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Child Protection Policy in Pakistan

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Abstract

This thesis explores the concept of child protection from a policy perspective. I argue that concepts matter in the formulation of policies because the way an issue is thought about affects policy responses. The concept of child protection has come a long way from its origin in the ‘child rescue movement’ of the 1870s; however, the socially constructed nature of child protection has only gradually been realised. The uncritical acceptance of child protection imperatives stemming from the concepts of ‘child rescue’ and ‘battered baby syndrome’ has resulted in system-wide failures. The adoption of the United Nations Convention on the Rights of the Child has significantly changed the social context in which children and child protection problems are viewed and child protection policies are formulated. Such continuously evolving understandings of issues relating to children and their safety and well-being have given rise to a scholarly debate on the need for a fundamental reconceptualisation of child protection.

This thesis argues that there is a need to reconceptualise child protection in a way that recognises the complexity and fluidity of issues around child protection as well as the importance of context. It establishes that such a reconceptualisation is necessary to develop effective and relevant child protection policies in varying contexts around the world. By using Pakistan as the context, this research examines the ways in which policymakers conceptualise child protection and the ways in which these conceptions translate into policies. The research uses an interpretive-constructivist methodology and mixed methods for data gathering.

The analysis shows that child protection problems in Pakistan include incidents of individual abuse and exploitation, but, more commonly, collective abuse and exploitation caused by broader socioeconomic and structural factors. Child protection policymaking involves a range of individual and institutional actors in the absence of a specialised national institution to cater to all children-related issues. The policy process is characterised by personalistic decision-making which highlights the importance of individual policymakers’ concepts of child protection in the policy process. The analysis reveals three major conceptions of child protection among Pakistani policymakers: 1) child protection as a socioeconomic issue, 2)
child protection as a religious and cultural issue and 3) child protection as a human rights issue.

These findings have special significance for conceptualising child protection and formulating child protection policy not only in Pakistan, but also in similar contexts elsewhere, for global child protection policy and for theoretical debates on the concept of child protection. The analysis shows that child protection is not a neutral and/or technical activity. Rather it highlights the relative and contextual nature of the concept of child protection and the ways these relative concepts ultimately translate into concrete policies and practices. The findings of this thesis suggest that to have an effective and locally relevant policy, it is necessary to reconceptualise child protection in ways that take account of children's individual needs and rights and familial and societal values, as well as national and international standards around care and protection of children.
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<th>Full Form</th>
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<tr>
<td>CPWB</td>
<td>Child Protection and Welfare Bureau</td>
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<td>CSP</td>
<td>Civil Service of Pakistan</td>
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<tr>
<td>FIA</td>
<td>Federal Investigation Agency</td>
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<tr>
<td>GCs</td>
<td>General Comments</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GNP</td>
<td>Gross National Product</td>
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<tr>
<td>IBE</td>
<td>International Bureau of Education</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>INGO</td>
<td>International Non-governmental organisation</td>
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<tr>
<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
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<tr>
<td>IRC</td>
<td>Innocenti Research Centre</td>
</tr>
<tr>
<td>ISPCAN</td>
<td>International Society for the Prevention of Child Abuse and Neglect</td>
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<tr>
<td>NCCWD</td>
<td>National Commission for Child Welfare and Development</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<td>NPA</td>
<td>National Plan of Action (for children)</td>
</tr>
<tr>
<td>NSPCC, UK</td>
<td>National Society for the Prevention of Cruelty to Children, United Kingdom</td>
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<tr>
<td>PPA</td>
<td>Pakistan Paediatric Association</td>
</tr>
<tr>
<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
</tr>
<tr>
<td>SAARC</td>
<td>South Asian Association for Regional Cooperation</td>
</tr>
<tr>
<td>SAIEVAC</td>
<td>South Asia Initiative to End Violence Against Children</td>
</tr>
<tr>
<td>SAP</td>
<td>Social Action Program</td>
</tr>
<tr>
<td>SPARC</td>
<td>Society for the Protection of Rights of the Child</td>
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<tr>
<td>SPCC</td>
<td>Society for Prevention of Cruelty to Children</td>
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<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
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<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children's Fund</td>
</tr>
<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
</tr>
<tr>
<td>WASA</td>
<td>Water and Sanitation Agency</td>
</tr>
<tr>
<td>WAPDA</td>
<td>Water and Power Development Authority</td>
</tr>
</tbody>
</table>
List of non-English (Urdu, Arabic) words/terms used in the text

<table>
<thead>
<tr>
<th>Word</th>
<th>Parallel in English</th>
</tr>
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<tbody>
<tr>
<td>Allah</td>
<td>God</td>
</tr>
<tr>
<td>Amanat</td>
<td>Trust</td>
</tr>
<tr>
<td>Anjumane</td>
<td></td>
</tr>
<tr>
<td>Himayat e Islam</td>
<td>An Islamic intellectual, political and philanthropic association</td>
</tr>
<tr>
<td>Bait ul MaaI</td>
<td>Islamic public exchequer, a social safety net in Pakistan</td>
</tr>
<tr>
<td>Chadar</td>
<td>Veil</td>
</tr>
<tr>
<td>Chardiwari</td>
<td>Four walls of home</td>
</tr>
<tr>
<td>Chaudhary</td>
<td>Feudal lord</td>
</tr>
<tr>
<td>Fiqh</td>
<td>Islamic jurisprudence</td>
</tr>
<tr>
<td>Hudood</td>
<td>Islamic punishments</td>
</tr>
<tr>
<td>Jamaat e Islami</td>
<td>Literally means 'Islamic party', a right wing political organisation</td>
</tr>
<tr>
<td>Jirga</td>
<td>The traditional tribal court</td>
</tr>
<tr>
<td>Iqra</td>
<td>Arabic word for 'read/learn', the first Qur'anic revelation</td>
</tr>
<tr>
<td>Izzat</td>
<td>Honour</td>
</tr>
<tr>
<td>'Kam bache-khushhal ghrana'</td>
<td>Smaller family is a happy/well off family - National family planning program slogan</td>
</tr>
<tr>
<td>Kammi</td>
<td>Tenant/serf</td>
</tr>
<tr>
<td>Karo kari</td>
<td>Honour killing</td>
</tr>
<tr>
<td>Khutba</td>
<td>Urdu word for 'speech', the last address of the Prophet</td>
</tr>
<tr>
<td>Madrasah</td>
<td>Religious schools</td>
</tr>
<tr>
<td>Nauw wa nafiga</td>
<td>Arabic word for 'bread and clothing', maintenance allowance</td>
</tr>
<tr>
<td>Negheban</td>
<td>Urdu word for 'guard', a social welfare institution in Pakistan providing services for lost, kidnapped and runaway children</td>
</tr>
<tr>
<td>Pir</td>
<td>Spiritual leader</td>
</tr>
<tr>
<td>Rushd</td>
<td>Maturity</td>
</tr>
<tr>
<td>Sahil</td>
<td>Urdu word for 'shore', name of a non-governmental organisation working against child sexual abuse</td>
</tr>
<tr>
<td>Shari'a</td>
<td>The Muslim legal tradition as a basis of law in Muslim states</td>
</tr>
<tr>
<td>Shariah Nizam-e-Adl</td>
<td>Justice system based on the Muslim legal tradition</td>
</tr>
<tr>
<td>Sin e tameez</td>
<td>Ability to discern</td>
</tr>
<tr>
<td>Sunnah</td>
<td>Practices of the Prophet Muhammad</td>
</tr>
<tr>
<td>Tehsils</td>
<td>The second-lowest administrative unit after the Union Council</td>
</tr>
<tr>
<td>Thanedari</td>
<td>Policing</td>
</tr>
<tr>
<td>Ulema</td>
<td>Religious scholars and leaders</td>
</tr>
<tr>
<td>Ushr</td>
<td>Arabic word for ‘tithe’, a religious land tax</td>
</tr>
<tr>
<td>Ustad-shagird</td>
<td>Urdu words for ‘teacher-student’, a system of apprenticeship for informal learning of a trade</td>
</tr>
<tr>
<td>Vani/swara</td>
<td>The exchange of females for the settlement of disputes</td>
</tr>
<tr>
<td>Wata sata</td>
<td>Exchange marriage</td>
</tr>
<tr>
<td>Zamindar</td>
<td>Landlord</td>
</tr>
<tr>
<td>'Zan, zar, zameen'</td>
<td>Urdu words for ‘female, money and land’, a proverb which implies that these three things are the reason for violence on earth</td>
</tr>
<tr>
<td>Zina</td>
<td>Adultery</td>
</tr>
<tr>
<td>Zakat</td>
<td>A religious tax</td>
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INTRODUCTION: CHILD PROTECTION

Section 1: Overview

Child protection is arguably one of the most highly contested areas of public and social policy. It was first conceived in the late 1870s as an area of state intervention that “rescued” children against the cruelty of adults and soon took the shape of what is known as the “child saving movement”. However, the initial momentum was lost within the first two decades of the 20th century until the “discovery” of “battered baby syndrome” in the 1960s.

Child protection issues almost always evoke passionate public concern that demands an immediate policy response. Research into and evaluation of state policies around the world (but particularly of those in the global North) provide evidence of the continuous struggle that policymakers have faced in coping with these issues, and the concerns they raise, throughout the modern history of child protection. This struggle has been characterised by either too little state intervention (itself based on overly narrow definitions and concepts of child abuse) or too much intervention (based on “all inclusive” child protection goals).

Furthermore, attempts to formulate “balanced” policy, that is, policy that can address potential and actual risks to the safety and well-being of children in a wide range of situations, have not been entirely successful so far (Lonne et al. 2009). This may be partly explained by the preoccupation of policymakers and researchers with a proper response, which, without question, is paramount if issues of child protection are to be addressed. As vital, however, is the concept of child protection in its own right, and how this concept is understood, interpreted and dealt with. It is a basic social policy principle that the way an issue is perceived or thought about affects what ought to be done about it, that is, problems and our responses to them are socially constructed (Bacchi 1999). In this sense, the socially constructed nature of child protection problems has been only gradually realised (Parton 1996a). Scholars in the field have become increasingly wary of the uncritical acceptance of child protection imperatives stemming from the “child rescue” and “battered baby syndrome” approaches, and how such imperatives have resulted in system-wide failures (Lonne et al. 2009;
At the same time, the social context in which these approaches have been applied is also changing. The formal worldwide recognition of the idea of the child as a holder of human rights – including the right to protection – in the form of the United Nations Convention on the Rights of the Child (UNCRC) provides an example of this changing context (Scott 2006). Such continuously evolving understandings of issues relating to children and their safety and well-being demand a fundamental reconceptualisation of the concept of child protection.

The central premise of this reconceptualisation is the recognition of the complexity and fluidity of issues surrounding child protection as well as of the contexts involved in developing child protection policy. Such a reconceptualisation is important in the context of the global North, where many existing child protection systems are struggling to deliver care and protection services to children and where most debates on the causes of child protection failures are taking place. This reconceptualisation carries special significance for evolving child protection systems in the countries of the global South, many of which are in the process of formulating their first-ever child protection policies and are establishing systems in recognition of their UNCRC commitments. However, any attempt at reconceptualising child protection is only possible if we critically examine the emergence and evolution of current concepts of and approaches to child protection.

This thesis argues that, to have a relevant and effective child protection policy, it is critical that we conceptualise child protection in a way that relates to specific situations of adversity as experienced by children in their local contexts. First, the thesis provides an appraisal of the literature relating to the concept of child protection as it emerged historically and evolved over time, and how specific concepts have influenced child protection policies around the world. It is noted that little empirical evidence exists on the relevance and implications of the current concept of child protection in state policy and practice in the global South, which is the focus of this thesis. Using Pakistan as the study context, this thesis identifies existing legislative and policy frameworks and the challenges of child protection in Pakistan given these frameworks. Following this, the analysis of primary data is focused on the concept of child protection as it is understood, interpreted and used in Pakistan’s child protection
policy process. To do so, this thesis identifies both individual and institutional policy actors involved in Pakistan's child protection policy and examines their role in the policy process and the ways they effect the child protection policy process (Chapters One, Two). It then examines three major conceptions of child protection among Pakistani policymakers; that is child protection as 1) a socioeconomic development issue (Chapter Three), 2) a religious and cultural issue (Chapter Four) and 3) a human rights issue (Chapter Five). Finally, the thesis examines the ways these conceptions translate into actual policy formulation and implementation and shows that varying conceptions of child protection espoused by policymakers have important implications for child protection policy in Pakistan. Further, these exact same principles can be applied to other similar country contexts and to global child protection policy, practice and child protection theory.

