

Sustainable Development Goal 5: A Legislative and Policy Gap Analysis for Balochistan



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Leadership for Environment and Development (LEAD) Pakistan



Sustainable Development Goal 5

Achieve gender equality and empower all women and girls.

Disclaimer:

The views expressed in this publication are those of the author(s)—and the respondents interviewed during the research of which this report is a product—and do not necessarily represent those of the United Nations, including UNDP, or UN Member States.”

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Acronyms

BHU	Basic Health Units
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CrPC	Code of Criminal Procedure
CSOs	Civil Society Organizations
EDOE	Executive District Officer Education
FGD	Focus Group Discussions
FIRs	First Information Reports
FP	Family Planning
GBV	Gender Based Violence
KII	Key Informant Interviews
ICPD	International Conference on Population and Development
ICESCR	The International Covenant on Social, Economic and Cultural Rights
ICPD	International Conference on Population and Development
KP	Khyber Pakhtunkhwa
LHW	Lady Health Workers
MMR	Maternal Mortality Rate
NCSW	National Commission on the Status of Women
NDMA	National Disaster Management Authority
PACHTO	Prevention and Control of Human Trafficking Ordinance
PDMA	Provincial Disaster Management Authority
PHDS	Pakistan Health Demographic Survey
PITB	Punjab Information Technology Board
PPC	Pakistan Penal Code
RH	Reproductive Health
TFR	Total Fertility Rate
SDG	Sustainable Development Goals
SRHR	Sexual and reproductive health and rights
UNTOC	United Nations Convention against Transnational Organized Crime
UDHR	Universal Declaration of Human Rights
VAW	Violence against Women
WDD	Women's Development Department

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With as many as four focus group discussions carried out with Provincial SDG Task Force working on gender issues; legal and institutional experts; CSOs working on gender issues in Balochistan; and academics/researchers; apart from more than a dozen key informant interviews with relevant experts, it will be difficult to acknowledge each and every one of them by name in this short space. It goes without saying that each one of them, not to forget the participants of the final stakeholders workshop contributed to this report. However, we would especially like to thank Ms. Khawar Mumtaz, Chairperson, National Commission for the Status of Women for elucidating the necessary background in the national context and for key conceptual input; and Ms. Rehana Khilji, Team Leader, UN Women, Balochistan Office for underlining the peculiar issues faced by women in Balochistan and their societal drivers.

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Executive Summary

UNDP's Sustainable Development Agenda-2030 has a standalone Goal 5 for achieving gender equality and empowerment for all women and girls. The Goal 5 is about enhancing female empowerment by tackling gender discrimination issues. This report evaluates the Balochistan province's legislative readiness to achieve Sustainable Development Goal (SDG) 5. The analysis is twofold. Firstly, the study maps laws and policies that are applicable in Balochistan for enforcing the SDG 5 targets. The nine targets of goal 5 cover a wide range of issues- discrimination; violence; early and forced marriages; unpaid domestic work; participation in political, economic and public life; access to sexual and reproductive health and rights (SRHR); and access to economic resources and enabling technology. Secondly, the study evaluates the extent to which these laws and policies are being enforced. Annex H includes a short feminist critique of the SDGs.

Our legislative gap analysis for Balochistan reveals that federal legislation addresses most SDG 5 targets, even if Balochistan legislation does not (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad). Balochistan has the jurisdiction to use the federal criminal legislation where it lacks provincially. We learn that for most of the SDG 5 targets, laws and policies exist, albeit at the federal level (Marva Khan, KII, Dec 12th, 2016, Lahore). Where there are lacunas in the existing laws and policies, the study proposes recommendations for overcoming these gaps. Where the law and policy are silent, it proposes new laws and policies. The key finding is that the real challenge in Balochistan against achieving SDG 5 targets is the lack of institutions, and not necessarily the law (Action Aid, 2016; Hunt, 2016) (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad). The findings of this research are the result of extensive consultations with federal and provincial stakeholders, including civil society organisations, academics, legal experts, and members of the parliament, complemented by desk research. To this end, we have a comprehensive set of recommendations.

Key Findings and Recommendations

In order to end all forms of discrimination against women and to adopt and strengthen policies and laws for gender empowerment under broad SDG Targets 5.1 and 5.c, the most imperative, fundamental step is the change in political attitude and the political will towards issues of women's rights, equality, and empowerment (Marva Khan, KII, Dec 12th, 2016, Lahore). Women's Parliamentary Caucuses need to be reinvigorated, among other steps. Without the understanding of top leadership that women are contributors to the economy and society, all our other recommendations will be futile (Khawar Mumtaz, KII, January 27th, 2017, Islamabad).

- Balochistan needs oversight bodies that ensure accountable justice. It needs legislation that holds law enforcement officials accountable for negligence, deliberate malpractice, and improper procedure. There is a need to train the judiciary – the lower judiciary in Pakistan is often considered an impediment in the way of justice as opposed to a facilitator. Increased capacity of lawmakers is needed to help draft legislation (Khawar Mumtaz, KII, January 27th, 2017, Islamabad). These steps are particularly necessary for tackling issues of Violence against Women (VAW) i.e. Target 5.2, child, early and force marriages i.e. Target 5.3, for promoting women's equal participation and leadership opportunities in economic, social and political life i.e. Target 5.5 and for ensuring women's equal access to key economic resources and productive assets i.e. Target 5.a. Diversity in the judiciary should be enhanced by hiring more women and minority judges (Neha Gauhar, KII, Dec 18th, 2016, Lahore). In cases of VAW, addressed by Target 5.2, judges need to acquire a better understanding of the underlying causes of VAW. A model guidebook should be created in this regard (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad).
- Awareness of the law is needed among ordinary citizens. They need to know what the law is, their rights and

where the breach has taken place. Education is needed. The surest way to move ahead is investing in human capital. Training of the police is needed. The first point of contact is the police when seeking redress through a formal system (Atta ul Haq, KII, Dec 2nd, 2016, Quetta; Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad; Rehana Khilji, KII, Dec 5th, 2016, Quetta).

- There is a need for institutional reform. This includes breaking the myth that Jirgas (an assembly of tribal elders) are based on Islamic tradition, and the formal court systems are not (Character of justice in Balochistan described in Appendix G). (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad; Neha Gauhar, KII, Dec 18th, 2016, Lahore).
- In order to promote the recognition and valuation of women's unpaid care and domestic work i.e. Target 5.4, there is a need for gender mainstreaming in essential public services and infrastructure, and a shift in cultural attitudes (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad; Marva Khan, KII, Dec 12th, 2016, Lahore; Zahid Mengal, KII, Dec 15th, 2016, Quetta).
- Women's sexual and reproductive health rights (SRHR) i.e. Target 5.6, should be promoted through national advocacy campaigns, improved Lady Health Workers (LHW) programs and enhanced access to Basic Health Units (BHUs) in remoter areas, among other initiative (Benazir Jatoi, KII, Jan 20th, 2017, legal consultant, Islamabad; Saima Javed, KII, 16th Dec, 2016, Quetta).

The study methodology is described in detail in Appendix I. The study is based on extensive desk research, complemented by primary research through Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs) with a range of stakeholders at the Federal and Balochistan level. These include members of CSOs, academics, legal experts and members of the parliament. The study findings have been vetted by a prominent legal consultant (See Appendix I & II). (Abdul Zahid, KII, 27th Dec, 2016, Quetta).

Key Findings

Implementation challenges are the most critical legislative gap in achieving SDG 5 Targets in Balochistan. These include institutional, political, legal and social barriers to accessing the formal justice system in Balochistan.

Institutional barriers

It is important to note that access to justice requires that every citizen has the same admittance to the system and that the law is applied equally to all citizens. There are constitutional provisions in Pakistan to ensure such rights. However, the practical realisation of these provisions is absent in Balochistan and countrywide. Access to justice in the province is unequal and based on power and money dynamics. It excludes the vast majority of people, including women and girls. Unequal access also includes the lack of proper training of the police and the judiciary. The lower judiciary is often ill-informed of the law, particularly with regard to new laws related to women. There are very few minority judges and very few women judges in the judiciary. The training capacity is insignificant and independent oversight is weak. Mechanisms within and between institutions are mostly ill-coordinated (Abdul Rahim Changezi, KII, Dec 14th, 2017, Quetta; Khawar Mumtaz, KII, January 27th, 2017, Islamabad). The procedures are expensive and cumbersome. The physical access to the police and courts is a key reason for people to choose alternative justice systems. The delays in court procedures, often lasting more than one generation, have left people disillusioned and looking for alternative dispute resolution mechanisms that provide swift results. In general, the judiciary lacks understanding that justice must be served to the people (Benazir Jatoui, KII, Jan 20th 2017, legal consultant, Islamabad; Farid Ahmed, KII, Dec 20th, 2016, Quetta) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

Political barriers

Political will is the only sustainable way reforms are possible. Pakistani leadership at the federal and provincial level, whether democratic and representative or dictatorial, has lacked the political will to change things (Abdul Zahid, KII, 27th Dec, 2016, Quetta; Atta ul Haq, KII, Dec 2nd, 2016, Quetta; Benazir Jatoui, KII, Jan 20th 2017, legal consultant, Islamabad). This includes imperatives such as tackling corruption, reforming institutions such as law enforcement agencies and standard setting bodies and empowering the ordinary citizen. There is a lack of political will at the provincial level about women's equality and empowerment. Political party manifestoes do not clearly spell out their gender policy mandate. The low priority given to gender issues by the ruling political party, which generally has the strongest influence on budgetary allocations, means that the finance division allocates negligible funds to gender issues. The challenges of budgetary allocation are hence significant (Khawar Mumtaz, KII, January 27th, 2017, Islamabad). Moreover, the classification of A and B areas in the Balochistan province creates issues of law enforcement through formal justice systems (Neha Gauhar, KII, Dec 18th, 2016, Lahore). (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants) (See Annex G for further details).

1. "There are women's commissions in other provinces, but in Baluchistan the government is not very proactive about such initiatives." (SDG 5, KII).
2. "There is no implementation of the laws and policies (that have been formulated in Balochistan) ... no cases have been reported against any of the Acts that have been passed until now and no commissions have been set up. Last February they passed (women-friendly) laws... there is no doubt the laws are good... but the implementation is the biggest challenge."
3. "A lot of laws are passed for political number-scoring, which is why there is not much implementation... because the laws are not passed for that purpose to begin with. The general trend is to first pass the law and then later decide what to do with it. That is the main reason there isn't any implementation (of laws and policies)" (SDG 5, KII).
4. There is a serious lack of resources, and there are outreach issues because of very low population density in large parts of the province." Rehana Khilji, KII, Dec 5th, 2016, Quetta).

Legal barriers

Due to gaps in the legal framework, Pakistan has failed to protect the most vulnerable sections of society from breaches of constitutional guarantees, fundamental human rights and international obligations. Unjust and discriminatory laws, such as Qisas (the right of a murder victim's nearest relative or legal guardian to, if the court approves, take the life of the killer) and Diyat (the financial compensation paid to the victim or heirs of a victim in the cases of murder, bodily harm or property damage) provisions in the Pakistan Penal Code (PPC), half testimony of women under Law of Evidence, the Hudood Ordinances, the Blasphemy Law, the major flaw of compromise and forgiveness in honour-related crimes discriminate against women, girls, and religious minorities. The lacunas have been mentioned in part 4 of this report in detail, with gaps mentioned against each law discussed (Benazir Jatoi, KII, Jan 20th 2017, legal consultant; Neha Gauhar, KII, Dec 18th, 2016) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants). (See Annex G for details on Character of Justice in Balochistan).

Social barriers

Societal attitudes and fear of reprisal, due to customs and norms restrict people, particularly women and girls from going out of their house in Balochistan. The lack of awareness of one's rights, of the police and court systems, are daunting and often shied away from for these reasons. Court structures are also very un-women friendly and, therefore, looked at with unease by women and their families (Marva Khan, KII, Dec 12th, 2016, Lahore; Neha Gauhar, KII, Dec 18th, 2016, Lahore) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

5. A big problem with law-making is that there are a lot of legal loopholes and lot of contradictory legislation. We have the parallel (streams of) British law, then we have the Hadood laws from the wave of Islamization, and in addition to that we have the Federal Shariat Courts, and 4th stream is the informal justice systems such as jirgas etc." (Neha Gauhar, KII, Dec 18th, 2016, Lahore).
6. "Cultural impacts are very significant in Balochistan. A woman who experiences violence cannot usually complain because of societal barriers- in many cases she will be going directly against her own family. It's a tribal society and the tribal influence is very strong"(Zahid Mengal, KII, Dec 15th, 2016, Quetta).

Legislative Readiness for SDG 5

The legislative mapping below synthesises the analysis on Balochistan's legislative readiness to achieve SDG 5 goals. The following key points emerge with regard to the province's readiness for SDG targets:

1. Federal legislation addresses most SDG 5 targets, if not legislation at the Balochistan level (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad).
2. Balochistan has the jurisdiction to use the federal criminal legislation where it lacks at the provincial level. The absence of provincial laws specific to SDG 5 targets does not mean Balochistan is lacking in that area. The real issue is what laws, whether federal or provincial, exist and how are they being implemented in the province (Marva Khan, KII, Dec 12th, 2016, Lahore).
3. Our analysis reveals that where Balochistan actually lacks with respect to SDG 5 targets is in institutions, not necessarily the law (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad). (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

Target 5.1 End all forms of discrimination against all women and girls everywhere

NOTE: All legislation mentioned below help to curb the discrimination gap between the sexes in Pakistan. We wish to mention under this target 1. Pakistan Citizenship Act 1951, partially amended in 2001, 2. The Women in Distress and Detention Fund (Amendment) Act 2011

Relevant International Treaties ratified by Pakistan: Convention on the Elimination of all forms of Discrimination against Women (CEDAW), International Conference on Population and Development and its Programme of Action, The Beijing Declaration and Platform for Action, Convention on the Rights of the Child, The International Covenant on Social, Economic and Cultural Rights, Universal Declaration of Human Rights, United Nations Convention against Transnational Organized Crime (UNTOC)

Target 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

Federal Legislation

Constitution of the Pakistan 1973, The Criminal Law (Amendment) Act 2004 ('honour' crimes), & The Criminal Law (Offences in the Name or Pretext of Honour) Act (Act XLIII of 2016), Protection of Women (Criminal Laws Amendment) Act 2006, The Criminal Law (Amendment)(Offences Relating to Rape) Act 2016 (Act XLIV of 2016), Criminal Law (Amendment) Act 2010 (sexual harassment), Qanun-e-Shahadat Order 1984 (Law of Evidence), Hudood Ordinance 1979, Criminal Law (Second Amendment) Act 2011 (Acid Crimes), Criminal Law (Third Amendment) Act 2011 (Anti-Women Practices), National Commission on the Rights of the Child Act, 2015, The Hindu Marriage Act, 2015, Code of Criminal Procedure Act, 1898, Hudood Ordinance, 1979, The Family Courts (Amendment) Ordinance 2002. Prevention and Control of Human Trafficking Ordinance (PACHTO) 2002.

Balochistan Legislation

The Balochistan Domestic Violence (Prevention and Protection) Act, 2014. Federal legislation applies to all other aspects of Target 5.2. Policy backing provided by Balochistan Women's Development Department (WDD) Gender Equality Framework 2012-2016

Persisting Gaps in Balochistan

Balochistan does not have localized laws to achieve Target 5.2. Federal laws are applicable, but they do not account for the unique provincial context. Implementation of extant federal and Balochistan legislation is the most critical challenge. The Gender Empowerment Framework 2016-2020 provides policy backing for Target 5.2 goals, but challenges of comprehensiveness and implementation persist.

Target 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation

Federal Legislation: Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011, Dissolution of Muslim Marriages Act, 1939, Family Courts (Amendment) Act, 1971, Muslim Personal Law (Shariah) Application Act, 1948 (Act IX of 1948), Muslim Personal Law (Shariah) Application Act, 1962 (Act V of 1962).	Balochistan Legislation: None. Pending Bills: Balochistan Child Protection and Welfare Bill, Balochistan Child Marriages Restraint Bill, Prohibition of Child Marriages Bill Balochistan.
Persisting Gaps: Balochistan does not have any localized laws to achieve Target 5.3 goals. Federal laws are applicable. Implementation of extant federal legislation is the most critical challenge, together with the fact that federal legislation does not account for the unique Balochistan context.	

Target 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate

Federal Legislation: Muslim Family Laws Ordinance, 1961, Family Courts Act, 1964, The Family Courts (Amendment) Ordinance, 2002, (Ordinance LV of 2002)	Balochistan Legislation: None. Federal legislation applies to all other aspects of Target 5.4.
Persisting Gaps: Balochistan does not have any localized laws to achieve Target 5.4 goals. Federal laws are applicable. Implementation of extant policies and federal legislation is the most critical challenge, together with the fact that federal legislation does not account for the unique Balochistan context.	

Target 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

Federal Legislation: Protection against Harassment of Women at Workplace (Amendment) Act, 2014, National Policy for Development and Empowerment of Women.	Balochistan Legislation: Harassment against Balochistan Women at Workplace Act, 2016. Federal legislation applies to all other aspects of Target 5.5. Policy backing provided by WDD Gender Equality Framework 2012-2016.
Persisting Gaps: The most significant legislative challenges pertain to the implementation of extant local laws and policies.	

