

Child Rights and Its Implementation Status in Pakistan

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Abstract

Pakistan is the 5th most populous state in the world, having 45% of its population below 18 years. So far, it has been unable to safeguard and achieve children's rights that the state has guaranteed in the constitution. Despite being a signatory to the Convention on the Rights of Children and having numerous national laws to protect the fundamental rights of children, the country still has millions of children out of school, exposed to unsafe environments, abuse, and labor, and are stunted. This research paper attempted to explore the violation of child rights, the lack of implementation of international conventions and national laws, and the failures of state and society related to the safety, health, education, and fair treatment of children in Pakistan. The reasons behind the lack of successful implementation of the laws about the well-being and rights of children in Pakistan are also highlighted. Secondary data analysis was conducted; books, articles, and online sources were accessed to write this paper. At the end of the research paper, a few suggestions have been given which can be utilized to address the issues and eliminate the hindrances in guaranteeing the rights of children in Pakistan. It concludes that the ineffective implementation of children-related laws, societal indifference, and lack of awareness of children's education, health, and indulgence in labor add to the violation of children's rights.

Keywords: Children Rights Convention (CRC), National Commission on the Rights of Child (NCRC), Child Rights, Child Abuse, Constitution of Pakistan.

Introduction

Human capital is one of the significant resources of the country. The people's education, skill, knowledge, innovations, ideas, health, and safety determine the nations' socio-political set-ups and economies. (Keith, 2017). While children ensure the future of a country. Like everyone in a civilized society, every child has an inherent right to be treated with respect and dignity, freedom from oppression, and social and legal equality. About precisely understanding the definition of a child and children's rights, Article 1 of the Convention on the Rights of the Child (CRC) defines a child as [Article 1, (general assembly resolution)].

"A Child means every human being below the age of 18 years, unless, under the law applicable to children, the majority is attained earlier." [Article 1, (general assembly resolution)].

Pakistan is a developing state with a crumbling economy, leaving its young population vulnerable. The poverty ratio in Pakistan is 37.2% (World Bank, 2023), while the country is ranked 140th out of 146 countries in Economic Participation and Opportunity. (World Economic Forum, 2023) In such an alarming economic imbalance, 36.9% (2018) (WFP, Pakistan | World Food Programme, 2023) of the population faces food insecurity, 44% (2022) of the children are stunted, and the country stands at 161 out of 191 countries in Human

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Development Index. (WFP, World Food Program of Pakistan, 2023) Economic pressures force parents to subject their children to labor, robbing them of their childhood, access to primary education, and a healthy upbringing (France24, 2023). Keeping these figures in mind, it takes an hour to navigate the reasons behind the unsuccessful implementation of laws that protect children's rights and enable them to uplift the country instead of inevitably becoming a liability to the country.

Age and Rights of a Child

As the definition of a child as per the UNCRC is given above, any human being below the age of 18 has the right to education, health, name, nationality, identity, thought and religion, access to information, legal aid, protection of privacy, has to be protected from any discrimination, harmful work, harmful drug, abuse, violence, exploitation, trafficking, war, and kidnapping. (UNICEF, 2019) The International Labour Organization (ILO) has also determined the age of citizens below 18. However, there are different parameters to determine the age of a child. Still, in the light of the constitution of Pakistan, there are articles concerning free education, prohibition of marriage, and labor of all children from 5-16 in Pakistan. (Sana Younus, 2018) Worldwide, the international community has made an effort to secure and protect children's rights. One such effort was the *Declaration of the Rights of the Children*, first adopted by the League of Nations in 1924, and 1959, it was readopted by the United Nations (UN). The *Declaration of the Rights of the Children* was unanimously adopted by all the 78 member states in 1959, and it provided the first genuinely binding legal framework for protecting children's rights. This agreement has 54 articles safeguarding these rights, plus two additional protocols ensuring their protection. The purpose of this/legislative framework is to standardize children's rights to medical treatment, legal guardian, civil liberties, education, and social support. (Hawes, 1991)

On November 12, 1990, Pakistan accepted the Convention, which went into effect on December 2, 1990. Pakistan implements a variety of measures to strengthen the rights of children. Regarding child abuse, child pornography, sexual assault, labor slavery, health, education, and poverty, Pakistan has set up a few committees and a National Plan of Action (NAP). (Venkat Pulla, 2018).

