

**Pakistan's experiences with Universal Periodic Review on the United Nations Convention on the Rights of Child: A Critical Analysis.**



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## DECLARATION

I, **MUHAMMAD YOUSUF**, hereby affirm that the dissertation in hand is original and has never been presented in any another institution. I further certify that any secondary information included in this dissertation has been properly acknowledged.

STUDENT: MUHAMMAD YOUSUF

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



**DEDICATION**

**FOR**

**MY BELOVED PARENTS**

**AND**

**MY FAMILY**

## ACKNOWLEDGMENTS

All praise and gratitude to Allah Almighty, the exalted, the Omnipotent and the Omnipresent for everyone and everything I have.

I could not have accomplished this dissertation without the help, guidance and support of my respected teachers, my beloved parents, family members and friends.

First and foremost, I want to express my gratitude to my supervisor, **Dr. Naseem Razif** for her kindness and insightful guidance. The glimpses of a scholarly outlook in the dissertation, if any, are the outcome of her constant guidance and discussions on different aspects of the topic.

I am also grateful to respected Sir **Prof. Ata ul Mustafa** for his valuable guidance while selecting topic of the thesis and writing thereto, and I also very much thankful to Respected Sir Prof. **Abdu Rauf Khatana** for his worthy guidance and assistance whist writing a thesis proposal.

## **LIST OF ACRONYMS**

CRC	Convention on the Rights of Child
CRC	Committee on the Rights of Child
CSOs	Civil Society Organizations
CRIN	Child Rights International Network
ECOSO	Economic and Social Council
JJSO	Juvenile Justice System Ordinance
JJSA	Juvenile Justice System Act
HRC	Human Rights Council
HRCP	Human Rights Commission of Pakistan
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
NHRIs	National Human Rights Institutions
OHCHR	Office of the Higher Commissioner for Human Rights
SUR	State under Review
SCIU	Save Children International Union
UN	United Nations
UNCIEF	United Nations International Children's Emergency Fund
UNCHR	United Nations Commission on the Human Rights
UPR	Universal Periodic Review
WG	Working Group

## **ABSTRACT**

The Universal Periodic Review (UPR) of the United Nations Human Rights Council, established by the General Assembly through Resolution 60/251 of March 15, 2006, is a unique and effective mechanism that evaluates all human rights situations, including the records of children's rights, of each country that is a member state of the "United Nations" on a periodic basis every 4-5 years to determine whether it has complied with its obligations under the Charter of United Nations, Universal Declarations of Human rights, International Human Rights Treaties to which the state is a party, any voluntary human rights commitment, and the principles of International Humanitarian Law by upholding the concept of universality coverage and equal treatment. Moreover, this unique mechanism conducts a state review based on three primary documents provided to it: state reports by the state under review, UN information reports, and stakeholder reports by the Office of the High Commissioner for Human Rights. Furthermore, as with the review of Pakistan's other human rights situations as a member state of the United Nations, child's rights records of Pakistan have been reviewed by this unique mechanism in accordance with the Convention on the Rights of the Child as a state party thereto and contributing to the implementations thereof by making various kinds of recommendations to take legislative, policy, and institutional steps since its first cycle to the most recent four cycles.

## **Thesis Statement**

Universal Periodic Review of United Nations Human Rights Council is an effective mechanism for implementation of United Nations Convention on the Rights of Child; therefore this research intends to critically analyze the Pakistan's experiences with the Universal Periodic Review (UPR) on the implementation of the United Nations Convention on the Rights of Child.

## **Research Methodology**

In the study, the researcher used both qualitative and quantitative research approaches. The research approach has analytical and critical. And as for a the qualitative technique is concerned books, articles, journals, reports international instruments, newspapers, website and relevant case study have been used for the main source of data collection. Quantitative techniques were used for obtaining data from various sources, including most significantly publish articles, journals, books, survey reports and reported cases. Data has also been collected from the official sources of the HRC and CRC vis-à-vis NGOs i.e. UPR Info data base, UNICEF, ILO, and NHRIs etc.

## **Objective of the Research**

- The following will be the aims and objectives of this research:
  - a. To examine the evolution of international child rights law.
  - b. To examine the functions and mandate of UPR.
  - c. To identify the recommendations made by the UPR to Pakistan for the protection of children's rights with the UN CRC from its inception to the present.
  - d. To evaluate Pakistan's compliance to the UPR's recommendations on children's rights.

- e. To highlight the violations of child rights that continues to occur in Pakistan despite ratification of the UNCRC and submission of periodic reports to the UPR and Committee on the Rights of the Child.
- f. To analyze Pakistan's legal framework for protecting children in line with the UNCRC and UPR's recommendations.
- g. To highlights how the UPR contributes to implement the UNCRC in Pakistan.

### **Significance of the Research**

The significance of this research is that, firstly; it provides details knowledge on when and how the concept of the childhood and child right emerged in the International realm whereby children became subject of the rights holders. Secondly; this research paper critically analysis the mandate of the UPR. Thirdly, this study identifies the contributions of this unique mechanism (UPR) to the promotion and protection of human rights within the UN system. Finally, and most significantly, this dissertation critically examine on the Pakistan's experiences with this new and unique mechanism in the implementation of the (UNCRC-1989) in Pakistan.

### **Research Questions:**

1. What was the objective behind the development of the Universal Periodic Review (UPR)?
2. What is the legal framework in Pakistan for the protection of children's rights?
3. How Universal Periodic Review is contributing to the implementation of UNCRC in Pakistan?
4. What challenges Pakistan is facing with UPR's recommendations to implement UNCRC?

5. How and under what mechanism, Pakistan could meet the demands of international instrument like UNCRC and UPR?

## **Literature Reviews**

An in-depth review of a research paper by Amna Nazir "The Universal Periodic Review and the Death Penalty," wherein the author has deliberated on the right to life as one of the most important human rights and then after he discussed violation thereof in Pakistan since the lifting of the moratorium in 2008. Furthermore, the author critically analyzed Pakistan's third Universal Periodic Review with respect to the execution of death penalty considering the same being the gross violation of right to life vis-à-vis contending therein that the UPR is making its contribution by addressing the same at international forum and making recommendation to Pakistan to review on the lifting of moratorium.<sup>1</sup>Therefore, it is need of an honor to also critically analysis that whether the UPR is contributing on the implementation of UNCRC in Pakistan?

Another research paper written by Noor Zafar titled "What Does the UN Human Rights Council's Universal Periodic Review Mean for Women in Pakistan"? It was thoroughly discussed how international organizations, such as the Universal Periodic Review (UPR), contributes on a domestic level. The main essence of the study was to the asses the role of the UPR to combat the rape cases and honor killing practices in Pakistan. The author deliberated that the UPR is an excellence mechanism to address the issue involved the violations against women by holding the Government of Pakistan accountable in front of international community through UPR. She relied upon the time scale of the UPR cycle that Pakistan has gone through with amendments in the honor killing laws and rape laws such as

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<sup>1</sup>Nazir, Amina. "The Universal Periodic Review and the Death Penalty: A Case study of Pakistan." *RISL LAW REVIEW* 1(2020):126.

criminal law amendment Act 2016, offences relating to rape and honor killing for her this argument<sup>2</sup>.

Review of Sara Alvarez's article, "The Universal Periodic Review as a Form of Alternative Dispute Resolution: Strengths and Shortcomings," in which she discussed the UPR's contribution for the realization of the rights of LGBTI (lesbian, gay, bisexual, transgender, or intersex) rights at globally and in helping to protect thereof. Moreover, the author argued that the UPR is an excellent mechanism which primarily intends to be political process to achieve its aims by emphasizing collaboration over confrontation. The author while arguing contended therein that the political process has proved that the UPR presents legal standards but also the it contributes in interpreting and shaping of existing statutory obligations. The author further argued that the UPR is just like an Alternative Dispute Resolution processes whereby the UPR may function as a platform where States are empowered to achieve real reforms. She contended that this approach allows states to learn from one another, which could lead to universal recognition and implementation of human rights without any discrimination.<sup>3</sup> The whole arguments and contentions of the author were on the strengths of the UPR crediting on the same in contributing to the realization of the LGBTI right as international level. Therefore, it is need of time to also critically analysis on the contributions of the UPR on the other human rights fields like UNCRC in Pakistan.

Moving on a research paper on the written by Dr. Naseem Razi on the "street children and their access to basic rights: an analysis of Pakistani society in the light of fundamental human rights provided by Islam, UNO and state children" wherein the researcher in depth

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<sup>2</sup>Zafar, Noor. *What Does UN Human Right's Council's Universal Periodic Review Mean for Women in Pakistan?* n.d. <https://www.lawyher.pk/Uploads/Commentary%20on%20UN%20HRC%20Universal%20Periodic%20Review%20Mechanism%20-%20No> (accessed May 2023).

<sup>3</sup>Alvarez, Sara. "The Universal Periodic Review as a Form of Alternative Dispute Resolution: Strengths & Shortcoming." 21 *Cardozo J. Conflict Resol*, 2019-2020: 149.



discussed on the causes of street children and its effects to future of Pakistan. The author contended that street children are the most neglected group in society and they have lack access to basic necessities like food, housing, and education. The author argued all concerned departments of the government could not uphold this particular issue; instead, they leaving just on the mercy of Allah. The researcher contended that because of major social and economic issues like uncontrolled population growth, increasing levels of poverty and illiteracy, political unrest, the ignorance parents and teachers, and, above all, the failure of government to pay enough attention to these issues, street children have become a threat to the peace and tranquilly of society.<sup>4</sup> All the rights of child have been guaranteed and protected by the UNCRC and to this end; many international mechanisms like UPR and CRC etc. have been established for the implementation thereof. Therefore, a critical analysis is need of honor on the Pakistan's experiences with the UPR on the UNCRC in Pakistan.

Another research article by Dr. Naseem Razi titled“Juvenile delinquency from the perspective of social and economical condition of Pakistani society”. In which the author discussed the juvenile delinquency in the context of social and economical condition of Pakistan. The author considered that delinquency is a social inadequate behavior on the part of an individual to a difficult situation. The researcher argued that the key factors in contributing to juvenile delinquency are including over population, poverty, illiteracy, political unrest, ignorance of concerned, and exploitation of children both at home and at school. The researcher further argued that the state's efforts to prevent these issues are insufficient, and the state would not be able to successfully reduce the juvenile delinquency. Apartment from that, the researcher while concluding her study recommended that the state and law enforcing agencies should take juvenile delinquency seriously by taking

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<sup>4</sup>Razi, Naseem. "Street Children and Their Access to Basic Rights: AnAnalysis of Pakistani Society in the light of theFundamental Human Rights Provided by Islam, State Legislation and UNO Charter." *International Journal of Sciences:Basic and Applied Research (IJSBAR)* 25, no. 3 (2016): 97-118.

effective measures to minimize these issues. The researcher further also recommended that the theologian should convey true understanding regarding the birth and upbringing of children to the extent that while having many children is encouraged in Islam, adequate proper upbringing and education of the children are also the responsibility of the parents at the same time<sup>5</sup>. The UNCRC protects all the children's rights including juvenile offender. The HRC has also established a unique and excellent mechanism called UPR to ensure all of the rights enshrined therein; therefore, it is immense of need to critically analysis on the contributions of the said mechanism in implementing the CRC in Pakistan.

Additionally a research article written by Manzoor Ahmad, Zubair and Muhammad Rizwan titled "Child Rights Situation in Pakistan" the researchers identified that why the majority of the children in Pakistan are facing numerous of challenges regarding their basic rights including health care, education and protection from abuse such like other majority of world's developing Countries. Like approximately thirty-five percent of the population of the country is age of fifteen or low from which about twenty-five million are out of school and twelfth million are employed in labor work .The authors have consensus that the main cause of these menaces is the poor economical condition of the country<sup>6</sup>.

An extensive analysis of the book "Children's Rights and Social Work" by Hanita Kosher, Asher Ben-Arieh, and Yael Hendelsman, which basically traces the historical evolution of children's rights. The authors further stated therein that the concept of the childhood emerged since the late of eighteen century, prior to that the children were treated as the property of the parents who have limitless authority on them even for kill them. The authors further argued therein that the actual reorganization of the children' rights at

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<sup>5</sup>Razi, Naseem. "Evaluating Juvenile Delinquency in perspective of Socioeconomic Condition of Pakistani Society." *International Journal of Sciences:Basic and Applied Research (IJSBAR)* 20, no. 2 (2015): 334-3349.

<sup>6</sup>Manzoo, Ahmad, Muhammad Zubair , and Muhammad Rizwan. "Child Rights Situation in Pakistan." *Global Regional Review (GRR)* III, no. I (2018): 343 – 352.

international level as the subject of rights holders rather an object emerged during twenty century in terms of UNCRC- 1989 which deals all kinds of child rights exclusively<sup>7</sup>.

Furthermore, a distinct viewpoint has been discussed by Dr. Muhammad Munir in the book "Rights of the Child in Islam: Theory, Mechanisms, Practices and Convention on the Rights of the Child," which contains a thorough analysis of the Islamic perspective on children's rights through different verses, ahadiths, and from the viewpoint of numerous jurists. The author wherein discussed that Islam has promoted and protected all kind of children's rights without any discrimination such as religious, sex, language etc. These rights have been extended to a child with disabilities, on the step children, illegitimate children etc. The author contended that Islam even protects the child before a he or she is called a child or in another word before the birth of a child in the form of rights to fetus. The author argued that this exclusive right is not even guaranteed by UNCRC. He further deliberated that, to end this right, Islam has also given many exclusive rights to the pregnant woman in terms of financial supports up to delivery in case she is divorced and delay in execution of punishment in case of any crime committed by her. The author in his study also briefly draws some comparison between the rights guaranteed by Islam and the rights embodied in CRC<sup>8</sup>. The UNCRC is considered an extensive document containing all kinds of children's rights. And to implement these rights, the custodian body thereof is well known as HRC, has established a unique and excellent mechanism called UPR conducting periodical review of, and making recommendation to, all UN member states on human rights including CRC to promote and to protect of all rights enshrined therein. Thus, it is need of hour to critically analysis that whether the same is contributing on the implementation of CRC in Pakistan?

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<sup>7</sup>Hanita Kosher, Asher Ben-Arieh, Yael Hendelsman. *Children's Rights and Social Work*. 1. Springer Cham, 2017.

<sup>8</sup>Munir, Muhammad. *Rights of Children in Islam: Theory, Mechanism, Practices and Convention on the Rights of the Child*. Islamabad: International Institute for Research and Dialogue, 2017.

# CHAPTER 1

## HISTORICAL PERSPECTIVE ON CHILDREN'S RIGHTS

### INTRODUCTION:

The current chapter is devised with the historical evolution of children's rights to analysis that how eventually the children have become the subject holder of rights rather an object or dependent through a binding nature of documents i.e. CRC. For the sake of systematic approach the current chapter is bifurcated in three segments. In the first segment it will be analyzing that how the children's rights situation were used to treat particularly in the pre-industrial era. In the same vein, the rights of child will also be examined by different versed of Holly Qur'an and Ahadiths to the extent that how the children's rights are protected by Islam. Segment II of this chapter will discuss the children's rights situation in context of industrial era i.e. developments of children's rights during eighteen and nineteen centuries. Segment III will be the last section of the current chapter which will be analyzing the developments of children's rights particularly in the context of post-industrial era i.e. in the twentieth century. Furthermore, this section also provides an exhaustive analysis of the United Nations Convention on the Rights of the Child (1989) article by article to examine that how children's rights are promoted and protected by the CRC.

### 1.1 Children's rights in light of Islamic law

Islam is a comprehensive code of conduct that covers all elements of an individual's life and provides better and more thorough solutions to all issues rather than accepting partial or

compromised solutions<sup>9</sup>. Islam ties a strong connection between two individuals, a man and a woman, through marriage and makes it a source of reproduction in order to protect and develop a person's inner and outside self. Allah, the Almighty, said: "*We helped you with wealth and children and made you more numerous in manpower*"<sup>10</sup>; in order to maintain the process of reproduction and the human population. Moreover, He infused the parents' hearts with love, affection, sympathy, in upbringing of a child and to protect them. On another occasion, He revealed that "*wealth and children are the adornment of the life of this world*" and therefore declared children to be the "*adornment of life.*"<sup>11</sup>

Islam is so conscious on the issues related to children. It protects the rights of child even he or she is called a child in the shape of right to protect the fetus. To end this right, under Islamic law a pregnant woman is given many legal immunities and special family reliefs. For instances, a pregnant woman shall be maintained by her husband in case of separation until the baby is born.<sup>12</sup> In this regard, Allah Almighty says that "*And if they are pregnant, provide for them maintenance until they have delivered their burden*".<sup>13</sup>

A pregnant woman has also been given many legal immunities like, while postponing the execution of punishment to ensure the protection of fetus. The Holy Prophet is reported to have said that a woman from the Juhynah came to the Holy Prophet and told him that she has committed an adultery and be given a punishment of hadd but the Holy prophet sent back and asked her relative to bring when once the baby is born<sup>14</sup>.

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<sup>9</sup> Razi, Naseem. "Street Children and Their Access to Basic Rights: An Analysis of Pakistani Society in the light of the Fundamental Human Rights Provided by Islam, State Legislation and UNO Charter." *International Journal of Sciences: Basic and Applied Research (IJSBAR)* 25, no. 3 (2016): 97-118. P, 101.

<sup>10</sup>The Quran 17:6.

<sup>11</sup>The Qur'an 18:46

<sup>12</sup>Munir, Muhammad. *Rights of the Children in Islam : Theory, Mechanism, Practices and Convention on the Rights of the Child*. Islamabad: International Institute for Research and Dialogue, 2017.

<sup>13</sup>The Qur'an 65:6

<sup>14</sup>Munir, Muhammad. *Rights of the Children in Islam : Theory, Mechanism, Practices and Convention on the Rights of the Child*. Islamabad: International Institute for Research and Dialogue, 2017.

Moreover, Islam protects all kinds of other child rights after the baby is born, including the right to health, education, property, intellectual protection, right to family, right to caring, protection from all forms of exploitation, and protection during armed conflict etc. without any discrimination. Islam also protects the rights of orphan, disable, foundling and illegitimate child too.<sup>15</sup> Even in Islam the child has a right to be called with a pleasant and this special right has also been protected under Islamic law. One the Ahadith of the Holy Prophet (PBUH) is quoted here. The Holy prophet is reported to have said that “ *Honor your children and give them pleasant names* ”<sup>16</sup>.

All of these child rights have been guaranteed under Islamic law with out any sort of discrimination. the female child place is equal with male child regarding parenting and other rights but unfortunately some people in our society celebrate in dust on the birth of male child and mourn on the birth of female child this is against the islam as Allah says that: “ *And when the news of the birthe of a female child is brought to any of them, his face become dark , and he is filled with inward grief!* ”<sup>17</sup>

## **1.2 Evolution of the Child’s rights concept in the International arena**

The modern notion that a child has a special right to be protected from all kinds of discriminations, having opportunities and facilities emanates from the two historical sources. The first one was of the culmination of the evolution of the concept of the childhood and the other one was owing to the developments in the nineteenth and twentieth century. To address these developments conveniently there are three segments are hereby made as under:

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> The Quran 16:58.

### 1.2.1 Concept of Children's Rights or childhood prior to 19<sup>th</sup> Century

The modern concept of childhood as a distinct stage of life has at international level particularly in western world been emerged after sixteen century. However, the humanitarian attitudes as to children being the dependent, vulnerable, and distinct from the adults had been arose in the eighteen and nineteen centuries. The unfortunate barbarous practices towards children have been prevalent throughout history across all of the socioeconomic classes and the broad public opinion about such policies was also acceptable therein. Shamefully, this barbaric practice had been remained prevalent in practice until the late of the Eighteen century. However, the public sentiments against child mistreatment vis-à-vis the concept of the childhood and children's rights were commenced to an emerged in the late eighteenth and during the nineteenth centuries<sup>18</sup>. Before that, most of children over the age of six were considered as little adults and had not any differentiate from adults; even they were seen as the social and legal property of their parents and the parents, particularly the fathers were given unrestricted authority over the children, they were free to treat them whatsoever they wished including killing and selling them for the slavery. The corporal punishment to the children was practically widespread and widely viewed as an appropriate one. Furthermore, the children had more duties to their parents and the society than they had the rights. The concepts of education, schools, protection, and special rights were either uncommon or nonexistent. They had no space in the mainstream of the society and they sued to ignored, mistreated, and abused because of their low socioeconomic standing<sup>19</sup>.

