

Sustainable Development Goal 5: A Legislative and Policy Gap Analysis for Khyber Pakhtunkhwa



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Centre for Governance and Public Accountability (CGPA)



Sustainable Development Goal 5

Achieve gender equality and empower all women and girls.

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The views expressed in this publication are those of the author(s)—and the respondents interviewed during the research of which this report is a product—and do not necessarily represent those of the United Nations, including UNDP, or UN Member States.”

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Table of Contents

Acronyms	iv
Acknowledgements	01
Executive Summary	03
Chapter 1. Introduction and Methodology	06
Chapter 2. SDG 5.1: End all Forms of Discrimination Against all Women and Girls Everywhere	08
2.1 Relevant International Treaties/Covenants Signed by Pakistan	08
2.1.1 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)	08
2.1.2 International Convention on Elimination of All Forms of Racial Discrimination (ICERD)	08
2.2 Provisions In Constitution	08
2.3 Federal Legislative Framework	08
2.3.1 Qanun-e-Shahadat Order 1984	08
2.3.2 Citizenship Act, 1951	09
2.4 Existing Law/Policy in Khyber Pakhtunkhwa	09
2.4.1 The Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016	09
CHAPTER 3. Goal 5.2: Eliminate All Forms of Violence Against All Women and Girls	11
3.1 Relevant International Treaties/Covenants signed by Pakistan	11
3.1.1 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)	11
3.1.2 UN Convention Against Torture (UNCAT)	11
3.2 Provisions in the Constitution	11
3.3 Federal Legislative Framework	11
3.3.1 The Criminal Law (Amendment) Act 2010	11
3.3.2 The Protection Against Harassment of Women at the Workplace Act, 2010	12
3.3.3 The Prevention of Anti-Women Practices Act 2011	12
3.3.4 The Criminal Law (Amendment) Act 2011 (Prevention of Acid Crimes Incidents)	12
3.4 Existing Law/Policy Framework in KP	12
CHAPTER 4. SDG 5.3: ELIMINATE ALL HARMFUL PRACTICES, SUCH AS CHILD, EARLY AND FORCED MARRIAGE AND FEMALE GENITAL MUTILATION	14
4.1 Relevant International Treaties/Covenants Signed by Pakistan	14
4.1.1 Convention on the Rights of Child (CRC)	14
4.2 Provisions in the Constitution	14
4.3 Federal Legislative Framework	15
4.3.1 National Commission on the Rights of Child Act 2016	15
4.4 Legislative Gaps in KP	15

4.4.1	The KP Prohibition of Employment of Children Act, 2015	15
4.4.2	Juvenile Justice System Ordinance 2000	16
4.4.3	KP Compulsory Primary Education Act 1996	16
4.4.4	KP Elimination of Custom of Ghag Act 2012	16
4.4.5	Child Protection and Welfare (Amendment) Act 2016	17
Chapter 5. SDG 5.4: Recognize and Value Unpaid Care and Domestic Work		19
5.1	Federal Legislative Framework	19
5.2	Legislative Gaps In KP	19
5.3	Recommendations	19
Chapter 6. SDG 5.5: Ensure Women's Full and Effective Participation and Equal Opportunities for Leadership At All Levels Of Decision-Making in Political, Economic and Public Life		20
6.1	Provisions in Constitution	20
6.2	Federal Legislative Framework	20
6.3	Existing Law/Policy In Khyber Pakhtunkhwa	21
6.3.1	KP Appointment of Law Officers Act 2014	21
6.3.2	KP Provincial Policy on Ensuring Equal Empowerment for Women	21
6.4	Legislative Gaps In KP	21
6.4.1	KP Appointment of Law Officers Act, 2014	21
6.4.2	KP Provincial Policy on Ensuring Equal Empowerment for Women	22
Chapter 7. SDG 5.6: Ensure Universal Access to Sexual and Reproductive Health and Reproductive Rights		23
7.1	Relevant International Treaties/Covenants Signed by Pakistan	23
7.1.1	International Conference on Population and Development (ICPD) 1994	23
7.1.2	The Beijing Conference 1995	23
7.1.3	Universal Declaration of Human Rights (UDHR)	23
7.1.4	International Covenant on Economic, Social And Cultural Rights (ICESCR)	23
7.2	Federal Legislative Framework	23
7.2.1	Criminal Law (Amendment) Act 2005	23
7.3	Existing Law/Policy in Khyber Pakhtunkhwa	24
7.3.1	The Khyber Pakhtunkhwa Maternity Benefit Act, 2013 with (Amendment 2015)	24
Chapter 8. 5.a: Undertake Reforms to Give Women Equal Rights to Economic Resources, As Well As Access to Ownership and Control Over Land and other Forms of Property, Financial Services, Inheritance and Natural Resources, in Accordance with National Laws.		25
8.1	Existing Law/Policy in Khyber Pakhtunkhwa	25
8.1.1	The KP Enforcement of Women Ownership Rights Act, 2012.	25

Chapter 9.	5.b: Enhance the Use of Enabling Technology, in Particular Information and Communications Technology, to Promote the Empowerment of Women	26
9.1	Federal Legislative Framework	26
9.2	Existing Law/Policy In Khyber Pakhtunkhwa	26
9.2.1	KP Establishment of Information Technology Board/ Amendment Act, 2015	26
Chapter 10.	5.c: Adopt and Strengthen Sound Policies and Enforceable Legislation for the Promotion of Gender Equality and the Empowerment of All Women and Girls at all Levels	27
10.1	Relevant International Treaties/Conventions Signed by Pakistan	27
10.2	Provisions in the Constitution	27
10.3	Federal Legislative Framework	27
10.3.1	National Commission on Status of Women Act 2012	27
10.4	Existing Law/Policy in Khyber Pakhtunkhwa	27
10.4.1	Provincial Women Development Department (WDD)	27
10.4.2	Integrated Development Strategy 2014-18	27
10.5	Legislative Gaps in KP	28
10.5.1	Provincial Women Development Department (WDD)	28
10.5.2	Integrated Development Strategy 2014-18	28
10.5.3	Gender Reform Action Plan (GRAP)	29
ANNEXES		30
ANNEX-I	Consolidated Recommendations	30
ANNEX-II	GAP ANALYSIS IN KP LEGISLATIVE AND POLICY FRAMEWORK VIS-À-VIS SDG-5	35
ANNEX-III	MINUTES OF MEETING	40
ANNEX-IV	LIST OF PERSONS CONTACTED:	43
ANNEX-V	QUESTIONS FOR INTERVIEWS	44
ANNEX-VI	PARTICIPANT LIST OF FGD	46

Acronyms

CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
CRC	Convention on Rights of Child
DDA	Drawing and Disbursement Authority
FATA	Federally Administered Tribal Area
GRAP	Gender Reform Action Plan
ICERD	International Convention on Elimination of all forms of Racial Discrimination
ICCPR	International Convention on Civil & Political Rights
ICESR	International Covenant on Economic
ICPD	International Conference on Population Development
IDS	Integrated Development Strategy
JJSO	Juvenile Justice System Ordinance
KP	Khyber Pakhtunkhwa
PCSW	Provincial Commission on Status of Women
PSCA	Punjab Safe Cities Authority
PPC	Pakistan Penal Code
UDHR	Universal Declaration on Human Rights
UNCAT	United Nation Convention Against Torture
WDD	Women Development Department

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Executive Summary

This report assesses the responsiveness of the legislative and policy framework of Khyber Pakhtunkhwa province of Pakistan to the Sustainable Development Goals (SDG) 5. The Goal-5 aims at achieving gender equality and empowering all women and girls. The report deals with all 6 targets of SDG-5, mentioning relevant international treaties, constitutional provisions, federal and provincial laws, identifying gaps and recommendations for effective legislative and policy framework in Khyber Pakhtunkhwa (KP) vis-à-vis SDG-5.

The report covers 10 chapters, each dedicated to a target under the Goal-5. Chapter 1 is about introduction and elaborates upon the SDG 5 and its Targets. Chapter 2 deals with Target 5.1. The Target focuses on ending all forms of discrimination against women. The KP's Provincial Commission on Status of Women (PCSW) has to play a pivotal role for achieving the Goal-5. However, the PCSW remains dysfunctional due to the fact that the previous governing legislation PCSW Act, 2009 was weak law with some inherent deficiencies like insufficient autonomy of the commission and lack of financial powers of the chairperson coinciding with the Secretary of the Commission, instigated to amend the 2009 legislation with new one in 2016. Despite the new legislation on the Provincial Commission, the new setup under the legislation is yet to kick start for effective monitoring and recommending on the status of women in KP. For achieving the Goal-5, this report strongly recommends that the commission be made functional and Drawing and Disbursement Authority (DDA) be given to the Chairperson of the Commission to make it more autonomous. Moreover, the role of women members of KP Assembly in the Commission should be reduced and instead the focus should be on having more experts related to the field. It is because of the fact that, the assembly members having a political background would be, under a compulsion of social debt in return to their respective parties who further down the line are indebted to the voters or their supporters, to oblige a section of society who may be naïve about or insensitive to the equal/equitable status of women in the province. To support the legislative work Commission should be supported by "Legislative Cell" for which necessary amendments should be made in the new legislation.

Under Chapter 3, legislative and policy gaps related to Target 5.2 have been, discussed. The target focuses on ending all kinds of violence and exploitation against women. The international treaties Pakistan ratified include the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) which are directly related to Target 5.2. The Constitution of Pakistan, 1973 Article 11 provides against human trafficking, forced labor and hazardous employment. Art. 9 provides, that no person shall be deprived of life or liberty save in accordance with law. Article 14 ensures the dignity of man and, subject to law, the privacy of home, shall be inviolable. However, there has been no Legislation in KP in this regard and most of the fulfillment of target 5.2 is, left to the KP PCSW. In light of this it is recommended that the Commission be made fully functional at its earliest and a provincial ombudsperson be appointed. In addition, that provincial government focuses on pending bills that include Domestic Violence Bill, Provincial legislation on Acid and Burns and Prevention and Control of Internal Trafficking of Women Bill.

Chapter 4 deals with Target 5.3, which aims to end harmful practices such as child and forced marriages and genital mutilation. At international level, the Convention on Rights of Child deals with the matter. Constitution of Pakistan ensures achievement of target 5.3 in Articles 25-A, 11, 37(e). While there are couple of legislations pertaining to Target 5.3 in KP, all of them have inherent lacunas, especially, lack of relevant rules, which have not been, notified under respective Legislations and comprehensive implementation mechanisms, which make them incapable of attaining the desired results, for which these laws have been, enacted. It has been, recommended that under KP Prohibition of Employment of Children Act, 2015 fully functional Inspectors, who

have pivotal role to ensure that no organization should employ children under age of 12 years. Rules to determine powers of these inspectors should also be notified under the law. Similarly, Schedules attached to the legislation lack the occupations as well as different process such as children working in Auto workshops should also be amended. As far as JJSO 2000 is concerned, Legal Aid must be provided to the accused juvenile under the Act, Juvenile Courts must be notified as a long time has passed and there seems to be no progress on that issue. The law must be amended in order to add provision to safeguard Juveniles from death penalty. Child Protection and Welfare Act is quite a recent legislation, however, there are some deficiencies such as official members in the Protection Commission are more as compared to experts on the subject and civil society representatives. Moreover, the Commission is not holding quarterly meetings. Under the Act, Child Protection Courts have not been established. It is recommended that certain clauses in the Act needs to be amended such as official members must be decreased and experts and civil society members should be more in the protection commission. The commission must hold quarterly meetings as they are not holding the meetings as mentioned under the Act. It is also suggested that the Commission should be mandated to publish its annual reports and there must be some kind of sanction if this is not done on time. Child Protection Courts should be established with immediate effect. Moreover, it is recommended that KP must introduce new legislation on Child Marriage Restraint Act in line with Punjab and Sindh provinces.

