

# **Unmet Promises**

## **Alternative CEDAW Report 2020 on Pakistan's Fifth Periodic Report**

### **Alternative CSO Report**

Submitted by Shirkat Gah – Women's Resource Centre

On behalf of

- Aahung
- Asma Jahangir Law Associates
- Centre for Legal Aid, Assistance and Settlement
- Centre for Social Justice
- Home Based Workers Federation
- HomeNet Pakistan
- Local Councils Association of the Punjab
- National Commission for Justice and Peace
- Rah Center for Management and Development (Pvt) Ltd
- Rights Research and Development Foundation
- Simorgh Women's Resource and Publications Centre
- Shirkat Gah – Women's Resource Centre
- Strengthening Participatory Organisation, and
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## List of Acronyms

ADR:	Alternative Dispute Resolution
CEAM:	Child Early Age Marriage
CrPC:	Criminal Procedure Code
CSO:	Civil Society Organisation
CSW:	Commission on the Status of Women
ECP:	Election Commission of Pakistan
EMOC:	Emergency Obstetric Care
FIA:	Federal Investigation Agency
GCC:	Gender Crime Cell
GMIS:	Gender Management Information System
GBV:	Gender Based Violence
HC:	High Court
ICT:	Islamabad Capital Territory
KP:	Khyber Pakhtunkhwa
LHWs:	Lady Health Workers
LSBE:	Life Skills Based Education
MoHR:	Ministry of Human Rights
NADRA:	National Database and Registration Authority
NCC:	National Council for Curricula
NCHR:	National Commission for Human Rights
NCSW:	National Commission on the Status of Women
PDHS:	Pakistan Demographic Household Survey
PECA:	Prevention of Electronic Crimes Act
PPC:	Pakistan Penal Code
SC:	Supreme Court
SDG:	Sustainable Development Goals
SOP:	Standard operating Procedure
TVET:	Technical and Vocational Education and Training
UC:	Union Council
VPNC:	Village Panchayat and Neighbourhood Council
WDD:	Women Development Department

## Introduction

Pakistan has passed numerous laws and formulated policies to promote women's rights in this period. Unfortunately, many lack enabling laws, regulations, rules and actions to be effective. This submission focuses on Pakistan's reply to CEDAW Committee's LOI and highlights a few additional issues. (CEDAW/C/PAK/RQ/5) contains many intentions without timelines and some statements without supporting evidence. It also has inaccuracies in including:

Para 7: The Protection against Harassment at the Workplace Act dates from 2010 not 2018.

Para 31: ADR mechanisms (Panchayats and *Musalihat Anjuman*) existed under the Punjab Local Government Act 2013. This was repealed by the Punjab Local Government Act and Punjab Village Panchayat and Neighbourhood Councils Act in 2019 that do **not** provide for ADR bodies/mechanism.

Para 39: The various departments and bodies dealing with women have **not** "been centralised under the Sindh WDD. On 19 December 2019, the Sindh High Court directed the government to form a committee "to develop a mechanism to address all issues pertaining to women by one department with complete autonomy."<sup>1</sup> The committee has not been notified.

Para 67: According to its Act, the Punjab CSW is *not* responsible "for promoting women's empowerment and arranges community awareness campaigns".

Para 74: The NCSW mandate does not include taking *suo motto* notice of non-implementation of the Punjab Protection Against Violence Act 2016 which is the responsibility of the Punjab Protection Authority.

Para 84: Section 369-A of the PPC has been repealed; the offence now falls under Section 3 of the Prevention of Trafficking in Persons Act 2018.

Para 183: Section 365-B of the PPC was reinserted through the Protection of Women (Criminal Laws Amendment) Act 2006 **not** the 2011 Prevention of Anti-Women Practices (Criminal Law Amendment) Act.

Para 185: To contract a polygamous marriage, a man needs a permission certificate from the relevant Arbitration Council not the permission of his wife – which holds no legal value.

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<sup>1</sup> <https://www.dawn.com/news/1522444/shc-wants-all-women-issues-dealt-with-by-one-dept>

## Legal and Policy Frameworks

CEDAW/C/PAK/Q/5 Para 1 & CEDAW/C/PAK/RQ/5 Paras 1-2

A 2018 national Sustainable Development Goals framework sets targets to be achieved by 2030 against each goal, and national priority indicators, but does not specify by when data gaps will be filled and baselines established for meaningful monitoring. The comprehensive review of data sources by the Federal SDGs Support Unit in 2017 specifies the numerous data available at national, provincial, and district levels.<sup>2</sup> But data is not always compatible or disaggregated by gender, socio-economic status, age, education, marital status, disability, migratory status, and religion/ethnicity.

Goal 5 is in the second priority category.<sup>3</sup> Important targets and indicators for the realisation of gender equality are missing. Goal 5 has no targets for unpaid care and domestic work, land ownership, secure access to agricultural land or share of women owners/rights-bearers by type of tenure. Goal 3 includes five targets and eight indicators, but no targets on communicable and non-communicable diseases, mental health and well-being, substance abuse (3.5), or deaths due to hazardous conditions. Several indicators and targets are not gender-disaggregated. Consequently, important gendered data necessary for effective planning will be missing. This underscores a failure to understand the interlinkages of all SDGs to gender equality and progress, as well as the vitality of gendered data to understand the complexities that obstruct gender equality.