Shamefully, there were the frequent practice to use the children for sexual purposes which was no dubious emanates as a result of a variety of circumstances including gender disparities, erroneous religious beliefs, accepted traditional practices, superstition and

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<sup>18</sup> Weisberg, D.Kelly. "Evolution of the concept of the Rights of the Children in the Western World." *International Commission of Jurists Review*, 1978:43.

<sup>19</sup> Hanita Kosher, Asher Ben-Arieh, Yael Hendelsman. *Children's Rights and Social Work*. 1. Springer Cham, 2017.

economic advancement. For example, Pre-pubescent boys were in high demand due to pederasty therein vis-à-vis the child prostitution was also legalized, and shamefully sexual intercourse with children was even thought to cure venereal notably particularly in London and France resultantly, the same contributed to increase in the number of child rape cases.<sup>20</sup> Surprisingly, it was reported that 25% of capital rape cases between 1730 and 1789 involved children under the age of 10<sup>21</sup>.

Apart from prevalent practice of sexual abuse with the children in the manner as abovementioned the children had also been subjected to various sorts of maltreatment via various rituals, such as baptism by extended dipping in ice water, resulted in the freezing of infants. Moreover, they were also subjected to hardening practices such as rolling in the snow, plunging in plunge baths, pricking their feet's soles and steam baths<sup>22</sup>.

In addition to that, child slavery was a regular practice throughout the world. The Native Indian children were considered significant among European prisoners, and the Spanish Caribbean sued to import the Central American Indians as slaves. Likewise, the colonies from Sao Paulo and other surrounding cities conducted raids on hundreds of Indian villages across Brazil's vast interior capturing thousands of Indians from different communities and bringing them to colonial farms and plantations. Surprisingly, the children who could not undertake the duties such like the adults did not use to count for religious or

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<sup>20</sup>Rosli,Najwa, and Farah Nini Dusuki. "The Historical Development of the Laws Relating to Child Sexual Exploitation Prior to the Passing of the UNCRC in 1989." *International Journal of Asian Social Science, Asian Economic and Social Society* 8(11) (2018): 968-973.

<sup>21</sup>Olafson, Erna, David L. Corwin. "Modern history of child sexual abuse awareness: Cycles of discovery and suppression." *Child Abuse & Neglect* 17, no. 1 (January–February 1993): 7-24.

<sup>22</sup>Weisberg, D.Kelly. "Evolution of the concept of the Rights of the Children in the Western World." *International Commission of Jurists Review*, 1978:43.



economic purposes. And shamefully, the children even were deemed to have been as a source of entertainment and relaxation for adults<sup>23</sup>.

Moreover, a history of orphaned and abandoned children had also poor track record. For instances, in the ancient and mediaeval times the children were considered to be a cause of unhappiness. The concept of protecting orphans and providing them basic rights was based on theological beliefs of each society. However fortunately, with the passage of development in civilization, and due to the number of NGOs began to take steps with regards to the betterment of the street children, particularly, during the time of civil wars of the colonization to protect the number of the homeless children, the modern notion of children's rights have come to exist.<sup>24</sup> The SCIU, is a NGOs that was established in 1920, was one of them which became well-known throughout the world for its humanitarian efforts in the aftermath of the wars in Russia and Greece, as well as for helping refugees in Albania and Bulgaria and those affected by earthquakes in Japan and Chile<sup>25</sup>.

### **1.2.2 Developments on the Children's rights during 19<sup>th</sup> Century**

In the area of modern concept of the children's rights, the nineteenth century saw a number of achievements. Including, but not limited to, child welfare, education, child labour, juvenile justice, and child slavery and trafficking. These evolutions were the result of various factors, including, social laws after industrialization, and influenced ideas about children rights of enlightenment thinkers, establishment of women rights, and all the above due to consistent voiced of many NGOs.

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<sup>23</sup>Campbell, Gwyn. "Children and Slavery in the NewWorld: A Review." *Slavery and Abolition* 27, no. 2 (August 2006): 261-285.

<sup>24</sup>Razi, Naseem. "Street Children and Their Access to Basic Rights: AnAnalysis of Pakistani Society in the light of theFundamental Human Rights Provided by Islam, State Legislation and UNO Charter." *International Journal of Sciences:Basic and Applied Research (IJSBAR)* 25, no. 3 (2016): 97-118.P, 99.

<sup>25</sup>Fuchs, Eckhardt. "Children's rights and global civil society." *Comparative Education* 43, no. 3 (2007): 393-412.

Moving on the discussion on the modern concept of the rights of child, the movement against child labour, which was founded on the notion that children working in the fields were helpless victims of industrialization and in favour of child education in the 19<sup>th</sup> century, marked a significant shift in thinking that contributed to the evolution of children's rights and the notion of childhood. In a similar vein, the child labour laws vis-à-vis the introduction of universal education in the nineteenth century both recognized the need of protecting children and acknowledging their rights. Similarly, Schools gradually replaced the child employment, and regular learning became mandatory. Attitudes of the mindset regarding children's role and purpose have changed. Moreover, children's rights in relation to parents, employers, and others emerged, particularly between 1870 and 1920, in the form of rights to protection and welfare that assumed an idea of childhood as a distinct period. Eventually, children began to be viewed as a separate class rather than as property and the concept that children are the special segment whom society owing the responsibility of protecting them from all of the hazards to which they are exposed began to replace the view that children had nothing more than economic worth<sup>26</sup>.

In addition to that, as the industry continued to grow and the advancements in the realm of workers' rights have also lent themselves to child protection. For instance, among other proposals, the first international convention on workers' rights held in Berlin in 1890, proposed that no one below fourteen be permitted to work in a mine. Even though the Berlin Conference did not result in any official agreements, it did serve as impetus to address these issues on a worldwide level<sup>27</sup>.

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<sup>26</sup>Hanita Kosher, Asher Ben-Arieh, Yael Hendelsman. *Children's Rights and Social Work*.1. Springer Cham, 2017.p, 9-18.

<sup>27</sup>Gibson, Colin. "Building up the Future: The Implementation of the UNCRC in China." *Law School Student Scholarship*, 2014.

Furthermore, the juvenile justice system was an area where changes to the status of children occurred in the nineteenth century. The Child Savor Movement which was launched in the late 18th century by social activists and social reformers in America to improve the living conditions of poor urban children, orphans vis-à-vis to address the issues regarding child labor. The social activists in urban areas began to give specific facilities to orphan children and juvenile offenders. They attempted to protect juvenile offenders by distinguishing them from adult offenders<sup>28</sup>. Likewise, the social reformers created a number of institutions for the protection of children's rights and provide them their fundamental and basis needs. For instance, the Society for the Prevention of Juvenile Delinquency was created in 1825 in New York City and it later on the same was converted into the New York House of Refuge to provide a separate shelter to the juvenile offenders. In a similar vein, The Chicago Reform School was established in Chicago in 1855 to rehabilitate of delinquents and inspire them to refrain from crime in future<sup>29</sup>. It was also believed and prevalent throughout this era that children who committed or capable of committing an offence were being treat with a criminal justice system in a same manner. But the child saver created of a distinct juvenile judicial system with a focus on rehabilitation rather than punishment whereby it was claimed that there was an opportunity that the juvenile offenders could adapt and leave a life of crime if they weren't dealt with brutally but instead with reform or rehabilitation. Due to these and other similar issues, the American courts decided to treat the children differently. In this way, the Child Savor's Movement contributed to the development of a distinct juvenile legal system in America, which started in 1899 with the opening of the first juvenile court in Chicago city and extended from there to all western countries<sup>30</sup>.

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<sup>28</sup> Razi, Naseem. "Evaluating Juvenile Delinquency in perspective of Socioeconomic Condition of Pakistani Society." *International Journal of Sciences:Basic and Applied Research (IJSBAR)* 20, no. 2 (2015): 334-3349.P, 336-337.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

The issue of white slave trading was also prevalent till the end of the 19th Century. The National Vigilance Association, an English non-governmental organization, has been proactively advocating for the enforcement and reform of legislation aimed at combating criminal vice and public immorality. The resolution to initiate concrete efforts for its mitigation, if not suppression, became the official government response to the white slave trade. In 1899, the organization arranged the first International Congress on the White Slave Trade. The Congress pushed for an agreement between states to penalize those involved in the forced recruitment of women and girls by violence and other criminal means, to launch parallel investigations, and to develop extradition pacts. Later same year, in 1904, the International Agreement for the Suppression of the White Slave Trade was signed. State parties were required by this Agreement to adopt measures to facilitate information sharing, victim identification, and employment agency surveillance. Nonetheless, no measures for law enforcement were included in this Agreement. As a result, attempts to combat white slave trafficking were less effective. As a result, the International Convention for the Suppression of White Slave Traffic of (1910) was adopted in 1910 to fill the loopholes. Moreover, Under Article 1 of the 1910 Convention, the state parties were urged to enact legislation to prohibit the conduct and penalize those who committed it<sup>31</sup>.

### **1.2.3 Contribution of the enlightenment thinkers in developing of children's rights**

Changes in children's status cannot be entirely attributed to the 19th century's social and economic upheavals. By addressing various issues and defining childhood as a separate time period, the Enlightenment philosophers made significant contributions to improving the

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<sup>31</sup>Rosli, Najwa, and Farah Nini Dusuki. "The Historical Development of the Laws Relating to Child Sexual Exploitation Prior to the Passing of the UNCRC in 1989." *International Journal of Asian Social Science, Asian Economic and Social Society* 8(11) (2018): 968-973.

condition of children such as one of the prominent enlightenment thinkers John wrote a book titled "Some Thoughts Concerning Education" which had a significant influence on how adults treated children in the 17th century. One of his core convictions was that all knowledge comes from experience and that children are born with blank slates and no inherent ideas. The idea of a child's right to an education was born out of this unique way of thinking, as was the necessity for it. Locke seems to recognize the individual qualities of each child, implying that parents and teachers must regard children as rational beings. He believed that using corporal punishment would not be the best method for growing an upright and wise child<sup>32</sup>.

One of the other prominent thinkers on the way to children's rights was Jean-Jacques Rousseau who particularly in "Emile" linked the children to nature and positive change in the world. He had a belief that children had a right to a happy upbringing marked by freedom and a strong bond with nature. He also thought of childhood as a carefree, innocent, and joyful period of life. Rousseau emphasized that children should be children before they become adults and that children have their own methods of seeing, thinking, and feeling in contrast to Lock's assertion that children are rational beings. He was really concerned about maturation. Moreover, the Romantic Movement, which addressed the topic of children's inherent innocence, finally absorbed Rousseau's pre-romantic ideas. Childhood was deemed the best stage of life by the Romantics, who also connected children with purity and innocence. Furthermore, the Romantics declared childhood to be the greatest phase of life and associated purity and innocence to children<sup>33</sup>.

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<sup>32</sup> Locke, John. *Some thoughts concerning education: (Including of the conduct of the understanding)*. Courier Corporation, 2007.

<sup>33</sup>Rousseau, Jean-Jacques. *Emile, or, on education: Includes Emile and Sophie, or, the solitaires*. Vol. 13. UPNE, 2010.

## **2. Developments on the rights of child during the 20th century**

The twentieth century witnessed the birth of international child-rights law. After decades of being rejected, ignored, abused, and regarded objects, children were finally granted legal rights as persons in the twentieth century in several of ways. These are discussed hereinafter;

### **2.1 The rights of child in the view of League of Nations (1919)**

The League of Nations was established in 1919 under the Covenant of league of Nation which comprises a preamble and 26 articles. The main function of the League was to international cooperation and to achieve international peace and security. However it has certain human rights too including child rights, and become the main agent for the establishment of child' rights at international level as manifested under (Article 23) addresses two issues: it calls on members to exert all reasonable efforts to uphold the fair and humane working conditions for men, women, and children as outlined in (Article 23)(a), and it imposes the League with general oversight of the execution of agreements regarding the trafficking in women and children as outlined in (Article 23)(c). The relevant provisions are reproduced under:

Article 23: Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the member of the league: (a) will endeavor to secure and maintain fair and humane conditions of labor for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organization; (c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs<sup>34</sup>.

#### **2.1.1 Protection of children's rights under the International Labour Organisation (1919)**

The International Labour Organization is a United Nations agency established in the year of 1919 under the League of Nations entrusting a mandate to lay down an international labor

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<sup>34</sup>Art 23, Convent of League of Nations, 1919.

standard for the protection and promotion of the social and economic justice. The ILO has been playing a vital role since its inception not only to the extent of protecting and enhancing labor rights in general and wider spectrum but also playing an important role with respect to combat the child labor.

Right from the beginning in 1919, one of the primary objective of the ILO was to protect the children, and the ILO was the first international organization which adopted a standard for the protection of the children, which is event from the consistent efforts had been done by ILO in its early few years towards the legislations for the abolishment of the child labor. For instances, two conventions about minimum age; convention No. 5, minimum age in industry, and convention No. 6, night work of young persons in industry were already adopted at the first session of the international labor conference in Washington city held in 1919<sup>35</sup>. Likewise, in 1920 and 1921 ILO adopted four more conventions concerning to the working children, such as Convention No. 7, minimum age at sea, Convention No. 10, minimum age in agriculture, and Convention No. 15, minimum age for trimmers and stokers<sup>36</sup>. The minimum age with the exception of night time work , and work as a trimmer or stoker, where about the minimum age were fixed as 18, all others Conventions the 14 years were fixed.

### **2.1.2 The contribution of Save the Children International Union (SCIU 1920) to the promotion of children's rights**

The Save the Children International Union was an International NGO established by the child rights activist Eglantyne Jebb and her sister Dorothy Buxton in 1920 following the end of World War I with the manifesto that children have their own human rights. Moreover, the

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<sup>35</sup>Dahlen, Marianne. *The International Labour Organization and Child Labour*. ILO, 2008. P, 9.

<sup>36</sup> Ibid.

SCIUI was not only an organization which first time brought the child rights issue to the attention of international community, but also the consistent worked by Eglantyne Jebb the then drafter of the First Declaration of the Child Rights was typically credited for the first time recognition of the children as the subject rather object. One the depict was that when the First World War broke out she declared herself a pacifist and stayed persistent by stating that all wars are waged against children<sup>37</sup>. Apart from that the “SCIU” had also lasting influence to the adoption of the Geneva Declaration 1924 because the charter of the Union letter on became the first Declaration of the Rights of Child and thereby it can be said that the SCIU has a credit as an initiator of the first Declaration of child rights 1924<sup>38</sup>.

### **2.1.3 Geneva Declaration of the Rights of Child -1924**

The declaration of the rights of the children also commonly known as a Geneva Declaration was adopted by the League of Nations in the year of 1924 and the same is well considered of the very first international instrument which was categorically acknowledging the rights of children referring it to the men and women instead of imposing a direct an obligation on the states<sup>39</sup>. It had five core principles, although they were general in nature, however, it ensured the child fundamental needs by providing aid and relief, protecting them from exploitation of any kind, and establishing a circumstances that would enhance their moral, material, and spiritual growth so that they might grow up to be productive and valuable members of the

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<sup>37</sup>Ennew, Judith. "The histoery of children's rights: whose story?" *Cultural Survival Quarterly* 24, no. 2 (2000): 44-48.

<sup>38</sup>Bolzman, Lara. "THE ADVENT OF CHILD RIGHTS ON THE INTERNATIONAL SCENE AND THE ROLE OF THE." *Refugee Survey Quarterly* ( Oxford University Press) Volume 27, no. 4 (December 2008): 26–36.

<sup>39</sup>Geneva Declaration of the Rights of the Child. 1924. <https://www.humanium.org/en/geneva-declaration/> (accessed may 15, 2023).



society.<sup>40</sup> Moreover, it had imposed a moral obligation on all adults to give a special caring to all children without any kind of discriminations which is evident from its preamble:

*“Men and women of all nations, recognizing that mankind owes to the child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed”<sup>41</sup>.*

Despite the failure of the League of Nations (1919-1946) vis-à-vis the non-binding nature of the Geneva Declaration (1924) over the states, the Geneva Declaration was the first international instrument which laid down the foundations to build up a cogent building to protect the future children from all sort of exploitations by proclaiming and recognizing the children as a one of the important stakeholder of the human society<sup>42</sup>.

#### **2.1.4 Charter of United Nations and Children’s Rights (1945)**

The charter of United Nations was adopted by fifty members out of fifty one original members at San Francisco on 24<sup>th</sup> October 1945 being the first treaty after the post-war in the international realm to put human rights in the forefront.<sup>43</sup> Although, in entire UN Charter none of any single article says for the child rights respect and protection exclusively, however, the child first being a human being has same rights as an adult person. And these rights have been protected and respected universally being a human being without any discrimination which is evident from the preamble of the United Nations Charter, which says:

we the people of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights , in the dignity and worth of the

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<sup>40</sup>Khan, Muhammad Mumtaz Ali. "From ‘Objects of Protection’ to ‘Subjects of Rights’: A Journey of Children Rights from Declaration of 1924 to Convention of 1989." *Pakistan Journal of Social Sciences* 41, no. 2 (2021): 445-467.

<sup>41</sup>*Geneva Declaration of the Rights of the Child*. 1924. <https://www.humanium.org/en/geneva-declaration/> (accessed may 15, 2023).

<sup>42</sup>Alston, Philip, John Tobin, and Mac Darrow. *LAYING THE FOUNDATIONS FOR CHILDREN’S RIGHTS*. Innocenti Research Center, 2005.

<sup>43</sup>Haas, Michael. *International human rights: A comprehensive introduction*, Routledge, 2013.P, 84.

human person, in equal rights of men and women of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and better standards of life in large freedom<sup>44</sup>.

The first priority of the charter of United Nations is peace, and its second priority is to promote and respect human rights, as stated in its article (1), one of the purposes of the charter of United Nations is to encourage and promote human respect without regard to race, colour, gender, language, or religion. Article 62 of the charter of United Nations established a fresh body, the Economic and Social Council, to make recommendations for promoting respect and observance of human rights in relation to basic freedom for all at once<sup>45</sup>.

### **2.1.5 Children's rights under the Universal Declaration of Human Rights (UDHR 1948)**

The UDHR is a millstone of the United Nations accompanying thirty fundamental human rights which was approved by the United Nations General Assembly in Paris on 10<sup>th</sup> of December, 1948.<sup>46</sup> Moreover, The UDHR is a statement of principles of common standard for all mankind and all nations which was not although a binding treaty on the state signatory due to its nature in the form of declaration, however, it ensured that human rights and fundamental freedoms were respected and promoted across the world<sup>47</sup>. In addition to other human rights, the "Universal Declaration of Human Rights" established a special social protection for mothers and children under article 25 (2), which states that all children, whether born into or out of wedlock, are entitled to special care and assistance. The relevant provision is reproduced here: *"Motherhood and childhood are entitled to special care and*

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<sup>44</sup> Preamble, United Nations charter, 1945.

<sup>45</sup> Art.62, United Nations Charter, 1945.

<sup>46</sup> Universal Declaration of Human Rights, (UDHR), 1948.

<sup>47</sup> Ibid.

*assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection*<sup>48</sup>.

### **2.1.6 Declaration of Children's Rights (1959)**

The League of Nations was unable to fulfill its main objectives and thereby the most horrible event against took in the form of “Second World War” in the entire world. The League slipped into slumber and the international law adopted a more practical approach following World War II which we know today as the United Nations Organization. Along with establishing new international organizations and reviewing existing ones, the United Nations also reviewed the Geneva Declaration of 1924 and decides to improve by strengthening and elaborating the five core Declaration in to detail, resultantly, the United Nations issued the Geneva Declaration of the Rights of the Child in 1959 which concentrated on the requirements of child nutrition, recreation, education, housing, medical care, protection from exploitation and neglect<sup>49</sup>.

The declaration although has not binding force on the states owing to its nature, however its Preamble and ten principles, settled general guidelines for protection and survival of the child, along with legal rights, and developmental rights<sup>50</sup>. Moreover, the Declaration's preamble said that children require special care and protection owing to their vulnerability and immaturity. This right of protection was recognized before as well as the birth of the child<sup>51</sup>. The declaration further reaffirmed in its Para No. 5 with regards to the duty of all mankind to put their best for the welfare and protection of the children.<sup>52</sup> Additionally, in its

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<sup>48</sup>Article 25(2), UDHR(1948).

<sup>49</sup>UNICEF. *History of child rights*. <https://www.unicef.org/child-rights-convention/history-child-rights> (accessed March 22, 2023).

<sup>50</sup>Fuchs, Eckhardt. "Children's rights and global civil society." *Comparative Education* 47, no. 3 (2007): 393-412.

<sup>51</sup>Gibson, Colin. "Building up the Future: The Implementation of the UNCRC in China." *Law School Student Scholarship*, 2014.