Figure 1



Key research questions

- Which laws and conventions tend to protect the rights of children in Pakistan?
- How have children's rights been violated due to the laws and policies relating to children not being executed properly?

Research objective

This paper aims to explore and understand the reasons behind the violation of children's fundamental rights in light of international conventions and national law. This paper focuses on the ineffectiveness of rules in the context of their implementation and protection of children's rights. It emphasizes the significance of the already existing policies, along with a few recommendations based on the available data.

Research Methodology

The current study employed a qualitative research methodology. A secondary data analysis was performed, wherein data was gathered from secondary sources, including books, papers, and online sources. A diligent attempt has been made to incorporate the most up-to-date facts and pertinent material in this paper.

Research Discussion

Issues Surrounding Children's Rights: Condition and Causes

Over 80 million children in Pakistan are denied access to the most fundamental human rights. Only about 21 percent of the children who reside in metropolitan areas have access to the resources necessary to meet their basic requirements. In addition, a portion of Pakistan's population (24%) lives below the poverty level. (Mehnaz, Child Abuse in Pakistan – Current Perspective, 2018).

In Pakistan, children below 18 years of age constitute more than 35% of the country's population (Benjohnson, 2022); more than 22.8 million of these children are out of school (Statista, 2020), above 42% of the children are stunted (Hanif, 2023). Around 3.3 million children are trapped in child labor. (UNICEF P., 2022) Though Pakistan's constitution guarantees children's fundamental rights, the available data shows otherwise results. Because the legal rights correspond to the child's basic requirements, they must be treated with the utmost importance.

Children's Health Right

Just as children are regarded as the future wealth of a nation, a child's health can be seen as the child's most valuable asset. Without protection of the health of children and providing them access to quality healthcare, they cannot be enabled to acquire their remaining fundamental rights. Access to quality healthcare is a basic need of children. The constitution guarantees it by stating in Article 38-D, "*The State shall provide necessities of life, such as food, clothing, housing, education, and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.*" (Article 28D, 1973) Although the legal guarantee of medical relief for all the citizens of the country, around one child out of 6 children dies before age 5, the mortality rate is 63 per 1000 children, the infant mortality rate is 53 per 1000 children, 35% of the children are underweight, 42% of the children are stunted, and 11,00 children die of diarrhea and water-borne diseases every day (SPARC, 2019).

Article 24 of the United Nations Convention on the Rights of the Child states that "*every child has the right to better health, adequate medical treatment, a cleaner environment, clean water, and proper nourishment to keep them from becoming malnourished.*" Developed nations are responsible for achieving the goal of assisting less developed nations in overcoming the

obstacles posed to their inhabitants, particularly regarding the protection and well-being of their children. Wealthy nations can provide this aid to less developed ones (Article 24, 1989).

Exploring the Root Causes of Child Health Deficits

Health rights issues in Pakistan are embedded in a complex web of challenges. The healthcare infrastructure needs to exhibit more facilities and professionals, particularly in rural regions. The presence of constrained healthcare expenditure and prevalent poverty contributes to the emergence of obstacles in medical service accessibility and drug availability, hence intensifying health disparities. The diversion of resources away from patient treatment due to corruption within the healthcare system and a dearth of health education perpetuates myths about health conditions (Muhammad et al., 2021). Cultural norms and religious biasness, especially concerning women, can hinder healthcare access, while remote regions present geographical barriers to healthcare delivery.

Moreover, political instability and security issues can severely disrupt health service provision. In order to effectively tackle these challenges, Pakistan must prioritize the healthcare sector, provide more significant financial resources, strengthen infrastructure, bolster health education, combat corruption, and guarantee equitable access to high-quality healthcare services, with a particular focus on marginalized and disadvantaged communities. The active participation of the community and civil society plays a pivotal role in advocating for and overseeing the advancement of health rights for all individuals (Afshan, 2020).

