Introduction

Abuse and violence against children are the most agonizing and insidious type of crimes that have profoundly been entrenched in Pakistan due to the absence of an effective child protection mechanism. Violence against children takes cruel advantage of young people's vulnerabilities and represents a high barrier to the achievement of sustainable development. If children are not safe in schools, in family homes or in the criminal justice system, there is less chance they will be able to live happy, prosperous lives.

Besides continual maltreatment of children in our daily lives and violation of child rights, the recent frightening media reports of heinous and heart-wrenching incidents of abuse and violence against children from all over the country – such as the Kasur incident are virtually enough to paralyze one's senses about the severity and magnitude of the calamity. The precarious and depressing state of children in Pakistan calls for the urgent attention and effort of the authorities and society to rectify the situation.

In 2015, Pakistan's biggest reported child sexual abuse incident came to light. It took a series of clashes between the survivors' families and police, in which dozens were injured, for politicians to act and demand arrests. The families and survivors were served up to the media, with some local leaders placing the number of abused children at 280.

The country's penal code does not consider it sexual abuse if the act does not involve penetration, nor child pornography. "This scandal shows there are no institutional structures to tackle sexual abuse or to protect children," says Valerie Khan, the director of Goup Development Pakistan, a local NGO which advocates legal reforms.

A law criminalizing the sexual abuse of children is currently being debated by Pakistan's Senate. These reforms are all the more urgent given the growing number of cases being reported. According to
Violence against Children

child rights group Sahil, which records statistics based on press reports in the absence of official data, there were fewer than 2,000 cases of child sexual abuse in 2008, but more than 3,500 in 2014, a rise which reflects an increase in social awareness of the problem.

In recent years, more and more families in this socially conservative country of 200 million have dared to speak out against sexual abuse of their children. But the fight against predators remains in its infancy. Powerful taboos, gaps in legislation and a lack of awareness continue to fuel a phenomenon that remains hidden, yet deeply embedded within society.

Violence against Children in Pakistan

A huge number of incidents of sexual abuse, especially against minor children, child marriages, killings of minorities, honor killings and forced marriages have been taking place and only a small proportion of these are reported to the authorities due to social pressures and cultural taboos. According to a statistical report revealed by the Ministry of Law, Justice and Human Rights, from January 2012 to September 2015, a total 8,648 incidents of human rights violation have been reported in the country. Out of them, 239 have been recorded in Islamabad, 1,599 in Punjab, 3,768 in Sindh, 1,552 in Khyber Pakhtunkhwa and 1,490 in Balochistan. These include 90 incidents of acid burning, 72 of burning, 481 of domestic violence, 860 honor (karo-kari) killings, 1,564 kidnappings, 20 minority-related issues, 141 cases of missing persons, 1,233 police-related and 112 prison-related violations, 344 rape/gang rapes, 260 sectarian violence/targeted killings, 268 sexual assault/harassment, 493 cases of violence against children, 535 against women and 2,175 of miscellaneous violence.¹

According to data provided by the Ministry of Human Rights:

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Violence against Children

Corporal Punishment
Traditionally, corporal punishment has been the predominant form of violence used for "disciplining" children in Pakistan. Corporal punishment can be defined as "the use of physical force causing pain, but not wounds, as a means of discipline."  

Corporal punishment can leave lasting emotional and psychological effects on children with repercussions continuing even into adulthood. It is a practice that can lead to a vicious cycle over generations. Children who face corporal punishment are found to have lower self-esteem than their peers as well as a "victim mentality" making them even more susceptible to this form of violence. The effects of violence in schools can be catastrophic to learning as children are no longer in an encouraging environment which can contribute to learning and growth. Accidental injuries from corporal punishment in classrooms can lead to children dropping out of schools and even fatalities in some cases. Furthermore, children who receive physical forms of punishment are discouraged from using appropriate forms of reasoning to see the correlation between their actions and their consequences, hindering their understanding of what they may have done wrong.  

Pakistan is included among the 50 states around the world where the administering of a 'reasonable' degree of violence is overlooked (even encouraged) in the 'better interest' of the child. This wide acceptance of corporal punishment stems from traditional or cultural attitudes towards child rearing throughout the world. The supporters of the use of corporal punishment argue that the technique is a simple and effective means of discouraging misbehavior. For them, fear of the rod is a time tested method of ensuring that children remain disciplined and obedient to their elders.  

Article 19 of the UNCRC obligates State parties to 'take legislative, administrative, social and educational measures to protect the child

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3 Ibid.


42
from all forms of physical and mental violence'. The document further exhorts them to ensure that the disciplinary measures adopted in schools are consistent with a child’s human dignity and well-being.

In 2015, Alif Ailan selected the district of Thatta in rural Sindh for local level data collection and analysis and produced an excellent report. According to their report, though officially there is a ban on corporal punishment, more than a quarter of parents in UC Mirpur Sakro said that their child had been beaten by his or her teacher at school. Almost a similar number simply do not want to go to school for fear of corporal punishment."  

According to data provided by the Human Rights Commission of Pakistan the total number of cases of corporal punishment for children is 736 as of January 2016.  

### Corporal Punishment Cases in 2015

A number of cases of physical violence against children in schools and other settings were reported in 2015. These cases represent a small proportion of the actual incidence of corporal punishment in different settings as a large number of incidents are left unreported due to a lack cultural approval which overlooks (and encourages) acts of violence against children for disciplinary purposes.

* In October 2015, a seventh grader at Government Girls Middle School in Pasawal (Haripur, KP), was subjected to severe corporal punishment, leaving several cuts and bruises on her body. Her teacher, Taslim Bibi allegedly slapped the minor several times and beat her with a stick, leaving bruises on the girl’s arms, hands and back.

* In September 2015, a ninth grade student in Azizabad (Karachi, Sindh) was left deaf after his teacher tortured him in school.  

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Violence against Children

- In December 2015, Muneeba Sabir, a ninth grader at Government Girls High School Sera-e-Saleh (Haripur, KP), was slapped and punched on the face by her teacher for speaking to a classmate. Her teacher also banged her head against the wall. Her father lodged a complaint with the Haripur deputy commissioner and DEO for legal action against the teacher.