<sup>52</sup>Para 5, Declaration of the Rights of Child”, 1959.

Paragraph No.6 the children can have a happy childhood for both their own welfare and for the good society<sup>53</sup>.

### **2.1.7 Children's Rights in perspective of International Covenant on Civil and Political Rights (ICCPR \_\_1966)**

United Nations, soon after the Universal Declaration of Human Rights, started to work towards the Declaration in to a binding treaty body. However, due to political difference and cold war the work kept remained into shadow and took three years to finalize the draft itself and then also more delayed of eighteen years to adopt the draft till the year of 1966<sup>54</sup>.

Moreover, the ICCPR, which is the UDHR's version, protects all human rights, including those of children, without discrimination on the basis of race, religion, colour, language, or sex. For example, article 18(4) imposes on state parties the need to respect the freedom of parents, including legal guardians, to provide the religious and moral education of their children based on their own inclinations or convictions<sup>55</sup>. Additionally, under article 24 of the (ICCPR), every child has the right to take the protective measures that are necessary for him to maintain his status as a minor on the shoulders of the family, society, and the state without experiencing any form of discrimination, including those based on race, religion, colour, birth, social origin, property, nationality, or religion<sup>56</sup>. Likewise, according to article 24 (2), children have the right to have their names registered as soon as they are born<sup>57</sup>. Further, article 24(3) expressly states that every child has the right to nationality<sup>58</sup>.

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<sup>53</sup>Para 6, Declaration of the Rights of Child", 1959.

<sup>54</sup>Baldinger, Dana. "The 1966 International Covenant on Civil and Political Rights (iccpr)." *Vertical Judicial Dialogues in Asylum Cases* (Brill ), 2015: 66-136.

<sup>55</sup>Art.18 (4), ICCPR, 1966

<sup>56</sup>Art.24, ICCPR, 1966

<sup>57</sup>Art.24(2), ICCPR, 1966

<sup>58</sup>Art.24(3), ICCPR, 1966

### **2.1.8 Child's Rights in the light of International Covenant on Social, Economical and Cultural Rights (ICSECR \_ 1966)**

The International Covenant on Economic, Social, and Cultural Rights is one of two international treaties that together comprise the international bill of rights, which provides the legal framework to protect the most fundamental economic, social, and cultural rights, such as the right to work in fair and favourable conditions, the right to social protection, the right to an adequate standard of living, the right to the highest standards of physical and mental health, and the right to an adequate standard of education<sup>59</sup>.

Moreover, a special protection was also give to the family, mother children under its article (10). This article father protects the children from social and economic exploitation by calling illegal employment if the same is harmful for their moral and health. The state parties were asked to determine the age limit, and were punishing those who violate the same<sup>60</sup>. Apart from that, its article 12(2) (a) imposes on the state parties to minimize the birth rate, death of infant as well as development the health of the child whether physical or mental<sup>61</sup>. Similarly, the rights to education are guaranteed via its article (13), which states that all state parties to the instant covenant acknowledge the right to education for all, and that in order to attain this right, basic education must be obligatory and free of charge for everyone. Furthermore, the state parties to the present covenant undertake for the respect of parent and legal guardian have been kept in full freedom for opting schools to their children for their moral and religious educations as per their conviction but subject to state policy to the schools to have a minimum educational standard<sup>62</sup>.

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<sup>59</sup> Ibid.

<sup>60</sup> Art, 10, ICSECR, 1966

<sup>61</sup> Ibid, Art.12 (2)(a).

<sup>62</sup>Ibid Art.13.

### 2.1.9 Celebration of International Child Rights Year (1979)

The awareness towards the child's rights law till 1979 has grown up almost all over the world. But International community, in order to make ensure more the importance of child rights law and dissemination the campaigns thereabout has decided to celebrate an International Year of Child. To end this, on 18 October 1979, the General Assembly accorded a resolution vide numbering 34/4<sup>63</sup> on the international year of children by recalling its previous resolution numbering 31/169<sup>64</sup> of 21 December 1976 whereby the 1979 was declared as the International Year of the Child, and set forth the broad objectives of the Year bearing in mind that the same years is also the twentieth anniversary of the Declaration of the rights of child (1959)<sup>65</sup>. Furthermore, despite the fact that the International Child Year was primarily intended to serve as a platform for the wide range of decentralised initiatives to improve child welfare and social development, it assisted in bringing a number of issues of global concern that were seemingly new at the time, such as child abuse, sexual exploitation, street children, and the situation of children with disabilities<sup>66</sup>.

Apart from that, the United Nations Commission on Human Rights also established a formal open- ended working group in International Year of Child in order to draw up a text draft of the Convention on rights of Child till next year on the occasion of the thirty six session of the UN Commission on the Human Rights keeping in mind the already submitted

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<sup>63</sup>UN General Assembly Resolutions 34/4. *International year of the child*. Oct 18, 1979. <https://research.un.org/en/docs/ga/quick/regular/34> (accessed March 25, 2013).

<sup>64</sup>UN General Assembly Resolutions 31/169. *International Year of the Child*. Dec 21, 1976. <https://research.un.org/en/docs/ga/quick/regular/31> (accessed March 25, 2023).

<sup>65</sup> Ibid.

<sup>66</sup>Lindkvist, Linde. "1979: a Year of the Child, but Not of Children's Human Rights." *Diplomatic* 1, no. 2 (Dec 2019): 202-220.

observations, views and suggestion by the UN specialized agencies, regional governmental organization and nongovernmental organization in this regard<sup>67</sup>.

### **1.3 The United Nations Convention on the Rights of the Child -1989**

The United Nations General Assembly unanimously approved the Convention on the Rights of the Child (CRC) on November 20, 1989 but it will affect until the twentieth instrument of ratification is submitted to the Secretary General of the organization.<sup>68</sup> The CRC is one of most ratified Convention every in the history of human rights treaties. When the CRC opened for signature in the month of February 1990, since seven year letter than the only two countries Somali and United States have not ratified in the world<sup>69</sup>.

The basic principle of CRC is to make the participation of the children's rights of expression on a matter which affects them.<sup>70</sup> Moreover, it had not only substantial impacts on the national legislations, practice and institutions but it also confirmed the rights of parents with regard to their children and the rights of children with regard to their parents vice versa in the context of what was in the child's best interest by laying out the standards and objectives<sup>71</sup>. Additionally, the idea of equal rights for all children has been included into the three Ps, for instances, protection rights which includes rights against exploitations and violence, provision rights like, rights to education, health, leisure ,and the participation rights which includes, rights to information, freedom of expression. Thus, the CRC on the one aspect accorded the basic human rights to the children as the members of the society or

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<sup>67</sup>Detrick, Sharon. *A Commentary on the United Nations Convention on the Rights of the Child*. Martinus Nijhoff Publishers, 1999.

<sup>68</sup>Stewart, George A. "Interpreting the Child's Right to Identity in the U.N. Convention on the Rights of the Child." *Family Law Quarterly* 26, no. 3 (1992): 221-33.

<sup>69</sup>Frowein, Jochen A. Eric Stein. "International Law in Municipal Courts." *Proceedings of the Annual Meeting (American Society of International Law* 91 (1997): 290-295.

<sup>70</sup>Brown, Ceri. "Children's Rights, Educational Research and the UNCR: Past, Present and Future." *Journal of Research in International Education* 16, no. 3 (2017): 293-306.

<sup>71</sup>Khan, Muhammad Mumtaz Ali. "From 'Objects of Protection' to 'Subjects of Rights': A Journey of Children Rights from Declaration of 1924 to Convention of 1989." *Pakistan Journal of Social Sciences* 41, no. 2 (2021): 445-467.

family, and on the other hand, make them entitle for special protection just because of their vulnerability<sup>72</sup>.

### **1.3.1 Contents of the UN Child's Rights Convention (UNCRC) of 1989**

The United Nations Conventions on the Child Rights having a preamble and fifty four articles, which are bifurcated into three parts. Part I deals from articles 1 to 41 which contains the substantive provisions of the Convention, part II relates to articles 42 to 45 which contains its implementation provisions, and part III commences from articles 46 to 54, which provides for a number of final clauses.

The preamble which basically set out the consideration that motivated to the adoption of the Convention or in the other words, the preamble which contains the statement of purpose in the shape of general declaration pertaining to the object and goal of the Convention. . It has thirteen paragraphs which speak, inter alia, objectives and principles of the Convention:

- The state parties to the Convention recall that the UN declared in the UDHR that childhood is entitled to special care and assistance;
- RecogniseRecognise that the child, in order to fully and harmoniously develop of his or her personality, should grow up in a family environment, in a happy atmosphere, love and understanding;
- Consider that the children should be prepared to live in society as an individual as well as brought up in the spirit of the principles declared in the charter of United Nations ;
- Recognize that children in all countries throughout the world are in special situations that require particular care and respect;

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<sup>72</sup>Ibid.



- Recognise the significance of each people's tradition and cultural value for the purpose of child protection and development;
- Recognise the significance of international cooperation in order to improve the living conditions of children in every country, particularly in developing countries<sup>73</sup>.

### **1.3.2 General Obligations of States Parties to the CRC - 1989) for the Protection of Children's Rights**

Part I of the Convention which start from article 1 to 41, possessing the substantive provisions wherein the article 1 to 5 and 41 deal with the number of general obligations of the state's parties that are very relevant to all of the child rights guaranteed therein. For instances, the article 1<sup>74</sup> of the convention determines the age of child and defines that person below the age of eighteen is considered as a child unless the child attains majority under the law that applies on him or her. likewise, article 2<sup>75</sup> thereof impose an obligation on the states parties by defining the term of nondiscrimination that all the guaranteed rights under the Convention shall be ensured by all the states parties for all child without regard of race, gender, religion, place of birth, language, disability etc. And all actions whether are taken by a public or private institution, court of law or any other legislative and administrative body which directly or indirectly effect the children , then as per article 3<sup>76</sup> thereof, the interest of the children shall always be kept on the top priority. The states parties in pursuant of its article 4<sup>77</sup> shall also ensure for the implementations of the Convention by taking legislative and administrative reforms with their best available resources. The convention lays an obligation in term of its article 5<sup>78</sup> on the states parties to respects the parents, legal guardian and family

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<sup>73</sup>The preamble, CRC, 1989.

<sup>74</sup>Article 1, Convention on the Rights of Child, 1989.

<sup>75</sup>Ibid, 2.

<sup>76</sup>Ibid. 3(1).

<sup>77</sup>Ibid, 4.

<sup>78</sup>Ibid, 5.

members as per their local customs if any, to provide the guidance and directions to the children to bust up their capacity.

The essence of the Convention on the Rights is to basically provide all fundamental rights to the child. These rights are including;

- Right to Life, Survival and Development;
- Protection from violence, abuse or neglect;
- Right to education that enables them to fulfill their potential;
- Right to relationship with their parents;
- Right to express an opinion, and be heard.

Article 6<sup>79</sup> of the CRC protects every child's right to life, which provides that states parties have a duty to protect a child's life as well as ensure the child's survival and development.

The right to life encompasses a wider range of rights because they are all directly or indirectly related to it, including the right to health, without which the right to life will become fatal. As a result, the convention also protects this right under article 24<sup>80</sup>, of the convention, which states that every child has a right to the best health and that the states parties have a duty to ensure that this right is realized through access to high-quality healthcare, clean environments, and access to safe drinking water and food. The richer countries shall help to the poorer one to achieve these rights, and further, to ensure this right states parties shall take necessary steps to end the traditional practices which would harm the child life. Likewise, to develop the children, the convention imposes duty on states parties under its article 26<sup>81</sup> to ensure the standard of living of every child by providing all necessary requirement thereto. To develop a child's mental growth along with physical growth has also

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<sup>79</sup>Ibid, 6(1).

<sup>80</sup>Ibid, 24.

<sup>81</sup>Ibid, 26(1).

been protected by providing other enabling rights, such as right to education and right to have relaxed time for playing etc.

To, mental growth, every child has a right to have a relax time to play and participate in other artistic and cultural activities in term of the article 31<sup>82</sup> of the Convention, and the states parties must ensure to protect this rights, in the same way the right to education is also one of the very important right in this regard, without a better education , the personality, talent, and ability of child cannot be develop to move forward for living a responsible life, and all states parties shall undertake that all children shall have free an access to primary education under its article 28 sub clause (1).<sup>83</sup>

The children have a right to have name and nationality under the article 7<sup>84</sup>of convention, which says every child shall has a right to be registered at birth and to know his or her parents. The convention further preserves the identity of every child too in term of its article 8,<sup>85</sup> which includes nationality and family relation as per law without any illegal intervention, and in case of any violation thereof the states parties must provide an appropriate assistance to prompt revival.

### **1.3.3 Legal Protection of Child abuse, violence or neglect under the Convention on the Right of Child (1989)**

The Convention on the Rights of Child categorically protects all kinds of child abuse, violence and neglect under its article 19<sup>86</sup>, which proclaims that all states parties to the Convention shall undertake to take every kind appropriate measure to protect everychild are

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<sup>82</sup>Ibid, 31(1).

<sup>83</sup>Ibid, 21(1).

<sup>84</sup>Ibid, 7.

<sup>85</sup>Ibid, 8(1).

<sup>86</sup>Ibid, 9(1).

from all kinds of abuse, violence and neglect by parents or in case of legal guardians, by them.

Apart from the protection through parents of a child, the states parties themselves directly protect every child from all kinds of abuses such as drug abuse and sexual abuse under articles 33<sup>87</sup> and 34<sup>88</sup> respectively, where under the state's parties undertake to protect every child from all kinds of drug abuse and sexual abuse by taking all measures that national, bilateral and international steps including legal, administrative, social and educational to eradicate all kind of sexual practice which could force or induce a child to engage in sexual activities and a use of drug.

Protection from violence and exploitation such as child labor, detention and inhuman treatment, selling and trafficking, recruiting in armed conflicts, medical experiments are also guaranteed under the CRC 1989.

Child labor has also been prohibited by the article 32<sup>89</sup> of the CRC, which says that all states parties must protect all children from economic exploitation and hazardous labour that could endanger their health, whether physical or mental, or their social, moral, spiritual, and educational development. To that aim, states parties must adopt legislative, administrative, and other appropriate actions.

Furthermore, protection of children in armed conflicts is guaranteed under the convention in terms of article 38<sup>90</sup>, where states parties commit to prohibiting the recruitment of children under the age of 15 for participation in armed conflict and to taking steps to care for those children affected by any armed conflict.

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<sup>87</sup>Ibid, 33.

<sup>88</sup>Ibid, 34.

<sup>89</sup>Ibid, 32.

<sup>90</sup>Ibid, 38(1).

Every child under the age of 18 is protected from torture and other inhuman treatments under the article 37<sup>91</sup> of the Convention, which further protects the child from death penalty or life imprisonment which has less possibility to release. The child's arrest and detention must also be last resort and for shorter term as much as possible. Child must also under this provision be provided an opportunity to interact with family. Adults and children shall not be kept in same prisons under this article by ensuring maximum respect and care.

To end this, a juvenile justice system shall also be ensured by all states parties in pursuant of article 40<sup>92</sup> of the convention which says, a child offender must be dealt with dignity and provided a legal assistance and fair trial. The child' age must also be taken into an account for criminal punishment under this article, and the states parties shall determine a minimum age for the criminal proceeding.

The right to Protection from selling and trafficking of every child is categorically guaranteed by the article 35<sup>93</sup> of the Convention, which requires states parties to take every step needed to prevent abduction, selling and trafficking of child for any cause and in any way. Likewise, states parties are also under bound in pursuant of article 11<sup>94</sup> of the convention to take measures by executing bilateral and multilateral agreement to combat all sort of illegal transfer and non-return of a child abroad and multilateral agreement to combat all sort of illegal transfer and non-return of a child abroad.

Under article 36,<sup>95</sup> all other form of exploitations, such as exploitation for political activities, medical research, or any form which prejudice to the welfare of a child by any means. And the states parties shall also under undertake under the article 39<sup>96</sup>, of the

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<sup>91</sup>Ibid, 37.

<sup>92</sup>Ibid, 40.

<sup>93</sup>Ibid, 35.

<sup>94</sup>Ibid, 31(1),(2).

<sup>95</sup>Ibid, 36.

<sup>96</sup>Ibid, 39.

convention, to ensure a special help for those children who have been effected from abuse, neglect, exploitations, torture or who are war victims so that they could recover their health, dignity, and social living.

### **1.3.4The Legal Status of a Child's Opinions under the CRC (1989)**

A child's views has been protected by the Convention in term of its article 12(1), which lays an obligation on the states parties to ensure that a child who is enough to form an opinion has a right to express, and shall also be given fair consideration as per their age which affects him or her<sup>97</sup>. Similarly, Article 13<sup>98</sup> of the Convention declares that every child has the right to express his or her opinion and viewpoints as permitted by law. Aside from these rights, article 14<sup>99</sup> of the convention provides every child the freedom to think and believe whatever they wish and to practice their faith without interference from everyone else's religion.

Moreover, a child in addition to the freedom of expression and thoughts has a right to form an association, and right to assemble peacefully under the article 15 sub clause (1)<sup>100</sup> of the convention. Right to access to reliable information is also guaranteed to every child in them of article 17<sup>101</sup>of the convention, which further encouraging media to convey understandable information, and imposing the states parties to protect them from harmful materials.

Furthermore, every child has parental rights that have been protected under article 9<sup>102</sup> of the convention which says that parents of a child cannot be separated against their will unless there they are being neglected or abused by their parents. In this case, the best interests

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<sup>97</sup> Ibid, 12(1).

<sup>98</sup>Ibid, 13.

<sup>99</sup>Ibid, 49.

<sup>100</sup>Ibid, 15(1).

<sup>101</sup>Ibid, 16.

<sup>102</sup>Ibid, 9(1),3(1).

of the children must always be considered. In addition, according to article 10<sup>103</sup>, if parents or a child want to live together in the same country, states parties must respond quickly and sympathetically, and if they live in separate countries, a child has the right to visit and contact with both parents. In a similar vein, children who are unable to remain with their families are protected by the convention under article 20<sup>104</sup>, which specifies that states parties must give particular assistance in the form of alternative care centers while respecting the child's culture, language, and religion.

Apart from these protections, CRC recognizes the rights and duties of parents in Article 18<sup>105</sup> to look after their children in the best interests of the child, and states must assist parents in this regard by establishing a child care service.

### **1.3.5 Legal protection on special child in the light of CRC(1989)**

One of the main features of the Convention on the Right of Child is to protect every child without any discrimination of any kinds which can be seen under its article 2<sup>106</sup> in the form of nondiscrimination.

The term every child used in the entire convention which obviously includes, a child with disabilities, a refugee child, an adopted child, and an illegitimate child etc. The right of illegitimate child that although was not protected an independent article of the convention itself, but no dubious, it was categorically protected in pursuant article (2), a general nondiscrimination article, which applies on entire Convention.

Apart from general article (2) of the Convention, nondiscrimination, a child with disability was also exclusively protected by virtue of its article 23,<sup>107</sup> which says a child with disability

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<sup>103</sup>Ibid, 10(1).

<sup>104</sup>Ibid, 20(1).

<sup>105</sup>Ibid, 18(1).

<sup>106</sup>Ibid, 2(1).

<sup>107</sup>Ibid, 23.

has a right to full and respectable life, and as much as possible an independence, and to play their active role in the society. The states parties must also provide maximum assistance to the disable child and their families in this respect.

Rights of refugee child was also protected under an independent article of the convention in the form of article (22),<sup>108</sup> which proclaims that a child who is seeking a refuge or has a refugee status has a right to enjoy all the rights guaranteed in the present convention, and the states parties shall help them in this regards as well as for re unification of a family of a separated refugee child.

The adopted system of a child was also categorically recognized by the article 21<sup>109</sup> of the present Convention, the states parties shall recognize and endorse the adoption system by ensuring that the process must be legal and the in according with the principle of best interest of the child. A condition also was laid down by this article that a child can be adopted abroad unless he or she is placed with their families in their own country.

### **1.3.6 Compliance and Enforcement Procedure of CRC –1989**

The CRC has a proper monitoring mechanism in pursuant of its article 42 to 44 for the compliance of the convention in the form 18 members of committee, known as CRC, which reviews the reports of all states parties submitted periodically, to evaluate the achievements by the states parties in implementing to the convention.<sup>110</sup>

To make more effective implementation of the Convention and to enhance international cooperation, the article 45<sup>111</sup> of the convention permits to engage the UN Agencies like UNECO, ILO, and UNCIEF etc. in the process of international reports. Likewise the Committee on the Rights of Child may also receive appropriate reports from

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<sup>108</sup>Ibid, 22(1).

