

CHILD PROTECTION SYSTEM MAPPING AND ASSESSMENT

2013

Khyber Pakhtoonkhwa

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This report was commissioned by UNICEF Islamabad Country Office as part of a Child Protection System Mapping and Assessment exercise conducted in all the provinces of Pakistan.



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EXECUTIVE SUMMARY

A child protection system constitutes of structures, functions and capacities that work together for child protection goals. It works on several levels of society, from government to community, and engages several actors, including government and civil society organizations or representatives [User's Guide: 7]. In order to assess the key risks facing children, the capacity of current structures, and the legal and policy framework relevant to child protection, a Child Protection Systems Mapping and Assessment (CPM&A) exercise was carried out in all the provinces of Pakistan with the support of UNICEF during 2012. For the purpose of CPM&A exercise, the following child protection themes were studied and analyzed : birth registration; child labor; harmful cultural practices; child marriage and discrimination; physically, sexually and psychologically abused and neglected children; children without adequate family care or alternative care; child mobility and child trafficking; commercial sexual exploitation; children and justice; and child protection in emergencies/armed conflict. The assessment will be used to plan for future services, engagement and coordination of key players, and financial and human resources required to strengthen child protection systems. A child protection system is comprised of both formal and informal actors and institutions. While this study includes a basic mapping of the informal sector, a detailed mapping of informal and community level systems was outside the scope of the study.

Global Context

Pakistan is signatory to the United Nations Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and other Protocols and Conventions protecting children from sale and prostitution, hazardous labor, and discrimination on the basis of education or disability. It is not party to the Convention Relating to the Status of Refugees.

National Context

The process of devolution has altered the political, programmatic, policy, and service context of child protection. After the 18th Amendment to the Constitution, introduced in 2010, the sole legislative and administrative authority on all matters relevant to child protection lies with the provinces.

Methodology

The CPM&A was a comprehensive process that engaged stakeholders from government, civil society and UNICEF, from November 2011-December 2012. A Provincial Steering Committee, chaired by Additional Chief Secretary Planning and Development, and comprising of Secretaries of all government departments relevant to child protection, approved and customized the CPM&A Toolkit based on the provincial context, and constituted various thematic working groups. The CPM&A Toolkit was a detailed excel-based questionnaire used to gather data on all

of the child protection thematic areas mentioned above. This report is based on data from the Toolkit, which was collected through working group meetings, key informant interviews, and secondary data sources. Findings were shared with the Steering Committee in the form of a completed Toolkit, final report, and a presentation.

Basic Provincial Data

Khyber Pakhtunkhwa (KPK) has dealt with the double burdens of natural disasters, in 2010 and 2011, and on-going violent conflict, which have negatively affected its efforts to reduce poverty and meet its targets for the Millennium Development Goals (MDGs). KPK has a population of over 25 million, half of which is under age 19. The provincial population growth rate is 2.4 per cent per year. Only 17 per cent of the population lives in urban areas. The level of poverty is striking, at almost 40 per cent of the population.

Child protection indicators further underscore the seriousness of the problems being faced by children in KPK. The birth registration rate under age 18 is only 15.7 per cent. Almost nine per cent of children between the ages 5-14 years are engaged in some form of child labor, most of whom work in the agriculture sector. Despite the fact that it is illegal, there were over 40,000 child marriages (almost all girls) in the province 2010-2011. Honor killings and the custom of exchanging girls in marriage to solve disputes between families continue, although precise data is difficult to collect. Violence against children includes injury, rape, sodomy and corporal punishment, all of which are to a small degree reported in police stations or the media.

The number of children affected by HIV/AIDS is very low (less than 200 children estimated in Pakistan), fortunately policy and programme efforts are in place to care for HIV positive children. Current figures state that 44 children have been registered as such, out of which 16 are still receiving treatment.

According to the most recent available data, six per cent of children ages 2-9 years reported some disability, such as hearing, vision, or a developmental impairment. In Pakistan, the most permanent form of family-based care for children who are orphans is guardianship. Full adoption is not possible, and there is no foster care system. 4.3 per cent of children up to age 17 in KPK are orphaned, and 3.9 per cent have only one living parent.

The minimum age for criminal liability is seven years. Most children in conflict with the law are boys. 219 children were in detention at the end of 2012.

Laws and Policies

Many national laws are applicable in KPK, e.g. the Pakistan Penal Code which addresses various thematic areas of child protection. The Juvenile Justice System Ordinance (JJSO) 2000 is the most important law that addresses processes and standards for handling criminal cases involving children. Other applicable national

laws cover child marriage, employment, birth/death registration, human trafficking, and guardianship.