Section II: Protection and child protection: the concepts

The question, “What is protection?” is fundamental to research on child protection. The word “protection” means “the act of protecting against”, and “the state of being protected” (Oxford English Dictionary 2007). However, when the term is used in relation to children, that is, “child protection”, the question becomes “protection against what?” rather than “what is child protection?” Even if asked in the latter form, a standard answer in the childhood/child protection literature is “protection of children against abuse and neglect and/or maltreatment”. The two senses differ in what is addressed in the child protection literature as “primary-secondary-tertiary” (Helfer 1982) or “responsive-preventive” protection (Calvert 1993). Primary or preventive protection facilitates “the state of being protected”, ensures children’s well-being and aims at stopping maltreatment before it starts. Secondary-level protection involves targeting “at risk” populations by providing various forms of support such as teaching parenting skills and increasing parents’ knowledge of child development. Tertiary or responsive protection is “the act of protecting against”, which describes any intervention to protect children only when an incident of maltreatment has occurred (Calvert 1993; Helfer 1982).

Further, from the broader theoretical perspective, various models of child maltreatment differ in their etiological emphases, leading to a difference in the sense
in which protection is conceptualised in these models. Most widely known is the individual-psychological model of maltreatment, which portrays child protection problems as arising from individual pathology (Kempe et al. 1962; Polansky 1981). Child maltreatment conceptualised in such a way is responded to in medico-legal terms when an incidence of neglect or abuse becomes known and is substantiated, that is, when either tertiary or responsive protection or protection against an incident of maltreatment are activated. Gil’s social (1970) and Gelles’ social learning (1973) models of child protection emphasise the social and environmental conditions that encourage the maltreatment of children. Thus, these models allow for primary and/or preventive strategies of child protection, that is, the state of being protected before maltreatment occurs. The etiological emphases of the ecological model (Bronfenbrenner 1977; Bronfenbrenner & Morris 1998; Garbarino 1977, 1985) include individual as well as social and environmental conditions leading to various protection problems, which envisage not only tertiary and primary, but also a secondary, level of protection or a mix of responsive and preventive strategies.

However, in contemporary child protection approaches worldwide, child protection is understood in only one of the two senses in which protection is defined literally, that is, in terms of “protection against what?” It includes tertiary (and some secondary) or responsive protection in the form of individualistic medico-legal intervention. To understand why and how this has happened, we need to critically appraise the history and evolution of global child protection systems and approaches. This is the focus of the next part of this review.

Evolution of contemporary child protection approaches

The maltreatment of children has occurred throughout history and across cultures (Radbill 1980; Smith 1975). However, it was not until the late 19th century, when children were first seen as “priceless”1 and a new concept of childhood based on the emotional value of children took shape, that child protection became a matter of

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1 According to Viviana Zelizer (1985), in the late 1800s to the 1930s America, children became economically ‘useless’ and emotionally ‘priceless’ in the wake of establishment of laws removing children from the marketplace, resulting in a search for new, sentimental criteria to determine a child’s monetary worth, which in turn, raised children’s emotional status to be considered ‘priceless’.
public concern in societies of the global North (Gordon 1989; Lonne et al. 2009; Zelizer 1985). This concern was expressed in the form of efforts to reduce infant and child mortality, to create laws related to child labour and to provide compulsory education for all children, among other things (Parton 1985; Zelizer 1985). More importantly for this thesis, action was taken to protect individual maltreated children (Liddell 1993). In fact, as the first organised effort at “child-saving”, the New York Society for the Prevention of Cruelty to Children (SPCC) was a response to the well-publicised case of an eight-year-old girl Mary Ellen, who was a victim of severe physical abuse by her mother (Liddell 1993; Radbill 1980). Following in the footsteps of the New York Society, societies for the prevention of cruelty to children were formed in various parts of the world (Radbill 1980).

Child-saving

Early interventions against child cruelty and maltreatment in the late 19th century were based on an approach of “rescuing” children from abusive environments (Gordon 1989). The rehabilitation of victims and the prevention of abuse were not seen as a central concern (Parton 1985; Tomison 2001). This “child rescue” approach was heavily dependent on legal intervention in families, suspected of child abuse, through court orders (Tomison 2001). Based on this, the concept of protection as defined legally, means “policing” families/parents to establish whether or not abuse has occurred – abuse that is clear, unambiguous and serious enough to warrant state intervention. This definition tends to subsume emotional abuse and neglect in the term “abuse” and leaves out the notion of protection from broader structural and socioeconomic problems (Archard 2004; Parton & Parton 1989).

By the early 20th century, the above-mentioned weaknesses of the “child rescue” approach became clear, moving the emphasis and focus away from child saving. In the second decade of the century, child protection virtually became a local issue rather than a high profile activity of national concern (Lonne et al. 2009). Reasons for this include the decline in the women’s movement following the granting of universal suffrage, the bureaucratisation of child protection bodies (such as the National Society for the Prevention of Cruelty to Children, UK) and the shifting agendas of concerned organisations (such as the Children’s Bureau in the US) which began to focus on
strengthening family life (Ferguson 1996; Halpern 1991; Parker 1995). Out of this, child welfare emerged as the next high point in the history and evolution of child protection.

**Child welfare**

An increasing realisation of the centrality and importance of the working classes to the military and industrial expansion of nations of the global North such as the United Kingdom and the United States resulted in the broader state “welfare” approach. Families were provided with state support in the form of social security, health insurance and free education and school meals (Parton 1985). Further, two world wars strengthened the need for the state institutions to remedy the terrible experiences of war and evacuation on the one hand, and to further provide a healthy and well-trained work/military force on the other, leading to a recognition of the family’s role in appropriate child development (Parton 1985). Therefore, in most Western societies, the immediate post-Second World War period saw considerable concern and activity about deprived children in particular and about family and child care in general (Corby 1987; Packman 1981). The role of state childcare services became enabling rather than protective, that is, it was characterised by a secondary child protection approach to help parents take better care of children within the family environment (Packman 1981). Using the residual, institutional and developmental models of state welfare intervention as proposed by Hardiker and colleagues (1991), the “child welfare” approach was based on a developmental model. According to this model, state provisions have a central role in promoting child welfare, preventing family breakdown and securing fair treatment (Smith 2005).

**Development psychology and the developing child**

The developmental approach to child welfare—later criticised as the state desire to get ‘the product it requires’ by controlling families while maintaining the ‘illusion of family independence’ (Corby 1987, p. 2) — was justified by the emerging science of developmental psychology (Jenks 1982, 2001). This discipline was gaining influence in both social work training and in child-related official circles throughout the Western world in the 1950s and 1960s (Corby 1987). The single most influential figure in the field of developmental psychology was Jean Piaget (1896-1980), whose
work on the development of thought and bodily skills influenced children-related policies in fields as diverse as child protection, welfare, education, medicine and law among others (Jenks 1982).

In the field of child protection, the positive contribution of development psychology has been that it takes into account children’s physical and emotional dependency on others for survival. It emphasises the importance of the gradual cognitive development of children in understanding young people’s reactions to cruelty and to degrading treatment, where ‘a child’s personality, in the absence of pre-existing development, may not only be altered, but actually be developed by a traumatic event’ (van Bueren 1998, p. 60). Therefore, while an adult may suffer some personality alteration due to a traumatic experience, all of a child’s cognitive development may not only be altered but actually developed by a similar experience. This vulnerability of children entitles them to special protection. These insights into cognitive development helped broaden child protection policies from “intervention in the face of occurrence of abuse” (tertiary protection) to “early intervention” and “prevention” of harm to children (secondary protection).

Another development theory that achieved wide applicability was the attachment theory of John Bowlby (1907-90), which describes the importance of attachment (to others, but especially a child’s attachment to its mother) in human life. In child protection policy and practice, the trend away from residential placement is partly a result of thinking about the importance of attachment (Cassidy & Shaver 2008). Bowlby’s concept of maternal deprivation, explicitly linked, by Henry Kempe and his colleagues (Kempe et al. 1962), to child maltreatment, was a major influence on social work practice with children and families.

The discovery of the battered child

The “discovery” of the “battered baby” by Henry Kempe and his colleagues in 1962 was an important development in the history and evolution of child protection (Kempe et al. 1962). The label “battered babies” was emotive, helping to publicise the problem of child maltreatment and encouraging the state to take action. It was a product of a specific context in which medical professionals, with the help of medical
technology such as X-rays, medicalised a problem that was otherwise characterised by a complex inter-relationship of social, psychological, economic and legal factors (Lonne et al. 2009; Parton 1985). Child protection as conceptualised in terms of the “battered baby syndrome” not only raised public concern for the protection of children, it also influenced public policy in that it led to the establishment of distinct, professionally staffed child protection services with expertise in the assessment and treatment of cases of child maltreatment (Melton 2005; Tomison 2001). The medical profession— with state support— was seen as having a key role to play in the diagnosis and treatment of child abuse, as the problem was defined as an illness—a syndrome in the psychopathological view (Parton 1985; Pfohl 1977). Child protection, conceptualised in this way, focused attention on a “disease model” of physical abuse by carers due to a defect in the carer’s personality (Helfer 1982) that could be identified and treated. As a consequence, child protection remained an individual rather than a social issue; however, the focus had shifted from the abused child to the abusive parent/adult.

In this model of child protection, the causes of child abuse reside with individuals in the form of certain identifiable objective factors. Thus, examination of antecedent factors in individuals, was thought to help identify, predict and prevent abuse (Gelles 1973). Derived from development psychology, this model, like the “child rescue” approach, defined protection in the narrow sense of intervention at the individual level and ignored broader social, economic and structural contexts of abuse (Brofenbrenner 1977; Garbarino 1977; Parton 1985). What this child protection approach (that is the diagnoses and treatment of “battered child syndrome” in the medical tradition, influenced by development psychology) means in terms of child protection policy and practice was not analysed at that time. Rather, the approach has had enormous influence on existing child protection systems, especially in the Anglophone countries of the global North.

For example, the Children’s Bureau in the United States issued a reporting law in 1963 that required certain health and welfare professionals to report cases of actual and suspected child abuse to designated public authorities (Hutchison 1993; Mathews & Kenny 2008). This was followed by the first child protection legislation in the United States, the Child Abuse and Prevention and Treatment Act in 1974 (Mathews
& Kenny 2008). Similar processes took place elsewhere, for example in Canada in the 1960s and in Australia in the 1970s (Mathews & Kenny 2008). Following this, child protection became more of a “standardised” activity. This standardisation is explicit in the use of legislation to enforce appropriate standards of care, lists of indicators of abuse, reporting requirements and risk assessment inventories. Child protection was also concomitantly “professionalised” with its emphasis on the need for expertise in the assessment and treatment of child abuse, thereby focusing on the role of professionals such as social workers and medical practitioners and leading it to become a narrowly-focused technical activity.

This narrow focus failed to embrace either knowledge of the causes of child protection problems or the context in which child maltreatment was occurring. These systems required the treatment of children exclusively as individuals with little consideration of their relationship with their families, communities and culture, leading to the stigmatising of children and families in need of protection and/or state support. In many instances, this even led to the use of children as evidence of parents’ “failure” and resulted in the penalising of parents in the guise of treatment (Bissell et al. 2007; Cleaver & Freeman 1995; Lonne et al. 2009; Parton 1996b). Further, it ignored the context in which decisions regarding the care and protection of children were made (Tomison 2001).