<sup>109</sup>Ibid, 21(1)(a)(b).

<sup>110</sup>Ibid, 42-44.

<sup>111</sup>Ibid, 45(a).



NGOs in this respect. The enforcement procedure of CRC was defined from articles 46 to at 54, which containing number of final clauses which basically deals with the signatures, ratification and accession process, and also how the Convention entry into force, how the amendment and reservation, and denunciation are made, who will be the depositary of CRC and which is the authentic language of the Convention. Like, the operation the CRC shall affect thirty days following the submission of twenty documents of ratification to the Secretary General of the UN in accordance with its article 49.

## **CONCLUSION**

The discussion with regards to the development of the rights of child is hereby summed up in this way that the recognizing of childhood as a distinct period of life, addressing of almost every issue arising out from therein, is the development of the last century in of an international binding document CRC-1989. However, somehow a sympathetic attitude towards children being the dependent, vulnerable, and distinct from the adults had been seen in the industrial era, inter alia, enacting laws on the child labor, juvenile justice, child welfare, child education and child slavery and trafficking. The evolution of these developments on children 'rights due to result of various factors, including, social laws owing to industrialization, and influenced ideas about children rights of enlightenment thinkers i.e. John Lock and Jean Jacques Rousseau, establishment of women rights, and all the above owing to consistent voiced of many NGOs like Save the Children Movement. Prior to that, most of the children who have become six year old were regarded small adults and were not separated from adults as a group. They were regarded as the legal and social property of their parents, rather than as human beings with their own position. Parents, particularly fathers, were given unrestricted authority and influence over the children and were free to treat them whatsoever he wished. The concept of education, schools, protection against hazards labor, and of any special right were un seen vis-à-vis because of their poor socioeconomic standing,

they were ignored, mistreated, and sold as slaves, rendering them invisible in the eyes of society. The barbaric practice against the children in form of slavery, sexual abuse, child labor and trafficking had been remained in practice until the late of eighteen century almost at everywhere. However, the children, after centuries of being rejected, neglected, manipulated, and regarded as objects, were finally recognized the legal status at the international level as persons in the late of the twentieth century via International Convention on the Right of Child. Notwithstanding of the above-mentioned developments on the rights of child, Islam has been very conscious with regards to the children's rights since fourteen century ago and since then, has been promoting and protecting all kind of children's rights without any discrimination of any kind such as religious, sex, language etc. These rights have been extended to a child with disabilities, on the step children, illegitimate children etc. Islam even protects the child before a he or she is called a child or in another word before the birth of a child in the form of rights to fetus. To end this, Islam has given many exclusive rights to the pregnant woman in terms of financial supports up to delivery if she divorced and delay in execution of punishment if she has committed of any crime.

## CHAPTER 2

### DVELOPMENTS OF UNIVERSAL PERIODIC REVIEW

#### (UPR-2006)

##### INTRODUCTION:

The new human rights monitoring mechanism of the United Nations Human Rights Council known UPR-2006 is an innovative and unique process which reviews the human rights records of all one ninety three member states of UN on every four to five years basis on equal treatment for all countries by allowing all states to declare what actions they have taken to enhance human rights situations in their respective countries and also by overcoming the issues that barriers to human rights enjoyment<sup>112</sup>. This chapter discusses on this new monitoring mechanism by evaluating both the substantive and procedural aspects such as the objective behind of its development, its principles to move forward, its functional structure unlike UN treaty bodies, the nature and follow up process of its recommendations and its strengths and weaknesses in the promotion and preservation of human rights within the UN system..

#### 2.1 Establishment of Universal Periodic Review (UPR - 2006)

The charter of the United Nations expressly mandated under its article 61,<sup>113</sup> to establish a Commission for the promotion of human rights by assisting Economic and Social Council (ECOSOC) whereby the same was established in February 1946 and given the task of making

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<sup>112</sup>Mohan, Mahdey. "Singapore and the Universal Periodic Review: An unprecedented human rights assessment." *Journal of East Asia and International Law* 3 (2010): 365-374.

<sup>113</sup>Art, 61, UN, Charter, 1945.

recommendations for the long-term work in the human rights field.<sup>114</sup> However, due to the deep politicizing on its function vis-à-vis its decisions on selective and country by country basis it has become disregarding, consequently hampered a constructive dialogue related to the human rights' issues and was then finally abandoned in year of 1980<sup>115</sup>.

After the abandonment of the Commission on Human Rights in 1980, UN kept on working on the establishment of a new body for the protection and promotion of human rights, particularly, the Secretary-General set up a high level Panel in the year 2003 on threats, challenges, and change for the following purposes;

- To assess the existing threats to international peace and security;
- To evaluate how the existing policies and institutions have done in addressing those threats;
- To make recommendations for strengthening the UN, so that collective security can be ensured for all in the entire century<sup>116</sup>.

The report of the panel there on and subsequently negotiations of the members states thereabout recommended the establishment of a new intergovernmental body by replacing the Commission on Human Rights<sup>117</sup>.

Likewise, in 2005, when Kofi Annan, the then General Secretary of the UN, was drafting his report in the larger freedom under the title "Towards Development, security, and Human Rights for all" had also at that time an explicit objective in his mind about the new human rights systems hoping to put an end to the high level of politicization and double standards which lost its

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<sup>114</sup>Alston, Philip, John Tobin, and Mac Darrow. *LAYING THE FOUNDATIONS FOR CHILDREN'S RIGHTS*. Innocenti Research Center, 2005.

<sup>115</sup>Bernaz, Nadia. "Reforming the UN Human Rights Protection Procedures: A Legal Perspective on the Establishment of the Universal Periodic Review Mechanism." *New Institutions for Human Rights Protection* (Oxford University Press), 2009: 75-92.

<sup>116</sup>Ibid.

<sup>117</sup> Ibid.

credibility recent years in the eye of whole UN human rights system<sup>118</sup>. These causes pushed up and led to the established of the UN Human Rights Council<sup>119</sup>.

The General Assembly created HRC in 2006 via a resolution numbering 60/251<sup>120</sup> giving a mandate to undertake a Universal Periodic Review (UPR) regarding human rights record of each member of United Nations based on objective and reliable information in order to fulfill by each state of their respective obligations and commitment in a way that ensure the principle of universality coverage and equal treatment with all of them<sup>121</sup>.

The Human Rights Council has decided during its first regular session in June 2006 to set up an inter-session open-ended intergovernmental working group in order to develop the outlines of the Universal Periodic Review mechanism within a period of one year by June 2007.<sup>122</sup> One year after, on June 18, 2007, the members of the Council agreed its institution-building package and enacted a resolution HRC Resolution 5/1,<sup>123</sup> which provides a road map for the future work of the Council, the new UPR is one of the primary elements of that package<sup>124</sup>.

### **2.1.1 Objectives of the Universal Periodic Review (UPR \_2006)**

The UPR has laid down some of its basic and fundamental objectives in order to carry out its functions for the promotion and protection the human rights under Para 4 of its birth resolution numbering 5/1, whereby it should not only do maximum efforts to improve the

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<sup>118</sup>Carraro, Valentina. "The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by preventing politicizaion." *Human Rights Quarterly* 39, no. 4 (2017): 943-970.

<sup>119</sup> Ibid.

<sup>120</sup>General Assembly . *Human Rights Council : resolution 60/251*. March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed July 1, 2023).

<sup>121</sup> Ibid.

<sup>122</sup>Ibid, Para, 5 (e).

<sup>123</sup>Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

<sup>124</sup>Mohan, Mahdey. "Singapore and the Universal Periodic Review: An unprecedented human rights assessment." *Journal of East Asia and International Law* 3 (2010): 365-374.

human rights situation on the ground but also the following objectives have been settled down to achieve its ultimate goals, which includes:

- The fulfillment of responsibilities and commitments of human rights by the states as well as the assessment of their achievements and problems;
- The development of technical assistance and state capability with the consultation and consent of the state in question;
- Sharing best practices between states and other stakeholders engaged therein;
- Encouragement of full cooperation and involvement with the Council, other human rights organizations, and with the OHCHR to support for cooperation in the promotion and protection of human rights<sup>125</sup>.

In addition, the UPR should be cooperative one and based on fulfillment of an obligation rather being used as a tool of criticizing of the failure, if any, by ensure the participation of all concern stakeholders, is the requirement of the Resolution 5/1.<sup>126</sup>

The reasons of laying these objectives by UPR was obviously due to its plenty of potentiality in many forms, such as it gives a thorough account of the human rights situation in practice by uniting for the first time the right to criticism and an obligation to cooperate on practical measures to promote human rights in a particular country<sup>127</sup>.

### **2.1.2 Principles of Universal Periodic Review (UPR-2006)**

The principles of UPR have been laid down under the part 1 of Para3 of the Human Rights Resolution 5/1 in terms of approximately thirteen basic principles.

These principles will carry out the functions of the UPR by;

- Promoting indivisibility, universalism, and interconnectedness of all human rights;

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<sup>125</sup>Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 2, 2023).

<sup>126</sup>Ibid.

<sup>127</sup>Secretariat, Common wealth. *Introduction to the Universal Periodic Review Process*. August 1, 2009.

- An interactive dialogue based on reliable and unbiased information;
- Ensuring that all States are equally covered and treated;
- Fully involving of the state under review;
- Complementing other human rights mechanism rather than duplicating them;
- A way that is impartial, open, non-selective, constructive, non-confrontational, and none politicized;
- Not posing an undue burden on the agenda of the Council and on the State concern;
- Taking up minimum of time, money, or human resources;
- Avoiding to reduce the ability of the Council to react and pressing human rights issues vis-à-vis a gender viewpoint should also be fully incorporated;
- Taking into consideration the degree of development of each country keeping in mind the obligations contained in the recommendations of its review.
- Taking ensure the involvement of all necessary stakeholders, such as NHRIs and NGOs<sup>128</sup>. Moreover, the core Resolution 60/251 also authorized to creation of the UPR on objective bases and reliable information, and be carried out in a way that ensures equal treatment with respect to all States<sup>129</sup>.

Moreover, HRC Decision 6/102 also states that the reports of the state under review should identify "achievements, best practices, challenges, and constraints"<sup>130</sup>.

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<sup>128</sup>Para, 3, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed March 14, 2023).

<sup>129</sup>General Assembly . *Human Rights Council 60/251 : resolution*. March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed March 15, 2023).

<sup>130</sup>Human Rights Resolution, 6/102. *Follow-up to Human Rights Council resolution 5/1*. September 27, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/DEC/6/102](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/DEC/6/102) (accessed March 21, 2023).

### **2.1.3 Human Rights Records of the State in UPR Process**

During the UPR process (cycle) each country of the United Nations is reviewed in accordance with their commitments under the charter of United Nations, the Universal Declaration of Human Rights, the human rights treaties to which the state is a party, any voluntary human rights pledges they have made, including any commitments they had made during the previous cycle of review, and the principles of International Humanitarian law<sup>131</sup>.

Moreover, the three rapporteurs tasked with facilitating the review process are referred to as the "Troika," which members are chosen at random in advance approximately six to eight months prior to start the UPR maintaining a balance among regions. The state under review has the power to veto one member of the troika and may request that the member from her region<sup>132</sup>. The country may also excuse from taking part in a particular review as a troika member<sup>133</sup>

### **2.1.4 Steps in the UPR Cycle**

The overall Universal Periodic Review cycle has three basic steps which is count down from the preparation of the documents for UPR process up to till follow up process on the recommendations made after the review cycle.

#### **2.1.4.1 State Review under first step of UPR Cycle**

Preparation of documents is the very initial stage of the UPR process in which member States are given three separate documents, firstly national report consisting 20-pages report with

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<sup>131</sup> Para, 3(1), Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed March 21, 2023).

<sup>132</sup> Human Rights Council Resolution, 8/1. *Modalities and practices for the universal periodic review process*. April 9, 2008. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/PRST/8/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/PRST/8/1) (accessed April 11, 2023).

<sup>133</sup> Para, 20, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed May 4, 2023).



comprehensive information on how it has carried out its commitments and obligations related to human rights, including details on accomplishments, best practices, and challenges. Moreover, the government should initiate extensive consultations with the civil society before drafting its report, particularly with stakeholders, like, NGOs and National Human Rights Institutions (NHRIs)<sup>134</sup>.

The second document for the UPR process is the compilation of the information by the OHCHR: The OHCHR has developed a 10-page report using pertinent information from treaty bodies, independent experts or special rapporteurs, UN agencies, and other relevant UN documents.<sup>135</sup>

The third document is the summary of other stake holders prepared by the OHCHR having maximum 10-page, of a summary based on the information provided by NHRIs, NGOs, Human Rights Experts and other relevant entities. Moreover, submissions from NGOs are extremely important to the UPR process, because they provide a direct and grassroots evaluation of the human rights situation<sup>136</sup>.

#### **2.1.4.2 Second step of UPR Process**

The actual review continues for three hours and includes an interactive dialogue among the state under review and UN member states<sup>137</sup>. The state under review has one hour during this session to introduce its report, answer to the questions or comments, and make concluding

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<sup>134</sup>Human Rights Resolution, 6/102. *Follow-up to Human Rights Council resolution 5/1*. September 27, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/DEC/6/102](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/DEC/6/102) (accessed July 2, 2023).

<sup>135</sup>*Ibid.*

<sup>136</sup>*Ibid*

<sup>137</sup>Para, 22, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

remarks, while two hours, member states are permitted to raise questions and make recommendations to the country under review<sup>138</sup>.

Following the interactive discussion of the (UPR-WG) session, the troika, in collaboration with the OHCHR, compiles the report, which includes a list of recommendations made during the review as well as any voluntary commitments made by (SUR). The report is usually completed within 48 hours after the conclusion of the session<sup>139</sup>. The recommendation included in the outcome report of the (WG) is those that the (SUR) accepted, note, or are still awaiting a response<sup>140</sup>. The HRC will officially approve the outcome document at its next regular session<sup>141</sup>. The SUR can respond to recommendations made by other countries during the review as well as to questions that still need to be resolved during the Human Rights Council plenary session<sup>142</sup>. Countries are allowed to comment on the results of the examination, while NGOs and other civil society participants are allowed to make general remarks at this juncture<sup>143</sup>.

### 2.1.4.3 Third step of UPR Process

The findings of the review as a cooperative mechanism should be implemented primarily by the SUR, which is also encouraged to hold broad consultations with all relevant stakeholders

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<sup>138</sup>Human Rights Council Resolution, 8/1. *Modalities and practices for the universal periodic review process*. April 9, 2008. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/PRST/8/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/PRST/8/1) (accessed April 11, 2023).

<sup>139</sup>Para, 32, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

<sup>140</sup>United Nations Human Rights Council. *Basic facts about the UPR*. <https://www.ohchr.org/en/hr-bodies/upr/basic-facts> (accessed April 11, 2023).

<sup>141</sup> Para, 25, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

<sup>142</sup>Para, 29, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

<sup>143</sup>bid. Para, 30-31.

in this regard<sup>144</sup>. Furthermore, the resolution numbering 16/21 urges other stakeholders to provide information on the follow-up process<sup>145</sup>. States are also encouraged to provide the HRC midterm update report on the implementation of accepted recommendations on a voluntary basis to make ensure the follow up process,. Interestingly, for the recent UPR Cycle, about 87 states have submitted their midterm reports by 10<sup>th</sup> of March 2023<sup>146</sup>.

To meet the implementation process in smooth way, the Council's resolution numbering 6/17 also established the Voluntary Fund for Financial and Technical Assistance, to assist the states in implementing the recommendations made during their review<sup>147</sup>. Furthermore, States may also request to the national and regional United Nations representation to help them in following their review<sup>148</sup>.

## **2.2 The Universal Periodic Review and the UN Treaty Bodies procedres**

The UPR has many different distinctions whether in term of its structural framework or with respect to its functions unlike the other Human Rights monitoring mechanism which is event from the founding Resolutions 60/251<sup>149</sup> and 5/1<sup>150</sup> of HRC which say that the UPR was designed to complement, rather than duplicate to the tasks of other human rights mechanisms,

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<sup>144</sup>Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

<sup>145</sup>United Nations Human Rights Council 16/21. *Review of the work and functioning of the Human Rights Council*. April 12, 2011. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/16/21](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/16/21) (accessed May 13, 2023).

<sup>146</sup>Council, United Nations Human Rights. *UPR Mid-term reports*. 2023. <https://www.ohchr.org/en/hr-bodies/upr/upr-implementation> (accessed July 1, 2023).

<sup>147</sup>Human Rights Resolution, rapporteurs, 6/102. *Follow-up to Human Rights Council resolution 5/1*. September 27, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/DEC/6/102](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/DEC/6/102) (accessed July 2, 2023).

<sup>148</sup>Note, 26, United Nations Human Rights Council 16/21. *Review of the work and functioning of the Human Rights Council*. April 12, 2011. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/16/21](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/16/21) (accessed May 13, 2023).

<sup>149</sup>General Assembly . *Human Rights Council 60/251 : resolution*. March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed July 1, 2023).

<sup>150</sup>Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed July 1, 2023).

like UN Treaties bodies. Moreover, the distinguish features of UPR unlike Human Rights Treaty Bodies mechanism are, inter alia;

- The UPR applies to all UN states, irrespective that whether adopted the specific treaty or not unlike the treaty body wherein the state is only under an obligation to comply to specific ratified convention.
- In UPR process the state under review is examined by all rights, such as it is based on broad protections that exist in the UN Charter, the UDHR, International treaties ratified by the SUR as well as voluntary commitments. Whereas, all these inclusive approach differs with other treaty bodies mechanisms, which only focus on the particular rights guaranteed in that specific Treaty Convention.
- The UPR is a peer assessment process in which the UN members states examine one another with all of their human rights commitments through their states diplomats while in treaty bodies systems a committee of experts examine the states reports with respect to the compliance of the special rights in that specific convention.
- The UPR mechanism has a interactive dialogue session of three hours which is held with reviewer (peer states), whereas, in State treaty bodies process a constructive dialogue of six hours vis-à-vis question and answer sessions with reviewers (independent experts) is taken.
- As for as the conclusion is concerned in the peer state review process the outcome report with summary of proceeding and the list of recommendations along with voluntary pledges and commitments are included, whereas, in the states treaty bodies review mechanism the finding is come out in the form of

concluding observations with concerns and recommendations of expert committee.

- The UPR Mechanism and Treaty Bodies mechanism, although both provide states recommendations on how to enhance their performance in relation to human rights yet the type of actors who play the role of reviewers, however, are an essential point of distinction between the two systems in the form of state delegates and independent experts<sup>151</sup>.

### 2.3 UPR Recommendations and Its Legal Status

Recommendations are made to the (SUR) at the interactive dialogue by the states conducting the review, which are made after have thoroughly been reviewed of documentary evidence such as national report, stakeholder reports, treaty body reports of the country<sup>152</sup>. The recommendation basically consist of recommendations accepted by the(SUR), refuse to accept or offers no response thereon vis-à-vis general or specific recommendations and general comments regarding how the state sees the subject matter of any particular recommendations<sup>153</sup>. Moreover, the recommendations cannot be rejected by a state when a state indicates that a recommendation does not enjoy its support or that it does not accept then the recommendation is indicated as noted instead of rejection<sup>154</sup>.

Interestingly, the UPR process was never contested by any members of United Nations with respect to their obligations, and the both founding documents of the Council namely General Assembly Resolution 60/251 and HRC Resolution 5/1<sup>155</sup> did not also set

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<sup>151</sup>Carraro, Valentina. "The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by preventing politicization?" *Human Rights Quarterly* 39, no. 4 (2017): 943-970.P, 8.

<sup>152</sup>United Nations Human Rights: Office of the High Commissioner. *Basic facts about UPR*. <https://www.ohchr.org/en/hrbodies/hrc/home> (accessed April 9, 2023).

<sup>153</sup>UPR Info. *Methodology Responses to recommendations*. : [https://www.upr-info.org/sites/default/files/documents/2012-02/upr\\_factsheet\\_1\\_the\\_upr\\_e.pdf](https://www.upr-info.org/sites/default/files/documents/2012-02/upr_factsheet_1_the_upr_e.pdf). (accessed April 9, 2023).

<sup>154</sup> Ibid.

<sup>155</sup> Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 11, 2023).

forth any procedure for states that refuse the UPR process, rather they stated that the review be a "*cooperative mechanism based on objective and reliable information and on interactive dialogue.*"<sup>156</sup> Moreover, the both founding resolutions of the Human Rights Council which treated equally the recommendations with "formal pledges and other declarations",<sup>157</sup> Further also, the used of expression like technical assistance therein indicates that the process of issuing recommendations is not a source of law rather is akin to decrees or declarations made by other international governmental bodies, such as the World Health Organization, which may have legal repercussions but are not regarded as sources of law in strict sense rather as soft law.<sup>158</sup>

Additionally, the official website of the Office of the High Commissioner for Human Rights did not also mention about recommendations having legal standing or not but stated that the State Under Review has primarily responsible to follow up of those recommendations which have been accepted by it<sup>159</sup>.