Educational Rights

There are still 23 million children in Pakistan who cannot attend school, and only 71% of the children are enrolled in primary school because the political establishment only allows a tiny percentage of its financing for education (approximately 1.8%). According to the available literature, one of the most significant factors that negatively impacts a child's educational experience is financial hardship, followed by teachers who lack the necessary skills (Ozturk, 2019).

Article 25 A of Pakistan's constitution states, "The state should provide free and compulsory education for the age group of 5 to 16 years in such a way as may be prescribed by regulation." (Article25A, 1973).

According to the United Nations Convention on the Rights of the Child, Articles 28 and 29, all children have the right to receive a free elementary education, and affluent nations are responsible for assisting less developed states in accomplishing this goal. The current educational system needs to be altered so that it can provide support for the kids who are enrolled in it as well as ensure their safety. It is of the utmost importance that the children receive help in order for them to be able to participate in as many postsecondary educational opportunities as they can (Article28&29, 1989).

Unraveling the Causes Behind the Education Gap

The deficiency in children's education in Pakistan can be attributed to many interconnected factors. The prevalence of poverty compels numerous households to prioritize employment above educational pursuits, while gender disparities and societal norms restrict the educational opportunities available to girls. There needs to be more infrastructure, a scarcity of teachers, and substandard educational standards to deter student enrolment. The presence of security issues in regions affected by war can harm the continuity of educational activities. At the same time, deeply ingrained cultural norms and values may undermine formal education's perceived importance and relevance (Hafeez, 2020). Economic needs, limited awareness, language obstacles, and governmental challenges exacerbate the situation. In order to effectively tackle this matter, Pakistan must adopt all-encompassing measures that embrace various facets such

as poverty reduction, promotion of gender equality, development of infrastructure, training of teachers, implementation of awareness campaigns, and reforms within the education system. Promoting community involvement and emphasizing the significance of education are essential measures in guaranteeing equitable access to high-quality education for all children within the nation (Memon, 2007).

Recognition and Identity Right

It is estimated that around 70 percent of children need to be registered with governmental authorities within the first few days of their lives. Because of this, establishing a child's legal identity in Pakistan is complicated (Ozturk, 2019).

Unseen & Unheard: Exploring the Causes Behind Children's Denied Identity Rights

The absence of acknowledgment and entitlement to identity rights among children in Pakistan is a result of a multifaceted array of issues. A significant number of children experience non-registration at birth as a result of difficulties in accessing registration services, particularly in remote regions. Poverty, legal obstacles, and a lack of sufficient awareness also impede the registration procedure. Children involved in child labor or forced into early marriages frequently experience a lack of formal acknowledgment. At the same time, individuals who have been displaced or are refugees encounter extra challenges in acquiring official identification credentials (Din, 2010). The situation is further aggravated by discrimination and exclusion rooted in many sources. In order to tackle this issue, Pakistan must streamline registration procedures, enhance public knowledge, eliminate legal obstacles, and enact policy revisions to guarantee that every child is afforded the opportunity to get recognized identities. This fundamental entitlement is paramount, enabling access to essential services and legal safeguards (Din, 2010).

Unlawful Child Marriages

There is still a predominance of approximately 32 percent of child weddings in this country, which occur when a girl is younger than 16 years old and a boy is younger than 18. It is one of the uncomfortable truths about the situation in this country. The most significant contributors are still low earnings, and our government needs to further enforce the laws in place successfully (Ozturk, 2019).

Causes of Unlawful Child Marriage

Child marriage continues to be a pervasive and enduring problem in Pakistan, primarily attributable to various factors. These factors encompass cultural customs and traditions, socioeconomic deprivation, limited access to education, gender disparities, societal and parental expectations, inadequate legal enforcement, customary norms, familial dynamics, insufficient awareness, prevailing insecurity, and economic considerations. In order to address this issue, it is imperative to undertake a range of comprehensive measures, encompassing legal reforms, enhanced educational opportunities, awareness campaigns aimed at altering societal norms, and empowerment projects targeting girls and their families. The implementation of these actions is of utmost importance in the eradication of child marriage and the preservation of the rights and welfare of children in Pakistan (Nawaz, 2021).

Child Abuse in Workplaces and Families

There may have been 4139 documented examples of adolescents being mistreated in their homes or places of employment in 2006. These cases occurred in 2006. An extremely worrisome new development in this circumstance is the possibility that 11 new cases may be recorded daily (Gilani, 2022).