While in Anglophone child protection systems the focus was on the actual act or risk of abuse responded to by a forensic investigation, that is, a medico-legal approach, the dominant approach in Northern Europe and Scandinavia was more one based around family support (Hill et al. 2002; Lonne et al. 2009). In this approach, child protection problems are seen as primarily arising from family conflict or dysfunction due to social and psychological difficulties, which can be addressed with a variety of support, counselling, advice and therapy services. This concept of child protection avoids the specific connotation of ‘protection from abuse and neglect’ as used in the Anglophone systems (Hethrington 1998; Hill et al. 2002; Lonne et al. 2009). The ‘family support’ approach was part of a number of ‘differential responses’ adopted by various Anglophone societies in responding to their systemic problems, especially in the 1990s.
**Differential response approaches**

In responding to the problems apparent within the Anglophone child protection systems, "differential response" approaches that allow for more than one method of response to reports of abuse and neglect were used in many countries including Australia, the United States and the United Kingdom (Waldfogel 1998; Western Australian Department of Family and Children Services 1996). Differential response approaches, such as *New Directions* in Western Australia, attempted to move away from narrow, forensically driven, investigatory and adversarial approaches towards family support and the improvement of children's well-being (Parton 2006a, b; Western Australian Department of Family and Children Services 1996). While retaining the right to investigation, differential responses offered an opportunity for a more holistic assessment of family needs.

However, in practice, in order to work with limited resources, this proved to be an approach based more on 'reshuffling of cases into different categories' rather than reducing the incidence of child abuse and neglect or on increasing family support in real terms (Lonne et al. 2009, p. 42). Some feared that such a system of child protection-- which is in theory "differential" or "alternative", but in practice, just "reshuffles" cases--may be doing more harm than good (Scott 2006; Swift 1997). This fear is not misplaced, as a central paradox of child protection systems has been that they subordinate children and parents, that is, the very people whom they seek to protect, to the demands of the system rather than have the system responding to their needs and wishes. Children and parents were treated as objects of state policy and practice rather than as people with feelings, wishes and specific experiences.

**Child rights**

The notion of the child as rights holder proved to be a 'powerful historical driver of child protection' (Scott 2006, p. 10). Compared with earlier child welfare and protection policies, which were based on the notion that children's value and entitlements to state welfare arose from their present vulnerability and future value, protection policy guided by the rights ideology aims to guarantee the fulfilment of children's rights to live, grow, develop, participate and be protected with the same status and dignity as other human beings (Bessell 2007). While there has been a
tension between the protection and rights perspectives, it is generally agreed that the
two ideas are complementary, rather than competitive and a rights approach to child
protection opens up the issue to a broader perspective of children being treated
holistically with due regard for their own agency and ecology (Bissell et al. 2007).

More importantly, the adoption and near-universal ratification of the UNCRC
signalled the beginning of a movement in which international standards of children's
rights, including the right to protection, had to be translated into domestic legislation
and policy (Lansdown 2005). Therefore, while this movement brought greater focus
to the flaws of the existing child protection approaches in the developed world of the
global North, it impacted the children of the global South even more in that many
developing countries, for the first time, were embracing child protection as a public
policy issue.

Global South began to add child protection to their public policy agendas, following
the adoption of the UNCRC; and states’ efforts to meet their UNCRC obligations
have given rise to an increased interest in child protection (Desai 2007; Lachman et
al. 2002; Schmid 2007). Although the UNCRC supplies official policy guidelines for
all member states regardless of context, the main orientation of the UNCRC concept
of child protection is closely associated with the Euro-American cultures of the global
North (An-Nairn 1992; Bissell et al. 2007; Boyden 1997). This is significant because
the UNCRC requires state parties to, among other things, develop a system of
identification, reporting, referral, investigation, treatment and follow-up of instances
of child maltreatment (Article 19 (2)). This approach is a reflection of the child
protection systems that existed in many developed states of the global North at the
time of the drafting and adoption of the UNCRC in the 1980s (Melton 2009, p. xii)
and it was accepted by many states because they were concerned with making the
provisions of the UNCRC compatible with their own domestic laws and policies
(LeBlanc 1995).

However, many resource-constrained developing countries from the global South,
were faced with ideological resistance (from domestic constituencies) as well as
practical difficulties in implementing the UNCRC provisions relating to child
protection in their individual country contexts (Harris-Short 2003; Lachman et al.
Many of these provisions (for example, standards for child care or child labour) suggest a tendency in the UNCRC to promote standards based on the experiences and ideas of those in the global North (Bissell et al. 2007; Feeney & Boyden 2004; Lachman et al. 2002). As such, child protection, as conceptualised in the UNCRC, especially in terms of the identification and investigation of individual incidences of child abuse, has serious policy and practice implications for the countries of the global South.

In these countries, individualised child maltreatment in the form of physical abuse by parents and adult carers in the sense of “battered baby syndrome” is much less prevalent than are child protection problems caused by broader socioeconomic and structural factors. However, uncritical acceptance of the UNCRC conception of child protection has led many developing countries to implement rigid individualistic models of child protection that bear little relation to local realities. This means that issues such as poverty and the exclusion of family and kinship relations—which in many of these countries offer most effective protections to children—are ignored in these models.

In addition, these models with their focus on incidences of individual abuse are costly and, therefore, financially not viable in developing countries (Bissell et al. 2007; Crawford 2001; Lachman et al. 2002; Schmid 2007). Thus, many of these states, including Pakistan, have been struggling to find a locally relevant conceptualisation of child protection and, consequently, an effective child protection policy. Up until now, emerging child protection research in the global South has not covered conceptual issues. Rather, it tends to be either issue-based or is focussed on the (ir)relevance of the global North approaches—especially as embedded in the UNCRC—in the local context (Lachman et al. 2002; Schmid 2007). In this situation, the United Nations Child Rights Committee has been making efforts to provide some conceptual

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2 The Committee was established pursuant to Article 43 of the UNCRC as a means of monitoring the implementation of the Convention and aiding governments in bringing their national laws and practices into conformity with the treaty. Governments of ratifying states are required to submit a progress report within two years of ratification and thereafter every five years. The Committee comprises a body of independent experts, which meets in three sessions each year in Geneva and examines each report and raises concerns or makes recommendations to the state party. It also issues occasional General Comments (GCs) on the interpretation of particular CRC obligations.
clarification in the form of General Comments (GCs) regarding the interpretation of various articles of the UNCRC.

On issues relating to the protection of children, for example, following the United Nations Secretary General’s study on violence against children, the Committee in its General Comment 8 (GC8) briefly touched upon children’s right to protection as enshrined in Article 19 of the UNCRC. However, the focus of GC8 is the issue of corporal punishment (United Nations Child Rights Committee 2006). More recently, GC13, which relates to children’s right to protection from all forms of violence provided a clearer interpretation of and more detail about Article 19 which, until recently, has been taken for granted in the drafting process as well in implementation, and has lacked conceptual clarity, and therefore, applicability (Svevo-Cianci et al. 2011; United Nations Child Rights Committee 2011). However, GC13 is only a recent development and it will take some time to be translated into actual practice. In the meanwhile, researchers and practitioners involved in child rights and protection issues have become increasingly concerned about the universal systemic failures of child protection and welfare services, particularly in the Anglophone world (Berg & Kelly 2000; Lonne et al. 2009; Melton 2005; Scott 2006; Waldfogel 1998; Wharf 2002).

A critique of contemporary child protection approaches

To start with, child protection based on the “battered child syndrome” concept became increasingly reactive, investigative and adversarial, and many children were not safer or better protected as a consequence of involvement with the system (Waldfogel 1998). While many children in need or at risk felt no safer, and even felt left out by the system, quite a few parents were angry and fearful of the consequences of child protection investigations and especially of the social stigma associated with such allegations (Cleaver & Freeman 1995; Manly 2005; Parton 1996a, b; Thorpe 1994). With mandatory reporting legislation, a ‘mushrooming of referrals alleging abuse’ has been noted in many countries including the United States, Canada and Australia (Scourfield 2003, p. 15). Many of these referrals could not be substantiated and were, in fact, found to be concerns about parenting style as opposed to incidents of harm to children (Parton 1997; Scourfield 2003). However, it was not mandatory reporting itself that was problematic, as the United Kingdom has never had a
mandatory reporting system and yet has faced similar challenges (Lonne et al. 2009). In actuality, the problems were much more fundamental.

The scope and complexity of the child protection problem

The whole process of the establishment of modern child protection systems in the global North was flawed from the beginning. Two interconnected and fundamental errors, originating from the assumptions that underpinned the “battered child syndrome”, can be identified as the source of later problems, and they are that both the scope and the complexity of the problem were underestimated (Melton 2005). According to Melton (2005), the assumption was that the problem of child maltreatment could be reduced to “syndromes”, which meant that abusers were either mentally sick or evil. However, such cases are rare and most cases in fact involve a much broader group of acts of omission or commission (Scott 2006). Further, no distinctive behavioural patterns or syndromes have been found that one could label as abusive (Melton 2005). Both errors indicate that child maltreatment and protection issues are far more broad and complex than conceptualised in the “battered child syndrome” approach, yet the same laws and policies developed in the aftermath of the battered child syndrome have continued to inform the state response over time (Scott 2006). This is a major flaw of current child protection systems.

Child abuse definitional issues

The failure to recognise the scope and complexity of the problem has been exacerbated by the fact that the concept of child abuse and/or child maltreatment is not an absolute one in itself and has instead been through considerable change. This mostly has broadened definitions of child abuse in the face of new forms of abuse and maltreatment. Some commentators have gone as far as to say that ‘too vague and all inclusive’ definitions of child abuse have been responsible for all the problems in child protection systems (Lonne et al. 2009, p. 35). The first debates around the definition of “child abuse” and/or “child maltreatment” arose with regard to two issues. Firstly, the clarity of definition is essential to “diagnosis” in the disease model of child protection (Parton 1985). Secondly, a definition is an essential component of research on the issue (Manly 2005; Zuravin 1991). In both areas, the absence of a
clear definition had a negative impact on the development of knowledge about child protection and of a practical response to it.

Initially, practitioners in various child protection systems defined child abuse in terms of the characteristics of abused children in case studies such as that conducted by Henry Kempe and colleagues in the United States (1962). Moving on from this, some used dichotomous contrasts of maltreated and non-maltreated children to identify the consequences of abuse (Herrenkohl & Herrenkohl 1979). Others tried to resolve the issue by simply using legislative definitions as enacted in the concerned jurisdiction (Ivorson & Segal 1990). Still others tried to formulate operational definitions of their own (Wolfe & Moske 1983; Zuravin & Taylor 1987), which were influenced by either professional training or theoretical differences in how the phenomenon is perceived (Ivorson & Segal 1990). All these attempts at defining child abuse were criticised from various perspectives and the search for a satisfactory and agreed-upon definition continued.

In a seminal paper in 1991, Susan Zuravin discussed the problems with and requirements for adequate definitions of child abuse and neglect. In this paper, and in summing up the research to date, Zuravin pointed to the heterogeneity of the phenomenon of child maltreatment in terms of at least four types of maltreatment that it refers to: physical abuse, sexual abuse, physical neglect and emotional mistreatment. Zuravin further pointed to the use of different definitions for the same type of maltreatment and the operational overlap between definitions used in the existing research. Recognising the negative impacts of such practices on the development of knowledge and treatment of child protection problems, Zuravin then elaborated four principles to define the concept of child protection: consideration of the specific objectives a definition must serve; division into homogeneous sub-types; conceptual clarity; and feasibility in practice for formulating a system of definitions and identified ramifications of those principles for defining abuse and neglect (1991, pp.102-03). However, Zuravin could not offer a definition and instead proposed that those involved in child protection research and practice ‘get together as a group and hammer out differences’ (1991, p. 124) as if the problem was only one of individual difference of opinion.
The problem remained unresolved as, years later, reports from various countries such as the United Kingdom pointed to the lack of an absolute definition of abuse and to the narrowness of the definition of protection (Dartington Social Research Unit, UK 1995). In 1999, the World Health Organisation (WHO) Consultation on Child Abuse Prevention defined child abuse in terms of actual or potential harm to a child’s health, survival, development or dignity. However, this definition grappled with the issues of parental intent and cultural relevance among others (Runyan et al. 2002). In 2005, the journal Child Abuse & Neglect dedicated a special edition (vol. 29, no. 5) to addressing the “definitional challenge” involving child protection. The papers in this special edition covered a variety of related topics, including dimensions of maltreatment, comparisons between protective service reports definitions and research definitions, definitions of maltreatment according to substantiation, definitions of child neglect based on child protective services data, and comparisons of methods for classifying predominant types of maltreatment among others. In the invited commentary on the special edition, Roy Herrenkohl praised the edition as a ‘presentation that broadens the definitional perspectives, depicts the definitional difficulties and provides a basis for future directions for progress’ on this important topic of the narrowly defined concept of child protection (2005, p. 413). Nevertheless, in its current usage, the narrow concept of child protection in terms of ‘protection against abuse’ has direct impact on child protection policy and practice.

