

# Consultative Session on Child Protection and Safe Campuses: Recommendations for Policy and Institutional Reforms

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## **About the Session**

In wake of the increasing incidents of sexual abuse and harassment in educational institutions, a consultative session on child protection and safe campuses to identify the existing gaps and to give recommendations for holistic policy and institutional reforms in relation to child protection in education sector was held on 4<sup>th</sup> July 2020.

The session was organized as a joint effort by **Elaine Alam**, General Secretary, Faces Pakistan and **Nida Usman Chaudhary**, Founder of Lahore Education and Research Network with a view to assist the policy makers and the legislature for holistic and participatory reforms towards adopting a coherent and consolidated child protection mechanism in all educational institutions - formal and informal, public and private - in Pakistan.

These recommendations are based on the suggestions of the resource persons who participated in this discussion and the research on the topic by the organizers.

This is a live document and the authors reserve the right to add to it as more perspectives and suggestions come forward as a result of future consultations and submissions from stakeholders.



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*Identifying the Abuse Faced by Students in Educational Institutions*

*Driving Question: What do Children in Educational Institutions need Protection From?*

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<b>Type of Abuse</b>	<b>Preliminary Observations</b>
<p><b>1. Harassment</b></p> <p>Harassment is form of discrimination, threat or coercion which covers a wide range of offensive behaviors that may demean, humiliate, embarrass, cause interference with work, access to opportunities and performance or create an intimidating or hostile environment or cause physical, verbal or psychological harm to the victim.</p>	<ul style="list-style-type: none"> <li>• Harassment is about power, bias and discrimination that could be rooted in gender, racial, religious, ethnic or other grounds;</li> <li>• ‘Sexist’ harassment is different from ‘sexual’ harassment even though both are about power and control;</li> </ul> <p>‘sexist harassment’ takes the form of derogatory remarks often rooted heavily in stereotypical generalizations believed about the gender in question; while</p> <p>‘sexual harassment’ on the other hand, is specific to the body and involves actual touching or putting the victim in intimidation or threat of violence to his/her body.</p> <ul style="list-style-type: none"> <li>• Bullying is also a type of harassment</li> </ul>
<p><b>2. Bullying</b></p> <p>Bullying is repeated exposure of a person or a group of persons to negative actions on part of another person or group that may entail intentional infliction of injury or discomfort upon the victim through physical, verbal or other ways and where there is imbalance of strength between the bully and the bullied.<sup>1</sup></p>	<ul style="list-style-type: none"> <li>• Excessive, and demeaning ragging by a student to another is a type of bullying;</li> <li>• Abuse of power by teachers or administrative staff exploiting the vulnerability of the student may also be a form of bullying;</li> <li>• There can be institutional bullying if a culture of silence and/or victim shaming prevails</li> </ul>
<p><b>3. Sexual Abuse</b></p> <p>Any sexual advance to force, induce, entice, or coerce a person to engage in</p>	<ul style="list-style-type: none"> <li>• Like harassment, sexual abuse is not about lust but about power;</li> </ul>

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Olweus D. (1994) Bullying at School. In: Huesmann L.R. (eds) Aggressive Behavior. The Plenum Series in Social/Clinical Psychology. Springer, Boston, MA.

