

A LIST OF ISSUES FOR THE EXAMINATION OF PAKISTAN'S COMPLIANCE OF INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A joint submission by the civil society organizations (CSOs) in Pakistan through Centre for Social Justice, in view of the preparation by the UN committee on economic, social and cultural rights for its 61st session.

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Introduction

1. The CSOs in Pakistan appreciate the submission of first periodic report by Pakistan under the treaty covering the period 2008-2014 which was due in 2010. We present this list of issues article wise. The acronym CSOs means the endorsing organizations as well as those who share the point of view. The term Committee shall mean the Committee for Economic Social and Cultural Rights.

Article 1. Right to self-determination

2. The right of all people to self-determination under ICESCR extends to decide their political status and pursue economic, social and cultural development freely to decide how they might use their natural resources. A similar provision is also present in ICCPR which Pakistan has also ratified. The applications of this rights means greater autonomy of the communities at all levels where the progress has not been satisfactory in the examples of delayed local bodies elections, providing credible data by holding of population census as well as wide range of issues concerning weak governance and delivery mechanism for rights.

Recommendations

Respecting right to self determination and Economic Social and Cultural autonomy of the citizens of Pakistan the government should take effective measures to:

1. Devolve the administrative, financial and political powers to the local bodies and make this third tier of governance functional,
2. Hold credible national population census to facilitate social, economic and cultural development of all segments, specially of the marginalized and vulnerable groups in Pakistan. The census enumeration should include all categories of religious, ethnic, social, gender and cultural diversity and make the user friendly data available free of charge.

Article 2: Progressive legislation / recommendations

3. The civil society welcomes state's formal recognition of ESC rights by ratifying ICESCR. However without proper constitutional recognition or legislative backing from provinces, ESCR rights do not translate into domestic norms. Hence, the provincial governments should legislate on these rights after increased autonomy under 18th amendment. The implementation of laws requires developing rules, regulations and implementation procedures and protocols.

Article 2: ESC Rights of Vulnerable Groups

4. Given the emphasis put on vulnerable/marginalized groups in its various general comments, including on right to food, right to health, right to water etc, as discussed in various preceding chapters¹ CSOs would like to specifically highlight the rights of vulnerable groups with special focus on persons with disabilities, women and girls, religious minorities and transgender groups.

a) ESC Rights of Persons with Disabilities

5. The Committee has elaborated on obligations pertaining to persons with disabilities under ICESCR.² As Pakistan has ratified the CRPD as well, the obligations under ICESCR and CRPD converge.

Pakistan's first legislation for protection of the rights of persons with disabilities in form of Disabled Persons' (Employment and Rehabilitation) Ordinance 1981³ mainly covers rehabilitation and employment for the persons with disabilities.

The ordinance⁴ defines disability in terms of "a person who, on account of injury, disease or congenital deformity, is handicapped for undertaking *any gainful profession or employment in order to earn his/her livelihood*, and includes persons who are blind, deaf, physically handicapped or mentally retarded."⁵ The National Disability policy⁶ also defines disability narrowly: "Disability" means the lack of ability to perform an activity in a manner *that is considered to be normal*".⁷ All disability rights debate is done around the "social theory" aspect of disability which considers that human beings have impairments but they are disabled when society does not give them adequate opportunities to perform the so called normal life.⁸ Such definitions are completely against this theory and the entire disability rights movement which was instrumental in recognition of rights of persons with disability and of course the provisions of the CRPD which have non-discrimination at its core.

6. In 2002, Pakistan formulated the National Policy for Persons with Disabilities. This was first policy in the country which covers issues such as education, employment, and the welfare of people with disabilities and sets up a National Commission to look after the

¹ CESCR General Comment 9 paragraph 10.

² UN-CESCR. *General Comment No. 5: Persons with Disabilities*, 9 December 1994, E/1995/22 [Online]. Available: <http://www.refworld.org/docid/4538838f0.html> [Accessed 7 January 2014].

³ Thanks to Dictator General Zia who had a daughter with some kind of disability

⁴ 1981. DISABLED PERSONS' (EMPLOYMENT AND REHABILITATION) ORDINANCE 1981.

⁵ Emphasis ours

⁶ PAKISTAN 2002. NATIONAL POLICY FOR PERSONS WITH DISABILITIES. *In*: EDUCATION, M. O. S. W. A. S. (ed.). Islamabad: Islamabad.

⁷ Emphasis ours

⁸ Kayess & French 2008

needs of the persons with disabilities has not been formed yet. The policy addresses some of the issues related to persons with disabilities.

Though Pakistan has special legislation and policies for persons with disabilities, the policies and legislations in general, such as Women Protection Bill, Youth Policy and so on and so forth, lack inclusiveness with regards to needs of the persons with disabilities..

7. In order to facilitate greater employment of the persons with disabilities, 2% job quota has been created in all the government jobs in Pakistan under the Employment and Rehabilitation Ordinance. While it may be beneficial to promote such quotas, the disabled rights activists in Pakistan do not consider it equal treatment as specified under CRPD and ICESCR which require equality and non-discrimination.

Currently, disabled persons not only face stigma and discrimination in the society, but there are issues of accessibility to education, employment, as well as concerns of social and cultural fulfilment. There are only 16 buildings, mostly in the capital city of Islamabad, which are accessible for persons with disability.⁹ Therefore, the government needs to create and promote a barrier-free society for the persons with disabilities.

8. The current data, mainly provided by the Census of 1998, covers limited disabilities. The census showed only 2.5% of the population with disability whereas a WHO survey showed a 10% population with disabilities. This was probably because a wider definition of disability was used by WHO. Therefore there is a need for a survey which covers broader range of disabilities to inform the planning and policy development work. This would also help guide the resource sharing and utilization plans developed by the government for the disabled. For example, as per 1998 census, persons with disabilities account for about 2.5% of the total population; keeping this in view, the government established 2.5% quota in jobs. However, if the WHO survey had been used the quota would/should have been 10%.
9. So far in Pakistan has separate education for persons with disabilities. Therefore, for their proper mainstreaming it is important that government promotes inclusive education and equips the existing educational facilities with assistive devices and make them accessible for the persons with disabilities as well.
10. Currently, there is no specific ministry or department that deals with the disability sector. The issues of persons with disability are dealt by Ministry of Social Welfare and Special Education. Therefore, there is need to create a separate ministry which is run by and for the persons with disabilities.

⁹ Ibid.

11. There are very few rehabilitation and treatment services available, especially in rural and remote areas where around 60% of disabled population lives.¹⁰ Most persons with disability also live under poverty; therefore there are issues of affordability with regards to accessing these facilities. Therefore, government needs to increase the rehabilitation facilities for the persons with disabilities.
12. Generally in Pakistan, disabled persons are stigmatized and there is wide-spread discrimination against them in many ways. This is not just a societal issue because even at familial level they are discriminated against. Some discrimination is also systematic; this emanates from the unavailability of facilities for their proper education, health care, and employment. So there is a need for raising awareness on rights of persons with disabilities and shifting focus from charity to rights based approach.
13. Women with disability face multiple forms of discrimination; firstly because they are women and secondly because they have a disability. Such forms of discrimination often become apparent when the questions of marriage and education emerge. Therefore, there is a huge need to increase awareness specifically on women with disabilities and their rights.

Recommendations

1. Although a national policy has been developed, there is need for geographical and sector-based planning. For example, a high number of cases in physical disability are of Cerebral Palsy and hence the government needs to have special planning on this particular disability. On other hand the number of persons with disability has increased in the war hit areas of northern parts of the country. Similarly, some districts have higher population of persons with disabilities, e.g. 7% of the population in Chakwal, a district in Punjab province, has disabilities, which according to the government statistics, is the highest for any district. So there is a need for separate planning as per needs of the people in such geographic areas.
2. Since the country is disaster prone, there is a need for including persons with disabilities in all aspects of disaster management and risk reduction, from search and rescue to rehabilitation.
3. Recognize rights of persons with disabilities as fundamental rights within constitution.
4. Legislate and make policies for a barrier free society should be promoted; all buildings, roads and other infrastructure and public facilities should meet the universal accessibility standards
5. Include disability sector information in all government statistics and surveys; the data and information on the persons with disabilities should be collected based on CRPD and other internationally accepted definitions of disability

¹⁰ *ibid.*

6. Secure legal basis for making education inclusive for all; existing schools should meet the universal accessibility standards to make them accessible for persons with disabilities.
7. The rehabilitation and physiotherapy facilities for persons with disabilities should be increased
8. Awareness-raising on rights of persons with disabilities should be done to promote their inclusion.
9. Special attention is required to eliminate discrimination faced by women with disabilities.
10. Persons with disabilities should be made part of the all the planning and implementation work keeping in line with CRPD and ICESCR.

b) ESC Rights of Women and Girls

14. The women are not fully able to exercise their ESC rights. It is evident from several studies and research reports that across various sectors like education, health and economy, gender disparity is very high.

Gender disparity is much evident in the education sector. Out of, the 49.5 million illiterate adults, two-thirds are women. Similarly, while the primary net enrollment has increased from 58% to 74% (from 1990 to 2010), ratio for girls is 14 percentage points lower as compared to boys – there are eight girls to every ten boys in the primary school.¹¹ UNESCO indicates that girls from poorest families are most disadvantaged in education sector, as over half of them have never been to school.¹² At the primary school level, the population of school -age girls is estimated at 10 million, out of these, 3.78 million girls are out of school.¹³ Gender Parity Index (GPI) for primary education is 0.86 for the country. It is higher in Islamabad Capital Territories at 1.06 and in AJ&K at one 1. FATA has lowest GPI at primary level at 0.52. However, Baluchistan's GPI is 0.78. For Secondary level (grades 9-10), GPI is extremely low in FATA (0.16). Overall, GPI for Pakistan is 0.78 at the secondary level.¹⁴

In terms of sustainability, government statistics indicate that only 27% of the girls returned to school, once they reached class 10, in the public sector schools.¹⁵ In terms of the education facilities, Pakistan has some 231,149 educational institutions (all types and levels). Of these, just 67371 institutions cater to girls as compared to 106,740 for boys; the rest are co-educational.

¹¹ UNESCO 2012. Fact Sheet: Education in Pakistan. *Education for All Global Monitoring Report*.

¹² Ibid.

¹³ TRAINING, M. O. E. 2013. Country Report of Pakistan Regarding: Accelerating Millennium Development Goals 2013-15. Ministry of Education & Training, Government of Pakistan.

¹⁴ Ibid.

¹⁵ PAKISTAN, G. O. 2013b. PAKISTAN EDUCATION STATISTICS 2011-12. NATIONAL EDUCATION MANAGEMENT INFORMATION SYSTEM, ACADEMY OF EDUCATIONAL PLANNING AND MANAGEMENT, MINISTRY OF EDUCATION, TRAININGS & STANDARDS IN HIGHER EDUCATION, GOVERNMENT OF PAKISTAN.

15. Various studies show that absence of such facilities affects girls' abilities to seek further education. Many girls' schools also remain non-functional either due to improper buildings or unavailability of teachers.