Chapter 5 explains Target 5.4. The target deals with the unpaid domestic care and social securities provided to women in exchange. There are neither specific articles in the constitution nor any federal legislation in this regard. KP has left this target to the mercy of PCSW, while Punjab and Sindh have specifically dealt with this by means of Domestic Workers Bill and Policy of Development & Empowerment of Women respectively. Thus for achievement of target 5.4 it is recommended that KP must enact legislation to protect domestic workers' rights.

Chapter 6 deals with Target 5.5 which, concerns women's effective participation in leadership and decision-making. Articles 25, 26, 32 and 34 of the constitution deal with this. While there are no federal laws specifically on this subject, KP deals with these by laws like KP Employment of Law Officers Act and Women Employment Policy. Both these instruments have some deficiencies. KP Employment of Law Officers Act does not specifically provide any provision whereby women applicants are encouraged to apply. Similarly, Women Employment Policy lacks the implementation mechanism which, ensures equal participation of women in all walks of life including public sector enterprises. It is recommended that Employment of Law Officers Act should be amended and women participation must be ensured in this noble profession. In order to translate policy declaration on Women Employment, into reality it is also recommended that a comprehensive Legislation should be introduced at provincial level to amend all the laws to the extent which would ensure women participation in all walks of life in order to achieve target 5.5.

Chapter 7 discusses Target 5.6 which focuses on sexual health and reproductive rights. Conventions like UDHR, ICESCR, and ICPD are effective in this matter. While there are proposed legislations at federal level, the only legislation that KP has done in this regard is the Maternity Benefit Act, 2013. However, under the Act penalties for not complying with the law are nominal which as per the recommendations needs to be increased in order to protect expected mothers. It is also recommended that cognizance of the offences should be given to the Civil Courts under the Act. In order to make more women aware of their rights under the Act it is recommended that mechanisms must be established for the awareness campaigns. Moreover, a comprehensive legislation on Reproductive, Maternal, Neo-Natal and Child Health should be enacted in KP to protect reproductive rights of Women under the target.

Chapter 8 deals with Target 5a which talks about undertaking reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws. There is no specific legislation on these

issues in KP and there is a dire need to legislate to protect minority rights in KP in order to achieve this target.

Chapter 9 deals with Target 5b 'to enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women'. The relevant legislation in this regard in KP is KP Establishment of Information Technology Board/ Amendment Act, 2015. This Act was made to provide for the establishment of the Khyber Pakhtunkhwa Information Technology Board for promotion of the information technology, Information Technology enabled services and Information Technology enabled education for private sector of the Province of the KP. To improve upon this legislation and to bring about necessary changes in respect to the target, it is recommended that the composition of the board should be changed to the extent that ensures at least two women. Moreover, Mobile App should be launched throughout KP in order to protect women from violence and harassment cases and encourage them to use technology.

Chapter 10 deals with target 5c 'to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels'. Under this target it has been recommended that Women Development Departments should be made independent as currently in KP they are functioning under KP Social Welfare and Special Education. Capacity of the current staff is not sufficient to meet the requirement and to achieve the target. Gender segregated data should be developed on all development indicators so that goals set under Integrated Development Strategy (IDS) could be reported with gender sensitive data. It is also recommended that KP government should implement Gender Reform Action Plan in true letter and spirit.

Chapter 1. Introduction and Methodology

While the SDGs seek to change the course of the 21st century, addressing key challenges such as poverty, inequality, and violence against women, the goal five aims to achieve gender equality and women empowerment.

Gender inequality is deeply ingrained in Pakistani society. Pakistan is ranked as the second worst country in the world for gender inequality, as per the World Economic Forum's Gender Gap Report 2016.¹ According to the Aurat Foundation Report, 10,139 cases of violence against women were reported in 2014 in Pakistan, of which 736 cases were from KP. In Pakistan, the female literacy rate is 49% compared to 70% for male.² The maternal mortality rate is one of the highest in Pakistan. The strong patriarchal structure in Pakistan serves to control women's sexuality and mobility in public domain. The issue of the gender-based violence becomes exacerbated in the cultural norms that legitimize violence against women.

Pakistan has heavy legislation concerning women. There are some discriminatory laws, and even those laws, which are enacted for ensuring women's equality and equal access to resources, are not fully implemented.

After the 18th constitutional amendment, Social Welfare and Women Development (SWWD) department has been devolved from the federal to the provincial governments. The total development budget allocated for women development in fiscal year 2016-17 is only Rs73 million. Major projects for women development are related to 'Dastakari (crafts) Centres' and 'Darul Amaans' protection centres.

There have been some efforts to introduce legislation for combating domestic violence against women but the KP government sent the draft to Council of Islamic

Goal 5: Gender Equality and Women's Empowerment

Target 5.1

End all forms of discrimination against all women and girls everywhere

5.2

Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

5.3

Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation

5.4

Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate

5.5

Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

5.6

Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

5.a

Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws

1. <http://reports.weforum.org/global-gender-gap-report-2016/>

2. http://www.finance.gov.pk/survey/chapters_16/10_Education.pdf

Ideology, which was termed un-Islamic. The revised draft bill is yet to be submitted.

This study has been carried out through desk review of all existing laws related to women in K-P and at federal level have been reviewed. One consultative seminar was also held in Peshawar for finalization of recommendations. The research team also held ten in-depth interviews with representatives of different government departments, civil society, journalists and academia.

Moreover, findings of this report was shared among the stakeholders and relevant government departments in an interactive session held in Peshawar³ and recommendations were incorporated to make this report substantive.

5.b

Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women

5.c

Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

3. Stakeholder's Workshop on Legislative Gaps on SDG 4&5, held in PC Peshawar October 10, 2017

Chapter 2. Target 5.1: End all Forms of Discrimination Against All Women and Girls Everywhere

2.1 Relevant International Treaties/Covenants signed by Pakistan

2.1.1 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)

Among the international human rights treaties, (CEDAW)⁴ takes an important place in ensuring equal treatment of women in all spheres of life. The Convention, which is the basic international legal framework for human rights of women, was adopted 20 years ago, on 18th December 1979 and acceded to on 12th March 1996 by Pakistan. The Convention sets legally binding obligations to the States parties and sets the international standard for what is meant by equality between men and women.

2.1.2 International Convention on Civil & Political Rights (ICCPR)

The ICCPR was ratified by Pakistan on June 23, 2010. The ICCPR recognizes the inherent dignity of each individual and undertakes to promote conditions within states to allow the enjoyment of civil and political rights. Countries that have ratified the Covenant are obligated to protect and preserve basic human rights, and are compelled to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy.

2.2 Provisions in Constitution

The Constitution of Pakistan while guaranteeing fundamental rights ensures equal protection of law regardless of gender. These fundamental rights include:

- Article 4 – Right to be dealt in accordance with law
- Article 9 – Security of person
- Article 10-A – Right to fair trial
- Article 14 – Inviolability of dignity of man
- Article 23 & 24 – Property rights
- Article 25A – Right to education

2.3 Federal Legislative Framework

2.3.1 Qanun-e-Shahadat Order 1984

The Qanun-e-Shahadat Order i.e. Law of Evidence makes a woman's testimony half as of a man's.⁵ The law, in particular section 17, challenges Pakistan's commitment towards ending gender discrimination, particularly in relation to target 5.1 of SDG 5.

4. Ratified by Pakistan on 6th February 1996

5. Article 17. Competence and number of witnesses.

1) The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the injunctions of Islam as laid down in the Holy Quran and Sunnah.

2) Unless otherwise provided in any law relating to the enforcement of Hudood or any other special law,

a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women, so that one may remind the other, if necessary, and evidence shall be led accordingly; and

b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman or such other evidence as the circumstances of the case may warrant.

Recommendation: Section 17 of the law should be amended to give equal weightage to testimony of men and women.

2.3.2 Citizenship Act, 1951

The Pakistan Citizenship Act 1951 enabled women's children to acquire nationality of Pakistan. Under Section 10(2) of this, any non-Pakistani man cannot acquire citizenship of Pakistan if he marries to a Pakistani woman.

Recommendation: This law needs to be amended for equal treatment of men and women.

2.3.3 The Offence of Zina (Enforcement of Hudood) Ordinance, 1979

Pakistan's notorious Hudood Ordinances were promulgated in 1979 by the military regime of General Ziaul Haq. The most controversial of these are the laws pertaining to sexual offences, i.e. the Zina Ordinances. The law created distinct categories of sexual offences and assigned punishments for each:

The introduction of these laws resulted in the offences of rape and adultery in the Pakistan Penal Code (PPC) to be repealed as they were substituted by these offences. The primary distinction between the hadd and tazir offenses is that the hadd offences require a higher standard of proof than is needed in tazir as the Islamic punishments are more severe.

For example, under the Zina Ordinance, zina was liable to a hadd penalty if the accused confessed before the trial court or if there were four adult Muslim male witnesses who met an Islamic test of probity, i.e. tazkiyah al shuhood, who testified to being eyewitnesses. The hadd punishment given to such an adulterer was stoning to death while the penalty for a fornicator was public whipping of 100 lashes. However, if the evidence requirement for zina liable to hadd is not met but the crime is proven beyond a reasonable doubt then the tazir punishment of imprisonment for up to ten years can be given. Rape, now referred to as zina-bil-jabr, was similarly made liable to either the hadd or the tazir penalty depending on the type of proof available.

This law was considered intrinsically misogynistic since its application resulted in women being convicted of adultery/fornication if they reported a case of rape, as their report was treated as a confession. Furthermore, in addition to other problems created by these laws, their judicial application also made it easier to get away with crimes against women such as honour killings and general degradation and humiliation of women in society.

Recommendations: Section 5(1) (a) should be amended to the extent that it must include minor girl as Zina with her is also Zina-Bil-Jabr.

Section 8(b) should be amended and women should be made eligible to become competent witness.