Target 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

Federal Legislation: Pakistan's Population Programme (National Reproductive Health Services Package)	Balochistan Legislation: The Balochistan Protection and Promotion of Breast-Feeding and Child Nutrition Act, 2014. Federal legislation applies to all other aspects of Target 5.6. Policy backing provided by WDD Gender Equality Framework 2012-2016
Persisting Gaps: Implementing institutions for putting the laws and policies into practice are missing	

Target 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws

Federal Legislation: Muslim Personal Law (Shariat) Application Act, 1962, Succession Act 1925, Specific Relief Act, 1877, Land Revenue Act, 1967, Criminal Law (Third Amendment) Act, 2011 Balochistan Legislation: None. Federal legislation applies to all other aspects of Target 5.a. Policy backing provided by WDD Gender Equality Framework 2012-2016	Balochistan Legislation: None. Federal legislation applies to all other aspects of Target 5.a. Policy backing provided by WDD Gender Equality Framework 2012-2016
Persisting Gaps: Balochistan does not have any localized laws to achieve Target 5.a goals. Federal laws are applicable. Implementation of extant policies and federal legislation is the most critical challenge, together with the fact that federal legislation does not account for the unique Balochistan context	

Target 5.b Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women

Federal Legislation: The Protection of Cyber Crimes Act, 2014, The National Cyber Security Council Bill, 2014	Balochistan Legislation: None. Federal legislation applies to all aspects of Target 5.b. Policy backing provided by WDD Gender Equality Framework 2012-2016
Persisting Gaps in Balochistan: Balochistan does not have any localized laws to achieve Target 5.a goals. Federal laws are applicable. Implementation of extant policies and federal legislation is the most critical challenge, together with the fact that federal legislation does not account for the unique Balochistan context.	

Target 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels: All the above applies

All the above applies

Legislative Gaps

This section includes a detailed analysis of our legislative gap analysis, organised by thematic chapters/sections. This target-wise situation analysis includes information on existing laws and policies about SDG 5 Targets at the federal and provincial level. The section includes a commentary on the compatibility of provincial and federal laws vis-a-vis the achievement of SDG 5 targets. The substantive gaps in the law and policy will be discussed. This will be followed by an analysis of the implementation challenges that hinder most legislation from coming into life in Balochistan. Annexe A includes detailed target-specific information on the provincial context and implementation challenges regarding each SDG 5 Target.

TARGET 5.1: Discrimination

End all forms of Discrimination against all Women and Girls Everywhere

All pro-women laws enacted at the federal and provincial level help to bridge the gender discrimination gap addressed in Target 5.1. Therefore, the laws mentioned in this section are directly related to Target 5.1 at the same time as they relate to their specific SDG 5 target subsections. The laws mentioned in this section help to address the gender discrimination that results in violence, early and forced marriages, unpaid domestic work, skewed participation in political, economic and public life, poor access to sexual and reproductive health and rights, and lack of access to other economic resources and enabling technology.

The Constitutional of Pakistan 1973 enshrines fundamental human rights for all citizens of Pakistan. Provisions related to these fundamental rights are provided for in Chapter 1 of the Constitution. Articles specific to SDG 5 include:

Chapter 1 of the Constitution includes the following Articles on fundamental human rights:
Article 8 – Laws inconsistent with or in derogation of Fundamental Rights to be void
Article 9 – Security of Person
Article 11 – Slavery, Forced Labour prohibited
Article 12 – Punishment against retrospective punishment
Article 14 – Inviolability of man, etc.
Article 18 – Freedom of trade, business or profession
Article 23 – Provision as to property
Article 24 – Protection of property rights
Article 25 – Equality of citizens
Article 26 – Non-discrimination in respect of access to public places
Article 27 – Safeguard against discrimination in services
Chapter 2 of the Constitution is titled Principles of Policy where relevant organs of the State must adhere to the principles laid out. Relevant to SDG 5 the Articles under this chapter include:
Article 34 – Full participation of women in national life
Article 35 – Protection of family, etc. This Article especially includes the protection of the mother and child
Article 37 – Promotion of social justice and eradication of social evils
Article 38 – Promotion of social and economic wellbeing of the people

In addition to these overarching constitutional provisions for ending discrimination against women, there are various international treaties and agreements endorsed by successive governments to bind the country to gender equality goals. Key international agreements ratified by the Pakistani government include the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the International Conference on Population and Development and its Programme of Action, The Beijing Declaration and Platform for Action, Convention on the Rights of the Child, The International Covenant on Social, Economic and Cultural Rights and Universal Declaration of Human Rights, not to mention our commitment to the Sustainable Development Goals (Aurat Foundation, 2014; Khan, 2009) (Atta ul Haq, KII, Dec 2nd, 2016; Farid Ahmed, KII, Dec 20th, 2016). (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

At the federal level, there are various laws that complement the constitutional provisions regarding gender equality. After the 18th Constitutional Amendment, the devolution of power from the federal to the provincial governments has given provincial legislatures the leeway to enact laws that address local conditions and help contextualize overarching constitutional provisions and international treaties to the local milieu (Aurat Foundation, 2014; Khan, 2009).

The wave of pro-women laws, as they are commonly referred to, started in 2004, with the recognition of 'honour' crimes as a criminal offence (Marva Khan, KII, Dec 12th, 2016, Lahore; Neha Gauhar, KII, Dec 18th, 2016, Lahore). Since then several pro-women criminal laws and amendments have been enacted in the Pakistan Penal Code and the Code of Criminal Procedure 1898. In 2016, an important amendment was introduced to the Criminal Procedure Code 1898 through the inclusion of section 161A. This amendment made it a legal requirement to provide rape victims free legal representation. This is elaborated upon further in the section on Target 5.2. The Women in Distress and Detention Fund Act 1996 was also amended in 2011 (Aurat Foundation, 2011; 2015). Under this amendment, the distress and detention fund managed by the Federal Ministry of Human Rights allows detained women access to funds and legal assistance. The 2011 Act is significant since free legal aid is one of the fundamental steps towards bridging the gender discrimination gap in a country where women face widespread disparities against accessing the criminal justice system (Hunt, 2016; Shaukat. 2016).

TARGET 5.c: Developing Sound Policies and Enforceable Laws

Adopt and Strengthen Sound Policies and Enforceable Legislation for the Promotion of Gender Equality and the Empowerment of all Women and Girls at all Levels

The general provisions of the Balochistan WDD Gender Equality Framework 2016-2020 apply to Target 5.c goals in addition to all federal and provincial legal provisions. These provisions are discussed in detailed below under each SDG Target section.

TARGET 5.2: Ending Violence against Women

Eliminate all Forms of Violence against all Women and Girls in the Public and Private Sphere, including Trafficking and Sexual and other types of Exploitation

The National Commission on the Status of Women (NCSW) in Pakistan has established violence related indicators through an extensive consultative process that involved the Gender Equity Programme and all relevant provincial departments including the Balochistan Women's Development Department (Khawar Mumtaz, KII, January 27th, 2017, Islamabad). The Violence against Women (VAW) categories developed under this program include the following:

Physical violence: Beating, Choking, burning or throwing acid or other corrosive substances at her, Using a knife, gun or another weapon against her, Forced abortion or forced pregnancy Disfigurement (face-nose/ears/ lips, chopping or mutilating genitalia or other body parts), Nutritional Deprivation and others

Harmful Customary Practices: 'Honour' Killing/ Karo-kari (Sindhi term for 'honour' killing), Stoning, Lashing, Vani/Swara (young girls are forcibly married to members of different tribal clans in order to resolve blood feuds), Badl-i-Sulh (as a consideration for dispute settlement), Watta Satta (involves the simultaneous marriage of a brother-sister pair from two households), Marriage to Quran, Demanding dowry, Demanding 'bride price', Forced marriages (including early marriages) and others

Sexual Violence: Rape, Attempted Rape, Other sexual acts including sexual harassment, trafficking, kidnapping with intent to sexual abuse, cyber crimes and others.

Psychological Violence: Emotional Abuse and Controlling Behaviour

Economic Violence: Denial or threat of access to financial resources, access to property, inheritance and durable goods, access to the labour market and education, participation in decision-making relevant to economic status, control over income/or taking control of her income, alimony or financial support for the family, thereby exposing her to poverty and hardship

Violence against Women in the Political Arena: Denial of participation in all political related matters and Coercion or threat of violence.

Incidence of Violence against Women in Balochistan

In 2014, a breakdown of provincial shares by various VAW categories revealed that Balochistan accounted for merely 0.28 percent of the overall cases of women's kidnappings, 2.86 percent of abductions, 0.26 percent of overall rape instances, 2.26 percent of suicides, 10.8 percent of 'honour' killing cases, 6.07 percent of domestic violence related cases, 7.69 percent of acid throwing cases and 1.11 percent of miscellaneous other cases of VAW (Aurat Foundation: Annual Report, 2014; Shaukat. 2016). (See Annex A for detailed information on VAW in Balochistan).

A simplistic analysis of these figures would lead to the conclusion that Balochistan has relatively low incidences of VAW compared to the rest of Pakistan. However, it should be noted that Balochistan accounts for merely 7.46 percent of the country's overall population. Proportionately, the number of reported cases of VAW in Balochistan could, therefore, be high relative to the rest of the country. The strong influence of tribal customs and the predominance of informal justice mechanisms such as Jirgas in Balochistan are also key factors behind the low number of reported cases of VAW in the province (NCSW, 2016).

Analytical Assessment of 'Honour' Crimes Legislation and Specific Implementation Challenges

Honour' Crimes Legislative Gap Analysis: Federal Level

In 2004, the National Assembly enacted the Criminal Law (Amendment) Act 2004, which came into force in 2005. This Act recognized murder committed in the name of 'honor' or "on the pretext of karo kari, siyah care or other similar customs or practices" as criminal offences under the Chapter XVI, Of Offences Affecting the Human Body, Pakistan Penal Code (PPC), 1860 and the Criminal Procedure Code (CrPC). It was welcomed that the Act recognised 'honour' crimes as a criminal offence. However, there were serious loopholes with this law. A joint

sitting of Parliament further amended the law in 2016. Unfortunately, the law still lacks basic provisions to convict an accused that openly admits to the murder, often without any mitigating factors (Al-Jazeera. 2016; Bilal, 2016; Boone, 2016; Malik, 2016).

As it presently stands, the law on 'honour' crime is recognised as murder or attempted murder and is an aggravating factor of the offence. Aggravating circumstances are addressed in the principle known as fasad-fil-arz in the PPC. This principle includes the past conduct of the offender, including misdeeds that may outrage the public conscience and those offences committed in the name or pretext of 'honour'. The fasad-fil-arz principle may only be attracted at the discretion of the judge. The 2004 law also recognised that the heir to the victim (wali) may be the Government.

The most glaring discrepancy in this law, which the 2016 amendments to the Criminal Procedure Code 1898 were unable to address, is that under the law the accused may be pardoned under Qisas and Diyat laws. The law is still compoundable, which leaves room for compromise, forgiveness, and pardon. This means that the accused may be forgiven or the victim's heirs may reach a compromise. The very fact that the family may forgive the accused takes away from the criminal nature of the offence and allows an offence against the State to become a private family matter (Boone, 2016; Chen, 2016).

Section 311 of the Criminal Law (Amendment) Act 2004 states that if the right of qisas is waived against the accused (where all heirs of the accused do not waive or compound the right of qisas) and the principle of fasad-fil-arz (mischief on earth) is attracted, the accused may be convicted to life imprisonment. This punishment is not, however, mandatory and again is at the discretion of the judge.

Legal practitioners, however, say that a case in a court of law never gets as far as section 311. The family and heirs of the victim almost always settle the matter, pardoning the accused. Furthermore, a judge trying 'honour' related cases has often accepted the defence of 'grave and sudden provocation'. Though more recent case law shows that this defence is being questioned or outrightly rejected by various courts across the country (Al-Jazeera. 2016; Bilal, 2016) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad; Neha Gauhar, KII, Dec 18th, 2016, Lahore).

Another glaring flaw with this law is that First Information Reports (FIRs) registered by the police do not mention the terminology 'honour crimes' and therefore do not invoke the right legal provisions. An astute judge should not, however, use this pretext as an escape from recognising the crime as one committed under the motivation of 'honour' but a wrong or inadequate FIR weakens the prosecution's case. It is seen that the police, often the first point of contact with the victim, encourages out of court settlements in such cases. Even when a case reaches court, it is possible for the parties to come to a settlement at any point, making the whole court process futile (Asad, 2016; Boone, 2016; Chen, 2016; Laraib, 2016).

'Honour' Crimes Legislative Gap Analysis: Balochistan Level

Interestingly, it was the Balochistan High Court in 2012 that posed an alternative solution that will make it more difficult for an offender of 'honour' crimes to invoke qisas and diyat laws or use the defence of 'grave and sudden provocation'. In Sher Ahmed v. Khuda-e-Rahim, 2012 MLD 158, where a woman was killed along with her alleged partner, the High Court directed the Sessions Court to transfer the case to the Anti-Terrorism Court

under Section 5A (7) of the Suppression of Terrorist Activities (Special Courts) Act, 1975. The Court stated that this was as per section 6 (ii) of the Anti-Terrorism Act which stated that “taking the law in own hands, the award of any punishment by an organisation, individual or group whatsoever not recognised by the law, coercing, intimidate or terrorise...” (Sattar, 2015). Under the 1975 Act, the right of qisas and diyat are not applicable provisions (Rahman et al. 2014; Shaukat, 2016).

Again, in 2012 it was the Balochistan High Court in Khadim Hussain and another -v- the State that stated compromises sanctioned outside of the court had no value unless sanctioned by a court (Sattar, 2015).

These judgments, though limited, are signs that the Balochistan judiciary is far ahead of many other provincial courts in cases of 'honour' related crimes. It is, however, important to have stricter legal provisions to leave less room for the discretion of the judge. This is because patriarchal mindsets regarding 'honour' crimes, even within the judiciary, allow those who are executing and implementing the law to frame such offences as private family matters. This is frequently achieved by omitting the word 'honour' crime at the time the offence is filed or in court. Past Supreme Court case law has highlighted that there is a need to distinguish murder from a murder committed in the name of 'honour' (Asad, 2016; Boone, 2016; Sattar, 2015).

A crime against the State, where a vulnerable member of society has become a victim, should invoke the State's authority to ensure that justice is served. The Balochistan High Court has demonstrated a proactive and insightful understanding in this regard by invoking wider interpretations of the law, irrespective of the flaws in the law. This momentum in the judiciary should be highlighted to provincial legislatures and taken forward by them. This can be achieved either by creating strong judgments and hence legal precedents, or by allowing these judgments to be the basis for further stricter provincial laws to tighten the present loopholes in the PPC (Sattar, 2015) (Khawar Mumtaz, KII, January 27th, 2017, Islamabad; Rehana Khilji, KII, Dec 5th, 2016, Quetta).

Assessment of Rape Crimes Legislation and Specific Implementation Challenges

Rape Crimes Legislative Gap Analysis Federal Level:

Overtime, rape has been regulated in Pakistan under the Hudood (restricting) Ordinance, 1979. The Ordinance sought to enforce punishments prescribed in the Shariah law for adultery/fornication (zina), rape (zina-bil-jabr) and false accusation of zina (qazf) (Marva Khan, KII, Dec 12th, 2016, Lahore; Neha Gauhar, KII, Dec 18th, 2016, Lahore).

The zina offences encompass kidnapping, attempted rape, abetment of zina crime, deceitful marriage and conspiracy to engage in prostitution. Under the Zina Ordinance, a hadd (restriction) punishment for zina is applicable if eyewitness account of a minimum of four male witnesses who meet a certain standard of moral uprightness (tazkiyah al shuhood i.e. truthful and non-sinning) is produced or if the accused confesses before the court. However, if such evidence is not produced, but the zina crime is established beyond reasonable doubt, then the lighter punishment of tazir⁷ is applicable (Donaldson, 2015; Hudood Laws: The Constitution of 1973; Pakistan Penal Code, Act XLV of 1860 Rahman et al. 2014).

Hence rape, zina-bil-jabr, was made liable to the hadd or tazir penalty depending on the type of proof available. The implementation of the Hudood laws over the decades resulted in women being charged with

7. Punishment for offenses at the discretion of the judge (Qadi) or ruler of the state; it is one of three major types of punishments or sanctions under Sharia Islamic law

adultery/fornication if they reported a case of rape, as their report was regarded as a confession. The judicial implementation of the Hudood laws also made it easier to get away with other crimes against women such as honour killings and general dishonour in the society. The Women Protection Act, 2006 remedied some of the most egregious ramifications of the Hudood Ordinance, even though it did not repeal the Ordinance.

The 2006 Act severed the link between rape and the various categories of zina offences. Simply put, the offence of rape was removed from under Zina Ordinance and rehoused in the PPC. Moreover, the legislation passed the jurisdiction for rape cases from religious to civil courts. This ensured women bringing charges of rape could no longer be implicated for zina. This particular delinking of the laws was one of the greatest services of the legislatures at the time (Hudood Laws: The Constitution of 1973; Pakistan Penal Code, Act XLV of 1860).

Changes to the CrPC also entailed that offences relating to a false accusation of zina under the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979, can now be filed directly through a complaint in Sessions Court and the police does not need to be approached to take up and register the incident. This amounts to a recognition of the police as a hindrance in the process, enabling greater access to the victim.

The factor that has not been considered, however, is whether the physical access of a woman to a police station is easier than access to a session court. Women in remote areas of Balochistan will find it difficult to reach a sessions court to file such a complaint (Sattar, 2015; WDD, 2016). Greater discussion around access to justice is discussed below.

The Code of Criminal Procedure (Amendment) Act 2011 afforded relief to hundreds of women languishing in jails under unsubstantiated charges of zina for indefinite periods. This Act amended relevant sections of the Code of Criminal Procedure Act, 1898 and repealed the Code of Criminal Procedure (Amendment) Ordinance 2010 to provide relief to inmates whose cases had been pending in jail for years due to backlogs in the system (Rahman et. al, 2015) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad).

