

**Special Protection Measures for Children's Right to Life under Article 24(1) of the ICCPR:
A Critical Analysis of Pakistani Law and Jurisprudence**

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ABSTRACT

This article examines the implementation of Article 24(1) of the International Covenant on Civil and Political Rights (ICCPR) in Pakistan, focusing on the special protection measures required to safeguard children's right to life. Through a critical analysis of Pakistani constitutional provisions, statutory frameworks, and judicial pronouncements, this study evaluates the adequacy of domestic legal protections against international standards. The article identifies significant gaps in legislative implementation and enforcement mechanisms while highlighting progressive jurisprudential developments by Pakistani courts.

Keywords: ICCPR, children's right, Pakistani constitutional provisions, judicial pronouncements, domestic legal protections, legislative implementation, enforcement mechanisms, Pakistani courts, Pakistan.

INTRODUCTION

The right to life constitutes the most fundamental of all human rights, forming the bedrock upon which all other rights depend. For children, this right assumes heightened significance due to their vulnerability and developmental needs. Article 24(1) of the International Covenant on Civil and Political Rights (ICCPR) explicitly recognizes this vulnerability by mandating that "every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."

Pakistan acceded to the ICCPR on June 23, 2010, thereby assuming international legal obligations to implement its provisions within domestic law. However, Pakistan entered significant reservations to the Covenant, particularly concerning provisions that might conflict with Islamic law and the Constitution of Pakistan. Despite these reservations, Article 24(1) concerning children's rights was not specifically excluded, creating binding obligations for the State to ensure special protection measures for children's right to life.

This article critically examines Pakistan's legal framework and jurisprudence concerning children's right to life under Article 24(1) of the ICCPR. It analyzes constitutional guarantees, statutory protections, judicial interpretations, and identifies critical gaps between international commitments and domestic implementation.

ARTICLE 24(1) ICCPR: SCOPE AND NORMATIVE CONTENT

Textual Analysis

Article 24(1) of the ICCPR establishes a tripartite obligation requiring the family, society, and the State to provide special measures of protection to children. Unlike Article 6 of the ICCPR, which guarantees the right to life universally, Article 24(1) recognizes that children require additional, specific protections beyond those afforded to adults due to their status as minors.

The UN Human Rights Committee, in General Comment No. 17 (1989), clarified that the measures of protection envisaged by Article 24(1) must address children's particular vulnerability and ensure their survival and development. These measures extend beyond mere non-interference with life to encompass positive obligations including adequate nutrition, healthcare, protection from violence, and safe living conditions.

Intersection with Article 6: The Right to Life

The right to life under Article 6 of the ICCPR has been interpreted expansively by the Human Rights Committee to include not merely protection against arbitrary deprivation of life but also the adoption of positive measures to reduce infant mortality, eliminate malnutrition and epidemics, and increase life expectancy. When read in conjunction with Article 24(1), the State's obligations toward children's right to life become substantially more comprehensive.

The Human Rights Committee has consistently emphasized in its Concluding Observations to State parties that protecting children's right to life requires addressing systemic issues such as child mortality rates, malnutrition, preventable diseases, violence against children, and harmful traditional practices.

CONSTITUTIONAL FRAMEWORK IN PAKISTAN

Article 9: Security of Person

Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973, provides that "no person shall be deprived of life or liberty save in accordance with law." While this provision guarantees the right to life, its formulation differs significantly from Article 6 of the ICCPR, which prohibits "arbitrary" deprivation of life. The Pakistani Constitution's phrase "save in accordance with law" provides broader scope for State action and has been criticized for potentially legitimizing legally sanctioned deprivations of life that might nonetheless be considered arbitrary under international standards.

Notably, Article 9 does not explicitly reference children or provide for special protection measures based on age or minority status. The Supreme Court of Pakistan has, however, interpreted Article 9 expansively to include the right to a life of dignity and quality of life, not merely animal existence.