Laws specific to KPK include the Khyber Pakhtunkhwa Child Protection and Welfare Act (KPCPWA) 2010, which provides a legal basis for child protection and setting up a Commission within government to oversee its related policies and activities. KPK has also made birth registration and primary education compulsory under the law, and a notification has been issued banning corporal punishment in schools. A new Borstal Institutions Act was passed in 2012 to build three facilities in three districts, with separate compartments for female juvenile offenders.

A number of laws do not directly refer to the CRC, and some violate the Convention (see Section 4) although Pakistan is a signatory to it. Such gaps in the legal instruments need to be analyzed and addressed as a policy priority. The legal status of Afghan refugee children is another area that needs to be clarified. Existing laws need to be effectively enforced, as does the ban on *jirgas* as a conflict-resolution mechanism.

There is no legislation on domestic violence. A bill that would declare domestic violence to be a penal offence has been proposed by the name of the Domestic Violence (Prevention and Protection) Bill, 2012 but it has not yet been passed in the Provincial Assembly. In areas lacking, such as a law on adoption, policy dialogue needs to start in order to develop one. This report recommends that the JJSO 2000 needs to explicitly override existing laws so as to be properly enforceable.

Formal Systems and Capacities

The Social Welfare, Special Education and Women Empowerment Department (SWD) were merged as one in 2011. As part of the KPCPWA (2010), a Child Protection and Welfare Commission (CPWC) has been set up, chaired by the Secretary for Social Welfare and having members from the Departments of Labor, Law and Parliamentary Affairs, Home and Tribal Affairs, Finance, Local Government, Election and Rural Development, Elementary and Secondary Education, Civil Society Organizations (CSOs), members of the Provincial Assembly, lawyers and *ulema* (religious scholars). The various departments coordinate on issues of child protection from this platform. The CPWC also has district level offices called Child Protection Units (CPUs) in eight districts of KPK. CPWC's mandate is to provide for the care, protection, maintenance, welfare, training, education, rehabilitation and reintegration of children at risk in the province.

The SWD runs some services that are directly relevant to child protection, such as orphanages, shelter homes for destitute children, and schools for the disabled, but these activities are not coordinated with the CPWC. To avoid duplication of efforts and maximize limited resources, the SWD must streamline its efforts to provide child protection services, and avoid setting up parallel systems.

There is a governmental Steering Committee on Child Protection chaired by the Additional Chief Secretary Planning and Development with representatives from

other relevant departments. It has established a Working Group on Birth Registration that functions under the Department of Local Government. There is a Federal Ombudsman Office and Provincial Ombudsman Office in KPK. Both have a mandate to investigate complaints against public offices, which include those that may be relevant to child protection issues. Children may file complaints, although the services are underused.

The formal system also includes some actors from the national level, such as Bait-ul-Mal, Federal Investigation Authority (FIA), National Database and Registration Authority (NADRA), Benazir Income Support Program (BISP) and the National Disaster Management Authority (NDMA). International organizations and agencies play a significant role in enhancing and improving systems, raising awareness, and providing service delivery for child protection. They also partner with provincial Non-Government Organizations (NGOs).

There are no fixed professional standards for social workers. Some CSOs conduct training based on specific issues, but they have limited outreach. At least three universities offer degrees in social work, but their curriculums need improvement. Residential care for children without adequate care does exist in both the private and public sector, yet standards are not uniform and not all facilities are registered. The Provincial Disaster Management Authority (PDMA), working under the National Disaster Risk Management Framework, takes care of child protection issues during emergencies. The SWD and the CPWC have links with PDMA for this purpose. The CPWC, as part of its mandate, states it will build a rapid-response child protection intervention capability for provincial level emergencies such as natural disasters or the outbreak of armed conflict; the strategy is not yet developed.

Department of Social Welfare, Special Education and Women Empowerment

The SWD has District Officers in each district of KPK. There are also various institutions and services being provided in the districts which are supervised by the District Officers. The Social Welfare Directorate oversees the District Officers. The subsidiary units of SWD manages the child protection institutions such as welfare homes for destitute children, and schools for disabled children.

There is no local level structure of the SWD or CPWC in place at present, ie below the district level. The CPWC plans to set up CPUs at the union council level so that outreach and access to children is increased. There is an overlap in the responsibilities/mandate of SWD and CPWC, which, if resolved, would result in saving of resources for the provincial government. CPWC plans to initiate a Certificate Course on Child Protection, and to develop Standards Operating Procedures (SOPs) for child protection services. It also plans to establish a mechanism to certify institutions/organizations involved in child protection and monitor their activities.

Children and Justice System

The judiciary plays the primary justice role in the province. The JJSO 2000 spells out the mandate of juvenile courts and procedure for cases of juvenile offenders. No judges or courts have been notified to deal with juvenile cases yet. There are no children's courts and there is no witness or victim protection program.

The mandate of the Home and Tribal Affairs Department of KPK is maintaining law and order in the province, but it does not have a specific mandate pertaining to children in conflict with the law. It does, however, have a place in the CPWC.

