




# UNIVERSAL PERIODIC REVIEW

## Pakistan

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UPR submission prepared by:

<p><b>Pakistan Pediatric Association (PPA)</b></p> <p><b>in collaboration with ECPAT International and Acting for Life</b></p>	  
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Pakistan Pediatric Association (PPA) is an NGO from Pakistan which aims to impart health and body protection education to children, mostly child laborers, street children and other deprived groups. It is national representation association of Pediatricians of Pakistan registered on 6th May, 1965 under the Societies Registration Act 1860 with the Provincial Assistant Registrar as a nonprofit welfare society. The PPA has a national management committee called 'Executive Committee of PPA' and its central office is in Karachi.

Pakistan Pediatric Association (PPA) is an affiliate group in of ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes), a global network of 82 member organization based in 75 countries around the world aiming at preventing and combating all forms of commercial sexual exploitation of children

Acting for Life (formerly Groupe Developpement) is an international NGO, having its headquarters in

France, and acting in the field of child protection, poverty alleviation and livelihoods ([www.acting-for-life.org](http://www.acting-for-life.org)). The South-Asia regional programme and related field projects are focused on preventing children's trafficking and exploitation, in Pakistan, India, Bangladesh and Nepal.

In Pakistan, it has an office called GDCO with the responsibility of a national project against child sexual exploitation and abuse, covering 5 cities of the country with 6 local partner NGOs.

## **Executive Summary**

This contribution aims to provide a review and an assessment of Pakistan's status on implementing its international commitments and obligations concerning the issue of commercial sexual exploitation of children since the last Universal Periodic Review in May 2008. In November 2008, the Government of Pakistan participated in the Third World Congress against Sexual Exploitation of Children and Adolescents during which it committed to undertake more initiatives to protect children from commercial sexual exploitation. Since the World Congress, the Government of Pakistan has made progress to adopt and implement more comprehensive legal and policy framework regarding the commercial sexual exploitation of children. Pakistan has ratified the Optional Protocol to the Convention on the rights of the child on the sale of children, child prostitution and child pornography (OPSC). However, Pakistan has not signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Whilst there have been some achievements in the implementation of the National Plan of Action (NPA), for example, in awareness raising about commercial sexual exploitation of children related issues, capacity building of law enforcers, the overall situation for children has not significantly changed. Under the 18th Constitutional amendment, most of the activities specified in the NPAs fall under the responsibility of provincial governments, where there are severe capacity constraints. The National Child Protection Policy has been drafted in 2008, which contains and programmes on prevention, protection, rehabilitation and reintegration of child victims have been developed by the government. However, the adoption of the National Child Protection Policy has not yet been approved by the Federal Cabinet.<sup>1</sup>

The following findings are drawn from relevant literature from international experts, including the Committee on the Rights of the Child and ECPAT International.

### **I. Current normative and institutional framework for the promotion and protection of human rights**

#### **1. Legal Framework**

##### **1.1 International Legal Standards**

Pakistan has signed the *Convention on the Rights of the Child 1989* (CRC) in 1990. It has also ratified the *Optional Protocol on the sale of children, child prostitution and child pornography 2000* (OPSC) in 2011. It has also ratified the *ILO Convention on the Worst Forms of Child Labor 1999* (No. 182) in 2001 and the *UN Convention against Transnational Organized Crime 2000* (UNTOC) in 2010. However, the country has

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<sup>1</sup> ECPAT International, "Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan", 2011.

not yet signed nor ratified the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

**Recommendation:**

- To urgently ratify the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

## 1.2 Regional Legal Standards

Pakistan has ratified the *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution 2002* and the *SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia* in 2002.

## 1.3 Domestic Legal Framework

Pakistan's legislation on commercial sexual exploitation of children (CSEC) is not comprehensive and contains many loopholes as it is not yet fully harmonized with the provision of the Convention on the Rights of the Child<sup>2</sup> and its Optional Protocols. There exist a variety of federal and provincial laws, including Islamic Law, related to children in Pakistan. That leads to the weak, inconsistent and non-uniformed enforcement and application of the laws. Without a clear definition of child sexual exploitation, the domestic legislation of Pakistan fails to provide concrete provisions on prohibiting and punishing CSEC crimes. In addition, there are many inconsistencies in defining a child due to differences in domestic laws at all levels and between secular and sharia law<sup>3</sup>.