Nonetheless, the facts that the procedure of UPR is a soft law due to its not directly binding nature on states in pursuant of its two founding resolutions, its recommendations under specific two circumstances having a legal nature of standing; Firstly, certain recommendations by their subject matter show of emerging consensus in International Human Rights Law regarding the scope and application of a specific right; and secondly, the those accepted recommendations which deal with the rights that are protected by human rights treaties requiring a state to uphold that right vis-à-vis the states also by accepting

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<sup>156</sup> Para, 5(e), General Assembly . *Human Rights Council 60/251 : resolution.* March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed April 11, 2023).

<sup>157</sup>Falk, Richard A. "On the Quasi-Legislative Competence of the General Assembly." *American Journal of International Law* 60, no. 4 (March 2007): 782-788.

<sup>158</sup>Cowell, Frederick. "Understanding the legal status of Universal Periodic Review recommendations." *Cambridge International Law Journal* 7, no. 1 (2018): 164-184.

<sup>159</sup>United Nations Human Rights: Office of the High Commissioner. *Basic facts about UPR.* <https://www.ohchr.org/en/hrbodies/hrc/home> (accessed April 9, 2023).

specific recommendations indicates that they are open for altering their policies and legal frameworks regarding human rights. Moreover, recommendations in these situations enable the UPR process to assess a state's compliance with a specific requirement, and if accepted, would enable succeeding review cycles to assess how well the recommendation was carried out<sup>160</sup>. The recommending States should also remind to the State under review of its commitments to ensure that the mechanism maintains a continuous process from one cycle to the next when earlier recommendations have not been implemented. Furthermore, a single recommendation could also be used as a tool for maintaining already-existing legal obligations, or the formation of new interpretations of established human rights concepts. Thus, as a result of their position in the broader protection of human rights in international law some recommendations have also in fact a legal status<sup>161</sup>.

## **2.4 Strengths and Weaknesses of Universal Periodic Review (UPR)**

The Universal Periodic Review UPR no doubt is a unique and excellent innovation of Human Rights Council. However, like the coins, it has also both sides of features showcasing its weakness along with its potentials by claiming as its strengths to contribute the promotions and protections of human rights within the United Nations system.

To examine these features, firstly, identify the strengths areas of this unique monitory mechanism then move on towards to identify its weak areas.

The UN human rights framework was founded on the idea of universality and thereby all human rights embodied therein will apply to all people. In the same jurisprudence, the UPR has also a universal coverage that it applies on all UN states members in undergoing their respective review process regardless of whether they have ratified any human rights treaties or not, and would examine in the length of principle of each State's fulfillment of its

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<sup>160</sup> Ibid.

<sup>161</sup> Ibid.

human rights obligations and commitments in a manner that ensures universality of coverage and equal treatment with respect to all States<sup>162</sup>.

Moreover, the concept of the universality depicts in examination of human rights that the review of the state under UPR process is based on all rights, such as the UN Charter, the Universal Declaration of Human Rights, international treaties ratified by the state under review, and voluntary commitments and pledges made by the (SUR) during its review cycle.<sup>163</sup> The state-to-state peer-review format is adopted under the UPR mechanism is another of the distinguishing characteristics of it, which is meant to promote a sense of cooperation along with ensuring the full participations of number of the relevant stakeholders, like NGOs, NHRIs and Civil Society, to contribute the fairness and impartiality of the process<sup>164</sup>.

Apart from that, by adopting one of its core principles “sharing best practice”<sup>165</sup>, the UPR mechanism can also be used to spread out a human rights culture; to improve the domestic policies of the states and its performance; to explain the states over human rights situations in the opinions of the citizens particularly about those recommendations that are refused to accept by giving an opportunity to stakeholders and civil society vis-à-vis to establish a knowledge base and influence public opinion. Thus, it is correct to say that its potential appears limitless<sup>166</sup>.

Along with plethora of potentiality of the UPR process, this mechanism is also seen with some weakness while making recommendations and in the follow up process. Under the UPR process, member states are at the same time both parties and judges, and despite the

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<sup>162</sup>Para, 5(e), General Assembly . *Human Rights Council 60/251 : resolution*. March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed April 11, 2023).

<sup>163</sup> Para, 1, Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 13, 2023).

<sup>164</sup> Ibid. Note, 15(c).

<sup>165</sup> Ibid. Note, 4(d).

<sup>166</sup>Draluck, Eric. "Law, Politics and Obligations in the Universal Periodic Review." *Master thesis*, 2010.P, 57.



basic principles of the Universal Periodic to conduct a review is based on objectivity and impartiality, is seen under threat particularly while giving recommendations where bilateral relations influences on nature of discussion at the interactive dialogue and then by making favorable and soft recommendations<sup>167</sup>.

Moreover, the next weak area of UPR process is shown at the follow up process of the recommendation due to its lack of authority to take specific measures regarding implementation or noncompliance of the recommendations, and the relevant resolutions in this respect have sown silent, but rather always giving and looking to be more of an opportunity to encourage implementation as a "*cooperative mechanism based on an interactive dialogue*"<sup>168</sup>. Further, the UPR mechanism is known as a soft law by virtue of the both founding documents of Human Rights Council due this reason of not legally binding nature of its recommendations on the state, given the same weight to them as formal commitments and other declarations made by a state under review<sup>169</sup>.

## CONCLUSION

The discussion under the current chapter which deliberately centered on the newly born monitoring mechanism of United Nations Human Rights Council, known as the Universal periodic Review (UPR), is hereby concluded by stating that the United Nations General Assembly officially established the Human Rights Council (HRC) on March 15, 2006, replacing the Commission on Human Rights (CHR) and also mandating that the HRC to set out the Universal Periodic Review (UPR) for taking a review on the human rights of all UN Member States once of every four to five years based on their commitments under the Charter of United Nations, the Universal Declaration of Human Rights, the United Nations

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<sup>167</sup>. Para, 3(g), Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 15, 2023).

<sup>168</sup>Draluck, Eric. "Law, Politics and Obligations in the Universal Periodic Review." *Master thesis*, 201.

<sup>169</sup>Falk, Richard A. "On the Quasi-Legislative Competence of the General Assembly." *American Journal of International Law* 60, no. 4 (March 2007): 782-788.

human rights treaties to which the state is a party, any voluntary human rights pledges they have made, including any commitment they had made during the previous cycle of review, and the principles of International Humanitarian law. The UPR cycle takes place in three main steps like from the preparation of documents to follow up the recommendations. The review is conducted by Working Group following which recommendations are made to the state under review which will be examined on the next cycle in a *supra mutatis mutandis* way.

## **CHAPTER 3**

### **UNIVERSAL PERIODIC REVIEW AND ITS CONTRIBUTION ON IMPLEMENTATION OF UNCRC IN PAKISTAN**

#### **INTRODUCTION**

The Universal periodic review (UPR-2006) concludes its process while making different kinds of recommendations to the State Under Review (SUR) in different areas of human rights such as on child rights with a view that the state in question will comply with all the recommendations, particularly those that have been accepted by the state during its review and come in the next UPR cycle with a plethora of achievements thereon. This chapter examines the contributions of UPR recommendations made to Pakistan from its origin to the present on the implementation of the United Nations Conventions on the Rights of the Child in Pakistan.

#### **3.1 Pakistan Perspective**

Scholars of International law have been debating that the international Institutions and their mechanism affect domestic systems and the welfare of individuals living in different countries. On the one hand, the argument of realists relies on the denial of these institutions' effectiveness, especially on a global scale which contends that because these institutions are not as independent as they profess to be and instead represent the self-interested ideologies of strong states; they are not even capable of preserving international peace and stability. Institutionalism, on the other hand, contends that international institutions are autonomous and have the potential to influence the behavior and tendencies of states, so averting conflict and war. The international institutions could also assist the governments to realize how their

actions affect their relative power dynamics, and so discourage countries from behaving in self-interest<sup>170</sup>.

The UPR process of the UNHRC is an excellent example to use as a means to challenge the claims of realists. Through a review process, the UNHRC has spent over a decade ensuring that individuals' fundamental rights are preserved across the world.

The both founding documents of the Human Rights Council like the General Assembly Resolution 60/251<sup>171</sup> whereby the Human Rights Council was established and the Human Rights Resolution 5/1<sup>172</sup> which created the Universal Periodic Review mechanism tell that the UPR takes review on all the human rights records of all the United Nations members' states. Pakistan, as a member of the United Nations, is likewise subject to this monitoring system with regard to all of its human rights situations, including child rights records. Similarly, the founding resolution 5/1 of UPR process in its Paragraphed 3(i) further describes that the periodic review of the all UN members states shall be taken on the basis of their commitment under the United Nations Charter, the Universal Declarations of Human Rights, the United Nations Treaties to which the state is a party, any voluntary human rights pledges made during previous cycle, and the principles of International Humanitarian Law.<sup>173</sup>The ( CRC) being one of the United Nations treaties is also taken into account while taking the review process of those states that ratified the Convention and become the party of that treaty body Convention.

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<sup>170</sup>Zafar, Noor. "What Does UN Human Rights's Council's Universal Periodic Review Mean for Women in Pakistan?" *American Journal of International Law*, 1962: 383-384.

<sup>171</sup> ), Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 6, 2023).

<sup>172</sup>General Assembly . *Human Rights Council 60/251 : resolution*. March 15, 2006. [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf) (accessed April 03, 2023).

<sup>173</sup> Para, 3(i), Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 6, 2023).

The (UNCRC-1989) was adopted by the General Assembly on 20 November, 1989.<sup>174</sup> The most ratified International Human Rights treaty which since now has been ratified by all states except the United States, and has become universal effect. Pakistan is the 6th country to have signed and ratified the Convention, which signed on 20<sup>th</sup> September 1990 and ratified after two months on 12<sup>th</sup> November 1990.<sup>175</sup> Pakistan's child rights record, like other states parties of the Convention of the Rights of Child, has also been reviewed by the Universal Periodic Review in line with the Convention on the Rights of Child due to one of state party thereto and contributing the implementations thereof by making various kinds of recommendations thereon since its first UPR cycle to the latest its fourth UPR cycle, which are identified and analyzed herein below step by step.

### **3.2 Rights of Child in perspective of National Report in first UPR**

The national report submitted by the government of Pakistan by stating therein that government is fully committed to make ensure regarding protection of fundamental rights to all citizens of Pakistan without any kinds of discrimination<sup>176</sup>. The government has showed a deep concern regarding the child rights issues vis-à-vis by displaying the various kinds of steps that have been taken to overcome those violations.

The national report in this regard mentioned many provisions of the constitution of Pakistan regarding rights of child, like article 35 protects the marriage, the family, the mother and the child. Similarly, Article 37 (e) directs the state to make provision to secure the employment and work condition a child and woman<sup>177</sup>. Moreover, it also mentioned the legislative, policy and institutional steps taken by the government in this regards like, the (JJSO-2000) recognizing the child for the special requirements, and also government is

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<sup>174</sup>United Nations Convention on the Rights of Child, 1989.

<sup>175</sup>Frowein, Jochen A. Eric Stein. "International Law in Municipal Courts." *Proceedings of the Annual Meeting (American Society of International Law* 91 (1997): 290-295.

<sup>176</sup> HUMAN RIGHTS COUNCIL Working Group on the Universal Periodic Review. *National Report of Pakistan*. April 14, 2008. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 17, 2023).

<sup>177</sup> Ibid, Page 5.

taking various measures for the implementation of the ibid ordinance, such as; abolishment of death penalty of an individual who is under 18 years, a juvenile offender is to be placed in hand of the probation officer or in child welfare institutions rather in police custody when the nature of offences does not permit to release him, free legal assistance is to be given them while appointing a lawyer from the panel maintained by the district and session judges on the directions of their respective high courts, a juvenile courts are being established to try exclusively the offences committed by the juvenile, child is to be produced within twenty four hours in non-bail able offences etc. Furthermore, it also contained the step taken by Pakistan for the protection of child labor by refereeing reviewed on the Child Employment Act 1991 and the changes made in that regard by prohibiting the child labor in four occupations and 34 processes<sup>178</sup>. It has also further more referred the promulgation of Human Trafficking Ordinance 2002 which prevents the human trafficking in general and the child trafficking in particular by imposing the harsh imprisonment to the culprits. It has further also stated about the amendments in the Hadood ordinance to make more protection of the child via prevention of anti-women practice criminal law amendment Act 2006, and with respect to the draft policy for the child protection aiming inter alia, the definition of child as a 18 years, the definition of child abuse and trafficking, the revisal of the criminal liability from 7 to 12 year, the abolishment of corporal punishment and the elimination of child domestic work etc.

In addition, the national report stated about the intuitional measures taken by the government of Pakistan, such as, the government of Punjab has promulgated the Punjab destitute and neglected children Act 2004 whereby the child protection and welfare bureau was established in order to provide shelter, health, referral service and education to the neglected children. National Commission for children Welfare and Development and the Children protection effective since 1980, vis-a-vis the monitoring and data collection system

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<sup>178</sup> Ibid. Pp 12-15.

is being made by the National Commission for the child welfare and development with the cooperation of the UNICEF in order to assess the child rights situation in the country.<sup>179</sup>

Moving on regarding the CRC that has been ratified by Pakistan and reporting is also being made to the committee on the rights of child for the implementation thereof, the government has taken various steps on the implementations of the Convention, such the introduction of second nation action of plan for the wellbeing of the children, and by changing the different kinds of laws including penal laws to increase the age limitation for the criminal liability. Moreover, The SAARC Convention on the prevention and combating trafficking in woman and children for prostitution also signed by Pakistan whereby the cross country trafficking can be effectively addressed. Pakistan is also moving towards the achievement of Millennium Development Goals (MDGs). Gross Enrolment Rate (GER) has increased which is evident that 72 per cent in the year of 2000-1 to 87 per cent in 2005-06.<sup>180</sup>

Moreover, the report from the working group of the (UPR) of Pakistan by summarizing the presentation of Pakistan stated therein that Pakistan has noted a solid concentration regarding the rights of child. Pakistan also highlighted that it was one of the co initiator of the 1990 world submit for the children which led to speedy ratification of the CRC. The report further stated that Pakistan has a National Commission for the child Welfare and Development which with the collaboration of the ILO and UNICEF has taken many steps towards the progressive eradications of the child labor as well as on their rehabilitation. The report also stated the commitment made by the Pakistan for the utilization of its young population, which is 60 percent under the age of 25, with an aptly manner by more investing on education<sup>181</sup>.

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<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review: Pakistan*. June 4, 2008. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/8/42](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/8/42) (accessed May 18, 2023).P, 4.

During the interactive dialogue many countries appreciated the measures taken by Pakistan to protect and promote of children's rights. For example, Cuba noted the efforts of Pakistan to minimize of Child Labor by stating therein that this could be used as a best practice for those countries having similar problems, and requested for the information about the government's strategy in this regard<sup>182</sup>.

### **3.2.1 Children rights in the context of UN information based Report in first UPR- 2008**

Moving on, the report based on the data gathered by the office of the higher commissioner for the human rights on the information based on reports of treaty bodies, special procedures including the observations and comments by the concerned state, and the other relevant United Nations' official documents<sup>183</sup>.

According to the same report, the CRC was gravely concerned regarding the full implementation of the convention throughout the country's tribal territories<sup>184</sup>. Moreover, the committee also showed its deep concerned regarding various kinds of child rights violations such as child abuse, child labor, violence on the children, neglected children, and lack of proper implementation on the JJSO-2000<sup>185</sup>.The report further stated that Committee on the CRC recommended to enact and to make changes in the national laws in conformity with the convention and implementing them by making an effective national mechanism<sup>186</sup>. Furthermore, Pakistan was also recommended to ratify the *Optional Protocol to CRC on Involvement of Children in Armed Conflict*<sup>187</sup> - (OP-CRC-AC), Optional Protocol to CRC on

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<sup>182</sup>Ibid, 9.

<sup>183</sup>HUMAN RIGHTS COUNCIL Working Group on the Universal Periodic Review. *Compilation of UN information*. April 14, 2008. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 18, 2023).p, 1

<sup>184</sup>Ibid.

<sup>185</sup>Ibid., 6

<sup>186</sup> Ibid., 1

<sup>187</sup> The Optional Protocol to CRC on the involvement of children in armed conflict, 2000.



the Sale of Children, Child Prostitution and Child Pornography<sup>188</sup> - (OP-CRC-SC) and ILO convention no.138<sup>189</sup>.

### **3.2.2 Rights of Child in perspective of Stakeholder's Report for the first UPR-2008**

Moving forward on the report of the stakeholder based on the data collected by the different civil society organizations (CSOs) which are working in Pakistan which noted the adoption of the National Child Policy of (2006) and draft of the protection of the children whereby the children have been protected from the corporal punishment. However, the ibid report mentioned the poor condition of prisoners in Pakistan disclosing the statistic of prisoners by revealing the statement of the interior minister of 2006, whereabouts prisoners approximately in the 90 jails of the country against to sanctioned capacity, and the juvenile offenders are also being kept at a same place with the adults which could high amount of risk of abuse, the arbitrary detention is widely separated and number of individual including the children in the area of Federally Administered Tribal Area (FATA) are being subjected for arbitrary detention under the coo responsible clause of the Frontier Crime Regulation (FCR).The report further also stated that Pakistan has also been in problem on the violence against children including rap, Acid Attacks and force marriage<sup>190</sup>.

### **3.2.3 Recommendations to Pakistan on Rights of Child in First UPR-2008**

Pakistan is one of the states that so far have gone through of four UPR cycle with the human rights council. The first UPR cycle of Pakistan was held in 2008 wherein the three main documents, a national report under clause (a), a report based on united agencies under clause

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<sup>188</sup> The OP-CRC-SC Optional Protocol to CRC on the sale of children, child prostitution and child pornography, 2000.

<sup>189</sup> International Labour Organization Convention No, 138.

<sup>190</sup> HUMAN RIGHTS COUNCIL Working Group on the Universal Periodic Review . *Summary of stakeholders' information*. April 3, 2008. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 19, 2023).p, 17.

(b), and summary of other stakeholders under clause (c) of the human rights council resolution 5/1, were issued respectively for the review<sup>191</sup>.

During the first Universal Periodic Review of Pakistan held on 8 May 2008, Pakistan has received one hundred-one total recommendations, and seven recommendations out of them were related to the rights of the child but Pakistan has supported to the extent of the five recommendations out of seven. Two recommendations from them pertaining to the general violation on the right of child and women's right which tell do every possible thing in order to prevent the early and forced marriage and consider the same as a rape in the national legislation (Switzerland), to take measures for providing to redresses to the victims of the honor killing, force marriage, and Acid Attacks (Sweden), while the rest two recommendation regarding to the specific issues that tell to take an immediate implementation of the draft law on the child protection and speed up on the implementation of JJSO- 2000( Switzerland), prevent the child abuse, trafficking, exploitation etc. by enacting a cogent legislation and by adopting and implementing a comprehensive national action plan to combat these issues including awareness programs and education to the parents, law enforcement agencies and judicial members ( Belgium), and the remaining one recommendation relating to continuity of the steps taken by Pakistan to promote the rights of child by telling to continue the promotion of the child rights with the hope of soon adoption of the pending child protection bill and the child protection policy ( Philippines).<sup>192</sup>

Additionally, the Ambassador of Pakistan made a statement to the HRC regarding on the outcome report of the UPR of Pakistan. The statement mostly reiterated the progress which Pakistan has already made regarding the protection on the rights of child by specifically referring establishment of the Punjab Child Protection and Welfare Bureau for the

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<sup>191</sup> Human Rights Council Resolution 5/1. *Institution-building of the United Nations Human Rights Council*. June 8, 2007. [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=a/hrc/res/5/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1) (accessed April 6, 2023).

<sup>192</sup>UPR Info Pakistan. *Recommendation :Cycle 1 (2008 - 2012)*. June 4, 2008. <https://www.upr-info.org/en/review/pakistan> (accessed May 22, 2023).

protection of child abuse, eradicate the practice of child begging etc. It further stated therein mentioning the latest adoption of the national plan regarding the national workshop on Commercial Sexual exploitation of Children with the collaboration of the (WG) on child sexual abuse and exploitation vis-à-vis stating about the national child protection policy which is being drafted by consulting with the UNICEF and other stakeholders<sup>193</sup>.