*Policy problems with child protection defined in terms of child abuse*

The first problem with this approach, which is related to policy and practice, is one of tautology, that is, behaviour becomes abusive as soon as practitioners describe it as such (Dartington Social Research Unit, UK 1995). The situation is complicated further when it is assumed that experts or professionals can distinguish between good and bad parenting (Mason 1993). Different parents may have different ideas as to the proper way to bring up children; or, what a particular society or part of it (for example, an ethnic or racial division) might view as abusive might be seen as normal in another (Archard 2004; Bissell et al. 2007). Even when parenting styles remain the same over time in a particular society, the amount of abuse uncovered by child protection agencies may increase or decrease because society continually reconstructs definitions of maltreatment that sanction intervention (Dartington Social Research Unit, UK
This brings in a form of moral relativism, which has been explicit in public inquiries into child abuse investigation in Britain where social workers are seen to have intervened too much (such as the inquiries in Cleveland, Rochdale and Orkney) or not enough (such as the inquiries into the abuse of Jasmine Beckford, Kimberley Carlile and Ricky Neave, for example) (Parton 2006a). This never-ending struggle of achieving an ‘unachievable’ balance is a child protection policy nightmare.

Secondly, approaching child protection in terms of protection against abuse conceptualises the whole issue in individual rather than collective terms, thus demanding individual intervention rather than a policy that aims at broader structural changes. Gelles (1973) is critical of the primacy given to individual, psychological explanations of child abuse in policy and practice and finds sociological explanations of abuse more useful. Gil (1970) emphasises sociocultural and environmental factors in child maltreatment and insists that, by focusing on individuals, policies instead reinforce the problem. Parton (1985) agrees with Gil that, in an individualised conception, any intervention is focussed on the individual, thus avoiding more wide-ranging changes. Cooper (1993) goes one step further in arguing that an individualised child protection system with its focus on an abused child, on abusive parents or on incidence of abuse allows the state to distance itself from any blame due to broader structural failures such as poverty, discrimination and under-funded services (Cooper 1993). Such a system would be far from achieving the protection of children in any meaningful way.

Most importantly, such policies virtually exclude social institutions such as family, kin, tribe and community, which, on the one hand, can potentially make crucial decisions that end up creating child protection problems, and, on the other, in most societies provide the most protection to children or try to alleviate potential or actual harm (Bissell et al. 2007). However, the exclusion of families and communities does not mean that such policies are children-focused. On the contrary, children remain “objectified” in that they are treated not as people but as “evidential objects” (Melton 2009, p. xii; Wattam 1992, p. 29). Such an attitude is deep-rooted in public discourses about children both in public policy and in broader society.
The place of children and child protection in public and social policy

Historically, children have been marginalised in public discourse. In fact, Rayner's (1991) analysis of the subordinate position of children within broader Australian society and the Australian policy context holds true for almost all children around the world. According to Rayner, children make up a powerless, uninfluential section of the community. They do not play any part in the processes that determine the policies affecting them. They, unlike other subjects of discrimination, are unable to organise themselves politically to influence policy or state intervention in their lives (1991). Children-related legislation and policy around the world typically reflect 'adult-centric' professional points of view, assumptions, priorities and goals (Goode 1986, p. 84; Mayall 2000; Therborn 1993). According to the existing children-related policy literature, research on children or on children-related policy is characterised by two important features. One is related to all children-related policy while the other is more specific to child protection policy. The former tends to group child-related policies under the rubric of family policy (Mason & Steadman 1996) whilst the latter comprises the stream of evaluative and comparative studies of national and cross-country child protection systems including policies and programs that do not have an agreed-upon central concept of child protection.

The realisation that child protection means different things to different people has been gradual and is comparatively recent. Nevertheless, there has been some remarkable documentation of the incidence and prevalence of child abuse, both by individual researchers and by official agencies in different countries (Baker & Duncan 1985; Creighton 2004; Finkelhor & Dziuba-Leatherman 1994; Price-Robertson et al. 2010; Straus & Gelles 1986; Tonmyr 1998; United Kingdom Department for Education and Skills 2004; United States National Research Council 1993) including research from non-English speaking, non-Western countries such as Palestine and South Africa (Haj-Yahia & Tamish 2001; Madu & Peltzer 2000). There have also been studies that frame the comparison of aims and objectives of various child protection systems (Harder & Pringle 1997; Hill et al. 2002; Virtanen 1994) and that address historical and methodological issues in comparative research on child protection (Creighton 2004; Fergusson & Mullen 1999; Hearn et al. 2004). However,
none of these studies has set out with the explicit questioning of ‘What is, and what is meant by, child protection?’ (Hearn et al. 2004, p. 28).

**Research on the conceptualisation of child protection**

Those who address the above question include researchers who have conducted qualitative research into the cultures of child protection offices and into the organisational processes through which child abuse cases are constructed and decisions made about children’s protection (Dingwall et al. 1983; Hall 1997; Pithouse 1998; Savicki 2002; Thorpe 1994; Wattam 1992; Weaver et al. 2007). One attempt at answering this question is especially relevant here and that can be found in Dingwall’s ethnographic examination of how agents of the state identify, investigate and intervene in cases of abuse in the British child protection system (Dingwall et al. 1983). This research was the first of its kind and has been influential in policy circles ever since (Parton 1996a; Scourfield 2003). However, the study was limited in that it focused only on the views and experiences of the various professionals involved in the management of the maltreatment of children. In particular, it did not cover the policy perspectives that guided the practice.

Such a recognition of the policy implications of varying concepts of child protection came mostly in the last decade of the 20th century. Nigel Parton is one of the scholars who has made an important contribution in this regard. Analysing child protection and welfare in the United Kingdom, Parton first views child protection as embracing a broader concept that goes beyond child abuse (1985). He then analyses the implications of laws, policies and interventions based on a narrow concept of child protection, that is, one that formed solely in relation to protection against abuse (Parton 1991, 1996a, 1996b, 1997). Parton argues that a narrowly defined system of ‘child protection has been superimposed on a child welfare system’ and is often done so ‘in a context where there is considerable argument about the nature of child abuse and what we know about it’ (1997, p. 10). What this illustrates, according to Parton, is that among other things child protection is ‘essentially a way of thinking that is informed by quite different assumptions, values and attitudes’ from those who are involved (1997, p. 14). It is important to recognise this relative nature of the concept as to do so carries serious policy implications, as we shall see later.
The recognition of the policy implications of varying concepts of child protection also emerged from the shortcomings of cross-country and/or regional comparisons of child protection policies (Finkelhor 1994; Hearn et al. 2004). In a commentary on the future outlook for child protection policies in Europe, Agathonos-Georgopolou (1998) noted a struggle between the meanings of child protection as ‘protecting from harm’ and as ‘promoting children’s well-being’. She observed that child protection in the UK and Ireland means work against child abuse, whereas in Greece, it is equivalent to child welfare and in Sweden and Finland it means ensuring children’s integrity. Agathonos-Georgopolou further points to the implications of varying concepts in the child protection policies of Europe in terms of parental rights, children’s rights (including the rights of refugee and migrant children) and partnerships between state and non-state actors (including families) among others (1998). More recently, Bob Lonne and colleagues (2009) have analysed contemporary child protection policies and practices in the Anglophone countries of the United States, Canada, Australia, New Zealand and the United Kingdom and present evidence that child protection systems are failing children, families and professionals in those countries. Lonne and colleagues conclude that the ‘defects reside in the very essence of the philosophical underpinning of the way child protection is conceptualised’ (2009, p.100). They recommend a fundamental reconceptualisation of child protection in those countries.

The timing of this realisation of the policy implications of a specific conception of child protection in the global North is important. It is important because, as noted earlier, it has occurred at approximately the time when child protection started to become a public policy concern in the global South bringing with it an accompanying tendency to uncritically follow the child protection models from the global North (Bissell et al. 2007; Melton 2009). It was also noted earlier that the main driver behind this concern was the UNCRC. Therefore, while the focus so far has been on a critical examination of the current conceptual approaches to child protection, it is now time to examine the ways in which child protection is conceptualised in the UNCRC and the manner in which it is being translated into actual policy and practice, especially in the global South.
Child protection and the UNCRC

Children's rights have a long philosophical history, one that can be traced from John Locke's *Some Thoughts Concerning Education* (1693) and Jean-Jacques Rousseau's *Emile* (1762) to Richard Farson's *Birthrights* (1974) and John Holt's *Escape from Childhood* (1974), each of which take very different approaches. However, the most progress in the actualisation of child rights has come through the adoption and the near-universal ratification of the UNCRC (1989), which is, by far, the most comprehensive formal statement of children's rights. It now informs the dominant discourse and international policy on almost all children-related issues (Archard 2004; Detrick 1992; van Bueren 1995). The UNCRC is regarded as an 'extraordinarily comprehensive' human rights instrument by some commentators (Detrick 1992). It has the same value as the constitution in some countries, and has been directly incorporated into the national laws of many others (UNICEF-IRC 2007). However, it has also been interpreted by the commentators in a variety of ways. For example, Hammarberg (1990) developed a classification scheme, which he called the “three Ps”: the provision of basic needs such as the right to food and healthcare, the protection from harmful acts or practices such as commercial or sexual exploitation of children, and the participation of children in decisions affecting their lives (pp. 99-101). Van Bueren expanded this classification by adding a fourth “P”, the prevention of harm to children (1995), which becomes important when interpreting and implementing any system of child protection in the light of the convention.

Children's protection rights under the UNCRC

The UNCRC, in its use of rights language, reflects the ideological compromise between the liberationists and the welfarists (Ansell 2005; Freeman & Veerman 1992; Hutchison & Charlesworth 2000; LeBlanc, 1995). It recognises the 'physical and mental immaturity' of children, and thus, their entitlement to 'special care and assistance' (Preamble) on the one hand, and their 'economic, social and cultural rights' (Article 4) on the other (Hutchison & Charlesworth 2000). Another example of this compromise can be found in Article 3 (the best interest of the child to be a primary concern) and Article 12(child capable of forming opinion and having right to express views) together (Freeman & Veerman 1992). This tension in the UNCRC
(between the vulnerabilities and the competencies of children) has given rise to a constructive debate related to child protection. The welfarists argue in terms of the need for protection for children due to their incompetence (Purdy 1992). However, even child rights advocates are not ready to ‘abandon children to their rights’ (Hafen 1976, p. 644). Van Buren recognises the ‘special vulnerability and immaturity’ of children and, using Minogue’s (1978) argument that rights are not derived from ‘the operation of natural reason’ but ‘from an idea of what it is to be human’ (cited in van Bueren 1995, p. 6), recommends a ‘liberal paternalism’ (Freeman 1983, p. 57) which suits children’s evolving capacities. So, most commentators take an intermediary position, that is, ‘children should be permitted to make mistakes, but not mistakes that would seriously jeopardise their future well-being’ (Ansell 2005, p. 228). In other words, being vulnerable and immature, children have a right to protection.

The UNCRC gave special emphasis to protection rights in numerical terms too. Articles on protection against discrimination (Article 2), registration after birth (Article 7), protection against abuse, neglect and exploitation within the family or in care (Article 19), adoption (Article 21), disability (Article 23), protection from economic exploitation, from the illicit use of drugs, from sexual exploitation and abuse, from abduction, sale and trafficking and all other forms of exploitation, from torture and other cruel, inhuman and degrading treatment, protection in armed conflicts (Articles 32-38), and in conflict with the law (Article 40) all concern a child's right to protection in all kinds of difficult circumstances. This numerical emphasis has not gone unnoticed as comments such as ‘the Convention puts too much emphasis on protection rights’ are all too common in the literature (LeBlanc 1995, p. 123; Simon 2000).