The Child Protection (Criminal Laws Amendment) Bill which aims to protect children against violations of their rights and establish institutions for the protection and rehabilitation of child victims<sup>4</sup>, was drafted and submitted for approval in 2007. However, it is not yet adopted.<sup>5</sup> Besides, other domestic laws regarding children share a similar status of not being adopted, those include: the Charter of Child Rights Bill, and the National Commission on the Rights of the Children (NCRC) Bill.

**Recommendation**

- To harmonize federal and provincial laws with the Convention on the Rights of the Child and its optional Protocol on the sale of children, child prostitution and child pornography.
- To urgently provide a clear and consistent legal definition of a child in compliance with article 1 of CRC, so that a child is every human being below the age of 18 years;
- To continue and strengthen the establishment and enforcement of the domestic legal framework on child rights, especially on CSEC, at federal and provincial level to be in compliance with the provisions of the CRC and OPSC;

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<sup>2</sup> Committee on the Rights of the Child (CRC), "Consideration of reports submitted by States parties under article 44 of the Convention on the Rights of the Child - Concluding Observations: Pakistan", Fifty-second session, 2009.

<sup>3</sup> Committee on the Rights of the Child (CRC), "Consideration of reports submitted by States parties under article 44 of the Convention on the Rights of the Child - Concluding Observations: Pakistan", Fifty-second session, 2009.

<sup>4</sup> Ibid.

<sup>5</sup> ECPAT International, "Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan", 2011.

- To urgently adopt the pending legislation on child rights;
- To develop relevant legislation on child rights in all Provinces of Pakistan.

### 1.3.1 Laws regarding Child Pornography

Child pornography has been recently addressed under Pakistan’s legislation. First to mention is the Penal Code and its provisions which inadequately cover different crimes related to child pornography.

Even though the Khyber Pakhtunkhwa Child Protection and Welfare Act (2010) contain a definition of child pornography which is in line with relevant international standards, conducts relating to child pornography are not adequately covered by the Penal Code. Section 292 of the Penal Code, all the activities “for the purpose of sale, hire, distribution, exhibition or circulation”, “makes, produces, or possesses any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever” are criminalized.<sup>6</sup> Conducts criminalized under this provision are not related specifically to child pornography but to any “obscene” materials which is a very broad and vague term, subject to various interpretations, which does not make any distinction between adult and child pornography. It is more a law aimed at protecting public morality than to protect children.

Other legal instruments regarding the issue include the *Prevention of Electronic Crimes Ordinance of 2007* (Section 13) and the *Protection of Children Act of 2009* (Section 71).

Under the Prevention of Electronic Crimes Ordinance of 2007, cyber stalking is a crime and whoever commits this crime will be punished with up to 10-year-imprisonment or a fine in case of minor victim.

#### Recommendation:

- To provide a clear and specific definition of child pornography which would include simulated representations of children or persons that appear to be children;
- To criminalize mere possession of child pornography;
- To prohibit the following activities: access and viewing child pornography, soliciting children online for sexual purposes (grooming)

### 1.3.2 Laws regarding Child Trafficking

Pakistan’s law regarding human trafficking includes: (i) the Prevention and Control of Human Trafficking Ordinance of 2002 (Trafficking Ordinance); (ii) the Prostitution Ordinance; (iii) the Penal Code; and (iv) the Zina Ordinance.

Pakistan’s laws addressing child trafficking is relatively progressive, but some elements are still not in compliance with international standards set forth in the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. Moreover, Pakistan has not signed and ratified this Protocol, which is a major gap in terms of child protection against trafficking.

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<sup>6</sup> ECPAT International, “Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan”, 2011.