According to the findings of the National Child Survey conducted in 1996, it was estimated that over 3.3 million children were being held against their will in child labor conditions. Nevertheless, we should extend the scope of this research study and extrapolate the results to the year 2020. In that case, we will find that the number of impacted children would be significantly more than 20 million (Zafar, 2016).

In Article 31, it is stated that every child has the chance to play, enjoy, and have amusement in the manner that children choose to, which further involves engaging in or attending a wide variety of activities. This right to play, enjoy, and also have amusement in the manner that children choose to is a fundamental one. This privilege applies regardless of whether the youngster is among other children or alone.

Following Article 26 of the United Nations Convention on the Rights of the Child, the government must step in and offer financial help to a child when the child's parents or legal guardians cannot provide them with an adequate quality of living on their own. It is done to ensure the child can fulfill their human rights. If they are regularly hurt or intimidated, they will have a better chance of avoiding being forced into labor when they are children. It will increase their chances of avoiding being exploited (Article 26 & 31, 1989).

Physical Punishment

According to articles 27 and 19 of the United Nations Convention on the Rights of the Child, a child's fundamental right is to be nourished physically and psychologically. Additionally, it is the government's responsibility to provide financial assistance to low-income families who cannot provide their children with all of the necessities necessary for their development. It is also said that the parents or guardians of the children must provide proper care for their children and protect them from acts of aggression, exploitation, or other irresponsible activities that their parents carry out. It is in addition to the fact that it is the responsibility of the parents or guardians to protect their children from other irresponsible activities (Article 27 & 19, 1989).

Even within Section 3 Subsection 2 of The Prohibition of Corporal Punishment Act 2014, it was stated that in addition to any things specified in Section 89 of the Pakistan Penal Code, 1860, and any other statute for the law in force, that the physical punishment of a minor by any person, in all of its forms, in school and other training establishments has included institutional and unofficial, which also include both the public sector and private sector, and also covers the juvenile population.

Recent research that a non-governmental organization carried out reveals that a direct outcome of pupils being subjected to violent punishment in the classroom is that approximately 35,000 have decided not to continue their education (Manzoor, 2022).

Child Abuse

Child abuse, violence against children, and neglect are all conceptualized differently depending on who is asked. These terms have much room for interpretation, and they are often used interchangeably. Neglect, cruelty, and violence can be physical forces (such as bullying or torture). However, they can also take the form of words (via discriminatory or abusive language).

The World Health Organization (WHO) defined child abuse in a 1999 report as *"any ill-treatment, whether physical, sexual, negligent, commercial, health-wise, educational, or any such harm that is given to a child's life and survival, his dignity, and his development."* (WHO, 1999).

Causes of Child Abuse

Child abuse in Pakistan is profoundly concerning by many underlying factors. Accepting severe disciplinary measures within cultural norms and traditions is occasionally observed, but

a limited understanding of child rights perpetuates abusive behavior. Poverty and economic strain have been found to be associated with the manifestation of abusive behaviors. Additionally, insufficient access to education is a barrier to acquiring knowledge and comprehension about child development. (Mehnaz, Child abuse in Pakistan-current perspective, 2018) Dysfunctional family dynamics, gender discrimination, and child labor further exacerbate abuse. Insufficient implementation of child protection legislation, societal disapproval, and insufficient provision of support services impede the efficacy of prevention and intervention endeavors. In order to address the issue of child abuse, Pakistan should consider implementing a comprehensive strategy encompassing several measures. These measures may include raising awareness through targeted campaigns, enhancing the enforcement of existing laws, establishing support services for victims, implementing economic development programs, and actively challenging cultural norms that perpetuate a culture of tolerance towards abuse (Faraz, 2022).

