25A, after Art. 25 of the Constitution, (w.e.f. April 19, 2010).

⁷⁷ For more information, see Pakistan Coalition for Education, “Legislation on Right to Education in Pakistan: A Critical review” (March 2016), available from <http://www.pcepak.org/en/phocadownload/Demo/RTE-final-.pdf>

⁷⁸ PAK CONST. art. XXXVII, sec. b.

⁷⁹ PAK CONST. art. XXXVII, sec. d.

⁸⁰ : http://rtepakistan.org/wp-content/uploads/2012/12/Act_2012_Right_to_Free_and_Compulsory_Education_National_Assembly_Secretariat_Islamabad.pdf

⁸¹

⁸² Ministry of Education, Government of Pakistan (2009) National Education Policy 2009 http://www.asepakistan.org/document/learning_resources/2014/National%20Education%20Policy%202009.pdf [Retrieved 14 February 2017]

specific policy actions such as listed below, financed through raising the education budget up to 7% of the GDP by 2015

- Achieving universal and free primary education by 2015 and up to class 10 by 2025
 - Promoting equity in education with the aim to eliminate social exclusion and provision of increased opportunities to marginalized groups, particularly girls;
 - Determine nation standards for education inputs, processes and outputs;
5. However, the National Education Policy 2009 has not been revised after devolution ensuing 18th Amendment. The context shift warrants a revision to ensure the Right to Education is accessible to everyone.

Issues:

1. *Insufficient domestic financing:*

- Insufficient domestic financing for education has been a major and detrimental issue to make the Right to Education an enforceable right which has resulted in wide inequalities. Factors such as urban-rural placement, gender and poverty converge to result in dire inequalities. According to some estimates, poor girls belonging to rural areas face the worse inequality with only 15% of girls likely to complete school as opposed to 40% of poor rural boys.⁸³ The situation worsens for children with disabilities, who are even less likely to go to school.⁸⁴ In order to bring all children into schools by 2030, Pakistan needs to increase the spending on basic education by two times and triple the percentage of GDP allocation to six percent.⁸⁵
- For a country with one of the lowest tax-to-GDP ratios in the world, with 10% of GDP furnished with taxes⁸⁶, financing for education entails system-wide, swift action in which tax reforms on federal and provincial levels are of immediate need. Recognizing the need to prioritize social sector, in particular education and health, with increased allocation financed through sustainable domestic sources will be able to give the right to education to all children. According to the EFA Global Monitoring Report (2013-14), if Pakistan increased its tax revenue to 14% of GDP and

⁸³ WIDE (2015). Primary completion rate. Available at http://www.educationinequalities.org/indicators/comp_prim#?sort=mean&dimension=all&group=all&age_group=comp_prim_1524&countries=all

⁸⁴ Asia, U. S. (2014). *Global Initiative on Out of School Children*. Kathmandu: UNICEF.

⁸⁵ Malik, R., & Rose, P. (2015). *FINANCING EDUCATION IN PAKISTAN OPPORTUNITIES FOR ACTION Country Case Study for the Oslo Summit On Education Development*. Cambridge: University of Cambridge.

⁸⁶ Tax revenue (% of GDP). (2017, March 16). Retrieved from The World Bank : <http://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS>

allocated one-fifth of this to education, it would be sufficient to bring the Out of School Children back to school.⁸⁷

- Amidst, the low and insufficient financing of education, the private providers have stepped in to fill in the gap. As of 2016, almost 42% of primary school children attend private schools.⁸⁸ Such development in context of weak regulatory mechanism⁸⁹ and governments' support for education entrepreneurs with help of bilateral donors⁹⁰ threatens the right to education for the poor and marginalized children.

Questions:

- What steps is the State party taking to strengthen a free public primary and secondary school system of quality, in line with its obligations under international human rights law?
- What steps are being taken by the State to allocate sufficient financial resources towards public education as a matter of priority?

Recommendations:

- To substantially increase the education budget and redistribute funds to strengthen the public sector and to match as a minimum the international target of 6% of GDP or 20% of the annual budget as a matter of urgent priority, and immediately make a plan to develop free public education across the country in the shortest possible time .
- Reform the tax system at federal and provincial levels to increasingly allocate resources to education

⁸⁷ (2014). EFA Global Monitoring Report (2013/14) TEACHING AND LEARNING: Achieving Quality for All. Paris: UNESCO.

