

Children's right to identity in Pakistan

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Creation of identity

Birth registration:

• Birth registration for children under five years stands ay 42.2%, a modest increase of 15 points from 27% in 2007. The birth registration rate for children under one is even lower, currently at just 35%. Consequently, the burden of unregistered children is alarmingly high, making Pakistan the country with the highest number of unregistered children in South Asia.¹ Contributory factors for low birth registration coverage include limited government capacity, a complex birth registration process, high direct and indirect costs for service users and limited community awareness on the process and importance of birth registration.²

• Civil registration takes place at Local Union Councils throughout Pakistan. The legally defined period for birth registration varies from region to region: in Khyber Pakhtunkhwa, it is 90 days, whilst in Azad Jammu and Kashmir, Punjab, Sindh and Balochistan, it is 60 days. According to a local contact, fees for birth registration also vary by region, province, and urban/rural areas. In Khyber Pakhtunkhwa, birth registration is free, unlike in Balochistan and Punjab. If registration is requested later than seven years after the birth, the parents must obtain an affidavit from court and the district commissioner has to approve the registration. The parents will also have to submit a medical attestation that evaluates the age of the child and a school attestation when completing the relevant form. The parents need to publish a note in a local newspaper stating that they intend to register the child.³

In 2016-2017, the government established 4,476 new registration sites and created a Technical Support Unit for CRVS within the Ministry of Planning, Development and Special Initiatives to oversee and facilitate the CRVS development process, with UNICEF's technical support.⁴ The Pakistani government has implemented a Digital Birth Registration programme in Punjab and Sindh, with support from UNICEF and in partnership with Telenor, focused on the use of technology to access hard-to-reach communities.⁵ The programme was implemented in two phases from 2017 to 2021 in an increasing number of districts. In its evaluation of the programme, UNICEF highlighted that birth registration system reforms must continue to enable provinces to make these services simplified, accessible and affordable and underlined the need for continued engagement of development partners to scale up at provincial level.6

• To increase access and efficiency, in Pakistan, birth registration has also been encouraged during school enrolment.⁷

• Some remaining challenges include outdated legislative frameworks, requiring reformed rules and regulations.⁸ UNICEF Pakistan is technically supporting the government through the legal reforms to ensure inclusion of all children in the birth registration system, *e.g.* minorities, refugees, etc.

• Additionally, in September 2023, UNICEF convened a sideevent, during which key recommendations were provided to Pakistan's delegation by the UN Legal Identity Agenda taskforce, including (i) legal reforms (development of model rules and regulations), (ii) simplification of processes, (iii) interoperability with the health sector, (iv) fee waiver, and (v) linkages with other sectors, including education, nutrition, social protection. Pakistan is also participating in the Civil Registrars Forum in South Asia, which meets on a quarterly basis with different themes discussed.⁹

Nationality and statelessness:

• The Sindh High Court observed that a provision in the *Citizenship Act 1951* gave preferential treatment to the foreign wives of Pakistani men but deprived rights for Pakistani women's husbands, who possessed nationality of other countries, thus raising claims of discrimination. According to the Court's Division Bench, 'the concept which now emerged through international jurisprudence is to enable Pakistanis married to foreigners to be able to live together and acquire nationality for their spouses and live a family life in Pakistan and the Act of 1951 should now be read and tamed accordingly. Restricting the benefit of Section 10(2) to Pakistani men only is a clear discrimination to Pakistani women'.¹⁰ This is crucial as it may have also an impact on the acquisition of Pakistani nationality couples.

• In addition, according to a local contact, there are important nationality-related issues for refugee and stateless children, of which there are sizable populations – of ethnic Bihari, Bengali, and Rohingya – concentrated in Karachi. Unfortunately, there are no formal figures, but some estimate reach the millions.

Potential considerations:

• What additional efforts are being foreseen and implemented by Pakistan's government to ensure higher levels of birth registration across the country, in particular for hard-to-reach children and families?