16. In the recently concluded periodic review, the CEDAW Committee has shown its concerns on prevailing inequality in the education sector in Pakistan:¹⁶

“The Committee is concerned at the pervasive gender inequality in the field of education, which is characterized by a high illiteracy rate among women, the low enrolment of girls, particularly at the secondary level, and their high dropout rate, especially in the rural areas. It is further concerned about the negative impact on girls of prioritization of boys' education over that of girls, the lack of qualified female teachers and school infrastructure, and the long distances to school, all of which have a negative impact on girls' education. It is also concerned at the lack of measures to readmit girls to school after pregnancy and the high number of child marriages in the State party. It expresses its deep concern at reports of ongoing violent attacks and public threats against female students, teachers and professors by various non-State actors, as well as the escalating number of attacks on educational institutions, in particular a large number of girls-only schools, which has disproportionately affected the access of women and girls to education. The Committee expresses its deep concern at recent attacks on school buses targeting children, including girls.”

17. In this purview, the committee has recommended the state of Pakistan to ensure coordinated and consistent efforts at national and provincial levels to:

“(a) Improve the literacy rate of women and girls, reduce and prevent dropouts among girls, especially at the secondary level, formulate re-entry policies enabling young women to return to school after pregnancy, and organize programmes for girls affected by conflict who leave school/university prematurely;

(b) Improve the quality of education by providing all teachers with systematic and gender-sensitive training and by conducting a revision of the curriculum and textbooks to remove gender stereotypes;

(c) Take the necessary measures to prevent the occurrence of attacks and threats against educational institutions which undermine the fundamental rights of women and girls, in particular, the right to education, and to ensure that perpetrators of such acts of violence are promptly investigated, prosecuted and punished;

(d) Consider the establishment of a rapid response system whenever there are attacks on educational institutions, in order to promptly repair and rebuild them and replace educational materials so that women and girls can be reintegrated into schools/universities as soon as possible.”

¹⁶ Para 27 of CEDAW. *Concluding Comments, Pakistan* [Online]. UN Committee on the Elimination of Discrimination Against Women (CEDAW). Available: <http://www2.ohchr.org/english/bodies/cedaw/cedaws54.htm> [Accessed 7 January 2014].

18. Women also face discrimination in their quest to exercise their right to health. Pakistan's maternal mortality is 260 per 100000 and remains very high considering global and regional statistic. Only 45% births are attended by the skilled health personnel whereas in 28% cases it is reported that pregnant women had ante-natal visits.¹⁷ This is largely due to lack of health facilities. There are only 5.6 nurses and mid-wives available per 10000 persons. Women face issues in realization of their right to health due to lack of access or availability of "antenatal and postnatal care, safe abortions, safe deliveries through skilled birth attendants and contraception". Rural and urban disparities are also evident.¹⁸ Moreover, as the right to health also includes freedom to decide about their health, particularly in matters of sexual and reproductive health, many women lack decisions making powers.

CEDAW committee also showed concerns on the state of health facilities for the girls and women. It remarked:¹⁹

"The Committee is concerned about the high maternal mortality rate in the State party, women's lack of adequate access to family planning services, including contraceptives, restrictive abortion laws and the large number of women resorting to unsafe abortions, as well as the lack of adequate post-abortion care services. It is further concerned at the wide privatization of the health system and the inadequate budget allocated to the health sector, in particular with regard to sexual and reproductive health-care services, especially in rural remote areas"

With this, the Committee recommended the state of the Pakistan to make following efforts in line with its general recommendation no 24:²⁰

- “(a) To expedite the adoption of the pending Reproductive Health Care Bill;
- (b) To improve women's access to health-care facilities and medical assistance by trained personnel, especially in rural and remote areas, and ensure adequate allocation of human and financial resources to the health sector in all provinces;
- (c) To strengthen its efforts to reduce the high rate of maternal mortality, and ensure access to affordable contraceptive methods throughout the country;
- (d) To review its abortion legislation with a view to expanding the grounds under which abortion is permitted, for example, cases of rape and incest, and prepare guidelines on post-abortion care to ensure that women have access to this type of service;

¹⁷ ORGANIZATION, W. H. *Pakistan: Country Profile* [Online]. Available: <http://www.who.int/gho/countries/pak.pdf?ua=1> [Accessed 7 January 2014].

¹⁸ *Discrimination: For women in rural areas, healthcare not a basic right* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/573754/discrimination-for-women-in-rural-areas-healthcare-not-a-basic-right/> [Accessed 7 January 2014].

¹⁹ Para 31, CEDAW Concluding Comments, Pakistan, CEDAW/C/PAK/CO/4, March 2013.

²⁰ Ibid. Para 32.

(e) To ensure that the privatization of the health sector and the devolution to the provinces of the main health competence do not reduce further the already limited health services accessible to women.”

19. With regards to women’s economic rights, the gender disparity and discrimination could again be observed. As already mentioned in labour rights section, female labour participation rate remains very low at 15.6%, as compared to 49.3% for males.²¹ However, one issue with these figures is that these are largely based on women’s participation in cash economy or paid work. This is discrimination in itself, because women do a lot work for which they are not paid but they contribute to, like: family agricultural lands, family business, domestic work etc. As was already discussed, there is discrimination in women’s wage. Women earn 61.3% of what men earn, clearly a violation of equal wage principle. Over 71% women work in informal sector and without any protection of their rights. As already discussed, women’s unemployment rate is 9% compared to 5.4% for men.²² Labour rights of home-based women workers are not guaranteed. As per government estimates there are millions of home-based workers in Pakistan and over 71% are women.²³ Yet there are no laws for protecting home-based workers. The proposed law has been pending for approval in national parliament. The government is yet to adopt a national policy on home based worker. It has also not ratified ILO convention 177 on home-based workers.

20. With respect to inheritance, women face a lot of problems in their right to property and land. Although, this right is not directly recognized in the ICESCR, it is derived from the principle of non-discrimination. Legally, women’s share in inheritance of property is much less than the male members of the family. In addition, in Pakistan, access to land and property impacts the empowerment of women and such discrimination affects women’s overall ability of attaining equal status in the society.²⁴

The government has taken a positive step by reserving a quota for women in government sector jobs as 10% women are to be appointed in all government departments. But the quota remains highly underutilized. While this is a good step to alleviate gender inequality at work in government departments, there is a need to implement it properly. Moreover, a lot of women face issue of sexual harassment in public and work places. This impacts their ability to exercise their right to work. So there is a need to make the environment more conducive for women.

On women’s employment, the CEDAW committee has expressed in March 2013.²⁵

²¹ Crude Labour participation figures in PAKISTAN, G. O. 2014. *Labour Force Survey 2012-13* [Online]. Pakistan Bureau of Statistics, Government of Pakistan. Available: <http://www.pbs.gov.pk/content/labour-force-survey-2012-13-annual-report> [Accessed 20 January 2014].

²² See Labour Force Survey 2012-13

²³ PAKISTAN, G. O. 2013a. Draft National Policy on Home-Based Workers (October 2013). In: MINISTRY OF LAW, J. H. R., GOVERNMENT OF PAKISTAN (ed.).

²⁴ MUMTAZ, K. & NOSHIRWANI, M. M. Women’s Access and Rights to Land and Property in Pakistan. Shirkat Gah.

²⁵ Para 29, CEDAW Concluding Comments, Pakistan

“The Committee is concerned about the low participation of women in the formal sector, the job segregation and concentration of women in low-paid and low-skilled jobs, and the widening pay gap and lack of legal provisions guaranteeing the principle of equal pay for work of equal value. It is concerned at the situation of women working in the informal sector (agriculture, domestic and home-based work), in particular the fact that they are not recognized in the existing labour legislation as workers, and as such are unprotected and do not have access to social security and benefits.”

The committee has recommended following actions to address the situation:²⁶

“(a) Adopt effective measures in the formal labour market, including temporary special measures, to increase female participation and eliminate both horizontal and vertical occupational segregation, to narrow and close the wage gap between women and men, and to ensure the application of the principle of equal remuneration for equal work and work of equal value, as well as equal opportunities at work;

(b) Prepare a plan of action for the protection of women working in other areas of the informal sector, such as agriculture and domestic work, in line with the Convention;

(c) Prioritize the adoption of the National Policy on Home Based Workers and ensure its proper implementation so as to guarantee that women have adequate access to social security benefits; and take measures to ensure that the corresponding policy is adopted by all provinces in the State party;

(d) Ratify International Labour Organization (ILO) Convention No. 177 (1996) concerning Home Work, as well as ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers, and amend the relevant domestic legislation accordingly.”

Violence against women is a serious issues, but at health facilities the staff lack sensitivity, capacity and commitment to provide effective health services to the survivors the violence

21. Though this is a general situation of women rights in terms of ESC rights across all Pakistan, however, there are regional disparities which are more gruesome. These disparities are observed at two levels. One is urban-rural disparity and the other is disparities in provincial situations. For example, the women of rural areas are generally more deprived than the women of urban areas. Similarly, at provincial level the situation of women in Baluchistan, FATA and rural Sindh needs more focus and attention. In this vein, the CEDAW committee recommended:²⁷

“(a) Review and amend the relevant legislation and policies to recognize women as farmers, so they can own land and property;

²⁶ Para 30 ibid

²⁷ Para 34, CEDAW Concluding Comments, Pakistan

(b) Abolish traditional practices and customs that prevent rural women from participating in development projects as decision makers and beneficiaries and from fully enjoying their rights;

(c) Strengthen its efforts to address the needs of rural women and provide them with better access to health, education, clean water and sanitation services, fertile land and income-generating projects.”

Recommendations

1. Follow up and implement recommendations given by the CEDAW committee to address the ESC rights of women.
2. Raise awareness on equality of rights for women in the society
3. Increase economic empowerment and livelihood opportunities by providing enabling a conducive environment for women
4. Focus more on education of girls particularly in rural areas and underdeveloped pockets in all the provinces
5. Government should work to reduce and eliminate social, economic and cultural discrimination against women present on regional lines across Pakistan.
6. Enact laws to protect home-based workers. Adopt and implement much need policy on home-based workers. Ratify the ILO convention on home-based workers (C-177).

c) ESC Rights of Minorities

22. According to the 1998 census the population of minorities has been recorded thus: Christians- approx. 1.6% (2,800,000) ,Hindus- approx. 1.6% (2,800,000), Sikhs-20,000, Kalash-3,000 and Ahmadi-approx. 1.42% approx (2,000,000). In this way religious minorities make up around 4.5 % of the total population of Pakistan. Some recent estimates show that there are more than “8 million people belong to minorities, out of which Hindus are the biggest minority, numbering up to 4.2 million followed by Christians with 3.9 million”.²⁸

23. The constitution of Pakistan mentions the minorities at two places: one in preamble:

*“Preamble: Wherein adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures;
Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;*

And then in article 36:

Protection of Minorities. *The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services”.*

²⁸ KASHIF, H. 2011. *Discrimination against minorities has become routine in Pakistan* [Online]. Daily Times. [Accessed 7 January 2014].

Under the constitution minorities are protected from various forms of discriminations and they have representation in the assemblies as well. But at the same time in reality they have faced some overt and covert forms of discrimination at societal and state level in one way or the other.