2.4 Existing Law/Policy in Khyber Pakhtunkhwa

2.4.1 The Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016⁶

At provincial level, the KP Provincial Commission on Status of Women (PCSW) has overarching role to ensure legislative/policy framework for empowering women. The PCSW was established under KP Provincial Commission on Status of Women Act 2009. The Commission worked significantly well and introduced some important women oriented bills in KP. This Act obliges the provincial government to establish a commission on

6. THE KHYBER PAKHTUNKHWA COMMISSION ON THE STATUS OF WOMEN ACT, 2016. (KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2016) [First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 3rd November, 2016]

the status of women at provincial level and district committees on the status of women in each district of KP. Under Section 8(b) The commission shall: "Review all provincial laws, rules and regulations affecting the status and rights of women and suggest repeal, amendments or new legislations essential to eliminate discrimination, safeguard and promote the interests of women and achieve gender equality in accordance with the Constitution of the Islamic Republic of Pakistan and obligations under International Covenants and commitments". However, due to some inherent deficiencies like insufficient autonomy of the commission and lack of financial powers of the chairperson coinciding with the Secretary of the Commission, instigated to amend the 2009 legislation with new one in 2016. The Commission remained dysfunctional for last couple of months and due to that reason some important legislations remained pending in the provincial assembly of KP.

The Provincial Commission on Status of Women Act 2016 was enacted to reconstitute and reorganize the PCSW in KP and to give it an autonomous status for effective and improved performance, efficiency and for it to become responsive to provide effective services for promoting women rights and eliminate all forms of discrimination against women and for matters connected therewith and ancillary thereto.

The new legislation is a better version of the law. However, it still does not give Principle Accounting Officer (PAO) authority to the Chairperson of the Commission. Section 7 (3) empowers secretary of the commission as the principal accounting officer of the Commission as well as of the District Committees.

Under Section 9 of the Act, an executive committee has to be constituted to oversee the implementation upon the decisions and recommendations taken by the Commission. Powers, selection criteria and mechanism of oversight have not been mentioned in the law, making this committee less effective. Moreover, in order to make the Commission more effective to assess the legislation and policies mentioned under Section 8 of the law, there is a dire need to have a strong and supportive "Legislative Cell" within the Commission having highly qualified and professionally trained staff. The inherent functions of the Commission such as review of current Legislations and introducing amendments to ensure empowerment and equality of Women seems to be a far cry. Research for this report revealed that for the short time when this Commission initially started off, has actually failed to perform these functions and not even a single law has been reviewed to make it coherent with the required international commitment. Similarly, on the side of introducing Women protection Legislation, the only Bill to ensure women protection is pending since long and waiting for its fate to be decided by KP Assembly. other These steps will not only help the commission to perform it's responsibilities but will also help in realizing their responsibility towards fulfilling International Commitments such as SDG 5.

Recommendations

There is a dire need to make the Commission operational with appointment of a Chairperson, appointment of members and allocating sufficient resources for operations. In KP, the implementation of SDG-5 mainly depends on the effectiveness of the PCSW.

In order to provide Chairperson of the Commission more financial autonomy, it is suggested that Section 7 should be amended and principle accounting officer authority should be given to chairperson of the commission.

To make the executive committee stronger, authoritative and influential, it is suggested that clear powers and selection criteria for 3 members of the executive committee should be mentioned in the Act. For this purpose, either Section 9, should be amended or new clause should be added accordingly.

Section 8 should be amended and provision of having a "Legislative Cell" should be incorporated in the Act.

Chapter 3. Target 5.2: Eliminate all Forms of Violence Against All Women and Girls

3.1 Relevant International Treaties/Covenants signed by Pakistan

3.1.1 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)

The 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) does not explicitly mention violence against women and girls, but General Recommendations 12 and 19 clarify that the Convention includes violence against women and makes detailed recommendations to State parties.

Trafficking is of serious concern to CEDAW, as nearly 80% of trafficking victims are women and girls. CEDAW is at the forefront of combating Trafficking In Persons through Article 6 of the Convention, which requires State Parties to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”.

3.1.2 UN Convention Against Torture (UNCAT)

The Convention is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. The Convention requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.

3.2 Provisions in the Constitution

- Article 11 of the Constitution of Pakistan provides against human trafficking, forced labour and hazardous employment.
- Art. 9 provides, that no person shall be deprived of life or liberty save in accordance with law.
- Article 14 ensures the dignity of man and, subject to law, the privacy of home, shall be inviolable.

3.3 Federal Legislative framework

3.3.1 The Criminal Law (Amendment) Act 2010

This Act has introduced an amendment in S 509⁷ of Pakistan Penal Code (PPC) and lays down a punishment of three years along with fine of five thousand rupees for offence of sexual harassment. Currently as the amendment stands, it only provides the punishment of a crime, however, complete mechanism for dealing with such cases is provided in separate Legislation in the form of Protection Against Harassment of Women at Workplace Act, 2010 (discussed under the separate heading below).

Recommendation: Provision should also be included in the law to look into the enforcement of this Act in letter and spirit in all provinces.

7. 509 Insulting modesty or causing sexual harassment

3.3.2 The Protection against Harassment of Women at the Workplace Act, 2010

Under the law, sexual harassment at the workplace is a civil as well as a criminal offence. The Protection Against Harassment of Women at the Workplace Act (2010) lays down a framework of civil remedies. Section 509 of the Pakistan Penal Code, following amendments in 2009, classifies sexual harassment in the workplace as a crime. The Act also bounds Provincial Governments to provide Ombudsperson, who would exclusively deal with harassment cases.

Recommendation: Act is a reasonable piece of legislation. However, the federal government must focus on the implementation aspect of this in order to protect women from harassment.

3.3.3 The Prevention of Anti-Women Practices Act 2011

Amendments in P.P.C have been introduced for prohibition against forced marriages, marriages with Quran, depriving a female from inheritance and giving away female in vani or swara in section 2 of the act.⁸ Moreover, provincial government shall not suspend, remit or commute punishment awarded in rape cases. Punishment for the above offences ranges from maximum of 10 and 7 years to the minimum of 5 to 3 years. The amount of the fine ranges from Rs one million to Rs five hundred thousand.

Recommendation: The legislation should be implemented in true letter and spirit

3.3.4 The Criminal Law (Amendment) Act 2011 (Prevention of Acid crimes incidents)

Amendment in S 332⁹ & 336¹⁰ of P.P.C while making act of Acid throwing an offence punishable with life imprisonment and fine of one million rupees. The amendment in its current state is only oriented towards crime and its punishment. From victims perspective it is completely silent and does not offer any mechanism to deal with issues such as: Compensation and rehabilitation of the victims.

Recommendation: It is recommended that the federal government should introduce a comprehensive legislation on the subject in order to curb this menace against women And would ensure some sort of relief for the victim under this offence.

3.4 Existing Law/Policy Framework in KP

Despite the 18th amendment devolving the subject of social welfare and women development to the provinces we do not see much done for the achievement of target 5.2, that focuses on ending violence against women and combating ills like human trafficking and other forms of exploitations in KP. On the contrary, during research for this report, it has been observed that there has been an effort at the federal level to amend anti-humanitarian laws, that remain to be violative of human rights, constitutional guarantees and to some extent, also, against injunctions of Islam.

8. 2. Substitution of section 310-A, Act XLV of 1860. - In the Pakistan Penal Code (Act XLV of 1860), in Chapter XV, for section 310A

9. 332. Hurt: (1) Whoever causes pain, harm, disease, infirmity or injury to any person or impairs, disables or dismembers any organ of the body or part thereof of any person without causing his death, is said to cause hurt.

(2) The following are the kinds of hurt: (a) Itlaf-i-udw (b) itlaf-i-salahiyyat-i-udw (c) shajjah (d) jurh and (e) all kinds of other hurts.

10. 336. Punishment for itlaf-i-salahiyyat-i-udw : Whoever, by doing any act with the intention of causing hurt to any person, or with the knowledge that he is likely to cause hurt to any person, causes itlaf-i-salahiyyat-i-udw of any person, shall, in consultation with the authorised medical officer, be punished with qisas and if the qisas is not executable, keeping in view the principles of equality in accordance with the Injunctions of Islam, the offender shall be liable to arsh and may also be punished with imprisonment of either description for a term which may extend to ten years as taz'ir.

While the harassment at workplace law¹¹ was passed in the National Assembly in 2010, no such bill has yet been passed at the provincial level in KP. This bill is indeed substantive in achievement of target 5.2, which particularly talks about ending all forms of violence and exploitive actions against women. However no ombudsperson has been appointment till date though mandated by the law. The Deputy Speaker mentioned during the FGD that the government has been looking for a female ombudsperson and since it was difficult to find a competent enough woman, the post still remains vacant. Already 7 years have passed; mystery remains hovering around that, how long would the provincial government wait for finding an appropriate person while there remains no forum to address such issues. Moreover, the unavailability of a suitable female is in itself a testament of how underprivileged women remain to be in KP.

Whereas, the Commission on Status of Women chairperson noted that the ratio of domestic violence is very high in KP as compared to other provinces,¹² the domestic violence bill remains rejected by the Council for Islamic Ideology (CII). This denotes, lack of political will at part of the provincial government to combat violence against women and fulfillment of SDG 5, in particular target 5.2 as no other law has ever been sent to the CII for review except this one. While the KP law remains rejected, Punjab Assembly already passed a much stricter law in 2016¹³ setting the precedent to enact laws for women protection at provincial level.

As far as Anti Human trafficking Laws are concerned under this target a Bill on "Prevention and Control on Internal Women Trafficking: is still waiting its fate to be decided by the KP Government. Similar is the fate of Bill on KP legislation on Acid & Burn Control.

In addition to the above, laws such as; The Prevention of Anti-Women Practices Act, 2011, Smuggling of Migrants Bill, 2016 (Senate), Trafficking in Persons Bill, 2016 (Senate), and The Acid Control and Acid Crime Prevention Act, 2011 in Punjab, remains relevant to the achievement under target 5.2. Focusing particularly on violence and trafficking all these laws either have passed or are under discussion at federal level or in Punjab, while there have been no legislation in this regard in KP.

Recommendations

Taking into consideration the current dismal situation on achieving target 5.2 in KP following steps need to be taken:

1. Immediately appoint Provincial Ombudsperson under Protection Against Harassment of Women at Workplace Act, 2010
2. KP Government must focus on the following pending legislations which are waiting to see the light of the day in KP for quite long:
 - a. Prevention of Domestic Violence Bill
 - b. Prevention and Control of Internal Women Trafficking Bill
 - c. Provincial Legislation on Acid and Burns

11. The Protection against Harassment of Women at the workplace Act, 2010,

12. Ms. Neelum, Chairperson KP Commission on Status of Women

13. THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT 2016 (Act XVI of 2016)

Chapter 4. Target 5.3: Eliminate all Harmful Practices, Such As Child, Early and Forced Marriage and Female Genital Mutilation

4.1 Relevant International Treaties/Covenants Signed by Pakistan

4.1.1 Convention on the Rights of Child (CRC)

The convention spells out the basic human rights that children everywhere have: The right to survival; to develop to the fullest; protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care; education; and legal, civil and social services.¹⁴

Pakistan ratified the Convention on the Rights of the Child on 12 November 1990. By agreeing to undertake the obligations of the Convention national governments have committed themselves to protecting and ensuring children's rights and they have agreed to hold themselves accountable for this commitment before the international community. State parties to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.¹⁵

4.2 Provisions in the Constitution

Article 9 provides that No person shall be deprived of life or liberty save in accordance with law.