- In November 2015, a third-grade student in Faisalabad (Punjab) was badly beaten by his teacher because he had forgotten to do his homework. The student received injuries on his back, hands, and shoulders and was taken to a hospital for treatment.

Federal and Provincial Legislation on Corporal Punishment

Pakistan Penal Code: (Section 89 of the Pakistan Penal Code 1860) states that "nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, or by consent, either expressed or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the done to cause or be known by the done to be likely to cause to that person." It is interesting to note that assault or use of criminal force otherwise than on grave provocation is an offence under section 352 of the PPC; however, section 89 provides an exception in this regard. The current federal and provincial child protection legislation does not override this provision in the PPC which allows "milder" forms of corporal punishments to be institutionalized in the disciplinary mechanisms of schools, prisons, homes, and other places of work.

Prohibition of Corporal Punishment Bill: The Prohibition of Corporal Punishment Bill was passed by the National Assembly in

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March 2013: it lapsed as it was not passed by the Senate before dissolution of the National Assembly prior to the May 2013 national elections.

The Bill was a progressive piece of legislation as it comprehensively banned physical violence for disciplinary purposes in educational institutes, child protection centers, and detention centers for juveniles. Under the bill, a perpetrator of physical violence against a child was punishable with a fine of Rs. 50,000 and an imprisonment of one year. The Bill also overrode Section 89 of the PPC.

Efforts to legislate against corporal punishment were reinitiated in March 2014 when MNA Marvi Memon presented a private member bill to ban all forms of physical violence in educational institutions. The Bill proposes to ban all forms of physical punishments in schools which may include striking by hand, using a stick, pulling hair, or hitting with a shoe, belt, or any other object. The Bill proposes an imprisonment of one year and a fine of Rs. 50,000 for any person involved in administering physical punishment to a child. The Bill is yet to be passed by the National Assembly.

**Sindh Prohibition of Corporal Punishment Bill 2015:** On January 26, 2016 in the Sindh Assembly the House sent a private bill, the Sindh Prohibition of Corporal Punishment Bill, 2015. It was tabled by Murtaza Akbar Rashidi of the PML-N.

**Prohibition of Corporal Punishment Bill 2016:** In February 2016, PPP Senator Sulem Mundhiwala moved the Prohibition of Corporal Punishment Bill 2016 to make provisions for prohibition.

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Violence against Children

of corporal punishment against children in the educational institutions.\textsuperscript{16}

\textit{The Punjab Destitute and Neglected Children Act 2004:} Section 35 of this Act is in line with Section 89 of the PPC whereby some degree of punishment is allowed in the best interests of the child.

\textit{The Khyber Pakhtunkhwa Child Protection and Welfare Act 2010:} This Act bans corporal punishment in family and other settings (Section 4). It punishes perpetrators of corporal punishment, sexual abuse, trafficking and kidnapping, child pornography, and forced begging with prison sentences and fines; however, the Act does not override section 89 of the PPC.

\textit{The Sindh Right to Free and Compulsory Education Act 2013:} Section 13(3) of this Act prohibits all forms of physical and psychological violence in schools. The provision apparently overrides Section 89 of the PPC as it states that "no child shall be subjected to corporal punishment and mental harassment"\textsuperscript{17}.

\textit{The Sindh Children Act 1955:} This has a provision which deals with cruelty to children. A person involved in such an act is punishable with imprisonment of up to two years and a fine of Rs. 2,000.

\textit{The ICT Right to Free and Compulsory Education Act 2012:} Section 13 (2) of this Act bans physical punishment and mental harassment of students; this provision overrides section 89 of the PPC.

Recommendations

- The provincial governments should enact anti-corporal punishment legislation which comprehensively bans physical punishment and psychological harassment in all settings. The legislation must adopt a zero-tolerance stand against "milder" forms of punishment in the "better interests of the child" by overriding Section 89 of the PPC.


Violence against Children

- Individual schools should institute complaint mechanisms for parents and students who want to register their grievances against physical or psychological violence in schools.
- The provincial government should initiate awareness campaigns to apprise the general public on the harmful impacts of physical and psychological violence. This will go a long way in changing the general perceptions about corporal punishment as an acceptable tool for disciplining children.
- The teacher training institutes at the provincial level should introduce child-friendly teaching methods as a permanent part of the teachers’ syllabus in these schools.
- The current monitoring mechanisms to check the performance of schools should also focus on ‘softer’ aspects of quality education like child-friendly teaching and aim for a decrease in the prevalence of physical and psychological violence in schools.

Child Sexual Abuse

Sexual violence against children is a gross violation of children’s rights. Yet it is a global reality across all countries and social groups. It can take the form of sexual abuse, harassment, rape or sexual exploitation in prostitution or pornography. It can happen in homes, institutions, schools, workplaces, in travel and tourism facilities, within communities - both in development and emergency contexts as well as in non-emergency contexts in developed countries. Increasingly, the internet and mobile phones also put children at risk of sexual violence as some adults look to the internet to pursue sexual relationships with children. There is also an increase in the number and circulation of images of child abuse. Children themselves also send each other sexualized messages or images on their mobile phones, so called ‘sexting’, which puts them at risk for abuse.  

The 2014 UNICEF study, Hidden in Plain Sight, estimates that around 120 million girls under the age of 20 (about 1 in 10) have been subjected to forced sexual intercourse or other forced sexual acts at some point of their lives. Boys also report experiences of

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Violence against Children

sexual violence, but they do so to a lesser extent than girls. While more recent global estimates on sexual violence against boys are unavailable due to the lack of comparable data in most countries, girls typically report lifetime rates three times higher than boys in high-income countries. Millions more children are likely exploited in prostitution or pornography each year around the world, most of the times lured or forced into these situations through false promises and limited knowledge about the risks. Yet the true magnitude of sexual violence is hidden because of its sensitive and illegal nature. Most children and families do not report cases of abuse and exploitation because of stigma, fear, and lack of trust in the authorities. Social tolerance and lack of awareness also contribute to under-reporting.19

CSA in Pakistan

Pakistan's cultural context does not allow for an open dialogue or discussions on CSA. Notions about family honor often discourage the victim and his/her parents from reporting the incident to police and concerned authorities. This creates a culture of silence or willing ignorance regarding topics such as rape and child molestation.