24. According to a recent report (Annual Report 2012) by United States Commission on International Religious Freedom (USCIRF), "The government of Pakistan continues to engage in and tolerate systematic, ongoing, and egregious violations of freedom of religion or belief."²⁹

Much has been said regarding the general human rights condition of the minorities but if the ICESCR lens were to be applied a far graver situation emerges. For example, there is systematic discrimination with regard to Education, Health, Housing and rights related to work as described in the covenant.

Minorities, largely Hindus, Christians and Ahmadis, face systemic discrimination. Particularly the abuse of blasphemy laws against them has become their main worry since 1991.

25. The religious and sectarian minorities have suffered unspeakable infringement of their fundamental human rights due to the so-called 'blasphemy laws' which are basically the language inserted by the military dictator, General Zia-ul-Haq (1977-88), into Sections 295-B, 295-C, 296, 298-A, 298-B and 298-C of the Pakistan Penal Code (1860), providing for stringent punishments for various prescribed offences relating to religion.³⁰

Section 295 B deals with the desecration of the Holy Quran and Section 295 C with insult against Prophet Muhammad (PBUH). The first carries life imprisonment while the latter carries a mandatory death penalty. Section 298 A seeks to protect the honour of the family members, companions, caliphs and wives of the Prophet, against any insult; it carries two years of imprisonment, fine or both. Sections 298 B and 298 C place restrictions on Ahmadis for preaching their faith and calling themselves Muslim or using the epithet used by Muslims. Both carry imprisonment up to three years, fine or both. Section 295 C is a non-bail-able offense while the remaining four are cognizable and bail-able offenses.

The Government has failed to provide comprehensive data and analysis of the use, abuse, misuse or exploitation of the "blasphemy laws". However, according to research by non-government institutions, at least 1,446 persons had been accused under the "blasphemy laws" from 1987 to 2014.³¹ (Muslims 724, Ahmadis 501, Christians 185, Hindus 26 and 10 whose religion was not known). Hence, over half of the victims were non-Muslims whereas they are merely a tiny fraction of Pakistan's population. The data includes accusations because the consequences of a perceived

²⁹ *Annual Report 2012* [Online]. U.S. Commission on International Religious Freedom Available: <http://www.aina.org/reports/uscirf2012.pdf> [Accessed 7 January 2014].

³⁰ <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>.

³¹ Human rights Monitor, National Commission for Justice and Peace, Lahore, 2014 plus cases in 2015. See also reports and a research kit prepared by the Jinnah Institute.

heresy have proven to be equally or even more disastrous, resulting in vigilantism, brutal loss of life, liberty and property.³² Court cases may take years to be resolved. 1,117 of the incidents were in Punjab, 304 in Sindh, 35 in Khyber Pakhtunkhwa, and five in Balochistan. The data makes Pakistan stand out as a country having more cases of “blasphemy” than the rest of the world put together in the past few decades.

26. The inherent flaws in these laws and their arbitrary application caused serious and grave human rights violations which successive Governments of Pakistan have failed to acknowledge or address. At least 53 persons have been assassinated or killed, including several deaths in custody, 64 women and many children have also been accused. The amended text of these laws is religion-specific, hence it carries an embedded religious discrimination.

The convictions so far by the trial courts have been overturned by the higher judiciary (some cases are still pending), which lends credibility to the argument that the law is flawed and open to abuse, resulting either in wrongful accusations and convictions, or in vigilante mobs taking the law into their own hands.

A research study carried out recently by the Legal Aid Society (Karachi) showed that: “The majority of blasphemy cases were based on false accusations stemming from property issues or other personal or family vendettas rather than genuine instances of blasphemy and they inevitably lead to mob violence against the entire (minority) community”.

Another research study by the International Commission of Jurists (ICJ) in November 2015 showed that 15 out of 25 acquittals under Section 295-C, were because the high court found the charges to be: “fabricated complaints, malice or personal vendettas”, nine were acquitted because of procedural flaws in prosecution and investigation, and two on grounds of insanity.³³

27. The UN Special Rapporteur on Religious Tolerance had warned the GoP about such abuse over 20 years ago. Recording his opinion in the country reports after his visit to Pakistan in 1995, he recommended to substantially amend the laws.³⁴ The views, reiterated by the Human Rights Committee ref. ICCPR in 2011 in the General Comment 34, Para 48, stated that “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant (ICCPR).³⁵

³² See <http://newlinemagazine.com/magazine/licence-to-kill/>

³³ <http://www.icj.org/pakistan-trials-for-blasphemy-fundamentally-unfair-icj-new-report/>

³⁴ E/CN.4/1996/95/Add.1, para. 81, (report on country visit to Pakistan)

³⁵ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f34&Lang=en

The human rights violations caused by the “blasphemy laws” of Pakistan were discussed in the Universal Periodic Reviews of Pakistan (2008 and 2013),³⁶ and recommendations were made for introducing amendments to these laws and establishing non-discrimination³⁷ to foster religious tolerance and peace.³⁸ The Working Group Session for the Universal Periodic Review of Pakistan (2012), paragraphs 38, 59, 67, 78, 79, .80 and 105, underlined these concerns and several specific recommendations were made, addressing the issues regarding the “blasphemy laws”.³⁹ The State Party representatives rejected all the recommendations concerning amendments to the blasphemy laws.⁴⁰

28. Besides violating the Constitutional freedom of religion and belief, freedom of thought and expression, the “blasphemy laws” pose real existential risks, especially for religious minorities. They cannot enjoy the protection of law and security, until these laws are amended and the public is educated about the requisite respect for all religions and beliefs. Successive Governments of Pakistan have failed to address worst forms of human rights violations under the “blasphemy laws” spanning over three decades.

29. The Supreme Court of Pakistan recently stated in the Mumtaz Qadri judgement that criticizing the “blasphemy laws” – which are human-made not divine laws – cannot be considered blasphemy.⁴¹ The Government has failed to use this opportunity to initiate a process to amend the “blasphemy laws”.

30. Besides the threat from the religious extremists, the overall status of minorities and their living conditions are far from ideal. Due to heavy discrimination the livelihood options of persons belonging to the minority groups are limited making it hard for them to earn a decent living. They are considered only for low status jobs such as sweepers or sanitary workers and this was also formally announced by the new chief Minister of Khyber Pakhtunkhwa.⁴² There was a case reported in newspapers about a graduate Christian

³⁶ A/HRC/8/42, Para. 27, 28 and 37

³⁷ A/HRC/8/42, Para. 106, Recommendation and Conclusions No. 1: “To remove restrictions on freedom of religion or belief and amend legislation that discriminates against persons belonging to minorities” (Canada) and “effectively protect and satisfy the unimpeded exercise of freedom of religion of non-Muslim citizens” (Greece) and “the repeal of laws discriminating against non-Muslims, if any” (Denmark).

³⁸ In 2008 and 2013 respectively.

³⁹ A/HRC/22/12, Para. 122.28. “Ensure that blasphemy laws and their implementation are in line with international law” (Switzerland); “Enact legislation ensuring freedom of religion and belief for all religious groups and consider abolishing the so-called blasphemy laws” (Austria); “Repeal or reform thoroughly the so-called blasphemy law” (Netherlands); 122.32. “Repeal discriminatory blasphemy laws against religious minorities and ensure that there is no impunity for those who commit hate crimes” (Namibia); “Repeal the blasphemy law and respect and guarantee freedoms of religion or belief and of expression and opinion for all, including Ahmadis, Hindus and Christians” (France). 122.33. “Repeal the blasphemy law, or at least amend it to protect persons from eventual abuses or false accusations and lighten corresponding penalties, that are currently disproportional” (Holy See).

⁴⁰ A/HRC/22/12/Add.1.

⁴¹ Criminal Appeals No. 210 and 211 of 2015, Supreme Court of Pakistan judgment.

⁴² *PCC condemn Chief Minister Pervez Khatak statement on cleaning jobs for minorities* [Online]. Pakistan Christian Post. Available: <http://www.pakistanchristianpost.com/headlinenews.php?hnewsid=4376> [Accessed 24 February 2014].

who applied for a post of clerk in some government department in Sindh but when the list came out he had been appointed as a sanitary worker instead.⁴³ This in fact shows the general attitude and mind-set of the various political groups and leaders who consider minorities second rate citizens.

Hate speech in the textbooks

31. The situation of education for minorities is not much different. Children from minority groups enrolled in schools face other forms of discrimination in the classroom by fellows and through the content of the curriculum as described by renowned Educationist and Human rights activist A.H. Nayyar in various reports on the subject.⁴⁴ Similar findings were presented by the United States Commission on International Religious Freedom report on the public schools and Madrassas in Pakistan. The study concluded;

- “Public school textbooks used by all children often had a strong Islamic orientation, and Pakistan's religious minorities were referenced derogatorily or omitted altogether;
- Hindus were depicted in especially negative terms, and references to Christians were often inaccurate and offensive;
- Public school and madrassa teachers had limited awareness or understanding of religious minorities and their beliefs, and were divided on whether religious minorities were citizens;
- Teachers often expressed very negative views about Ahmadis, Christians, and Jews, and successfully transmitted these biases to their students;
- Interviewees' expressions of tolerance often were intermixed with neutral and intolerant comments, leaving some room for improvement”⁴⁵

32. Those who are well off among the minorities are under threat of kidnapping and extortion especially the members of Hindu business community in Sindh and Quetta. Due to

⁴³ ALI, R. 2012b. *Minorities' share of jobs equals sanitary work only?* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/405518/five-per-cent-quota-minorities-share-of-jobs-equals-sanitary-work-only/> [Accessed 7 January 2014].

⁴⁴ HUSSAIN, A., SALIM, A. & NAVEED, A. 2011. *Connecting the Dots: Education and Religious Discrimination in Pakistan: A Study of Public Schools and Madrassas* [Online]. United States Commission on International Religious Freedom. Available: https://www.sdpi.org/research_programme/uploads/Connecting%20the%20Dots-Education%20and%20Religious%20Discriminations%20in%20Pakistan.pdf [Accessed 7 January 2014].

⁴⁵ Ibid. See 2011d. *Pakistan's educational system fuels religious discrimination* [Online]. USCIRF Available: <http://www.uscirf.gov/newsroom/press-releases/3661-pakistans-educational-system-fuels-religious-discrimination.html> [Accessed 7 January 2014].

threats many members of minority communities have migrated from the country in recent years.⁴⁶

33. The situation of women of minority communities is a matter of grave concern. The general discrimination against minorities has put the women of these minorities at greater risk as well. For example, most of the women from Christian minority community are domestic workers who try to earn their livelihoods by working in other homes. However, they have to face harassment at work.⁴⁷ The women and young girls from Hindu minority community in Sindh are under permanent threat of forced conversions for marriages.⁴⁸

Recommendations

1. The minorities' equal status needs reaffirmation in the constitution. Discrimination should be defined, criminalized and punished through effective legislation.
2. There is a need to work toward elimination of all forms of discriminations against minorities particularly in the domain of ESC rights in Pakistan.
3. Hate speech against religious minorities in the textbooks be removed and the role of minorities in the overall development of the country should be recognized and highlighted at national, provincial and grass root levels.
4. All discriminatory laws should be repealed, the blasphemy laws should be treated in accordance with the recommendation of Gojra Inquiry commission (2009). A competent commission should be constituted for implementation its recommendation.

d) ESC Rights of the Transgender

34. Another vulnerable group with reference to ICESCR is of Transgender persons. Transgender persons are usually referred to in South Asia as *khwaja seras* in polite company, and *hijras* or *khusras* otherwise. Khwaja seras are biological males who take on female identities, choosing to publicly dress and behave like women or sometimes are intersex with both male and female traits at the time of birth.