The reason for the Convention’s orientation towards protection rights is not hard to understand. In the words of LeBlanc (1995, p. 123), ‘children, especially younger children, are vulnerable to the most serious forms of abusive treatment, so they need to be protected’. Further, the negotiations on the drafting of the convention were being conducted at a time when ‘the situation of children worldwide was at or near a crisis point’ (LeBlanc 1995, p. 277). Nevertheless, some argued that this reinforced, even if unintentionally, the traditional notion of children as objects of protection.
rather than as bearers of rights in themselves (LeBlanc 1995). A closer look at the drafting process of the Convention sheds light on the basis of this interpretation.

The Travaux Preparatoires of the UNCRC identified several trends that characterised the negotiations behind the Convention’s drafting and that affected its character and accompanying implementation mechanisms. The one most relevant with regard to child protection is the fact that the drafting process was dominated by governmental representatives, although non-state actors such as specialist UN bodies and NGOs, were involved (Detrick 1992). In this process, states had special narrow interests and managed to get their own way; for example, the French delegation successfully lobbied on the article that deals with the abduction of children (Article 35), which has been an important concern for France in its relations with some Arab states (LeBlanc 1995). Further, states were concerned with making the provisions of the convention compatible with their own domestic laws and policies. With special reference to child protection, Melton (2009, p. xii) notes that Article 19 (2) of the UNCRC— which requires member states to develop a system of identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment— is very much a reflection of the child protection system that existed in many developed states of the global North at that time.

Given this backdrop, it is no surprise that the convention lacked innovation in defining norms, that is, in ‘affirming new rights or defining well-established rights more broadly’ (LeBlanc 1995, p. 280). Further elaborations of Articles 20 and 21 that pertain to adoption provide an example of the lack of innovation in the drafting process. General Comment 13 (GC13), relating to children’s right to protection from all forms of violence (Article 19), is a more recent example (United Nations Child Rights Committee 2011). GC 13 provides ‘clear interpretation and stronger detail’ to supplement Article 19, which has been taken for granted in the drafting process and in implementation until recently (Svevo-Cianci et al. 2011, p. 979). It lacked conceptual clarity, and, thus, applicability. Therefore, as Bissell and colleagues note, although the UNCRC might have offered a generalised framework to be used in conceptualising, analysing and implementing children’s protection rights, it nevertheless has ‘definitional limitations with problematic implications for children’s well-being’ (2007, pp. 6,7). In the UNCRC, debates around child protection take the form of
“Protection against what?” Or “What protections?”, without even posing the first and foremost question, “What is protection?” or, in the rights context, “What is the right to protection?”

This lack of discussion might have been caused by the decision-making process, that is, one that demanded consensus. As pointed out by LeBlanc, the drafters took ‘the path of least resistance’ whenever they faced difficulties as regarded specifying the details: they usually abandoned the effort altogether in order to reach a consensus (1995, p. 281). So, there is not much, either in the Convention or in the _Travaux Préparatoires_ that can guide one as to the meanings the drafters attached to the concept of protection. One has to rely instead on “common sense” (whilst recognising that ‘not every bit of common sense is sound’) (Purdy 1992, p. 8), on one’s own perception (biased probably by one’s disciplinary/professional orientation) (Ivorson & Segal 1990) or on domestic interpretations of the UNCRC (Shmueli 2008) in order to interpret the concept. General comments, by the United Nations Child Rights Committee, attempt to fill these conceptual gaps; however, arbitrary definitions and classification systems based on unjustified assumptions about what constitutes a risk to children or a violation of their rights have been common throughout the entire modern history of child protection (Bissell et al. 2007). This has resulted in a common failure to recognise the scope and complexity of protection issues, as discussed elsewhere in this review.

Secondly, and, more importantly, children’s right to protection as drafted in the UNCRC is conceptualised in the narrow sense of curative and/or tertiary protection and does not explicitly ensure a protective environment and/or preventive measures. However, Article 19 (2) provides a non-exhaustive list of protective measures to support the child and those who have the care of the child. Again, the _Travaux Préparatoires_ reveal that the original Canadian draft for Article 19 emphasised neither support for the family as a principal preventive measure nor preventive actions more generally (Detrick 1992). This resonated with existing child protection policy and practice in many Euro-American countries at that time, and was therefore based on a narrow concept of child protection as a state intervention against an individual incident of abuse (Melton 2009), as discussed earlier in this review. The policy and
practice implications of the UNCRC concept of child protection, at least as embedded in the text, have been manifold for countries in the global South.

Policy and practice implications of the UNCRC concept of child protection

First, the lack of precision coupled with narrowness in conceiving and defining child protection has led to the introduction of arbitrary definitions based on unjustified assumptions about violations of children's protection rights. For example, family-arranged fostering in many non-Western societies has been labelled internationally as a form of child trafficking (Bissell et al. 2007). This, in turn, has led to rigid models of child protection being implemented, models that bear little relation to reality in many parts of the world (Bissell et al. 2007; Schmid 2007). Secondly, the imprecise, narrow concepts of child protection that undergirds rigid individualistic models of child protection are not financially viable in most of the developing and poor countries of the global South (Crawford 2001; Feeny & Boyd 2004; Lachman et al. 2002). In fact, the high cost of current child protection systems has been a worldwide concern.

For example, in 1996, the UK Institute of Public Finance estimated the cost of child abuse to be £1 billion a year and commented that 'most of this is spent dealing with the aftermath of abuse rather than its prevention. The total cost of abuse far exceeds this estimate. Individuals and families bear most of the consequences, sometimes for the rest of their lives at an incalculable cost' (NSPCC Inform 2004, cited in Lonne et al. 2009). It shall come as no surprise then that in the less developed and poorer countries of the global South, efforts to replicate the models for child protection formulated in the rich countries of the global North are undermined by issues of economic upheavals and poverty (Bissell et al. 2007; Lachman et al. 2002; Mulinge 2002, 2010; Patel 2005). In addition to the financial cost to governments, narrowly conceptualised child protection systems virtually exclude family, kin, tribe and religious affiliations, which, in most societies of the global South, provide the most protection to children (Bissell et al. 2007; Crawford 2001). Such uncritical acceptance of these models requires some consideration in its own right.
First comes the issue of Western ethnocentrism and/or dominance of the global North in the articulation and application of international human/child rights standards. Scholarship suggests that debates surrounding the universal cultural legitimacy of international human rights are a practical and not merely an intellectual concern (An-Naim 1992, 1994; Brems 2001; Freeman 1998, 2004; Ignatieff 2001; Pollis 1996). It is argued, especially with reference to human rights advocacy by non-state actors, that issues that ‘speak to aspects of belief systems or life experiences that transcend a specific cultural or political context’ are more likely to succeed in finding a place on policy agendas; however, ‘crassly ignoring domestic cultural sensitivities dooms many issues to failure’ (Keck & Sikkink 1998, p.204; Price, 2003, p. 596). The rights of children in general and child protection in particular thus carry a strong cultural dimension (Abney 1996; Ali et al. 2007; Archard 2004; Gough & Lynch 2002; Nieuwenhuys 2009, 2010). However, evidence suggests a strong tendency on the part of the global North to promote standards based on the North’s experiences and ideas, for example, standards for child care or child labour (Bissell et al. 2007; Feeny & Boyden 2004; Lachman et al. 2002). In particular, dominant child protection models originating from Euro-American countries tend to favour individualistic Western cultural perspectives over equally valid non-Western ones (Bissell et al. 2007; Melton 2009). However, this is just one side of the story.

For next comes the recipient side. From the perspective of the global South, it was convenient, even natural, for elitist local policymakers to borrow and implement the North’s approaches for a variety of reasons. The majority of these policymakers (both state and non-state actors) were either educated and trained in the secular, liberal educational institutions of Europe and North America (An-Naim 1995; Khan 2007; Simmons 2009) or they were working in a legislative, policy and administrative environment inherited from the colonial periods (Ali et al. 2007; Gardezi 1991; Lachman et al. 2002; Talbot 1998). Sceptics even blame the domestic policy elite for manipulating the cultural argument in the local implementation of international human rights standards (Donnelly 1989; Hashmi 2008a, 2008b; Pollis 1996). These controversies around the dominance of North perspectives and the role of the domestic policy elite lead to a further policy and practice implication of the UNCRC conception of child protection.
The third implication of the UNCRC approach to child protection concerns the roles of state and society and their mutual relationship with regard to child protection. A state’s and/or its policy elite’s commitment to an international convention such as the UNCRC does not mean that broader society is committing to the treaty (Bissell et al. 2007; Harris-Short 2003). International human rights scholars have noted how states are keen to be seen to embrace international human rights norms, but that they also focus on the difficulties that they face in implementing those norms against deep-rooted cultural differences at the local level (Alves 2000; Harris-Short 2003; Merry 2005). This situation is especially complicated in Muslim countries such as Pakistan, where the use of religious idiom is common, especially as it relates to private and family legislation and policy (Baderin 2008a; Buskens 2003; Kennedy 1992; Syed 1982). Therefore, a divide is forged not only between the policy elite and broader society, but also within policy communities, including both state and non-state actors, regarding the relevance of international human rights standards (including those espoused by the UNCRC) to local cultural and religious values (Brems 2001; Esposito & Mogahed 2008; Hashmi 2008b). Such differences in perception and attitude towards international human rights, coupled with the current international child rights focus on the state as the primary party responsible for the protection of children, pose serious challenges to the ability of a state to effectively implement child protection strategies.

In fact, ample evidence exists to suggest that local legal, political and cultural contexts mediate, even in some cases compromise, the implementation of children’s human rights in different parts of the world (Ali et al. 2007). Amongst child protection issues, female genital mutilation provides a classic example of the gap between formal government commitment to child protection and local values and practices. Examining the dialogue between state parties and the United Nations Child Rights Committee on the issue of female genital mutilation, Harris-Short observes that there is a crucial difference between imposing obligations on the state and persuading individual members of society to comply with international standards and obligations (2003). In fact, in the words of Abdullahi An-Naim, to dictate to a society is both ‘unacceptable as a matter of principle and unlikely to succeed in practice’ (1992, p. 37). However, in the case of the UNCRC, state parties appear to be taking a rather unusual route, that is, to “legislate and educate” the masses to entrench a culture of child rights, rather than developing the law in the wake of social change.
(Harris-Short 2003; Merry 1995; United Nations Child Rights Committee 1993). According to Sally Engle Merry, for international human rights law to be effective it must be framed in the local context and/or translated into the vernacular (2005). With regard to child rights, especially the right to protection, this realisation is only recent.

Though late, this realisation has led researchers and practitioners involved in child rights and child protection to increasingly question the relevance and efficacy of current child protection approaches (Bissell et al. 2007; Lonne et al. 2009). This leads to the fourth and last implication for policy and practice, that is, lack of evidence-based and theoretical underpinning of child protection policies. Increasingly, it is argued that child protection policy should be based on knowledge of the existing reality of child protection problems, and intervention should be ‘empirically based to reflect the realities of the situation’ (Bissell et al. 2007, pp. 2,3; Scott 2006). However, as stated in terms of the definitional problems in child abuse, ‘measurement is essential to science, but before we can measure, we must know what it is we want to measure’ (Hans Eysenck 1952, cited in Zuravin 1991, p.100). In terms of child protection, then, it is important to know “What is and what is meant by child protection?” Therefore, globally, there is an increased emphasis on the need for rethinking and reconceptualising child protection, especially in the non-Western local context (Bissell et al. 2007; Lonne et al. 2009). To make this debate inclusive and universally relevant, alongside the Northern commentators, researchers with a global South perspective and/or those based in developing countries have to come forward. The present study is an attempt to contribute to this end by exploring how Pakistani policymakers conceptualise child protection.

Section III: Existing legislative and policy frameworks

Pakistan’s existing legislative and policy frameworks for child protection comprise of the country’s commitments as signatory to various international treaties and conventions, provisions of the national constitution, federal and provincial laws including criminal law and shari’a law and children-related national policies and plans.
International commitments

Pakistan has ratified a number of international treaties which provide children with special protections. Table 1.1 provides a summary of Pakistan’s international commitments relating to children followed by the date of ratification for each treaty.