Article 11 of the Constitution of Islamic Republic of Pakistan provides as follows:

- a) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.
- b) All forms of forced labor and traffic in human beings are prohibited.
- c) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

Article 25 (3) – Provides that “Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Article 25 – A provides as follows: The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.

Article 37 (e) obligates the State to make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

14. https://www.unicef.org/pakistan/media_6667.html accessed 19th January 2017

15. https://www.unicef.org/pakistan/media_6667.html accessed 19th January 2017

4.3 Federal Legislative framework

4.3.1 National Commission on the Rights of Child Act, 2016

The National Assembly on February 2, 2017 passed the National Commission on the Rights of the Child Bill, 2016 aimed at setting up an independent commission to monitor, protect and promote the rights of the child. The law in section 2(b) defines the age of child as below 18 years.

Recommendation: This legislation has been passed quite recently by the National Assembly. Federal government must ensure that this law is fully implemented in the years to come.

4.4 Legislative Gaps in KP

4.4.1 The KP Prohibition of Employment of Children Act, 2015

KP Government aims to prohibit employment of children and adolescents as an attempt to improve the conditions of children in the province and therefore enacted this law. Section 2(i) Defines the Inspector and under Section 17 provincial government is supposed to notify the Inspectors who under the Act has powers to take action and impose penalties if the occupier¹⁶ who employs workers is found to be violating any clause under the Act.

Similarly, under Section 5 government has to form a Committee on Child Labour and further under Section 5 (2) notify Powers and Rules for the Committee.

Under Section 12 it is mandatory for all the establishments to display all the relevant information mentioned under the law especially about the details of adolescents and their working hours.

Under Section 13 Provincial Government must notify Rules on Health and Safety.

Under Schedule Part I of the Law, Occupation scope is very limited and confined only to Railway station and ports. Whereas under Section 4 Government can mention more occupations to make it more comprehensive.

Moreover, Part II of the Schedule contains the list of processes but has left the two main processes of Auto Workshops and Hotels in which most of the adolescents are employed.

Recommendations: To make the law fully functional following are the recommendations:

- Section 2(i) Inspectors should be notified with immediate effect
- Section 5(2) Rules and Powers of the Inspectors should be notified
- Section 13 Rules on Health and Safety should be notified
- Schedule Part I should be amended to include more occupations to be covered under the law
- Schedule Part II should be amended to include Auto workshops and Hotels including road side dhabas should be added.

16. Sec 2(i) "occupier" in relation to an establishment, means the person who employs workers either directly or indirectly and includes--
i) In case of an individual, any heir, successor, administrator or assignee; and
ii) A person who has the overall control over the affairs of the establishment by whatever name he is called;

4.4.2 Juvenile Justice System Ordinance, 2000

Under Section 3 of the Ordinance, every child who is accused under this Act is supposed to get Legal Aid from the government. However, our research suggests that government has failed to provide any kind of legal aid which it is supposed to provide under the Act.

Under Section 4, Government was supposed to establish Juvenile Courts but it has become a far cry for the children convicted under this law as not a single court has been notified as yet.

Moreover, under Section 10 under Arrest and Bail it is mandatory upon the arresting authority to inform the guardian of the accused but research suggests that it is not done as informing the guardian is not time bound and left over to be decided by the arrester as to when the guardian should be informed.

Under Section 24 of the Protection of Pakistan Act, 2014 which has an overriding effect on all other laws including JJSO 2000, after lifting moratorium on death penalty, there is all likelihood that juveniles would also be awarded death penalty. Necessary changes have not been made under JJSO to exempt children from imposition of death penalty under Protection of Pakistan Act, 2014.

Recommendations: To make the law fully functional following are the recommendations

- Under Section 3 Legal Aid must be provided to the accused juvenile
- Under Section 4 Juvenile Courts should be established
- Section 10 should be amended as to incorporate time line of 24 hours with in which guardian of the accused should be informed of any arrest made under the law.
- Clause should be added in the law to protect juveniles from the death penalty which could be imposed under Section 24 of the Protection of Pakistan Act, 2014.

4.4.3 KPElimination of Custom of Ghag Act, 2012

The law is a good piece of legislation to curb the menace of unlawfully declaring women for marriage. However, on the implementation side there is no mechanism defined how it could be made operational. A women or her family who is already under the influence of this long standing custom cannot approach legal forum unless some other supporting mechanism is defined under the law.

Recommendations: In absence of implementation mechanism, the law has become just a toothless piece of legislation achieving no results. It is recommended that provisions should be added to introduce the role of Provincial Commission on Status of Women to come up with such a mechanism, which could facilitate the women who becomes victim of any violation under this law.

4.4.4 Child Protection and Welfare (Amendment) Act, 2016

Although the Act is a comprehensive piece of legislation however, there remain lot of gaps in order to implement it in letter and spirit thus could not achieve the intended outcome of protecting children in KP. Under Section 3 of the law, number of official members outnumbers the non-official members which include members from civil society and area experts. During the interview sessions with child right activists,¹⁷ it was highlighted that government's preference is to include MPAs as members leaving no space for experts on the subject to be part of the Child Protection Commission.

17. Mr. Arshad Mehmood, Child Rights Activist & Mr. Imran Takar Human Rights Activist.

Under Section 3(8), the Commission is supposed to hold quarterly meetings. However, the commission has been continuously missing on the time line leaving gaps in the efficacy of the commission. Under Section 4(j) Commission is empowered to acquire and mobilize funds for child welfare, protection and rights. However, due to non-serious attitude towards the issue the commission constantly faced financial crunch.

Section 7 of the Act makes it mandatory upon the Chief Protection Officer appointed by the government to prepare annual report on the performance. However, no such report has been prepared till date, to be submitted to the Provincial Assembly who could deliberate upon the issues of Child Welfare and Protection.

Under Section 9, the government is supposed to establish Child Protection Units in all 25 Districts of the province. However, due to governments non-serious attitude towards the issue only 12 of these units so far have been established. Out of these 12 units 11 are still being funded by the donor organizations as no budget allocation has been made for these except one in Peshawar. Government of KP is allocating only 10 Million rupees per year for this purpose whereas the child rights experts observed that at least 100 Million per year is required to establish and run CPU's throughout KP.

Under Section 15 Government was supposed to establish Child Protection courts which have not been established as yet.

Recommendations: In order to make this law more functional and to achieve the target, following are the recommendations:

- Section 3 should be amended to increase the number of non official member and also include the experts on the subject
- Section 3(8) should be amended and it should be made mandatory to hold quarterly meetings and some sanctions should be imposed if it is not complied
- Section 4(j) Should be amended to the extent that members of the commission should continuously work during the year to secure funding to implement this law.
- Section 7 should be amended as to make mandatory upon the government to publish annual report and some sanction should be imposed on non compliance of the provision
- Under Section 9 More Protection, units must be established in the remaining districts of KP and some time line should be mentioned in the Law so that it could be achieved on time.
- Under Section 15 Child Protection Courts should be established and time line must be provided for achieving this.

4.4.5 Child Marriage and Restraint Act, 1929

The only legislation on child marriages in KP is the Child Marriage Restraint Act 1929, which originally stated that a girl was of marriageable age when she turned 14. After the Muslim Family Laws Ordinance, 1961 (VIII) was promulgated, the age was raised to 16 years. Since the 18th amendment, provinces have become responsible for drafting their own laws on child marriage, while the Child Marriage Restraint Act 1929 remains in place in federal territory.

The Sindh government was the first to legislate on child marriage, passing the Sindh Child Marriages Restraint Act in 2013. Punjab followed two years later with the Punjab Marriage Restraint (Amendment) Act 2015.

The 1929 Act served as a starting point for much of the legislation that has followed in KP. The marriageable age for girls in the 1929 act is 16, and 18 for boys. According to the act, the offence is non-cognizable. In non-

cognizable offenses, the police cannot arrest a suspect without the court's permission. This means that the police are not empowered to act against child marriage even if they are made aware of a case. Moreover, Family courts could only take cognisance of the offence based on a complaint by the union council, or, "an authority the provincial government may prescribe". However, no cognisance can be taken "after the expiry of one year from the date on which the offence was alleged to have been committed".

Recommendation: For achieving target 5.3 Provincial Government of KP has still not legislated on the issue of child marriages and forced marriage thus left a huge gap in ensuring the protection of child rights. It is even in violation of the international commitments made by Pakistan. There is need to have this legislation. To achieve this, KP can follow the example of Punjab and Sindh where Child Marriage Restraint Acts has been enacted in 2013 and 2015 respectively.

Chapter 5. Target 5.4: Recognize and value unpaid care and domestic work

5.1 Federal legislative framework

Currently there exists no Federal Legislation on the subject. However, Senate of Pakistan on March 7, 2015 passed The Domestic Workers (Employment Rights Bill, 2015).

The bill reads that every worker shall enter into a written contract with his employer in regard to the terms and conditions of the employment. The employment contract would include specific terms and conditions related to matters such as hours of work, specific nature of work, wages, leave, food, accommodation, suspension, termination, disciplinary proceedings, dispute settlement and healthcare.

Moreover, a female worker would be entitled to maternity benefits with a minimum amount equivalent to three months salary. Every worker shall be entitled to health and medical care, employment injury benefits, group insurance, housing, gratuity, bonus and pension benefits, which shall be paid through the Domestic Workers Welfare Fund, the bill aims to ensure.¹⁸

All of the above concerns, if fulfilled will lead us closer towards the achievement of target 5.4.

However, this Bill once passed by the National Assembly will be only applicable to Islamabad, since after the 18th amendment social welfare is a provincial subject. And while we see some positive steps taken by the federal government, nothing has come into existence within the KP.

Recommendation: Federal government must pass the Bill already approved and passed by the Senate of Pakistan.

5.2 Legislative Gaps in KP

In Pakistan as a whole and in KP specifically, there is no legislation promoting shared responsibility or recognizing unpaid domestic work. As after the 18th amendment, social welfare and women development have become provincial issues, and while the scope of the provincial commission remains promotion and protection of women rights, it is imperative for achievement of SDG 5, and target 5.4 specifically that the commission drafts a policy regarding this matter. The policy should focus on provision of services, infrastructure and social protection for women.

5.3 Recommendations

While KP government remains focused towards working for the underprivileged classes as told by the Deputy Speaker¹⁹ during a focus group discussion session,²⁰ she specifically mentioned that “we have failed to identify the untiring and unlimited contributions of the domestic workers towards the development of KP province”. This leads us to the conclusion that in order to achieve the target 5.4, KP must enact legislation on protecting domestic workers' rights and legislation passed by Senate could be a starting point.

18. http://www.senate.gov.pk/uploads/documents/1390294147_766.pdf

19. Dr. Meher Taj Roghani, Deputy Speaker, KP Provincial Assembly.

20. Held at PC Hotel, Peshawar on 11th of January 2017

Chapter 6. Target 5.5: Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

6.1 Provisions in Constitution

- Article 25 ensures equality of women and protection of women through special measures on part of the state.
- Article 26 ensures the equal right of women to access to public places.
- Article 32 encourages the active participation of women in local governments.
- Article 34 provides for the steps to be taken to ensure full participation of women in all spheres of national life.