<p>obscene or sexually explicit conduct or simulation of such conduct including but not limited to fondling, caressing, stroking, exhibitionism, voyeurism either independently or in conjunction with other acts with or without consent in case of minors.</p>	<ul style="list-style-type: none"> <li>• Cases of same gender sexual abuse have been reported therefore, segregation is not the solution</li> <li>• The blame is on the offender and not the victims particularly, when they are underage students</li> </ul>
<p><b>4. Sexual Violence</b></p> <p><b>Rape:</b> Where a man has sexual intercourse with a woman against her will, with coercion or mistaken belief on part of woman of her marital status in relation to that man or without her consent or when she is under the age of 16. [S375 PPC]</p> <p><b>Unnatural Offences:</b> Where a person voluntarily has carnal intercourse against the order of nature with any man, woman or animal. [S377 PPC]</p>	<ul style="list-style-type: none"> <li>• Law does not currently recognize same gender sexual violence/intercourse as ‘rape’ and places it instead under the head of ‘unnatural offences’.</li> <li>• Different punishments apply for rape and for unnatural offences with rape being more severe a penalty therefore, not recognizing same gender sexual violence/intercourse as ‘rape’ has penal implications</li> </ul>
<p><b>5. Corporal Punishments and Other Disciplinary Acts Involving Violence or Physical Harm</b></p> <p>Corporal punishment refers to any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. It mostly involves hitting (“smacking,” “slapping,” “spanking”) children with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion.<sup>2</sup></p>	<ul style="list-style-type: none"> <li>• <b>S89 of PPC</b> allows for violence and use of force against children as a means to discipline them and is therefore, untenable with Article 14 of the Constitution on inviolability of the dignity of man [C.P. No 460 of 2020 IHC]</li> <li>• This judgement however, only suspends the application of S89 of PPC to the extent of Islamabad Capital Territory</li> <li>• The prohibition of Corporal Punishment Bill 2014 has <u>NOT</u> been passed however, Through, second criminal amendment bill in 2016 every physical and psychological harm is considered cruelty [ S328 A PPC].</li> <li>• The Sindh Prohibition of Corporal Punishment Act 2016 bans corporal punishment</li> </ul>

<sup>2</sup> The Global Initiative to End Corporal Punishment of Children; The Committee on the Rights of the Child, The Convention on the Rights of the Child and its Treaty Body. Retrieved from: [http://www.endcorporalpunishment.org/pages/hrlaw/crc\\_session.html](http://www.endcorporalpunishment.org/pages/hrlaw/crc_session.html).

	<ul style="list-style-type: none"> <li>• S 33 of Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010.</li> <li>• In Punjab, it was banned via notification NO.DD(M)Child Protection/2018 dated 23 January 2018 in compliance with W.P CM/1/107273/17 (Syed Miqdad Mehdi v/s Government of Punjab) and S16 (4) of Punjab Free and Compulsory Education Act 2014 but this Act has not been notified as yet.</li> <li>• In Pakistan, a study among 3,582 school children aged 6–14 years in eight districts showed that prevalence rates for corporal punishment were 40.7 percent in government schools and 35.4 percent in private schools. The types of physical punishment used included slapping, caning, pulling ears, punching, kicking, and making students assume the ‘rooster position’, in which the child squats with arms looped behind the knees and firmly holds the ears.<sup>3</sup></li> </ul>
<p><b>6. Cyber Bullying</b></p> <p>Cyberbullying is bullying that takes place over digital devices like cell phones, computers, and tablets. Cyberbullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Cyberbullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal or private information about someone else causing embarrassment or humiliation.<sup>4</sup></p>	<ul style="list-style-type: none"> <li>• Cyber stalking is a type of cyber bullying but cyber bullying goes beyond mere stalking.</li> </ul>

<sup>3</sup> The NGOs Coalition on Child Rights 1998, cited in Jabeen, F. and Karkara, R. 2006, p. 81

<sup>4</sup> <https://www.stopbullying.gov/cyberbullying/what-is-it>

## 7. Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.<sup>5</sup>

- There is increasing awareness and recognition that drug abuse is rampant across Pakistan and is a serious problem in educational institutions
- State Minister for Interior Shahryar Afridi 75% of students in Islamabad's educational institutions are drug addicts.<sup>6</sup>
- A sample of 300 high school and college students aged 16-21 years were taken randomly. These participants were from different educational institution, located in Defence and Clifton areas of Karachi, Pakistan, the economically stable and upper middle-class population. 21 % of males reported drug abuse. 12.3 % of females reported drugs abuse. 10% students at school level and 25% students at college level reported drug abuse. 17% of students who abuse drugs reported that the marital status of their parents was divorced or separated. Overall 60 % of participants reported no financial difficulties. 35% students reported their parent's indulgence with drugs. Students who abuse drugs also reported that their best friends abuse drugs. (N=80) students who were smokers also reported that their best friends smoke cigarettes.<sup>7</sup>
- Government of Punjab developed an action plan regarding anti-narcotics measures for the public and private educational institutions in Punjab in 2019.<sup>8</sup>