Women and girls enjoy disparate rights depending on their religion and location, especially since the 2010 Constitutional Amendment devolved all matters pertaining to women to the provinces. Of concern are divergences in the minimum age of marriage, the criminalisation of domestic violence, and legal coverage for domestic, home-based and agricultural workers.

- What issues did the MOHR study identify for the harmonization of national legislation with international human rights obligations? Which does the MoHR propose to legislate on?
- Why do gender equality/women's empowerment policies not reference CEDAW or equality?
- So far only a private member's bill of the opposition proposes amendments to Constitutional Article 25. Has the government endorsed the bill? If not why not?

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<sup>2</sup> 2017. Federal SDGs Support Unit, Ministry of Planning, Development and Reforms. Sustainable Development Goals: Pakistan's Perspective – Data Reporting Gap; Draft report - for review. December 2017. Available at [https://www.pc.gov.pk/uploads/report/Data\\_Gap\\_Report\\_Report\\_Version\\_6.pdf](https://www.pc.gov.pk/uploads/report/Data_Gap_Report_Report_Version_6.pdf)

<sup>3</sup> *Beijing - 25 Years On: Pakistan Parallel Report*. October 2019. Available at <http://shirkatgah.org/shirkat/?p=14237>

## Access to Justice

CEDAW Para 3 & CEDAW/C/PAK/RQ/5 Paras 18-22 & 84

Section 310-A, and 498-B of the PPC related to **forced marriages** are ineffective because the offences are non-cognisable, meaning police cannot investigate and make arrests without a magistrate's permission. In October 2018, the NCSW recommended reforms to make these cognizable.

- What is the status of the 2018 NCSW recommendation to make offences under Sections 310-A and 498-A, B and C of the PPC cognizable?

The Zainab Alert Bill facilitating the rapid tracing of missing children is limited to the Islamabad Capital Territory (ICT).

- Does the Government have any plans to extend this to all of Pakistan?

Section 161-A of the *Criminal Procedure Code (CrPC)* (**not PPC**) entitles victims of certain crimes (being stripped naked, raped, subjected to unnatural sexual offence or sexually abused) to free legal aid **but does not provide aid automatically**.

- How many women have been provided free legal aid and why is free legal aid not provided automatically?

Given that none of the PKR 46 million under the Women in Distress and Detention Fund has been utilised:<sup>4</sup>

- How many women have applied for and benefitted from the Fund?
- What is impeding utilisation?

## Alternate Dispute Resolutions

CEDAW Para 3 & CEDAW/C/PAK/RQ/5 Paras 3, 29-32

The 2017 ADR Act applies only to ICT. While the required Centres to operationalise the Act have yet to materialise, dispute resolutions committees with self-adopted mechanisms and procedures have been operating in Islamabad police stations for years and several District Resolution Councils operate in KP without any basis in law. This conflicts with the Supreme Court (SC) ruling of January 2019 that 'no individual or persons in the name of a *jirga/panchayat* or under any other name can assume the jurisdiction of a civil or criminal court without any lawful authority; any order, decision or a direction issued by any such individual or

<sup>4</sup> <https://www.dawn.com/news/1497350/senators-criticise-unutilised-welfare-funds-under-human-rights-ministry>

group of person is hereby declared illegal’ and instructed police to formulate SOPs within two months.

In 2017 ADR centres were established in Lahore and some other cities under the directions of the Lahore High Court to deal with court-referred civil and criminal cases in which law permits settlement with the consent of the parties. Serving judicial officers were appointed in Lahore centres. These centres are functioning but in future are likely to be regulated by the new Punjab ADR Act, 2019 which overrides all other laws. This Act makes it mandatory for courts to refer civil disputes, including family disputes and custody of minors for settlement with the parties consent. In such cases courts cases will only proceed if either the parties don’t agree for alternate settlement or the case remains unresolved after a settlement attempt. The rules under this law and other arrangements are awaited.

- How does the Government propose to reconcile the functioning of dispute resolution mechanisms operating in police stations and the new proposed ADR Centres in ICT?
- What measures ensure those who contravene the SC ruling are prosecuted?
- What actions have provincial police departments taken to draw up SOPs to implement the SC ruling?

## **National Machineries**

CEDAW Para 4 & CEDAW/C/PAK/RQ/5 Paras 33-41

The failure to appoint people to commissions in a timely manner renders institutions dysfunctional for long periods, impeding effectiveness and continuity. The NCHR is dormant since June 2019; nine months lapsed before the chairperson of the KP CSW was appointed, the Punjab CSW has been dysfunctional since May 2019; the NCSW since October 2019.

Inordinate delays in approving NCSW Service and Financial Rules impede appointments of subject/expert staff and requisite administrative staff. The KP and Sindh CSWs lack autonomy as the Chair is not the Principal Accounting Officer; autonomy of all provincial CSWs is reduced by WDDs prior vetting of all financial matters, research reports etc.