### **3.3 Second Universal Periodic Review of Pakistan 2012 (UPR)**

The Second UPR of Pakistan was conducted by (WG) of the UN in October, 2012 by taking in to consideration of the three basis documents submitted by the state concerned, and by the Office of the High Commissioner for Human Rights respectively for the review process.

#### **3.3.1 Rights of Child under State's Report in second UPR Cycle-2012**

The national report of Pakistan was submitted for the review of its second UPR stated that following its first UPR cycle the Government of Pakistan has initiated the process by consulting and disseminating the information to the relevant departments about the accepted recommendations to follow up, and the instant report has been prepared for the second UPR cycle by consulting all stakeholders including federal and provincial ministries and departments, civil societies, media, human rights institutions, and relevant international organization working in Pakistan and academia<sup>194</sup>.

In perspective of the second UPR's national report, Pakistan has taken a variety of legislative and administrative actions to promote and protect children's rights. The legislative measures includes; amendment in constitution by editing of article 25(a)<sup>195</sup> whereby the right to education was guaranteed as fundamental right and the state provides free and compulsory

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<sup>193</sup>HUMAN RIGHTS COUNCIL A/HRC/8/42/Add.1 . *Statement by Ambassador Masood Khan, Permanent Representative of Pakistan.* August 25, 2008. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 22, 2023).

<sup>194</sup>Human Rights Council Working Group on the Universal Periodic Review. *National report of Pakistan: second UPR Cycle.* August 6, 2012. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 23, 2023).

<sup>195</sup>Article 25(a), Constitution of Pakistan, 1973.

education to all children from the five years to sixteen years; ratification of the Optional Protocol to the Convention on the Right of Child on Sale of Children, Child Prostitution, Child Pornography in 2011<sup>196</sup> ; Accorded the South Asia Initiative to End Violence Against Children of 2010 (SAIEVAC) to more strengthen the child rights; enactment of the Prevention of Anti Woman Practice(Criminal Law Amendment)Act 2011 which inter alia, criminalizes force and child marriage; Passing of the Acid Control and Acid Crime Prevention Act in 2012 by providing a imprisonment of not less than fourteen years as well as minimum fine of one million rupees on the culprit; enactment of Sindh Child Protection Authority law in 2011 which establishes institutional mechanism for the protection of children in the Sind province; Child Protection and Welfare Act was passed by KPK province in 2010 whereby the child protection and welfare commission was established inter alia; reviews provincial laws and policies effecting on rights of child<sup>197</sup>.

Aside from legislative efforts, various administrative initiatives have been taken, which include; Ministry of Human Rights established at federal level in 2008 and extended its directories in provincial level vis-à-vis the provincial government themselves established human Rights Departments; the National Commission for human rights was created in 2012; establishment of the Child Protection Management System (CPMS) at national and provincial level to collect a data on the five area: juvenile justice, child trafficking, sexual exploitations, violence against children and family environment; establishment of children complaint offices in the federal and provincial secretariat ombudspersons to deals child issues occurred in schools, residential institutions and public places; establishment of Pakistan protection and Welfare bureau to rehabilitate the destitute and neglect children; establishment

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<sup>196</sup>Optional Protocol to the Convention on the Rights of Child on Sale of Children, Child Prostitution, Children Pornography, OP-CRC-SC, 2000.

<sup>197</sup>Human Rights Council Working Group on the Universal Periodic Review. *National report of Pakistan: second UPR Cycle*. Agust 6, 2012. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 23, 2023).P, 12.

of child protection , education and counseling center with the collaboration of UNICEF to provide non form formal education, psychological counseling and legal aid for the street children, and the children who become victims of the violence and the commercial sexual exploitation<sup>198</sup>.

### **3.3.2 Rights of Child under UN information report for second UPR -2012**

Under the UN information based report, the CRC has deep concerned due to not adoption of the child protection draft despite the charter of child rights has plane to incorporate every provision of the Convention on the Rights of Child, and recommended that the draft is adopted. The instant report further manifests that Committee has also deep concerned with respect to inter alia, the recruitments of children in armed conflict, corporal punishment, low age limit of seven years for criminal responsibility and death sentence to juvenile offender, increasing the number of the street children, and recommended to take an appropriate measures to cop them.<sup>199</sup> Moreover, the report in hand further described that the committee on the rights of child recommended to Pakistan to ratify the both optional protocols, the Optional Protocol to the Convention on the rights of child in the involvement of armed conflict<sup>200</sup>, and the Optional Protocol to CRC on the sale of children, child prostitution and child pornography<sup>201</sup>.

### **3.3.3 Children rights under Stakeholders' report for second UPR -2012**

The report submitted for the second UPR of Pakistan based on information provided by various stakeholders including national human rights institutions and Civil Society Organizations on the rights of the child situations in Pakistan disclosed that although

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<sup>198</sup> Ibid. P, 13.

<sup>199</sup>Human Rights Council Working Group on the Universal Periodic, Review. *Compilation of UN information on Pakistan: Second UPR Cycle*. Agust 13, 2012. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 22, 2023).PP, 6-8.

<sup>200</sup>Optional Protocol to CRC on the involvement of children in armed conflict, OP-CRC-AC,2000.

<sup>201</sup>Optional Protocol to the Convention on the Rights of Child on Sale of Children, Child Prostitution, Children Pornography, OP-CRC-SC, 2000.

Pakistan has title to implement all signed and ratified international treaties including Convention on the Rights of Child in to domestic legislation, yet the Criminal Law (Child Protection Amendment) Bill 2009 was not adopted and recommend to adopt it and also to ratify the OP-CRC-AC<sup>202</sup> by taking an appropriate steps to protect the effected children from armed conflict, and OP-CRC- AC<sup>203</sup>.

Moreover, the stakeholders' report stated infringements of children's rights such as domestic servitude, early child marriage, child labour, child prostitution, and corporal punishment are prevailing in the country and recommended to amend the existing law such as child marriage restrained act 1929, section 89 of Pakistan panel code etc, and to introduce and implement new legislations in order to prevent them<sup>204</sup>. It has further also highlights the issues about quality access of education such as poor condition of the school, the monetary cost on the purchasing books and uniforms prevents the poor families to access the education. The instant report further also mentioned therein statistic showing that only 0.5 percent of Gross Domestic Product (GDP) and 2 percent of the overall budget is allocated for the child rights<sup>205</sup>.

### **3.3.4 Second UPR recommendations to Pakistan on child rights (2012)**

During the second Universal periodic of Pakistan in 2012, Pakistan had received forty recommendations regarding child's rights issues and Pakistan had supported to the extent of thirty recommendations pertaining to children's rights matters<sup>206</sup>. While most of the recommendations mentioned regarding the implantation of the right to education in letter a sprit without any discrimination, and ending the violence against the children, however some

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<sup>202</sup>Optional Protocol to CRC on the involvement of children in armed conflict, OP-CRC-AC,2000.

<sup>203</sup>Optional Protocol to CRC on the involvement of children in armed conflict, OP-CRC-AC,2000.

<sup>204</sup>Human Rights Council Working Group on the Universal Periodic Review. *Summary of stakeholders' information onpakistan: Second UPR Cycle*. July 26, 2012. (accessed May 24, 2023).

<sup>205</sup> Ibid. Pp, 9- 10.

<sup>206</sup>Human Rights Council Twenty-second session. *Report of the Working Group on the Universal Periodic Review Pakistan*, December 26, 2013. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 25, 2023).

specific issues were raised as well. Such as adopt the Anti-Domestic Violence Bill as much as possible (Maldives), create a mechanism to protect and support the victims of sexual violence (Switzerland), prohibit the child labor under the age of fourteen (France), enact effective laws prohibiting the recruitment of children as domestic workers (Slovakia), ratify the optional protocol to the Convention on the Rights of Child on involvement of child in armed conflict (Iraq), enact the Anti-Violence legislation at provincial level(Sweden), and charter of Child Rights Bill be adopted on expedite basis (Bhutan)<sup>207</sup>.

### **3.4Pakistan's third Universal Periodic Review (UPR- 2017)**

The Working Group of the Human Rights Council on the UPR held its 28<sup>th</sup> session started from 6 to 17 November 2017,the third UPR of Pakistan was held in its 11<sup>th</sup> meeting on 13<sup>th</sup> November 2017 on the basis of three core documents; national report; UN information based report; stakeholders report will discuss below respectively.

#### **3.4.1 Children's rights under Pakistan's third national report for UPR Cycle -2017**

Pakistan has manifested in its report for third UPR about many kinds of legal, policy as well as institutional measures taken to preserve and promote the child rights in the country. These includes, among others, the Criminal Law Amendment Act 2016 criminalizes to the child pornography, cruelty to children, and exposing to the child for sexual explicit material etc.; Juvenile Justice System Bill 2017 to bring the juvenile justice system in conformity with international standard; the Punjab Restriction on Employment of Children Ordinance 2016, KP prohibition of Employment of Children Act 2015,Sind Prohibition of Employment of Children Act 2017 which ban on the children who having below the age of 14 years to

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<sup>207</sup>Ibid.

engage in the labor<sup>208</sup>. Furthermore, to promote, protect and monitor of child rights, the National Commission on the Rights of Child Bill 2017 has been approved by the National Assembly; the National Children Committee is also working under the Federal Ombudsmen of Pakistan which appoints Children Commissioners in all provinces including Islamabad to promote the rights of child. Children Commissioners have also power to take Suo Moto notice on the children issues<sup>209</sup>.

Moreover, the national report stated that Pakistan has ratified the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict in November 2016; Pakistan is also regularly reporting to the Committee on the Rights of Child, and recently in May 2016, Pakistan's fifth periodic report was reviewed by the Committee. And to implement of the Convention the Treaty Implement Cell (TICs) was also established at federal and provincial level<sup>210</sup>.

### **3.4.2 Children's rights under UN Information report on Pakistan's third UPR -2017**

The report based on UN Information raised critics on various children's rights issues, such as the Committee on the Rights of Child was deep concerned about child birth registration by stating that only 30 percent of children were registered. The committee claimed that due to complicated procedure and high fee for the birth registration as well lack of effective measures particularly belongs to the marginalized, refugee and out of wedlock children<sup>211</sup>. The Committee further also showed an alarmed that several individuals under the age of 18

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<sup>208</sup>Human Rights Council Working Group on the Universal Periodic Review. *National Report of Pakistan: Third UPR Cycle*. September 4, 2017. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 26, 2023).P, 20.

<sup>209</sup>Ibid. P, 7.

<sup>210</sup>Ibid. P, 8.

<sup>211</sup>Human Rights Council Working Group on the Universal Periodic Review. *Compilation of UN information On Pakistan: Third UPR Cycle*. September 4, 2017. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 25, 2023).P, 10.



had been executed when at the time of commission of an offence they are under 18 or when their age was under challenged. Moreover, the statistics also showed by the Higher Commissioner in this regard by noting that 8000 people remained on death row and approximately 800 of them had been the juvenile offenders.<sup>212</sup>

Moreover the ILO Committee of Experts on the application of Convention and recommendation has expressed concerned on the large number of working children who are working under age of 18, and recommended that efforts be increased to tackle internal and cross-border trafficking of person under age of 18. Furthermore, the international country team urged Pakistan to amend current laws on trafficking including Prevention and Human Trafficking Control ordinance 2002 and its rules of 2004 to combat the various trafficking such as force marriage, bonded labor and prostitution etc.<sup>213</sup> However, at the same time, the international country team welcomed the approval of the Hindu Marriage act 2016 and encouraged Pakistan to immediate and effective implantation of the Bill along with the Christian Marriage amendment Bill 2014 and the Divorce Amendment Bill for the Christian 2014.<sup>214</sup> Further also more, many treaties bodies including Committee on the Rights of the Child also recommended Pakistan to ratify the Optional Protocol to the CRC on a Communication Procedure<sup>215</sup>.

### **3.4.3 Rights of Child in perspective of Stakeholders ‘report in third UPR of Pakistan- 2017**

The report with comments from the stakeholders pointed out various kinds of issues on the rights of child in Pakistan, and recommended preventing them by taking legal, policy and intuitional reforms. Such as early and force marriage; Juvenile death penalty; low of birth registration; delay on the establishment of the Commission on the Rights of child; failure on

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<sup>212</sup>Ibid. p, 4.

<sup>213</sup>Ibid. p, 6.

<sup>214</sup>Ibid.

<sup>215</sup>Ibid. p, 1.

commitment to achieve the MDGs specially child poverty, universal education, child health and mortality rate etc. Moreover, the JS17 pointed out the 150 years old Christian marriage Act 1872 and Christian Divorce Act 1869 and recommend reviewing for gender equality of marriage. The Joint statement JS (2) also indicated the Sind Child Marriage Act 2013 with increase the minimum age of 18 years for girls, however concerned for the implementation thereof.<sup>216</sup> The child Rights International Network (CRIN) noted the death penalty of the juvenile offenders when the moratorium was lifted. The JS (4) expressed concerned on the low rate of birth registration.<sup>217</sup> Furthermore, the National Human Rights Commission of Pakistan and Joint Submission (8) were also deep concerned on the delay of the establishment on the independent Commission on the Rights of Child and recommended to establish forthwith<sup>218</sup>. The NCHR also indicated that barely 0.42 percent and 2 per cent of GDP were spent to the health and education by the government and recommend to immediate enhancement of allocation. The JS (19) further also highlighted that almost one of every five age was not in primary school<sup>219</sup>.

Apart from that, Slovenia has submitted advance question asking that what measures has been taken to prevent early and force marriage, and to enhance the literacy rate of girls and to reduce and prevent the school dropout particularly among the rural and girls?<sup>220</sup> United States of America had submitted question about the steps regarding of minimum age for the employment and prohibition on hazardous work across all the provinces as well as about the plane to increase the number of inspectors and investigation and funding for their hire,

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<sup>216</sup>Human Rights Council Working Group on the Universal Periodic Review. *Summary of Stakeholder's information on Pakistan: Third UPR Cycle*. August 23, 2017. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 25, 2023)P, 8.

<sup>217</sup>Ibid. p, 4.

<sup>218</sup>Ibid. p, 2.

<sup>219</sup>Ibid. p, 9.

<sup>220</sup>Human Rights Council Working Group Universal Periodic Review. *Questions Submitted in Advance: Pakistan third Universal Periodic Review*. 2017. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 26, 2023).

training, to enforce the law pertaining the worst form of child labor.<sup>221</sup> Belgium also asked a question on the plane to implement the article 25(a) of the Constitution about the free education from age 5 to 16 at all level<sup>222</sup>.

#### **3.4.4 Recommendations to Pakistan on the rights of Child during third UPR -2017**

During the third UPR 2017, Pakistan had received a total of sixty one recommendations regarding the child's rights issues. Pakistan had supported forty five out of these sixty one recommendations. Most of the recommendations pertaining on the issues for the children's rights in general, such as, to prevent child violence, trafficking, early and force marriage, promote the child health and primary education. These were by recommending to either take either general action or to continue the already taken actions, such as continue to adopt the steps which would further promote and protect the rights of child (Brunei Darussalam), continue efforts to prevent the trafficking of human being particularly the exploitation of children (Djibouti), strengthen public health system aimed to provide free, quality and basis health service in order to reduce mortality rate (Angola). And specific action was recommended by Belgium which was supported by Pakistan that adopt legislation to criminalize the domestic violence in all province by ensuring effective implementation through proper training the law enforcing agency etc. (Belgium)<sup>223</sup>.

As by the time of this Universal Periodic Review Pakistan has already either enacted or amended in major laws regarding early marriage, child trafficking, violence against children, corporal punishment on the child etc. as well reforms in policy and in intuitions were also brought to preserve and promote children's rights in line with the previous recommendations.

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<sup>221</sup>Ibid.

<sup>222</sup>Ibid.

<sup>223</sup>Human Rights Council A/HRC/37/13. *Report of the Working Group on the Universal Periodic Review of Pakistan: Third UPR Cycle*. December 29, 2017. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed May 31, 2023).

### **3.5 Fourth Universal Periodic Review of Pakistan (UPR -2023)**

The latest and fourth UPR of Pakistan was held on 23<sup>rd</sup> January, 2023 by Working Group of the Human Rights Council. The delegation of Pakistan was headed by Hina Rabbani Khar (Foreign Minister) being a concerned portfolio to represent the Pakistan therein. Argentina, Nepal and Gambia were appointed by the Human Rights Council as the rapporteurs (troika) to facilitate the review of Pakistan. The review was conducted in the line with the examination of the three core documents namely the National Report of the (SUR), the United National Information based report, and the report contains data from stake holders<sup>224</sup>.

#### **3.5.1 Rights of Child in context of National Report of Pakistan for 4<sup>th</sup> UPR -2023**

Pakistan reiterated its commitment with the cooperation to the UN Human Rights machinery like UPR and treaty bodies submitting its periodic reports for review vis-a-vis assuring the preservation and promotion of human rights, and basic freedom for all citizens including marginalized and vulnerable group such as the children etc.<sup>225</sup>

Pakistan has taken a number of legislative, policy, and administrative steps in response to previous reviews regarding the area of child rights with the line of previous recommendations in compliance of international child's rights instruments like, UNCRC.

In the legislative realm key laws, among other, have been enacted since the last review held in 2017 are; the (JJSA- 2018) to dispose of the cases related to exclusively child offenders for the social reintegration; Zainab Alert, Response and Recovery Act 2020 (ZARRA) to raise alert and immediate recovery of abducted and missing children; Islamabad Capital

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<sup>224</sup>Human Rights Council A/HRC/53/13. *Report of the Working Group on the Universal Periodic Review of Pakistan: Forth UPR Cycle*. March 31, 2023. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 2, 2023).

<sup>225</sup>Human Rights Council Working Group on the Universal Periodic Review. *National report of Pakistan: Furth UPR Cycle*. November 10, 2022. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 2, 2023).

Territory Child Protection Act 2018; amended the Child Employment Act 1991 by inserting Child Domestic Labor in 2020 at federal level, despite the fact that legislation banning child labor enforced across the country<sup>226</sup>. Moreover, the Judiciary also demonstrates activism on the Human Rights issues via its judgments by refereeing international Human Rights Instruments. Like, the Islamabad High Court recently passed judgment title **Mumtaz Bibi versus Qasim PLD 2020 Islamabad 4227**, wherein it was held that Pakistan is a party to the United Nation Convention on the Rights of Child and accordingly the child marriage under the age of 18 is unlawful and the marriage contract is void"- ab- ab-initio<sup>227</sup>.

Moreover, the NCHR has been established in 2020 to monitor the issues related rights of child in the country and punitive action to redress the grievances of the victims. And the Commission has been allocated with the budged of 30 Million PKR in the fiscal year of 2022-23 to carry on its function. Furthermore, the Child Protection Institute was established in 2021 and children Protection Advisory Board have been established due to the same the said institute rescued 127 children in the same year<sup>228</sup>.

### **3.5.2 Child rights developments in Pakistan in the light of UN information report for the fourth UPR -2023**

The report contains data from the United Nations information based through treaty bodies, special procedures and UN Official Documents expressed concerned on various issues related to the rights of the child, such as force marriage and discrimination of age for marriage that 16 years for women and 18 years for men, and recommended to determine 18 years as minimum age for marriage of both sex in all provinces by amending in panel law to be crime of such violation; concerned on juvenile trial and its execution under Anti terrorism Act, and recommending to review thereon to bring with international human rights law; Concerned

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<sup>226</sup>Ibid. p, 3.

<sup>227</sup> Ibid.

<sup>228</sup>Ibid. p, 17.

about the treatment of prisoners and overcrowding in jails, and encouraging address to these issues; concerned on the delay for adoption of Christian marriage and Divorce amendment Bill, effective implantation on the Christian marriage and Divorce Act 2014, and recommending for expeditious adoption of it and for Sikh marriage Bill; concerned the ratio on out of school children that 22.8 million male children and 12.6 million of female children are out of school, and recommending to enact legislation and effective measures to increase school enrolment rate among girls and reduce their dropout rate<sup>229</sup>.

Nonetheless, the efforts taken by Pakistan was also acknowledged in the development of labor polices of three provinces, Punjab, KPC and Sind vis-à-vis child labor policy of KPK by encouraging to effective implementation on it, by urging to enact at federal level and provincial level legislation for structural support to victims of domestic violence, by defining it as a crime, by calling to Pakistan for eliminating the child labor by 2025 vis-à-vis holistically combat on every form of violence against children<sup>230</sup>.