For instance the Trafficking Ordinance, which is the main legal standard in Pakistan to regulate trafficking in human beings, does not provide for an adequate definition of trafficking as it does not include transfer and transportation of persons.

In Pakistan many laws and Ordinances regulate trafficking in human beings (e.g. the Penal Code, the Trafficking Ordinance and the Zina Ordinance) and the fact that they may not present the same definition of child trafficking create inconsistencies between these legal standards which may create obstacles for law enforcement officials in charge of prosecuting child trafficking related offenses.

**Recommendation:**

- Harmonise current laws and ordinances that regulate human trafficking, including child trafficking in order to establish a consistent definition of child trafficking within the Pakistani domestic legal framework.
- To ensure legal provisions on child trafficking is equally targeted to boys and girls, and cover both internal and external trafficking of minors.
- Develop an anti child trafficking policy at federal and provincial level.
- Develop implementation mechanisms with all relevant stakeholders at provincial and federal level.

### 1.3.3 Laws regarding Child Prostitution

Pakistan's main law on child prostitution is the Pakistan Suppression of Prostitution Ordinance of 1961 (Prostitution Ordinance). Under the Penal Code, some other provisions can be used to prosecute exploiters of child prostitution.<sup>7</sup>

The Prostitution Ordinance does not comply with international standards. In particular, there is no definition of child prostitution in Pakistani legislation. Moreover, some current provisions just apply to girls under 16 years of age while boy prostitution is not covered (section 7, 8 and 10 of the Prostitution Ordinance).<sup>8</sup>

Under the *Penal Code*, procurement of a minor girl less than 18 years of age is criminalized.<sup>9</sup> Procurement is defined as "inducing a girl to go from any place or to do any act with intent that such girl may be forced or seduced to have illicit intercourse with another person."<sup>10</sup> However, it only criminalizes 'inducing' as a means to which a girl may be made to engage in sex work and it is hard to prove what contributes to inducement.<sup>11</sup>

**Recommendation:**

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<sup>7</sup> ECPAT International, "Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan", 2011.

<sup>8</sup> ECPAT International, "Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan", 2011.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

- To amend provisions on prostitution to ensure that they contain a clear definition of child prostitution and criminalize all acts of obtaining, procuring or providing a child for prostitution, as required under the OPSC
- To review the *Prostitution Ordinance* and other legal provisions related to child prostitution to ensure protection for all children, including boys and girls under 18 years of age, in line with international standards;
- To remove the ambiguities in current Ordinances and laws with regard to child sexual abuse, rape and prostitution and ensure that children victims of prostitution are never criminalised;

#### **1.3.4 Laws regarding Child Sex Tourism and Extraterritorial legislation**

There exists no specific legislation regarding CSEC in tourism and travel, nor any extraterritorial agreements with other countries for prosecution of criminals who abuse Pakistani children.<sup>12</sup>

However, section 4 of the Penal Code puts into practice the extraterritorial principle in Pakistani law. In particular, the Code will apply “to any offence committed by any citizen of Pakistan or any person in the service of Pakistan in any place without and beyond Pakistan.” And the Extradition Act of 1972 applies “in relation to the return of persons to, and to persons returned from, a treaty state, or, in some cases, a non-treaty state, under a special “direction”.

In fact, there lacks more comprehensive provisions on addressing CSEC crimes with foreign elements, especially with foreign perpetrators. The punishment and prosecution procedure are not clearly defined under Pakistani legislation.

#### **Recommendation:**

- To create a specific legislation dealing with CSEC in travel and tourism sectors;
- To establish extraterritorial agreements with other countries for prosecution of CSEC offences;

### **II. Promotion and protection of Human Rights on the ground: implementation of international human rights standards**

#### **2. Key areas of concern with regard to the implementation of the children’s right to protection against commercial sexual exploitation on the ground**

##### **2.1 Lack of coordination, cooperation and resources among stakeholders in implementing the NPA**

The National Commission on the Rights of Children – an institution to be in charge of coordinating and monitoring the implementation of CRC in Pakistan - has not yet been established since 2001<sup>13</sup>.