Causes of the Dismal State of Children's Rights in Pakistan

Pakistan must create a formal child protection system because it is a signatory to the United Nations Convention on the Rights of the Child. However, according to conventional social norms, issues involving children and their families warrant minimal government involvement. Pakistan has a federal system. Hence, laws about children's safety fall under individual provinces' purview. The rate at which child protection laws are passed varies widely amongst jurisdictions. In 2010, Khyber Pakhtunkhwa enacted the Khyber Pakhtunkhwa Child Protection and Welfare Act, and in 2013, Khyber Pakhtunkhwa created the Khyber Pakhtunkhwa Child Protection and Welfare Regulations 2022. The Sindh Child Protection Authority Act of 2011 and the Sindh Child Marriage Restriction Act of 2013 exemplify the province's commitment to protecting children. In 2004 and again in 2007, the Punjab Destitute and Neglected Children Act was passed. The provincial legislature of Baluchistan passed the Baluchistan Child Welfare and Protection Bill in March 2023. According to Jabeen, the current legislation faces three main challenges: the difficulty of operationally defining the concept of child protection, the need to establish formal administrative and institutional structures (including secondary legislation) mandated to implement the legal provisions, and the necessity of a systematic effort to deal with the environment of societal reluctance (Jabeen, 2016).

Pakistan struggles with various social and economic issues like the rest of developing nations. Awkward social conditions and class discrimination have arisen as a direct outcome of the society's poor economic state, and these factors now stand as a significant barrier to achieving a prosperous society. However, children are the most defenseless and disproportionately impacted by deteriorating social and economic conditions. Around a third of the population is under 15; about 25 million are not in school, and about 12 million are in the labor force. (Manzoor, 2018).

Socio – Economic Problem

A wide range of opportunities is available to parents interested in encouraging their children to get jobs. Pakistan is not an exception; this problem impacts the nation. Pakistani children are subjected to forced labor, one of the most critical issues plaguing third-world countries. The vital underlying reasons for these obstacles include deprivation, large families, corrupt political administrations or political interests, and a lack of proper democratic accountability for those aspects directly affecting impoverished families' socioeconomic problems. These factors all contribute to impoverished families needing help to make ends meet (Ahmad, 2022).

In Article 4 of the CRC, it is stated that it is the responsibility of the government to establish and enforce each of those child rights that are included in any laws and rules that are currently in effect. This responsibility extends to any laws and rules that may come into effect.

Furthermore, it is the role of the state to adopt the relevant legislative, administrative, and other essential measures to implement these laws and regulations, which are beneficial for the children in terms of their socioeconomic situation. It is conceivable for a state to seek the assistance of neighboring countries or international organizations if there is still a loophole in the legislation or a condition beyond the state's power to rectify.

List of Legal Reforms in Pakistan

1. The Female Infanticide Prevention Act, 1870.
2. The Birth, Deaths and Marriages Registration Act, 1886.
3. Restriction of Child Labor Act, 1890.
4. Guardian and Ward Act, 1890.
5. Child Marriage Restrained Act, 1929.
6. The Factories Act, 1934.
7. Sindh Child Act, 1955.
8. West Pakistan Control of Orphanage Rules, 1958.
9. West Pakistan Juvenile Smoking Ordinance 1959.
10. The Child Marriage Restraint (Punjab Amendment) Ordinance 1971.
11. Workers Children Education Ordinance 1976.
12. The Punjab Supervision and Control of Children Homes Act, 1976.
13. Employment of Children Act 1991
14. Bonded Labor System (Abolition) Act 1992.
15. The Punjab Compulsory Primary Education Act, 1994.
16. Employment of Children Rules 1995.
17. Bonded Labor System (Abolition) Rule 1995.
18. Abolition of Whipping Act, 1996.
19. Juvenile Justice System Ordinance, 2000.
20. National Database Registration Authority Ordinance 2000.
21. Mental Health Ordinance for Pakistan 2001.
22. The Child Nutrition Act, 2002.
23. Prevention and Control of Human Trafficking Ordinance 2002.
24. Prohibition of Smoking and Protection of Non-Smokers Health Ordinance 2002.
25. Punjab Destitute and Neglected Children Act 2004.
26. The Criminal Law (Amendment) Act 2004.
27. Prevention and Control of Human Trafficking Rules 2004.
28. Charter of Child Rights Bill 2009.
29. National Commission on the Rights of the Child Bill 2009.
30. National Immunization Bill 2009.
31. Sindh Child Protection Authority Act 2011.
32. Right to Free and Compulsory Education Acts 2012.
33. Sindh Child Marriage Restraints Act 2013.
34. The Child Marriage Restraint (Amendment) Bill 2017
35. The Juvenile Justice System Act, 2018.
36. The Islamabad Capital Territory Child Protection (Amendment) Bill 2021.