Children in Pakistan have become increasingly unsafe and the trends of child abuse in the last few years are shocking. Girls are hidden away and their mobility is restricted by social norms, thus young boys are more often the targets of sexual violence. According to a recent study from Sahil, a non-government organization (NGO) working against child sex abuse, the total number of young boys being abused increased by 4.3 per cent in the first half of 2015 compared to the same period last year. The report said that 178 boys aged 6 to 10 were abused compared to 150 girls of the same age group.20

Sahil, an organization working on child abuse cases, compiles data which it refers to as “cruel numbers” from national and local newspapers to keep the children’s sexual abuse issue alive in the domain of the child protection dialogue. During the first six months.

19 Ibid.
 Violence against Children

of 2015, the police data on child abuse shows that 577 sodomy and 45 hurt cases were reported in Punjab besides 35 murders and 20 attempted murder cases. It has also been reported that 239 children were kidnapped, while 10 children were abducted for ransom during the same period.1

Kasur

The shocking child abuse incident wreaked in Kasur jolted Pakistan in August 2015, so that everyone could see the monster no one wanted to believe in. The scale of the Kasur scandal is horrific — 400 videos of some 280 children who were forced to have sex while being filmed and the attempt at hustling it up by the local authorities at first was just depressing.

The tapes that were made were then used to blackmail the parents of the victims into keeping quiet and giving money to the pedophilia ring. These tapes were also being sold to locals in the town for Rs 50 and even, according to one report, were being sold to pedophile websites overseas.

The fact that it happened over such a long time span— since 2009 and was kept under wraps for so long should still be of grave concern.

Federal and Provincial Legislation on CSA

PPC: PPC only recognizes CSA after an act of penetration is established. This is a major shortcoming as ‘milder’ forms of sexual abuse like inappropriate touching, fondling, or exposure/voyeurism etc. are not criminalized in the PPC. Any consent given by a child under 12 years of age is declared invalid by the PPC (Section 90). The PPC also prohibits same sex intercourse (a common form of CSA), same sex intercourse is punishable with an imprisonment extending to ten years but not less than two years. Similarly, procurement of a minor girl (below 18 years of age) for sexual intercourse is also prohibited (Section 377). The Act is punishable with an imprisonment extending to ten years and a fine.

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Violence against Children

**Anti-Terrorism Act 1997:** Child molestation, gang rape, and robbery coupled with rape are punishable with death (if the crime results in the death of the victim) or a punishment extending to 14 years but not less than 7 years.

**Protection of Women (Criminal Law Amendment) Act 2006:** The Protection of Women (Criminal Law Amendment) Act 2006 has totally deleted Zina Bil Jabbar from the Hudood Ordinance and inserted sections 375 and 376 in the PPC to replace it. Previously, the offenses of Zina (fornication) and Zina Bil Jabr (rape) were described by the Offence of Zina (Enforcement of Hudood) Ordinance 1979, Section 8 of the Ordinance required 'at least four Muslim adult male witnesses, about whom the court is satisfied, having regard to the requirements of takbiya al-shahood that they are truthful persons and absten from major sins give evidence as eyewitnesses of the act of penetration necessary to the offence' 25.

After the insertion of section 375 in the PPC, a man is said to have committed a rape if he has sexual intercourse with a woman against her will; without her consent; with her consent if it has been obtained by putting her in fear of death or hurt with her consent, when the man knows that he is not married to her and the consent is given because she believes that the man is another person to whom she is or believes herself to be married; with or without her consent if she is under the age of 16 years. The law further explains that penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

**Criminal Law (Amendment) Bill 2014:** The bill is one of the first attempts in Pakistan to enact a legislation which is in line with the UNCRC Optional Protocol (OP) on the Sale of Children, Child Prostitution and Child Pornography. The Bill provides for amendments in Section 82 and 83 of the PPC through which the minimum age of criminal responsibility is proposed to be increased. The Bill also proposes insertion of new sections in the PPC which include 292 A (exposure to seduction), 292 B (Child Pornography), 292 C (punishment for child pornography), 328 A (cruelty to a child), 369 A (trafficking of human beings, in particular internal trafficking), 377 (child sexual abuse: which includes seemingly

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‘milder’ forms of abuse such as stroking, fondling, caressing, exhibitionism, voyeurism, or any obscene or sexually explicit conduct). The Cabinet, in its meeting held on March 13, 2013 considered the Criminal Law (Amendment) Bill 2013. The proposal was approved with the direction that the minimum age of criminal responsibility from 7-12 years shall not be exploited or linked to ‘terrorism’ related cases. Due to the dissolution of the National Assembly before the May 2013 elections the bill was not introduced.

Criminal Law (Amendment) Bill, 2015: The bill was passed in December 2015 and is aimed at protecting children from mental and physical abuse. Amongst the major Amendments, the bill raises the minimum age of criminal responsibility from 7 to 10 years and the upper age limit from 12 to 14 years. Moreover, it legalizes protection of children from cruel treatment and criminalizes child pornography, proposing punishment for the crime.24


Recommendations

* Awareness campaigns should be initiated by the government and the CSOs to conduct an open debate on CSA. Currently, the taboo nature of all discourse on CSA allows perpetrators to continue with their crime without fear of legal repercussions: media and school level information campaigns can be an effective start to bring CSA issues into the mainstream.

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Violence against Children

- Law enforcement agencies should be sensitized to recognize the seemingly ‘milder’ forms of CSA and to ensure the protection of victims of CSA. Effective monitoring and accountability of law enforcement agencies should be initiated to ensure that members of law enforcement agencies are not willfully ignorant of or complicit in the sexual abuse of vulnerable children.

**Acid Attacks**

An acid attack is a form of violent assault in which a perpetrator throws acid on the body of a victim 'with the intention of injuring or disfiguring them' out of jealousy or revenge. The acid, usually sulfuric acid found in car batteries, is predominantly thrown at the face of the victim.

Acid thrown at a victim’s face or body burns tissues, often exposing and damaging bones. If the corrosive substances make contact with the eyes of the victim, the acid attack can leave a victim permanently blind. The victim has to contend with severe emotional and psychological trauma in the aftermath of the attack. Acid attacks are instigated by family feuds, property disputes and family honor issues. Other factors may include obsession, jealousy, suspected infidelity, failure to give dowry, husband wanting to remarry, and sexual non-cooperation. Acid attacks are a gender-specific crime as young girls and women between the ages of 14-25 years are the most common victims.