### **3.5.3 Children's Rights under the Stakeholder Reports for Pakistan's Fourth UPR- 2023**

Report containing data from the stakeholders raised certain issues regarding force and early marriage by recommending for enacting legislation to settle down a minimum age of 18 years for both genders, prohibiting force marriage across the country and as well as protecting the victims of such violations. Moreover, it also recommended the accessibility of high quality of public education by allocating necessary resources, regulating and monitoring of the private schools to address the inequality existed in education system. It further also recommended for the assurance of an abducted and converted children be immediately returned to their parents

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<sup>229</sup>Human Rights Council Working Group on the Universal Periodic Review. *Compilation of UN information on Pakistan: Furth UPR Cycle*. November 15, 2022. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 4, 2023).

<sup>230</sup>Ibid

and legal guardian. It further also recommended to improve the infrastructures of public schools including the other necessary facilities vis-à-vis recommending as at least 10000 public schools immediately be constructed providing free books and shoes in the rural and underdeveloped areas in a way that the charity based schools which following completely the public school system come under this amnesty.<sup>231</sup>

Moreover, the Joint Submission 14 encouraged Pakistan to submit the overdue periodic reports to the committee on the rights of child, like sixth and seventh reports of Convention on the Rights of Child overdue since 2021, initial report on the Optional Protocol to the Convention on the Rights of Child into Armed Conflicts overdue since 2018<sup>232</sup>.

Moving further, three countries Liechtenstein, Belgium, Germany have submitted advanced question to Pakistan. Liechtenstein asked about the step taken by Pakistan to ratify the Optional Protocol on the CRC on Communication Procedure<sup>233</sup>. Belgium asked about the amendment in the child Marriage Restrained Act to determine the minimum age of 18 years for both genders<sup>234</sup>. Germany asked about the registration of marriage involving less than 18 years since 2017, about the connection of force and under marriage and effort taken to prevent the child marriage<sup>235</sup>.

### **3.5.4 Recommendations on the rights of child during fourth UPR of pakistan-2023**

Pakistan during its current and fourth Universal Periodic Review held on 30 January 2023 received a total of 340 recommendations, out of them sixty one recommendations have been

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<sup>231</sup>Human Rights Council Working Group on the Universal Periodic Review. *Summary of stakeholders' information on Pakistan : Forth UPR Cycle*. November 16, 2022. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 7, 2023).

<sup>232</sup> Ibid.

<sup>233</sup>Human Rights Council Working Group Universal Periodic Review. *Questions Submitted in Advance: Pakistan's fourth Universal Periodic Review*. 2023. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 2, 2023).

<sup>234</sup>Ibid, addendum 1.

<sup>235</sup>Ibid.

received concerning to children's rights issues. While most of the recommendations prohibiting and preventing the force and early marriage aiming to determine the unified minimum age of 18 years for the both genders across the country; ending all forms of violence including domestic and gender based violence against children; enhancing the educational system to promote equal educational opportunity by offering equal access to primary and secondary education<sup>236</sup>. However some specific issues were also raised as well, such as, strengthen the NCRC by allocating adequate resources to carry out its mandate( Bulgaria), review existing legislation relate to terrorism specially provisions with respect to child by abolishing death penalty ( Paraguay), take effective measures to prevent trafficking of girl for sexual exploitation (Liechtenstein)<sup>237</sup>.

Most of the legislations, policies, and intuitional measures have already been taken prior to this UPR cycle by federal and provincial governments of Pakistan. However, Pakistan has been focusing the implementation thereon. Many recommendations in this UPR have also again reiterated either to continue or for an effective implementation thereon.

### **3.6 Violations of Children's Rights in Pakistan**

Pakistan is a party to CRC which is a comprehensive international treaty possessing all kinds of rights related to the children by ensuring the protection of all forms of abuses, exploitations, and neglects without any discrimination; respecting their view in their best interest; and enabling a feasible environments to their survivals and developments. And Pakistan being a party thereof is under duty bound to incorporate all the provisions of the Convention into its national legislations.

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<sup>236</sup>Human Rights Council A/HRC/53/13. *Report of the Working Group on the Universal Periodic Review of Pakistan: Forth UPR Cycle*. March 31, 2023. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 2, 2023).

<sup>237</sup>Ibid.



Despite the ratification of, and has become party to the Convention on the Rights of the Child, in Pakistan, unfortunately many issues related to children rights are yet prevailing across the country, and Pakistan could not ensure to implement the provisions of the Convention on the Rights of Child and the recommendations of the Universal periodic Review in letter and spirit.

### **3.6.1 Child Abuses in Pakistan**

Like the other countries of the world, the children living in Pakistan also subject to massive amounts of exploitation and violence. The term exploitation includes, all form of child labor, criminal liability, child trafficking, sexual exploitations, child marriage. While the term violence encompasses all form of violence whether physical, psychological, or the neglect treatment, whereby the child's health, dignity, development and survival would harm. And the inattention towards the child, failures to provide proper food, shelter, cloth vis-à-vis failure to register a child at birth are amount to neglect to the children<sup>238</sup>. All forms these child abuses have been addressed by the Convention on the Rights of Child to which Pakistan is a party. The two protocols to the CRC which Pakistan has ratified also further prohibit the sale of the children, child prostitution and child pornography as well as the involvement of a child in armed conflicts.

### **3.6.2 Child Marriage in Pakistan**

The Child marriage is also practicing across the country despite declaring prohibited by the convention on the rights of child. Pakistan is home to nearly 19 million of child brides, and one child girl in every 6 got marriage in childhood. Moreover, 4.6 million were married before the 15 years and 18.9 million were married before legal age (18) years<sup>239</sup>. In addition,

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<sup>238</sup>Mehnaz, Aisha. "Child Abuse in Pakistan-Current Perspective." *National Journal of Health Sciences* 3, no. 4 (2018): 114-117.

<sup>239</sup>PAKISTAN DEMOGRAPHIC AND HEALTH SURVEY. *National Institute of Population Studies Islamabad, Pakistan*. 2017- 18. <https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf> (accessed June 10, 2023).

37 percent of the population married between the ages of eighteen and twenty-four and 73 percent married between the ages of twenty-five and thirty-nine. Similar to this, 98 percent of men and 95 percent of women married before turning 30<sup>240</sup>. The ratio of the child marriage, however, has been declined as 22 percent of female got married in year of 2007, this fell down to 21 percent in 2012 and 18 percent in 2018<sup>241</sup>.

The child marriage is prohibited in Pakistan by the child marriage restrained Act 1929 as a federal law which prohibits the marriage of a female below the age of 16 while for the male below the 18 years of age<sup>242</sup>. The senate of Pakistan Passed The Child Marriage Restrained Amendment Bill 2018 aiming to determine the legal age as a 18 years for both genders, however since then to still now pending in National Assembly to become an Act<sup>243</sup>. The Muslim family law ordinance 1961 also declares illegal of a child marriage aging for girls under the age of sixteen and boys under the age of eighteen by introducing punishment of one month of imprisonment and one thousand fines or with both<sup>244</sup>.

After eighteen amendments, to combat of child marriage has become the provincial subject and the province of Sind is only so far passed banning to marriage under 18 years for both genders<sup>245</sup>.

Moreover, various judgments of apex court on the child marriage, such as, **Farooq Omar Bhoja Vs Federation of Pakistan** (PLD 2022 Federal Shariat Court 1) in which held

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<sup>240</sup>Razi, Naseem. "Street Children and Their Access to Basic Rights: An Analysis of Pakistani Society in the light of the Fundamental Human Rights Provided by Islam, State Legislation and UNO Charter." *International Journal of Sciences: Basic and Applied Research (IJSBAR)* 25, no. 3 (2016): 97-118.P, 104.

<sup>241</sup>Pakistan Demographic and Health Survey. *National Institute of Population Studies Islamabad, Pakistan*. 2017- 18. <https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf> (accessed June 10, 2023).

<sup>242</sup>Section 2, the child marriage restrained Act 1929.

<sup>243</sup>Senate of Pakistan, The Child Marriage Restraint Amendment Bill, 2018.

<sup>244</sup>The Child Marriage Restraint Act 1929, as amended , 1961.

<sup>245</sup>The Sindh Child Marriage Restraint Act 2013.

that enactment like determining minimum age for marriage is not against Quran and Sunnah.<sup>246</sup>

Mist **Mumtaz Bibi Vs Qasim** and others PLD 2021 Islamabad 4227 wherein the Islamabad High Court held that marriage is a civil contract and free will to enter into contracts a prime consideration. No person below the age of 18 years is competent to enter into valid contract, agreed with free consent<sup>247</sup>.

**Mst. Alishba Bibi vs the State etc.** PLD 2020 Islamabad 28 in which a clear direction to the concerned authorities to curb the evil of Child Marriage from the society as well as to make sure protection of minorities' rights as provided by the Constitution<sup>248</sup>.

### **3.6.3 Birth Registration of a child in Pakistan**

Taking to the child abuse in Pakistan, one of the most significant rights of children is to be registered at birth. The failure to register a child at birth is type of neglect which compromises the child protection rather an accurate records of age helps to prevent a child labor, child marriage and corporal punishment in the criminal justice system due to his juvenile status. Unfortunately, the birth registration rate of Pakistan is extremely low 34 percent meaning thereby 60 million of the populace is unregistered, the male child at ratio of 41.9 percent while female child with the ratio of 42.5 percent<sup>249</sup>. Moreover, the birth registration of all the provinces including GB and AJK according to their Multiple Indicator Cluster Survey (MICS) at different time revealed that the province of Punjab has highest ratio under five birth registrations with percent, while the Sindh has 29 percent. Similarly the

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<sup>246</sup> P L D 2022 Federal Shariat Court 1.

<sup>247</sup> PLD, 2021 Islamabad 4227.

<sup>248</sup> PLD, 2020 Islamabad 28.

<sup>249</sup> UNICEF Data Warehouse - Pakistan. *Monitoring the situation of children and women in Pakistan: Pakistan Survey Data*. 2018-202023. <https://www.unicef.org/pakistan/unicef-data-warehouse-pakistan> (accessed June 13, 2023).

province of Baluchistan has 23percent, KPK with 20percent; GB has 19percent, AJK with 24 percent and the FATA with the only 1percent<sup>250</sup>.

### 3.6.4 Child labour in Pakistan

The exploitation of children in the form of child labour is one of the worst and most disturbing aspects of the contemporary world. According to the international Labor Organization (ILO) there is 152 million of child labor, out of the total children 218 million ages from 5 to 17 years, and surprisingly 73 million of them are hazardous child labor<sup>251</sup>. Pakistan has also been facing this menace. The first national survey held in 1996 revealed that 3.3 million of children between in age from five to fourteen years were engaged in child labor out of 40 million of total children which represented 30 percent of the population at that time<sup>252</sup>. The child labor ratio as per the survey conducted by the Labor Force Survey (LFS) in 2013, however, declined as 9.58percent as compared to 11.4percent in 2013<sup>253</sup>. Moreover, the child labor at provincial level revealed by the concerned MICS, whereby the GB has highest child labor ages 5-17 years with 45percent, whereas the lowest rate had by AJK and KPK with 3 and 6percents respectively. Sind has 6percent, Baluchistan and FATA have 17 percent, and Punjab has 16percent.<sup>254</sup>

Nonetheless, the child Labor has been banned in Pakistan by many national legislations including the Constitution of Pakistan which in its article 11 (3) says no child

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<sup>250</sup>Pakistan, Unicef. *Situation Analysis of Children in Pakistan*. September 2017. <https://www.unicef.org/pakistan/media/596/file/Situation%20Analysis%20of%20Children%20in%20Pakistan.pdf> (accessed June 14, 2023).

<sup>251</sup>International Labour Organization. *Child Labour in Pakistan*. <https://www.ilo.org/islamabad/areasofwork/child-labour/lang--en/index.htm> (accessed June 13, 2023).

<sup>252</sup>Federal Bureau of Statistics (FBS). *Summary results of Child Labour Survey in Pakistan*. (1996). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/publication/wcms\\_436435.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_436435.pdf) (accessed June 17, 2023).

<sup>253</sup>Statistics, Pakistan Bureau of. *LABOUR FORCE SURVEY*. 2013-14. <https://www.pbs.gov.pk/publication/labour-force-survey-2013-14-annual-report> (accessed June 15, 2023).

<sup>254</sup>Pakistan, UNICEF. *Situation Analysis of Children in Pakistan*. September 2017. <https://www.unicef.org/pakistan/media/596/file/Situation%20Analysis%20of%20Children%20in%20Pakistan.pdf> (accessed June 17, 2023).

below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment<sup>255</sup>. Pakistan has also ratified the core international documents related to Child Labor like UN CRC; ILO Conventions of minim age of 1973<sup>256</sup> and worst forms of child labor of 1999<sup>257</sup>, whereby the Child Labor has been totally banned and abolished by settling down the minim age of 15 years. Moreover the Working Group of Universal Periodic Review (UPR) has been consistently recommended to Pakistan to prevent all forms of Child Labor including domestic Labor by taking cogent steps<sup>258</sup>.

### **3.6.5 Child trafficking and sexual abuse in Pakistan**

Human trafficking in other word a modern form of slavery is one of the heinous and sensitive issues of the world, and each country is being affected by it either as a transit or as a destination. It happens, when a person is recruited, transported, sold through force and deception to do all forms of exploitations including sexual abuse<sup>259</sup>. The human trafficking reached to 27 million and majority of them age between 18 years to 24 years. And surprisingly, 1.2 million of children are trafficked annually, ninety five Percent of them are become victims of physical and sexual abused.<sup>260</sup> Pakistan is also facing this menace, according to the United Nations Office on Drugs and Crime (UNODC), each year there round about 300,000 human including children are trafficked from Pakistan<sup>261</sup>.

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<sup>255</sup> Article 13(2), Constitution of Pakistan, 1973.

<sup>256</sup> International Labour Convention, no. 138,

<sup>257</sup> Ibid, 189.

<sup>258</sup> Human Rights Council Working Group Universal Periodic Review. <https://www.ohchr.org/en/hr-bodies/upr/pk-index>. (accessed June 2, 2023).

<sup>259</sup> Mirza, Mashhood Ahmad. "The Menace of Human Trafficking - Pakistan's Response to the Problem?" *Pakistan Journal of Criminology* 2, no. 4 (2010): 151-164.

<sup>260</sup> Ibid.

<sup>261</sup> World Bank. *A Migrant's Journey for Better Opportunities: The Case of Pakistan*. 2018. <https://documents1.worldbank.org/curated/en/540841530861637430/pdf/Pakistan-International-Mobility-Draft-06.pdf> (accessed June 19, 2023).

Despite the ratification of the UNCRC-1989, Pakistan could not prevent the child trafficking. Children from the southern Punjab particularly belong to poorest families are trafficking to the Gulf States for camel racing.<sup>262</sup> The figure is also surprising and shameful as per the study conducted by the lawyers for Human Rights and Legal Aid in 2013 one year later after the second UPR Cycle , where about there are more than 190000 of children age 2 to 11 have been trafficked to the Gulf countries for camel jockeys<sup>263</sup>.

Nonetheless, Pakistan is embowering to prevent this menace, In addition to the international commitment of Pakistan in terms of UNCRC and its optional protocol related to sale, prostitution and pornography, the many local laws of the country including constitution of Pakistan are prohibiting and preventing the child trafficking. For instance, the recent enactment, Prevention of Trafficking in Person Act 2018 aiming to prevent the human trafficking including child trafficking by declaring it as a cognizable and non-bail able offence<sup>264</sup>.

Talking to child sexual abuse that is one form of child occurs when an adult or older adolescent sexually stimulates a child. This menace is also being faced by every civilized country and the South Asia with its 23 percent of world's population known as a poorest region of child sexual abuse<sup>265</sup>. Pakistan like other countries has also been facing with this sensitive issue. The child sexual abuse has unfortunately been increasing day by day as 2,303 incidents were reported in 2010; this ratio increased up to 4,139 in 2016<sup>266</sup>.

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<sup>262</sup>Safana Shaheen, Masood Sarwar Awan, Muhammad Waqas and Muhammad Amir Aslam. "Factors Responsible for Child Trafficking for Camel Racing in Pakistan." *World Applied Sciences Journal* 27, no. 7 (Oct 2013): 1007-1011.

<sup>263</sup>NATIONAL INITIATIVE AGAINST ORGANIZED CRIME PAKISTAN. *Human smuggling and trafficking in Pakistan*. 2020. <https://globalinitiative.net/wp-content/uploads/2020/07/Human-Smuggling-and-Trafficking.pdf> (accessed June 20, 2023).

<sup>264</sup>Section 9, The Prevention of Trafficking in Persons Act, 2018.

<sup>265</sup>Muhammad Abdullah Avais, Hamida Narijo and Mike Parker. "A Review of Child Sexual Abuse in Pakistan Based on Data from "Sahil" Organization." *JOURNAL OF ISLAMABAD MEDICAL & DENTAL COLLEGE* 9, no. 3 (July 2020): 212-218.

<sup>266</sup>Ibid.

Moreover, a large number of children were sexual abused in kasur district south Punjab, which caused to adoption the criminal law Amendment Act 2015 aiming to protect the child abuse. In addition to other major amendments the Act enhanced the age for the criminal liability on the child at lowest from 7 to 10 years and the upper age limit from 12 to 14 years. The Act further protects to the children from cruel and inhuman treatment and criminalizes the children's pornography<sup>267</sup>. In the same district one more heartbreaking incident of child sexual abuse was occurred in 2018; six years old girl Zainab Ansari who was firstly kidnapped, raped and murdered by her neighboring mechanic Imran Ali, where after, a massive protest was taken place claiming to punish the perpetrator and prevent again such kind of incident. This cause to the enactment knowing Zainab Alert, Response and Recovery Act 2019 (ZARRA 2019 Act)<sup>268</sup>, which among other thing, creates new federal agency called ZARRA laying responsibility to reduce the child kidnapping cases vis-a vis to enhance the awareness regarding sexual abuse of the children across the country.

### **3.6.6 Malnutrition and Health Care of Children in Pakistan**

In the Worldwide, there are round out 165 million children under age of five years are suffering from the malnutrition, and at least fifty percent of child mortalities occur as a result of the malnutrition<sup>269</sup>. In general all developing and undeveloped countries are the places where the child malnutrition is an issue.<sup>270</sup>

The future of Pakistan also depends on having healthy, well-fed children. And ensuring their survival is a crucial priority for fulfilling its obligations to the international community, such as ratifying the CRC. However, the provision of adequate nutrition and

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<sup>267</sup>Ul Mustafa, Atta, and Arshad Mehmood. "The kasur incident of child abuse: a fact funding report; analysing State of child Protection in Pakistan." October 12, 2015.

<sup>268</sup>Zainab Alert, Response and Recovery Act 2019.

<sup>269</sup>Nawaz, Muhammad Asim and Yasir. "Child Malnutrition in Pakistan: Evidence from Literature." *Children* 5, no. 5 (2018): 60.

<sup>270</sup> Ibid.

health care for children in Pakistan has remained a problem despite the country's ratification of the CRC. For instance, in Pakistan, one out of every four children experiences stunting at the ratio of 40percent, while 17.7percent of children have wasting and 28.9percent of children are underweight<sup>271</sup>.

Moreover, the high infant and neonatal mortality rates (IMR and NMR) respectively, show that the children's right to survival is gravely jeopardized at the very beginning of their time on earth. The under-5 mortality ratio (U5MR) of Pakistan is ranked 23rd in the world. Likewise, the infant mortality rates (IMR) reached 74percent and the under-five mortality rates (U5MR) are eighty-nine per one thousand children. This means one child out of ten passing away before attaining five<sup>272</sup>. Furthermore, the province of Punjab and Baluchistan have the highest rates of neonatal mortality among rest of the provinces. The ratio whereof indicates that (63 per 1,000 live births) in Punjab, followed by Sindh (54) and KP (41). Similarly, Baluchistan has the greatest infant mortality with 97 deaths for every 1,000 live births, followed by FATA (95), Sindh (82), GB (74), AJK (62) and KP (58)<sup>273</sup>.

In Pakistan, however, the infant mortality rate fell from 55.7 per 1,000 births in 2019 to 54.2 in 2020. Similarly, the neonatal mortality rate decreased from 41.2 per 1,000 in 2019 to 40.4 in 2020<sup>274</sup>.

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<sup>271</sup>Nutrition Wing Ministry of National Health Service of Pakistan. *National Nutrition Survey*. 2018. <https://www.unicef.org/pakistan/media/1951/file/Final%20Key%20Findings%20Report%202019.pdf> (accessed June 24, 2023).

<sup>272</sup>National Institute of Population Studies. *Pakistan Demographic and Health Survey, 2012-13*, Government of Pakistan, Islamabad, 2013.