Transgender are not recognized as a separate gender in the constitution of Pakistan. However, according to a recent Supreme Court ruling they have been accorded a distinct right of identity

⁴⁶ *Persecution forces 60 Hindu families to migrate to India* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/419691/persecution-forces-60-hindu-families-to-migrate-to-india/> [Accessed 7 January 2014].

⁴⁷ 2012a. *74pc minority women faced sexual harassment* [Online]. Available: <http://www.dawn.com/news/702809/74pc-minority-women-faced-sexual-harassment> [Accessed 7 January 2014].

⁴⁸ HUSSAIN, S. 2013. *Institutional discrimination against minorities increasing* [Online]. The News. Available: <http://www.thenews.com.pk/Todays-News-4-174946-Institutional-discrimination-against-minorities-increasing> [Accessed 7 January 2014].

and now they are recognized as a separate gender in National Identity card at least⁴⁹ and have voting rights.

35. Though there are no official statistics available about the exact population of transgender in the country, however, according to some estimates there are at least 50,000 openly transgender people scattered across Pakistan.⁵⁰ The discriminatory attitude is even in population reports with the mention of 51% females and 49% males and no mention of transgender or intersex people.

36. As transgender persons work in close knit groups and are outcasts they are not entitled to any formal or informal education system. This lack of education pushes them further toward deprivation and destitution. Most transgender person earn their living through dancing and singing at parties. However, many are also involved in begging and sex work to earn their livelihoods.

The transgender people are considered amongst the riskiest groups in HIV and AIDS and other sexually transmitted diseases. However, they lack both proper health education and awareness and decent health facilities as well.

37. The Supreme Court ordered the government to support transgender people financially through social welfare programmes such as the Benazir Income Support Programme and the Bait-ul-Mal. The court also ordered the social welfare departments of the country's four provinces to carry out a nationwide survey and find out the exact number of transgender in Pakistan. However, this has yet to materialize.

Recommendations

1. Transgender persons should be recognized as separate gender in the official documents according to the ruling of the Supreme Court
2. Efforts should be made to eliminate all forms of discriminations against transgender individuals; this may include among other things lessons in the curriculum on equality of the transgender individuals.
3. Special measures should be taken to ensure educational and vocational trainings to the transgender population
4. Skill enhancement programs should be initiated for transgender individuals so that they are able to earn respectable livelihoods
5. Efforts should be made to enhance health services to transgender individuals as they are at high risk for certain type of diseases.
6. Special measures should be taken to include the transgender individuals in social security schemes

⁴⁹ 2012b. *Transgenders have equal rights in Pakistan: Supreme Court* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/442151/transgenders-have-equal-rights-in-pakistan-supreme-court/> [Accessed 7 January 2014].

⁵⁰ 2011b. *Pakistan's transgender people fight for equal rights* [Online]. Public Radio International (PRI). Available: <http://www.pri.org/stories/2011-08-30/pakistans-transgender-people-fight-equal-rights> [Accessed 7 January 2014].

Article 3: Equal rights for men and women

38. For the population of 10 year of age and above, the labour force participation remains at 45.7% as per the Labour Force Survey (LFS) 2012-13.⁵¹ Female participation at 21.5% is much lower as compared to 68.9% for the men. The unemployment rate was recorded at 6.2% whereas female unemployment was recorded at 9%. More urban females (19.2%) are unemployed as compared to rural women. The income levels do not seem to yield decent living as the average income recorded was 9,712 rupees a month in the LFS 2012-13, a miniscule amount that cannot possibly match the inflation over the years. Discrimination against women is manifested in shape of lower wages with an average of 7,869 rupees a month as compared to 12,804 rupees per month for men, a difference of 63%, reveals the LFS 2012-13.⁵²

Article 6: Right to work, Article 7: Just work and favourable conditions

39. Pakistan's statistics regarding the labour force show that the realisation of the right to work remains unsatisfactory. While, the 2012-13 Labour Force⁵³ survey reveals, a very minute increase of .1% in crude labour force,⁵⁴ it still remains low as compared to 33% in 2009-10 survey. While overall urban-rural participation does not seem a big issue, there are regional disparities which need attention. As compared to Sindh and Punjab, the labour participation remains lows in Baluchistan (28.4%) and Khyber-Pakhtunkhwa (25.7%). Gender disparity remains a big concern as well, since as compared to 49.3 male population's participation, females only account for 15.6% of the total labour force as per crude rate. The augmented figures⁵⁵ for women are somewhat better, as they also take into account women's participation in homemaking and similar chores. It is good to note that women's participation in the labour force in Baluchistan has increased from 5.6% in 2011-12 to 6.7% in 2012-13, however, the current figure of 6.7% is still quite alarming.

40. As per the labour force survey 2012-13, the average monthly wages in various sectors were recorded to be Rs. 9715. It has increased to an average of 12,118 rupees as per 2012-13 survey. For the unskilled labourer the average monthly wage was recorded at 6658 in 2010-11 survey⁵⁶ and 7928 in 2012-13 survey; it remains much lower than the

⁵¹ PAKISTAN, G. O. 2014. *Labour Force Survey 2012-13* [Online]. Pakistan Bureau of Statistics, Government of Pakistan. Available: <http://www.pbs.gov.pk/content/labour-force-survey-2012-13-annual-report> [Accessed 20 January 2014].

⁵² Ibid.

⁵³ PAKISTAN, G. O. 2014. *Labour Force Survey 2012-13* [Online]. Pakistan Bureau of Statistics, Government of Pakistan. Available: <http://www.pbs.gov.pk/content/labour-force-survey-2012-13-annual-report> [Accessed 20 January 2014].

⁵⁴ Crude labour force includes labour force against total estimated population of Pakistan.

⁵⁵ Augmented figures take into account women's participation in homemaking and other similar chores; it is not just limited to women's participation in labour which earns them cash.

⁵⁶ PAKISTAN, G. O. 2012. *Labour Force Survey 2010-11* [Online]. Pakistan Bureau of Statistics, Government of Pakistan. Available: <http://www.pbs.gov.pk/content/labour-force-survey-2010-11> [Accessed 20 January 2014].

national minimum wage standard which is 10000. Again with regards to women's wages, the average wages of 7869 rupees are much lower as compared to 12804 rupees for men; this indicates that women earn 61.3% the amount their male counterparts earn; it was 63% in 2010-11 survey. This is surely a violation of the article 7.1.a cited above and the non-discrimination principles of the ICESCR. Moreover, the minimum wages cannot be termed fair as the inflation figures recorded in the Labour Force Survey exceed the average minimum monthly wage in most of the sectors. For example, as per the Labour Force Survey 2010-11, inflation was recorded at 34.9% whereas the increase in nominal wages was 30.4%.

41. In the given wages of about 8000-10000 rupees per month, one cannot secure a decent living.
42. Safety at the work place is an issue of grave concern. It should be noted that 73% of the labour force works in the informal sector. Both formal and informal sectors suffer from deplorable conditions in terms of occupational health and safety precautions. Two fire incidents occurred on the same day, September 11, 2012, one in Ali Enterprises in Baldia Town Karachi⁵⁷ killed around 257 workers and another in a shoe factory in Lahore killed more than 50 workers. These incidents are strong reminders of the situation of safety standards at work place. The repeated fires and killing of workers in accidents in the Ship Breaking Industry in Karachi is another case in point.⁵⁸ There are numerous other incidents which go unreported. These incidents highlight the need for better regulations and reforms in the regulatory laws.

“Females are twice (92.4%) as exposed to risk as males (42.8%) in Agriculture.”
43. The informal sector in Pakistan includes small scale production units, home-based workers related to production sector, domestic workers, self-operated micro-enterprises, street vendors and agriculture labours. Over 73% of the labour force works in the informal sector whereas rest are in the formal sector. As the Labour Force Survey indicates, the vulnerability with regards to occupational health and safety is increasing and highlights differences across gender and area of work.
44. There is more exploitation in many areas e.g. domestic workers such as house-maids. There are regular reports of rape and sexual assaults on maids and nannies in the domestic labour sector. Home-based workers are exploited as in most cases their contracts are verbal, the wages are very low and the middle men involved usurp a big share of the earnings.

⁵⁷ DAWN, D. 2012. *Baldia fire mystery deepens as 70 persons still missing* [Online]. Available: <http://www.dawn.com/news/755195/baldia-fire-mystery-deepens-as-70-persons-still-missing> [Accessed 7 January 2014].

⁵⁸ See reports on Labour Watch <http://labourwatchpakistan.com/>

45. Similarly, those working on the brick kilns and agriculture sector also face severe conditions. A report by Pakistan Institute of Labour Education and Research (PILER) states that a majority of those who work in brick kilns and agriculture are bonded labours and work in slave like conditions. The report estimates there exist 1 to 6 million bonded labourers in the country.⁵⁹ Despite constitutional prohibition of slavery, Supreme Court decision to end bonded labour and promulgation of Bonded Labour Act 1962, the state has failed to eradicate bonded labour and safe guard the right to freedom of labour of millions of persons, including children and women. This is quite disappointing especially in view of the **National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers (NPPA)** which the government had adopted in 2001.
46. No serious efforts by the state with regards to occupational safety and prevention of occupational accidents in the future are visible. A Country Profile on Occupational Safety and Health for Pakistan prepared by ILO few years back reveals many such grim facts. The report also identifies inadequacy issues with the current legislation to deal with challenges such as those mentioned above. The report also revealed that majority of the workforce in Pakistan is illiterate and not trained in occupational safety and health. It also highlights the fact that occupational safety and health is not included in any curricula in Pakistan. The report also acknowledges the fact that as compared to local industries the industries that export their products have relatively better standards.⁶⁰ The report called for concrete actions ranging from legislation to training and raising awareness in the areas of occupational health and safety. The report chalked out following major areas which have also been mentioned in one way or the other under ICESCR. These are
- Legislation on the issue of Occupation health and safety
 - Training of doctors in occupational health and safety
 - Workers' Right to Know(awareness raising of workers on this issue)
 - Occupational Hygiene Programmes(effective monitoring on these matters)
47. Child labour is another area which needs attention. Article 10.3 requires protection of children from economic and social exploitations. As per ILO around 12 million children are active in the labour market. As per Labour force survey 2012-13, children aged 10-14 account for 11.4% of Pakistan's labour force. National Child Labour survey 1996 had found 3.3 million of 40 million children (5-14) active in the labour force. As constitution and other relevant laws ban child labour, the government needs to be more vigilant at curb child labour with particular focus on ending engagement of children in hazardous labour.