In 2015, 40 cases of acid attacks were reported, leaving 61 people maimed. According to NGO Acid Survivors Foundation (ASF) Pakistan, 501 cases of acid attacks with 653 victims have been reported during the last five years. An analysis conducted by ASF claims women between the ages of 17 and 30 are most at risk, although a significant number of men and children below the age of 17 have also fallen victim to acid attacks. Experts say legal

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lacunas in the existing acid crime legislation are the main reason for such incidents. Å

In October 2015, Acid Survival Foundation of Pakistan Chairperson (ASFP) Valerie Khan spoke at a seminar titled, “Strategies to fight acid crime in Pakistan”, where she said that Khyber-Pakhtunkhwa has no hospital burn unit to date. Sharing details with participants, she said educating the masses, may abate gender inequality among them. She highlighted that in 2012, only one per cent of acid burn cases were registered but after the involvement of legal officials and police, the number has increased to 70 per cent. Å

Acid Survivors Foundation (ASF) is a national non-profit organization working to promote human rights of acid attack victims and to eradicate acid violence from the country. The organization compiles annual information on the prevalence of acid attacks in Pakistan. The data provided by the Foundation reveals that over a five year period, the number of acid attacks reported from different parts of the country have increased. The table below provides a yearly breakdown of acid attacks in Pakistan between 2009 and 2014.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Attacks</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>43</td>
</tr>
<tr>
<td>2010</td>
<td>55</td>
</tr>
<tr>
<td>2011</td>
<td>150</td>
</tr>
<tr>
<td>2012</td>
<td>110</td>
</tr>
<tr>
<td>2013</td>
<td>143</td>
</tr>
<tr>
<td>2014</td>
<td>115 (till October 2014)</td>
</tr>
</tbody>
</table>

**Acid Attack Cases 2015**

Some of the acid attack cases reported by the national print media in 2014 included the following:

- Sidra Khan was married to an addict at the age of 15. Three years and a son the same age later, she opted for separation. In 2015, a local vendor named Arsalan...
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proposed to her. Sidrah rejected the proposal. This led to Arsalan throwing acid on her face. The police took two days to register an FIR. Now he faces a lengthy trial. However, his family is pursuing Sidrah for settlement outside the court. 26

- In July 2013, an anti-terrorism court remanded a man who allegedly threw acid on his 19-year-old ex-fiancé burning 80 percent of her body because she broke off their engagement. The suspect is a police constable. 27

Legislation on Acid Attacks

The Provincial Legislation on Acid Crimes: Efforts are being made to bring in comprehensive provincial legislation to control acid-related violence in the provinces. In May 2014, the Punjab Assembly Women’s Caucus presented (as a private member bill) the Acid & Burn Crimes Bill 2014 in the Assembly. 28 Significant parts of the Bill include expansion of the definition of “corrosive substances” to include a variety of other substances which can be used in such attacks; entitlement of acid burn victims to benefits prescribed under the Disabled Person (Employment and Rehabilitation) Ordinance 1981; death sentence or life imprisonment for the attacker if the attack results in the death or injury of the victim; provision of interim monetary relief for the victim during court trial (later to be paid by the convict as ordered in the final court judgment); and a minimum imprisonment of three years for a person attempting to commit an acid attack. Similar punishment is proposed for individuals who are found guilty of aiding, abetting, or colluding in an acid attack. 29

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26 Ibid.
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Recommendations

- The provinces should enact and implement comprehensive legislation to criminalize acid attacks and punish the perpetrators of acid violence. In addition to punishing offenders, the legislation should have proactive provisions to regulate the sale and purchase of acids and corrosive substances.
- The government should provide rehabilitative facilities to victims of acid attacks as these victims suffer from severe psychological trauma, sometimes resulting in Post Traumatic Stress Disorder (PTSD).
- Law enforcement agencies should be especially trained and sensitized to deal with victims of acid attacks.
- Awareness campaigns on acid violence should be initiated to encourage a social movement against acid violence in Pakistan. This will go a long way in discouraging future perpetrators of acid crimes.

Criminal Traditional Practices

This section deals with certain criminal and harmful traditional practices carried out in Pakistan that are culturally embedded and continuing despite modernization and awareness of women and children’s rights. Criminal and harmful traditional practices have deep cultural roots and have the resilience to persist. These practices may emerge and persist in different forms but their harmful impact on a child’s physical, intellectual, and emotional development are unquestionable. The commonly prevalent criminal and harmful traditional practices include child marriages which may be in the form of marriages to settle blood feuds between families (nani/swara) and exchange marriages (watta/katta), son preference, female infanticide, honor crimes, forced feeding, and accusations of witchcraft.

These practices are widely prevalent in Pakistan where thousands of adults and children, mostly females, are subjected to regressive traditions which undermine their well being; a number of these traditional practices result in the death of the victim. Both nationally and internationally, there is a tendency to label these practices as ‘harmful’; SPARC is deliberately using the term criminal to stress that a number of these practices have been criminalized through legislation and there is greater need to work towards the criminalization of the remaining acts in line with international standards. Criminal Traditional Practices (CTPs) have remained entrenched in Pakistan because of a cultural acceptance or misconceived religious understanding which allows these practices to thrive and the perpetrators to evade legal prosecution. Moreover, these practices are mostly prevalent in remote rural areas where reporting standards are poor and the law enforcement is (in many cases) in cohorts with local influential figures. This allows a large number of CTP cases to go unreported or unaddressed.

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Child Marriages
Child marriages are widely prevalent in Pakistan with a large number of cases being reported from remote rural areas. According to a study by UNICEF in 2015, 3% of girls are married by/before the age of 15 and 21% of girls are married by/before the age of 18 in Pakistan. These are depressing figures, considering the fact that a large number of underage marriages go unreported. Furthermore, apart from emotional and psychological issues, child marriages result in serious reproductive health issues which can end up becoming life threatening.

The minimum legal age of marriage for girls in Pakistan is 16 years while it is 18 years for boys.

According to UNICEF, the maternal mortality ratio in Pakistan (2008-2012) stood at 276 deaths per 100,000 live births: UNICEF also says, apart from the lack of reproductive health facilities in the country, a considerable number of those deaths can be attributed to underage marriages.