<sup>5</sup> [https://www.who.int/topics/substance\\_abuse/en/](https://www.who.int/topics/substance_abuse/en/)

<sup>6</sup> <http://blogs.dunyanews.tv/24108/>

<sup>7</sup> A Survey of Psychosocial Correlates of Drug Abuse in Young Adults aged 16-21, In Karachi: Identifying 'High Risk' Population to Target Intervention Strategies, Pak J Med Sci July-September 2005 Vol. 21 No. 3 271-277, available at:

[https://www.pjms.com.pk/issues/julsep05/pdf/drug\\_abuse.pdf](https://www.pjms.com.pk/issues/julsep05/pdf/drug_abuse.pdf)

<sup>8</sup> <https://schools.punjab.gov.pk/system/files/ActionPlan1.pdf#overlay-context=governinglaws>

<p><b>8. Tuition Culture</b></p> <p>Soliciting or encouraging private tuitions or promoting tuitions in academies whilst being an employee of the educational institute to its students is a conflict of interest.</p>	<ul style="list-style-type: none"> <li>• Teachers of institutions who promote private tuition culture abuse their position against their employer institute;</li> <li>• Give rise to questions of bias and integrity over their commitment and quality of teaching at the institution due to the conflict of interest;</li> <li>• Greater chances of abuse and harassment given the even weaker mechanism of check and regulation and implementation of laws and policies over tuition academies/private tuitions;</li> </ul>
<p><b>9. Grooming</b></p>	<ul style="list-style-type: none"> <li>• In many cases of child sexual abuse in and out of educational institutions, abusers groom the victims and sometimes even their families. This is important as most victims of child sexual abuse believe that they are in love with their abusers and end up protecting them. 'Grooming' is also common in educational institutes in rural set-up where community connections are strong, both the victim child and their families are groomed in order to ensure that the abuse is never reported. Teachers should not be allowed to 'become friends' with students or to get too close to them.</li> </ul>

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*General Observations of our Resource Persons*

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1. Currently, there is no holistic national or provincial policy framework, guidelines or law that covers child protection as a whole that is operative.
2. After the 18<sup>th</sup> amendment, the 2005 National Plan of Action against Child Sexual Abuse and Exploitation could also not be implemented.

3. The 2005 Plan of Action envisages 5 core principles on which any future policy/guidelines or law should be developed, in that, any future guideline/policy/law must cover:
  - a. Prevention
  - b. Protection
  - c. Recovery and Rehabilitation
  - d. Participation
  - e. Monitoring and Evaluation
4. Punjab Child Protection and Welfare Bureau founded under Punjab Destitute and Neglected Children Act which does not look upon as school going children as falling within their mandate of protection. This law could be amended to increase the scope of the bureau to cover protection for any child against the different forms of abuse they are likely to suffer or be vulnerable to because of their age.
5. HEC has a policy on harassment for higher education but a coherent, holistic and participatory policy/guidelines/framework at school level should also be developed and implemented.
6. Particular care and protection towards differently-abled and minority children must also be included.
7. Currently, Pakistan has no operative registry/database of sex offenders that can enable background checks of persons dealing with children such as teachers. Under Police Order 1934 such a registry is to be maintained at every police station however, it is not being maintained.
8. Until we don't have such data or a teacher's regulatory authority, we will not be able to move towards a coherent and integrated system of background check over teachers and other personnel dealing closely with children at a hiring level.
9. Pakistan is a party to the global initiative of 'ending violence against children in schools which encompasses 'safe learning' as an agenda.
10. Crimes against children remain a national issue under purview of fundamental rights of children and Pakistan Penal Code defines some of these crimes consistently at the national level such as in S377A, however, the overall child protection mechanism and its implementation has to be articulated at the provincial level for which a participatory approach that includes children as well as other stakeholders will have to be adopted.
11. There is a need to sit with the all provinces at the national level to design standards which include safe learning where after the education department would be bound to ensure safe learning standards are reflected in their operations in schools.
12. There appears to be no mechanism in some schools to access directors/senior management or any other designated and competent authority to address complaints of students.
13. Students are often not aware of their rights and avenues and means of redressal of complaints.