Table 1.1. Pakistan’s international commitments relating to children

<table>
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<tr>
<th>Treaty</th>
<th>Ratification Date</th>
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<tbody>
<tr>
<td>Universal Declaration of Human Rights 1948</td>
<td>10 December 1948</td>
</tr>
<tr>
<td>International Labour Organization’s Convention 182 on the Worst Forms of Child Labour 1999</td>
<td>11 October 2001</td>
</tr>
<tr>
<td>ILO Convention 138 on Minimum Age for Admission to Employment</td>
<td>6 July 2006</td>
</tr>
<tr>
<td>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984</td>
<td>17 April 2008</td>
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Amongst these international commitments, the UNCRC is most significant as it shapes the national policy guidelines on children’s issues. The UNCRC gives special emphasis to protection rights, as already discussed in detail in the literature review. The UNCRC and other commitments – being state obligations under international law – make national governments the primary parties responsible for the protection of children through legislation and services (Bissell et al. 2007). These commitments
bring not only international moral pressure, but also financial support or a lack of it in the case of non-compliance (SPARC 2002). However, these conventions are not enforceable in Pakistan until enabling legislation is enacted and Pakistan has yet to introduce any such legislation in regard to the UNCRC (Fayyazuddin et al. 1998; SPARC 2009). This situation leads to concerns about the extent of influence that international policy frameworks may have on national legislation and policy, which are examined next.

**National legislative and policy frameworks**

Pakistan’s children-related national legislative framework is comparatively new. It was instituted in 1989 when UNICEF commissioned a study on the laws of Pakistan with reference to the UNCRC, just before the draft Convention was due to be presented to the United Nations General Assembly for discussion and adoption (Jillani 1989). While UNICEF initiated the study, it was also motivated by the concern of internal actors that ‘no provisions of the Convention come in conflict with the constitution of the Islamic republic’ (Jillani 1989, p. 2). The study highlighted a number of flaws, including those relating to constitutional provisions and laws that protect basic human rights and that are applicable generally to all citizens but not specifically to children; and laws comparable with the provisions of the Convention but with some structural changes; laws not directly comparable with the provisions of the Convention or that are silent on the subjects covered in the Convention (Jillani 1989). This review suggested, among other things, a compilation and revision of existing children-related laws in Pakistan.

Three years later, the National Commission for Child Welfare and Development (NCCWD), in collaboration with UNICEF, started a compilation of existing legislation related to children. An eminent Pakistani legal scholar, Sardar Mohammad Iqbal Mokal, undertook a review of 31 pieces of legislation including acts, ordinances and prescribed rules enacted between 1860-1991 both at federal and provincial levels (Mokal 1992). This compilation was completed in 2003 and included 78 pieces of legislation categorised into laws relating to the criminal justice system, cultural issues, economic matters, education, family protection, health affairs, immigration, general welfare, registration and social welfare (Ministry of Social Welfare and Special
Education 2005). This review did not include shari'a law in its own right; however, it did cover laws relating to maintenance, guardianship, the custody of children, inheritance and Islamic punishments, all of which are formulated and implemented according to the provisions of Islamic shari'a.

The most striking feature of these legislative reviews and compilations, which is important with regard to child protection conceptualisation, enactment and practice in Pakistan, is that neither the constitution nor any single law directly covers child protection. This is a fact acknowledged time and again by various stakeholders including the United Nations Child Rights Committee (in its concluding observations on Pakistan’s second and combined third and fourth periodic report), by civil society (SPARC 2009) and by the Government of Pakistan itself (for example, in the preamble to the draft Child Protection Bill 2005-06, revised 2009, and the draft National Child Protection Policy 2009).

The Constitution of Pakistan guarantees ‘every citizen, wherever he may be’ (children are not mentioned separately) fundamental rights. For example, Article 9 provides for the security of the person, Article 11 prohibits slavery and forced labour, Article 14 ensures the dignity of man, Article 22 covers the rights of minorities and Article 25 promises equality for citizens (although Section 25(3) further provides that this equal protection clause shall not prevent the state from making special provisions for the protection of women and children). In addition, the Constitution obliges the state to protect the institution of marriage, the family, the mother and the child (Article 35).

However, most of these principles of policy are really only aspirations and intentions of the state (Jillani 1989). Only a few are covered by other laws, for example, protection from exploitative labour. In addition, the use of gendered language as evidenced in the Constitution deprives vulnerable populations, such as women and children, from having a voice and from demanding their constitutional rights.

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These include the Majority Act 1875, the Guardians and Wards Act 1890, the Child Marriage Restraint Act 1929, the Claims for Maintenance Ordinance 1959, the Muslim Family Laws Ordinance 1961, the West Pakistan Family Court Ordinance 1964 and the Hudood Ordinance 1979. Some of the shari'a laws that form the basis and offer interpretation of these laws are non-codified and vary from sect to sect (Jillani 1989; Fayyazuddin et al. 1998).
Nevertheless, commentators on Pakistan’s Constitution and legal system note a tendency towards legal pluralism including international human rights, provisions of the Qur’an and sunnah and the civil law in interpreting the constitutional commitments to equality, justice and welfare (Lau 2006; Yilmaz 2011). This tendency has favoured underprivileged groups such as women and minorities (Yilmaz 2011).

With regard to the constitutional status of children, and according to Alston and Tobin’s (2005) categorisation of the constitutions of the countries of the world⁴, the Pakistani Constitution falls into the ‘special protection’ category with a limited range of children-related provisions.

Further, none of the 78 children-related laws define or are directly aimed at child protection. One reason for this can be found in the particular background of Pakistan’s legislative and justice system. Pakistan’s basic criminal law (as laid down in the Pakistan Penal Code, Criminal Procedures Code and the Evidence Act) was framed in the 1860s under British colonial rule. The main objective of these laws was the maintenance of law and order in the colony and not the provision of justice to the common people⁵. Therefore, the first striking feature of the offences listed in the Pakistan Penal Code is their categorisation into cognisable and non-cognisable offences⁶—a unique incorporation by the colonial British law makers in the Indian Criminal Justice System. This incorporation reflects the colonisers’ concern primarily with those offences that could upset the balance of power in society with regard to state rule. Thus, the state does not tend to get involved in disputes among citizens in order to protect the weak (Federal Investigation Agency 2006). So, for example, a

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⁴With regard to the constitutional status of children, Alston and Tobin (2005) in their study of some key legal and constitutional aspects of the impact of the UNCRC on children’s well-being categorise world constitutions into three: the ‘invisible child’ constitution; the ‘special protection’ constitution and; the ‘children’s rights’ constitution (2005, p. 21).

⁵The criminal justice system in colonial India has long been a subject of research and debate among historians, orientalists and law experts (Benton 2002; Chatterjee 1996; Kolsky 2005, 2010; Singha 1999). Almost all these experts noted the particular focus on law and order versus provision of justice to citizens.

⁶According to the Pakistan Criminal Procedure Code, a cognisable offence is one in which the police are empowered to take immediate action on a complaint by visiting the scene of a crime, conducting an investigation and arresting an accused involved in a cognisable crime without a court warrant. A non-cognisable offence is one in which police can neither register a First Information Report nor investigate nor effect an arrest without express permission or directions from the court. These are mostly left to the affected parties to pursue in courts.
petty theft was made cognisable, while hurt, wrongful confinement, forcing an abortion on a woman against her will or a child gone missing were all classified as non-cognisable. In fact, following the 1999 serial killings of 100 children in Lahore, it was found that police did not register a complaint when parents of some of the victims contacted police when the child first had gone missing (Rehman et al. 2000). The police justified themselves by saying that the Criminal Procedure Code authorised them to register a complaint only upon the commission of a cognisable offence, which missing, per se, is not.

After Independence, some amendments regarding offences against women and some special laws for the protection of children in specific situations were introduced. However, their effective use is still under question (Waheed 2010). One Pakistani feminist described the country’s criminal justice system as a ‘patriarchal system in a patriarchal society’ in which ‘the state’s accommodation of orthodoxy has resulted in its continuous resistance to challenging personal laws’ – an arena that most affects women and children (Bokhari 2009, p.3).

Laws having implications for the safety and protection of a child in specific situations include certain provisions of the Pakistan Penal Code, such as Sections 82, 83 (which set a minimum age for criminal responsibility), Sections 89, 90 (which allow caregivers to employ mild to moderate punishment, which may cause harm to a child but which is not considered an offence as the act is done in “good faith”), Sections 361-369 (which make punishable abduction of a child) and Sections 370-374 (which prevent slavery and selling or buying persons for prostitution or/and compulsory labour). These laws also include provisions under the Criminal Procedure Code, such as Section 29 (which provides for special trial for an offence committed by a child under 15 years of age), Section 382 (which postpones the execution of a pregnant woman), Section 399 (which requires child offenders under 15 to be sent to reformatory school), Section 491 (which deals with habeas corpus, custody of children), Section 497 (which provides for bail of a child under 16 in a non-bailable

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7 The Criminal Law (Amendment) Act 2004 deals with exchange marriage, child marriage and traditional practices of vani/swara and the Protection of Women (Criminal Laws Amendment) Act 2006 deals with rape, kidnapping, inducing a woman to compel her for marriage, selling/buying a person for prostitution, deceitful cohabitation and detaining a woman with criminal intent.
offence) and Section 552 (which prevents abduction or unlawful detention of a female child below 16). In order to bring these laws in line with the provisions of the UNCRC, some have been replaced by new laws, for example, Criminal Procedure Code provisions related to juvenile offenders have been replaced with the Juvenile Justice System Ordinance 2000. Others are under consideration for amendment, for example Pakistan Penal Code Section 82, which seeks to raise the minimum age for criminal responsibility from 7 to 10 or 12 years.

In addition to the provisions of the Pakistan Penal Code and the Criminal Procedure Code, some legislation has been enacted specifically in regard to children’s issues both at the federal and provincial levels. Such legislation falls into three categories. First are those laws retained as such from the colonial period, including the Majority Act 1875 (fixing the age of majority at 18 years), the Guardianship and Wards Act 1890 (which provides for appointment of legal guardians for children under 18 years of age) and the Child Marriage Restraint Act 1929 (banning marriage between children and with children where a child is defined as a male person under 18 and a female under 16 years). The second type includes legislation enacted in the colonial period but amended after Independence, especially as part of the process of review to bring Pakistani laws in line with the provisions of the UNCRC. Most notable in this category is the Employment of Children Act 1938 (amended as the Employment of Children Act 1991), which prohibits the employment of children below 14 years of age in certain occupations, which is partly in line with the provisions of ILO Convention 138.

In the third category come those laws enacted after Independence according to the emerging needs of children. Most of these laws are based on a traditional social welfare focus on one hand, that is, on delinquents or those in need of supervision and, on the other, on the dependent or neglected. Examples of laws in this category include the Punjab Children Act 1952 (which deals with state custody of destitute children, and offences against children under 14 years of age), the Sindh Borstal Schools Act 1955 (which provides for detaining offenders aged 16-21 years in borstals), the Sindh

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8 As a general rule, federal laws override provincial laws pertaining to the same issue.
9 The Act is under review after Pakistan ratified the ILO Convention 138 in 2006. The Convention sets the minimum age for admission to all work at 14 years.
Children Act 1955 (which provides for custody, protection, treatment and rehabilitation of children and youthful offenders), the West Pakistan Control of Orphanages Act 1958, the Juvenile Smoking Ordinance 1959 (which bans public smoking by children under 16 years of age), the Pakistan Suppression of Prostitution Ordinance 1961 (which prohibits the attraction, attention by words, gestures, wilful and indecent exposure of the body for the purpose of prostitution of a girl under 16 years of age and criminalises the person buying sex), the Punjab Supervision and Control of Children Homes Act 1976 and the Punjab Children Ordinance 1983 (which provides for looking after children under 15 in need of control, care, protection and rehabilitation). Some more recent laws, including the Juvenile Justice System Ordinance 2000 and the Prevention and Control of Human Trafficking Ordinance 2002 continued the earlier welfare focus on the most vulnerable children. However, some other laws such as those codified for the provision of compulsory primary education in Punjab (1994), Khyber Pakhtun Khwa (1996), Sindh (2001) and Islamabad Capital Territory (2002) are aimed at the overall welfare of the general child population.