In Pakistan, child marriages are directly related to a patriarchal mindset which promotes a culture wherein the family’s honor (specifically male honor) is directly related to female “chastity”. Women’s sexuality and mobility is strictly controlled and fear of male companionship before marriage compels many families to marry off their daughters at a young age to preserve family “honor”. Apart from the above mentioned health complications, child marriages also result in low educational achievements and serious economic implications for women. In the latter case, girls are often prohibited from working by their conservative families; in addition, because of the lack or absence of education, child brides are barred from gaining meaningful employment.

Pakistan is a member of the South Asia Initiative to End Violence Against Children (SAIEVAC), an inter-governmental body which has adopted a regional action plan to target child marriage.

[58 Ibid.]
[57 Ibid]
[56 Ibid.]

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Pakistan was among the first states to propose a target to end child marriage by 2030 in discussions of the Open Working Group on the Sustainable Development Goals, a major inter-governmental process that helped to shape the next set of international development goals. In April 2014, the Sindh Assembly unanimously adopted the Sindh Child Marriage Restraint Act, increasing the minimum age of marriage to 18 for both girls and boys and making marriage below 18 a punishable offence.

In 2015 in Punjab, a Bill introducing harsher penalties for marriage under the age of 16 was also adopted. However, it does not increase the age of marriage to 18.

In a recent series of rulings, the Council of Islamic Ideology, a constitutional body which gives Islamic legal advice to the Pakistani Government, declared that Pakistani laws prohibiting child marriage are un-Islamic. The rulings were widely criticized.

The Council’s position is unfortunate and retrograde, but does not reflect broader progress on the issue in Pakistan. In addition to the provincial progress, Pakistan was the country that first proposed target 5.3 to end child marriage in the Global Goals for Sustainable Development. It should be reminded to honor its existing commitments.

Pakistan is signatory to:
- The Khartoum Declaration (art. 26)
- Cairo Declaration on the Convention on the Rights of the Child (CRC) and Islamic Jurisprudence (p. 6)
- The South Asia Initiative to End Violence Against Children (SAIEVAC) Regional Action Plan to End Child Marriage in South Asia (2015-2018)
- The UN Convention on the Rights of the Child (CRC) (article 19)
- The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (article 16)

Ibid.

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Child Marriage Case 2015
Child marriage case reported by the national print media:

- In February 2015, police arrested six people accused of arranging the marriage of a seven-year-old boy and six-year-old girl in Multan, Pakistan. The fathers of both children, the cleric performing the ceremony, and three witnesses were charged under the Child Marriage Restraint Act after being arrested. They face six months imprisonment and a fine of 50,000 rupees ($800). Local police chief Mehr Riaz Hussain said the accused have denied that the wedding took place, but police have it on video.¹¹

Vani Swara
This practice involves marriage as a means to settle a feud or dispute between families. The practice is prevalent throughout Pakistan and is known by various names in different areas; for instance, it is called venu in Punjab, swara in Khyber Pakhtunkhwa and dand in Sindh. The practice is a gross violation of human rights and is especially prejudicial towards women or girl children who have to spend the rest of their lives in the homes of their family’s enemy.²² In many cases, girl children are selected for these marriages as a quick solution to end a dispute. These children are then mistreated in their new homes as an act of revenge for their family’s actions.

Vani Case 2015
Vani cases reported by the national print media in 2015 included:

In August 2015, police arrested 10 members of a jirga for giving a 10-year-old girl in swara to resolve a family dispute at Karganay Dherai area of Multan. The area police said they raided a jirga which was resolving a dispute between the two families by giving a little girl in swara.

²²“Harmful Traditional Practices.” Information taken from a brochure published by SPARC. Print.
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Ajab Khan, who was already engaged and was going to marry next week. The affair triggered tension between the two families and a jirga was convened at the residence of Muzamil to resolve the dispute. Zabihah, 10, daughter of Muzamil was given in swara to Ajab Khan to settle the score," Mohammad Ali, the SHO of Maidan police station, said.

He added eight members of the jirga, including the conductor of the nikah, were arrested while raids were being conducted to arrest three more persons involved in the case.

Honor Killings

Honor killings are triggered by an entrenched patriarchal mindset in Pakistan whereby male and family honor is directly linked with the conduct of women. As a result of this mindset, women in most parts of the country are only conceived of in terms of their relationship to men: as mothers, daughters, or sisters and not as individuals. The men in the family determine the future of women and girl children by restricting their mobility and making their life choices themselves; most importantly decisions relating to a girl’s marriage are often made by her family; any exercise of autonomy by a girl in this regard often results in a violent reaction by the family. Possible transgressions that often result in the murder of the victim by her male family members include “illicit” sexual relations, infidelity, suspicion of adultery, rape, seeking divorce, or refusing arranged marriage.

Honor Crime Cases 2015

Throughout the year, a number of cases of honor crimes were reported from across Pakistan in which girl children were targeted.

* In October 2015, in yet another case of honor killing, a girl was hanged by her three brothers for contracting a love marriage in Factory Area of Sargodha, Punjab. According to police officials, the girl had tied the knot with a local youth, Mohsin Abbas, without taking her family into confidence. Her family members invited her to a lunch after they assured her they had accepted her marriage. On the day of the incident, the girl’s enraged brothers

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hanged her and tried to cover up the incident by showing it as a suicide. A case was registered against the murderers and raids were made for their arrest. 35

- On April 19, 2015, a man and his father were arrested for murder and terrorism after they set the son’s wife alight for leaving the house without asking his permission—a clear case of honor killing. Siddique, and his father, doused his wife with petrol and set her on fire in Mazaffargarh. His wife suffered from 80 percent burns on her body and died of her injuries. 36

- A 14-year-old girl, a student was murdered by her fiancé in Khyber Pakhtunkhwa, according to Aamirah Khan, a village police officer. He informed the media that the fiancé has been charged, but he has not been located and arrested. The girl was allegedly killed for assuming premarital relations. Other suspects had been arrested. Meanwhile, the father of the girl denied the accusations against his daughter. 37

- In February 2016, a local court sentenced two brothers to death twice for killing their sister and her husband over honor. The brothers, Ahsan and Zeeshan Butt, had shot their sister Saba, and her husband Shafiq for marrying out of their own will six years ago. The judge also imposed a fine of Rs one million each on the convicted men. The sentence came days after as Punjab passed the first-ever Women Protection Bill. 38

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National and Provincial Legislation

The Child Marriage Restraint Act 1929: The law prohibits child marriage in Pakistan and declares 16 years as the minimum age of marriage for girls and 18 years as the minimum age of marriage for boys (Section 2). Child marriage is punishable with an imprisonment of one month and a fine of Rs. 1,000 for an adult male (above 18 years of age) who contracts marriage with a child (section 4); a person who solemnizes a child marriage (section 5); and a parent or guardian who does not act to prevent a child marriage (section 6).