Article 11: Prohibition of Slavery and Forced Labor

Article 11 of the Constitution prohibits slavery, forced labor, and child labor in hazardous conditions. Article 11(3) specifically states that "no child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment." This provision offers specific constitutional protection to children, recognizing their vulnerability and the State's duty to shield them from exploitation that threatens their wellbeing and development.

Article 25A: Right to Education

Inserted through the Eighteenth Amendment in 2010, Article 25A mandates that "the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." While focused on education rather than life per se, this provision represents recognition of children's special status and the State's positive obligations toward their development, which are intrinsically linked to their survival and wellbeing.

Constitutional Gaps

Despite these provisions, the Pakistani Constitution lacks a comprehensive, integrated framework specifically addressing children's right to life and the special protection measures mandated by Article 24(1) of the ICCPR. There is no explicit constitutional provision requiring the State to prioritize children's survival, reduce child mortality, ensure adequate nutrition and healthcare, or protect children from violence—all elements considered essential under the ICCPR framework.

LEGISLATIVE FRAMEWORK

The Juvenile Justice System Act, 2018

The Juvenile Justice System Act, 2018 (JJSA) represents Pakistan's primary legislation addressing children in conflict with the law. The Act defines a child as a person under eighteen years of age and establishes a separate justice system for juveniles, recognizing their special needs and circumstances.

Key provisions relevant to children's right to life include:

- Prohibition of death penalty for persons under eighteen years at the time of the offense (Section 9)
- Establishment of Juvenile Courts with specialized procedures
- Emphasis on rehabilitation rather than punishment
- Provisions for diversion and alternative dispute resolution

However, the JJSA has faced criticism for implementation gaps, including insufficient infrastructure for juvenile facilities, inadequate training for personnel, and inconsistent application across provinces.

Child Protection Legislation

Pakistan's federal structure means child protection is primarily a provincial subject following the Eighteenth Amendment. Each province has enacted its own child protection legislation:

Punjab: The Punjab Destitute and Neglected Children Act, 2004, and the Punjab Child Protection and Welfare Bureau Act, 2004, establish mechanisms for protecting vulnerable children. The latter created the Child Protection and Welfare Bureau to provide shelter, care, and rehabilitation services.

Sindh: The Sindh Child Protection Authority Act, 2011, establishes a comprehensive framework for child protection, including provisions for preventing and responding to child abuse, neglect, and exploitation.

Khyber Pakhtunkhwa: The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, creates institutions for protecting children's rights and wellbeing.

Balochistan: The Balochistan Child Protection Act, 2016, provides for the protection and welfare of children in the province.

While these legislative frameworks exist, their implementation remains inconsistent, and enforcement mechanisms are often weak. Moreover, these laws focus primarily on children in difficult circumstances rather than establishing universal protections for all children's right to life.

Healthcare and Nutrition

Pakistan lacks comprehensive federal legislation specifically addressing child healthcare and nutrition as matters of right. The health sector is governed primarily by provincial laws following devolution. While various policies and programs exist—such as the National Nutrition Program and Lady Health Workers Program—these are policy-driven rather than rights-based, creating no justiciable entitlements for children.

Protection from Violence

The Criminal Law (Amendment) Act, 2016, enhanced penalties for violence against children, including provisions addressing child abuse and sexual exploitation. However, enforcement remains problematic due to societal attitudes, lack of awareness, and inadequate investigative capacity.

Legislative Gaps

Significant legislative gaps persist in several critical areas:

- **Child Mortality and Healthcare:** No comprehensive legislation mandates State responsibility for reducing child mortality or ensuring universal access to essential pediatric healthcare services.
- **Nutrition:** Despite Pakistan's alarming rates of child malnutrition and stunting, there is no rights-based legislation guaranteeing children's access to adequate nutrition.
- **Birth Registration:** While the Registration of Births, Deaths and Marriages Rules exist in various provinces, implementation is inadequate, leaving millions of children legally invisible and unable to access basic rights and services.
- **Harmful Traditional Practices:** Practices such as early marriage, despite legal prohibitions, continue due to weak enforcement and insufficient legislative protection.