Pakistan’s first ever specific child protection law, developed only recently. The Punjab Destitute and Neglected Children Act 2004, commonly known as the Child Protection Act, aims at ‘consolidating the law for the rescue, protective custody, care and rehabilitation of destitute and neglected children in the province of Punjab, other than those involved in criminal litigation’ (Government of Punjab 2004, preamble of the Act). The Act provides for the establishment of the Punjab Child Protection and Welfare Bureau— the ‘first ever child protection system in Pakistan’ (Ministry of Social Welfare and Special Education 2005, p. 37). The Act and the resulting child protection system might be narrowly focused (as analysed in detail in Chapter Four), but it has nonetheless instigated a number of protection-related initiatives that have been taken up since its enactment. Amongst these initiatives, most prominent are the efforts underway in Khyber Pakhtun Khwa and Sindh provinces to replicate the Punjab model of child protection including the legislation for and establishment of child protection services, though in modified forms.

At about the same time, both the Government of Pakistan and UNICEF agreed to make child protection one of the areas on which to collaborate in the 2004-08
UNICEF program cycle. UNICEF then established child protection as a separate program in Pakistan and allocated resources to it (UNICEF 2004), which created a momentum in the country with regard to child protection legislation and policy. The Government of Pakistan included child protection along with education, health, HIV/AIDS and the commercial and sexual exploitation of children as priority areas for state action in the second National Plan of Action for Children, 2005. The first child protection specific federal law, the Protection of Children Act, was also drafted in 2005. The draft bill identified protection violations, prohibited child sexual abuse and exploitation, proscribed traditional harmful practices and harmful vocations for children, described measures to prosecute perpetrators and chalked out the types of child protection services to be provided (Ministry of Social Welfare and Special Education 2006). The bill was revised three times following wider consultation with a range of stakeholders including the relevant government departments, non-governmental organisations, the law enforcement agencies and parents and advocacy campaigners who lobbied parliamentarians. However, finally, when the bill was submitted by the Ministry of Social Welfare in 2007 for cabinet review and approval, it was sent back to the Ministry with the advice to first develop a national child protection policy (Sardar 2008). It was also noted by the Cabinet that some provisions of the bill fell under the purview of the provincial governments, while others related to criminal law and procedures that came under federal government responsibility (SPARC 2009).

Responding to the above objections, the Ministry of Social Welfare, with the support of non-governmental organisations, decided to review the Protection of Children Bill (2005/2007) yet again. Considering the objections to the draft bill, three separate bills covering the issues given in the original bill were drafted. The first, the Protection of Children (Amendment) Bill 2009 proposed amendments to the Pakistan Penal Code on issues of minimum age for criminal responsibility, corporal punishment and criminalising cruelty to children, child pornography and internal child trafficking. The other two included the National Commission on the Rights of Children Bill 2009 (which proposed the establishment of an independent child rights commission with full authority, replacing the NCCWD) and the Child Marriage Restraint (Amendment) Bill 2009 (which sought to raise the minimum marriageable age for females from 16 to 18 years).
In between the second (2002) and combined third and fourth periodic report (2009) to the United Nations Child Rights Committee, the Government of Pakistan put a good deal of emphasis on legislative measures that would create a protective environment for children (SPARC 2009). However, all these efforts remained a work in progress until the 18th constitutional amendment was adopted in 2010, according to which social welfare, including the children’s issues, became a provincial jurisdiction. Even before the 18th amendment was enacted, the Committee in its concluding observations on Pakistan’s 2009 report raised concerns about the delays in the adoption of these laws (CRC/C/PAK/CO/3-4, Paras. 8,9), placing a particular emphasis on protection measures (CRC/C/PAK/CO/3-4, Paras. 82-101). The Committee also noted that some existing legislation such as the Shariat Nizam-e-Adl Regulation 2009¹⁰, the Zina (Enforcement of Hudood) Ordinance 1979¹¹ and the Frontier Crimes Regulation 1901¹² remain in conflict with the principles and provisions of the Convention (CRC/C/PAK/CO/3-4, Paras. 10,11) and, as such, is detrimental to the protection of Pakistani children.

Alongside the revision of the draft child protection bill, the Ministry of Social Welfare also started drafting the national child policy. In fact, such a policy had been long since due as the Ministry of Finance refused to fund the National Plan of Action (NPA) for Children 2005-06 with the observation that, in the absence of a national child policy, no financial allocation could be made to the plan. The draft National Child Protection Policy was first released in March 2009. The draft policy focused on the legislative environment, which included laws on banning corporal punishment, raising the minimum age for criminal responsibility, prohibiting domestic child labour, defining a child as person under 18 for all purposes, criminalising child sexual abuse, exploitation, pornography and child trafficking, and implementing institutional

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¹⁰ This regulation overrides all other laws, including the Juvenile Justice System ordinance in Malakand division (an administrative unit in Khyber Pakthun Khwa province) where children are treated on a par with adults.

¹¹ This ordinance overrides all other laws including JJSO, punishes zina (unlawful sexual intercourse) with whipping or stoning to death for males over 18 and females over 16 years of age or who have reached puberty. Also, it does not deal with the sexual abuse of a child.

¹² FCR is the sole law for the Federally Administered Tribal Areas, where Pakistani laws are not applicable. It was enacted in colonial times, comprising substantive and procedural laws relating to criminal and civil matters while retaining elements of traditional justice. In FCR, there are no special provisions for children and children are treated on a par with adults.
care standards and rules for Child Protection Courts. The draft policy also provided for children-related institutional structures, child protection at the community level, child participation, elimination of child labour, protection of children in emergencies, birth registration, child protection services, juvenile justice and budgeting for child protection (Ministry of Social Welfare and Special Education 2009). The policy is yet to be adopted.

In the meantime, Pakistan has been implementing a National Plan of Action for the Elimination of Child Labour 2000 and a National Policy and Plan of Action for the Elimination of Bonded Labour 2001, which both provide for protection of children engaged in hazardous situations. The National Plan of Action for Women (1998) and the National Policy for the Development and Empowerment of Women (2002) promises special protections for girl children. In 2006, the country also adopted a National Policy and Plan of Action against Commercial, Sexual Exploitation of Children, which provides for the prevention, protection, recovery and rehabilitation of victims of child sexual abuse, a critical protection issue. While legislative and policy measures are important in protecting children from violence, abuse and exploitation, it is even more important that such measures respond to the specific context of child protection issues.

**Section IV: Challenges of child protection in Pakistan**

Pakistan's 170 million inhabitants make it the sixth largest country in the world by population which is growing at an average annual rate of 2.3 per cent (The World Bank 2011a). It is a comparatively young population, comprising 37 per cent of people below the age of 14 years (Pakistan Bureau of Statistics 2011a) and approximately half below the age of 18 years (UNICEF 2011a). One quarter of all the population live below the international poverty line of US$1.25 per day. One per cent of central government expenditure is allocated to health and 2 per cent to education (UNICEF 2011a). These demographic and socioeconomic characteristics result in high dependency ratios, large families and few income earners. Such a situation has built-in implications for child survival, health and quality of life.
Life expectancy at birth is 66 years for males and 67 years for females. Infant mortality is 71 and under-five mortality is 87 per 1000 live births (UNICEF 2011a). Almost one third of all children are born with low birth weight and a similar proportion (31.3 per cent) of children under five suffer from malnutrition (UNICEF 2011a; The World Bank 2011a). In 2010, 90 per cent of one-year-old children were immunised against tuberculosis and diphtheria-pertussis-tetanus, 85 per cent against polio and hepatitis B and 80 per cent against measles (UNICEF 2011a). On general health indicators, 14.2 per cent of children under five (versus seven per cent of the total population) were reported sick or injured at the time of the Pakistan Social and Living Standards Measurement Survey 2010-11 (Pakistan Bureau of Statistics 2011b). Girl children fare worse than boys in all these measures due to gender-based discrimination. Starting from the male-female population ratio of 102 males per 100 females, gender preference is explicit throughout the life cycle (Pakistan Bureau of Statistics 2007). Except for the neo-natal period when female mortality is lower than that of males, males have the advantage during the post-natal period (males 23, female 25 deaths per 1000 live births) up to the age of five years (male 14, female 22 deaths per 1000 live births) and only 44 per cent of girls are fully immunized compared to 50 per cent of boys (Pakistan Bureau of Statistics2007). The net enrolment in primary school is 60 per cent for girls and 72 per cent for boys (UNICEF 2011a).

Despite the gender differences, overall child-rearing practices in Pakistani families tend to favour the pampering of children (Lyon 2002). This is mainly because of ‘the predominance of the extended and joint family system’ wherein many adult members of the family – other than the parents – are available to take care of the child and to maintain surveillance (Pakistan Bureau of Statistics 2007, p.14). In the general perception, individualised child maltreatment in the form of physical abuse by parents and adult carers in the sense of “battered baby syndrome” is rare (Aziz 2007). Further, of all the deaths recorded up to the age of five years, only 2 per cent among male, and 3 per cent among female, children are caused by an accident or injury (Pakistan Bureau of Statistics 2007). However, child protection problems caused by social, structural and institutional factors such as poverty, illiteracy and hierarchical relationships are all too common (Aziz 2007; Save the Children, Sweden 2010; UNICEF 2004).
Child protection issues in Pakistan

As the 2005 Pakistan National Plan of Action (NPA) for children confirms, child protection is a complex and sensitive area and other than those that can be gleamed from anecdotal information, few statistics relating to child protection issues are available (Ministry of Social Welfare and Special Education 2005). However, data primarily from issue-based situation analyses and case studies conducted by various non-governmental and governmental organisations and individual researchers reveal the prevalence of a wide range of child protection issues in Pakistan.

While, child labour has been long acknowledged and extensively studied and debated in Pakistan, it was not accepted as a child protection issue until recently (Ministry of Social Welfare and Special Education 2005). That child labour is a protection issue, started with the gradual recognition of the situation of children in hazardous occupations such as child domestic labour, bonded labour or child trafficking to the Gulf States for camel racing (Akhtar & Razzaq 2005; Save the Children, Sweden 2005). Recognition of other child protection issues, though, was more rapid, even dramatic.

For example, in the aftermath of the serial killings of 100 children in Lahore (the provincial capital of the Punjab and the second biggest city in Pakistan) in 1999, the protection of destitute, abandoned, runaway, homeless and street children became one of the most prominent child protection issues in Pakistan (Ali et al. 2004; Azad Foundation 2005; Tufail 2005). This episode also highlighted the issue of violence against children, especially the use of corporal punishment as a disciplinary measure in various settings including the home, school and work place, which caused children to leave these places and end up on the streets to become the victims of a serial killer (Annemarie 2007; Ministry of Social Welfare and Special Education 2005; Tufail 2005). Corporal punishment of children is common in homes, schools and other institutions in high, middle and low income communities around the world. Cross-cultural differences in perceptions of discipline, abuse and overall child rearing practices complicate the issue (Lansford et al 2010; Runyan et al. 2010). However, it becomes even more serious problem in Pakistani context in which corporal punishment is lawful in the home, school and in the penal system according to Section
89 of the Pakistan Penal Code.

Another serious protection problem, child sexual abuse and exploitation, has long been denied in Pakistan. Traditional attitudes relating to "chastity" and "family honour" (Ministry of Social Welfare and Special Education 2005) make it difficult for such abuse cases to be reported, especially when they involve a female child 'who will be permanently rejected by society and even by her own kith and kin' (Aziz 2007, p. 1). However, the reports of non-governmental organisations (NGOs) working on child sexual abuse and exploitation, reveal that the problem does exist and that in a sizeable magnitude (Sahil 2011). In addition, Pakistani children, especially female children, are also subjected to harmful traditional practices such as vani/swara (the exchange of females for the settlement of disputes), honour killings and forced and/or early marriages (Ministry of Social Welfare and Special Education 2005). In the 2000-09 period, 16 per cent of urban and 29 per cent of rural Pakistani women aged between 20 and 24 years were married before they were 18 years old (UNICEF 2011a).

Above all, Pakistan's existing children-related legislative and policy frameworks do not cover child protection directly and/or in its own right. The Constitution of Pakistan guarantees people (children are not mentioned separately) fundamental rights. Article 9 provides for the security of the person and Article 11 prohibits slavery and forced labour. Further, protection of marriage, family, mother and child is an acknowledged principle of policy under Article 35 of the Constitution (Government of Pakistan 1973). However, most of these principles of policy are simply aspirations of the state (Jillani 1989). Only a few are covered by other laws, for example, protection from exploitative labour. Further, the Pakistani legal system is based on a common law regime, but marriage, family and children-related legislation is mostly enacted according to shari'a law which can have serious implications for children in relation to issues such as parentage, age of majority, marriage and corporal punishment (Jillani 1989).