• How are nationality-related legal provisions being implemented without discrimination to ensure that children may have access to Pakistani nationality and do not remain stateless?



Modification of identity

Alternative care :

• A recent report suggests that several of Pakistan's regional laws give priority to the prevention of family separation and that no child should be removed from their family environment, unless in their best interests (except Punjab and Sindh, where legal reforms are needed).¹¹ When placed in care, none of the regional laws provide for ongoing contact between the child and their family.¹² However, UNICEF Pakistan is providing technical support to Punjab, Sindh, Khyber Pakhtunkhwa and Islamabad Capital Territory to include such provisions in the legal framework, and to have the latter enacted.

• In terms of provision of alternative care, most regional legal frameworks do not provide for alternative care options by the government, ¹³ nor are they defined in line with the Guidelines for the Alternative Care of Children, according to a local contact. The government provides residential care only, without adequately enforcing gatekeeping functions.

• Legislation in some of Pakistan's jurisdictions (Balochistan, Gilgit-Baltistan, Islamabad Capital Territory, Khyber Pakhtunkhwa) includes a stated preference for family-based alternative care placements, but none provides explicitly for the recruitment of foster carers or guardians. Furthermore, Pakistan does not explicitly require parental consent for a guardianship order, but does require that the court give notice of a guardianship hearing to the parents if they are residing in the country. Guardianship laws in Pakistan require that appointment of a guardian be based on the 'welfare' or 'interests' of the child.

Legislation in several of Pakistan's provinces (Punjab, Sindh, Islamabad Capital Territory) makes it compulsory for residential care providers only to be approved and registered by a government authority, and failing to do so is an offence, but most still lack binding standards of care. The Pakistan Baitul-Mal – a semi-autonomous social welfare entity – operates 28 institutions called Pakistan Sweet Homes for orphans aged between 4 and 6 years old. It caters to the needs of 1,300 orphan children in these homes. According to the Khyber Pakhtunkwha Child Protection and Welfare Act, there is also a form of sponsorship for children placed in institutions, which is called 'kafalat' and refers to financial support intended for the institution in which the child is under protection and aims to cover the child's costs of living, maintenance and education.¹⁴ Most laws in Pakistan authorise the court to monitor children subject to a care order and to vary the order on application of the parents or child protection authorities, but they do not explicitly require regular review of placements.¹⁵

• According to a local contact, in Khyber Pakhtunkhwa, the concept of kafala is observed with regards to adoption, where a child is given in the protection of a guardian under the pretext of protecting and providing for them. The 'adopting parents' have to obtain a Child Protection Certificate (CPC) from NADRA to present in the court to claim legal guardianship of the child.

• Finally, although there are currently no statistics on informal care, it seems to be widespread across Pakistan.

 UNICEF Pakistan is currently providing technical support to provincial governments to identify gaps, recommendations and design provincial roadmaps on alternative care, to progressively improve and transform alternative care and shift towards deinstitutionalisation.

Child marriage:

According to the Child Marriage Restraint Act 1929, the legal age for marriage in Pakistan is 18 for men and 16 for girls, except in Sindh where it is 18 for both women and men.¹⁶ In the recently amended Christian Marriage Act 1872 and Hindu *Marriage Act 2017*, the legal age for marriage is 18 for both men and women. Pakistan is home to nearly 19 million child brides; one in six young women were married in childhood.¹⁷ In fact, Pakistan has the 6th highest number of women married before the age of 18 in the world.¹⁸ The percentage of women (aged 20-24) married or in union before the age of 18 years is 18.3%, compared to 4.7% for men, highlighting a concerning prevalence of child marriages for girls.¹⁹ This is compounded by cultural norms, lack of infrastructure for schools, gender stereotypes, discriminatory practices, socioeconomic factors and inadequate access to quality healthcare services,²⁰ which also affect girls' physical health and access to basic rights.²¹

• Thus, according to a local contact, it is imperative for all provinces to reform their child marriage-related laws and not only increase the minimum age of marriage for girls to 18, but also simplify the recogntion mechanism for child marriage cases, with the possibility to file a complaint and report cases, to hold those who not only register but solemnise and facilitate child marriage, accountable under the law and make it a non-compoundable offence. A decision from the Lahore High Court has ordered the government of Punjab to increase the minimum age of marriage to 18 for girls, quoting constitutional principles of gender equality, but to date the government has not enforced this decision, in direct violation of the court order.