⁵⁹ See PILER cited in NETWORK, I. D. S. *Dalits and bonded labour in Pakistan* [Online]. International Dalit Solidarity Network. Available: <http://idsn.org/caste-discrimination/key-issues/bonded-labour/pakistan/> [Accessed 20 January 2014].

⁶⁰ ILO. *Country Profile on Occupational Safety and Health in Pakistan* [Online]. International Labour Organization. Available: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/policy/wcms_187800.pdf [Accessed 7 January 2014].

Article 8: Right to trade unions

48. In Pakistan, the right to association includes forming and joining trade unions and is recognized under article 17 of the constitution. Despite such recognition trade unions in Pakistan face unnecessary limitations and coercion which restrict them from exercising their right to association and collective bargaining. For example Essential Services Maintenance Act of 1952 (ESA)⁶¹ is used to restrict the right to strike and collective bargaining. Similarly, in the Industrial Regulation Ordinance various provisions are used to limit the rights of the trade unions and collective bargaining. In many cases, the trade unions are dealt with hard measures, social pressures and economic manipulations to reach compromises. E.g. trade unionists are threatened with the possibility of termination of employment in order to manipulate compromises. Given these conditions, the culture of union formation in Pakistan is declining. As per estimates, less than 5% workers are unionized in the formal sector; leave alone the informal sector that has none.
49. In recent years a lot of trade unions both in the government and private sector have been struggling for their rights. There are numerous cases to quote in this category. The medical nurses are struggling for regularization in Lahore, doctors called strikes in Lahore for increase in salaries as did the lady health workers, the PTCL workers are struggling against layoffs, wage workers movement has been demanding decent work conditions in Ship breaking industries, fishermen and home based workers continue to ask for decent work conditions using various constitutional means including their right to form trade unions, strike and collective bargaining. Employers are known for manipulating and concocting situations to limit the exercise of the trade union rights. Bullying, intimidations and blacklisting are used as tactics in this regard. Various reports also indicate that employers can influence the registration process of the unions, stalling the process which can then sometimes extend to years. In their ploy to make the workers ineligible for union memberships, some employers promote them to the management cadre. Such promotions are not accompanied with a raise in the salary to the management cadre and are simply devious tactics that prevent the workers from joining unions. Such situations are prime examples of exploitation of workers at the hands of the state organs as well as private employers.
50. It is ironic to note that the state itself emerged to be a violator of the rights of its workers as an employer. The strikes by government employees in WAPDA, HESCO, FESCO, PIA, State Life Insurance and doctors and nurses were met with brutal police crack downs.

Recommendations

1. Recognize the right to work in constitution as per the ICESCR. Provinces should also legislate to recognize the right to work in their respective jurisdictions.

⁶¹ This applies to government services and state enterprises, such as energy production, power generation and transmission

2. Increase resources for employment generation including introducing programs for vocational development and SME financing so that more people exercise their right to work.
3. Address employment gaps across provinces, urban-rural areas and gender by introducing programs that give employment opportunities to those who are unemployed.
4. Discrimination between men and women in terms of wages should be addressed through necessary regulatory laws ensuring equality of wages for men and women.
5. Scientific method should be adopted to determine minimum wages; the minimum wages should be calculated on the basis of living cost of the people and should support them in living a decent life as per human rights standards.
6. Laws should be reformed to improve work place safety requirements for industries. Strict regulatory mechanisms, complying with ILO's 40 standards of occupational safety, should be adopted and implemented.
7. Legislation should be introduced to regulate the informal sector labour to put an end to the grave human rights violations prevalent in various informal sector areas. This should be followed up by proper implementation and enforcement of these regulations.
8. Trade unions should be given complete freedom to exercise their rights. The limitations should be objective and reasonable and be clearly spelled out in law. Unnecessary and subjective limitations placed in various laws should be removed.
9. Abolish bonded labour system to comply with the constitution.
10. Eliminate child labour with particular focus on children engaged in hazardous labour.

Article 9: Social Security

51. The regulation of the existing social security services can be judged from the fact that 1.5 million workers in Pakistan have access to social security out of a 59 million strong labour force, as per Pakistan Bureau of Statistics (PBS).⁶² According to the report, there are 54,668 firms registered in Punjab and 834,240 employees receive contributions for social security benefits for such firms i.e. only 15.26 employees per firm. Likewise, out of total 25,667 registered firms in Sindh, 628,137 employees receive contributions. This is about 24.27 per firm. This is shocking as according to the PBS the estimate labour force in formal sector is about 15.163 million but only a handful of employees receive contributions. Similarly, in Khyber-Pakhtunkhwa, the average estimate for employees receiving contributions is 14.12 employees per firm for the 4,412 firms, meaning only 65,415 employees receive contributions. For Baluchistan, 8579 employees are receiving

⁶² The Study use data from Labour force survey 2010-11, as per which the labour participation rate is 32.1%, which means that based on estimated population of 185 million, 59.3 million are active in the job market. AHMAD, M. 2013. *Only 1.56 million workers have access to social security* [Online]. The News. Available: <http://www.thenews.com.pk/Todays-News-3-194177-Only-156-million-workers-have-access-to-social-security> [Accessed 7 January 2014].

contributions from 291 registered firms. The national average per firm is 18.18 employees receiving contributions from their employing firms.⁶³

Recommendations

1. Recognize social security as a fundamental right in the constitution
2. Conduct proper assessment of social security situation to establish clear needs.
3. Introduce insurance schemes for vulnerable groups
4. Introduce regulations and programs to provide social security to persons working in informal sector similar to formal sector.
5. Introduce schemes to provide social security schemes to unemployed, disabled, older persons and to women headed households
6. Take progressive measures to enhance social security and insurance to all citizens.

Article 11 Right to adequate standard of living

52. Pakistan Living Standards Measurement Survey (PLSM) 2010-11, indicates around 86% of households possess their own houses in Pakistan, a decrease of 1% as compared to 2008-09.⁶⁴ In rural areas more households, 91 percent, are owned houses as compared to urban areas where 76% have own dwellings. Regionally, there are subtle differences: "Punjab at 86 percent (88 Percent in 2008-09), Sindh at 84 percent (86 Percent in 2008-09), and Khyber Pakhtunkhwa at 87 percent (88 Percent in 2008-09) and Baluchistan at 89 percent (87 Percent in 2008-09)". However, in Islamabad only 55% households live in their own houses whereas 36% live in rented houses. Yet it is important to mention that Pakistan's housing needs increase at about 270,000 per year. With this rate, the housing needs in Pakistan are estimated at around 7.5 million units.⁶⁵ Moreover, the repeated cycles of flooding have further increased the need for housing. In 2010 floods alone, 1,744,471 houses were damaged and in 2011 floods another 1.5 million houses were affected.⁶⁶ Moreover, the figures from PSLM may paint a glossy picture of the percentage of owned housing but does not elaborate on the adequacy of the houses according to the defined criteria in the right to adequate housing discussed above. The available data not indicate a uniform trend and often varies from source to source.

53. As per the HIES 2010-11, the average household size in Pakistan is 6.38; whereas in Baluchistan and Khyber Pakhtunkhwa the average household size are 7.08 and 7.18.⁶⁷

⁶³ Ibid.

⁶⁴ PAKISTAN, G. O. 2013c. Pakistan Social and Living Standards Measurement Survey (PSLM) 2011-12. Pakistan Bureau of Statistics, Government of Pakistan.

⁶⁵ UN-HABITAT AFFORDABLE LAND AND HOUSING IN ASIA.

⁶⁶ NDMA. *Pakistan 2010 Floods - Lessons Learnt* [Online]. National Disaster Management Authority. Available: http://www.ndma.gov.pk/Documents/flood_2010/lesson_learned/Lessons%20Learned%20-%20Flood%202010.pdf [Accessed 7 January 2014].

⁶⁷ PAKISTAN, G. O. Household Integrated Economic Survey 2010-11. Federal Bureau of Statistic, Government of Pakistan.

The PLSM data indicates that about 24.83% of the population lives in one room houses, 69.33 lives in 2-4 room houses, and 5.84% in more than 5 room houses. Considering, the average household size of 6, it is safe to say that about 94% population does not have adequate housing. This is because a 4 room house might not provide adequate housing space for 6 persons, or seven as in the case of Khyber Pakhtunkhwa and Baluchistan. According to planning commission, 3.3 people live per room in Pakistan based on 1998 census.⁶⁸ According to a report by Dr. Noman Ahmed “45 percent population in urban Sindh and 50 percent in urban Punjab live in one room house”.⁶⁹ Expanding on this, Arif Hasan shares that on average 7 persons share a room in Karachi. Such conditions of course do not meet stated requirements of adequate housing.⁷⁰ The PSLM outlines that 91% households across Pakistan have access to electricity for lighting. However, energy shortfall has made electricity supply erratic and many areas in Pakistan suffer prolonged power cuts. While PSLM boasts that a vast population in Pakistan has access to water, including 31% having piped water, an independent assessment indicated that around 93 million people do not have access to safe drinking water.

54. The Food Security report by SDPI-WFP points out that more than 50% household live in mud houses. According to the report, in 70 percent of districts more than 50 percent houses are mud houses. It further points that only in 5 districts, 80% population lives in better houses made of cement and concrete. Baluchistan with 28 districts, followed by Khyber Pakhtunkhwa with 18 districts and Punjab with 16 has a high percentage of mud houses. So based on above discussions, it is safe to say that while apparently from government data’s perspective a vast majority may have housing facilities, these do not meet the stated criteria of an adequate housing or shelter. The provided spaces are insufficient; there is lack of availability of basic facilities such as electricity and water.
55. The problem of housing, looking at available data, seems more severe in urban areas where around 27 million people live in slums with no adequate housing and in many, if not the most, cases with insecure tenure. In Karachi alone, 7.6 million of 15 million population live in slums and informal houses – there are estimated 600-800 slum areas in Karachi. The total housing needs in urban areas were estimated at 2.5 million (before floods).⁷¹ A leading cause for this is that as per estimates about two-thirds of people cannot afford houses in Pakistan. The housing conditions in urban areas are generally pathetic. According to Ahmed, “only 53 percent have access to a water source in urban Pakistan, not necessarily drinkable and 25 percent have access to sanitation”.⁷² The operations of land mafias have made the situation worse in terms of meeting housing needs in Pakistan, particularly in urban areas. Most government and private housing

⁶⁸ *Chapter 13, Housing for All* [Online]. Planning Commission, Government of Pakistan. Available: <http://www.pc.gov.pk/mtdf/13-Housing/13-Housing%20for%20All%20final.pdf> [Accessed 7 January 2014].

⁶⁹ AHMAD, N. *AN OVERVIEW OF PRESENT HOUSING CRISIS IN PAKISTAN AND A WAY FORWARD* [Online]. Available: <http://www.urckarachi.org/Housing%20Situation%20by%20Noman%20Ahmed.pdf> [Accessed 7 January 2014].

⁷⁰ *Arif Hasan Talk at The Second Floor* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/562442/residents-displaced-by-circular-railway-should-be-settled-where-they-prefer-arif-hasan/> [Accessed 7 January 2014].