6.2 Federal Legislative Framework

The challenges to increasing female participation in mainstream economic activity, and the creation of leadership within women lot, as mentioned under this target are manifold. These challenges range from social taboos; conservative lobbies; lack of access to education, information, and finance to discriminatory behaviors by male counterparts, severely inhibiting the ability of women to develop leadership skills and to participate in the policymaking process. Yet another complexity is the non-existent gender focused institutions such as women chambers, which generally act as facilitators in networking, mentorship, and learning opportunities.

Despite the fact that there are constitutional guarantees as mentioned above to encourage women participation in all spheres of national life, currently there are no legislations especially focusing on bringing women into the lime light to actively participate in the affairs of the state as leaders.

In Pakistan both the definition and scope of women's empowerment remains unresolved. If empowerment is defined as ability to make independent decision or even consultation in decision making process then the situation is improving though the number of women in legislative bodies and higher income group is still very small. However, the choice of independent decision making of women about their own life is very limited. On social domain the women in Pakistan enjoining low status coupled with cultural barriers and weak social infrastructure. These factors have added to their miseries for decades and left no room for empowerment of women in decision making even in case of their own life. The missing element yet not captured in the policy formulation is the critical social dimension that determines the resources and processes available to women and their control over them.

The amendment in constitution of Pakistan and implementation of the Devolution Plan 2001 has sharply modified the role of women in decision-making at both provincial and national level. It guarantees a much larger representation of women in the National and Provincial Assemblies, the Senate and the Local Councils. In 1990-91, women had 2 reserved seats out of 217 seats in the National Assembly and 1 reserved seat out of 87 seats in the Senate. Now women have seventy two reserved seats out of three hundred and forty two seats in the National Assembly where as from total of hundred seats in the upper house (Senate) seventeen are reserved for women. Thus the women representations in the lower house (National Assembly) and upper house (Senate) increased to 21% and 17% in 2002-03 as compared to from 0.9 and 1 percent in 1990-91 respectively. At local council level reserved seats for women was set at 33% in The Devolution Plan, that has improved the women representation in local councils includes district and union level.

The quota provisions in Pakistan are problematic, as an indirect selection for reserved seats takes place by the male party leadership. Although women, aspire for leadership roles and participation at various level of the polity in increasing numbers and there is a high level of legislative performance of female MPs, as compared to male colleagues, they still face issues of political credibility. There is a general observation that there is no political legitimacy without general seats. One of the main challenges faced by women MPs in Pakistan's political environment, is the quota modality in place. It leads to restrictions in the accumulation of political capital and sustainable constituency-building, thereby undermining the quality of gender representation and women's political mainstreaming.

Recommendation: It is recommended that a comprehensive legislation should be introduced to amend all Federal Legislations up to the extent that would ensure minimum participation of women in all Federal Ministries as well as subordinate Directorates and Autonomous/Semi Autonomous institutions under Federal Government. This would on one hand show the resolve of Federal Government towards achieving Target 5.5 and on the other, would set an example for the Provincial governments to introduce the same legislations at provincial level.

6.3 Existing Law/Policy in Khyber Pakhtunkhwa

6.3.1 KP Appointment of Law Officers Act 2014

The Act of 2014 provides for procedure for appointment of law officers such as: Additional Advocate General (AAG), an Advocate-on-Record (AOR) and an Assistant Advocate General (Ast AG for conducting Government litigation in the Supreme Court, High Court, Federal Shariat Court, Services Tribunal, Khyber Pakhtunkhwa and in any other Court in the Province of the Khyber Pakhtunkhwa). It sets out a minimum qualification for a person to be appointed as a law officer.

6.3.2 KP Provincial Policy on ensuring equal Empowerment for Women²¹

It is a women Empowerment Policy Framework aiming to ensure social, economic, legal and political empowerment of women in the province. This policy focuses not only on ensuring equal opportunities to women but to empower them. It focuses on fund allocation and ensuring that those funds do not get utilized elsewhere in addition to giving PCSW an autonomous status.

6.4 Legislative Gaps in KP

6.4.1 KP Appointment of Law Officers Act, 2014

Throughout the Appointment of Law Officers Act there is no mention of women law officer. While target 5.5²² focuses on ensuring women's full and effective participation, especially in leadership and decision making. Law being one of the major leadership development professions, it seems a failure on part of the provincial government to not mention women within the Act. Though the Act does not disallow women from applying or being appointed but its failure to ensure women participation is indeed a big one and slows down potential achievements towards target 5.5.

21. PCSW-KP, April 12, 2015- Launching Ceremony Held in KP.

http://reforms_implementation.kp.gov.pk/page/social_welfare_women_empowerment

22. Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

Recommendation: All Clauses of this Act provide the impression that it has been exclusively drafted to accommodate and appoint male officers. It is recommended to change the language of the whole Act. Specific provision should be added under which clear opportunities must be identified for the Women applicants are mentioned.

6.4.2 KP Provincial Policy on Ensuring equal Empowerment for Women

In April 2015 when this policy was launched government committed to fulfill all the obligations including providing funds to make this policy successful in KP. Responsibility was given to PCSW for its implementation and operational side. However, further down the line since the PCSW became dysfunctional all initiatives upon which the commission was working came to a complete halt.

While we know that SDG 5 remains focused on women empowerment, target 5.5 demands women's full and effective participation for leadership and development. Keeping this in view, after conducting our research we could not see any concrete step taken within the province of KP. While it was asked during the focused group discussion, where the Deputy Speaker, along with other parliamentarians were present if there was something in the pipeline, no Bill or policy was discussed.

However, on the contrary we see that Punjab has passed The Punjab Fair Representation of Women Act, 2014, which setting a wonderful example of women empowerment amending 66 Acts to ensure women's participation in different aspects of life.

Recommendation: To ensure women's full and effective participation and to achieve equality in leadership and decision making spheres, it is evident that effective legislative measures need to be taken. In light of the above argument, it is suggested that a legislation should be introduced that amends all previous laws to ensure women participation in different governmental and non-governmental organizations that would give them a status equal to that of men.

Chapter 7. Target 5.6: Ensure universal access to sexual and reproductive health and reproductive rights

7.1 Relevant International Treaties/Covenants signed by Pakistan

7.1.1 International Conference on Population and Development (ICPD) 1994

According to the official ICPD release,²³ the conference delegates achieved consensus on universal education, reduction of infant and child mortality, reduction of maternal mortality, access to reproductive and sexual health services including family planning.

7.1.2 The Beijing Conference 1995

The Beijing Platform for Action²⁴ is an agenda for women's empowerment. The implementation of the Platform for Action requires commitment from Governments and the international community. By making national and international commitments for action, including those made at the Conference, Governments and the international community recognize the need to take priority action for the empowerment and advancement of women. This plan of Action called on Governments to:

- Ensure equal access to and equal treatment of women and men in education and health care and enhance women's sexual and reproductive health as well as education;

7.1.3 Universal Declaration of Human Rights (UDHR)

The Declaration was proclaimed by the United Nations General Assembly in 1948. It set out, for the first time, fundamental human rights to be universally protected.

7.1.4 International Covenant on Economic, Social and Cultural Rights (ICESCR)

The covenant commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to the Non-Self-Governing and Trust Territories and individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living.

7.2 Federal Legislative Framework

7.2.1 Criminal Law (Amendment) Act 2005

Abortion is now legal in Pakistan if carried out for the medical treatment of a pregnant woman in the early stages of pregnancy. Previously, the Pakistan Penal Code allowed for abortion only if it was required to save the life of the pregnant woman. Section 338²⁵ of the Penal Code amended by Criminal Law (Amendment Act No. 1 of 2005): The inclusion of the clause 'providing necessary treatment' provides greater legal latitude for an abortion and makes it difficult to obtain a conviction for isqat-i-haml or abortion before the limbs are formed.

23. <http://www.unfpa.org/public/site/global/publications/pid/1973>

24. Report of the Fourth World Conference on Women, Beijing China, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), para. 124).

25. "Whoever causes a woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, or providing necessary treatment to her, is said to cause Isqat-i-haml."

Recommendation: As there is no comprehensive legislation on Sexual and Reproductive Health at the federal level therefore, it is recommended that Federal Government must legislate on the issue.

7.3 Existing Law/Policy in Khyber Pakhtunkhwa

7.3.1 The Khyber Pakhtunkhwa Maternity Benefit Act, 2013 with (Amendment 2015)

The KP Maternity Benefit (Amendment) Act, 2015 bestows certain maternity benefits to working women and provides them on work safeguards and guarantees regarding their health and natural conditions associated with them during pregnancy. The Act obliges the pregnant women a reasonable period of time before and after the birth of a child regarding their engagement in arduous work. The Act grants the woman the maternity benefit (payment to them by the employer of money or kind), which they would have earned provided their natural conditions had not barred them from engaging themselves in work for a period specified in the Act. In case of death of a woman, the Act, grants her legal heirs the claim of receiving maternity benefits, which she was entitled for under this Act. The Act prevents the employers from dismissing women from work on account of pregnancy

Recommendations: The penalties for violations of the Act are not strong enough to be seen as deterrents. Additional measures need to be created to ensure compliance with the Act, such as stiffer fines, penalties, prosecution of cases, reporting mechanisms, and so forth.

- Section 10 (2) of this Act, should be amended to the extent that if the loss or damage caused to the woman concerned exceeds the present maximum amount of the fine, the compensation should be re-determined by the court complying the compensation of the damage(s) or the loss caused to the woman, which may exceed the present maximum limit of ten thousand rupees.
- Section 11 (1) of this Act, should be amended to the extent that the right of cognizance of offences and the order of prosecution of the cases under this Act, should also be granted to the civil courts.
- Section 11(2) of this Act, should be amended to the extent that a further platform for appeal or review should also be granted to the aggrieved woman on account of alleged misconduct of authority by the director labor.
- Section 16 of this Act, should be amended to an extent that such arrangements should be made which ensure that each woman is aware of and understands the provisions of this Act.

Deputy Speaker²⁶ KP Assembly highlighted during the focus group discussion²⁷ that maternal mortality rate in the province is extremely high. Pakistan was at 147 in 2015 and slipped to 149 in 2016 While health and Reproductive rights should be focused, there is no legislation in KP regarding Neonatal mortality and mother mortality. There is no awareness amongst women and men who dominate much of the household. It is recommended for the achievement of target 5.6 that awareness campaigns and educational courses are carried out at district level to encounter the prevailing problem. Also at the provincial level there should be a legislation to deal with the issue. In this regard Punjab has enacted a comprehensive legislation; Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority Act, 2014 which could provide starting point for KP Government in order to realize this target.

26. Dr.Meher Taj Roghani, Deputy Speaker, KP Provincial Assembly.

27. Held on 11th of January, PC Peshawar

Chapter 8. 5.a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

8.1 Existing Law/Policy in Khyber Pakhtunkhwa

Generally, in KP women's participation in the formal labor force is limited by social constraints that restricts their mobility and consigns them to the domestic sphere. Women are largely confined to unpaid domestic labor, animal husbandry and agriculture work, though their degree of their involvement in formal and informal labor markets varies by location. Women are also heavily involved in small scale manufacturing enterprises/ cottage industries, primarily in furniture production and textiles related crafts such as sewing, knitting, and embroidery. There is a huge Legislative gap to ensure women's equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources. A significant gender gap in wages is also observable with women earning an average of only 42 percent of men's wages across sectors.