The January 30, 2019 Audit Report of the NCHR highlights the failure to comply with the Act in that<sup>5</sup>: (a) the NCHR Fund was never established; (b) The employees Service Rules and accounting procedures have not been framed; (c) no action has been taken to establish the

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<sup>5</sup> National Commission for Human Rights Act, 2012. See <https://nchr.gov.pk/wp-content/uploads/2019/12/18-19.pdf>

Human Rights Courts specified under the Act and no special prosecutor appointed, depriving citizens of the benefits of the courts.<sup>6</sup>

- Have Financial Rules been approved and gazetted to enable NCSW to open a bank account and be fully independent?
- What is delaying the constitution of the Balochistan CSW two years after the law's enactment?
- As autonomous bodies, why have the provincial CSWs not been given full financial and administrative autonomy?
- What coordination mechanism is in place between NCHR, MOHR and NCSW to avoid overlaps?
- What steps has the government taken to appoint the chairpersons and members of NCSW, Punjab CSW and NCHR?
- What is delaying the framing of the NCHR services rules and accounting procedures and establishment of human rights courts?

Except in KP, all WDDs are all 'severely understaffed and lacked the required resources' as confirmed by the Sindh\_Women Development\_Minister.<sup>7</sup>

## Temporary Measures

CEDAW Para 6 & CEDAW/C/PAK/RQ/5 Paras 48-52

Female enrollment in the civil service academy has improved (40% in 2017). However, Sindh's quota for women in civil administration is 25% but women are only 16-17%; 10% in the police but women constitute only 4% of the force. In Punjab, women comprise only 2.7% of the police force<sup>8</sup> and in 2017 only 48 of the 181 provincial departments and 137 of the 663 district offices had achieved the 15% quota<sup>9</sup>. Despite 10% quotas, in 2018 the federal government employed less than 5% women government employees and KP just 4.2%.

- What mechanisms exist for ensuring quotas are met?
- Does the Government envisage having uniform minimum quotas for women across its territory and include women in quotas for persons with disabilities and minorities?

<sup>6</sup> <https://www.dawn.com/news/1504289>;

<https://www.dawn.com/news/1516633/dysfunctional-nchr11>

<sup>8</sup> <https://www.undp.org/content/dam/pakistan/docs/Democratic%20Governance/GEPA%20Report%202017.pdf>

<sup>8</sup> <https://www.undp.org/content/dam/pakistan/docs/Democratic%20Governance/GEPA%20Report%202017.pdf>

<sup>9</sup> Dawn, <https://www.dawn.com/news/1419467>

## Political & Public Participation

CEDAW Para 12 & CEDAW/C/PAK/RQ/5 Paras 53 & 93

Women continue to be under-represented as voters and elected officials, including in local government. Factors that limit or facilitate women's participation in political processes – as voters, advocates, activists, and decision-makers – vary according to socio-cultural circumstances, economic situation, geography, and political context and systems.

Special efforts by ECP and an agreement with NADRA added 4.3 million female voters between October 2017 and April 2018 in 103 districts; those constituencies were made primary focus where the male-female differential exceeded 10%. Yet the differential increased from 12.17 % in 2017 to 12.56% in 2018<sup>10</sup> as youth became eligible to vote. Current strategies do not suffice and special efforts needed in all constituencies.

- What is the strategy for ensuring that all constituencies are covered and NADRA and ECP have sufficient resources for this, including mobile vans?

Generally women's representation is well below the recommended 33%. In the lower and upper houses of parliament, women constitute 17.8 percent. In local governments only the Balochistan Act reserves 33% seats for women, however a new law is being drafted apparently and its contents are unknown. Sindh's local government provides 22 percent in higher tiers but 11 per cent in Union Councils (UCs). Following the 2018 amendment, the KP Local Government Act 2019 no longer provides 33% women's representation only 14%, as does the Punjab Local Government Act 2019. The Punjab Village Panchayat and Neighbourhood Act 2019 (VPNC) reserves one seat for women (and 1 for minorities) out of a minimum of four and maximum of 8 – between 12.5 and 25%. The VPNC makes Common Assemblies of all residents mandatory but nothing ensures the presence of women. There is no link of the two tiers of the Punjab Act.

Moreover, the Punjab local government was not allowed to complete its tenure, creating an unhelpful gap in the political participation of grassroots women. In KP and Punjab, UCs (responsible for administering and keeping records of births, marriages and some forms of divorce) and the district tier of local government have been eliminated, closing off an important staging post for women entering provincial and national politics. Where they exist, quotas for religious minorities, youth and peasants/workers do not ensure women's presence.

- How does the Government ensure women, persons with disabilities and from minorities are included in the common assemblies under the Punjab VPNC Act?
- What measures is the Government taking to ensure 33% representation of women local governments in Punjab and KP?

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<sup>10</sup> <http://ecp.org.pk>



- Although local government elections have been announced in Balochistan, apparently a new law is being formulated. Does this ensure 33% seats for women?