The Criminal Law (Amendment) (Offences Relating to Rape) Act 2016

A joint sitting of parliament in 2016 further amended the 2006 Act. The new law is known as the Criminal Law (Amendment) (Offences Relating to Rape) Act 2016. This law has introduced many welcome developments in the PPC 1860, CrPC, 1898 and the Qanun-e-Shahadat⁸ Order, 1984. The first important development is that the executive branch of government, which is often the first point of contact with a rape victim, has been recognised by the law as playing a major role in hindering the eventual court process. To this end, penalties have been tightened, and in other places new penalties have been introduced in the PPC for public servants if they disobey, obstruct or are negligent during their investigation. The PPC has also been amended to include life imprisonment or death sentence charges for a public servant, medical officer or jailer who takes advantage of his/her position and commits rape against a victim. The same penalty applies to anyone found guilty of raping a minor, disabled person or victim found to be of unsound mind (Rahman et al. 2014; Sattar, 2015).

The amendments also include penalties for those who disclose the identity of a rape victim. An additional section added to the PPC includes the introduction of a systemic examination of the accused and the rape victim. This provision goes on to state that DNA profiling will be included as a form of evidence in a court of law.

Further to this, the trial must now be carried out in in-camera trials. If the identity of the victim is to be protected, video links are now allowed under the law. The time frame for the conclusion of the trial has also been added in

8. A compendium of rules of procedure/practices according to which the court is to record evidence of the parties

the CrPC. The trial is now to be concluded within three months, “failing which the matter shall be brought by the Court to the notice of the Chief Justice of the High Court concerned for appropriate directions”. The recommendations for DNA testing and in-camera trials that were incorporated into this legislation were first highlighted in a Supreme Court judgment in 2013 (Salman Akram Raja v the Government of Punjab through Chief Secretary and Others) (Sattar, 2015; The Criminal Law (Amendment) (Offences Relating to Rape) Act 2016).

Under 154 of CrPC, 1898, a female officer or a female member of the victim's family must be present while the victim provides information to the investigating officer. It has also been recognised that access to justice is as important as the law itself. Thus police officers under a new CrPC provision – section 161A Legal Representation of the Rape Victim – are required to inform the rape victim that she/he has the right to legal representation and free legal aid. If the victim so requires, the police officer 'shall provide the list of lawyers maintained by the Provincial Bar Councils for this purpose' (Pakistan Code of Criminal Procedure 1898); The Criminal Law (Amendment) (Offences Relating to Rape) Act 2016).

Perhaps the most progressive step taken under this Act has been the omission of the Qanun-e-Shahadat Order, 1984. The Act has omitted the controversial section 151 (4), which reads: “it may be shown that the prosecutrix was of generally immoral character.” Past instances of case law have demonstrated that this clause was frequently used by the defense to weaken the prosecution case in rape-related matters. In a society that is obsessed with a women's moral character, this provision sanctioned the humiliation of those involved in cross-examination. It also provided a reason to justify rape by bringing in the past conduct of a rape victim. The omission of this clause has also allowed Pakistan to keep in line with international best practices in rape-related matters and constitutional provisions that highlight gender equality and equality of all citizens before the law (The Criminal Law (Amendment) (Offences Relating to Rape) Act 2016).

This law should help to deter and eliminate incidents of violence, in particular regarding rape-related cases, as specified in SDG Target 5.2. By providing for the addition of free legal representation under CrPC for the rape victim and the omission of section 151 (4) of the Qanun-e-Shahadat Order 1984, the Act brings us one step closer to bridging the gender discrimination gap mentioned in SDG Target 5.1.

Persisting Legislative Gaps:

The Criminal Law (Amendment) (Offences Relating to Rape) Act 2016

The Act has incorporated a new section, 376A, into the PPC under which the identity of the rape victim cannot be disclosed except in certain circumstances including, “by or with authorization in writing of the victim” or “by or with the authorization in writing of natural or legal guardian of the victim where the victim is dead or a minor or of unsound mind.” The identity of the victim should not be revealed and this should be subjected to any exceptions through further amendments in the Act. Rape victims experience various psychological stages. Often, there is a stage where victims, out of anger, want to reveal their incident publicly. Furthermore, victims may be pressurised, for instance, by the media to disclose their identity. This could hinder and create unnecessary influences on the legal process and could be seen to take away the benefits of this clause (Pakistan Penal Code, Act XLV of 1860) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad; Neha Gauhar, KII, Dec 18th, 2016, Lahore).

Moreover, the definition of rape under section 375 of the PPC has not been amended to include marital rape by the Criminal Law (Amendment) (Offences Relating to Rape) Act 2016. Therefore, the Act falls short of a comprehensive definition that considers present day realities in the country (Shaukat. 2016). Another major discrepancy in the law is under the Hudood Ordinance 1979, whereby the offence of qazf (false accusation of zina) still stands, without any understanding of the failure of its practical implementation. Under Section 6(2) of The Offence of Qazf (Enforcement of Hadd) Ordinance, 1979, making a false accusation of zina may result in an automatic penalty. This is because Section 6 (2) allows the judge to pass sentence if, “satisfied that the offence of qazf liable to hadd has been committed” (Hudood Laws: The Constitution of 1973; Pakistan Penal Code, Act XLV of 1860).

Rape Crimes Legislative Gap Analysis Balochistan Level:

According to the 2014 Aurat Foundation VAW report, Balochistan accounted for merely 0.26 percent of the cases of rape countrywide and had no reported cases of sexual assault⁹ (Aurat Foundation: Annual Report: 2014). As alluded to earlier, the reporting of sexual assault crimes is discouraged by deep-rooted notions of family and women's honour, and the shame and stigma such cases can bring to the family and the community. As a result, such cases are mostly dealt through informal institutions of justice such as jirgas (Donaldson, 2015) (See appendix G for further details on informal institutions of justice in Balochistan).

Post 18th Amendment, no laws regarding sexual violence and rape have been passed in Balochistan. In the absence of provincial legislation, federal legislation on rape applies to the province. By enacting legislation at the provincial level, the Balochistan assembly can overcome the current shortcomings of federal legislation on rape and sexual assault. Moreover, legislation passed at the provincial level can be tailored to the province's unique cultural and socio-economic context. This will ensure greater chances of implementation (Abdul Zahid, KII, 27th Dec, 2016, Quetta; Atta ul Haq, KII, Dec 2nd, 2016, Quetta).

Sexual Harassment Crimes Legislation and Specific Implementation Challenges:

Sexual Harassment Crimes Legislative Gap Analysis Federal Level:

Section 354 of the PPC chapter XVI-A penalises “assault or criminal force to woman with intent to outrage her modesty.” If found guilty, the accused may be punished for a maximum of two years, or a fine, or both. Section 345A under the same chapter of the PPC penalises “assault or use of criminal force to the woman and stripping her of her clothes.” If found guilty, the accused may be punished with death or with life imprisonment and may be liable to a fine (Pakistan Penal Code, Act XLV of 1860).

The Criminal Law (Amendment) Act, 2010 introduced Chapter XXI, Section 509, in the Pakistan Penal Code, 1860 to address the offence of sexual harassment. Section 509 is titled 'Insulting the modesty or causing sexual harassment' and is divided into two parts. Part one deals with the intent to insult the “modesty of a woman by words, makes any or gestures, or exhibits any object” so that the action or words will intrude upon the privacy of the woman. Part two states that sexual harassment will be defined to include sexual advances, demanding of sexual favours or any verbal or non-verbal communication that intends to annoy or intimidate a woman (Rehman et al. 2015).

Section 509 specifically recognised sexual harassment as a criminal offence. It refers to offences that are

9. “In Baluchistan the civil society is very weak. Political issues in the province are creating many problems for CSO. This sector is shriveling up” (SDG 5, KII).

committed in the public sphere, including a workplace, market, public transport, parks and/or streets. The punishment for anyone found guilty of the offence is a maximum imprisonment of three years, a fine of Rs. 500,000, or both (Rehman et al. 2015).

The Protection of Harassment of Women at the Workplace Act 2010 adopted Section 509 of the PPC. The Workplace Act is an independent Act, not adding nor amending the PPC. This law requires a complainant mechanism, through the establishment of an inquiry committee, to be set up by all organisations (Rehana Khilji, KII, Dec 5th, 2016, Quetta). The definition of organization entails all, “Federal or Provincial Government Ministry, Division or Department, a corporation or any autonomous or semi- autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution” (The Protection of Harassment of Women at the Workplace Act 2010).

The Act lays out how the committee should be constituted and its various powers. Section 7 of the Act mandates the appointment of an Ombudsman at the federal and provincial levels. The appointment must be a person who has either served as a High Court judge or is qualified to be appointed as a High Court judge. The appointee has the right to decide whether to take the case to the inquiry committee or the Ombudsman. Section 10 of the Act provides that, “The Ombudsman shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908)” (The Protection of Harassment of Women at the Workplace Act 2010).

The Protection of Harassment of Women at the Workplace Act, 2010 has made it mandatory that all employers/organisations must incorporate the Code of Conduct for addressing workplace harassment, in addition to setting up inquiry committees. The Code has been provided for in the Act as a basic minimum requirement that may be further tightened to address workplace harassment (The Protection of Harassment of Women at the Workplace Act 2010).

Sexual Harassment Crimes Legislative Gap Analysis Balochistan Level

According to the Aurat Foundation 2014 VAW report, Balochistan had no reported cases of sexual harassment (Aurat Foundation: Annual Report, 2014). As described in a previous section, deep-rooted notions of family and women's honour and the shame and stigma it may bring to the family and community discourage the reporting of such crimes that are mostly dealt through informal institutions of justice. Post 18th Amendment, no laws on sexual violence and rape have been passed in the province. In the absence of provincial legislation, federal legislation on rape applies to the provinces. By enacting legislation at the provincial level, the Balochistan assembly can overcome the current shortcomings of federal legislation regarding rape and sexual assault (Saima Javed, KII, 16th Dec, 2016, Quetta).

Assessment of Domestic Violence Crimes and Specific Implementation Challenges

Domestic Violence Crimes Legislative Gap Analysis Federal Level:

There are various laws at the federal level to address offences that fall under categories of domestic violence, even though no specific domestic violence legislation exists at the federal level (Rehana Khilji, KII, Dec 5th, 2016, Quetta). Physical abuse, hurt, assault, criminal force and criminal intimidation occurring in a domestic setting were declared punishable by law under the PPC 1860 and the CrPC 1989. Verbal and emotional abuse are

addressed under Section 503 of the Pakistan Penal Code and malicious prosecution is penalized under section 250 of the CrPC, 1898. Moreover, false or vexatious civil suits or claims are penalized under section 35A of the Code of Civil Procedure, 1908 (Ali, 2014; Donaldson, 2015; Shaukat, 2016).

Such offences are punishable by law subject to the availability of medical reports and evidence of harm. The Family Courts (Amendment) Ordinance 2002 also brought certain domestic offences under the jurisdiction of family courts. Section 5 of the Muslim Family Act, 1964 provides recourse against the deprivation of economic rights of a wife. These rights are specified in Section 9 of the Muslim Family Laws Ordinance, 1961. The Ordinance also provides for the setting up of arbitration councils where conflicts between spouses could be resolved. However, in spite of such legal provisions, victims of domestic violence have traditionally faced an unsupportive and derisive attitude from law enforcement agencies such as the police (Ali, 2014). (See Annex A for further information on challenges against implementing domestic violence legislation in the country).

Domestic Violence Crimes Legislative Gap Analysis Balochistan Level:

Post 18th Amendment, the Balochistan Assembly adopted the Balochistan Domestic Violence (Prevention and Protection) Act, 2014. The Act falls in the category of Criminal and Penal law. It extends to the whole of Balochistan, with the exception of the province's tribal areas, which comprise a significant expanse. The domestic violence legislation in Balochistan encompasses, "all intentional acts of gender-based or other physical or physical or psychological abuse committed by an accused against women, children or other vulnerable persons with whom the accused is or has been in a domestic relationship." The Act addresses various categories of domestic violence, including assault, criminal force, criminal intimidation, economic abuse, harassment, hurt, mischief, physical abuse, stalking, sexual abuse, verbal and emotional abuse, and wrongful confinement among other aspects (Balochistan Domestic Violence (Prevention and Protection) Act, 2014; Donaldson, 2015; Shah, 2016) (Benazir Jatoti, KII, Jan 20th 2017, legal consultant, Islamabad; Rehana Khilji, KII, Dec 5th, 2016, Quetta).

The Balochistan Domestic Violence Act provided for the setting up of a Protection Committee led by a Protection Officer. The committee is to comprise a tehsildar (a tax officer accompanied with revenue inspectors), a head mistress and two prominent women from the concerned district subdivision. The Protection Committee is to have wide-ranging powers to intervene in cases of domestic violence. The Committee is mandated to provide shelter and legal and medical assistance to aggrieved parties. It is to coordinate with related organisations such as the Family Conciliatory Committee to facilitate relief for victims of domestic violence. The Protection Committee is also responsible for maintaining official records of all domestic violence cases reported to it. The Act mandated the provincial government to spread awareness of the legal recourse available to victims of domestic violence via electronic and print media. The provincial government is also responsible for sensitising departments such as the police and the judiciary regarding the provisions of this Act. However, much of the action with regard to the Act's implementation has yet to be taken.¹⁰

The Balochistan domestic violence legislation does not, however, specify direct penalties for mistreatments that are not addressed by the Pakistan Penal Code. These penalties are to be instead decided by the Protection Committees set up under the Act. However, these Protection Committees are yet to be set up in most districts of Balochistan. As a result, extensive implementation gaps persist, even though the legislation is well-formulated and well-meaning (Shah, 2016).

10. "The challenge with (post 18th Amendment) laws in Balochistan is that they are copy pasted from other provinces such as Punjab. Another very big issue is that there are not many drafting experts" (SDG 5, FGD, Legal Experts, Dec 28th, 2016, Quetta).

Assessment of Acid and Burn Crimes and Specific Implementation Challenges

Acid and Burn Crimes Legislative Gap Analysis Federal Level:

Section 336A of Chapter XVI of the PPC addresses various kinds of hurt, disfigurement or dismemberment that can deform the appearance of a person. This section includes a detailed description of the harms caused by corrosive substances. Section 336B of the PPC prescribes the punishment of life imprisonment and a minimum fine of Rs, 1 million for acid and burn offenses (Rahman, et al. 2014; NCSW, 2016).

The Criminal Law (Second Amendment) Act, 2011 was significant in that it declared acid and burn attacks as a separate category of crime. The Act also amended Schedule II of the Code of Criminal Procedure 1898. This amendment rendered the offence of hurt caused by corrosive substances as non-bailable and non-compoundable. The Criminal Law (Second Amendment) Act included an express definition of disfigurement and defacement in the description of hurt in Section 332 of the PPC (Rahman, et al. 2014; NCSW, 2016) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant).

However, the 2011 Act precludes a comprehensive treatment of the issue, and significant gaps persist regarding its implementation. There is a need for supplementary legislation to regulate the entire supply chain of corrosive substances and their ill-use in violence against women. This would entail amendments in the Poison Act of 1919.

The Acid Throwing and Burn Crime Bill was tabled in 2012, and again in 2014, to consolidate on the developments made by the Criminal Law (Second Amendment) Act, 2011. This bill sought to address aspects of acid and burn crimes that cannot be addressed with simple amendments to the Pakistan Penal Code. However, both bills were allowed to lapse without further action (Rahman, et al. 2014).

Acid and Burn Crimes Legislative Gap Analysis Balochistan Level:

In 2014, there were merely five reported cases of acid attacks in Balochistan, compared to the 54 cases reported in Punjab. At present, there is no legislation in Balochistan to deal with the issue of acid and burn crimes. However, in 2016, the Balochistan Women's Development Department initiated work on the Balochistan Anti-Acid Throwing Bill. The aim of this bill should be to address the gaps identified in federal legislation on the issue.

Assessment of Women's Trafficking and Kidnapping Crimes Legislation and Specific Implementation Challenges

Women's Trafficking and Kidnapping Crimes Legislative Gap Analysis Federal Level:

The issue of human trafficking and migrant smuggling is of particular concern to Balochistan (Zafar, 2016). This is because the province is the main node for smuggling men, women and children out of Pakistan to Iran, and the rest of the world. According to a United Nations Office on Drugs and Crime (UNODC) report, women account for 8 percent of the thousands of people trafficked from Balochistan annually. It has been reported that the trafficking of women and children plays a central role in the promotion of prostitution and forced labour (Butt, 2016; Donaldson, 2015; Dunya News, 2016).

Pakistan is a signatory to the United Nations Convention against Transnational Organized Crime (UNTOC). This agreement has two prominent protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air. The trafficking of women is also addressed in constitutional guarantees for the protection of rights of women and children, in addition to international treaties ratified by the country. These international agreements include the Convention on the Rights of Children (CRC) and the UN Convention on Elimination of all Forms of Discrimination against Women (CEDAW). All national policies, legislation and programmes should conform to these international agreements (Butt, 2016; Dawn, 2015).

At present, only kidnapping is specifically mentioned in criminal legislation on human trafficking and kidnapping at the federal level. Human Trafficking has not been used as a terminology in the PPC. Chapter XVI-A of the PPC addresses kidnapping under the heading of “Kidnapping, Abduction, Slavery and Forced Labor.” Sections 359, 360 and 361 of the PPC define kidnapping as either “kidnapping from Pakistan and/or kidnapping from lawful guardianship.” The punishment for such a crime is imprisonment for a maximum of seven years and a monetary fine. A minor in this instance has been defined as a girl below the age of 16 years and a boy who is below the age of 18. Section 360 specifies that kidnapping a person, “beyond the limits of Pakistan,” without the consent of that person or the consent of the legally authorised person on behalf of the person, is a criminal offence.