⁸⁸ Pakistan Education Statistics 2015-16. *National Education Management Information System*. 2017.

⁸⁹ Only in Islamabad Capital Territory (ICT), the government has been able introduce a regulatory framework to monitor private schools. Private Educational Institutions Regulatory Authority is working in Islamabad ICT whose main aim is to enforce of relevant rules & regulations on private education sector, for provision of quality education to the residents of Islamabad. According to official statistics (available on the website), there are 1,069 registered Private Educational Institutions (PEIs) in Islamabad Capital Territory (ICT) catering 221,125 students. However the same cannot be said about the other provinces where the majority of students study in private schools and PPP managed schools.

⁹⁰ According to its websites, the Foundation's mission is "the promotion of quality education through Public-Private Partnership, encouraging and supporting the efforts of private sector through technical and financial assistance, innovating and developing new instruments to champion wider educational opportunities at affordable cost to the poor."

Governance issues in areas of misplaced allocation priority and poor administration of funds:

In addition to the insufficient financing, the education spending is plagued by the governance issues. Education though is an overlooked area in terms of allocative priority, even then faces underutilization each year.

In 2014-2015, all provinces reported underutilization of the allocated budget with Sindh having the largest percentage of underspent education budget of 21%, followed by Punjab at 18%.⁹¹ In addition to this, most of the budget was spent on recurrent expenses such as salaries with Sindh spending 91% of its expenditure on salaries and allowances, whereas Punjab spending around 85%.⁹² This leaves little room for actual expansion of access or quality of education through non salaried budget. Development budget was an overlooked area such as in Punjab, 46% of the development budget was spent in 2014-15. In 2015-16, the development budgets for Education in Balochistan and Khyber Pakhtunkhwa were reduced by 15% which is an alarming development.

Another issue which exacerbates spending efficiency is the lack of coordination on multiple levels of government in the Post 18th Amendment context. There is a need for a coordination committee between the provinces and the federal level to harmonize the policy goals for each provinces. At present that mechanism is absent. Additionally, the accountability mechanisms are weak on all levels of the government which in turn allow corruption and rent-seeking practices^{93 94}

Governance and spending issues will continue to be a source of inefficiency if continual data gathering is not institutionalized at various levels of government. In case of failure to do so, the efforts made to make RTE enforceable are at risk.⁹⁵

⁹¹ (2016). Public Financing of Education in Pakistan Analysis of Federal, Provincial and District Budgets (2010-11 to 2015-16). Islamabad: Institute of Social and Policy Sciences (I-SAPS).

⁹² Ibid.

⁹³ Kaufmann, D., Kraay, A. and Mastruzzi, M. 2008. Governance matters VII: Aggregate and individual governance indicators 1996–2007. Washington DC: World Bank.

⁹⁴ Rana, N. A., Idris, I. and Touqeer, I. 'Revamping Governance'. Pakistan Policy Note 13: The World Bank. <http://documents.worldbank.org/curated/en/2013/06/18014839/revampinggovernance>

⁹⁵ (2015). Global Monitoring Report. World Bank 2015

Questions:

- What steps is the State taking to ensure that provisions are made for effective introduction and implementation of laws and policies in its Provinces for the realization of the right to education as sanctioned by Article 25A of the Constitution?

Recommendations:

- To institute an appropriate regulatory and monitoring framework for monitoring the enforcement of Article 25-(A) of the Constitution. Both the private education sector and the State have a responsibility to work together to ensure that all education providers are meeting minimum norms and standards as laid out by the State within a human rights framework
- Improve data collection mechanisms for education planning

- What steps is the State party taking to strengthen a free public primary and secondary school system of quality, in line with its obligations under international human rights law?
- What steps are being taken by the State to allocate sufficient financial resources towards public education as a matter of priority?
- What steps is the State taking to ensure that provisions are made for effective introduction and implementation of laws and policies in its Provinces for the realisation of the right to education as sanctioned by Article 25A of the Constitution?

Article 15 - Cultural Rights

Overview

The International Covenant on Economic, Social and Cultural Rights states:

Article 15

1. The States Parties to the present Covenant recognise the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.⁹⁶

Article 28 of Pakistan Constitution:

Preservation of language, script and culture: -- Subject to Article 251 any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose.⁹⁷

Culture is an expression of social life and entails the very basics of human priorities. Recognizing this, the ICESCR stipulates in Article 15 (2) to conserve, develop and diffuse cultural values which are not contradictory to present scientific knowledge and human morality. This includes but is not limited to language, dress code, folkways, and other cultural practices.