According to the same contact, the issue of child marriage in Pakistan fundamentally intersects with freedom of religion and the issue of forced conversion. Research by the Centre for Social Justice (CSJ) shows an uptick in the number of cases of alleged forced conversion in 2022, with a total of 124 cases; 45 of these girls were aged between 14 and 18 and occurred mostly in Sindh and Punjab. In 2023, the CSJ verified at least 71 cases of alleged forced conversion in Sindh and Punjab. However, it must be noted that local Hindu rights collectives working on documenting cases in real time, with an extensive network on the ground, state and show that the number of Hindu girls' forced conversion is underreported and much higher.²² Conversion of a girl from a minority faith often begins with her abduction. This is subsequently followed by a claim that the girl had converted to Islam, married a Muslim and does not wish to return to her family. Protests or cases lodged by the girl's family might lead to a court summoning the girl to ascertain whether she had converted of her own volition. Members of religious minority communities have stated that in such cases, the courts seldom decide matters of custody of the abducted girl in the family's favour, even if the girl in question is underage. They have also stated that the courts that are asked to adjudicate on such matter often come under immense pressure, in the form of courtrooms packed with zealots.²³



• Finally, integrating the issue of child marriage in the wider child protection discourse among state actors is also required at a time when UNICEF has been providing technical support to provincial governments to draft child protection policies, further align their child protection laws with international standards (especially in Punjab) and develop multi-sectoral child protection case management and referral systems.

Children on the move:

UNHCR, IOM and UNICEF are deeply concerned for the safety and well-being of children and families affected by the Illegal Foreigners Repatriation Plan and alarmed at the potential consequences of this plan's implementation. The majority are Afghans now returning out of fear of arrest or deportation in Pakistan. Since 15 September 2023, an estimated 160,000 Afghans have left Pakistan.²⁴ Among those, 86% of families reported fear of arrest as the most common reason for leaving, the overwhelming majority departing in a rush, and without assistance. According to the UN humanitarian coordination agency, more than 60% of arrivals are children.²⁵ Children face serious protection risks while on the move in Pakistan, in detention centres, crossing borders and upon return to Afghanistan. In these situations, children face risks of physical threats to their safety, family separation, distress, fear, abuse and exploitation. Children's access to services including education and healthcare and basic necessities such as food and shelter are being severely disrupted.²⁶

UNICEF Pakistan has also supported the National Commission on Human Rights (NCHR) to produce a technical note on children on the move. Furthermore, UNICEF has engaged with National Commission on the Rights of the Child (NCRC) on evidence generation on children on the move particularly focusing on the lived experiences of IDP and Afghan refugee children and their access to child protection services. This is being finalised to help inform the policies and strategies. Furthermore, UNICEF has entered into the first-time ever partnership with the International Centre for Migration and Policy Development (ICMPD), by focusing on the border control points of Torkham (Khyber Pakhtunkhwa) and Chaman (Balochistan) to undertake a situational analysis of children and subsequently work with the border control/law enforcement officials to enhance their capacities to identify child protection cases and refer them to child protection authorities for services, where children on the move are in need of protection.