A separate concern is the negative reactions to women’s participation in public processes exemplified by reactions to *Aurat March* rallies across six cities commemorating International Women’s Day on 8 March 2019. The March was organised by collectives of women and transgender persons unaffiliated with any political party, for-profit and not-for-profit organisation. Participants from across class, ethnic and other identities exercised their freedom of assembly to articulate various demands from economic and environmental justice to equality in the home. The KP legislature passed a unanimous resolution against the March; a legislator in Karachi tried to register police cases against the organisers. Subsequently, participants received rape, death and other threats - both online and offline. The Federal Investigation Agency fail to act on complaints of online threats<sup>11</sup>. In tandem, new regulations require all CSOs receiving foreign funding to register with the Economic Affairs Division (EAD). CSOs working on women’s rights have persistently been asked about their role in the March by various officials, including those responsible for approving CSO EAD registration.<sup>12</sup>

Leading CSOs working on human rights, including many leading women’s rights organisations have been refused registration without providing any reasons. Several have obtained stay orders from the court to continue working

- If discouraging participation in a peaceful march is made the basis for state clearance to CSOs, how is the state upholding Article 7(c) of CEDAW?
- What positive steps has Pakistan taken to ensure an environment conducive for women’s exercise of civil and political rights, including the freedom of assembly?
- What progress have authorities made in identifying and prosecuting groups and individuals who have threatened March participants?

## **Stereotypes, Harmful Practices & Education**

CEDAW Paras 7, 13 & CEDAW/C/PAK/RQ/5 paras 58, 63-66 & 94-107

While the intention to revise curricula to eliminate stereotypes and include equal representation of gender roles is appreciated, not a single curriculum has been made public. A review of the 2018-19 Class 5 Urdu textbook in KP shows no removal of the gender bias, anti-minority slant or glorification of *jihad* documented earlier.<sup>13</sup> The evidence of work undertaken

<sup>11</sup> FIA Complaint 2857/19 dated 18.03.19

<sup>12</sup> <https://newlinemagazine.co./magazines/stifling-the-ngos-2>

<sup>13</sup> Tahira Abdullah, 2015, “Textbooks of Hate or Peace?” (PEAD, Islamabad) and “Review of selected public sector textbooks of Khyber Pakhtunkhwa”, (working title) forthcoming national research study by CSJ & ITA, Lahore, 2020.

regarding the elimination of gender bias in the curriculum including pedagogical practice and school texts; increasing girls' enrolment by improving facilities and environment, suggests the government's claims are more assertions of intent than achievements.

There is a disjunction between the new Education Policy for a uniform education system and the government's claim to bring madrassas into the educational mainstream particularly TVET, and actual practice. The committee established for this is dominated by madrasa representatives (5 as opposed to 1 each from civil society and minorities, 2 members from the Punjab Textbook Board who demand strengthening of the *jihad* component in school textbooks; and no representation of academic experts). This risks reinforcing gender biases and negative stereotyping, and mainstreaming madrasa education instead of the other way round.

The Report of the National Council for Curricula is due in March 2020, but to date no information has been provided regarding the extent to which the Council represents the interests of women and non-Muslim minority populations.

There is no tangible evidence regarding substantive curriculum changes to eliminate gender bias and remove stereotypes in school textbooks regarding women and minority populations<sup>14</sup>. (Changes, where made, are cosmetic e.g. numerical increase in images or mention of women who continue to be shown in stereotypical roles.) Nor is there any information on, or evidence of, steps taken for commensurate changes in conceptual understanding and pedagogical practice such as teacher trainings etc. at the federal and provincial levels.

The Balochistan government's intention to integrate Life Skills Based Education in the curriculum and textbooks at the Secondary School has not gone beyond the initial capacity building workshop by CSO Aahung.

Girls' enrolment has increased and the gender parity gap reduced through free education up to Class X and textbooks for economically under-privileged children, and some girls' schools benefit from clean and safe toilets to ensure menstrual hygiene etc. However drop out remains high, exacerbated by the lack of toilets and free and safe transport. There is an urgent need to enhance middle and secondary schools, particularly in rural areas, ensure safe and affordable transport to enable girls' access to schools not in their immediate vicinity and ensure all schools have toilets and Life-Skills Based Education (LSBE). There is no evidence of teacher training on gender or human rights.

- As none of the revised curricula to eliminate gender stereotypes are publically available what is the evidence that stereotypes have been removed in education content?
- Why are education specialists outnumbered by the *madrasa* representatives in the NCC?

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<sup>14</sup> NCJP 2019. 'Education and Religious Freedom: A Fact Sheet'.

- Have teachers trained to teach LSBE sessions and what do these cover? What is impeding the introduction of LSBE in Balochistan and when will this be incorporated into schools in all provinces at all levels?
- What Government measures educate and sensitise men and boys to be more gender sensitive? (Reference para 58)

## Gender-Based Violence

CEDAW Para 9 & CEDAW/C/PAK/RQ/5 Paras 69, 79, 81

Given the lack of statistics on the National Police Bureau website raises the question of how functional and effective the Gender Crime Cell is. The GCC has to request information from provinces where there is no focal collection point for such data. A new mechanism is required.

- What are the sources of the figures quoted in para 80 and what measures have been taken to ensure accurate comprehensive data on GBV- both reported and unreported??
- How regularly does the GCC display crime data related to women and is this in line with standardised indicators NCSW recommended?
- Does the government plan to train police and prosecutors and ensure repeat trainings for judges in the GBV courts?

Government-run women's shelters (Darul Aman) have improved but remain under resourced; residents complain about poor conditions and the lack of proper education.<sup>15</sup> Punjab has shelters in 35 districts but other provinces are underserved. A Punjab CSW commissioned study in 2016 found the vast majority of residents felt stripped of their freedom; many pleading with researchers to help them regain freedom.<sup>16</sup> Residents can only leave shelters for medical treatment and court proceedings under escort. Women require court referrals to be admitted in Sindh. In Punjab women are admitted without court referrals but made court dependent within 24 hours, reducing them to legal minors incapable of making their own decisions. Court dependency increases the risk of violence due to the publically announced release date. After several women were killed or injured, women started leaving a few days earlier than the court order, putting them in violation of the law.