14. Any government officers that do tend to visit public schools to keep a check on attendance and lectures currently, do not inquire into the mental health or complaints of students related to any abuse etc. They should be trained to do so or any other mechanism that can address this gap should be developed and inculcated within the guidelines of safe learning and safe campuses.
15. Children have a lot of stories and hardly any avenues to express themselves. They need a mechanism through which they can reach out to concerned authorities.
16. Our culture does not encourage open communication between parent(s)-child(ren).
17. There is denial on part of individuals within the governmental framework as regards occurrence, scale and frequency of child abuse.
18. Teachers should not be allowed to “become friends” or interact in any capacity other than the professional capacity with the students.

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### *Recommendations*

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1. To consolidate child protection, universal child safeguarding standards should be developed in response to local context and based on a consultative and participatory process between provinces, federation and all other stakeholders.
2. Sexual harassment of students should be covered in a separate and holistic child protection in educational institutions law.
3. Sexist harassment or gender based harassment/discrimination should be a separate head and defined separately.
4. 2010 workplace harassment Law is currently silent the liability of those who may be complicit, aid or abet harassment at workplace so it should be reformed to reflect that.
5. To make the process participatory, an open call to students should be made and they should be encouraged to send in their recommendations or a ‘Charter of Demands’ which can be included and taken up in consultations with stakeholders while developing national child safeguarding standards.
6. Scope and mandate of child protection and welfare bureau should be expanded to cover all children by amending Punjab destitute and neglected children act.
7. Child protection policy/guidelines template should be drafted and shared with all educational institutions.
8. Sensitivity trainings to be mandated in all educational institutions for everyone.
9. External and internal accountability mechanism should be embedded in the protection framework so that in addition to internal mechanism students have means to access

independent avenues as well as such as in shape of a helpline or list of numbers that can include contact details of line ministry or of the relevant department or other bodies that can offer assistance.

10. Any internal reporting and protection mechanisms in schools must compose of non-teaching faculty/staff or those that are not directly involved in teaching or managing the students on a daily basis. Moreover, child participation in inquiry committees whether through an alumni network or other means should be insured in inquiry committees.
11. Registration of teachers with an authority (DEA or DRA) along with any record of offences should be maintained. In absence of proper data, policy papers and recommendations can be hard to present.
12. Teachers and staff to be given and explained the child protection policy that applies before they are hired.
13. Policy to be accessible and explained to all students with direct access to point of first contact so that the student or parents/guardians have all information regarding accessing remedies and procedures.
14. Same gender sexual intercourse should be defined as rape by amending s 375 PPC.
15. Ban corporal punishment in Punjab via legislation and amend the chapter-5 "*protection of right of children needs*" should cover and assure the rights of children in accordance with the constitutional and rights given by UNCRC.
16. Educational institutions should develop screening for substance abuse and adopt measures to curb use and exchange of narcotics in and around their campuses
17. No soliciting tuitions policy for all teaching staff of the institutions should be made a term of their contract of employment.
18. Role of parents and their engagement and involvement to back their children must be encouraged.
19. There is a need to address the impact and relevance of traditional 'authoritarian' schools' vs more consultative, inclusive and participatory learning platforms and adopt policy guidelines or framework accordingly.
20. Sensitization and capacity building trainings and workshops at all levels of implementation and impact should be conducted and a continuous process of engagement and reflection be adopted to improve.
21. Data protection and privacy of school students must also be ensured.
22. Private schools seem to circumvent regulation so scope of DEA/DRA may be expanded to cover child safeguarding principles and framework.
23. Collective voices should be raised to ensure accountability of private institutions to public at large even if no formal regulatory mechanisms currently exist.