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<sup>12</sup> ECPAT International, “Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan”, 2011.

<sup>13</sup> Ibid.

There persists poor coordination among different bodies of the Government at all levels which have responsibility of the implementation and monitoring of the Convention. In addition, it remains insufficient financial and human resources in maintaining the operation of the institutions in charge of implementing the NPA, especially the National Commission for Child Welfare and Development or the National Commission on the Rights of Children.<sup>14</sup>

Cooperation with other actors such as civil society organizations, private sector, associations, etc., is highly needed in the fight against CSEC and in protecting children from all types of violation.

**Recommendation:**

- To urgently approve the Bill on National Commission on the Rights of Children for the existence of a coordinating body at national level;
- To urgently develop Provincial Commissions on the Rights of Children for the existence of provincial bodies to liaise with the national coordinating body.
- To strengthen the coordination and cooperation and information exchange among public bodies, institutions horizontally and vertically;
- To push forward the cooperation with civil society organizations, private sectors and other relevant stakeholders working on and for children's rights, especially CSEC issues.

## **2.2 Inadequate research/data on child involved in commercial sexual exploitation**

There is insufficient mechanism of collecting and processing the data of cases relating to CSEC. The major cause has to do with lack of funding and resources. Meanwhile, there persists lack of further studies regarding the root causes of the crimes, the situation of the child in falling into prey of CSEC crimes, the impacts on child victim of CSEC, the development of specific CSEC related phenomena in Pakistan (e.g. the *Bachabazi* which is a form sexual exploitation of young boys from vulnerable families by rich men).

Research and data collection in police investigation of cases is also significantly important since it will provide evidence for creating relevant laws and policies addressing CSEC.

**Recommendation:**

- To establish a system to collect and disaggregate data on children who are victims of CSEC;
- To advocate for increasing budget allocation to research, collect and analyze data on CSEC.

## **2.3 Child/Early Marriage**

Even though measures have been taken to tackle the issue of forced marriages, perpetrators often receive soft/tolerant punishment, and the practice of early and forced marriages still exists.

The definition of a girl child in the Zina and Haddood Ordinances 1979 is until 16 years or puberty.<sup>15</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

**Recommendation:**

- To strengthen the enforcement of the Child Marriages Restraint Act (1929) and amend it with adequate punishment and raising the minimum age of marriage for girls up to 18 years;<sup>16</sup>
- To strengthen the measures for punishment against perpetrators of CSEC cases

**2.4 Inadequate services for victims of CSEC**

Existing child protection and rehabilitation services are highly inadequate in Pakistan. There is also a lack of shelter or alternative care homes for child victims of abuse and CSEC. Safe shelters and crisis centers only exist in large urban areas with a limited number. Many initiatives or proposals from the Government are still pending or waiting for approval to be implemented.

The scope of NGOs' services remains too limited in comparison to the demand. Inadequate financial and human resources (trained professionals, social workers, etc.) to maintain the response system provided for child victims. Reporting channel lacks structures and procedures through which child abuse can be detected.<sup>17</sup>

**Recommendation:**

- To set up more shelters and drop-in centers or any alternative care centers for child victims of CSEC and other abuse;
- To invest in training sufficient numbers of professionals with expertise and skills to strengthen the response system and provide adequate support to child victims;
- To provide comprehensive social and psychological support to child victims of CSEC for their recovery, rehabilitation and reintegration;
- To build up suitable reporting mechanisms to keep update and detect cases on child rights violation including the institutional environment in charge of providing services to children victims of CSEC.
- To ensure that services provided within institutional environments are in line with a child protection policy.

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<sup>16</sup> Committee on the Rights of the Child (CRC), "Consideration of reports submitted by States parties under article 44 of the Convention on the Rights of the Child - Concluding Observations: Pakistan", Fifty-second session, 2009.

<sup>17</sup> ECPAT International, "Global Monitoring on the status of action against commercial sexual exploitation of children – Pakistan", 2011.