<sup>273</sup>Pakistan, Unicef. *Situation Analysis of Children in Pakistan*. September 2017. <https://www.unicef.org/pakistan/media/596/file/Situation%20Analysis%20of%20Children%20in%20Pakistan.pdf> (accessed June 18, 2023).

<sup>274</sup>Human Rights Council Working Group on the Universal Periodic Review. *National report of Pakistan: Furth UPR Cycle*. November 10, 2022. <https://www.ohchr.org/en/hr-bodies/upr/pk-index> (accessed June 21, 2023).



### 3.6.7 Children education in Pakistan

Pakistan has the world's fifth largest population, with 240.41 million people<sup>275</sup>. Out of the total population 124.42 million are the population of the children<sup>276</sup>. The situation of basic education of Pakistan like other developing countries is also not encouraging and that round about 22.6 million of the children are out of school which makes Pakistan the highest percentage of out of school children in the South Asia and ranks second in the world<sup>277</sup>.

As for as the Net Attendance Ratio is concern, the Net Attendance Ratio (NAR) for primary schools is extremely low in Pakistan (59.9percent - males 62.9percent and females 56.5percent), where just 52percent of children complete basic education<sup>278</sup>. Similarly, the NAR for middle and secondary schools is just 37percent (male 39 percent and female percent<sup>279</sup>). Moreover, Out of the total children's population there are 22.6 million of Children between the ages of 5 and 16 are out of school at the primary, middle, and secondary levels, which amount to 44percent of the total child population wherein 40 percent are boys and 49 percent are girls. These include children who have never attended school and those who have dropped out<sup>280</sup>. At the provincial level this ratio indicate that the province of Punjab has at total ratio with 38percent, in which the girl's ratio is at 40percent, similarly, Sind has total 55 percent, and in which 61percent of girls ratio, Baluchistan 70percent at total ratio and in which 78percent with girls, KPK has total 36percent and which girls ratio with 51percent, GB has total 50percent and in which the girls ration at 53percent, AJK also has 50percent of

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<sup>275</sup>Review, World Population. *Pakistan Population 2023 (Live)*. <https://worldpopulationreview.com/countries/pakistan-population> (accessed July 1, 2023).

<sup>276</sup>Unicef Data on child statistic., *Child Education in Pakistan*. <https://data.unicef.org/topic/education/overview/> (accessed June 26, 2023).

<sup>277</sup>Mengal, Dr. Mumtaz Ali Baloch and Amina Aziz. "Educational Policies Vis-À-Vis Implementation and Challenges in The Case of Physically Disabled Children in Balochistan, Pakistan." *Pakistan Study Centre* 08, no. 02 (2018): 202-229.

<sup>278</sup>Pakistan, Unicef. *Situation Analysis of Children in Pakistan*. September 2017. <https://www.unicef.org/pakistan/media/596/file/Situation%20Analysis%20of%20Children%20in%20Pakistan.pdf> (accessed June 17, 2023). Pp 78-100.

<sup>279</sup>Ibid.

<sup>280</sup>Ibid.

total ratio and in which 52percent of girls ratio, while FATA now part of KPK province has the total of 58percent and which the girls rate is at 78percent<sup>281</sup>.

However, Pakistan has been constantly efforts to increase the Gross Enrolment Rate (GER) for primary education in the line with CRC by complying recommendations of the UPR in this respect which is event from the statistic that 97percent in 2017 at the time of Pakistan's third UPR as compare to 90percent in 2007 before the first UPR cycle<sup>282</sup>. Moreover Pakistan by inserting article 25(a) in Constitution following which enacting, the Right to Free and Compulsory Education Act, 2012 at federal level and then at provincial level by guaranteeing free and compulsory education to all the children between age of five to sixteen<sup>283</sup>.

### **3.6.8 Juvenile Delinquency justice in Pakistan**

The phrase juvenile delinquency is made up of two words: juvenile refers to a young person (male or female) who is not yet an adult, and delinquency refers to bad or criminal behavior of a juvenile. However, legal concept the term is much wider and can be interpreted by different class of the society like, delinquents are considered underage criminals by the police, truants, smokers, or disobedience by school officials, ungovernable children by parents, and loitering gangs by businessmen. And the justice system means a system that uses Reformation and rehabilitation rather than punitive measures to control juvenile offenders is known as a juvenile system<sup>284</sup>.

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<sup>281</sup> Ibid.

<sup>282</sup> Ibid.

<sup>283</sup> Article 25 (A), The Constitution of Pakistan 1973.

<sup>284</sup> Razi, Naseem. "Evaluating Juvenile Delinquency in perspective of Socioeconomic Condition of Pakistani Society." *International Journal of Sciences:Basic and Applied Research (IJSBAR)* 20, no. 2 (2015): 334-3349.

<sup>284</sup> Manzoo, Ahmad, Muhammad Zubair , and Muhammad Rizwan. "Child Rights Situation in Pakistan." *Global Regional Review (GRR)* III, no. I (2018): 343 – 352.

Talking about juvenile delinquency which is a serious issue in Pakistan, where all offenders are treated equally regardless of whether they commit minor or major offence. Furthermore, in Pakistan there were more than 10,000 juvenile offenders were reportedly on trial in year of 2004, and nearly 2500 children incarcerated in various prisons of the country. Moreover, despite the fact that there has been an increase in juvenile offenders over the past 20 years, the issue in hand have always been less pressing problems of the society. The reasons whereof include parental illiteracy, poor economic conditions, insufficient discipline at school, a lack of moral and religious norms, and the carelessness displayed by the state<sup>285</sup>.

In Pakistan, throughout, there are 113 distinct types of jails are being operated by holding 80,145 prisoners. This overcrowded jail lack basic health, hygiene, sewage, and sanitation amenities, as well as skilled staff, and there is also a chronic dearth of learning, skills training, and rehabilitation facilities. Moreover, the situation for girls' juvenile offenders, living with their imprisoned parents is much worse than it is for males<sup>286</sup>. The statistics revealed that in 2019, there are 1424 juvenile offenders were behind the bar across the country wherein 1210 of them were under trial prisoners while the 214 juvenile's offenders were convicted<sup>287</sup>. The historical record further also revealed that the juvenile's cases reported in Pakistan from 2005 to 2019 are 21849, and 44percent of them are undergoing trials, however, only 2620, or 6percent of the total cases were convicted in the past 15 years. The remaining cases had been kept for years and were waiting for prosecution<sup>288</sup>.

Nonetheless, Pakistan, being a signatory of the CRC, and due to accepted recommendations during different UPR cycles regarding juvenile offenders or best interest of

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<sup>285</sup>Ibid. 41.

<sup>286</sup>Janet Reno. *Juvenile Justice*. 2019. <https://www.sparcpk.org/SOPC2019/JJSO.pdf> (accessed June 28, 2023).

<sup>287</sup> Ibid.

<sup>288</sup> ibid.

a child under article 3 read with article 40 of CRC, has been trying to ensure its commitments to the international community regarding the protection of juvenile offenders, which is event from the latest enactment of Juvenile Justice Act of 2018 having some new features , such as the removal of disqualification attached with conviction, power of juvenile courts to order release juvenile, special provisions for female juveniles, and the establishment and clarification of observing homes and rehabilitation centers are also found therein<sup>289</sup>.

### 3.7 Implications of Universal Periodic Review in Pakistan

The pattern of recommendations from the last three cycles of UPR mentioned above related to the child rights have influenced on Pakistan for taking many steps in bringing reforms in legislative, policy and institutional arena, which can be seen in the below list;

**List:**

<b>List of legislative, policy and institutional measures from first to fourth UPR Cycles ( 2008 -2023)</b>	
1	Insertion of Article 25(A) in Constitution 2010.
2	Ratified the Optional Protocol of the CRC on the Sale of Children, Child Prostitution and Child Pornography in 2011.
3.	Child Protection Authority law was passed in 2011.
4	The Child Protection and Welfare Act 2010.
5	The Child Protection and Welfare Act 2010.
6	Punjab Child Protection and Welfare Bureau of 2011.

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<sup>289</sup>Sardar Shah Ali, Usharani Balasingam, Nadhratul Wardah Salman, Saroja Dhanapal, and Khalid MS Ansari. "Restorative Juvenile Justice System in Pakistan: An Overview." *International Journal of Criminal Justice Sciences* 15, no. 2 (2020): 266-282.

7	The National Commission for Human Rights Act, 2012.
8	Right to Free and Compulsory Education Act, 2012.
9	Sindh Child Marriage Restraint, Act, 2013
10	Sindh Human Rights Commission, 2013
11	Sindh Domestic Violence (Prevention and Protection) Act, 2013.
12	Sindh Rights of Children to Free and Compulsory Education Act, 2013.
13	KP Right to Free and Compulsory Education Act, 2014.
14	Punjab Free and Compulsory Education Act, 2014.
15	Baluchistan Protection and Promotion of Breast- Feeding and Child Nutrition Act
16	2014.
17	The Baluchistan Compulsory Education Act, 2014
18	Sindh Bonded Labour System (Abolition) Act, 2015.
19	The Khyber Pakhtunkhwa prohibition of employment of children act, 2015.
20	Khyber Pakhtunkhwa Bonded Labour System Abolition act, 2015.
21	Punjab Marriage Restraint (Amendment) Act of 2015
22	Ratification of Optional Protocol on the Involvement of Children in Armed Conflict in
23	2016.
24	Child Protection Act, 2016
25	Sindh Hindu Marriage Act, 2016
26	The Sindh Prohibition of Corporal Punishment Act, 2016
27	Criminal Law (Second Amendment) Act 2016
28	Criminal Law (Second Amendment) Act, 2016

29	Punjab Restriction on Employment of Children Ordinance, 2016.
30	Punjab Prohibition of Child Labor at Brick Kilns Act, 2016.
31	The Punjab Restriction on Employment of Children Ordinance, 2016.
32	Sindh Prohibition of Employment of Children Act, 2017.
33	Hindu Marriage Act, 2017
34	National Commission on the Rights of the Child Act 2017.
35	KPC Child Labor policy 2018.
36	Islamabad Capital Territory protection Act 2018.
37	Juvenile Justice System Act 2018
38	Zainab Alert, Response and Recovery Act 2020 (ZARRA Act 2020 ).
39	Establishment of Zainab Alert, Response and Recovery Agency.
40	Establishment of NCRC 2020
41	Single National Curriculum (SNC) Policy 2021.
42	Establishment of Child Protection Institute (CIP) in 2021.

The reforms in laws, policy and establishing institutions mentioned supra explicably indicated that Pakistan has been struggling towards the implementations of the Convention on the right of child as per its commitments to the international community, particularly in the form of various accepted recommendations during its different review cycles. However, there

are plethora of challenges are also being faced in implementing with latter and sprit due to inter alia; constrained resources, poor infrastructures, lack of awareness and all above lack of full commitment by the government. This challenges cannot become an excuse for the implementation of the UPR recommendation because one of the indicator to influences the UPR processes is, it demonstrates that states cannot get away with enacting laws, policies and establishing institutions that have no effect on the ground, and it digs further more child rights situations of the country rather than accepting the words of national repot of the state on improvement as final.

Moreover, the entire UPR mechanism is an excellent and useful practice, requiring states to provide information about improvements that have been made in improving the human rights situation before receiving questions and recommendations from stakeholders in their own countries and other states. Furthermore, it is crucial to have an effective review process like UPR for countries like Pakistan where unfortunately the violations of child's rights are regularly been committed and the perpetrator is easily escaped without being found guilty of their crimes<sup>290</sup>.

## **Conclusion**

In light of the foregoing discussion, the argument of the realist pertaining of no impact of an international institution on the domestic level can easily be confronted by the last three UPR cycle of Pakistan which indicated that the international human rights institutions like UPR can bring changes in the lives of the children by implementing the CRC via making different kinds of recommendations to take legislative, policy and institutional measures and asking questions about the previous commitments. Moreover, if the time line about the ratification of international child rights' instruments; enactments of or amendments in local laws regarding

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<sup>290</sup>Zafar, Noor. "What Does UN Human Right's Council's Universal Periodic Review Mean for Women in Pakistan?" *American Journal of International Law*, 1962: 383-384.

child marriage, child education, child protection, child trafficking and juvenile justice etc; or the child rights intuitions like NCRC in Pakistan is analyzed in light of the various cycles of UPR that Pakistan has undergone, then it becomes clear that the ratification of two optional protocols to CRC vis-à-vis the major and most important enactments, amendments and establishment were made after Pakistan was given successive recommendations, or was asked questioned about these issues in the first three cycles.



## **Conclusion and Recommendations**

### **Conclusion**

Islam, being a complete code of life addresses all affairs of every individual including child's right issues. Islam has been very conscious with regards to the children's rights since fourteen century ago and since then, has been promoting and protecting all kind of children's rights without any discrimination of any kind such as religious, sex, language etc. These rights are includes all kinds of rights such as suckling, raring, fostering etc. These rights have been extended to a child with disabilities, on the step children, illegitimate children etc. Islam even protects the child before a he or she is called a child or in another word before the birth of a child in the form of rights to fetus. To end this, Islam has given many exclusive rights to the pregnant woman in terms of finical supports up to delivery if she divorced and delay in execution of punishment if she has committed of any crime<sup>291</sup>.

However, the recent idea of childhood and child rights is modern notion. In past, children were treated as little adult, and considered as property of their parents. The father had limitless authority over children including to kill them. In addition to that, they were used for the slavery, sexual abuse and entertainment. The concept of schooling and education were either usual or nonexistence. Millions of them due to these and similar reason such as colonial civil wars became abundant and homeless. Society also used to endorse all these barbaric practices which had been prevailing until the late of the eighteen century. However, the series of children developments were seen to emerge since the down of nineteen century by protecting juvenile offenders, child labors, trafficking. Nonetheless, the idea of children's rights at the global level assumed of a legal appearance in the beginning of the twentieth century owing to the massive efforts of INGOs such as SCIU by drafting charter of children's

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<sup>291</sup>Munir, muhmaid. Rights of the Children in Islam. islamabad: Iqbal International Institute for research and Dialogue, 2017,pg 55.

rights having five basic rights including right to food, shelter, education etc. which latter on endured by League of Nations in 1924 and became first international child rights.<sup>292</sup> After disgust and horrors of World War II, the newly established UN system has itself deep concerned with the child rights, therefore, by its early stage the UN has adopted the Declaration of the rights of child on 29<sup>th</sup> November, 1959 by expanding to the Geneva Declaration of 1924.<sup>293</sup> Despite the fact that the declaration was not legally binding, yet it turned into a basis for the UNCRC-1989, the most comprehensive treaty addressing all elements of children's rights having special committee which ensured the implementation of those enshrined rights. It has also credited the world's most ratified convention. Pakistan is the world's sixth country to sign and ratify the Convention.<sup>294</sup>

To ensure the human rights within UN system, the HRC has established an effective monitoring mechanism known as the UPR for conducting a four-year review of all UN Member States' human rights commitments under the charter of United Nations, the UDHR, the human rights treaties to which the state is a party, and any voluntary human rights pledges including any commitments they had made during the previous cycle of review. The review is conducted in three major phases in a WG, after which recommendations are put forward to the state under review, which will be evaluated in the next cycle. This unique process of the UPR and its universality jurisdiction contribute the protection and promotion of all human rights including the rights of Child throughout United Nations system.

Looking towards the contributions of UPR on the implementation of UNCRC in Pakistan, then, if the last three cycle of UPR of Pakistan is analyzed in perspective of child's

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<sup>292</sup>Gibson, Colin. "Building up the Future: The Implementation of the UNCRC in China." *Law School Student Scholarship*, 2014. P, 5.

<sup>293</sup>Hart, Stuart N. "From property to person status: Historical perspective on children's rights." *American Psychologist* 46, no. 1 (1991): 53.

<sup>294</sup>Ann Quennerstedt, Carol Robinson, and John I'Anson. "The UNCRC: The Voice of Global Consensus on Children's Rights?" *Nordic Journal of Human Rights* 36, no. 1 (2018): 38-54.

rights developments regarding the ratification of international child rights' instruments; enactments of or amendments in, local laws on the issue of children rights, then it has become crystal clear that the UPR proved itself an excellence and contributory mechanism for the same. For instances, If the timeline for enacting or amending local laws pertaining to child marriage, child education, child protection, child trafficking, and juvenile justice etc. ratifying international child rights instruments as well as establishing child rights organizations like, NCRC in Pakistan, is examined in light of the various cycles of Universal Periodic Review that Pakistan has undergone, then it is seen that Pakistan's ratifications of the two Optional Protocols to the CRC vis-a-vis most important legislations, amendments, and institutions, were enacted, made and established after receiving successive recommendations or being questioned about these issues in the first three cycles.

Henceforth, the UPR has proved as an effective mechanism in terms of conducting periodical review and subsequent different types of recommendations to the SUR. Like in other countries, the UPR has also contributed on implementing CRC in Pakistan, as mentioned supra, via making different kinds of recommendations to take legislative, policy and institutional measures vis-à-vis by asking various questions about the previous commitments.

## **Recommendations**

The following steps and reforms are hereby recommended to more compliance of the UPR's recommendations and to realizations of all children rights enshrined in CRC, in Pakistan.

- Ensure of full observance on the realizations of national consultation in accordance with the UPR principle that "ensures the participation of all relevant stakeholders, including NGOs and NHRIs in order to provide an impartial and an independent evaluation of the performance of Pakistan on child rights situation in the country.

- NGOs can play a pivotal role in highlighting of children's rights in Pakistan and could make policies with the government.
- The pending report to the committee on the rights of child be submitted expeditiously.
- Every year children day should be celebrated throughout the country on 20<sup>th</sup> November with great enthusiasm.
- Ratify the optional protocol to CRC on Communications procedure
- Enact a legislation for a unified minimum legal age as 18 years for the both genders rest of the provinces just like province of Sindh as per the CRC and in the light of the Judgment of Federal Shariat Court in a case titled Farooq Omar Bhoja vs Federation of Pakistan (PLD 2022 Federal Shariat Court 1) whereby it was held enactment of laws determining minimum age for marriage is not against Quran and Sunnah.
- Ensure the full observance of article 13 of the CRC, in all matter including marriage, whereby every child has right to express his or her opinion which affect them.
- Ensure the full implementations of the Juvenile Justice System Act, 2018 by establishing Juvenile courts across the level to deals the 53% of its population being children and adolescents.
- The statistic showed that in Pakistan one of every four child experiences stunting at the ratio of 40 percent, wasting at the ratio of 17 percent and underweighting at the ratio of 28.9 percent<sup>295</sup>, which is surprising and shameful. Hence, it is recommended that the government must ensure the full observance of article 26 of CRC whereby every child has right to best health so that the said menace can be minimized.
- A formal and streamline child protection service be set up throughout the country to facilitate the reporting of and confirming to, the violations on the child rights.

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<sup>295</sup>Nutrition Wing Ministry of National Health Service of Pakistan. *National Nutrition Survey*. 2018. <https://www.unicef.org/pakistan/media/1951/file/Final%20Key%20Findings%20Report%202019.pdf> (accessed 30<sup>th</sup> January, 2024).

- Ensure full implementation of the Article 25(a) of the Constitution by enhancing the allocation of budget so that the out of school children that 22.8 million male children and 12.6 million of female children may be accessed of and given to free, equal and quality education.
- Knowing about fundamental rights is the rights of very child; hence, schools can play an important role in improving the children's knowledge about child rights.
- Strengthen the public health system aimed to provide free, quality and basis health services so that the infant mortality rate can be reduced vis-à-vis right to survival guaranteed under article (6) of CRC can be observance.
- Built up separate prison for the juvenile prisoners, who either on the trail or convicted, as well as establish rehabilitation center, at every district level across the country.
- To eradicate the evil of child labor from the root, the government must compliance the recommendation made to Pakistan during its 3<sup>rd</sup>UPR cycle and on the article (11) of the Constitution of Pakistan 1973 whereby a child labor has been categorically banned and abolished while determining the minimum age as 14 years for the same.
- The birth registration in Pakistan statistically showed at 34 percent,<sup>296</sup> which is very unfortunate as well as a gross violation of an article (7) of the CRC which has guaranteed to every child to have a right to be registered at birth and know his or her parents. Hence, it is recommended that the registration process be made an easy and access able at every village level vis-a-vis- establish a committee thereat for campaigning an awareness thereof and for necessary assistance thereto.

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<sup>296</sup>UNICEF Data Warehouse - Pakistan. *Monitoring the situation of children and women in Pakistan: Pakistan Survey Data*. 2018-202023. <https://www.unicef.org/pakistan/unicef-data-warehouse-pakistan> (accessed 30<sup>th</sup> January, 2024).

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