More alarmingly, misconduct and violation of women's personal security were evident in three shelters in 2016. Attesting to continuing issues, in November 2019, the superintendent of the Lahore shelter (Kashana) alleged on YouTube that she was pressured into marrying off

<sup>15</sup> [https://epaper.dawn.com/DetailImage.php?StoryImage=27\\_09\\_2018\\_177\\_006](https://epaper.dawn.com/DetailImage.php?StoryImage=27_09_2018_177_006)

<sup>16</sup> *Sheltering Women from Harm; Darul Amans of Punjab Achievements and Challenges*. July 2016. Available at <https://pcsw.punjab.gov.pk/system/files/ShelteringWomenfromHarmDarulAmansofPunjabAchievementsandChallenges2016.pdf>

underage orphan girls in the shelter to senior government functionaries. She was suspended and virtually all the staff transferred within 48 hours.<sup>17</sup>

- Has the government had the claims of abuse independently investigated? If not why not?
- How frequently are 3<sup>rd</sup> party assessments carried out of Government shelters?
- What is impeding the passage of domestic violence acts in KP and implementation of the act in Balochistan?

The process for addressing online harassment under the Pakistan Electronic Crimes Act 2016 is painfully slow and, according to complainants, riddled with negligence and apathy. Women find FIA officials have non-professional attitudes as evident in frequent adjournments, absences at hearings, non-submission of material file, etc. Intersectional online and offline harassment that according to the Digital Rights Foundation's Helpline comprises 63% of complaints received is not adequately addressed. Women in media especially face electronic harassment and have received threats of rape and murder that is curbing the freedom of expression and reporting.<sup>18</sup>

- What initiatives have been taken to train FIA officials to carry out investigations under PECA including on all devices and platforms and to sensitise them?
- What actions have been to ensure the protection of women journalists and activists?

## Prostitution & Trafficking

CEDAW Para 10-11 & CEDAW/C/PAK/RQ/5 87, 88

**Bride trafficking:** In 2019, the Federal Investigation Agency (FIA) cracked down on the trafficking of Pakistani girls to China. Aided by Pakistani and Chinese middlemen, a Chinese organisation was allegedly targeting impoverished, mainly Christian, families since 2018, paying up to PKR 3 million for women to marry Chinese men. Once in China, the women were often neglected and starved, abused, sold into prostitution or fell victims to the illegal organ trade. Several contacted their families, pleading to be rescued. The FIA arrested scores of Chinese nationals and some locals, including Christian pastors and at least one Muslim cleric. China refuted the claims of women being sold into prostitution while warning against illegal marriages; Pakistan's Foreign Office cautioned the media against 'sensationalising' matters. Subsequently, the women initially interviewed by the police refused to testify and shortly

<sup>17</sup> <http://hrfp-web.org/hrfpweb/hrfp-investigates-kashana-home-case/>

<sup>18</sup> <https://digitalrightsfoundation.pk/wp-content/uploads/2019/03/Female-journalists-in-new-media-experienceschallenges-and-a-gendered-approach.pdf>

thereafter, the Chinese nationals were either acquitted or bailed out and allowed to leave the country. The FIA investigation was curtailed and news reports dried up. As per media reports, investigators compiled a list of 629 Pakistani girls sold to China as brides over a period up to early 2019<sup>19</sup>. See Discrimination Lingers On (CSJ-led report) for other aspects of trafficking.

- What measures has the government taken to address this issue and prevent any further abuse?

## Employment

CEDAW Para 14 & CEDAW/C/PAK/RQ/5 Paras 108-126

Women's labour force participation and economic contribution is underestimated in national data sources; unpaid care and domestic work is unrecognised and not computed. There are no accurate statistics on women in the informal sector (where women are concentrated) although the Sindh labour law 2018 seeks to address this, and no data on women's use of labour courts.

No domestic legislation prevents occupational segregations, or sex-based wage discrimination; very few laws explicitly spell out women's rights.<sup>20</sup> No laws address discrimination in hiring, firing, promotions and other workplace conditions with respect to gender, sex, married/divorce status and pregnancy – for either blue- or white-collar workers or managerial or supervisory positions.

- What is the Government doing to address workplace discrimination in all sectors and levels?
- What initiatives ensure widespread knowledge of the new laws on home-based and domestic workers in Sindh and Punjab? What measures are being taken to ensure legal cover is also provided in other territories?
- How many women use of labour courts and with what results?

Unequal economic activities across the provinces and regions, acerbated by climate change and conflicts in different areas of Pakistan, are increasing the number of intra-country migrant workers. Their working conditions are precarious and workers lack mechanisms to receive old-age and health benefits in their home districts. Migrant workers remain undefined and unrecognised under the law.

- What is the Government doing to document, recognise, regularise and facilitate migrant workers in Pakistan?