Section 364A of the PPC deals with the kidnapping of a person under the age of fourteen. The punishment for this offence is rigorous imprisonment of a maximum of fourteen years but not less than seven years. Section 366A goes on to deal with inducing a minor child for purposes of forced or seduced intercourse. Here a girl child is defined as a girl of 18 years or less. Section 356B deals with kidnapping for the purpose of inducing a woman to compel her for marriage (Farid Ahmed, KII, Dec 20th, 2016, Quetta; Zahid Mengal, KII, Dec 15th, 2016, Quetta).

The major lacuna in the clauses provided for in the PPC is that offences such as kidnapping are bailable and compoundable. In addition, the provisions of compromise and forgiveness in most cases that involve violence against women frustrate the whole legal process in such issues. The laws provided for in the PPC to deal with trafficking (strangely without using this specific terminology), deal only with cases where a “girl” is imported into the country. The law is surprisingly silent on internal trafficking, particularly of women and girls. While some PPC provisions could be used to build a case of internal trafficking, there are no specific provisions for identifying trafficking from Pakistan to another country. These provisions are those that deal, “with kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.,” under section 367 and provisions that address prostitution. However, internal trafficking has not been clearly defined in the PPC (Ahmed, 2015; Dunya News, 2016). While the Prevention and Control of Human Trafficking Ordinance (PACHTO) 2002 deals with human trafficking at the federal level, the ordinance has several key loopholes that undermine its efficacy.

Women's Trafficking and Kidnapping Crimes Legislative Gap Analysis Balochistan Level:

Considering that the problem of human trafficking is specific to Balochistan, there has not been any provincial law to build on and tighten the existing provisions of the PPC. This is imperative if the issue of women's trafficking is to be addressed. In 2016, the Balochistan Government agreed with the Iranian government to step up efforts to address all forms of smuggling, including human trafficking. At the federal level, there is a need for new legislation to enhance the FIA's investigative powers vis-a-vis the trafficking of vulnerable groups such as women and children as well as amendments in the PPC to address the existing lacunae (NCSW, 2015; Zafar, 2016; UNODC, 2010). (Farid Ahmed, KII, Dec 20th, 2016, Quetta).

TARGET 5.3: Eliminate Harmful Practices

Eliminate all Harmful Practices, such as Child, Early and Forced Marriage and Female Genital Mutilation

According to some reports, Balochistan has the highest percentage of urban early and forced marriages in Pakistan. This practice is particularly pervasive among women. 56 percent of the women in Balochistan are married before the age of 20 compared to 9 percent of the men. Longstanding cultural norms and strong religious and tribal influences are a key reason behind child, early and forced marriages in Balochistan. Lack of education and awareness, internal trafficking, weak political will and extreme poverty are other contributing factors (ActionAid Pakistan, 2013; Dawn. 2015; Donaldson, 2015) (Zahid Mengal, KII, Dec 15th, 2016, Quetta) (See Annex B for background information on the prevalence of child, early and forced marriages in Balochistan).

Legislative Gap Analysis regarding Child, Early and Forced Marriages Federal Level:

Forced marriages are prohibited under Section 498B of the Criminal Law (Third Amendment) Act 2011, also known as the Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011. The Act introduced chapter XXA to the Pakistan Penal Code 1860 to deal with related “Offences against Women.” This Act was the first specific legal provision against forced marriages at the federal level. Punishment for coercing a woman to enter into a marriage is a maximum of seven years but not less than three years imprisonment and a fine of Rs. 500,000. Before this Act, the Dissolution of Muslim Marriages Act, 1939, allowed women to file suits for the dissolution of forced marriages. The Family Courts (Amendment) Act, 1971, also gives women the right to seek jactitation of marriage. Forced marriages in the country have also been recognized under customary Islamic personal law as wrong and voidable. The customary provisions allow individuals to file suits for jactitation of forced marriages in courts (Baloch, 2016; Rahman et al. 2014).

The giving of women in badl-i-sulh, i.e. as a consideration for dispute settlement, was prohibited under Section 310A of the Pakistan Penal Code. This was done through amendments inserted by the Criminal Law (Third Amendment) Act, 2011. The 2011 Act superseded the Criminal (Amendment) Act, 2004 (Act I of 2005). The Act broadened the scope of Section 310A to include instances of badl-i-sulh that are not just limited to disputes arising out of murder. However, child marriage offences are still non-cognizable, compoundable and bailable.

Prior to the Criminal Law (Third Amendment) Act, 2011, all marriage related issues were dealt with under the Muslim Personal Law, Shariah, by virtue of Section 2 of the Muslim Personal Law (Shariah) Application Act, 1948 (Act IX of 1948) and Muslim Personal Law (Shariah) Application Act, 1962 (Act V of 1962).

The Criminal Law (Third Amendment) Act, 2011, also prohibited “marriage” with the holy Quran i.e. Haq Bakhshwai, through the insertion of Section 498C to the Pakistan Penal Code. It prescribed a punishment of minimum three years’ imprisonment and a fine of Rs. 500,000. Prior to this, there was no specific legislation to ban the practice of Quran “marriage.” This practice prevails among tribal families of Pakistan, including Balochistan, for a number of motivations.

However, the custom of Quran “marriage,” i.e. Haq Bakhshwai, has prevailed in spite of explicit prohibition in the Shariah as well as opposition from conservative groups such as the Council of Islamic Ideology (CII). In order to toughen action against this practice, the CII has proposed life imprisonment for offenders under Section 295-B of the Pakistan Penal Code 1860 under the implication of desecration of the Holy Quran.

Legislative Gap Analysis regarding Child, Early and Forced Marriages Balochistan Level:

At present, there is no legislation to prohibit child and early marriages at the provincial level in Balochistan. Therefore, federal laws are applicable. The Balochistan Child Protection and Welfare Bill and the Balochistan Child Marriages Restraint Bill have been pending approval in the Balochistan provincial assembly for a long time.¹¹ In 2016, work on the Prohibition of Child Marriages Bill Balochistan was initiated by the Social Welfare Department in the province (WDD Gender Equality Framework, 2016). At present, organisations such as the Aurat Foundation and former members of the justice department in Balochistan are working on this bill. However, uncertainty persists regarding the long-delayed child marriage bill in Balochistan. The pending bill should aim to overcome the shortcomings of federal law (Donaldson, 2015; Ismail, 2016; Mohsin, 2015; Mustafa, 2015) (Zahid Mengal, KII, Dec 15th, 2016, Quetta) (See Annex B for further information on the challenges against enacting child marriage legislation in Balochistan).

TARGET 5.4: Recognize Unpaid Care and Domestic Work

Recognize and Value Unpaid Care and Domestic Work through the Provision of Public Services, Infrastructure and Social Protection Policies, and the Promotion of Shared Responsibility within the Household and the Family as Nationally Appropriate

Across Pakistan, typically unremunerated activities such as caring are regarded as women's responsibilities. Distance from health services and schools, unsafe neighbourhoods, and limited access to water and sanitation put additional burden on women who are also responsible for childcare, food preparation and cleaning and washing in the household. Due to widespread income poverty in Balochistan, women need to engage in the cash economy from a very young age. Women in the province are concentrated in the lowest paid activities, such as livestock rearing. Therefore, a typical woman's day may involve as many as 17 hours of work within and outside the home (Saima Javed, KII, 16th Dec, 2016, Quetta) (Shafiq, 2008; Tacoli, 2012). (See Annex C for background information on the role of women in the Balochistan domestic economy).

Legislative Gap Analysis regarding Target 5.4 Federal Level:

At present, federal legislation does not expressly lay out social protection frameworks for the promotion of shared responsibility within the household and the family. Section 9 of the Muslim Family Laws Ordinance, 1961 facilitates a woman's contribution to the domestic life. The ordinance provides women with an express legal right to be maintained by their husbands unless there is a strong and just reason to be denied this right. Family courts can oblige fathers to maintain their daughters until they are married and to maintain their sons until they have reached puberty as a customary practice. This can be enforced by family courts under Section 5 of the Family Courts Act, 1964 (Rahman et al. 2014). Women are not legally obliged to spend on maintaining their husbands, even if the men are unemployed or disabled.

A woman who perceives inadequate maintenance by her husband can seek redress with the chairman of a union council. The union council representative can convene an arbitration council to deal with the matter. The arbitration council can issue a certificate specifying the amount to be paid as maintenance by the husband. The Family Courts (Amendment) Ordinance, 2002, (Ordinance LV of 2002) inserted Section 17-A to the Family Courts Act, 1964. This section provided that, "at any stage of proceedings in a suit for maintenance, whereunder the payment shall be made by the 14th of each month, failing which the court may strike off the defense of the defendant and decree the suit." Divorced women are entitled to maintenance only until the iddat (waiting) period.

11. Really well-written and well-meaning laws have been struck down (in the Balochistan parliament. That's because of the lack of political will." (SDG 5, KII)

At present, Section 9 of the Muslim Family Laws Ordinance 1961 does not mandate maintenance for a breastfeeding woman who has been divorced or widowed. This is a clear contravention of Islamic principles upon which the 1961 Ordinance is based. The Muslim Family Laws (Amendment) Bill, 2009, sought to amend section 9 of the Muslim Family Laws Ordinance, 1961 to recognise the rights of breastfeeding mothers. However, the bill was allowed to lapse without further action (Rahman et al. 2014). The current family laws of Pakistan are based on an unstated understanding that every person in a domestic relationship owes certain rights to other family members. However, at present, the recognition of these rights is merely moral in nature.

At present, gender mainstreaming of key public services and infrastructure such as transportation is not an explicit policy goal of relevant departments at the federal level. This persisting lapse in policy is a key impediment to the achievement of Target 5.4 goals.

Legislative Gap Analysis regarding Target 5.4 Balochistan Level:

Since the passage of the 18th Amendment, no legislation has been passed in Balochistan to address Target 5.4 goals specifically. As the previous section illustrates, significant legislative gaps persist regarding Target 5.4 goals at the federal level. This makes provincial level action on the subject even more crucial. Similar to the rest of the country, gender mainstreaming is absent in key public services and infrastructure such as transportation in Balochistan. This policy gap needs to be bridged at every level if target 5.4 goals are to be achieved. Moreover, the promotion of shared responsibility within the household and the family in Balochistan will necessitate a paradigm shift in the cultural and social milieu of a region that is fundamentally patriarchal (Saima Javed, KII, 16th Dec, 2016, Quetta).

TARGET 5.5: Ensure Effective Participation

Ensure Women's Full and Effective Participation and Equal Opportunities for Leadership at all Levels of Decision-Making in Economic, Political and Social Life.

The lack of mobility for women and their confinement to the domestic sphere, particularly in tribal areas of Baluchistan, restricts their opportunities for participation the economic, political and social processes.¹² However, there is evidence of a gradual shift in attitudes in recent years (Rehana Khilji, KII, Dec 5th, 2016, Quetta). Labour force participation rates for women in Balochistan have increased drastically over time, from 8.7 percent in 2013-2014 to 18.3 percent in 2014-2015 (PBS, 2014; 2015, IDLO). Annex D includes further details on the key challenges against women's participation and leadership in the political, economic, and social life in Balochistan.

Assessment of Legislative and Policy Frameworks with Regard to the Women's Leadership in Economic, Political and Social:

Legislative Gap Analysis regarding Target 5.5 Federal Level:

At the federal level, the Planning Commission of Pakistan and the Finance Division have the mandate to integrate the socio-economic challenges faced by women into policy documents such as the Medium-Term Development Framework and Rural Support Programs Network (Planning Commission, 2014). In 2002, the National Policy for Development and Empowerment of Women was introduced by the then dictatorial regime of General Pervez Musharraf. The Policy lays down specific provisions for enhancing women's role in the

economy and provides specific recommendations for promoting women's entrepreneurship, farming, wage employment and financial incentives (Khan et al. 2010) (Benazir Jatoui, KII, Jan 20th 2017, legal consultant, Islamabad; Khawar Mumtaz, KII, January 27th, 2017, Islamabad). Although the policy is not directly applicable to Balochistan, it can serve as a useful analytical guide to see what has been proposed and how relevant the suggestions could be to Balochistan.

Legislative Gap Analysis regarding Target 5.5 Balochistan Level:

The Balochistan Women's Development Department's Gender Equality Framework, 2012 was endorsed by the Government of Balochistan in 2013 as the Gender Equality Policy. The policy framework highlights and suggests recommendations to promote economic and political participation and the social empowerment of women in the province. The vision of the policy is, "the empowerment of women's equal and equitable access to resource allocations, decision making and state services in Balochistan and enhance their social, political, economic status – irrespective of caste, creed and religious status." This policy has produced the Strategic Plan 2016-2020 as Phase 1 of the implementation plan of the Balochistan Gender Equality and Women's Empowerment Policy. The government of Balochistan has also endorsed this five-year Plan (Balochistan Women's Development Department, 2016).

However, to date, the socio-economic challenges faced by women in Balochistan have been looked upon in isolation by the province's Women's Development Department (WDD), which is the implementing ministry. Coordination with other relevant line ministries and economic policy departments is weak or nonexistent. The education department in Balochistan is the largest employer of women, with over 15,000 employees. However, women face widespread discrimination in this sector at all levels. Key posts, including the Executive District Officer Education (EDOE), are occupied by men.

The passage of the Harassment against Balochistan Women at Workplace Act, 2016 has been one recent measure to facilitate women's employment prospects in the province (Baln Act I of 2016). The legislation includes a thorough definition of what constitutes harassment. It provides for the establishment of helplines for aggrieved women, the setting up of inquiry committees at places of work and the establishment of a provincial Ombudsman's office under section 7 of the Act. Although the anti-workplace harassment law in Balochistan is well-formulated, its implementation is mostly pending.¹³

The WDD Gender Equality Framework and the Policy, as endorsed by the government, are somewhat simplistic in language. This is particularly the case with the WDD Strategic Plan, which states that the first objective is to ensure a bright future for the women of Balochistan (Balochistan Women's Development Department, 2016). However, overall the document recommends sound and province-specific recommendations. But, unfortunately, many of its provisions are yet to be acted upon.¹⁴ (See Annex D for detailed information on the Balochistan WDD's blueprint for promoting women's increased participation in the political, economic and social in the province and the persisting challenges).

Currently, there are 14 reserved seats for women in the Balochistan Assembly and 60 reserved seats for women in the National Assembly of Pakistan. The current speaker of the Balochistan Assembly, Rahela Durrani, is the

13. "The Anti-Harassment Bill was passed, but at the District level in Balochistan there are no relevant departments, no focal points, no procedural materials (for implementation). Although some positions and departments have been set up, there has been no impact for a laywoman in the province, nothing has changed for her." (SDG 5, KII).

14. "The Women Development Department in Balochistan is not a very powerful department. It is only a small organization without any teeth. It has no power..." (SDG 5, KII).

first woman ever to take this position. However, women parliamentarians in Balochistan are merely symbolic and bound by the viewpoint of their party leadership, which is notably male-dominated, patriarchal in outlook and paternalistic in communication¹⁵ (Aurat Foundation, 2014; 2015; Fafen, 2016).

TARGET 5.a: Economic Rights

Undertake Reforms to give Women Equal Rights to Economic Resources, as well as Access to Ownership and Control over Land and other forms of Property, Financial Services, Inheritance and Natural Resources, in accordance with National Laws.

At present, gender disaggregated data on land and property ownership in Balochistan is not available. However, it is widely recognized that women's share in the province's asset ownership is negligible¹⁶ (NCSW, 2015). Women in Balochistan are frequently denied their legal and Islamic right of inheritance of land and property, as is the case across Pakistan. Throughout Balochistan, men exploit various loopholes in the law to withhold female relatives' share in family assets. Such practices are particularly pervasive in Balochistan's tribal belt (Balochistan Women's Development Department, 2016) (Atta ul Haq, KII, Dec 2nd, 2016, Quetta).

Legislative Gap Analysis regarding Target 5.a Federal Level:

At the federal level, the inheritance rights of individuals are regulated under section 2 of the Muslim Personal Law (Shariat) Application Act, 1962. This Act ascribes inheritance rights in compliance with Quranic injunctions. The ownership and inheritance of immovable property is dealt under the Succession Act 1925, urban property under the Specific Relief Act, 1877 and cases related to agricultural property are dealt under the Land Revenue Act, 1967. Civil courts oversee immovable and urban property cases, and revenue courts deal with cases related to the agricultural property. Inheritance cases involving movable property are also dealt by civil courts. These courts are responsible for distributing succession certificates to rightful heirs after the due process of verification (Mumtaz, 2013; Rahman et al. 2014). (See Annex E for details on the legal recourse available to women for denial of inheritance and share in assets and the specific interlinkages between dowry, gifts, and inheritance).

In the case of agricultural property, land revenue officers called patwaris maintain detailed records of rightful claimants of property within their jurisdictions. They prepare inheritance mutations and distribute property among rightful heirs in the event of the death of an individual. Although more problematic cases can be referred to revenue courts, the procedure of dealing with cases of agricultural property through the patwaris is well-established.

However, this system of land registration and succession is highly complex and leaves significant room for misappropriation of assets if patwaris are corrupt. This is because patwaris have traditionally enjoyed unchecked powers of land allocation when it comes to agricultural property (Mumtaz, 2013). (See Annex E for further details on the complexities inherent in the ownership and transfer of agricultural property).