JUDICIAL JURISPRUDENCE

Pakistani courts, particularly the Supreme Court, have developed progressive jurisprudence on fundamental rights, including interpretations relevant to children's right to life.

Expansive Interpretation of Article 9

In **Darshan Masih v. The State (PLD 1990 SC 513)**, the Supreme Court held that the right to life under Article 9 encompasses more than mere animal existence; it includes the right to live with dignity and access

to basic necessities of life. This expansive interpretation creates doctrinal space for incorporating the positive obligations required under Article 24(1) of the ICCPR.

Environmental Rights and Children

In **Shehla Zia v. WAPDA (PLD 1994 SC 693)**, the Supreme Court recognized the right to a clean and healthy environment as integral to the right to life under Article 9. The Court observed that environmental degradation poses particular risks to vulnerable populations, including children, thereby implicitly acknowledging children's special protection needs.

Education and Development Rights

In **Hazoor Bakhsh v. Federation of Pakistan (PLD 2012 Lahore 401)**, the Lahore High Court held that the right to education under Article 25A is directly connected to human dignity and development. While focused on education, this jurisprudence recognizes children's developmental rights as fundamental to their overall wellbeing and survival—concepts central to Article 24(1)'s protection mandate.

Juvenile Justice

The Supreme Court in **Muhammad Arif alias Sunny v. The State (2004 SCMR 1377)** held that the death penalty cannot be imposed on persons who were juveniles at the time of the offense, predating the legislative prohibition in the JJSA 2018. This decision reflected recognition of children's distinct status and the special protections they require within the criminal justice system.

Protection from Exploitation

In **Darshan Masih v. The State**, the Supreme Court also addressed bonded labor, which disproportionately affects children. The Court recognized that forced labor and bonded labor violate fundamental human dignity and the right to life, offering indirect protection to children from exploitative practices that threaten their survival and development.

Judicial Gaps

Despite progressive interpretations in specific cases, Pakistani jurisprudence lacks systematic engagement with children's special rights under international law. Courts have not explicitly addressed:

- The State's positive obligations to reduce child mortality
- Children's rights to adequate healthcare and nutrition as components of the right to life
- Comprehensive protection from violence in all settings (domestic, institutional, community)
- The intersectionality of various vulnerabilities affecting children's right to life (poverty, gender, disability, minority status)

Moreover, the gap between judicial pronouncements and ground-level implementation remains substantial. Progressive judgments often fail to translate into meaningful policy changes or improved protections for children.

COMPARATIVE ANALYSIS: INTERNATIONAL STANDARDS VS. PAKISTANI PRACTICE

Child Mortality

Pakistan faces significant challenges in child mortality. According to UNICEF data, Pakistan's under-five mortality rate, while declining, remains among the highest in South Asia. Neonatal deaths constitute a substantial proportion of child mortality, primarily due to preventable causes including birth asphyxia, pneumonia, diarrhea, and malnutrition.

The Human Rights Committee has consistently emphasized that reducing infant mortality and child mortality is a core obligation under Articles 6 and 24 of the ICCPR. Pakistan's persistently high child mortality rates indicate systemic failures in fulfilling these obligations, including inadequate healthcare infrastructure, insufficient skilled birth attendance, poor maternal health services, and limited access to essential medicines and vaccines.

Malnutrition and Stunting

Pakistan faces a severe child malnutrition crisis, with high rates of stunting, wasting, and micronutrient deficiencies among children. According to the National Nutrition Survey, a significant percentage of Pakistani children under five years suffer from stunting—a condition reflecting chronic malnutrition that irreversibly affects physical and cognitive development.

Under Article 24(1), the State bears responsibility for ensuring children's access to adequate nutrition as an essential component of their right to life and development. Pakistan's failure to address widespread child malnutrition represents a fundamental breach of its obligations under the ICCPR.

Violence Against Children

Children in Pakistan face multiple forms of violence, including domestic violence, corporal punishment in schools and homes, child sexual abuse, child marriage, and honor killings. Despite legislative prohibitions, enforcement remains weak, and cultural attitudes often condone violence against children.