The punishment for contracting, aiding or abetting a child marriage is ridiculously low; in addition, the law is biased against the girl child whereby the minimum age for girls is lower than that of boys.

The Sindh Child Marriages Restrains Act 2013: This Act bans child marriages and proposes strict punishments for perpetrators, aids and abettors of underage marriages. The law establishes 18 years as the minimum age of marriage for both boys and girls (section 2). An adult male (above 18 years of age) who contracts marriage with a child is punishable with imprisonment extending to three years (not less than two years) and a fine (section 3). Similarly, a person who is responsible for solemnizing a child marriage is punishable with an imprisonment of up to three years but not less than two and a fine. The law came into effect in June 2014.

The Child Marriage Restraint (Amendment) Bill 2015 got rejected in January of 2016 by majority members of the National Assembly Standing Committee on Religious Affairs and Inter-Faith Harmony after the Council of Islamic Ideology (CII) declared it un-Islamic. The council provides advice to lawmakers on whether the newly proposed laws comply with Sharia laws. The bill was moved by PTI-N’s MNA, Marvi Memon in the National Assembly in 2014 and was referred to the committee for discussion. The bill was primarily formed on the argument that early marriage lead to early conception, which ultimately affects the health of the teenage girls. The purpose of this amendment was to enhance the punishments and

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Fine for those entering conjugal contracts with minors. Highlighting the proposed amendments, MNA Marvi Memon said that apart from limiting the minimum age of marriage to 18 years, the new bill called for rigorous imprisonment of up to two years and a fine of Rs 100,000 for violators.

However, the committee, under Chairman Hafiz Abdul Karim, unanimously rejected the bill on purely religious grounds and invited the Council of Islamic Ideology (CII) officials to provide their opinions as well. “Girls can be eligible for marriage after the age of nine years, if they attain puberty and the same is usually 12 years for boys,” Inamullah, CII’s chief research officer, read out as part of the decision of the council. “Anything contrary to the life of the Holy Prophet (Peace Be Upon Him) is unacceptable. He married Hazrat Ayesha when she was six years old and her nikah was held at the age of nine,” he added.

PPC: The PPC defines honor killing as a crime committed under the pretext of kari, siyah karri or similar practices (section 299). Section 302 of the PPC states that any person causing the death of another person is punishable with death as qisas: punishable with death or imprisonment for life as ta’zir; or with a punishment extending to 25 years in prison (in cases where Islamic injunctions with regard to Qisas do not apply).

The Prevention of Anti Women Practices (Criminal Law Amendment) Act 2011: The Act substitutes section 310 of the PPC whereby a person involved in forcing a girl to marry through any of the common cultural practices is liable to imprisonment for seven years and to a fine of Rs 500,000. The Act also inserts a new chapter in the PPC (chapter XXA) which lists offences against women. These offences include depriving a woman of her right to property (section 498A); forced marriage (section 498B); and marriage to the Holy Quran (section 498C).

In October 2015 the Senate adopted the Anti-Rape Bill proposed in 2014. On November 3, 2015, a National Assembly Panel approved a draft bill proposing death penalty and life imprisonment for rape of underage girls.52

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The Criminal Law (Amendment) Bill, 2014, that proposes certain amendments to the relevant laws to strengthen anti-rape laws, investigation and prosecution system against such crimes and to prevent abuse of the law in this regard was passed on November 3, 2015 by the National Assembly Standing Committee on Interior. The bill will be sent back to the National Assembly for approval and stipulates that if anyone commits rape against a girl below 14 years of age he shall be punished with imprisonment for life or death. It also proposes two-year imprisonment for those disclosing the identity of rape victims as well as six months to two years imprisonment for police officers if they use delaying tactics in investigation into child abuse cases. According to the bill, the convict will bear the expenses of the treatment of the rape victim otherwise a fine will be imposed on him. It also suggests a mandatory DNA test for rape victims.53

The law against rape has, until now, remained largely indifferent to the failings of the criminal justice system. The existing legal regime regulating rape is based on a century-and-a-half old provision of the Penal Code of 1860 and general procedures prescribed in the Code of Criminal Procedure, 1898. Amendments made to the law thus far have only focused on two aspects: the age of lawful consent to sexual intercourse and the imposition of alternative or stricter punishments.

The Provincial Legislation against Criminal Traditional Practices
The Khyber Pakhtunkhwa Elimination of the Custom of Ghag Act 2013 criminalizes the practice of forced marriages in the province.

The law defines “Ghag” as “a custom, usage, tradition or practice whereby a person forcibly demands or claims the hand of a woman, without her own or her parents’ or wali’s will and free consent by making an open declaration, either by words, spoken or written, or by visible representation, or by imputation, innuendo, or insinuation, directly or indirectly, in a locality or before the public in general. The person can also declare that a woman shall stand engaged to him or any other particular man and that no other man shall make a marriage proposal to her or marry her, threatening her parents and other relatives from giving her hand in marriage to any other person, and by also including obstructing the marriage of such woman in any other manner pursuant to such declaration” (section 2B).

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Section 4 of the Act punishes an offender with an imprisonment extending to seven years (but not less than three years) and a fine of up to Rupees 500,000 or with both. Any person who willfully abets or facilitates Ghar is also punishable (section 5)\(^6\).

**Supreme Court Decision on Criminal Traditional Practices:**
In July 2013, the Supreme Court of Pakistan declared traditional feudal settling customs like *jirga* and *awara* as inhumane and directed the IGs of Police in the provinces and the capital territory to ensure that such practices do not take place in their respective jurisdictions\(^7\).