The government of Pakistan has ratified Article 15(2) of the ICESCR and is responsible to provide opportunities to its citizen for the promotion of all local cultures. The Provincial Culture Heritage Preservation Acts are good legislation; however, these only deal

⁹⁶ http://www.na.gov.pk/uploads/documents/1333523681_951.pdf

⁹⁷ http://www.na.gov.pk/uploads/documents/1333523681_951.pdf

with tangible cultural heritage. These should be improved to include intangible cultural heritage as well. Inclusion of intangible cultural heritage is essential to protect, promote and develop intangible cultural practices, which are essential for peaceful co-existence, peace and tolerance.

Issues

As of today, the government of Pakistan only protects and promotes the Islamic population of the country and a lot needs to be done for other religions of the country.⁹⁸

As far as **languages are concerned, the state has all focus on Urdu, Arabic and English**. The rest of languages of the country are still awaiting patronage for their protection and promotion.⁹⁹

Moreover, The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ICESCR both adopted by the General Assembly, where Pakistan supported the adoption of Declaration, thus the State of Pakistan is bound to safeguard the rights of indigenous populations within its boundaries. The crux of the declaration is to protect the ancestral domain, land rights and traditional knowledge of indigenous peoples and their right over this domain, which the State of Pakistan has to protect.

Blasphemy law as applicable in the country predominantly covers cases of blasphemy against the Holy Prophet Muhammad (PBUH) only. The revered persons/prophets of other religions have been ignored by these laws. The laws also ignored the fact that the rights of non-Muslims as equal citizens, with equal rights are enshrined in Pakistan's Constitution, which are being violated.

Evidences

Broadly there are various cultures in Pakistan. Efforts should be made equally for all the cultures of Pakistan to get promoted. The provincial departments of Culture have been mandated to look after cultural matters. The departments should work in close collaboration with other departments to realize the cultural rights of the people of the Pakistan.

The government of Pakistan having supported the adoption of UNDRIP is bound by international law to protect the ancestral domain of the indigenous peoples of Pakistan. It should ensure that the rights of the indigenous people are protected in the context of all

⁹⁸ <http://blogs.tribune.com.pk/story/41481/pakistans-treatment-of-its-minorities-measures-its-achievement-in-decency/>

⁹⁹ <https://www.dawn.com/news/1306783>

development projects and that they are not marginalized to get whatever development is their due share in accordance with this declaration.

Misuse of the blasphemy law has put numerous people on death row. According to the Human Rights Commission of Pakistan, 34 individuals were charged with blasphemy in 2013. The prevailing atmosphere is a frightening one¹⁰⁰. Nevertheless, the blasphemy law is being used as virtually a license to kill. The notorious Blasphemy Law is also being misused to settle personal scores; in many cases also to forcibly take over personal property. The equation is simple, accuse the opponents of blasphemy, get them killed by angry mobs and settle the personal scores.

Question:

- What steps are being taken by the state to protect, promote cultural diversity in the country?
- What steps are being taken by the state to protect the rights of the religious minorities?
- What steps are under consideration by the state to recognize all regional languages of the country as National Languages?
- Has the state taken any steps to protect and promote regional languages?
- Has the state devised any inter provincial coordination mechanism to address and safeguard the rights of indigenous groups in mega projects, especially CPEC?
- Has the state taken up any amendments to blasphemy laws of the country and what steps have been taken to prevent false accusation of minority groups under these laws?

Recommendations

In wake of this situation, following steps should be taken to realize the cultural rights:

- i. The state must recognize, protect and promote cultural diversity throughout the country as well as promote all sub-cultures through education and greater interaction with the masses.
- ii. All major regional languages should be recognized as official and national languages. Provinces should follow suit in their respective jurisdiction.
- iii. The government should ensure to safeguard the rights of indigenous groups especially in mega projects.
- iv. Blasphemy laws be amended to include the revered persons/prophets of other religions and punishment for false accusation be included in the law.

¹⁰⁰ https://www.hrw.org/sites/default/files/wr2013_web.pdf