Recommendations:

- Measures to address discrimination in labor markets and institutional biases against women.
- Measures that increase women's control over household resources and laws that enhance their ability to accumulate assets, especially strengthening their property rights.
- Establishing and enforcing minimum wages, maximum work hours, and minimum workplace health and safety standards across sectors.
- Establishment of women's recruitment and job placement centers under the KP

8.2 The KP Enforcement of Women Ownership Rights Act, 2012

The Act entitles women to have the right to inherit both moveable and immoveable property, devolved upon and vested in women by way of inheritance, gift, purchase or acquired by her by way of any other legal and Shariah means. However, a joint titling system should be introduced to give land to landless women. This would enhance women's status and position in their families and society and would be a significant step towards acceding land rights to women. The government should provide training/awareness opportunities and infrastructure support to facilitate women who do hold titles so they can control and manage land on their own.

Recommendation: Law should be amended in order to introduce provision of joint titling. Moreover law should be implemented in its true letter and spirit and mass awareness campaign should be devised so women can claim their ownership rights.

Chapter 9. 5.b: Enhance the use of Enabling Technology, in Particular Information and Communications Technology, to promote the empowerment of women

9.1 Federal Legislative Framework

Historically, distance and lack of mobility have limited women's access to information and services. New information technologies can be used for improving services and accessing information without leaving the household. Given mobility constraints faced by women, consideration could be given to how these new technologies might ensure greater participation and access for women. Currently there is no legislative framework as far as this target is concerned. However, importance of information technology to be used for protection or empowerment of women cannot be ignored.

Recommendation: The Federal government as first step should work on a comprehensive policy which would ensure that modern technology should be used in order to empower and to protect women and subsequently that policy should be put in the form of a formal legislation to ensure robust mechanism for the use of that IT for the protection of women.

9.2 Existing Law/Policy in Khyber Pakhtunkhwa

9.2.1 KP Establishment of Information Technology Board/ Amendment Act, 2015

This Act was made to provide for the establishment of the Khyber Pakhtunkhwa Information Technology Board for promotion of the information technology, Information Technology enabled services and Information Technology enabled education for private sector of the Province of the Khyber Pakhtunkhwa and for matters connected therewith or ancillary thereto.

Recommendations: Though the Act²⁸ aims to improve technology-based services in the province, there remains no provision for women participation throughout the Act. While section 4 of the act regards composition of the board, there remains no legal provision to ensure women participation. It is recommended that a provision is made to ensure at least two women members in the board to take a step further towards achievement of target 5.b and women empowerment at the technological front as a whole.

Punjab Safe Cities Authority (PSCA) in collaboration with the Punjab Commission on Status of Women has designed an Android application to prevent the crime of harassment even before it occurs. The App allows victims under a possible threat to notify the authorities. Once this is done the initial response team, which includes Dolphin Force, Police Response Unit and Police Stations Beat Officers will reach and rescue the victim. This is indeed a step forward towards 1) protection of women, 2) enhancement of use of technology amongst women. However, while one province stands at the said position, KP remains far behind in effective use of technology regarding women and their role in the society. Though mobile complaint cells have come into existence, there is a grave need of women to be technologically educated and empowered to compete effectively with the modern world. And to achieve target 5.b, it is recommended that computer classes are made compulsory at primary level schooling, also that the model followed in Punjab be followed as a first step towards technological empowerment of women.

- Section 4 of the Act should be amended to ensure at least two women members in the board.
- Mobile App should be launched as Punjab Government has to facilitate and encourage women to use modern technology.

28. KP Establishment of Information Technology Board/ Amendment Act, 2015

Chapter 10. Target 5.C: Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

10.1 Relevant International Treaties/Conventions signed by Pakistan

10.1.1 Convention on Elimination of Discrimination Against Women (CEDAW).

Already Explained under Target 5.1 earlier in the report.

10.2 Provisions in the Constitution

The Constitution of Pakistan guarantees that all citizens are equal before the law. It also empowers the state to make special provisions for the protection of women and children (Articles 25, 27, 34, 35 and 37).

10.3 Federal Legislative Framework

10.3.1 National Commission on Status of Women Act 2012

The legislation has been enacted for the promotion of social, economic, political and legal rights of women as provided in the Constitution of Pakistan and in accordance with international declarations, conventions, treaties, covenants and agreements relating to women, including Convention on Elimination of All Form of Discrimination Against Women (CEDAW).

Recommendation: It is recommended that in order to achieve the target the commission must work in collaboration with all provincial commissions and ensure that rights of women are protected in Pakistan.

10.4 Existing Law/Policy in Khyber Pakhtunkhwa

10.4.1 Provincial Women Development Department (WDD)

Women Development in KP is part of Social Welfare, Women Development and the Special Education Department. Women Development Directorate currently exists within the Department. At the Secretariat level, it is called, Social Welfare, Women Development and Special Education KP and its broader task is policy development. Though the Directorate of Social Welfare, Women Development is also involved in the policy making, but its broader task is the operation and implementation of the policies in the Province.

Social Welfare and Women Development Department is involved in the following activities and manages following institutions in KP province: Dar-ul-Aman, Women Crisis Centres, Welfare Homes (Female), Working Women Hostels.

10.4.2 Integrated Development Strategy 2014-18²⁹

The IDS serves as a policy document, which integrates government priorities, under one framework. The document envisions equality for men and women in the provision of services and a level playing field for both

29. Integrated Development Strategy 2014-2018

are supposed to be ensured. The IDS is designed to protect the interests of all citizens and provide them equal opportunities to raise their living standards. The document states that "...the Government of KP is determined to make concerted efforts to ensure that policies and budget-making processes are gender-sensitive."

10.5 Legislative Gaps in KP

10.5.1 Provincial Women Development Department (WDD)

Women Development in KP is not an independent department. It is a part of Social Welfare, Women Development and the Special Education Department. There is lack of understanding among the staff about the International Commitments, especially on SDG Goal 5 and Target 5c. For reporting purposes, under SDG goal 5 gender disaggregated data is very important which needs to be prepared with the involvement of the line departments. The department completely lacks the capacity to generate this kind of data.

There seems to be a complete disconnect on the importance of Gender Equality between political circles, bureaucracy, planning, finance departments etc. and constraints within the WDDs, therefore, could not be translated and departments continued to conform to the old welfare model. Lack of knowledge about the modern concepts which have instigated the paradigm shift from old rhetoric of "Women Development" towards new concept of Women in Development (WID) and Women and Development (WAD) has created confusion among the department. Therefore, the only focus is on welfare objectives neglecting practical and strategic needs.

Moreover, Rules of Business for the department have not been notified as yet thus the working of the department is welfare oriented.

Recommendation:

- Women Development Department should be made Independent.
- Capacity of Staff should be built on preparing gender segregated data.
- Staff should be trained on issues related to Gender Equality and Women Development.
- Rules of Business especially for the department must be prepared and notified.

10.5.2 Integrated Development Strategy 2014-18

Government of KP by and large acknowledges that institutional, accountability mechanisms are weak and line departments so far have failed to gather gender segregated data which is vital to preparing gender sensitive budgeting under Integrated Development Strategy. Recognizing the integral and cross-cutting objective of mainstreaming gender issues and the dire need to address gender disparities, the Government of KP must focus to make concerted efforts to ensure that policies and budget-making processes are gender-sensitive. However, our research shows that the government is missing upon its own target fixed under this Strategy to integrate its priorities especially related to gender equality and thus creating a huge vacuum in implementing this strategy in KP province.

Recommendation: To make gains toward gender equality and women's empowerment, under target 5c the government must focus on achieving the following goals set in the IDS:

- Mainstreaming of gender indicators for all IDS sector working groups and new development strategies and policies.

- Designing of key performance indicators that are measurable and time bound, to monitor inputs and outputs and specify concrete results for women and girls.
- Collection and management of robust disaggregated government data to inform gender-sensitive policy and budget-making processes.

10.5.3 Gender Reform Action Plan (GRAP)

GRAP evolved from a donor support project in 2002 and became a 100% Public Sector Development Plan (PSDP) project of the GOP in 2005 through PC-1. GRAP Project Management Office (PMO) became fully recruited and operational in Feb/Mar 2008. Gender Reform Action Plan was focused on strategic and concrete political, administrative and fiscal support to operationalize reforms and to provide political/technical/fiscal support to women representatives; mainstream women's gender equality concerns into public policy; and planning and enforcement across the sectors. GRAP document put forth a coherent gender reform agenda to align policies, structures and procedures for enabling the provincial government to implement its national and international commitments on gender equality. These reforms aimed to enhance participation of women across the governance spheres at the provincial and district levels.

Recommendations: It is recommended that to achieve the target 5c set under Goal 5 of SDG's Provincial government must adopt GRAP in true letter and spirit and focus on introducing reforms as set under GRAP:

- Institutional Structures
- Women's Political Participation,
- Women's Public Sector Employment
- Policy and Budgetary Reforms.

Annex I

Consolidated Recommendations

Target 5.1 Recommendations

1. During the focus group discussion, it was mentioned, by the participants, that, the PCSW under the new legislation has been given autonomy; however, time would determine how much autonomy would actually translate into reality. There is a dire need to make the commission more autonomous in order to achieve the results as far as target 5.1 under SDG goal 5 is concerned.
2. In order to provide Chairperson of the Commission more financial autonomy, it is suggested that Section 7 should be amended and financial powers should be given to Chairperson of the Commission.
3. In relation to section 4(3)³⁰ It is recommended that the section be amended as such that the women members of the provincial assembly of Khyber Pakhtunkhwa should not be given preference in the appointment of official members of the commission. The assembly members having a political background would be, under a compulsion of returning social debt of their constituency or supporters, to oblige a section of society who may be naïve about or insensitive to the equal/equitable status of women in the province. It is therefore, recommended that the experts and qualified people, should be given preference for the appointment of members of the commission.
4. To make Executive Committee more strong, authoritative and influential, it is suggested that clear powers and selection criteria should be mentioned in the Act. For this purpose, either Section 9, should be amended or new clause should be added accordingly.
5. Section 8 should be amended and provision of having a "Legislative Cell" should be incorporated in the Act.

Target 5.2 Recommendations

Taking into consideration the current dismal situation in KP on achieving target 5.2 in KP following steps need to be taken:

1. As Provincial Commission on Status of women has been mandated to oversee all women related legislations and issues in KP province, it should be made fully functional, with immediate effect, if at all the provincial government wants to move on achieving target 5.2 under SDG 5.
2. Immediately appoint Provincial Ombudsperson under Protection Against Harassment of Women at Workplace Act, 2010
3. KP Government must focus on the following pending legislation which are waiting to see the light of day in KP for quite long:
 - a. Domestic Violence Bill
 - b. Prevention and Control of Internal Women Trafficking Bill
 - c. Provincial Legislation on Acid and Burns

30. The official members shall include two (02) female members of the Provincial Assembly, one each nominated by the Government and Leader of Opposition in the Provincial Assembly and Secretary to Government, Zakat, Ushr and Social Welfare Department or his representative not below BS-19.