15. The only one benefit of having women in the parliament is that it gives hope to other women. Even though there are women in the Balochistan assembly, their hands are tied. They are bound by their own party leaders and the manifestos. They have no funds at their discretion, no power and most people in Baluchistan are unaware of their presence." (SDG 5, KII).

16. Baluchistan has no private sector, no corporations. It has only government organizations. There is no female representation in industries apart from education and agriculture. Women are concentrated in the livestock rearing, and there is no workable policy to regulate that sector (SDG 5, KII).

The system of land registration of urban and immovable property in the country is also notably complex. Section 12(2) of the Code of Civil Procedure provides redress for grievances in events where claims to property are obtained through misrepresentation or concealment of fact from the court. Under this section, cases involving undue heirship or succession through fake and illicit legal certificates can be challenged by aggrieved parties in civil courts. Criminal proceedings can also be initiated under sections 415, 416, 423 and 424 of the Pakistan Penal Code (PPC), 1860. This can be achieved under Chapter XVII (Of Offences against Property) in the event of a fraudulent and dishonest transfer of an individual's property without his/her knowledge and consent. In such instances, a FIR can be registered. For all other cases, courts merely confirm the names of persons entitled to inherit property. They do not ascertain the individuals' respective shares in the property or allocate property among them. There have been suggestions for extending the responsibilities of civil courts to perform the latter function. The argument is that this would lead to a notable decline in the number of cases related to movable and urban property brought to the courts (Rahman et al. 2014).

The section titled, "Prohibition of depriving women of inheriting property," provides that deceitfully or illegally depriving a woman of moveable or immovable inheritance is a criminal offence. The punishment may extend to ten years imprisonment or a fine of Rs.1 million or both. The 2011 Act also modified the second schedule of the Code of Criminal Procedure, 1898 to render the offence, of depriving women their rightful share of property, as non-bailable and non-compoundable. Currently, warrants of arrest for cases of fraud in property inheritance can only be issued by Courts of Sessions, and FIRs cannot be registered in such matters (Rahman et al. 2014).

The current legal penalties for cases of fraud are lenient and do not cover specific instances of inheritance. Chapter XVII of the Pakistan Penal Code, 1860, provides penal remedies for defrauding lawful heirs. However, many of these penalties are very general in nature and do not address the complexity of most inheritance cases. Section 498A of the Pakistan Penal Code, 1860, Chapter XXA was added through the Criminal Law (Third Amendment) Act, 2011, to address the issue of deprivation of women's inheritance rights. The provision is part of the three-section chapter of the PPC "Of Offences against Women".

The section titled, "Prohibition of depriving women of inheriting property," provides that deceitfully or illegally depriving a woman of moveable or immovable inheritance is a criminal offence. The punishment may extend to ten years imprisonment or a fine of Rs.1 million or both. The 2011 Act also modified the second schedule of the Code of Criminal Procedure, 1898 to render the offence, of depriving women their rightful share of property, as non-bailable and non-compoundable. Currently, warrants of arrest for cases of fraud in property inheritance can only be issued by Courts of Sessions, and FIRs cannot be registered in such matters (Khawar Mumtaz, KII, January 27th, 2017, Islamabad) (Rahman et al. 2014).

Legislative Gap Analysis regarding Target 5.a Balochistan Level:

The 2016-2020 Gender Equality Strategic Plan for Balochistan addresses Target 5.a goals. The policy document sought to enhance women's access to asset ownership in the region by including provisions to register the title-deeds of all state land allotted jointly in the names of husband and wife, and in the case of female headed households, to the women. The document also called for stricter adherence to the province's inheritance laws. It included recommendations for prioritizing inheritance cases involving women. It also stated that properties inherited by women in both rural and urban areas of the province are to be registered in their own names rather than the names of male family members. However, many of these recommendations are yet to be acted upon, and no legislative initiatives have been undertaken in Balochistan to address target 5.a goals.

Target 5.6: Access to Sexual and Reproductive Health

Ensure Universal Access to Sexual and Reproductive Health and Reproductive Rights as agreed in accordance with the Program of Action of the International Conference on Population and Development and the Beijing Platform for Action and the Outcome Documents of their Review Conferences

A general view of reproductive health status indicators reveals that fertility levels have remained high (Total Fertility Rate (TFR) is around five births per woman) with low contraceptive use (24 percent in 1996-97) (An Analysis of Reproductive Health in Pakistan). This results in large families and no birth spacing between pregnancies. The magnitude of unwanted births by provinces shows that Balochistan and Khyber Pakhtunkhwa (KP) have almost twice number of unintended births (2.0) than that in Sindh (1.0). According to the Pakistan Health Demographic Survey (PHDS), Balochistan has the highest Maternal Mortality Rate (MMR) among all the four provinces. There are 758 deaths per 100,000 live births in Balochistan compared to 272 deaths per 100,000 live births in the rest of Pakistan (Afsar et al. 2006; Mumtaz et al. 2005; Shah, 2014; WPF, 2010) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad).

Legislative Gap Analysis regarding Target 5.6 Federal Level:

Pakistan's focus, like many other countries, was at one time very narrow, focusing on family planning only. The International Conference on Population and Development (ICPD) in 1994, however, widened the scope and urged countries to move to a more comprehensive concern for reproductive health. Furthermore, the world focus in recent years has been on educating young people on sexual and reproductive health, including education on sexual and reproductive health and other wider concepts such as early child marriages and violence against women (WDD Balochistan, 2016; WPF, 2010).

In response, Pakistan's Population Programme has increasingly been focused on various aspects of reproductive health. In this regard, the federal government has adopted a comprehensive population and development policy incorporating a wide range of reproductive health services. This policy has attempted to integrate population and health departments and their activities in dealing with these issues. This policy has been further enhanced with an integrated National Reproductive Health Services Package designed especially for eligible women, men and adolescents. The major components of this package include services related to family planning for females and males, maternal health care including safe motherhood and pre and post-abortion care, infant health care, and the prevention and management of RTIs/STDs, HIV/AIDS, and SRRH problems of women and adolescents (WDD Balochistan, 2016; WPF, 2010).

Legislative Gap Analysis regarding Target 5.6 Balochistan Level:

The Balochistan WDD Gender Equality framework has recommended the provincial government to develop a Health and Population Policy in tune with the legally binding CEDAW and Child Right's Convention (CRC) targets (Khawar Mumtaz, KII, January 27th, 2017, Islamabad). This includes measures such as the expansion of community-based Lady Health Workers' (LHW) programmes. Across the province, health staff will need to be assured of safer work environments and job benefits. Key resource shortcomings also need to be overcome. These include a greater number of Basic Health Units (BHUs), trained medical and paramedical staff, medical supplies, equipment, vaccines and contraceptives. District level action on each of these gaps in SRH is necessary. Home-based care facilities should be provided in parts of the province where social stigma regarding women's SRHR is strong. Non-coercive measures for family planning should be promoted through awareness campaigns and enhanced access to affordable contraceptive methods (WDD Balochistan, 2016; WPF, 2010).

In 2014, the Balochistan government passed the Balochistan Protection and Promotion of Breastfeeding and Child Nutrition Act 2014 (Act No.1 of 2014). This Act sought to institute mechanisms for promoting breastfeeding by mothers and to introduce stricter regulations for the manufacture and sale of formula milk. However, significant implementation gaps persist regarding this (See Annex F for detailed information on persisting challenges against Women's SRHR in Balochistan).

Target 5.b: Enhance the use of Enabling Technology

Enhance the Use of Enabling Technology, in particular Information and Communications Technology, to promote the Empowerment of Women

At present, there is a lack of coherent and explicit policy or law to endorse women's access to information and communications technology to promote their empowerment at both the federal and the Balochistan level. The Protection of Cyber Crimes Act, 2014 was passed by the federal level to regulate the country's cyber space. This Act afforded special protection to women (Ghauri, 2014). Aside from this, there is a lack of sound or coherent policy to promote women's empowerment through technology. The Punjab province has taken the lead on such issues. This includes measures such as those undertaken by the Punjab Information Technology Board (PITB) to allow women to register FIRs electronically. Such initiatives can help to circumvent the mobility issues of women and address the unfriendly space police stations can be for women (PITB, 2016). Similar technological advances are necessary in Balochistan to enhance women's access to justice and to promote their empowerment. Enhanced access to technology for women should also include measures that allow women to access free information about their sexual and reproductive and legal rights, for instance. Similarly, computerizing land registries can make assessing information regarding property rights, transfers and claiming transfers more straightforward and systemic for women. These measures should be promoted by policy and law at both the federal and the Balochistan level (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad).

Key Recommendations

Target 5.1- All the recommendations below apply

Target 5.2- For all categories of VAW, there is a need to specify provisions that deal with evidence, how it is collected and how it is used when courts are dealing with VAW victims. For all categories of VAW, there is a need to set up monitoring boards, such as an Acid and Burn Crime Monitoring Board, that would oversee the implementation of the identified gaps and provide the necessary finance to facilitate the process. The Balochistan government needs to create the necessary awareness on VAW legal recourse, including for implementing institutions such as the police and divisional head offices in the province. Progress on developing the Rules of Business to accompany the anti-domestic violence legislation in Balochistan should be expedited (Abdul Zahid, KII, 27th Dec, 2016, Quetta; Atta ul Haq, KII, Dec 2nd, 2016, Quetta; Farid Ahmed, KII, Dec 20th, 2016, Quetta; Rehana Khilji, KII, Dec 5th, 2016, Quetta; Saima Javed, KII, 16th Dec, 2016, Quetta; Zahid Mengal, KII, Dec 15th, 2016, Quetta) (FGD, legal experts, Dec 28th, 2016, Quetta, 22 participants).

Due to societal notions of propriety for women, there has been no case to date that deals with section 509 of the Penal Code at the federal level. There is a need for education and awareness to affect a shift in mindsets for legislation relevant to honour killings, rape and sexual harassment for legislation to have an impact. The 2016 legislation on rape should include amendments that hasten qazf trails and include prohibitions of the publication of qazf cases in the print and electronic media without court permission. Free legal assistance and representation to lower income women involved in qazf cases should also be provided for by the law. These provisions should be included in legislation on all categories of VAW. The federal level Dowry and Bridal Gifts (Restriction) Act 1976 needs to be amended to deal with the issue of dowry deaths more efficaciously.

Moreover, rape cases should be included under the correct Penal Code provisions. At present, instead of being registered under section 376, which defines rape, the incident is inappropriately registered under section 377 (regarding unnatural offences) (Sattar, 2016). Furthermore, remote police stations need to institute facilities for female victims of violence, including woman police officers present during the investigation. The draft Bill to “Prevent and Combat Trafficking in Persons Especially Women and Children” and the Bill to “Prevent and Combat the Smuggling of Migrants by Land, Sea and Air” should be enacted at the federal and provincial levels to regulate women's trafficking (Abdul Zahid, KII, 27th Dec, 2016, Quetta; Atta ul Haq, KII, Dec 2nd, 2016, Quetta; Farid Ahmed, KII, Dec 20th, 2016, Quetta; Rehana Khilji, KII, Dec 5th, 2016, Quetta; Saima Javed, KII, 16th Dec, 2016, Quetta; Zahid Mengal, KII, Dec 15th, 2016, Quetta) (FGD, legal experts, Dec 28th, 2016, Quetta, 22 participants).

Target 5.3- Legislation on child marriages at both the federal and Balochistan level needs to include provisions for penalizing the non-registration of marriages, punishing those involved in solemnizing violating marriage contracts, mandating the production of Computerized National Identity Card (CNICs) for brides and grooms, standardizing the Nikkah Nama (a binding contract and a fundamental element of an Islamic marriage) document, and establishing helplines for registering complaints against child marriages. School curriculums in Balochistan also need to incorporate the necessary provisions. Under Section 190 of the Code of Criminal Procedure 1898, child marriage offences are to be dealt with by family courts. This means that the police cannot act on suspected cases unless permitted by a family court. Moreover, the jurisdiction of family courts on child marriages is limited to complaints brought by union councils or authorities prescribed by the provincial governments. Child marriage cases brought to the attention of authorities more than a year after the marriage is sanctified are non-cognizable by the authorities under federal legislation. These relaxations in the law need to

be tightened. There is also a need for awareness campaigns on the harmful effects of child marriages (Zahid Mengal, KII, Dec 15th, 2016, Quetta) (FGD, legal experts, Dec 28th, 2016, Quetta, 22 participants).

Target 5.4- At present, no specific laws exist at the federal or the Balochistan level regarding the gender mainstreaming of essential public services and infrastructure. Such laws and policies need to be instituted to ensure stronger social protection for women and the facilitation of their contribution to domestic life. The promotion of shared responsibility within the household and the family in Balochistan necessitates a paradigm shift in the cultural and social milieu of a region that is fundamentally patriarchal. There is a need for education and awareness campaigns to achieve this (Abdul Zahid, KII, 27th Dec, 2016, Quetta; Atta ul Haq, KII, Dec 2nd, 2016, Quetta; Benazir Jatoi, KII, Jan 20th 2017, legal consultant, ; Farid Ahmed, KII, Dec 20th, 2016; Khawar Mumtaz, KII, January 27th, 2017; Rehana Khilji, KII, Dec 5th, 2016; Saima Javed, KII, 16th Dec, 2016; Zahid Mengal, KII, Dec 15th, 2016).

Target 5.5- The Gender Equality Framework and the Policy as endorsed by the Balochistan government are somewhat simplistic in language, particularly the Strategic Plan. However, while the document recommends some sound and province-specific recommendations, these recommendations are yet to be acted upon. To date, the WDD has incorporated women's concerns through small project funding, staff placing and equipment. The integration of women's unique socio-economic needs into all sectors of development will necessitate input from all ministries/divisions, provincial and district governments, legislatures, judiciary, etc. in Balochistan.¹⁷ In order to achieve Target 5.5 goals, it is important that the key recommendations of the WDD policy blueprint regarding women's economic, political and social empowerment are enacted¹⁸ (Rehana Khilji, KII, Dec 5th, 2016, Quetta) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants). These recommendations are described in detail in Annexe D.

Target 5.6- Key actions include but not limited to: Conducting national advocacy campaigns for family planning/birth spacing, which includes a) advocacy on population issues to political parties prior to election; b) providing technical support to the provincial departments to formulate, implement and monitor Population Policies, Health Policies and Youth Policies; and c) supporting community-based organizations (such as LHWs programme) to carry out behavioural change communication campaign on Family Planning. There is a need to scale up family planning vouchers in selected districts for the poor and younger populations, for strengthening female service providers (in particular LHWs and midwives) to provide family planning information and services through strengthened pre and in-service training mechanisms (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

The linkages between Health Departments and Central Warehouse need to be strengthened to ensure adequate stocks of contraceptives in health outlets. In addition, pilot models that integrate HIV/AIDs, fistula, and Gender Based Violence (GBV) in Reproductive Health service delivery should be scaled up. The relevant authorities should pilot a newly-weds counselling system for Reproductive Health(RH)/Family Planning (FP) information through enhanced vital registration for marriage and/or community-based interventions. To this end, the health departments' capacity to integrate youth friendly service standards in reproductive health services should be enhanced. The government should also support the National Disaster Management Authority (NDMA), the Provincial Disaster Management Authority (PDMA) and relevant Health Departments to strengthen disaster preparedness and response. This includes measures such as enhanced data capacity and mobile service units management. Such reform in rural and peripheral regions of Balochistan will necessitate a

17. "It is very important for the women in the parliament to be supported by the men... in the absence of men's political support, it's very difficult to go forward with women's empowerment legislation across the country" (Neha Gauhar, KII, Dec 18th, 2016, Lahore).

18. "If the political will for women's empowerment is there, then the financial and resource issues will get resolved by themselves. Issues of resource availability are less important than issues of political will. If the government in Balochistan really intends to make changes, it has the power, the money and the networks at its disposal to utilize for this purpose" (SDG 5, KII).

change in attitudes towards women's SRH, enhanced budgetary allocations for maternal health, and improvements in the law and order situation (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad).

Target 5.a- There is currently a need for administrative, penal and procedural modifications in the law to achieve more effective dispensation of justice about issues of women's inheritance of property and assets. The Muslim Family Laws Ordinance, 1961 and the West Pakistan Family Courts Act, 1964 include safeguards for women against routine judicial procedures which are lengthy, expensive and arduous. However, the current safeguards are inadequate. The Family Courts (Amendment) Act, 2009 intended to overcome these caveats, albeit unsuccessfully. Mechanisms need to be instituted to overcome these legislative gaps. The Punjab Land Revenue (Amendment) Act, 2015, detailed in Annex F, should be replicated Balochistan. This Act provides that now any adult family member, as opposed to only a male family member, receiving the summons can be considered to have received the summons properly and in a procedurally correct manner. In the past, this requirement could only be met by male family members (See Annex E for further details on this Act) (Benazir Jatoi, KII, Jan 20th 2017, legal consultant, Islamabad) (FGD, legal experts and CSOs, Dec 28th, 2016, Quetta, 22 participants).

Target 5.b- See situation analysis for target 5.b in the above section

Target 5.c- The above recommendations apply.