Child labour:

• Among Pakistan's provinces, the child labour rate was the highest in Sindh up to 2012–2013, before declining at a more rapid pace than in Punjab, the province with the highest incidence of child labour during the 2009–2018 period overall. While the child labour rate for boys fell during the last decade in Punjab, it rose for girls, leading to a higher incidence of child labour among girls in Punjab than boys between 2014 and 2018. Except for Punjab, the child labour rate for both girls and boys generally declined across all other provinces. The incidence of child labour was lowest in Islamabad Capital Territory, where under 3% of children aged 10 to 14 were economically active.²⁷

Pakistan, after a hiatus of 25 years, has undertaken a Child Labor Survey (CLS) in each province and territory of Pakistan with the technical support of UNICEF, using the internationally recognised methodology of SIMPOC. UNICEF's strong advocacy led to the allocation of public resources/funds for the CLS as well. Punjab, Gilgit-Baltistan and Khyber Pakhtunkhwa have completed, launched and published their survey results. Sindh, Balochistan and Islamabad Capital Territory reports are being drafted and results will be disemminated by the end of 2024. This is the most comprehensive survey with the largest sample size after the census looking at not just the prevalence, but also the causes, circumstances of working children/children in labour, consequences on education, health, mental health and violence against children outcomes. Now, UNICEF is supporting the governments where CLS stands complete with policy formulation and costed action plans as informed by the survey findings. In this regard, UNICEF has also partnered with ILO and the FCDO for Punjab's policy formulation.

Article 11(3) of the Constitution of Pakistan prohibits children under 14 years to be involved in 'any factory or mine or any other hazardous employment',²⁸ which does not cover child domestic work, for which there is evidence that children are exposed to physical abuse.²⁹ In Islamabad Capital Territory, the government has enacted the Islamabad Domestic Workers Act (2022), which prohibits the employment of children under 16 to work in a household, and entails imprisonment for employing children under the age of 12 and a fine for employing a child under the age of 16. It also provides for other protections, including minimum wage, restrictions on working hours and regular time off. The Children (Pledging of Labor) (Amendment) Act of 2022, which also applies to the Islamabad Capital Territory, also provides punishment for parents or guardians pledging the labour of their child to potential employers.³⁰ Additionally, according to a local contact, in Islamabad Capital Territory, the 1991 Employment of Children Act still prevails despite work on the ICT Prohibition of Employment of Children Bill 2022, which aligns the legislation with the rest of the country and sets the minimum age to 14, and does not allow hazardous work for 15 and above.

• Although both the federal and provincial governments have education policies and sector plans, which recognise the role of child labour in limiting student enrollment in schools, they do not offer child labour elimination and prevention strategies.³¹ Indeed, Pakistan's social programmes are insufficient to address the prevalence and scope of the country's child labour problem. In particular, existing programmes do not provide sufficient protection and rehabilitation services for bonded child labourers and child survivors of human trafficking. Government initiatives are also insufficient for children working in the informal sector, including for domestic workers. In addition, there are no significant social programmes to address sexual abuse of child workers or children attending *madrassas* in Pakistan.³²

Potential considerations:

• What is being undertaken to ensure that children are not unnecessarily separated from their families and that they may maintain contact with their families whilst placed in the various forms of alternative care, including guardianship and residential care? Are the regional provisions that are being developed with UNICEF's support being enacted ?

• What efforts are being made to prohibit the practice of child marriage and to protect the victims' identities, including the prevention of potential falsification of their identities for marriage purposes?

• How are the identities and family relations of migrant children protected in Pakistan, including those from Afghanistan?

• What measures are being taken to prohibit and prevent child labour and to prevent the falsification of children's identities for labour purposes, including the protection of their family relations when placed for domestic work?