The UN Committee on the Rights of the Child has repeatedly expressed concern about violence against children in Pakistan, emphasizing that protection from violence is integral to the right to life. Article 24(1)'s requirement for special protection measures clearly encompasses protection from all forms of violence.

Child Labor and Exploitation

Millions of Pakistani children engage in child labor, often in hazardous conditions including brick kilns, agriculture, domestic work, and street labor. Child labor not only violates children's developmental rights but directly threatens their physical safety and survival, constituting a failure to provide the special protection measures required by Article 24(1).

Access to Justice

Children's access to justice in Pakistan remains severely limited. Child-friendly court procedures are inadequate, support services for child victims and witnesses are scarce, and legal aid for children is insufficient. This access gap means that violations of children's rights, including threats to their life and safety, often go unaddressed.

STRUCTURAL AND SYSTEMIC CHALLENGES

Federal-Provincial Coordination

Pakistan's federal structure, particularly following the Eighteenth Amendment's devolution of social sectors to provinces, creates coordination challenges. Child protection requires coherent national standards and implementation mechanisms, yet provincial autonomy has resulted in fragmented approaches with varying levels of commitment and capacity across provinces.

Resource Allocation

Pakistan's public expenditure on child-relevant sectors—including health, nutrition, education, and social protection—remains inadequate relative to need and international standards. Low budgetary allocations reflect insufficient prioritization of children's rights and the State's failure to fulfill its positive obligations under Article 24(1).

Data and Monitoring

Inadequate data collection, monitoring, and evaluation systems hamper effective policymaking and accountability. Pakistan lacks comprehensive, disaggregated data on many indicators relevant to children's right to life, including cause-specific child mortality, violence against children, and access to essential services.

Capacity and Institutional Weaknesses

Implementation of child protection measures is constrained by institutional weaknesses, including insufficient trained personnel, inadequate infrastructure, weak inter-agency coordination, and limited technical capacity. Child protection institutions often lack the resources and authority necessary to fulfill their mandates effectively.

Social and Cultural Barriers

Deep-rooted social attitudes, including patriarchal norms, acceptance of violence against children, discrimination based on gender and other factors, and resistance to State intervention in "family matters," impede effective protection of children's rights. Changing these attitudes requires sustained awareness-raising, community engagement, and cultural transformation—processes that demand long-term commitment.

RECOMMENDATIONS

1. Constitutional Reforms

- **Explicit Constitutional Recognition:** Pakistan should consider constitutional amendments explicitly recognizing children's rights and the State's special obligations toward children, mirroring Article 24(1)'s framework. A dedicated constitutional provision on children's rights would provide a stronger foundation for legislative and policy action.
- **Justiciability:** Constitutional provisions concerning children's rights should be framed as justiciable fundamental rights, enabling judicial enforcement and creating accountability mechanisms.

2. Legislative Reforms

- **Comprehensive Child Rights Legislation:** Pakistan should enact comprehensive federal legislation on children's rights, establishing minimum national standards while respecting provincial autonomy in implementation. Such legislation should address:
 - Right to survival and development
 - Healthcare and nutrition
 - Protection from violence, abuse, and exploitation
 - Special protection for vulnerable groups of children
- **Rights-Based Health and Nutrition Legislation:** Provincial governments should enact legislation establishing children's enforceable rights to healthcare and adequate nutrition, with corresponding State obligations and accountability mechanisms.
- **Birth Registration:** Strengthen legal frameworks and implementation mechanisms for universal birth registration, ensuring every child's legal identity and access to rights.
- **Harmonization:** Review and harmonize provincial legislation to ensure consistent protection standards across Pakistan while allowing for context-appropriate implementation.