24. More information on how to get involved, how to assist, and how to access the reporting mechanisms and other forums should be made easily available in user-friendly terms so that all concerned stakeholders, groups and citizens know how and what they can do to play their part.
25. The gender lens should be introduced at a very early stage when budget call circulars are being sent to the departments concerned.

## Annexure 1

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### *List of Existing Local Laws and their Status*

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<b>Law</b>	<b>Status</b>
1. Punjab Free and Compulsory Education Act 2014	<ul style="list-style-type: none"> <li>Section 16(4) of Punjab Free and Compulsory Education Act 2014 states: 'The teacher or in-charge of a school shall ensure that a child studying in the school is not subjected to corporal punishment or harassment.'</li> </ul>
2. National Plan of Action against Child Sexual Abuse and Exploitation 2005	<ul style="list-style-type: none"> <li>Not implemented since 18<sup>th</sup> Amendment – education &amp; child protection = provincial subject</li> </ul>
3. Punjab Destitute and Neglected Children Act 2004	<ul style="list-style-type: none"> <li>Limited in scope</li> <li>Does not take cognizance of children who are not 'destitute' or 'neglected' such as school children.</li> </ul>
4. Police Order 1934	<ul style="list-style-type: none"> <li>Requires a register of sex offenders to be maintained but this is not being maintained.</li> </ul>
5. A 25 Constitution 1973	<ul style="list-style-type: none"> <li>Equality of Citizens</li> </ul>

<p>6. S 292 A. Pakistan Penal Code 1860</p>	<ul style="list-style-type: none"> <li>• Criminalizes Exposure to Seduction</li> </ul>
<p>7. S 328 A. Pakistan Penal Code 1860</p>	<ul style="list-style-type: none"> <li>• Criminalizes Cruelty to Child</li> </ul>
<p>8. S 377 A. Pakistan Penal Code 1860</p>	<ul style="list-style-type: none"> <li>• Criminalizes Child Sexual Abuse</li> </ul>
<p>9. S 24 Pakistan Electronic Crimes Act 2016</p>	<ul style="list-style-type: none"> <li>• Criminalizes Cyber Stalking</li> </ul>
<p>10. S 509 Pakistan Penal Code 1860</p>	<ul style="list-style-type: none"> <li>• Criminalizes Sexual Harassment</li> </ul>
<p>11. Protection against Harassment of Women at Workplace Act 2010</p>	<ul style="list-style-type: none"> <li>• Does not cover sexist harassment</li> <li>• Does not cover harassment that is of non-sexual nature</li> <li>• Restrictive definitions of workplace, employer-employee relationship</li> <li>• Those complicit in aiding and abetting not covered by the Act</li> </ul>

## Annexure 2

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*List of International Laws and Instruments that Pakistan is a signatory to  
in relation to rights of children and safe learning*

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<b>Global Convention or Instrument</b>	<b>Status of Ratification</b>
1. UN Convention on the Rights of Children 1989	✓
2. Global Initiative to End Violence against Children in Schools	✓
3. UNCRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography 2000	✓
4. SAIEVAC - South Asian Initiative on Ending Violence against Children 2016	✓
5. Universal Declaration of Human Rights 1948	✓
6. Convention on the Elimination of all Forms of Discrimination Against Women, 1979	✓
7. the International Labour Organization's Convention 182 on the Worst Forms of Child Labour 1999	✓
8. UNCRC Optional Protocol on the Involvement of Children in Armed Conflict 2000	✓
9. the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002	✓
10. the SAARC Convention on Promotion of Child Welfare, 2002	✓
11. the ILO Convention 138 on Minimum Age 1973	✓
12. International Covenant on Civil and Political Rights 1966	✓
13. International Covenant on Economic Social and Cultural Rights 1966	✓
14. the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	✓