Falsification of identity

Potential trafficking and sale of children:

• Concerns have been expressed as to the lack of legal provisions on informed consent by birth families to guardianship measures, the appointment of a non-resident guardian, the lack of a broad offence of sale of children applicable to illegal guardianship practices as well as the absence of a legal framework governing surrogacy and abduction. In addition, Pakistan lacks a comprehensive offence of sale of children.³³

• Indeed, Pakistan does not permit adoption but does provide for the appointment of a guardian under the *Federal Guardians and Wards Act 1890*. Pakistani guardianship laws do not restrict the appointment of a non-resident as guardian of a child, and guardianship orders can be used by prospective adoptive parents to remove a child from the country and then apply for an adoption order in the guardian's country of residence. Pakistan requires guardians to get approval from the court to remove a child from the jurisdiction but otherwise do not have safeguards in place in line with international standards.³⁴

• In addition, due to many humanitarian situations, such as the 2005 earthquake, ongoing floods from 2010, 2011, and 2022, as well as terrorist attacks, thousands of children have been separated from their families. In addition, the many factors contributing to child placement in care institutions in Pakistan include poverty and economic factors, family dysfunction and abuse, parental death and illness, discrimination and stigma.³⁵

Potential considerations:

• Are any reforms to Pakistan's national and regional legislation planned to address gaps in the protection of children's right to identity and prevention of falsification of identities, resulting in potential trafficking and sale of children and of their identities?

• How are the potential causes for the falsification of identity addressed in practice?



Restoration of identity

Birth registration:

In 2017, UNICEF collaborated with the Local Government & Community Development Department (LG&CD) to initiate the Digital Birth Registration system (DBR) in Bahawalpur, Punjab, and Sindh district. A total of 1,444 Nikah Registrars were trained to register births using smart phones provided by UNICEF in partnership with Telenor, to register all new births within first 60 days and any other child, who had not been registered. This initiative produced great results in the Bahawalpur district: around 483,000 children were registered between 2017 and 2020. The rate of birth registration in Bahawalpur, which was 42% prior to the initiation of the DBR system, increased to 49.6%.³⁶ Plan International Pakistan launched a similar project to improve birth registration rates using mobile technology with the Sindh and Punjab provincial governments, built on the initiative started by UNICEF. The project featured the use of mobile phones to register births directly at home by a visiting health worker or a Nikah Registrar, who inputs the data into the DBR app on their phone. The data was then automatically transferred to the local union council responsible for registration for validation, after which a unique identification number was sent directly to the applicant's phone. The applicant then presented this number, together with the required documents, to collect the birth certificate at the union council. This saved the applicant at least two visits to government offices.³⁷ In addition, the new system allowed a gradual transformation to a robust digital civil registration database – a key tool for the government to plan more effectively for all services that a child needs, including vaccination programmes and education, as well as establishing legal protection from abuse and exploitation.³⁸

Child marriage:

• To address child marriage and forced conversion issues, the judiciary has issued landmark orders such as the order from the Supreme Court of Pakistan from Rtd Justice Tassaduq Hussain Gilani on minority rights in 2014 and other superior courts decisions.³⁹ Those decisions underscore the importance of ensuring informed consent, protecting children from harm and exploitation and the need to uphold their rights in contracts, including marriage. Nevertheless, the lower courts and lawyers are not necessarily aware of those legally binding decisions; hence, building the capacities of the justice system actors in this regard has become a priority.

Child labour and trafficking:

• In 2022, Pakistan made moderate advancement in efforts to eliminate the worst forms of child labour. Pakistan amended existing laws by increasing penalties for crimes related to child trafficking, child pornography and employing child domestic workers. The Punjab Labour Department also conducted over 6,000 inspections at brick kilns, identified 239 child labour violations and arrested 60 perpetrators. Lastly, the Sindh provincial government created a task force to review child labour laws and recommend amendments to fill gaps in current provincial legislation.⁴⁰

• In November 2022, Pakistan ratified the Palermo Protocol on Trafficking in Persons.⁴¹

Potential considerations:

• What additional efforts are being undertaken in Pakistan to move forward towards universal birth registration, in particular amongst the hard-to-reach children?

• What safeguards are being implemented to restore the identity of child victims of child labour, trafficking, recruitment by armed groups and child marriage?

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