3. Policy and Implementation Measures

- **National Child Protection Policy:** Develop and implement a comprehensive National Child Protection Policy with clear objectives, strategies, timelines, and accountability mechanisms, coordinating federal and provincial efforts.
- **Resource Allocation:** Significantly increase budgetary allocations for child-relevant sectors, particularly health, nutrition, education, and social protection. Adopt child-sensitive budgeting processes ensuring transparency and accountability in resource allocation.
- **Institutional Strengthening:** Strengthen child protection institutions at all levels through adequate funding, human resource development, infrastructure improvement, and enhanced inter-agency coordination.
- **Service Delivery:** Expand access to essential services for children, particularly in underserved areas, including:
 - Primary healthcare and immunization
 - Maternal and newborn health services
 - Nutrition interventions
 - Child protection services
 - Education

- **Data Systems:** Establish comprehensive data collection, monitoring, and evaluation systems for indicators related to children's right to life, ensuring data disaggregation by relevant variables including age, sex, location, disability, and socioeconomic status.

4. Judicial Reforms

- **Specialized Training:** Provide comprehensive training for judges, prosecutors, and court personnel on children's rights, international standards, and child-friendly procedures.
- **Child-Friendly Justice:** Implement child-friendly justice procedures across all courts dealing with matters affecting children, including appropriate physical environments, support services, and procedural accommodations.
- **Public Interest Litigation:** Encourage and facilitate public interest litigation on children's rights issues, enabling civil society and affected communities to seek judicial redress for systemic violations.

5. Awareness and Cultural Change

- **Public Awareness:** Launch sustained public awareness campaigns on children's rights, harmful practices, and positive parenting, targeting communities, families, and service providers.
- **Engagement with Religious Leaders:** Partner with religious scholars and leaders to promote interpretations of Islamic principles consistent with children's rights protection, addressing misconceptions that impede implementation.
- **Community Mobilization:** Engage communities in child protection through participatory approaches, recognizing that Article 24(1) assigns protection responsibilities to families and society alongside the State.

6. International Cooperation and Reporting

- **ICCPR Implementation:** Develop a comprehensive implementation plan for Pakistan's obligations under the ICCPR, particularly Article 24(1), with clear benchmarks and timelines.
- **Periodic Reporting:** Fulfill reporting obligations to UN treaty bodies, including the Human Rights Committee, submitting timely and comprehensive reports and engaging constructively with recommendations.
- **Technical Assistance:** Seek technical assistance and international cooperation to strengthen capacity for implementing children's rights, leveraging global expertise and best practices.

CONCLUSION

Article 24(1) of the ICCPR enshrines children's right to special protection measures, recognizing their vulnerability and the collective responsibility of families, society, and the State to ensure their survival and development. Pakistan's accession to the ICCPR created binding obligations to implement these protections within domestic law and practice.

This analysis reveals substantial gaps between Pakistan's international commitments and domestic reality. While constitutional provisions, legislation, and jurisprudence offer some protections for children's right to life, they fall short of the comprehensive framework envisaged by Article 24(1). Constitutional protections lack specificity regarding children's special needs; legislation is fragmented across provincial jurisdictions with significant implementation gaps; and jurisprudence, while occasionally progressive, has not systematically engaged with children's rights under international law.

More critically, ground-level realities—including high child mortality rates, widespread malnutrition, pervasive violence against children, and limited access to essential services—demonstrate that existing legal frameworks are not translating into effective protection. Structural challenges including inadequate resource allocation, weak institutions, poor coordination, and social barriers compound these problems.

Addressing these gaps requires multi-faceted reforms spanning constitutional amendments, legislative harmonization, policy development, institutional strengthening, resource mobilization, and social transformation. Most fundamentally, it requires recognizing that children's right to life encompasses far more than non-interference—it demands proactive State action to create conditions enabling every child to survive, develop, and flourish.

Pakistan's children deserve nothing less than the full realization of their right to life with the special protections their status as minors demands. Fulfilling Article 24(1)'s promise requires sustained political will, adequate resources, effective institutions, and genuine commitment to prioritizing children in national development. Only through such comprehensive efforts can Pakistan honor its obligations under the ICCPR and ensure that every Pakistani child enjoys their fundamental right to life in its fullest sense.

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