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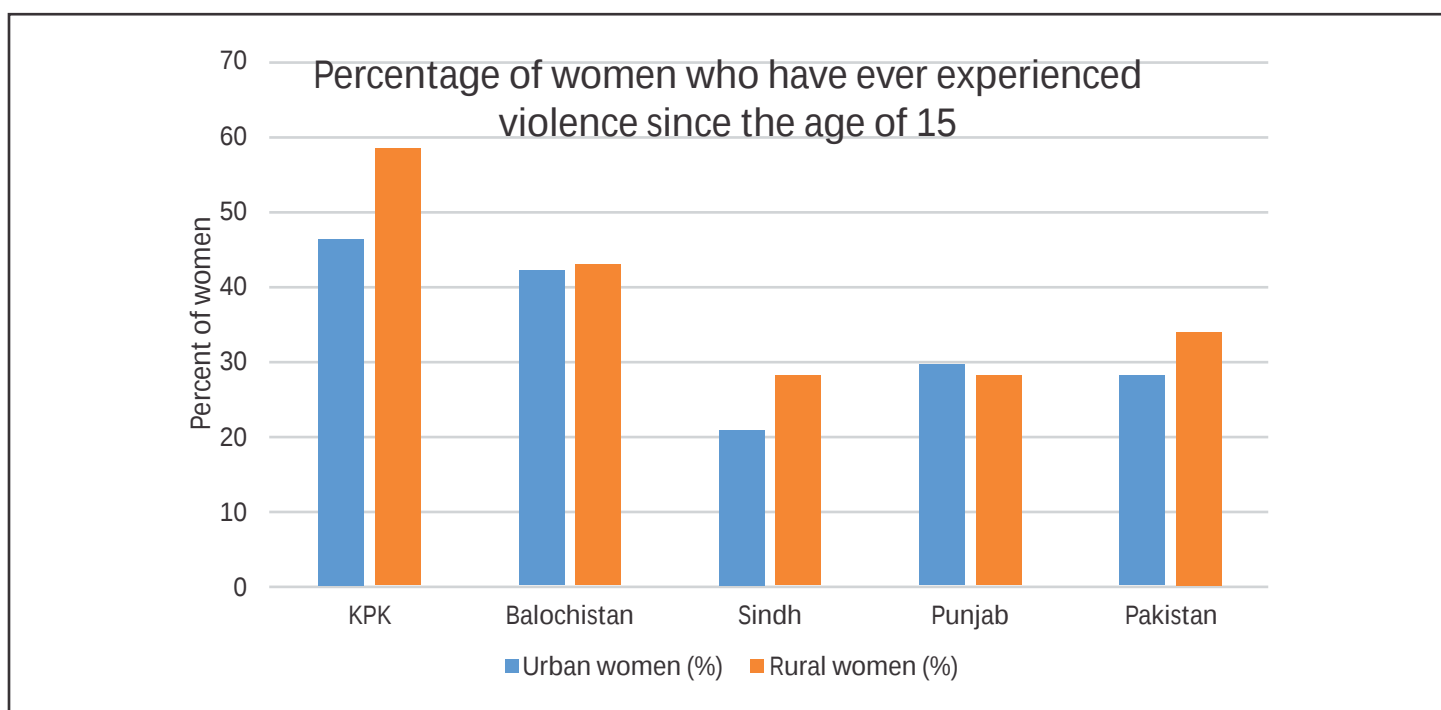
ANNEXURE- IN-DEPTH ANALYSIS FOR SDG 5 TARGETS

ANNEX A: TARGET 5.2

Incidence of Violence against Women in Balochistan

A Thompson Reuters Foundation expert poll ranked Pakistan third on the list of the world's most dangerous countries for women owing to the high incidences of various Violence against Women (VAW) incidents in the country. These include instances of kidnapping/abduction, murder, rape/gang rape, suicide, 'honour' killings, domestic violence, sexual assault, acid throwing, burning and miscellaneous other cases of VAW (Aurat Foundation, Annual Report, 2014).

The table below details the findings of the 2012-2013 Demographic and Health Survey, which highlights the figures across four provinces in terms of the percentage of domestic violence that has been reported. The survey revealed that more than 40 percent of the rural and urban women in Balochistan experience some form of domestic violence at once in their lives (Haider, 2014).



Source: 2012-2013 Pakistan Demographic and Health Survey

The 2012-2013 Demographic and Health Survey conducted by the Pakistan government in collaboration with the USAID revealed that the living conditions of women between the ages of 15 and 49 in terms of domestic violence were worst for women in Balochistan and KP. The survey revealed that 52 percent of the women subjected to violence never sought help or shared their plight with others. In rural Balochistan, it was revealed that 10 percent women routinely experienced physical violence compared to 5 and 1.5 percent in rural Punjab and Sindh respectively. Divorced, separated or widowed women were twice as likely to report domestic violence as married women. The incidence of domestic violence among educated households was much lower

than that for uneducated households across all the provinces. The levels of physical violence against women correlated with the education levels of husbands. The low rates of literacy in Balochistan and KP can partially explain the higher levels of violence against women in these regions (Haider, 2014).

According to some commentators, the lack of education and development in Balochistan and KP are the key reasons for comparatively high rates of domestic violence in these provinces. Historian Mubarik Ali postulated that the preponderance of tribal and feudal culture in these societies was conducive to the low levels of recognition of women's rights. The acceptance of domestic violence against women as a cultural regularity sensitizes both males and females to such attitudes from a young age. Physical violence against women by their husbands is also a result of deep-rooted psychological and other behavioral challenges. The 2012-2013 Demographic and Health Survey revealed that such issues were more prevalent among men in Balochistan and KP as opposed to other provinces. Twice as many women in Balochistan reported that their husbands wanted to keep track of them at all times compared to Punjab. Moreover, more women in KP and Balochistan reported that their husbands got angry or jealous when they talked to other men (Haider, 2014).

Persisting Challenges in Implementing Legislation against Domestic Violence

Notwithstanding the implementation challenges created by the tribal stranglehold and the customary way of life in Balochistan, domestic violence legislation has been controversial all across the country. Notions of the sanctity of private domestic life have kept domestic violence away from the compass of the political agenda at the federal level even after other forms of violence against women were criminalized. The Council of Islamic Ideology (CII) and the Jamiat Ulema-e-Islam (JUI-F) political party have prominently opposed domestic violence legislation at the federal and provincial levels. The 2009 Domestic Violence (Prevention and Protection) Bill was unanimously passed in the National Assembly with the support of several human rights organisations and activists. However, the Bill was allowed to lapse mainly due to objections from JUI-F representatives and other conservative quarters. According to members of the National Commission on the Status of Women (NCSW), the bill was allowed to lapse by the relatively liberal PPP-ANP government of that era in a bid to conciliate religious parties. The anti-domestic violence legislation faced severe criticism in the Punjab and Sindh Provincial Assemblies before it was eventually passed. Although the Protection of Women against Violence Act was passed in Punjab in 2016 to address domestic violence issues, significant challenges persist with regard to implementation owing to continued opposition by conservative quarters. The greatest flaw in the Punjab Act has been that the law has not been criminalized and instead has been kept in the civil law arena (Aurat Foundation, 2015).

ANNEX B: TARGET 5.3

Background Information on the Prevalence of Child, Early and Forced Marriages in Balochistan

The perception of children as commodities amid circumstances of extreme poverty promotes the practice of child and forced marriages. Pakhtun and Baloch families frequently take money from the boy's family as part of the marriage contract in a practice called walwar. Over the years, few attempts have been made to enhance girl's education and employment prospects in Balochistan. Prohibitive schooling costs and weak employment prospects make it feasible for parents to marry off their daughters at young ages. Young marriages for girls create health risks such as obstetric fistulas from underage pregnancies and increased risk of maternal death. It also adds to the problem of women and young girls not having control over their reproductive health and being able to plan pregnancies (Ismail, 2016).

In the province related context, informal parallel justice systems, known as Jirgas in Balochistan, frequently

settle blood feuds and honour related issues through the giving/taking of Swara, also known as Wani or Badla-e-Sulh. The tradition of Swara involves the giving of a woman's hand in marriage to an aggrieved family to compensate for a serious crime committed by male relatives. In many cases of Swara, young girls are married to men considerably older than themselves. Another practice involving forced marriages is the tradition of Xhag or Ghag, which is a man's entitlement to a claim over his female relative for marriage. Divorces in the tribal belt are rare. Another discriminatory traditional practice is Walwar, which is a bride price paid by the male's family to the female's family. This practice furthers the notion of women as commodities (Shinwari et al., 2013).

Persisting Challenges against legislation on Child Early and Forced Marriages in Balochistan

Relevant departments have taken inordinately long to make the necessary progress. Political representatives and law makers in Balochistan have been reticent on the issue and much of the activism has come from civil society organizations. Progress has been hampered by deep-rooted cultural and socio-economic influences among other factors.

The passage of legislation against early in the province is complicated for a number of reasons. There are key societal attitudes that hinder amendments to the age of marriage. The Punjab Assembly has kept in accordance with the Child Marriage Restraint Act 1929 with regards to age but has imposed stricter punishment for those that violate these provisions. Sindh is the only province to have increased the age for both boys and girls to 18 years, a marriage below that age being considered null and void. However, the opposition and debate which the marriageable age of a girl child raises has demonstrated that cultural, religious and institutional barriers are a key obstacle to the passage of legislation against child and early marriages. Even at the federal level, opposition from conservative factions such as the Council of Islamic Ideology and the JUI political party is significant in hindering such legislation.

There are reports of sizeable resistance to awareness campaigns against early marriages from the general Balochistan populace. In addition to ideological challenges, institutional weaknesses further undermine efforts to legislate against child, early and forced marriages. Gaps in the birth registration system in Balochistan, as in the rest of the country, have also undermined efforts against child and early marriages. Birth registration for girls in Balochistan is particularly overlooked. Moreover, the monitoring of child rights violations is weak due to the absence of strong, independent and centralized bodies for child rights advocacy. The Balochistan Women's Development Department (WDD) and the province's CSOs lack the capacity to build the necessary momentum around such movements¹⁹ (Aurat Foundation 2015; Ismail, 2016).

Although the Balochistan Child Marriage bill is still in the formative stage, drafters in the province are considering the minimum age for marriage of 18 for both boys and girls. Legal draftspersons in Balochistan have asserted that they seek to overcome the perceived shortcomings of federal legislation through the introduction of harsher punishments and by rendering child marriage a non-bailable and non-compoundable offence, as has been done by the Sindh Child Marriages Restraint Act 2013. (A non-compoundable offence is where the complainant i.e. the victim, has the choice of dropping charges against the accused) (Ismail, 2016; Rehman et al. 2015).

While recent years have some constructive debate in relation to legislation on child marriages, the push for reform is complicated across the provinces. Anti-child marriage legislation is culturally and religiously contentious. The strongest criticism has come from conservative quarters such as the National Assembly

19. There are some CSOs that are working in rural areas, but at a very small scale, and they will need to accelerate and will need to begin operating at the union council level. Their role touches 3 areas: advocacy, capacity building and awareness.

Standing Committee on Religious Affairs and the Council of Islamic Ideology, which have called the law un-Islamic. The most controversial issues have related to the minimum age for child marriage. Conservatives have insisted that the Shariah law permits marriage for boys and girls when they have reached puberty. Any attempt at legislating otherwise is in contravention of Islamic principles. Suggestions for including clauses that mandate the automatic dissolution of child marriages have also been met with strong opposition. Frequently cited objections include the legitimacy of children born from child marriages, the social stigma associated with the dissolution of a marriage and the willingness of partners to be in the union (Rehman et al., 2015).

ANNEX C: TARGET 5.4

Women's Key Role in the Domestic Economy in Balochistan

Although women in Balochistan make a crucial contribution to the province's economy through their paid and unpaid labor, they remain at a notable disadvantage in terms of equitable access to public services and infrastructure such as health and education, asset ownership, work and living conditions, and representation in formal and informal institutions. The associated repercussions for women's empowerment are significant keeping in view the key role they play in the household economy. Women's unequal position in the household, their limited ability to secure assets independently from male relatives, and their greater exposure to violence compromise the goals of shared responsibility within the household and the family unit in Balochistan, as is the case in other parts of the country. Women in Balochistan are much less likely to be the legal owners or occupiers of their homes, where men are invariably regarded as household heads. Women's economic contributions are likely to be underestimated because they engage in home-based work and agricultural activities, which are the most difficult to document (Balochistan WDD, 2012).

The lack of or limited supply of electricity in rural households across Balochistan also creates additional work for women. In the same way as they are expected to provide water for their families, women are also expected to make up for shortfalls in energy provision. In rural areas of the province, women trek to purchase fuel or collect wood for fires, spend time making fires, heating water, and cooking. Some women are compelled to arrange for groceries on a daily basis due to the absence of reliable refrigeration. The limited access to water, sanitation and energy services across Balochistan disproportionately impacts women through added stress, food insecurity, and inability to afford essential services such as food, health and even education (USAID, 2012).

Acute water shortages, food insecurity, heat-related illnesses and death and the spread of infectious diseases have inordinately impacted women. Their limited social capital and access to information relative to men has made it far more difficult to cope with these changes. Moreover, as the primary caregivers, they bear the brunt of added responsibility from health-related climate change impacts in the province. Increasingly hot summers and poor nutrition are interfering with women's ability to go about their normal routine of fetching water for household consumption. Women now have to walk longer distances in extreme temperatures to fetch water for household consumption. Because of the increasing exposure to pesticides and pesticide run-off, women working in fields are at greater risk of diseases such as diarrhea and hepatitis. Unborn children of pregnant farm workers are also at high risk from such impacts (USAID, 2012).

Women are mostly limited to choosing income-earning options that are compatible with childcare and domestic responsibilities. As in other parts of Pakistan, many women in Balochistan perform their economic role from inside or near the house, such as processing food or selling small items. Even within the informal economy, women tend to be concentrated in lower-income segments than men. This results in a significant gender gap in earnings and in the benefits and protection afforded by work. Poorer women, especially those in socially excluded groups, suffer disproportionately more and have limited opportunities to meaningfully

participate in the decision-making process or to engage in productive activities to improve their livelihoods and communities (USAID, 2012).

ANNEX D: TARGET 5.5

Challenges against Women's Participation in the Economic, Political and Public Life in Balochistan

The unemployment rate in Balochistan is high for both men and women compared to the rest of Pakistan. According to one report, of the 25,000 men and women who graduate from college in the province every year, merely 2,000 are able to find jobs. This is due to the lack of industry in Balochistan where state jobs are the main source of employment. The general lack of education, awareness, poverty and inequality and lapses in the law and order situation in Balochistan are responsible for the low rates of employment, and the situation is worse for women. 71 percent of Balochistan's population was estimated to be living in multidimensional poverty according to a 2016 UNDP survey. This is nearly 30 percentage points higher than the national average (UNDP, 2016).

As underscored earlier, women in Balochistan face widespread discrimination in the education, employment, health, and nutrition sectors despite comprising nearly half of the province's population. Usually women are employed in the informal sector either as domestic labour, livestock rearing etc. The urban working women mostly occupy low-paid, low-productivity, and low-security jobs. The fluctuation of low income jobs leads to the inability to afford adequate quality and quantity of essential public services, e.g., water supply and solid waste removal, leading to unhygienic living conditions and health risks.

Although women hold positions of power in all-women's educational institutions, they can rarely wield such influence in powers and institutions where men are also employed. All key posts, including the Executive District Officer Education (EDOE), are occupied by men. The overall patriarchal mindset of the region dictates attitudes towards women in the workplace and prevents them from progressing in the job spectrum. The physical infrastructure of most public and private sector workplaces in the province is not amicable to women. Most buildings do not have separate wash rooms or waiting areas for women. In rural areas, there are no provisions for the accommodation of female teachers (Balochistan WDD, 2016).

Currently, the federal and provincial governments have failed to understand the importance of women's participation in political life and decision making. There are no concrete laws or policies at either level that lay out steps for ensuring an increase in women's political participation. Political parties' manifestos unfortunately also lack the same commitment.

Moreover, the reserved seats for women in the Balochistan Assembly are retained by close relatives of prominent male politicians. Essentially, these women further the political agenda of influential male relatives. According to information from KIIs and FGDs, most political parties in the province do not address women's development issues in their manifestos. Male parliamentarians and politicians seldom support gender equality initiatives. In the absence of such backing, women parliamentarians alone cannot affect the necessary reform in a male dominated assembly. In order to address such issues, the Balochistan WDD Gender Policy Framework has called for women parliamentarians to be selected on the basis of competence as opposed to political connections (Aurat Foundation, 2014).

A significant number of women in the province are employed in the livestock sector, which is the main source of income for nomadic families in the region. Much of women's work in the livestock sector is unpaid and overlooked in official accounts. In general, women's ability to benefit from livestock rearing depends on men's

approval. The loss of grass cover due to climate change impacts in recent years has compromised women's livelihoods as grass is the main source of fodder for animals. According to information from KIIs and FGDs, the lack of a sound agricultural and industrial policy in the region has precluded steps that can be taken to enhance women's gains from their role in the province's agricultural sector.

The functional Ombudsman offices mandated by the workplace harassment law, for instance, are yet pending formation. The most pressing difficulties in implementing the legislation is the lack of understanding of the importance of this legislation as a catalyst to ensure more women feel safe at the workplace and to encourage more women to enter the workplace. Because provincial government structures are required to set up inquiry committees as well, the lack of their establishment directly reveals the lack of political will and underlying understanding of the importance of such a legislation. This reflects the wider patriarchal mindset in the province, as is the case across Pakistan.

WDD Gender Equality Framework 2016-2020 Blueprint for Enhanced Women's Participation in the Economic, Political and Public Life in Balochistan

The Balochistan WDD policy document also recommends that all political parties should be mandated to retain a 33 percent quota for the membership for women. Elected Councils (General Bodies) of political parties should also have a 33 quota for women. It further recommends that the State should initiate electronic and print media campaigns in support of women's enhanced participation in politics. The WDD has called for setting up a Women's Political Participation Cell within the department to streamline the organization's liaison with MPAs, councilors and political parties. Currently, this association is not adequately robust keeping in view the lukewarm response to women's development issues by parliamentarians in the region. The policy document also calls for the setting up of a cross-party Women's Parliamentary Caucus, as set up in Islamabad, in the Balochistan provincial assembly. This would complement the activities of the WDD in furthering action on gender concerns in the province. The document also called for enhanced women's representation in all parliamentary committees including the Public Accounts Committee and the Public Service Commission. These committees should have a minimum of 20 percent seats for women (Balochistan WDD, 2016).