⁷¹ AHMAD, N. *AN OVERVIEW OF PRESENT HOUSING CRISIS IN PAKISTAN AND A WAY FORWARD* [Online]. Available: <http://www.urckarachi.org/Housing%20Situation%20by%20Noman%20Ahmed.pdf> [Accessed 7 January 2014].

⁷² *Ibid.*

schemes are targeted at affluent and middle classes. They also have options of availing house financing. The poor practically remain out of housing finance. However, at the consultation in Hyderabad it was shared that government data was misleading because in rural areas of Sindh a lot of people lack security of tenure. A participant commented that “feudal *Waderas* manipulate people in rural Sindh and snatch their houses”. “So while on paper people have houses, in reality they do not own them and are at the mercy of the feudal (landlords)”, another commented.

Forced Evictions

56. An important element in the above factors is protection from “**forced evictions**”. The UN committee on ESC rights, in General Comment 7,⁷³ has spelled out freedom from forced evictions irrespective of the type of legal tenure, and the state has the obligation to protect citizens from the forced evictions. General Assembly resolution 43/181 also obligates states: “protect and improve houses and neighbourhoods, rather than damage or destroy them”.
57. Forced eviction is particularly evident in urban cities like Karachi, Lahore and Islamabad to name a few. Karachi where almost half of the population lives in slums areas, the threats seem higher. Mostly these evictions are a result of mega projects, land grabbing attempts and communal riots. Although there has been gradual slight decrease in the forced evictions, the low income communities still live in a state of vulnerability. As per Mohammad Younus of Urban Resource Center, Karachi, since 2007 there has been no reported forced evictions in Karachi.⁷⁴ However, he indicates that from 1992 to 2006, around “40,900 houses have been bulldozed” and same resulted in evictions of 286,300 people.⁷⁵ The displaced communities were neither provided any compensation nor any alternative housing. This is clearly a violation of the right to adequate housing and freedom from forced evictions as discussed before. As if evictions were not enough, the government agencies also threw out household items, damaging them in the process. In 2006 alone, government demolished about 3000 houses whose residents had invested around 1.04 billion rupees in terms of the construction cost. The subsequent protests by residents in many slums, supported by NGOs, political parties and other groups, forced evictions have been stopped in the city. The human cost of these settlements is very high. The displaced communities lose their jobs, either permanently or temporarily. Education of the children also suffers a great deal as indicated in the text box above.⁷⁶
58. Similarly, in Islamabad, a wave of forced evictions was started by the government targeting mostly slum areas. Islamabad houses about 0.8 million population and 30% of these live in slums. Overall there are 34 slum areas in Islamabad and of these only 11 are recognized by the Capital Development Authority. Forced evictions are widely

⁷³ UN-CESCR. *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*, 20 May 1997, E/1998/22 [Online]. Available: <http://www.refworld.org/docid/47a70799d.html> [Accessed 7 January 2014].

⁷⁴ YOUNUS, M. 2013. Pakistan: Forced evictions and socio-economic costs for vulnerable communities: An overview. Karachi: Urban Resource Center.

⁷⁵ Ibid.

⁷⁶ Ibid.

practiced by CDA.⁷⁷ Afghan Refugee Basti and Christian settlements have particularly been under the threat of forced eviction. As per a report, house of Karamat Maseeh, a Christian, was demolished 24 times by CDA.⁷⁸

59. Forced evictions usually happen with the development of mega projects like dams. As part of construction of Shahpur Dam, the Small Dams Organization (SDO) of Punjab Irrigation and Power Department had served 31 eviction notices to fishermen families living around the proposed construction sites. This meant that around 450-500 fisher folks were to be forcibly evicted depriving them of their livelihoods and land on which they had lived for many years.⁷⁹

Due to construction of mega projects like dams the threat of forced eviction cannot be completely ruled out. For example, according to Arif Hasan another 5000 houses are expected to be bulldozed for the revival of the circular railway system in Karachi.⁸⁰ He also notes that many villages which were part of Karachi city have disappeared and many more are fast disappearing.

Recommendations

1. Facilities should be increased for housing to provide everyone in Pakistan the right to adequate housing. There is a particular need to start services, including housing financing, for poorest of the poor sectors.
2. Upgrade services through finances and other means for those who have inadequate housing.
3. Supply of necessary housing facilities such as water, sanitation, fuel and lighting should be promoted across all areas of Pakistan.
4. Forced evictions should be stopped. Where evictions are inevitable, resettlement should be provided in adjacent areas so as to reduce human cost of the evictions. Adequate compensation should be provided to those affected by the evictions.

Right to Water

60. Within the constitution of Pakistan, provision of water is recognized under article 38 under Principles of policy. The same articles deals with other necessities of life as well.

However the statistics reveal a rather appalling situation with respect to right to adequate water facilities. Pakistan Living Standard's Measurement Survey (PLSM) 2011-12 states that only 59% population has access to improved drinking water facilities. This means that a huge chunk

⁷⁷ Shelter for Poor: Legislation and Enforcement, a case study of Islamabad. , Akhtar Hameed Khan Resource Center

⁷⁸ 2010b. *Right of Shelter in Katchi Abadies of Islamabad* [Online]. <http://www.ahkrc.net.pk/Right-of-Shelter-in-Katchi-Abadies-of-Islamabad.html>. [Accessed 7 January 2014].

⁷⁹ PAKISTAN: *Forcible eviction of fisherfolks by a government organization in the name of so-called development* [Online]. Asian Human Rights Commission. [Accessed 7 January 2014].

⁸⁰ HASAN, S. *Urban development: migration being forced on people* [Online]. Daily Dawn. Available: <http://www.dawn.com/news/1027927/urban-development-migration-being-forced-on-people> [Accessed 7 January 2014].

of the 41% does not have such facilities.⁸¹ As per WaterAid there are 15.9 million people in Pakistan who do not have access to safe water and almost half of the population, 93 million, lacks access to sanitation facilities.⁸² Diarrhoea, caused by drinking unsafe water, causes deaths of around 40,000 children every year as almost 14 million have no choice but to drink dirty water. Another report suggest that 40 million Pakistanis use irrigation water for domestic use and that almost half the patients in hospital visit them with ailments related to water.⁸³

Again there are regional disparities in terms of quality of water available across various provinces in Pakistan. A 2005-6 National Water Quality Monitoring Program (NWQMP) survey by Pakistan Council for Research in Water Resources (PCRWR) shows that out of that 357 sources tested, 87% were considered unsafe for drinking purpose due to presence of impurities such as bacteria (68%), arsenic (24%), nitrate (13%) and fluoride (5%).⁸⁴ The survey report further indicates that in Islamabad alone 74% sources, out of 27 tested sources, were unsafe for drinking. In Sindh, all sources were found unsafe, in Karachi 93% sources were considered unfit for drinking and in Sukkur 11 out of 12 sources were unfit. In Punjab, 16 sources tested in Kasur were found unsafe and as many as 25 sources in Bahawalpur were found unfit for drinking. For Khyber-Pakhtunkhwa, 80% samples were unsafe for drinking in Mingora whereas in Peshawar 77% sources were unsafe. In Baluchistan, 76% samples were found to be unsafe in Quetta and in Ziarat all ten sources were unfit. The report concludes that federal and provincial governments need to make immediate efforts for providing safe drinking water to public in order to prevent outbreak of water borne diseases.

Another study by PCRWR shows that in terms of rural areas, Punjab has the best water supply sources as only 7% rural population depends upon dug wells, canals or other such sources. The situation is the worst in Khyber-Pakhtunkhwa and Baluchistan where 46% urban and 72% of the rural population, respectively uses unsafe water sources. As comparison, in Sindh 24% population uses unsafe drinking water facilities.⁸⁵

61. Water facilities in Pakistan suffer from variety of contamination sources. The major source of contamination is bacteria. This is a result of “leakage of pipes, pollution from sewerage pipes due to problem within the distribution system, intermittent water supply, and shallow water tables due to human activities”.⁸⁶ Industrial waste and irrigated water

⁸¹ PAKISTAN, G. O. 2013c. Pakistan Social and Living Standards Measurement Survey (PSLM) 2011-12. Pakistan Bureau of Statistics, Government of Pakistan.

⁸² *Pakistan* [Online]. WaterAid, Pakistan. Available: <http://www.wateraid.org/where-we-work/page/pakistan> [Accessed 7 January 2014].

⁸³ ALAM, A. R. *Navigating the Currents of Pakistan's Water Debate* [Online]. Available: <http://jinnah-institute.org/navigating-the-currents-of-pakistans-water-debate-2/> [Accessed 7 January 2014].

⁸⁴ RESOURCES, P. C. F. R. I. W. National Water Quality Monitoring Program (NWQMP) survey 2005-6 Pakistan Council for Research in Water Resources, Ministry of Science & Techonology, Government of Pakistan.

⁸⁵ 2011a. *No access to safe drinking water in pakistan* [Online]. Available: <http://www.dawn.com/news/683780/no-access-to-safe-drinking-water-in-pakistan> [Accessed 7 January 2014].

⁸⁶ HABIB, A., BUTT, M. T. B., DEEBA, F. & AHMED, I. 2009. A STUDY FOR THE REMOVAL OF BACTERIOLOGICAL CONTMEMINANTION FROM GROUNDWATER OF KASUR *Journal of Scientific Research*, XXXIX.

are the second most common reasons behind the contamination of water in Pakistan. These conditions require the state to pay attention to making such water facilities safer.

62. In terms of availability of sufficient water (quantity) Pakistan is fast becoming a water scarce country. The per capita water availability has diminished rapidly. Currently, 1100 cubic water is available per capita⁸⁷ as compared to 1200 cubic water in 2003 and 5600 cubic water in 1950s.⁸⁸ With such shrinking water resources accompanied by uncontrolled increase in population, the distribution of water resources becomes an even bigger challenge.
63. A relevant dimension of right to water is irrigation water which is distributed across Pakistan through the rivers and canals. There are huge political and social tensions surrounding such distribution as the system suffers from inequitable distribution among and within provinces. Farmers in Sindh have been voicing their concerns for unavailability of water for irrigation purposes for many areas. Baluchistan remains highly deprived of irrigation water too. Interprovincial water distribution dispute have acquired space in national level debates. The new water distribution policy has been termed unjust as well.⁸⁹
64. In this connection the lack of safe water resources is of grave concern. Water systems in District Jafferabad and the adjoining areas are mostly dependent on rain water. People and animals use water from ponds created by rain water. These ponds are one of the causes of diseases. Water from wells is mostly hard water which is not suitable for drinking and cleaning purpose”.
65. The shortage not only affects the agriculture sector in Sindh but it also causes sea erosion in coastal areas. The sea erosion affects livelihoods and other social aspects as people are day by day forced to displace.

Recommendations

1. Recognize the right to water in the constitution. Provinces should follow suits by enacting primary legislation, rules and allocate adequate budgets.
2. Safe water should be made available to all people of Pakistan across all regions.
3. There is need to improve quality of water by making it more safe. This should be done by 1) by making water sources safe 2) where need be raise awareness raising on making water safe through cleaning procedures.