In July the Chairperson of the Sindh Human Rights Commission stated that influential landlords in the province who were holding *jirgas* had been issued legal notices. It was further stated that the decision had been taken in light of the Supreme Court ruling which declared *jirgas* to be illegal\(^8\). The action was taken after media reports revealed that a number of MPs in Sindh were holding *jirgas* in their areas of influence\(^9\).

**Punjab Protection of Women Against Violence Bill 2016**
In February 2016 the Punjab Assembly passed the bill which is the first comprehensive protection to women against a range of crimes. The list of crimes includes abandonment of an offence, domestic, emotional, psychological and economic abuse, stalking and cyber crime. The bill stands out, as it provides civil remedies such as, protection, residence and or monetary order for all the offences it covers.\(^5\)

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Recommendations

- Existing outdated legislation on criminal traditional practices should be updated and revamped to criminalize the widely prevalent criminal traditional practices in Pakistan. The provincial assemblies should take immediate steps to pass revamped legislation on child marriages and other harmful traditional practices.
- There is a greater need to penalize the perpetrators of criminal traditional practices to discourage potential violators. Currently, there is a very low conviction rate of perpetrators of criminal traditional practices; mostly, these crimes are settled informally without involving the police which allows these practices to continue.
- Public awareness and community mobilization campaigns should be initiated to build public trust in the formal law enforcement and justice systems. This will go a long way to discourage individuals from relying on informal or parallel justice systems which perpetuate criminal traditional practices.
- The prevalence of criminal traditional practices should be targeted through awareness and advocacy campaigns that are supported by religious and political leaders. This will go a long way to tackle the problem at the grassroots level.
- The police and district administration should crack down on parallel legal systems in all parts of the country to ensure that women and children are not exploited and targeted through criminal traditional practices and the primary responsibility of the State with regards to providing security to all citizens is fulfilled.

Child Trafficking and Abduction

Child trafficking in Pakistan has two major dimensions: firstly, women and girl children are trafficked to Pakistan from Bangladesh and Central Asian countries, mostly for forced commercial sexual exploitation. Secondly, children (a large number of them are young girls) are trafficked from rural or peripheral areas of the country to cities where they may be engaged as domestic workers, bonded laborers, and sex workers. Pakistan is also a transit country for young
girls from East Asian countries and Bangladesh who are being trafficked to the Middle East for commercial sexual exploitation.\(^59\)

Ineffective law enforcement, official complicity, penalization of victims and the continued conflation of migrant smuggling and human trafficking by government officials have kept Pakistan on the Tier 2 Watch List of the US State Department’s Trafficking in Persons report for a second consecutive year.\(^60\)

Countries whose governments do not fully comply with the Trafficking Victims Protection Act’s (TVPA) minimum standards are placed on Tier 2. Of these, countries where the numbers of victims are very significant or significantly increasing, and have failed to make an effort to combat trafficking are placed on the Tier 2 Watch List, according to the 382-page report.\(^61\)

In collaboration, the United Nations Office on Drugs and Crime (UNODC), Pakistan office, and Federal Investigation Agency (FIA) held a conference entitled ‘Human trafficking and Migrant smuggling’ in late 2015, which brought delegates from 50 countries to discuss global trends in human trafficking and migrant smuggling.

The Federal Investigation Agency (FIA) has arrested over 800 human traffickers across the country from November 2015 to January 2016.

The Human Trafficking Cell of FIA performed 70 raids in different sites of the country, mostly in Punjab, and detained 827 human traffickers; 218 proclaimed offenders, 13 most wanted by the agency, 71 declared proclaimed offenders by the courts and 525 involved in different cases.

The FIA also claimed to have recovered Rs. 11.46 billion in 2014-2015 from the possession of several accused who had robbed different people.


\(^61\) Ibid.
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Interior Minister Chaudhry Nisar Ali Khan said human traffickers defame Pakistan abroad and take advantage of the poverty-stricken citizens. He had asked the Foreign Office and Federal Investigation Agency (FIA) late in 2015 to devise a comprehensive strategy to eliminate the menace of human trafficking and its associated crimes. While he expressed satisfaction over the agency’s current performance he also stressed that it needed to be improved.

In 2015, 1,310 smugglers were arrested from Pakistan, out of which 23 belonged to the ‘most-wanted’ category.

Pakistan has been identified as one of the key sources of women trafficking globally. According to the ‘Global Slavery Index’ report compiled by the Australia-based campaign Walk Free, Pakistan has the third highest population of enslaved individuals in the world.

Child Abduction Cases 2015

- In April 2015, in Peshawar, Osman, who is seven, was reported kidnapped. The abductor was an Afghan refugee and an acquaintance who demanded from his parents Rs3.2 million in cash and two girls as ransom for their son.  
- In October 2015, three minor girls abducted in Karachi were trafficked to a feudal lord in Larkana and are languishing in his private jail. Fourteen-year-old Sabeeha, 10-year Nageena and 10-year Soorat were kidnapped. According to police sources, an influential feudal lord of the Shikarpur district was behind the trafficking of the girls. They said the local police did not dare raid the private jail because “the law of the jungle still prevails in the interior of Sindh.”

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National and Provincial Legislation on Child Trafficking and Abduction

**PPC:** Section 364A addresses the abduction of a minor whereby a person involved in the abduction of a child below 14 years of age is punishable with a death sentence or life imprisonment. The minimum imprisonment term for kidnapping a minor is seven years' imprisonment.

Other sections dealing with child abduction include section 369 (kidnapping of a child with the intention of stealing from a child), section 366A (procuring of a minor girl for sexual purposes); section 366B (importation of a girl from a foreign country for sexual purposes); section 370 (buying and disposing of any person as a slave); and section 371 (habitual dealing in slaves).

**The Prevention & Control of Human Trafficking Ordinance 2002:** This Ordinance deals with external human trafficking in Pakistan. Section 3 punishes traffickers of children and females, planners and executors of human trafficking, and individuals who force people to perform labor or other services under threat.

**The Criminal Law (Amendment) Bill 2014:** Section 369A of the proposed Bill suggests punishment for a person involved in internal human trafficking (including child trafficking) by an imprisonment of five to seven years and a fine of Rs 500,000-700,000 or both.