Conclusion

The finding of this paper shows that the current situation of children's rights in Pakistan is disheartening due to the inability and ineffectiveness of the government to successfully implement laws that protect the rights of children and minimize the regular occurrence of violations of these laws that are reported by the national and local newspapers and organization. In addition, the failure of the government to successfully execute legislation protecting

children's rights is compounded by the regular occurrence of violations of these laws. Even though legislative activity in Pakistan is carried out following the concepts and provisions of the United Nations Convention on the Rights of the Child, it is only sometimes the case that children's rights are fully protected. Each province has passed its legislation in Pakistan, but the rules still need to be effectively executed, and there have been complaints of people breaking them. Although the laws have been passed, they must be correctly implemented.

Some individuals are younger than 15 years old, constituting nearly 40 percent of the total population. As a result, Pakistan's government needs to approach the issue with the level of seriousness that is befitting of the situation to protect these children's interests. The federal government and the interim administration must have worked together to develop policies beneficial to all of the provinces. It was necessary in order to accomplish the goal of formulating policies. There needs to be a system in place to ensure that all of the laws about children's rights are adhered to appropriately, and there also needs to be a system in place to check and balance that system. Both of these systems should be in place simultaneously.

Children are the future of any society; consequently, if we genuinely want that society to progress or to have a prosperous and sustainable destiny in the future, then we need to treat children appropriately and ensure that they have access to the fundamental rights that will allow them to develop physically, psychologically, and mentally in a balanced manner. Children are the future of any society. If we do not defend children's rights, we might unintentionally jeopardize the stability of our social order. Children's rights are fundamental to the health of any society.

For the better part of the last few decades, children's health and education have been deplorable, and the fundamental reason for this has been that children's laws have not been consistently and methodically enforced. The legislature's responsibility in each province is to create such an organization and pass legislation in compliance with the Constitution of Pakistan and the International Convention in a manner that is open to the public and protects children's rights. This duty must be fulfilled to satisfy both of these documents.

Result and Recommendations

1. Every government agency and non-governmental group working on children's rights problems must be granted more authority to accomplish their goals.
2. It is the policy of the Ministry of Education to include instruction on all of these children's rights as part of the standard curriculum. It allows students to increase their awareness of the relevant topics.
3. They are expected to instruct kids using a number of different mediums, such as cartoons or documentaries, which are exhibited in the classroom.
4. Children coping with various issues, such as being raised in an orphanage or having legal issues, should have a certain amount of money set aside in the budget specifically for assisting these children.
5. The government must establish some committee tasked with assisting minors when they are involved in court proceedings. It is because the justice system is notoriously difficult for children to navigate, and most children have little to no prior experience with the legal system.
6. Following the provisions of Article 25 A of the Constitution of Pakistan, the State of Pakistan is required to protect the rights of all individuals about education. It is the case regardless of whether the educational institution in issue is a religious school or an academic school.
7. The National Commission on the Rights of the Child (NCRC) must be able to operate independently to fulfill its mandate. Not even the smallest amount of influence comes from any of the institutions. This group must continue to operate free of any political control.

Since law enforcement community members have a significantly superior understanding of the legal rights of children and the different obstacles they confront, that community ought to provide the chairperson of the National Commission on the Rights of the Child. The chairperson ought to come from inside the law enforcement community. It submits an annual report to parliament by the NCRC as a monitoring mechanism, an obligatory part of their duties.

8. A more significant number of non-governmental organizations (NGOs) should be founded in regions still in a state of underdevelopment. These organizations' primary mission should be to ensure that all children's rights, particularly those related to females, are respected and protected. In addition, there must be a social department in these places for operations to go off without a hitch.
9. After this investigation, the researcher will make the case that it is not only the responsibility of the government but also that of every citizen, including every citizen who merely observes and criticizes the government regarding it rather than taking some action on such child rights abuses or informing the appropriate department regarding those abuses. It is not just the responsibility of the government because it is also the responsibility of every citizen.

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