Systematic coordination of CPWC with the Home Department is still being established. There was a Police Child Protection Center (PCPC) in Peshawar District run by the Police Department until December 2012, which comes under the Home Department. Its mandate is counseling, rehabilitation and provision of residence to children in need, although its capacity is very limited.

The CPWC is mandated to set up a Child Protection Court and ensure that all national and international standards are met during the trial and detention of children. The CPWC thus has a role to play in identification of a child at risk of becoming a victim; the provision of shelter, legal aid and protection of victims; and referral services. The CPWC has to request the High Court to notify Session Courts as Child Protection Courts. The CPUs at the district level, in order to be effective, should establish linkages and referrals for children in conflict with the law.

Justice Process

The justice process for children in conflict with the law is coherent but there are some gaps in practice. At the stage of arrest, children are entitled to the input of a Probation Officer, which they do not receive. There is no diversion mechanism in place after pre-trial detention. There is no easy access to legal aid for children. Separation of children from adults at all stages of detention and incarceration is not practiced. At present probation is the only alternative to detention, yet there are not enough probation officers in the province. Rehabilitation services for children after detention are also inadequate.

Community, Civil Society and Continuum of Care

Corporal punishment is accepted as a norm and is prevalent in schools, households, *madrassas* and work places. Parents do not consider this to be an issue and are seldom willing to take action against it. As an outcome of poverty, there is high involvement of child labor in the agriculture sector, tobacco industry, domestic labor, brick kilns and mining industries. Early marriage of girls is another issue, which leads to increased poverty and low health status of women. Many forms of discrimination are prevalent throughout KPK, including discrimination based on gender, religion, and refugee status. Trafficking of children across the border to and from Afghanistan is another problem, as is internal trafficking. There is also drug addiction and increasing number of children forced into begging. Another worrying trend is the use of children by non-state forces in the on-going political conflict within the province and region.

Civil Society Organizations and Child Protection

There are several NGOs in KPK that are directly working in the sphere of child protection, while other organizations are indirectly relevant to child protection. These organizations constitute the formal system that contributes to the 'continuum of care' available to children. The SWD, through the services it provides to disabled, destitute, and drug addicted children also has a role in countering the negative attitudes and practices that place children at risk.

Currently the SWD is the primary agency responsible for registering and overseeing CSOs. There is no separate procedure to license CSOs and NGOs working towards child protection.

CSOs directly work on areas of child protection that include life-skills based education, post-emergency and conflict rehabilitation, child sexual abuse, HIV/AIDS, legal support and advocacy on child rights, to name a few. There is some coordination among NGOs/CSOs on child protection. For example, under the SPARC-led Child Rights Movement, after the 18th Amendment, CSOs came together to advocate on a number of different child rights issues. Media also plays a significant role in creating awareness about services for children provided by government and civil society.

Community-based organizations (CBOs), family network clans, teachers and health workers are the key players at the local level. Religious leaders/groups also have a significant influence, as do the police if called upon. Strong family structures do provide significant support to children; however, there is no way to standardize and monitor their care.

There are no specific referral mechanisms in place at the community level. Where the CPUs are functional, efforts are being made to develop a system by involving government, community members and CSOs, but this work is in a preliminary phase.

Resource Mobilization

Child protection expenditures in the province are difficult to track as there is no separate classification for child protection in budget documents. The same is true within individual departments. However, an assessment based on available data suggests that allocations that contribute to child protection are low. There is a case, therefore, for the provincial government to prioritize child welfare/protection related spending, especially since the 7th National Finance Commission award has increased the resource envelope of the province substantially.

KPK is also in the process of initiating outcome-based budgeting which will be very useful in developing the costing for a child protection strategy. Donor funding plays a significant role in providing child protection services and systems strengthening in the province. A coordinated child protection work plan needs to be prepared and funding sought on that basis. This will also reduce transaction costs for monitoring

and accountability allocations, and for introducing outcome-based budgeting for child protection.

Optimal Child Protection System

The CPWC can serve as the central institution that coordinates the optimal child protection system in the province. However, a few changes need to be introduced to the Commission in order for an optimal system to emerge. The Secretaries of the Health and Planning and Development Department should be made members of the Commission. Representatives from FIA, NADRA, Bait-ul-Mal, BISP and UNICEF should be co-opted members of the Commission to facilitate coordination between federal and provincial bodies. Under this Commission, CPUs should be set up in all districts and linked to a CP Management and Information System (CPMIS).

The government will need to increase allocations to the Commission so that it can take over the UNICEF supported CPUs and establish additional CPUs in other districts. Child Protection Committees (CPCs) should be set up at the Union Council level. A Standing Committee that oversees child protection issues and the working of the Commission should be set up in the Provincial Assembly. The CPWC may also set up and oversee Thematic Working Groups that focus on resolving specific issues in child protection. Setting up this system would require increasing staff, funding and capacity of the CPWC.