The WDD policy framework has also provided for increasing the number of polling stations for women, especially in rural areas where such access is limited. The Election Commission of Pakistan (ECP) needs to take action on Party Positions on Gender on the conditions of candidature. The ECP should also provide gender-disaggregated data on voter turnout in all elections. Constituencies where women are restrained from their right to vote, or the number of women voting is obviously very low, laws should be amended to declare the elections null and void. The ECP rules should be amended to increase female representation in the ECP itself to 33 percent. In order to encourage women to obtain domicile certificates, a women's desk should be set up at the National Database and Registration Authority (NADRA) offices. This should be managed by female staff to assist women's registration. Women should be made to register in their own names rather than under their husbands' or fathers' names. The WDD policy framework also called for the setting up of mobile units of NADRA and to reduce the registration fees for women in order to enhance their access (Balochistan WDD, 2016).

The Plan does lay out achievements under four broad categories including monitoring and reporting on international commitments, the requirement to formulate province based pro-women policy and legislation and women development related activities and according to information from KIIs and FGDs, there is a notable lack of political will to implement such reforms. In the absence of political will, it is also extremely difficult to mobilize the necessary resources for facilitating the reform process. In addition to a province based political and economic empowerment policy for women, there is also a need for accompanying legislation to facilitate the achievement of SDG 5.5 targets in the province.

The Plan has called for the collection of gender disaggregated data on poverty and asset ownership in the region. This would help to inform policies for the economic uplift of women. The needs of disabled women and girls are to be addressed specifically by the province's poverty alleviation programmes. Pension rules are to be amended to entitle widows to the full pension of their deceased husbands. The policy document calls for the reservation of a 10 percent quota for women's employment in all civil services, government and private jobs across all pay-scales. Women's employment is to be facilitated through the construction of hostels and living facilities in all district and provincial headquarter offices, and through improvements in security. There is also a recommendation that the provincial government adopt a policy on homebased workers (Balochistan WDD, 2012; 2016).

The Provincial Government's Human Resource Policy and Establishment Code was to be reviewed and aligned to accommodate a greater role for women. A separate Directorate for Women's Education was also recommended to be set up. The policy document also calls for a 20 percent quota to be reserved for women in key managerial and administrative positions. Moreover, senior officers such as ministers were to provide quarterly reports on gender issues in their respective departments, including information on the number of women recruited, promoted and the positions vacant. Although the WDD Gender Equality Strategic Plan 2016-2020 has been endorsed by the Balochistan government, many of its policy recommendations are yet to be acted upon or embraced in the form of legal provisions (Balochistan WDD, 2012; 2016).

Though covering various aspects of women's inclusion into mainstream public life, the Policy has, however, failed to address the multifaceted responsibilities expected of women, which involve household responsibilities such as being primary caregivers to young children. This policy should address the importance of childcare facilities at all workplaces and set an example by setting one up for present employees and as an incentive for future female employees (Balochistan WDD, 2012; 2016).

Currently, there are no job search or information facilities for women seeking employment in the region. According to the Balochistan WDD policy recommendations, Career Development Centers (CDCs) are to be established across the province to assist women's job search and preparation for competitive examinations with help from women's universities in the province. The provincial government is also to develop a policy for women engaged in home-based work. There is a need to put forth propositions for overcoming barriers to market access faced by women in industries such as livestock rearing and textiles in the region. The issue of low social mobility among women in Balochistan is also recognized by the WDD policy recommendations as a key barrier to their enhanced access to markets and quality jobs. The WDD policy framework has proposed the creation of more local and flexible jobs for women as a key means of overcoming the constraints faced against enhanced labor force participation. Lowering the access costs for women, exploring market linkages and in general promoting more active labor market policies for women in Balochistan have been identified as key areas for intervention (Balochistan WDD, 2016).

Due to the preponderance of female workers in Balochistan's agricultural sector, there is a need to integrate women-specific clauses to the province's agricultural and infrastructure policy, as in the rest of the country. Potable water is a key issue facing women in rural areas of Balochistan. Addressing women specific related clauses to women in general policy and legislative frameworks welcomes gender mainstreaming and promotes the essential understanding of the importance of women as active economic participants (Balochistan WDD, 2012).

In view of growing water scarcity and lack of clean drinking water, there is a need for campaigns to teach women how to purify or filter water. It has been stipulated that the China-Pakistan Economic Corridor (CPEC), a \$54 billion economic development project where work is being undertaken in Gwadar port, Balochistan, has the

potential to drastically uplift women's economic fortunes in both rural and urban areas of Balochistan. Rural women in particular stand to benefit from CPEC interventions since a large proportion of CPEC activities is planned to pass through Balochistan's rural areas.

Such peripheral regions are frequently overlooked in development interventions. The project has the potential of playing a pivotal role in uplifting women's economic fortunes by allowing them greater access to markets and the associated employment opportunities. But for this potential to be realized future oriented economic policies for women and the potential benefits they can derive from CPEC must be clearly spelt out. The 2012-2020 Strategic Plan should be further amended to go as far as creating initiatives that support women financially and laying out specific projects and how to run them that local women could initiate. This must then be widely disseminated in local, simple language, among local populations that will directly be impacted from CPEC in local. The WDD policy blueprint for women's economic uplift in Balochistan currently does not incorporate suggestions for how CPEC interventions could be tailored to maximize benefits for women in the province (Associated Press of Pakistan, 2016; Balochistan WDD, 2016).

Although the WDD gender equality blueprint has called for women's issues to be incorporated into Balochistan's economic growth strategy explicitly, large policy implementation and legislative gaps still persist. Legislation mandating the provision of improved facilities to women employees who are transferred to various administrative offices as a part of their jobs has yet to be instituted. Adequate accommodation, transportation and security are necessary if female participation in the workforce at the district level is to be augmented. School curricula needs to be revised to counter gender stereotypes. Women parliamentarians, women and human rights organizations and gender studies departments in schools should take the lead in the reform process. Although these policy recommendations have been endorsed by the Balochistan government, they have not been acted upon or translated into legal mandates.

ANNEXE: TARGET 5.a

Complexities in the Regulation of Agricultural Properties

In the case of agricultural properties, revenue authorities are bound by a separate and comprehensive mechanism for the registration of the shares of lawful heirs of a deceased person. This mechanism does not require applications or formal requests to operate. It is widely understood that the process of land inheritance is slow, almost archaic and not systemic enough to be efficient or serve the purpose for which it is there. There is a pressing need to make the extant land record system in the country simpler and more transparent. Non-transparent, complicated, slow and non-systemic mechanisms of acquiring rightfully inherited property is particularly susceptible to abuse and creates the greatest detriment to women and other vulnerable groups.

Further, the intricacies of the system provide innumerable loopholes for the misappropriation of rightful shares of women in inheritance and asset ownership. Punjab has attempted reforms to the province's Land Revenue Act where systemic, computerized mechanisms have been introduced and time frames set for decisions to be made by land revenue officers and other relevant officials. This reform process has also been initiated in Sindh. Unfortunately, Balochistan has not initiated such reforms (Rehman et al., 2015).

Civil and Criminal Remedies for Women's Share in Inheritance

Women are denied their rightful share in the ownership and inheritance of all forms of property and resources through offences that are recognized as either civil and/or criminal by law. Civil infringements are those where women are denied their rightful share in the inheritance by deliberately excluding them from suits of 'heir ship'

or in applications for issuance of succession certificates. In criminal cases, women are denied such rights through fraud, cheating, alienation or the disposition of their property in the name of some other person. However, the extant legal remedies for dealing with civil and criminal cases involving property inheritance at the federal level are quite lenient and general in nature. The introduction of a stricter criminal provision after section 498A has not necessarily deterred a deep rooted, patriarchal practice of depriving women their rightful share in property (Rehman et al. 2015).

Interlinked Issues of Dowry, Gifts and Women's Inheritance

Across families in Balochistan and Pakistan, a common trend is to link women's inheritance share to the custom of giving them dowry (jahez) at the time of their marriage. In such cases, dowry is regarded as an alternative of women's share in inheritance, and male members of the family are thereby able to persuade them to surrender their right. The ironically, however, is that often dowry is taken away from a married woman or denied to her should a separation take place. In cases where dowry is viewed as an alternative to women's share in inheritance, measures need to be adopted to ensure that women's rightful shares in inheritance are not substituted by this practice.

As a separate issue, a practice of dowry itself should be curbed. Moreover, there should be measures to ensure that any gifts women make of their own free will to male family members should be made after women have got the ownership and possession of the property, which is often not the case. Such measures were proposed by the Code of Civil Procedure (Amendment) Bill 2008, which was allowed to lapse in Parliament without further action. Because of the absence of legal provisions pertaining to Target 5.a goals at the provincial level in Balochistan, federal legislation on the issue applies to the province. As discussed in the preceding analysis, there are significant shortcomings in federal legislation and in the existing land revenue system on the ownership and inheritance rights of women. These can be overcome through the passage of context-specific legislation on the issue at the Balochistan provincial level. Such initiatives are essential if the pervasive practice of denying women their rightful shares in the family property are to be curbed through the legal framework and to use the law as a catalyst to change social attitudes towards women and inheritance (Rehman et al. 2015).

Description of the Progressive Punjab Land Revenue Act (Section 24)

An amazing of bridging the gap in discriminatory legal language, adding to the great equality of women is seen in section 24, Mode of Service of Summons of the Punjab Land Revenue (Amendment) Act 2015. Section 24 highlights the procedural method of how a summons is served. Pre-2015, the Land Revenue Act 1967 stated that a summons would be considered served only when a male member of the family household would receive the summons. This discriminatory and unfair gap has been plugged by the 2015 amendment which now states that any adult member of the family, living in the same house as the person to whom the summons is served, may receive the summons. Now any adult member, as opposed to only male member, receiving the summons is considered confirmation that the summons has been properly and procedurally served (The Punjab Land Revenue (Amendment) Act 2015).

Though a small step, it is significant recognition that all adult members of the household are equal, regardless of gender. Furthermore, it challenges the underlying notion of inequality and attempts to bridge the gap, though the language used in legal literature. This is a development that should be initiated in other provincial assemblies such as Balochistan as well.

Challenges with Regard to Women's SRHR in Balochistan

The lack of basic healthcare facilities and healthcare professionals, poor communications and infrastructure networks, and low population density exacerbates the plight of the women of Balochistan seeking sexual and reproductive healthcare and services. Deterioration in the province's law and order situation and the crackdown on INGO activities, who work on SRHR has exacerbated matters by reducing the number of professionals providing (SRHR) services in remoter areas of the province (Shah, 2014).

Because of the low levels of literacy, the number of SRHR workers in Balochistan is also low compared to the rest of the country. Kidnappings and targeted killings of doctors has led to large exodus of these professionals from the region during the last few governments. A recent report published by Medicines Sans Frontiers (MSF) underscored the above issues as the key driving factors behind Balochistan's high MMR (Shah, 2014).

Economic dependence, cultural norms as subservient and obeying a husband's wishes sexually and fear of violence also compel women to concede to unprotected sex. Strict cultural norms and an awareness of one's rights leads to women being unable to negotiate safer sexual practices with their partners and this goes into the argument to prevent AIDS/HIV as well. Women in rural and peripheral areas of Baluochistan do not have access to medical clinics for consultations. With the exception of Quetta and few other large cities, most pregnant women in Balochistan are treated by traditional unskilled birth attendants in the absence of gynecologists or skilled birth assistants.

According to the PHDS, 70 percent of the birth attendants in the province are unskilled. Untrained neighbors and relatives frequently administer locally available low-cost medication for uterus contractions to speed up delivery. Key vaccinations required during pregnancy are not available. According to official data, out of the total 627 union councils in the province, 247 union councils do not have trained officers to administer pregnancy related vaccinations. Although figures from relevant government health departments have reported that 7,200 active Lady Health Workers (LHW) are helping to reduce the province's MMR rate, this is not evidenced on the ground. LHWs commissioned to work in remote areas of the province do not perform their duties due to the variety of factors underscored above. Successive governments have allocated substantial sums to healthcare in the region, but essential equipment and medicines are not available in hospitals (Afsar et al. 2006; Mumtaz et al. 2005; Shah, 2014; WPF, 2010).

The prevalence of other reproductive health problems such as sexually transmitted diseases (STDs) and HIV/AIDS is still relatively low in Pakistan compared to some other countries. But it is recognised that "patterns of health behaviour which can rapidly facilitate an epidemic spread of HIV/AIDS infection are widespread among men." Due to very little knowledge on the subject and the taboo of discussing certain topics women and men are unaware of "vulnerability of the problem." (MoH/UNAIDS (2000)).

With particular focus on young people, governments, including Pakistan, Asian and Pacific Ministerial Declaration on Population and Development, committed to creating awareness of young people of their sexual and reproductive rights. Further to this, the Common Country Programme Action Plan was formulated by UNDP, UNFPA and UNICEF 2013-2017 to highlight key action points for Pakistan to further address the sexual and reproductive health issues prevalent throughout the country (WPF, 2010).

Unfortunately, we have found that the ground reality in Balochistan and throughout the country is that very little has changed to emancipate the ordinary Pakistani woman with regards to reproductive health, Family

planning and health services have not been able to keep up with the fast growing population. Furthermore, the State's ability and willingness to educate women and girls about sexual and reproductive rights have been very weak.

The displacement of women and children in Balochistan due to the law and order situation has notably disrupted the region's maternal and child health services. Poor conditions in displacement centers increase the incidence of life-threatening pregnancy-related complications among expecting women even more than in normal circumstances. Displaced women experience difficulty in availing reproductive health services and government and civil society organizations have not taken adequate stance on this issue. The National Disaster Risk Reduction Policy does not specifically focus on reproductive health and post disaster recovery plans have not addressed Sexual and Reproductive Health Rights (SRHR). As a result, there has been an increase in maternal deaths in the province.

Displacement camps have inadequate water and sanitation facilities. Drinking water is unhygienic and water borne diseases are therefore common. There is a lack of privacy for women in displacement shelters, particularly with regard to facilities such as toilets. Women face an overall insecure environment in such camps. Incidents of sexual abuse have also been reported in such shelters. Because of women's limited role and participation in the necessary remedial interventions, many such interventions have failed to address their specific needs. Moreover, distribution points set up by civil society relief organisations have not been gender sensitive. As a result, women fall behind as beneficiaries of such projects. Because of strong gender barriers, women frequently face difficulties in accessing food and other essential services in relief camps. The law and order situation in the province has also restricted women's mobility because of the damage to infrastructure, undermining their access to the already limited SRHR services (Afsar et al. 2006; Balochistan WDD, 2016; Mumtaz et al. 2005; Shah, 2014; WPF, 2010).

ANNEX G: THE CHARACTER OF JUSTICE IN BALOCHISTAN AND ITS LINK TO THE PROVINCE'S READINESS FOR SDG 5 TARGETS

When analyzing the province's readiness to achieve SDG 5 targets against a legislative backdrop, it is crucial to understand the legal system in the province. The formal justice sector comprises of Sharia law and common law. This includes the lower courts, the High Courts; in case of the Balochistan it will be Balochistan High Court, and then the Supreme Court, as the final court of appeal. Within this formal court structure, there are also non-court mechanisms such as arbitration and mediation. In addition to this, there are the Muslihati councils, set up in the districts of Balochistan and they are composed of indigenous representatives of the district. These were formed and were formed under the 2001 Local Government Ordinance for the resolution of minor disputes. The bifurcation of the law enforcement dispensation in the province into A-Areas and B-Areas complicates the governance of any legislation (Shinwari et al, 2013).

There is also the informal or parallel justice system throughout Pakistan, which is accessed mostly by the rural, socioeconomically deprived segments of society. The localized names for these systems are panchayats or Jirgas. In the Balochistan context, Jirgas are more frequently accessed as opposed the formal court system in the province. A survey of local attitudes shows that Jirgas are the first preferred points of contact for dispute resolution in rural and tribal Baluohistan. The state's justice system is more prevalent in urban parts of the province. In rural and Pakhtun dominated parts of Balochistan, twice as many cases are referred to local Jirgas than to the district administration and the police. Formal courts are the least preferred avenue for redress in rural and tribal areas. The police in the region itself has been reported to encourage locals to resolve their issues through Jirgas due to the complexity of the cases and the local cultural backdrop, which gives weight to these informal structures over the formal justice system.

The length and cost of legal proceedings in formal courts also explains the preference for informal justice systems such as Jirgas, and to a lesser degree, the Muslihati councils. Studies have shown that the perception of the formal legal system as distant, expensive, corrupt and time-consuming is the primary reason for the preference for informal systems rather than people's lack of awareness about formal institutions. While informal Jirgas do not have government patronage or support, their verdicts are binding on all parties

The Balochistan police has networks in both rural and urban parts of the province. The jurisdiction of the Balochistan police is limited to A-Areas, while B-Areas are under the control of Levies governed by a separate paramilitary force. The institution employs some 50,000 employees and has been mandated wide ranging powers of arrest, investigation and search. However, the tribal stranglehold and recent law and order issues in Baluchistan have undermined these powers. Crimes reported to the police are registered as First Information Reports (FIRs). Subsequent to FIR registration, the police investigates crimes and arrests offenders. However, the police in the province, as in other parts of the country, is not viewed favorably by the general populace. The police department has been accused of corruption, bribery, class bias, high costs, mishandling of cases and a general lack of responsiveness.