<sup>19</sup> <https://www.thenews.com.pk/print/578978-629-pak-women-sold-as-brides-to-chinese-in-18-months>

<sup>20</sup> Beijing - 25 Years On. Supra Note 4

In Punjab, factory inspections have been officially removed since September 2019. Across Pakistan, Labour Departments are underfunded and understaffed.

- How does the Government plan to facilitate monitoring of employment conditions for women in formal employment?
- How are work conditions and employment terms in the informal sector, which largely employs women, being monitored?

The Sindh Home-Based Workers Act, 2018 and Punjab Domestic Workers Act, 2019 are appreciated as most are women, but these have not been notified yet for implementation. There is no legal coverage for home-based workers in Punjab, KP, Balochistan and ICT or for domestic workers in Sindh, Balochistan, KP and ICT. The Punjab Labour Policy 2018 and Sindh Labour Policy 2018 fail to address contractual and subcontracted workers who the Supreme Court clarified (2013 SCMR 1253) in most situations are employees of the principal employer. Subcontracted and temporary contract workers cannot access the benefits of employment such as old-age and health benefits, maternity leave etc.

- What steps is the government taking to ensure implementation of the Supreme Court's 2013 judgement clarifying the status of subcontracted workers?

## **Sexual Harassment at Workplaces**

CEDAW Para 15 & CEDAW/C/PAK/RQ/5 Paras 121-124

Under the Protection against Harassment of Women at the Workplace Act 2010 Ombudspersons exist in at the federal level and in all four provinces – a process completed in 2019 with the appointment of the KP Ombudsperson in February and in Balochistan in April. The quasi-judicial nature of the Ombudsperson's office and sensitivity of cases dealt with demands financial and administrative autonomy. However only the Federal Ombudsperson enjoys administrative and financial powers following the Federal Ombudsmen Institutional Reforms Act, 2013 (XIV of 2013) and Reforms Act of 2013 that specify the tenure, terms and conditions of service, procedures for injunctions, review, contempt, etc. and empower the Ombudsman to dispose of cases speedily.

Provincial Ombudspersons have disparate tenures: undefined in Punjab, 3 years in KP and Balochistan and 4 years in Sindh. The 'workplace' definition limits the scope of this law for academic institutions, actors on a set or rehearsals, or an institution's staff member harassed by an outsider.

A May 2019 Islamabad High Court ruling excluded harassment of a non-sexual nature from all Ombudspersons' purview,<sup>21</sup> raising the question of defining what 'sexual harassment' would encompass.

The Act requires all public and private institutions to institute harassment committees but there is no mechanism to ensure that all have done so, or that committees are impartial and members sensitized. Complainants have faced blackmail, defamation counter cases, and the use of social media to exert pressure.<sup>22</sup> In light of these issues, a 2019 NCSW Roundtable recommended a series of changes in the rules of business, the Federal Ombudsmen Institutional Reforms Act 2013 or in the substantive law.

- What steps has the Government taken to take forward the recommendations of the NCSW Roundtable?
- How does the Government intend to address gender based harassment that falls outside 'sexual harassment' subsequent to the Islamabad High Court ruling?
- What measures have been adopted to ensure that all government and private institutions have the requisite complaint committees and what monitoring mechanisms are in place to ensure that Ombudsoffice decisions are followed through?

## Health

CEDAW Para 16 & CEDAW/C/PAK/RQ/5 Paras 135-138

Fistulas are associated with early age marriages and other factors. The information system of each health facility should record cases of fistula. To ascertain prevalence and scope, the Pakistan Demographic Household Survey (PDHS) should include fistula and stillbirths.

Maternal mortality rates remain high especially amongst poor women and are related to high rates of stillbirths.<sup>23</sup> Maternal mortality is not just a technical issue that can be resolved through services, but linked with women's general health issues and strategic interests, including decision-making about child spacing, family planning and age at marriage. Mortality also stems from the lack of access to emergency obstetric care (EMOC) within 2 hours of emergency.

- Are any steps being taken to include fistula repair in medical education and ensuring accessible and available services?

<sup>21</sup> <https://www.dawn.com/news/1491543>

<sup>22</sup> *Final Report, NCSW Roundtable: Review of Protection Against Harassment of Women at Workplace Act 2010; Islamabad – 26 September 2019.*

<sup>23</sup> <https://www.unicef.org/pakistan/reports/unicef-Pakistan-annual-report-2018>

- What steps are being taken for the provision of EMOC services within 24 hours as repeatedly recommended by health experts?

There is no state narrative on the severe negative impact of child early age marriage (CEAM) and the implementation of the legal age of marriage is weak. There is a need to address the negative social customs that promote CEAM in which daughters are seen in terms of the transactional value derived from their marriages arranged by family elders to benefit economically or build social capital.<sup>24</sup> CEAM are common in Pakistan yet LHWs who are tasked with home visits are not mandated to engage with unmarried girls. Projects by CSOs<sup>25</sup> affirm that LHWs are willing to engage with youngsters and spread awareness of the negative consequences of CEAM once they have awareness. They need to be officially mandated to do so and supported in this role. LHWs need training. Overburdened and underpaid, LHWs' focus on women's health is often displaced by polio vaccination campaigns that continue to put them at physical risk. Of concern is that retired LHWs are not being replaced by the state.