Recommendations

This section lays out action points, based on recommendations from this report, in an order of priority. Much has already been accomplished by introducing legislation and establishing the CPWC. While the challenges of developing a strong child protection system in the province may be daunting, close coordination across government departments, with civil society, and with actors at the district and community level, can reap enormous benefits in the years to come. The key recommendations discussed are:

Laws, Policies, Standards and Regulations

- All laws relevant to child protection brought into conjunction with CRC and ILO Conventions (Details regarding laws that need to be amended is provided in Section 4);
- Existing laws strictly enforced and penalties increased if needed (for example, penalties for child marriage);
- Prepare **Rules of Business of KP CPWA**;
- A law to be developed to protect IDPs;
- **JJSO** should override all other laws pertaining to children and justice;
- **Age of criminal liability** increased to at least 12 as per the CRC recommendation;
- **Age of marriage** standardized at 18 for both males and females;
- Draft legislation to prevent domestic and home-based child labor;

- Amendments to **Prevention and Control of Human Trafficking Ordinance (2002)**, to combat internal trafficking;
- Legal changes in the **Guardianship and Wards Act 1890** so that abandoned children are legally given into the guardianship of suitable persons;
- Laws to develop and regulate **foster care** systems;
- Legislation on **domestic violence** should be drafted and adopted;
- Amend PPC 89(2) which sanctions **corporal punishment**;
- Draft law for **registering birth** of children with unknown fathers;
- Enforce ban on **jirgas**;
- All child protection services should be certified by the CPWC.

Cooperation, Coordination and Collaboration

- More coordination, **data-sharing and referrals among** and within all stakeholders in the child protection system;
- All child protection institutions functioning under SWD need to be closely linked with **CPWC**;
- Cooperation among CSOs **at provincial, district and local** levels needs to be strengthened and streamlined;
- More effective means of communication and coordination need to be established among **all players in the justice process**;
- The CPMIS should be expanded to all districts and include additional modules relevant to child protection that are not currently part of the CPMIS);
- The CPWC should set up thematic issue **working groups** to tackle specific child protection issues.

Capacity Building

- **Directorate of Labor** should be given the manpower to inspect all factories in the province, and the mandate to monitor informal sector as well;
- The capacity of **Probation Department** to be strengthened in what areas
- Police, lawyers and judges need to be **sensitized and trained** on child rights issues and made aware of legal (JJSO) requirements including other laws like the KPK-CPWCA 2010;
- **Public prosecutors** and **public defenders** must be put in place;
- Develop capacity of **health workers and educators** on child protection issues.

Service and Service Delivery Mechanisms

- **CPUs** to be **expanded** to all districts of KPK and develop a mechanism for community level coordination on child protection issues that involves CSOs, advocates and key players;
- **Children's Complaint Cell** (within Ombudsmen office) must be put to optimal use by government and communities;
- A **free helpline** should be set up for children at risk. 1121 is already functional but it should be made toll free;

- **Child witness programmes** that ensure protection for children should be established;
- **Juvenile courts, Borstal Institutions** and **remand homes** need to be built to cover all the districts of KPK;
- **Legal aid services** for children in conflict with the law to be made accessible;
- **Counseling services** for children in detention;
- Strict **segregation of adults and children** during justice process;
- More **alternatives to incarceration** must be used;
- **Aftercare services** to rehabilitate children leaving juvenile jails.

Communication, Education and Mobilization for Change

- **Curriculum** of social work degree programmes should be reviewed and revised to incorporate modules on child protection;
- **Life-Skills Based Education (LSBE)** should become part of KPK primary and secondary school curriculum;
- Juvenile justice should be formally made part of **syllabus** of judicial, prison and police training institutes and Judicial Academy;
- Awareness-raising on issues of **child abuse, exploitation and trafficking**;
- **Disaster Management Authorities** should develop public awareness programs of early warning and disaster education and on different themes of child protection.

Financial Resources

- Each Department having a role and function in child protection should be provided with a **separate budget** for child protection related activities;
- Child protection fund (for CPWC) should be **adequately funded** through government or other agencies to support expansion of services;
- Expenditure tracking, based on **outcomes** should be extended to the CPWC;
- Civil society should advocate for **higher allocations** for child protection.

Accountability Mechanisms

- A **Standing Committee** should be set up in the Provincial Assembly to oversee the functioning of the CPWC;
- **SOPs** for CSOs and relevant government departments providing child protection services should be introduced;
- All resources should be allocated in a **transparent** manner, including donor resources.
- Donor funds for child protection should be **audited**, along with all other funds spent through government programs;
- Strengthen the role of the **Ombudsman**;
- All government bodies involved in child protection activities must be held to standards of accountability based on **performance**.