⁸⁷ SHAH, S. 2012. THE HUMAN RIGHT TO WATER: ITS PROVISION AND VIOLATION IN PAKISTAN. *Policy Brief*. Institute for Social Policy & Understanding.

⁸⁸ KHAN, F. J. & JAVED, Y. 2007. Delivering Access to Safe Drinking Water and Adequate Sanitation in Pakistan. *Working Paper*. Pakistan Institute of Development Economics (PIDE).

⁸⁹ *Leghari submits notice in Senate for water rights* [Online]. Daily The News. Available: <http://www.thenews.com.pk/Todays-News-13-25408-Leghari-submits-notice-in-Senate-for-water-rights> [Accessed 7 January 2014].

4. Increase the number of available water sources with particular attention to the arid zones across the country.
5. Equitable system of distribution of water should be devised for both domestic, personal and irrigation use.
6. Relevant stakeholders and communities should be consulted for improving the water sector.
7. Sufficient quantity of water is maintained in River Indus to stop sea erosion in coastal area.

Article 12: Right to health

66. There is only 1 primary health care centre/unit per 10000 persons in Pakistan. The public primary health care system includes 5000 basic health units, 600 rural health centres and 7500 other first level care facilities. In addition, over 100,000 lady health workers provide services across the country. At secondary health care level, there are 989 hospitals at Tehsil and District levels.⁹⁰ According to the Planning and Development Division, at present there are 149,201 registered doctors in the country which means for every 1,206 people there is just one doctor. There are just 76,244 registered nurses in the country, and for every 1,665 people there is just one hospital bed.⁹¹

The statistics appear more alarming when we see the status of immunizations. PSLM indicates an increase in the full immunization base on the health records from 53 percent in 2010-11 to 56 percent in 2011-12. However, report by Research and Development Solutions indicates that one in every 5 children is not immunized in Pakistan. This is despite the huge inflow of funding in the immunization programs.⁹²

67. Pakistan is second among the top five countries in the incidence of still birth. There are 47 still births per 10000 births compared to global statistics of 19 still births per 1000. The decrease has only been 6% (from 51 to 27), 1995 to 2009. According to Dr Bhutta, the issue is severe in Khyber-Pakhtunkhwa, Baluchistan and Sindh.⁹³ As per WHO's health profile of the country, the under-five mortality rate in Pakistan is 72 deaths per 1000 live births.⁹⁴ Likewise, the maternal mortality rate in Pakistan is high with 260 deaths per 100,000 live births as compared to 250 deaths regionally and 210 deaths

⁹⁰ ORGANIZATION, W. H. *Pakistan: Primary and secondary health care* [Online]. Available:

<http://www.emro.who.int/pak/programmes/primary-a-secondary-health-care.html?Secondary-Health-Care> [Accessed 7 February 2014].

⁹¹WASIF, S. 2013. *World Health Day: In Pakistan, healthcare remains a luxury* [Online]. Express Tribune. Available:

<http://tribune.com.pk/story/532208/world-health-day-in-pakistan-healthcare-remains-a-luxury/> [Accessed 7 January 2014].

⁹² SOLUTIONS, R. D. 2012. *Childhood Immunization in Pakistan* Research & Development Solutions

⁹³ DAWN, D. 2011. *Pakistan stillbirth rate second highest in world* [Online]. Daily Dawn. Available:

<http://www.dawn.com/news/620651/pakistan-stillbirth-rate-second-highest-in-world> [Accessed 7 January 2014].

⁹⁴ ORGANIZATION, W. H. *Pakistan: Country Profile* [Online]. Available: <http://www.who.int/gho/countries/pak.pdf?ua=1> [Accessed 7 January 2014].

globally. As of 2010, in prematurity (20% of all cases) and pneumonia (19% of all cases) are major causes of the deaths of the children under-five deaths.⁹⁵

68. The status of public sector health facilities in Pakistan is rather dismal, and does not seem to enjoy public confidence. Various research reports have indicated that only 30% of patients visit public health facilities and more than 70% seek private treatment.⁹⁶ So the private sector serves nearly 70% of the population, is primarily a fee-for-service system and covers the range of health care provision from trained allopathic physicians to faith healers and quacks operating in the informal private sector. Neither private, nor non-government sectors work within a regulatory framework and very little information is available regarding the extent of human, physical, and financial resources involved. Less than 30 % of the population uses public health facilities and some studies indicate that, on average, each person visits a public health facility less than once a year. Reasons for their underutilization, as identified by both the managers and consumers, are the relative lack of health care professionals and especially female care providers, high rates of absenteeism, poor quality of services, lack of medicines and inconvenient location of Primary Healthcare Units.
69. The state of affairs in health shows that state has not been able to provide adequate health facilities to its people in accordance with the standards stipulated in the ICESCR, regardless of the fact that the right to health is recognized by the state or not. Pakistan is a federation of four provinces and federally administered tribal areas called FATA. The situation of health within these provinces also depicts other regional disparities. For example, Punjab is the largest province by population so the situation in this province in terms of health is relatively better than the other provinces. However, within Punjab there are other regional disparities between rural and urban and south and central Punjab. Similarly, Baluchistan is the largest province in size but smallest in population. Thus the situation of health in Baluchistan due to various factors including geographic and cultural are considered hardest obstacles for provision of quality health care. A case in point is the maternal mortality rate in Baluchistan which is the highest in Pakistan being above 700.⁹⁷ Similar trends in overall health situation in the other two provinces of Khyber Pakhtunkhwa and Sindh could be observed with small variations.
70. According to a statement made in National Health Policy, the health of the people of Pakistan has improved since 1990; however the rate of improvement in health outcomes has been slow compared to its neighbouring countries. The policy states that "Pakistan's under-five mortality remains the highest among the South Asian countries". The policy also states that "high maternal mortality (deaths) combined with high fertility results in one out of every 89 women dying from pregnancy related causes". Another issue is that of malnutrition which according to the policy paper remains "widespread and

⁹⁵ ibid

⁹⁶ ORGANIZATION, W. H. Health System Organization. *Health Systems Profile- Pakistan* World Health Organization (Regional Health Systems Observatory- EMRO).

⁹⁷ STUDIES, N. I. O. P. Pakistan Demographic Health Survey 2007. National Institute of Population Studies & Macro International Inc. Calverton, Maryland USA.

unaddressed". In addition, "persistent burden of infectious diseases is now compounded by increasing burden of non-communicable diseases"⁹⁸.

71. The situation in terms of specific health issues with regard to mother and child health and particularly child and infant mortality have seen improvements in recent years according to various reports, but they are still far from satisfactory.⁹⁹ Pakistan has a commitment under Millennium Development Goals to reduce the global child and infant mortality by two-thirds between 1990 and 2015.
72. Reproductive health Rights bill was passed in March 2013 by the national assembly however it lapsed in the senate. Interestingly, there was no mention of ICESCR in the bill or other legislation which also calls for such legislation.
73. Though there are improvements at certain points, in general, environmental concerns get little attention. There are news reports on daily basis which depict the unhygienic work conditions at various industries including, ironically even at hospitals.¹⁰⁰
74. On the control and treatment of epidemic and diseases there are various national level programs to control, prevent and treat epidemic and endemic diseases. These programs include;
 - National Programme for Family Planning & Primary Health Care (LHW Programme),
 - Expanded Program on Immunization (EPI),
 - National Maternal, Neonatal and Child Health (MNCH) Programme,
 - National Programme for Prevention and Control of Hepatitis,
 - National AIDS Control Programme,
 - National Tuberculosis Control Programme.

Despite these huge programs the overall situation in terms of health has not improved in Pakistan, though obviously there are improvements in certain areas like immunization etc. According to many health and human rights experts, there is a huge gap in policy, planning and actual delivery of health services. For example, GDP to health spending ratio has remained very low in Pakistan. The Health expenditure; total percentage of GDP in Pakistan was last reported at 2.20 in 2010, according to a World Bank report published in 2012.¹⁰¹

75. Health system is predominantly private which puts extra burden on the vulnerable segment of society as their out of pocket expenses in health costs too much. Private

⁹⁸ HEALTH, M. O. 2009. National Health Policy 2009: Stepping Towards Better Health. Ministry of Health, Government of Pakistan.

⁹⁹ TRIBUNE, E. 2012a. *Child deaths in Pakistan down by 5.1 million a year: UN report* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/436328/child-deaths-in-pakistan-down-by-5-1-million-a-year-un-report/> [Accessed 7 January 2014].

¹⁰⁰ NATION, T. 2012. *Unhygienic conditions in twin cities hospitals* [Online]. Available: <http://www.nation.com.pk/islamabad/29-Aug-2012/unhygienic-conditions-in-twin-cities-hospitals> [Accessed 7 January 2014].

¹⁰¹ ECONOMICS, T. *Health expenditure - total (% of GDP) in Pakistan* [Online]. Available: <http://www.tradingeconomics.com/pakistan/health-expenditure-total-percent-of-gdp-wb-data.html> [Accessed 7 January 2014].

health system is not very regularized and there are no fixed mechanisms for standardizing service fees etc. This fact has been highlighted even in the National Policy which says that, “Poor are not benefiting from the health system whereas they bear major burden of diseases.” The fact is that the vulnerable groups like poor have no health insurance schemes and they have to rely on out of pocket expenses. The government infrastructure is poorly located, inadequately equipped and weakly maintained resulting in inadequate coverage and access to essential basic services. Private health sector continues to expand unregulated mainly in urban areas. The Policy paper also indicates that most (75%) of the health expenditure is out of pocket (OOP). This puts extra burden on these groups thus depriving them of their meagre earned incomes. Thus the situation is also commensurate to violation under ICESCR’s right to health. On pilot basis, the government has started Waseela-e-Sehat, a health insurance program, for the underprivileged though with a limited outreach.¹⁰²

76. The people living in rural areas have to rely solely on private health clinics as public health facilities like BHUs (Basic Health Units) are only day clinics that are not available at night when most of the emergencies usually occur, particularly in the rural areas. Then there is issue of trust in public health service providers which is quite low. This is an obvious issue of availability and access to quality health service. Similarly, the quality of medicines and other services at public health facilities are generally low quality. So an efficient health system requires a holistic approach to the issue of health both at policy, planning and delivery level. In addition, the issue of resource allocation is also crucial for provision of quality health services.
77. After the 18th amendment, health has become a provincial subject. This can have huge impact on overall health situation of the country both positively and negatively. The provinces have to enable and equip themselves to deal with issues of health in general as they lack resources. Another aspect is that provinces will have to struggle with the questions of legislation and policy making in health as they are not trained to do this. In this connection it is important that some roles should remain with the centre in this transitional phase and meanwhile capacity of provinces should be enhanced to fully assume this role.

Immunization

78. Pakistan remains one of the only three countries in the world which are not polio free. Terrorism has magnified this issue. The recent attacks on polio teams and killings of innocent polio workers by the militants in various parts of the country have severely retarded the efforts to end polio.¹⁰³ According to statistics available, nearly 1 million children could not be provided polio drops in one of the drives.¹⁰⁴ It not only puts into danger those children who missed but also those who have been provided drops. Similarly, the government has been unable to effectively respond to the cholera

¹⁰² BISP. *Waseela-e-Sehat (Health & Life Insurance)* [Online]. Available: http://www.bisp.gov.pk/si_health_insurance.aspx [Accessed 7 January 2014].