- What plans does the Government have to strengthen the number and coverage of LHWs and include unmarried youth in their mandate?
- What steps have been taken to ensure that gender desegregated data is available on communicable and non-communicable diseases, mental health and well-being, substance abuse, and deaths due to hazardous conditions under SGD 3?

## Abortion

CEDAW Para 17 & CEDAW/C/PAK/RQ/5 Paras 140-142

Abortion is permitted under PPC Section 338-A, B and C for saving the life of the mother or providing her necessary treatment until the organs of the child have formed, following which only the life exception applies. 'Necessary treatment' has never been defined. Rural Health Centres are mandated to provide post-abortion care. Data indicates some 2.2 million induced abortions are carried out each year<sup>26</sup> but there is no segregation of safe and unsafe abortions. Commonly, abortion is used as a means for family planning when services are unavailable or by women not permitted to access these. LHWs and Community midwives can play a critical role in befriending women at high risk to make family planning services available.

<sup>24</sup> Shirkat Gah – Women's Resource Centre, 2019. *Final Technical Report, Humsathi: Empowering Girls to Be Their Own Advocates and Boys as Allies to End Early Child and Forced Marriage*; IDRC Grant Reference No. 108104-001

<sup>25</sup> Shirkat Gah. *Supra Note 20 and Meeting Pakistan's Commitments on SDG Target 5.3, Policy Brief 2019.*

<sup>26</sup> <https://www.dawn.com/news/1429517>



In practice women seeking abortions and post-abortion care confront the moral reservations and biases of service providers most of who are insufficiently informed about the law and assume they may be penalized or incarcerated for providing abortion services.<sup>27</sup>

- How is the Government monitoring the quality of services following staff training on safe post-abortion care?
- What is the government doing to ensure that women are not refused abortion and other reproductive health services to which they are entitled?
- How frequently are value clarification sessions conducted with providers to improve provider behavior, reduce bias and increase women's access to quality and comprehensive safe abortion and post-abortion services?

### **Rural & Disadvantaged Women**

CEDAW para 18-19 & CEDAW/C/PAK/RQ/5 Para 108-120

The household data being collected does not provide disaggregated intra-household information and therefore does not reflect whether women possess physical assets, essential to understand women and poverty. Measuring women's economic contributions, especially in terms of unpaid care and domestic work, is inadequate: accurate statistics on women in the informal sector, comprising 72 percent of the non-agricultural employment, are missing; many rural women's work unaccounted for. National data sources underestimate rural female labour force participation. Far higher rates are found by rural surveys asking women to recall paid and unpaid 'activities' rather than 'work'.<sup>28</sup>

No official gender disaggregated data is available on quotas for persons living with disabilities, or minorities or the effectiveness of government schemes and quotas for women, people with disabilities, or minorities, making impact assessment difficult.

- What actions spread awareness of the Sindh Women Agriculture Act 2019 and ensure that women are aware of their rights under the law and know how to register and benefit from this?

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<sup>27</sup> Shirkat Gah .*Fighting the Stigma through Champions: Addressing Unsafe Abortion in Pakistan*  
<http://shirkatgah.org/shirkat/?p=13904>

<sup>28</sup> Haris Gazdar and Marium Ibrahim. 2019. 'Poverty, Food Security and Nutrition: Linking Sustainable Development Goals Through Women Agricultural Workers, Leveraging Agriculture for Nutrition in South Asia', Chapter 10 in *Health and Sustainable Development Goals in Pakistan*. Eds. Zulfiqar A Bhutta & Jai K Das. Paramount Books Ltd. Karachi

- How many rural women benefitted from the short and medium term loans during the years 2012/13-2015/16?
- How many women have benefitted from the quotas for minorities and persons with disabilities?

## **Internally Displaced Persons**

CEDAW Para 19 & CEDAW/C/PAK/RQ/5 Para 160

The KP CSW research found IDP women confronted different issues when living in camps, in host communities and post-return. It recommended a series of actions to address the situation including further assessments, uniform disbursement policies, steps to ensure voting rights of women in camps and institutionalisation of Rapid Gender Needs Assessment exercises. There is no visible follow up on any.

- Which recommendations of the research on displaced women have been taken up?
- Has the government undertaken a wider assessment as this study was only conducted with 360 persons?

## **Family Laws**

CEDAW Paras 2, 9, 21 & CEDAW/C/PAK/RQ/5 Paras 62 , 176-183

**Implementing laws** Systematic training of marriage registrars was only carried out in Punjab, but only 25,000 of the envisaged 49,000 marriage registrars, solemnisers and relevant UC officials could be trained. During the training many marriage registrars questioned the contents of the law.<sup>29</sup> In June 2017 the Sindh High Court directed Deputy Commissioners to issue notifications to all registrars to ensure no girl under 18 was married and the police to act if anyone found to be in violation. In May 2019 the Islamabad High Court directed ICT district administration and local government officials to ensure registrars' orientation in the law and to monitor their compliance.

- What steps have provincial governments taken to ensure training of the marriage registrars for implementation of the law in letter and spirit regardless of personal belief? Have any licenses have been cancelled or actions taken?
- Are criteria for appointing registrars standardized? If not, why not?