Target 5.3 Recommendations

Analysis shows that KP has legislated on ensuring child protection. However there are huge gaps which could be filled if following recommendations are incorporated within those laws to achieve the target 5.3.

The KP Prohibition of Employment of Children Act, 2015

To make the law fully functional following are the recommendations:

- Section 2(i) Inspectors should be notified with immediate effect
- Section 5(2) Rules and Powers of the Inspectors should be notified
- Section 13 Rules on Health and Safety should be notified
- Schedule Part I should be amended to include more occupations to be covered under the law
- Schedule Part II should be amended to include Auto workshops and Hotels including road side dhabas should be added.

Juvenile Justice System Ordinance, 2000

To make the law fully functional following are the recommendations

- Under Section 3 Legal Aid must be provided to the accused juvenile
- Under Section 4 Juvenile Courts should be established
- Section 10 should be amended as to incorporate time line of 24 hours with in which guardian of the accused should be informed of any arrest made under the law.
- Clause should be added in the law to protect juveniles from the death penalty which could be imposed under Section 24 of the Protection of Pakistan Act, 2014.

KP Elimination of Custom of Ghag Act, 2012

In absence of implementation mechanism, the law has become just a toothless piece of legislation achieving no results. It is recommended that provisions should be added to introduce the role of Provincial Commission on Status of Women to come up with such a mechanism, which could facilitate the women who becomes victim of any violation under this law.

Child Protection and Welfare (Amendment) Act, 2016

In order to make this law more functional and to achieve the target, following are the recommendations:

- Section 3 should be amended to increase the number of non official member and also include the experts on the subject
- Section 3(8) should be amended and it should be made mandatory to hold quarterly meetings and some sanctions should be imposed if it is not complied
- Section 4(j) Should be amended to the extent that members of the commission should continuously work during the year to secure funding to implement this law.
- Section 7 should be amended as to make mandatory upon the government to publish annual report and some sanction should be imposed on non-compliance of the provision
- Under Section 9 More Protection units must be established in the remaining districts of KP and some time line should be mentioned in the Law so that it could be achieved on time.

- Under Section 15 Child Protection Courts should be established and time line must be provided for achieving this.

Child Marriage and Restraint Act, 1929

- The only legislation on child marriages in KP is the Child Marriage Restraint Act, 1929, which originally stated that a girl was of marriageable age when she turned 14. After the Muslim Family Laws Ordinance, 1961 (VIII) was promulgated, the age was raised to 16. Since the 18th amendment, provinces have become responsible for drafting their own laws on child marriage, while the Child Marriage Restraint Act, 1929 remains in place in federal territory.
- The Sindh government was the first to legislate on child marriage, passing the Sindh Child Marriages Restraint Act in 2013. Punjab followed two years later with the Punjab Marriage Restraint (Amendment) Act 2015.
- The 1929 act served as a starting point for much of the legislation that has followed in KP. The marriageable age for girls in the 1929 act is 16, and 18 for boys. According to the act, the offence is non-cognisable. In non-cognisable offenses, the police cannot arrest a suspect without the court's permission. This means that the police are not empowered to act against child marriage even if they are made aware of a case. Moreover, Family courts could only take cognisance of the offence based on a complaint by the union council, or, "an authority the provincial government may prescribe". However, no cognisance can be taken "after the expiry of one year from the date on which the offence was alleged to have been committed".
- For achieving target 5.3 Provincial Government of KP has still not legislated on the issue of child marriages and forced marriage thus left a huge gap in ensuring the protection of child rights. It is even in violation of the International Commitment made by Pakistan. There is dire need to have this legislation. To achieve this KP can follow the example of Punjab and Sindh where Child Marriage Restraint Acts has been enacted in 2013 and 2015 respectively.

Target 5.4 Recommendations

- In order to achieve the target 5.4 KP must enact legislation on protecting domestic workers' rights and legislation passed by Senate could be a starting point.

Target 5.5 Recommendations

KP Appointment of Law Officers Act, 2014

- All Clauses of this Act provides the impression that it has been exclusively drafted to accommodate and appoint male officers. It is recommended to change the language of the whole Act.
- Specific provision should be added under which clear opportunities must be identified for the Women applicants are mentioned.
- While we know that SDG 5 remains focused on women empowerment, target 5.5 demands women's full and effective participation for leadership and development. Keeping this in view, after conducting our research we could not see any concrete step taken within the province of KP. While it was asked during the focused group discussion, where the Deputy Speaker, along with other parliamentarians were present if there was something in the pipeline, no Bill or policy was discussed.
- However, on the contrary we see that Punjab has passed The Punjab Fair Representation of Women Act, 2014, which setting a wonderful example of women empowerment amends 66 Acts to ensure women's participation in different aspects of life.
- To ensure women's full and effective participation and to achieve equality in leadership and decision making

spheres, it is evident that strict legislative measures need to be taken. In the light of the above argument it is suggested that a legislation should be introduced that amends all previous laws to ensure women participation in different governmental and non governmental organizations that would give them a status equal to that of men.

Target 5.6 Recommendations

The Khyber Pakhtunkhwa Maternity Benefit Act, 2013 (Amendment 2015)

- Section 10 (2) of this Act, should be amended to the extent that if the loss or damage caused to the woman concerned exceeds the present maximum amount of the fine, the compensation should be re-determined by the court complying the compensation of the damage(s) or the loss caused to the woman, which may exceed the present maximum limit of ten thousand rupees.
- Section 11 (1) of this Act, should be amended to the extent that the right of cognizance of offences and the order of prosecution of the cases under this Act, should also be granted to the civil courts.
- Section 11(2) of this Act, should be amended to the extent that a further platform for appeal or review should also be granted to the aggrieved woman on account of alleged misconduct of authority by the director labor.
- Section 16 of this Act, should be amended to an extent that such arrangements should be made which ensure that each woman is aware of and understands the provisions of this Act.
- Legislation in line with Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority Act, 2014 must be introduced in KP.

Target 5a Recommendations

- Measures to address discrimination in labor markets and institutional biases against women.
- Measures that increase women's control over household resources and laws that enhance their ability to accumulate assets, especially strengthening their property rights.
- Establishing and enforcing minimum wages, maximum work hours, and minimum workplace health and safety standards across sectors.
- Establishment of women's recruitment and job placement centers under the KP

The KP Enforcement of Women Ownership Rights Act, 2012.

Recommendation: Law should be amended in order to introduce provision of joint titling. Moreover law should be implemented in its true letter and spirit and mass awareness campaign should be devised so women can claim their ownership rights.

Target 5b Recommendations

- Section 4 of the Act should be amended to ensure at least two women members in the KP Information Technology Board board.
- Mobile App should be launched as Punjab Government has to facilitate and encourage women to use modern technology.

Target 5c Recommendations

Provincial Women Development Department (WDD)

- Women Development Department should be made Independent as it is currently working under KP Social Welfare Department.
- Capacity of Staff should be built on preparing gender segregated data.
- Staff should be trained on issues related to Gender Equality and Women Development.
- Rules of Business especially for the department must be prepared and notified.

Integrated Development Strategy 2014-18

To make gains towards gender equality and women's empowerment, under target 5c the government must focus on achieving the following goals set in the IDS:

- Mainstreaming of gender indicators for all IDS sector working groups.
- Designing of key performance indicators that are measurable and time bound, to monitor inputs and outputs and specify concrete results for women and girls.
- Collection and management of robust disaggregated government data to inform gender-sensitive policy and budget-making processes.
- KP Government must adopt Gender Reform Action Plan II (GRAP)

Annex II Gap Analysis in KP Legislative and Policy Framework vis-à-vis SDG-5

S#	Focus Areas under SGP-5	Relevant International Treaties/ Covenants signed Pakistan	Provision in Constitution (Relevance to Fundamental Rights and Post 18th constitution scenario).	Existing Law/Policy in Khyber Pakhtunkhwa (Work in Progress)	Strength of KP legal and Regulatory Framework (Implementation Mechanisms)	Legislative Gaps in KP	Status in KP Tribal Areas	Recommendations
5.1	End all forms of discrimination against all women and girls everywhere	The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) International Convention on Elimination of all forms of Racial Discrimination (ICERD) International Convention on Civil & Political Rights (ICCPR)		Provincial commission on Status of Women Act, 2016 KP Maternity Benefit Act, 2013 KP Maternity Benefit (Amendment) Act, 2015 KP Health Care Commission Act, 2014 KP Deserving Widows & Special Persons Welfare Foundation Act, 2014		Commission Not Notified Yet		

31. This Matrix was prepared initially for the research. However, as we proceeded with the research more provincial and Federal Laws which were relevant have been included in the study.

5.2	Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation	The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) UN Convention Against Torture (UNCAT)		Provincial Commission on Status of Women Act, 2016		Protection Against Harassment of Women at Workplace Act, 2010 (Federal)		
5.3	Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation	Convention on the Rights of the Child (CRC)	Article 25-A: Children right to quality, free and compulsory education	The Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015 The Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015		No law on children right to education exist (Article 25-A)		
						Prevention of Anti-Women Practices Act, 2011 (Federal)		
						Violence Against Women (Bill) Pending/ CII		
						Smuggling of Migrants Bill, 2016 (Senate) Trafficking in Persons Bill, 2016 (Senate)		
						Acid Violence Laws- Punjab		
						Punjab Child Marriage Restraint Act/ Amendment 2015		

5.5	Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life			<p>KP Police Ordinance, 2016</p> <p>Police Rules – 1% Women</p> <p>KP Appointment of Law Officers Act, 2014</p>		<p>Women Members on Boards of different Statutory Bodies</p> <p>KP Provincial Policy on ensuring equal Employment for Women</p> <p>Gender Sensitive Budgeting</p> <p>Women Friendly Workplaces.</p> <p>Punjab Fair Representation of Women Act, 2014</p> <p>Mother Mortality/Neo Natal Legislation</p> <p>Punjab Reproductive, Maternal, Neo-Natal and Child Health Authority Act 2014</p>		
6	Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Conference 1995 Universal Declaration of Human Rights (UDHR) International Covenant on Economic, Social and Cultural Rights (ICESCR).	International Conference on Population and Development (ICPD) 1994, The Beijing Conference 1995 Universal Declaration of Human Rights (UDHR) International Covenant on Economic, Social and Cultural Rights (ICESCR).						

5.a	Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.	UN Declaration on Minorities Rights		The KP Enforcement of Women Ownership Rights Act, 2012.	Punjab Partition of Immovable Property Act, 2012 Draft bill on minority property rights should be enacted. Legislation on protection of minority rights (commission for protection of minority rights) should be done.		
5.b	Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women			KP Establishment of Information Technology Board/ Amendment Act, 2015	Mobile APP for reporting Women Violence (Punjab)		
5.c	Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels			Provincial Commission on Status of Women- KP	Gender Reform Action Plan (GRAP) Punjab		

Annex III Minutes of Meeting

4th January 2017 – Wednesday

11:00 am

Attendees:

Mr. Abdul Jabbar - Secretary Social Welfare and Women Development
Mr. Adeel Shah - Additional Secretary Social Welfare and Women Development
Shagufta Saeed - Gender Specialist Social Welfare and Women Development

Minutes of meeting:

The budget is not as much as it should be since it is a backward province of a backward country.