The fundamental principles of the Baloch tribal code and the Pakhtunwali, adhered to by Baluchistan Pakhtuns, have been criticized by human rights organizations nationally and globally. These principles revolve primarily around land and the notion of women as guardians of honor. The notion of honor, particularly for women, is a fundamental precept of the indigenous tribal code in Balochistan. Customary law, tribal codes and Islamic principles inform Jirga decision-making. The allegiance to Islamic principles has essentially allowed Jirgas to legitimize their position in the wider Pakistani society. Jirga decisions are socially and morally binding on the involved parties. Jirgas are widely accepted as an ancient, wise and traditional justice system that the community often shuns violators of their verdicts. The local support for Jirgas has rested on the premise that they are free from the biases and drawbacks of formal institutions and are entrenched in Islamic values.

The reality is that the composition of Jirgas is an all-male structure where influential tribal male elders (known as Jirgamaars) are the judge and jury, deciding on fact and evidence. Their decisions are not bound by due process or required to be in the confines of the law of the land. Women are not allowed as decision makers and are unable to defend themselves as the accused or as a witness. Disputes referred to Jirgas include marital, divorce and child custody cases as well as instances of infidelity and elopement. Jirga decisions cannot be contested in formal courts.

Jirga punishments have gone beyond civil matters and include criminal decisions such as confiscation of property, ordering the rape and willing of women as revenge, marriage and exchange of women to resolve disputes (known as Swara, Wani or Badla-ul-Sulh). Jirgas frequently settle blood feuds and honor related issues through the giving/taking of Swara.

Their decisions are extremely dangerous and detrimental to women, girls, minorities and other vulnerable people, who may not have influence or power. The Sindh High Court in 2004 declared jirgas illegal. The Supreme Court has also held in a judgment that jirgas are illegal and contravene the Constitution of Pakistan. The Jirga system violates the requirements of modern justice and international human rights standards. The fundamental Jirga 'principles' are anti-human rights and therefore incongruent with SDG 5 targets.

The coexistence of contesting systems of justice in Balochistan leaves significant room for “forum shopping” among locals to resolve a dispute. Jirgas, Muslihati councils, state courts as well as Taliban courts are just some of the avenues for redress for locals. Within this competing mix of options for justice, only state institutions are mandated to uphold human rights agreed upon at the national and international level. This leaves considerable

room for the violation of women's fundamental rights agreed upon in the constitution and international treaties. To this end, state institutions must reform themselves if they are to emerge as viable alternatives to dispute resolution processes that can promote the violation of women's rights.

ANNEX H: SDGs- A Short Feminist Critique

The overall goal of the SDGs as articulated in the 2030 Agenda is to aim at “transforming our world”. It is welcomed that such an ambiguous aim of 17 goals and 169 targets is accompanied with goals that recognize that transformation is not achievable without empowering women. It should be noted here, however, that feminist critic of the SDGs, particularly SDG 5, states that women's empowerment is not formulated in manner that will ensure actual power. In other words, it is considered “empowerment without power.” (Power and the Sustainable Development Goals: a feminist analysis 2016).

Empowerment, a terminology infusing power with reclaiming one's rights and usually applicable in the context of vulnerable groups, is hollow if it fails to address power relations between the sexes. Political, legal and social empowerment is possible but not without addressing real issues such as where power lies and how it can be shifted or redistributed more equally. This leads to the importance of addressing the restructuring of deeply patriarchal systems and how structures that hold power can be rebuilt to rid of non-multidimensional, unaccountable and gender insensitive institutions and mechanisms. The uneasy truth is that empowerment should not be looked at apolitically and hence in a vacuum. It must be addressed in a wider context, with a gender sensitive lense that questions the real elephant in the room – unequal power relationships.

The first official document that can address this complex yet imperative point is policy. Future national and provincial policy yet to be formulated allows Pakistan and its policymakers to reflect on this point and aim to ensure that policy and legal frameworks keep in sight the actual goal - that for achieving real empowerment of women, the unequal power relationship dynamics between women and men, both in public and private spheres, should be tilted towards more equal relationships.

Another important aspect of any commitment, including SDG 5, is that to eventually achieve gender equality and parity there must be two constant forces at play. Firstly, it is political will that translates into clear and sound policy in all areas of development and not limited to only those that deal with gender related particulars. Too often badly drafted policy and legislation has been introduced, which, it can be argued, is as detrimental as not having a policy and/or legal framework at all. This is particularly applicable to women where extant institutional structures of the executive and judiciary are deeply prejudice against women and considered non-women friendly. Clear and purposeful documents that keep the wider issue of addressing key weaknesses and ensuring justice must be at the forefront of every draftsman's intention.

Secondly, where required, sound financial and supportive provisions that promote the policy must exist, ideally laid out in clear, pragmatic language in the policy instrument itself. Therefore, single cycle financial support should be discouraged from being adopted. Sustainable, multifaceted approaches that work in the local context are key to a successful policy instrument.

APPENDIX I: Study Methodology

Research Methodology

The research methodology will draw from the Beijing Declaration and Platform for Action, Programme of Action of the International Conference on Population, the Addis Ababa Action Plan on Transformative

Financing for Gender Equality and Women's Empowerment, recommendations of the World Women's Health and Development Forum and blueprints to advance women's prospects in business and management contexts laid down in the International Labour Organization's (ILO) Global Report on Women in Business and Management. Each of these frameworks will be adapted to suit local conditions in Baluchistan. The framework will be developed in consultation with UNDP and we proposed a methodology workshop followed by the inception meeting.

Utilizing its experience in research methods, as well as building upon relationships with legislators, government department as well as within target communities, LEAD Pakistan will roll out preparatory activities once the project gets underway. These activities will be conducted in three distinct phases. The first phase will comprise of tasks such as literature reviews and mapping of extant circumstances, the second phase will involve consultative sessions with stakeholders, FGDs and KIIs, and the final session will involve a number of validation workshops. The details are included in the table below.

Phase	Activity	Tasks
Phase 1	Inception Workshop (internal) Methodology Workshop (internal) Mapping/Literature Review/Primary Data	Literature review Review ongoing relevant national and provincial discussions and decisions Thorough analysis of the budget process at provincial level.
Phase 2	Multi-Stakeholder Consultations	
	Focal Group Discussions (FGD)	1 with Provincial SDG Task Force working on gender issues 1 Legal and Institutional Experts 1 CSO with those working on gender issues in Baluchistan 1 with academics and researchers
	Key Informant Interviews (KII)	5 with Legal and Institutional Experts 5 CSOs with academics, researchers, data producers and those working on gender issues in Baluchistan 5 with MPs

Phase I: Desk Research and Secondary Data Analysis

The proposed multimethod assessment will initially undertake literature review and analysis of secondary documents related to women's empowerment and advancement in an array of fields. The study will assess the extent to which existing legislature, regulations, and the rules of procedure and their implementation are SDG 5 ready. This will be followed by mapping of ongoing national discussions and decisions related to women's empowerment, and their effect on provincial governance regarding women-specific issues, and eventually, progress on SDG 5. The literature review and mapping will be followed by process analysis to identify an effective mechanism of parliamentary engagement for oversight of women's empowerment governance and the necessary resource mobilisation. The literature review and document analysis will be divided into two

distinct phases. The initial analysis will cover the various women's empowerment measures that can be taken in Baluchistan in tune with the SDGs and the subsequent analysis will focus on the legislative and regulatory context in the province and issues of implementation. The data analysis will follow the pattern of 'grounded theory' and the coding process will also be guided by pre-determined codes and themes that will emerge from document analysis. The study team will use NVIVO software for qualitative data analysis.

Phase II: Primary Data Collection and Process Analysis

During stage two, multi stakeholder engagements will take place and in conducting these assessments, the project team will draw on a variety of information gathering sources including consultations, FGDs and interviews which will debrief them on the mapping exercises as well as the legislative gap analysis. Specifically, the data collection and process analysis will involve

- In-depth consultations with Baluchistan's SDG Taskforce as well as MPs who are not a part of the special Task Force;
- Focus Group Discussions with a range of groups and individuals (legal and institutional experts, CSOs with those working on gender issues in Baluchistan and researchers, academics and other data producers pertaining to various aspects of SDG 5;
- Key Informant Interviews with legal and institutional experts, CSOs with those working on gender issues in Baluchistan, researchers, academics and data producers as well as MPs;
- Research and identification of potential sources of data to measure progress against each SDG 5 target in Baluchistan.
- The analysis of data collected from semi-structured key informant interviews and focus group discussions will either be transcribed or direct qualitative analysis of the data gathered will be conducted using the NVIVO software. The analytical process will involve read and re-read exercises which will be coded in order to identify emerging themes and their relationships to the main objectives of the study. This thematic content analysis methodology will help to identify the major themes and categories that will emerge from the primary data analysis, and represent the varying perspectives of numerous individuals who will participate in the study.

APPENDIX J: KII and FGD QUESTIONNAIRE

Section 1: General issues about gender-equality

1. Kindly shed light on Pakistan's performance during the MDG period and the last decade in general on ensuring gender equality? What have been the major achievements and failures?
2. How successful has the country been in translating international conventions such as the Beijing Declaration and CEDAW among others) at national and provincial level?
3. As CSOs, how essential do you believe is sound policymaking to effective legislative action pertaining to various women's empowerment challenges?
4. In general, to what extent does sound policy-making back legislative procedures in Pakistan in the context of issues underscored above?
5. As CSOs, what do you believe are some of the main obstacles preventing sound policy pertaining to various women's empowerment issues in the country?
6. What are the key steps that can be taken to enhance policy-making that can back legislation related to various women's empowerment issues in the country?
7. How has the passage of the 18th Amendment changed the way federal legislation pertaining to women's empowerment impacts provincial outcomes?

78. Post 18th Amendment, does federal level legislation need analogous legislation at the provincial level to facilitate efficacious implementation?

Probing Questions (Optional for CSOs, Academics and MPs)

9. Will the devolution of power under the 18th Amendment entail changes to the financing mechanisms that pertain to the passage and implementation of various legislative Acts?
10. Are provinces and local governments well prepared to adjust to the procedural changes (pertaining to legislative Bills and Acts) affected by the 18th Amendment?
11. If not, then what steps need to be taken to streamline such changes at the provincial and local level?
12. Is the devolution of powers under the 18th Amendment a positive influence on the efficacy of women's empowerment related legislation?

Section 2: Analyze gaps in legislation/ policy formulation and implementation

Violence and Harmful Practices

SDG 5.1 End all forms of discrimination against all women and girls everywhere

1. What are the most common forms of violence and harmful practices faced by women in Baluchistan?
2. Which of these practices are the most pervasive and in what parts of the province?
3. Are there laws in Baluchistan to address these issues?
4. If not, then do you propose new legislative measures?
5. What will be the key challenges in enacting such measures?

SDG Target 5.2:

Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

1. What are the most common forms of violence, trafficking and sexual violence related issues faced by women in Baluchistan?
2. Which of these practices are the most pervasive and in what parts of the province?
3. Are there laws in Baluchistan to address these issues?
4. If not, then do you propose new legislative measures?
5. What will be the key challenges in enacting such measures?
6. Regarding measures to curb sexual violence, what is your opinion on the efficacy of legislative measures such as The Torture, Custodial Death and Custodial Rape (Prevention & Punishment) Act, 2014, and The Anti-Rape Laws (Criminal Laws Amendment) Act, 2013 in reducing the incidence of rape in Baluchistan?

Probing question for CSOs, Academics and Mps

7. What is your opinion on the appropriateness of composition of the above mentioned legislation?
8. Regarding measures to curb honor-killings, what is your opinion on the efficacy of legislation such as the Anti-Honor Killing Laws (Criminal Laws Amendment) Act, 2014 in affecting a decline in the incidence of honor killings in Baluchistan province?

Probing question for CSOs, Academics and Mps

9. What is your opinion on the appropriateness of composition of the above mentioned legislation?
10. Is a viable strategy for the implementation of such legislative Acts present in Baluchistan?
11. What are the key shortcomings in the implementation strategy of such legislative Acts?

Probing question for CSOs, Academics and Mps

12. What is your opinion on the efficacy of recent federal legislation such as the National Commission on the Rights of the Child Act, 2015, The Criminal Law (Amendment) Act 2014, The Special Citizens Bill, 2015, Prohibition of Corporal Punishment Bill, 2014 and The Constitution (Amendment) Bill, 2014 (Minorities' rights, Article 51 of the Constitution) with regard to ending violence against women in Baluchistan?

Recommendations

13. What new legislative measures do you propose for overcoming the current gaps?
14. What changes do you recommend for enhancing implementation of current and new legislation?
15. What indicators do you propose for gauging progress against such measures?
16. What will be the key challenges involved enacting such measures?

SDG Target 5.3:

Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation

1. How prevalent are practices such as child, early and forced marriages in Baluchistan?
2. In what parts of Baluchistan are such practices most prevalent?
3. Are there laws in Baluchistan to address these issues?
4. How significant are cultural barriers as a challenge?

Probing Question for CSOs and Academics

5. How has the passage of the Child Marriage Restraint Act 2014 at the Federal level impacted outcomes in Baluchistan? Has it had any impact on reducing the incidence of forced marriages in the province?
6. What are the key obstacles in enacting legislation such as the Child Marriage Restraint (Amendment) bill in Baluchistan?
7. What are the key reasons due to which the Baluchistan and KP provinces are lagging behind in the passage of progressive legislation such as The Sindh Child Marriage Restraint Act, 2013 and The Punjab Child Marriage Restraint (Amendment) Act 2015?

Probing question for CSOs and Academics

8. What is your opinion on the efficacy of federal level legislation such as the Child Marriage Restraint (Amendment) Bill, 2014 and the Hindu Marriage Act, 2015 and The Child Protection System Bill, 2014, in reducing the incidence of forced marriages in Baluchistan?

Recommendations

9. What new legislative measures do you propose for overcoming the current gaps?
10. What changes do you recommend for enhancing implementation of current and new legislation?
11. What indicators do you propose for gauging progress against such measures?
12. What will be the key challenges involved enacting such measures?

Workplace Rights, Public Participation, and Discrimination

Target 5.4:

Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate

1. What laws exist in Baluchistan to address issues such as unpaid care and domestic work through the provision of infrastructure and social protection policies?
2. An Anti-Harassment Act has been passed in Baluchistan to prevent harassment against women at the workplace and to prevent the abuse of domestic workers. What are the key barriers to the efficacious implementation of such Acts across provinces? Are cultural barriers too significant a challenge to surmount in this regard?

Probing Question for CSOs and Academics

3. In your opinion, how effective is federal level legislation pertaining to Protection against Harassment of Women at Workplace (Amendment) Act, 2014, and The Domestic Workers (Employment Rights) Act 2013 making a difference on the ground and at the provincial level?
4. Do women in Baluchistan have good access to services such as the internet? What is the outreach of such services in the province?
5. Are cybercrimes against women a serious issue in the province?
6. Aside from the National Cyber Security Council Bill, 2014 and The Protection of Cyber Crimes Act, 2014, is there any additional legislation at the Federal level to support related outcomes for women?

Recommendations

7. What new legislative measures do you propose for overcoming the current gaps in Baluchistan?
8. What changes do you recommend for enhancing implementation of current and new legislation in the province?
9. What indicators do you propose for gauging progress against such measures?
10. What will be the key challenges involved enacting such measures?

SDG Target 5.5:

Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life

1. What are the main barriers against women's effective participation in political, economic and public life in Baluchistan?
2. What laws exist in Baluchistan to address issues such as women's participation in political, economic and public life?
3. How successful has been the implementation of such laws?

Recommendations

4. What new legislative measures do you propose for overcoming the current gaps in Baluchistan?
5. What changes do you recommend for enhancing implementation of current and new legislation in the province?
6. What indicators do you propose for gauging progress against such measures?
7. What will be the key challenges involved enacting such measures?

Access to Services and Availability of Enabling Technology

SDG Target 5.6:

Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

1. What is the quality of access to sexual and reproductive health technologies in Baluchistan?
2. What legal and institutional measures have been taken to remedy any shortcoming?
3. How successful have provincial level legislation pertaining to women's reproductive, maternal, neonatal and child health been in influencing outcomes in Baluchistan? What are the main barriers to the efficacy of such legislation (cultural, monetary or institutional?)
4. The Protection and Promotion of Breast-Feeding and Child Nutrition Act, 2014, has been passed in Baluchistan. How successful has been the legislation in influencing outcomes on the ground?
5. Do you believe that the dearth of additional women's health and gender mainstreaming legislation at the Federal level is a telling revelation about the lack of attention paid to such issues?
6. Aside from the HIV/AIDS (Safety and Control Act), 2013 (Jurisdiction ICT), is there any additional legislation at the Federal level to support the health outcomes for women?

Recommendations

7. What new legislative measures do you propose for overcoming the current gaps in Baluchistan?
8. What changes do you recommend for enhancing implementation of current and new legislation in the province?
9. What indicators do you propose for gauging progress against such measures?
10. What will be the key challenges involved enacting such measures?

SDG Target 5.b:

Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women

1. Do women in Baluchistan have good access to services such as the internet? What is the outreach of such services in the province?
2. Are cybercrimes against women a serious issue in the province?
3. Aside from the National Cyber Security Council Bill, 2014 and The Protection of Cyber Crimes Act, 2014, is there any additional legislation at the Federal level to support related outcomes for women?

Recommendations

4. What new legislative measures do you propose for overcoming the current gaps in Baluchistan?
5. What changes do you recommend for enhancing implementation of current and new legislation in the province?
6. What indicators do you propose for gauging progress against such measures?
7. What will be the key challenges involved enacting such measures?



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