<sup>29</sup> Shared by the former Chairperson of the Punjab CSW

**Minimum Age of Marriage:** The intention to standardize the definition of children to anyone below 18 is appreciated. However, the minimum age of marriage for girls is 18 years in Sindh and for Hindus; 16 for everyone else. There are no family laws for Sikhs in any province except Punjab. The Federal Government’s Bill to increase the age of marriage for girls from 16 to 18 was not approved by the Standing Committee of the National Assembly. Standardising the definition of child also requires amendments in several labour laws as well.

**Forced Marriages:** Section 365-B of the PPC was reinserted in the PPC through the Protection of Women (Criminal Laws Amendment) Act 2006 (*not through* the 2011 Prevention of Anti-Women Practices (Criminal Law Amendment) Act) that criminalises forced marriages, depriving women of inheritance rights and giving of a woman to settle any civil dispute or criminal liability. In 2017, a special provision increased the term of imprisonment for offences against non-Muslim women and girls under sixteen (as defined in the Child Marriage restraint Act 1929) from three years to between 5 and 10 years, ignoring that 18 is the minimum age of marriage for girls in Sindh since 2013. Of concern is that the Government’s own attempt to table a bill was rejected by the sitting government’s members in Committee. Citizens belonging to religious minorities who do not have proof of marriage confront a number of problems such as obtaining accommodation in hotels.<sup>30</sup>

- When will the government retable a bill making 18 years the minimum age for girls’ marrying across the country?
- When will Sikh family laws be enacted in Sindh, Balochistan and KP?
- What steps has the government taken to ensure that all couples regardless of religion are issued official marriage certificates?

## Data Collection

CEDAW Paras 1 & 22

The ‘gaps in implementation of CEDAW’ shared by provincial and federal Treaty Implementation Cells (TIC) with concerned departments<sup>31</sup> have not been made available to the public, nor is there any information on any actions taken subsequently. The only TIC website in Punjab has sparse information. TICs seem understaffed and are attached to different departments in different provinces.<sup>32</sup>

<sup>30</sup> National Policy Dialogue on Ending Child and Early-Age Marriages (CEAM) in Pakistan 29<sup>th</sup> July 2018, Islamabad

<sup>31</sup> MoHR Action Plan for Human Rights: <http://www.mohr.gov.pk/uploads/reports/APBL.pdf>

<sup>32</sup> The Punjab TIC was reconstituted and reorganized in 2016 within Human Rights and Minorities Rights Affairs Department <https://tic.hrma.punjab.gov.pk/> The Sindh TIC under the Human Rights Department only has two staff members. October 2019 <https://www.pakistanpressfoundation.org/pa-human-rights-committee-discusses-un-conventions-implementation/> In Balochistan, the TIC appears to be under the WDD

There is **no comprehensive national gender management information system (GMIS)**. Only the Punjab CSW developed a GMIS which provides the basis of an Annual Gender Parity Report available on its website. The Women's Social and Economic Wellbeing survey of the Punjab CSW in collaboration with the Punjab Bureau of Statistics has generated provincial and district level data as a baseline for monitoring SDGs 5 and 8.

- What steps has the government taken to ensure the GMIS is replicated across the provinces and ICT to support effective policy-making?

**A crucial data gap relates to gender-based violence.** The PDHS only includes intra-household GBV. Other forms of GBV, e.g. at workplaces, public spaces and online goes unrecorded. The resistance to documenting GBV is illustrated by the fact that the NCSW was unable to carry out a national survey despite securing funds for the purpose in 2016. The Punjab PCSW incorporated some aspects in the Social and Economic Wellbeing Survey 2016-18, making Punjab the only province to have such data.<sup>33</sup>

- When will the national survey to establish a baseline on the prevalence of GBV be conducted, including on forced conversion and marriages?

**National and provincial budgets are not gender-disaggregated**, making it impossible to ascertain gender-specific budgets and spending. The Pakistan Bureau of Statistics collates gender statistics on population, fertility and mortality; household and family structure, health, family planning, education, labour and manpower; employment trends and women's role in public life. This purely quantitative data need to be analyzed by the SDG units and WDDs to identify social determinants in order to have more accurate foundations for effective policies. Gaps in participation include: unrecorded membership of women in political parties, outdated data of women in trade unions and no data on women's use of labour courts; no reliable data on the number of women in the local governments.

All data on **poverty** is collected at the household level. There is no information regarding intra-household possession of physical assets or food and nutrition - essential for understanding women and poverty.

- Does the government plan to assess intra household poverty that includes gender-segregated ownership of assets, food and nutrition?

**Health data** do not adequately reflect young people. There is no information on sexual and reproductive health, especially for unmarried and young people.

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[https://www.balochistan.gov.pk/index.php?option=com\\_content&view=category&layout=blog&id=588&Itemid=1174](https://www.balochistan.gov.pk/index.php?option=com_content&view=category&layout=blog&id=588&Itemid=1174)

<sup>33</sup> Beijing - 25 Years On. Available at <http://shirkatgah.org/shirkat/?p=14237>

**Disaster/Climate Change:** documentation of climate-related issues is poor, with no gendered analysis or statistics. There are no gendered statistics on climate-related issues or on women and girl refugees or displaced persons.

**Political and public participation:** Women's membership in political parties is unrecorded; is no credible data is available on the number of women in local governments and women's membership in trade unions is long outdated.

- What impedes the Government from collecting data on women in political parties, starting with the office bearers?
  - Why is data not available on women's cases in Labour Courts?
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