The projects that are politically beneficial are more focused, since there is more opportunity cost attached.

Why has there been no female secretary of the department?

Because there are less female officers as a whole. This may be also due to cultural barriers. We will see a change in the coming years.

Government work is always slow, since it has more procedural requirements. Autonomy is granted to Commission on status of women. Neelum Toru is appointed as the Chairperson of the Commission. She has three years of experience. Though the commission is dysfunctional since September.

Marriage Bill is in the pipeline that suggests that no woman should be married under the age of 18 and the age on the CNIC should be taken into account.

Acid throwing bill needs to be passed.

Issue of women trafficking needs to be dealt with.

Women do not take property with mutual agreement.

Is it actually mutual? Or is it social pressure in garb of mutual agreement.

The perks privileges and pay of the ombudsman is too less. No High Court judge will accept the position.

Women Empowerment Policy framed in March 2015.

First time in KPK Working Women's Day was celebrated.

There have been awareness campaigns in Peshawar University.

We have established 4 hostels for working women.

There have been two workingwomen training seminars and career counseling programs.

There are 5 Daar-ul-Aman that provide legal aid for women. They give shelter to about 450 women.

There has been an industrial training center for women. That is working to improve departments.

A project has been started for transgender with 200 million Rs. A project State Children started for welfare of street children with 430 million. There are 100 children for now.

Guzara allowance provided at Rs 100 per month.

Health Assistance upto 5 lac is being provided to 42,000 women.

SWWDD finalized the domestic violence bill but it was decided by the Governer and CM to send it to the Islamic Council.

There has been an ADP scheme that focuses on gender based planning.

There is a Provincial Watch Committee but again resource allocation is the major issue.

Bolo Helpline has started which is a 24 hour helpline.

Social Welfare and Women Development is now further devolved to provinces.

There is no legislative cell in SWWDD and people making initial drafts of laws have no legal or legislative know how.

4th January 2017 –Wednesday

12:30 pm

Rizwana Hameed

SHO police

Women police station funds are very less. We don't have a car while all other police stations do. The premises are all broken but no funds for repair. We don't have a right to FIR. However the women performance has been remarkable in previous times. And we are given bonuses for our good performance, though its very nominal.

1 pm

Ms. Anoosh Khan

Head of Department Gender Studies Dept Peshawar University

We try to train students so that when they leave the university they can make a change in their families' at least. When students are studying they can't bring a major change but even if we can change their personal behavior we think that is a good start. Women hostels are closed at 5pm and after that women students are not allowed to come out of the hostel, not even university campus. When asked why? She said because we want them to be

safe from men, they harass women. However our argument was why not keep men tied up then? Because it's a cultural thing. We can tell men to stay indoors and let the women roam free.

3 pm

Ms. Zainab Azmat

Lecturer at IM Sciences, ex-member of NCSW

Women are really underprivileged in KP, much more than any other province. Political issues are much more important than development goals. The politicians are interested in work that gets them most votes. Even the appointment of the chairperson of PCSW is a political appointment. When I was a member of NCSW I was multiple times told that I was not fit for the position since I had young kids, and finally I left.

Annex IV

List of persons contacted:

- i. Advocate General KPK
- ii. Neelum A. Khan – Senior Lawyer and former additional Advocate General
- iii. Women Parliamentary Caucus Chairperson, Meraj Humayun
- iv. Shehla Zia and Nigar Ahmed – co-founders at aurat foundation
- v. Tahira Abdullah - active member of WAF, HRCP and Legislative Watch Group of Aurat Foundation.
- vi. Chairman Women Business Development Centre - Peshawar; Minister for Industries & Production
- vii. Mrs. Shamama tul Amber - President Women Chamber of Commerce
- viii. IG Police
- ix. Justice Irshad Qaisar, Justice Musarrat Hilali – Judges of Peshawar High Court.
- x. SDU Kpk
- xi. Neelum Toru – Chairperson Kpk Commission on status of women
- xii. Minister for Social Welfare and Women Development – Sikandar Hayat Khan

Annex V

Questions for Interviews

Social Welfare and Women Development Department:

- i. What is SWWDD's contribution in ensuring an end to all forms of discrimination against women? Is there a current strategy to provide equal opportunities to women?
- ii. Combating violence in public and private spheres is not easy in the current scenario, owing to the mindsets and the myth of women inferiority and vulnerability that prevails specially in rural areas. How does SWWDD intend on contributing to this rising problem and other harmful practices?
- iii. Provision of social protection and awareness policies is integral to promote shared responsibility at household and to recognize the untiring and unpaid efforts of women. Does SWWDD indulge in such campaigns? If yes, how often? Outcomes?
- iv. Owing to social, cultural and religious hindrances, it remains difficult to enact and implement legislation regarding sexual health and reproductive rights. Is there a policy solution to improve the current scenario?
- v. How does SWWDD take ensuring equal property rights to women in the wake of cultural barrier and decades old practices?

Women Parliamentary Caucus KPK:

- i. What has been the agenda of the caucus to end discrimination against women? Is there anything in the pipeline to ensure participation of women in all walks of life, like in Punjab?
- ii. The quarterly report of WPC though highlights its concerns and achievements regarding women rights in the province; there is no mention of SDG 5. Does this mean WPC has been negligent in addressing the issue of gender equality in accordance with the parameters of SDG 5?
- iii. The quarterly report mentions redrafting of domestic violence bill in consultation with religious scholars; why does drafting of such law requires religious approval while others don't? Anticipated negative effects of such consultation. How does the Caucus intend on combating violence and other harmful practices?
- iv. How does the Caucus intend to deal with inequalities within the household i.e. to recognize and compensate for unpaid care and domestic work that women do and increase social protection by policies and spreading awareness?
- v. Every year hundreds of women die in the course of giving birth, owing to lack of medical facilities and lack of awareness. What is the caucus' take on reproductive health reforms? If any, what are the social, cultural and religious hindrances to introduce strict laws in this regard?
- vi. What is the work agenda of the international interns and their substantive contribution to the WPC?
- vii. How does the Caucus plan on combating the issue of shortage of fund allocation? Is there an independent body under consideration?

Provincial Commission on status of Women:

- i. How does the commission see the issue of discrimination in the province? And what is the commission's current strategy in providing equal opportunities to women?
- ii. Combating violence in public and private spheres is not easy in the current scenario, owing to the mindsets and the myth of women inferiority and vulnerability. How does the commission intend on

- contributing to this rising problem and other harmful practices? While all awareness campaigns remain directed towards women, are there any for men?
- iii. Social protection policies and awareness campaigns remain integral in recognizing the role that women play in day-to-day routine within the household. Promotion of shared responsibility can help improve the situation. What does the commission do to counter this deep-rooted problem?
 - iv. Social, cultural and religious barriers create uncongenial environment for promotion of sexual health and reproductive rights. There remains a grave need for policy plus awareness. What role does the commission play in eliminating such taboos?
 - v. How far has the commission come in ensuring equal opportunities, equal facilities, technological assistance and property rights to women in the province?

Women Police Station:

- i. How often do women file complaints for domestic violence, harassment and other such crimes? What ratio of cases is pursued and what remains withdrawn? Are mostly cases withdrawn owing to cultural and social pressures or compensatory money is common?
- ii. If ever, how often does the police indulge in settlement of disputes?
- iii. Is there any protection available to persons filing such complaints by the police department?
- iv. Does the fate of cases differ, depending upon what class of society the complainant belongs to?
- v. Do you think women are provided a more comfortable and welcoming environment within the women police station as compared to the routine one? In the sense that they feel more protected and open up about their complaints without fear?

SDU - KP

- i. How does the SDU allocate its resources within different development goals? What importance does it bear in mind for SDG 5, and particularly in ending discrimination and public and private sphere violence against women? Are there policy frameworks underway to combat such ills of the society?
- ii. Provision of social protection and awareness policies is integral to promote shared responsibility at household and to recognize the untiring and unpaid efforts of women. How does SDU indulge in such campaigns? If yes, how often? Outcomes?
- iii. Whereas it remains difficult to reform the current scenario pertaining to sexual health and reproductive rights in the province, owing to the uncongenial environment and closed mindsets, what remains to be SDU's strategy in this regard? What social, and religious repercussions could it have?
- iv. Where does SDU see itself in improving the current scenario regarding technology, education, and property rights, all of which remain to be scarcely available in the province by virtue of social and cultural barriers?

IG Office:

- i. How often do women file complaints for domestic violence, harassment and other such crimes? What ratio of cases is pursued and what remains withdrawn? Are mostly cases withdrawn owing to cultural and social pressures or compensatory money is common?
- ii. If ever, how often does the police indulge in settlement of disputes?
- iii. Is there any protection available to persons filing such complaints by the police department?
- iv. Does the fate of cases differ, depending upon what class of society the complainant belongs to?

Local Women:

- i. What constitutes violence according to your understanding?
- ii. What are the social/ religious pressures in filing a complaint against violence?

Annex VI Participant List of FGD

S #	Name	Designation	CNIC	Contact #
1	Prof Dr Fakhr-ul- Islam	Director Pakistan Study Center University Of Peshawer	17301-1427716-5	0332-9080645
2	Mohammad Rahim Shah Advocate	Assitt Advocate General Peshawer High Court		0345-9524225
3	Neelam Toru	Provincial Commission On Status Of Women		0300-8111198
4	Syed. M. F Saqlain	Director Human Rights Cell KP		091-9211180
5	Maqsood Ali	Depty Director Directrate Human Rights KP	17301-6165454-5	091-9213068
6	Shahida Shah	Manager Takra Qabaili Khwainde		0344-4449615
7	Bilal Khattak	UNDP		0333-5374610
8	Shagufta Syed	Gender Specialist Social Welfare Department		091-9213093
9	Meraj Humayun Khan	Chairperson women Parlimentary Caucus	17301-1367292-6	0300-8595054
10	Rafat Yasmin	UNDP		
11	Gulalai Ismail	Aware Girls	17301-9288676-0	0331-9796647
12	Razia Malak	Aware Girls	16202-0828719-4	0331-9796653
13	Samina Afridi	Lecturer University of Peshawer		0321-9151418
14	Abdul Matin	(Ret) District Judge		0300-5921727
15	Mohibullah	APO Shirkat Gah		0342-5330119
16	Tabassum	PO Shirkat Gah		0333-9261032
17	Stat	Special Branch		0312-9148715
18	Iftikhar Firdous	Editor(expreet Tribune)		0333-3377793
19	Aziz Ullah Jan	Depty Director Sustainable Development Unit		0336-7979232
20	Amina Sardar	MPA		0306-5616578
21	Arif Yousaf	MPA		0300-8582182
22	Shabina Ayaz	Resident Director Aurat Foundation		0333-9141995
23	Maryam Bibi	Member National Commission On Status Of Women		0333-9278181
24	Meher Taj Roghani	Deputy Speaker KP Assembly		



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