¹⁰³ *Pakistani militants shoot dead two polio vaccination workers* [Online]. The Guardian. Available: <http://www.theguardian.com/world/2013/jun/16/pakistan-militants-kill-health-workers> [Accessed 7 January 2014].

¹⁰⁴ TRIBUNE, E. 2012b. *One million children miss polio vaccination* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/453046/one-million-pakistani-children-miss-polio-vaccination/> [Accessed 7 January 2014].

outbreaks in various parts of the country and many children have died as result. In addition to Malaria which is endemic in Pakistan, dangers of dengue have also been lurking over the populations in many parts of the country.

Recommendations

1. Recognize the Right to Health in the Constitution. Provinces should follow the suit.
2. Take obligations under ICESCR into account in designing and implementing the health policy. The current health policy should be revised based on the obligations under ICESCR.
3. Allocation of adequate budget on the basis of proper information and evidence
4. Build capacity of provinces on legislation and policy making on health issues.
5. Regularize public and private Health system so that affordability issue can be tackled.
6. Health insurance schemes for poor and vulnerable groups should be initiated.
7. Protection should be provided to polio workers. State should ensure that not a single child is missed in the polio drives.
8. Implementation of special programs, such as MNCH, EPI, Polio etc, is improved to reach out to more and more people.
9. Take measures for controlling still births; such measures may include increasing obstetric services and EOC (Emergency Obstetrics Care), provision of folic acid supplements, and management of diabetes during pregnancy and awareness-raising on care during pregnancy (antenatal and postnatal care).

Article 13 and Article 14: Right to compulsory primary education

79. Though at constitutional and legal level Right to free and compulsory primary education has been recognized fully, the situation on ground remains as grim as ever. The Government to end has adopted a National Plan of Action. However, Pakistan spends 1.7% to 2.5% of GDP on education.¹⁰⁵ National Education Policy 2009 has also stated that with such minimal allocation and spending we cannot expect to become a vibrant knowledge economy".¹⁰⁶
80. There are 21 million children of school going age (5-9) years in Pakistan. The urban share is 6.7 million whereas 14 million children of school going age live in rural areas. The report indicates that 32 percent of these children are out of the schools.
81. There are inequalities based on gender and location (urban-rural) in participation/enrolment. As per the report, the Gross Enrolment rate (GER) for this age

¹⁰⁵ Ibid.

¹⁰⁶ NATIONAL EDUCATION POLICY 2009,
<http://unesco.org.pk/education/teachereducation/files/National%20Education%20Policy.pdf>

group remains at 85% overall. However as compared to boys (92%), only 79% girls are enrolled in the schools. Provincially speaking, Baluchistan has lowest GER at 63% followed by Sindh with 79% GER. For girls, the lowest GER is in FATA where only 53% girls are enrolled.

82. As per the report of Ministry of Education, only 70% children who enrol at primary level reach grade 5. In case of girls, only 68% reach grade five as compared to 71% boys. Islamabad has the highest rate of completion with 91% whereas Gilgit Baltistan is lowest at 32%. In Baluchistan only one-half of the children reach class five as compared to two-third children in FATA, Sindh and Khyber-Pakhtunkhwa.¹⁰⁷ According to Annual Status of Education Report (ASER) 2013 report one-third children drop out after primary in rural areas.¹⁰⁸ Unavailability of further educational facilities is cited as main reason of drop outs in the report.
83. There are not only inter-provincial disparities but within the provinces as well. Such disparities exist both quantitatively and qualitatively. There are fewer opportunities of education in remote districts like Cholistan, Thar, Kacho of Sindh and Punjab as well as several rural districts of Baluchistan. Similarly, due to lack of effective monitoring, the teacher absenteeism is high and credentials of teachers available are unsatisfactory. Hence, the quality of education is also poor as compared to many urban areas and fails miserably when compared to international standards. This certainly, as in the case of many other rights, is a failure on the state's end to ensure education without any discrimination of.
84. On the other hand despite the allocation of resources the situation of basic facilities at school level is not improving which is an important link and part of quality education. A recent report by ASER presented in January 2014 states that in rural Pakistan only 64% government primary schools have drinkable water facility, 57% have complete boundary walls and 47% have usable toilets.¹⁰⁹ These figures indicate non-compliance with the ICESCR which requires schools equipped with adequate water and sanitation infrastructure.¹¹⁰
85. Only about 2.5% of students had access to higher education". By the end of the 2010, this had improved by 5.1%.¹¹¹ The biggest and most difficult problem to solve was that of quality of higher education, which was linked directly with the quality and availability of highly qualified faculty in universities. However, the momentum of this initiative has not built up and there were major cuts in funding for Higher Education Commission which affected the overall situation of Higher Education in the country.

¹⁰⁷ Ibid.

¹⁰⁸ ITA. 2014. *Annual Status of Education Report (ASER) 2013* [Online]. Available: http://www.aserpakistan.org/index.php?func=aser_2013.

¹⁰⁹ ITA. 2014. *Annual Status of Education Report (ASER) 2013* [Online]. Available: http://www.aserpakistan.org/index.php?func=aser_2013.

¹¹⁰ See General Comment 13 and description of content of right to education already cited above.

¹¹¹ AKHTAR, M. M. S., RAFI, M. S., AHMED, S. & RAUF, M. 2011. Quality in Higher Education: Issues and Current Practices *Journal of Elementary Education* 21, 43-51.

86. Civil society activist and rights' campaigners urged that this is a long struggle because passing of one law is just a beginning¹¹² but the more important task is of implementation and monitoring the progress against set indicators. In this situation, the role of civil society becomes more important to engage with government at various levels. Similarly, after the passing of the 18th Amendment, many such powers particularly those related to education have become a provincial subject.
87. As per a 2012 study by National Commission for Justice and Peace, the text books promote fanaticism instead of promoting respect for all citizens.¹¹³ The study analysed 2011-12 curriculum for Sindh and Punjab and found 55 chapters which include hate speech against "Hindus, India, and Christians" and "insulting remarks against the minority religions and distorted historical facts".¹¹⁴ Similarly, a detailed study by Sustainable Development Policy Institute (SDPI) makes similar conclusions.¹¹⁵ Similarly, there are reports that vulnerable groups and minorities have discrimination issues in accessibility and acceptability of the content.

Recommendations

1. Appropriate resource and budget allocations for realization of right to education should be made. Budget utilization and resource management should be effective and efficient.
2. Federal and provincial governments should establish adequate education facilities, with adequate facilities, staff and curriculum, as per right to education enshrined in ICESCR and Article 25-A.
3. Girls' education needs particularly attention and there is need to increase functioning facilities of education for girls.
4. Support provinces in by enhancing their capacity realization of right to education at provincial level after 18th Amendment
5. Devising a Monitoring mechanism for monitoring the implementation of article 25-A for compulsory and free education
6. Monitor and address issues of regional disparities within and between provinces and between various regions within provinces including Urban-Rural. There is a particular need to increase/open educational facilities in such areas.
7. Government should develop robust mechanisms for learning assessment at primary level to improve quality of education.
8. Curriculum should be revised; hate and discriminatory elements should be removed. The curriculum should include a focus on human rights education to help promote awareness, respect and realization of human rights, tolerance and peace.

¹¹² Article 25-A, free and compulsory education, constitution of Pakistan.

¹¹³ See: PEACE, N. C. F. J. A. 2013. Education Vs Fanatic Literacy: A Study on the Hate Content in the Textbooks in Punjab and Sindh Provinces. National Commission for Justice and Peace.

¹¹⁴ *ibid*

¹¹⁵ NAYYAR, A. H. & SALIM, A. (eds.) *The Subtle Subversion: The State of Curricula and Textbooks in Pakistan* SUSTAINABLE DEVELOPMENT POLICY INSTITUTE.

Article 15: Cultural rights, scientific progress and material and moral interest

88. The State Party report speaks on the first part of the article and ignores the latter parts hence CSOs would like to highlight the gaps in fulfillment of cultural rights but expect the state party to pay attention on the 'scientific progress and material and moral interest' as well.
89. Historically, the state of Pakistan since its creation has not been open to cultural diversity. This is evident from the fact that though the federal units were very much diverse in cultural practices and languages, Urdu and English were imposed upon them as national and official languages. Except for Sindhi language, no other language of present day Pakistan is even officially declared a provincial official language. Such narrow policies with regards to language have resulted in many social and political conflicts within Pakistan. One of the precursors of Bangladesh's movement of separation was denial by state to accept Bengali as one of the official languages. Even today, the ethnic and language diversity is not very well accepted in Pakistan. According to UNESCO, 28 languages in Pakistan are in danger of dying out soon.¹¹⁶ One of the causes of such situation is that the state has not allowed any other medium of instruction apart from Urdu or English in most parts of the country despite the demands from various cultural groups to respect their languages and promote them through education.
90. Religious extremism and terrorism has also impacted on various forms of arts in Pakistan. Music and theatre have particularly been affected. Musical concerts have been reduced and mostly are conducted with selected and limited audience. Popular folk singers have been targeted by the terrorists, particularly in the Khyber-Pakhtunkhwa. A famous Pashto singer Ghazala Javed was murdered in Peshawar in June 2008. Also in 2008, four bombs were blasted near Al-Hamara Arts Complex when the World Performing Arts Festival was in progress.¹¹⁷
91. The civil society expresses its deepest concerns on the way various cultural communities and activities in Pakistan are being treated and experience a shrinking space for cultural diversity in Pakistan. The state needs to play a role to promote respect of each culture irrespective of political and religious leanings.

Recommendations

The civil society has made following recommendations with regards to right to culture:

¹¹⁶ ALI, M. 2012a. *Battle of survival: Watching the tongues slip into extinction* [Online]. Express Tribune. Available: <http://tribune.com.pk/story/339414/battle-of-survival-watching-the-tongues-slip-into-extinction/> [Accessed 7 January 2014]. See Also: UNESCO. *Atlas of the World's Languages in Danger* [Online]. UNESCO. Available: <http://www.unesco.org/culture/languages-atlas/index.php?hl=en&page=atlasmap&cc2=MD> [Accessed 7 January 2014].

¹¹⁷ 2010a. *Infocus: Paradise lost* [Online]. Daily Dawn. Available: <http://www.dawn.com/news/859733/infocus-paradise-lost> [Accessed 7 January 2014].

1. State must recognize, promote and protect cultural diversity in Pakistan. State should promote respect for various cultures prevailing in Pakistan through education and increased interaction among the people.
2. All languages in Pakistan should be protected and promoted. All major Pakistani languages must be made official and national languages. The Pakistani languages should be taught in schools within their respective areas.
3. Cultural places such as shrines, mosques, temples, heritages sites and other such places should be provided adequate protection by the states.
4. State should take positive measures for promoting arts of various kinds and reviving a culture of theatre, concerts and so on. Artist from various fields should be provided security.