**Recommendations**

- There is a need to develop an accurate and updated database on human trafficking which provides reliable and disaggregated information based on internal/external trafficking, adult/child trafficking, and male/female trafficking.
- The Federal and Provincial Government should collaborate with international organizations to build the capacity of law enforcement agencies for purposes of dealing with both internal and external trafficking. They should sensitize the police to identify and deal with internal trafficking victims. In addition, the FIA should be informed about the difference between human trafficking and smuggling and the need to use different approaches for victims of both.
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- The Federal and Provincial Government should take a tough stance against child traffickers and commercial sex rings in the country to counteract the major triggering factors behind human/child trafficking.

Children and Armed Conflict

Pakistan continues to face significant security challenges, posed by armed groups and extremist groups, with schools being particularly targeted. Hundreds of civilians have been killed or injured in dozens of attacks. In response, the Government has launched a major offensive in North Waziristan to reduce the capacity of armed groups to strike within the country.

Although exact figures of child casualties are not always available, sectarian violence and hundreds of indiscriminate attacks, including by improvised explosive devices and suicide bombers, continue to affect children in several areas, with Balochistan and Khyber Pakhtunkhwa provinces most affected. Armed groups continued to regularly attack educational institutions. At least 40 secular schools have reportedly been attacked, mainly in Khyber Pakhtunkhwa, the Federally Administered Tribal Areas and in Balochistan.64

Aside from the non-state actors involved in child recruitment, the state is also directly involved in recruiting children less than 18 years of age to its armed forces. At present, the current minimum age of recruitment in the army is 16, whereas children as young as 15 can join the air force as technicians. Though not contravening the United Nations Convention on the Rights of the Child, it does morally question the precedent set for children who are being recruited at an early age.65

Pakistan has yet to ratify the Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict which it signed in September 2001. The ratification of the Optional Protocol would pave the way for legislation against recruitment of underage children in armed conflict, by both state and non-state actors.

The Optional Protocol sets 15 years as the minimum age for voluntary recruitment in armed forces; furthermore, persons below 18 years of age who are voluntarily recruited in the armed forces are entitled to special protection measures\textsuperscript{66}.

Since 2014, according to officials from the National Commission on Child Welfare and Development (NCCWD), the legal review of the OP has already been conducted and the Ministry of Defense has given its consent for its ratification. The summary of the OP will soon be submitted to the Cabinet for consideration for full ratification, according to the Ministry officials.

In addition to this, Pakistan has also staged its protest over being listed in the report of the Secretary General to the Security Council on children and armed conflict, which was approved by 11 nations with four absent (Pakistan was one of them). Pakistan gave the argument that the situation in the country is caused by armed groups and hence they are not conflicts. It said that the report is an attempt to divert attention away from the armed groups that are responsible for terrorist attacks in the country. Pakistan even tried to convince the UN that the linking of armed groups with the Taliban and al Qaeda is misleading. China supported Pakistan on its stance and said that terrorist attacks in the country cannot be “equalized” with armed conflict. Though the arguments presented by Pakistan lacked grounds, many other international organizations working on children in armed conflicts expressed shock and dismay over Pakistan’s reaction and accused it of “politicizing” the issue. The situation in Pakistan, is troubled by wars, its army’s actions and the failure of the government to deliver, with children suffering in terms of life, education and health. The argument thus presented is nothing but a war of words that does not change the hard fact of child suffering\textsuperscript{67}.

Although exact figures of child casualties were not always available, sectarian violence and hundreds of indiscriminate attacks, including by improvised explosive devices and suicide bombers, continued to affect children in several areas, with Balochistan and Khyber Pakhtunkhwa provinces most affected. In February 2015, for example, in Peshawar, a suicide bomb in the crowded Koocha


\textsuperscript{67} See supra 63.
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Risaldar area near Qissa Khawani bazaar reportedly killed 10 persons, the majority of whom were women and children, and injured 46 others.⁸¹

Armed groups continued to regularly attack educational institutions. At least 40 schools were reportedly attacked, mainly in Khyber Pakhtunkhwa the Federally Administered Tribal Areas and in Balochistan. In January 2015, for example, a suicide bomber reportedly blew himself up outside the gates of a school in Hangu, Khyber Pakhtunkhwa killing a 14-year-old boy who was trying to prevent the attacker from entering the school. In February 2015, an improvised explosive device exploded outside school gates in Karak, Khyber Pakhtunkhwa province, reportedly injuring 13 children and the school principal.⁸²

Bacha Khan University Attack

On January 20, 2016, United Nations Secretary-General Ban Ki-moon condemned the terrorist attack by armed militants at Bacha Khan University in the city of Charsadda, Pakistan, which killed at least 19 people and wounded dozens more.

“He is appalled by such acts of violence and calls for the perpetrators to be swiftly brought to justice,” noted a statement issued by Mr. Ban’s spokesperson.

“The Secretary-General recalls that just over a year ago Pakistan experienced one of the deadliest school attacks in its history near the city of Peshawar, where more than 150 people died, mostly children,” the statement noted. “He reaffirms that attacks against students, teachers or schools can never be justified. The right to education for all must be firmly protected. Schools and educational facilities must be respected as safe and secure spaces,” it added.

In addition, the Secretary-General called for proportionate and necessary measures to be taken to ensure that schools in areas of insecurity and conflict are adequately protected. He also extended his heartfelt condolences to the families of the victims and to the Government and people of Pakistan.

⁸¹ See Sopris 62
⁸² See Sopris 62
Violence against Children

Recommendations

- Pakistan should ratify the Optional Protocol on Children and Armed Conflict immediately.
- The Federal and Provincial Governments should ensure the writ of the state in conflict-affected areas of the country to prevent militant groups from recruiting children as suicide bombers and militants.
- Rehabilitation centers should be set up for children who have been involved in armed conflict or who have witnessed violent events.
- The Federal and Provincial Government should have an accurate, official database on the victims of terrorism in Pakistan. This database should include information on children who have been affected by the protracted conflict between armed forces and terrorists in Pakistan.
- Schools should encourage extra-curricular activities like debating, essay writing, and painting competitions on topics related to peace and harmony to develop a counter-narrative to the dominant discourses of violence and antagonism prevalent in Pakistan.