In addition, Pakistan, being party to the UNCRC, has international legal obligations, which adds a layer of complexity to current legislative and policy frameworks. In particular, Pakistan's common law regime requires enabling legislation to make the
international conventions part of domestic law. In the absence of such legislation, the UNCRC acts as a policy guideline on all children-related issues in the official rhetoric. However, in the actual formulation and implementation of child protection policy, a substantive commitment to the UNCRC is lacking. Many child protection issues such as child labour, corporal punishment and early marriage are conceptualised in socioeconomic, cultural and religious terms rather than as child rights issues, which, in turn, affects policy responses. For example, such concepts can lead to the exclusion of some forms of child labour, such as child domestic labour, from the National Policy and Action Plan on Elimination of Child Labour or a reluctance to ban corporal punishment of children. This situation lends clear support to the central argument of the current research that, to have an effective child protection policy, it is essential to have a concept of child protection that is relevant to the specific local context.

The need for child protection data

The availability of systematic data relating to child protection is also crucial if scholars and policymakers are to understand the nature of the issue and to provide evidence of the scale of protection problems that many Pakistani children experience. Such data inform national child protection policy, planning and practice (Pouwels et al. 2010) and some countries, such as the United States, conduct national incidence studies of child abuse and neglect on regular basis (Sedlak et al. 2010). Others, such as the United Kingdom rely mainly on official data from child protection registers or from child protection plans (NSPCC 2012). However, such large-scale collection, analysis and maintenance of data demands specialised human, financial and organisational resources, which many countries around the world are lacking. In such a situation, one of the key sources of data remains the empirical research on the incidence and prevalence of child abuse and maltreatment. Such incidence and prevalence studies are most frequently undertaken in the field of health, especially as part of the research investigating the epidemiology of disease. However, they are also increasingly being used in relation to child abuse and protection research.\(^\text{13}\). Such

\(^{13}\) In child protection research, James Garbarino (1989) used the term 'incidence' to refer to estimates of numbers or rates of new cases of child abuse occurring in a given time, and 'prevalence' to refer to estimates of the proportion of a population that has been victimised during childhood (1989, p. 223).
research covers various forms of child abuse at local, regional and national levels (Tonmyr 1998), although these studies have mostly been limited to the developed world of the global North.

In the developing countries of the global South, the need for a rigorous evidence base for child protection has been only a recent realisation. The United Nations Secretary-General’s study on Violence Against Children (2006) not only provided initial evidence pertaining to violence, abuse, neglect and exploitation of children around the world, it also highlighted the need for the further collection and analysis of data to inform evolving child protection policy and practice in many developing countries. In a short review of such studies from Asia and the Pacific, Pouwels and colleagues (2010) noted a high prevalence of child maltreatment and protection issues in those regions. Pakistan shares this regional context but remains one of those countries where any systematic research on child abuse and protection issues is yet to be conducted.

Pakistan’s child protection system is still in its nascent stages and there is no central database or child protection register to record and assess the overall situation of child abuse and protection. Further, there are no known incidence and prevalence studies. One exception, however, is Sahil’s Cruel Numbers. Sahil is a non-government organisation that compiles and publishes statistics on child sexual abuse cases that are reported in the newspapers in an annual report called Cruel Numbers (Sahil 2011). As will be seen in third section of this chapter, anecdotal data, available in the form of rapid assessment and mapping of specific protection issues by various government and non-government organisations form the basis for the Government of Pakistan’s child protection programming and planning (Ministry of Social Welfare and Special Education 2005; Save the Children, Sweden 2010). This lack of data leaves a gap in understanding the true nature and scale of child protection issues in Pakistan. To fill this gap, a review of newspaper coverage of child protection issues was undertaken as part of the present research.
Newspaper coverage of child protection issues in Pakistan

The methodological justification for this review as part compensation for non-existent data is twofold. First is the common use of media-based data in studies of politics and public policy (Woolley 2000). Secondly, the use of newspaper coverage of problems (involving sensitive issues such as child abuse), problems which lack systematic evidence, is not new. In research on representations of children in the print media in Australia, White (2008) notes that newspapers provide a permanent and official record of current events. White further notes that because of the wider readership, newspaper coverage may have a greater potential to have a social influence. In fact, the role of the print media in relation to child abuse and child protection has been a focus of considerable research (Ayre 2001; Donaldson & O’Brien 1995; Goddard & Saunders 2001; Kitzinger 2004). Although the majority of these studies focus on the role of media in placing child protection issues in the minds of the public and on political agendas and in defining child abuse and, thus, influencing policy and legislation, nevertheless, these are exactly the reasons that provide a sound methodological justification for the use of newspaper coverage as a record of child protection problems in Pakistan. More importantly, this body of research shows how representations of child protection issues in the print media reflect existing reality on the one hand, and, on the other, may affect perceptions as well as policy and practice responses to these issues (Ayre 2001; Goddard & Saunders 2001). Therefore, the present review highlights this duality of the role of print media in that while the news items reflect the reality of child protection issues in Pakistan, the language used in news items and the editorials, columns, articles and opinion pieces also helps create it.

This newspaper review covered a period of 20 years from 1990, when Pakistan signed and ratified the United Nations Convention on the Rights of the Child (UNCRC), to the date that fieldwork for this research was conducted (2010). The papers included one English (DAWN) and one Urdu (Jang) daily. The newspapers were selected based on criteria including nation-wide coverage and circulation, reputation for accuracy and speed of reporting, their acknowledged political stance14 and the availability of records for the required period.

14DAWN, published since independence (1947), is liberal and secular in regard to political stance. Readership is highly educated and scholarly, and so are the columnists, who include prominent
In terms of the compilation and analysis of the data, first, I studied one Urdu and one English language daily (which were not included in this review) over a period of one week each, developing a typology of child protection issues reported in those papers. A second purpose of this pre-study was to note what type of coverage, that is, news item, editorial, articles, reports and opinion pieces, is given to these issues. Then, the actual review started. After a review of one month for each newspaper, the initial typology of issues was revised and finalized. I went through each newspaper and recorded the news items, editorials, articles, reports and opinion pieces relating to child protection. The items were recorded chronologically in Excel spread sheets under headings that include the date, item head line/title, page and column number and type and detail of the incident including the child’s demographics. Next, based on the type of incidence, the items were coded under broader themes, which were based on research questions. Following this, items in each category were counted for each newspaper and in total. Finally, the contents of each theme were analysed.

The analysis of the data is informed by the earlier research on the role of print media in relation to child abuse and protection issues as noted above. Thus, the content was analysed with a special focus on the use of language in reporting child protection problems, on reporting intent, that is, on representation of the issue, and on the scoping out of child protection issues, all of which reflect as well as affect the concept of child protection in Pakistan. See Table 1.2 for a summary of the recorded reporting by broader themes in each newspaper.

historians, economists and socialites. Head office is in Karachi, however, special pages are included for all major cities including the four provincial capitals. Jang is the most widely circulated of all three and popular among people from almost all walks of life. To take the lead in breaking a story, Jang can be irresponsible in reporting at times. It is centre-to-left-leaning and most of the time places itself in opposition to the government of the day. Its head office is in Karachi, but it publishes from all four provincial capitals.
Table 1.2. Summary of newspaper reporting of child protection issues in Pakistan (1990-2010)

<table>
<thead>
<tr>
<th></th>
<th>Crimes against children (rape, killing)</th>
<th>Child victims of traffic accidents</th>
<th>Negligence of public departments and agencies</th>
<th>Children in difficult circumstances</th>
<th>Role of expert individuals, officials</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>DAWN</td>
<td>820</td>
<td>524</td>
<td>620</td>
<td>727</td>
<td>422</td>
<td>35</td>
<td>3148</td>
</tr>
<tr>
<td>Jang</td>
<td>414</td>
<td>165*</td>
<td>180</td>
<td>149</td>
<td>125</td>
<td>-</td>
<td>1033</td>
</tr>
</tbody>
</table>

* Jang tends to cluster the accidents, e.g., ‘in city ABC, a total of XX traffic accidents causing XX deaths occurred including women and children’.

As shown in Table 1.2, five major themes related to child protection emerged from the survey of this coverage. A short analysis of each of these themes follows.

**Crimes against children**

News items relating to extreme crimes and cruelty against children including sexual assault, abuse and/or killing/murder constituted the most part of the coverage. This can be largely explained in terms of the nature of these offences making it almost inevitable that they will be reported to police, who, in turn, inform the press. In some cases, victims and/or families might go directly to the press. It was hard to sub-categorise these crimes as most were inter-related. For example, in many instances, victims of sexual assault were kidnapped for the purpose and many were killed afterwards. Male and female children as young as four years of age became victims of sexual assault. In reporting such cases, both English and Urdu newspapers used the terms “innocent” and “minor” in relation to victims and “sexual assault” to describe the act. However, the language noticeably changed when older children became the objects of the reporting. Teenage victims, mostly girl children, were described as “young woman/female” being “raped”. One has to read the contents of the news item to know the exact age of these victims, but most were in the range of 13-16 years. It is noteworthy that there is a tendency on the part of both police and press to see some willingness on the part of the victim in such cases, for example, often reporting a ‘suspected illicit relationship’.
Sexual abuse cases tended to be more prevalent in lower middle, working class and poor areas including both urban and rural populations. However, kidnapping, especially kidnapping for ransom, was more likely to be an urban and middle-to-upper class phenomenon where children from established trading and industrialist families were kidnapped. Often, there were news items about parents seeking help from police to lodge a kidnapping report but were told either to wait because it was assumed that the child was lost temporarily and/or had runaway, or they were coerced into registering a “missing person” report. Another trend in news reporting that was noted with regard to child killing and murders was that these reports mostly did not identify a motive. Finally, children were also killed in marital conflicts and family feuds, shoot outs among criminals/between police and criminals, armed robberies, terrorist attacks and by “stray bullets”\textsuperscript{15}.

Crimes against children were reported mostly using language that pointed to the moral deterioration of society, a result of which was that communities were becoming less safe for children. In this 20-year review, the trends in crimes against children were similar to that reported by other sources. For example, in 2000, the World Health Organization estimated 57,000 deaths attributed to homicide occurred among children under 15 years of age due to risk factors encompassing a child’s vulnerability, such as age, sex and special characteristics; family characteristics, such as, family structure, size, composition and resources; and community factors, such as poverty and social capital (Runyan et al. 2002). In Pakistan, in 2011, \textit{Sahil} reported a 2.26 per cent increase in sexual crimes against children from the previous year (Sahil 2011). However, \textit{Sahil} reports focused on child sexual abuse alone and they compiled data across all major newspapers including regional ones.

\textit{Child victims of traffic accidents}

Road safety appeared as an important protection issue, second only to crimes against children. In fact, \textit{DAWN} reported 25-30 child deaths in traffic accidents every year (524 across the 20-year review). Such incidents include children hit and/or run over

\textsuperscript{15}In Pakistan, people can legally possess a variety of weapons at home and on their person in public places. In some parts of the country, such as in the northern province of Khyber Pakhtun Khwa, firing a weapon is a way to announce good news such as the birth of a child or to celebrate significant events such as weddings. Children are easy victims on such occasions.
by speeding vehicles on the highways and roads of major cities. Most prominent among child victims of traffic accidents were working and school-going children. Tea boys and vendor children in particular were easy victims during the rush hours. It is worth mentioning that most public schools in cities, towns and rural areas (schools attended by the majority of Pakistani children) do not have any school buses and public transport does not provide any services at "school hours". This means that children from the same street or neighbourhood walk together to school without any adult supervision, on the assumption that older children will take care of younger ones. Most accidents happen with these children when they are crossing the road. Further, those who have to travel to another town/village school must take a bus. Most inter-city transport is privately owned and operators see these children and young people, daily travelling free or on concession, as a nuisance. Sometimes, children were asked to board the bus roof, leading them to fall while climbing up or down or when the bus suddenly comes to halt.

In a 2007 report, the National Road Safety Secretariat of the Ministry of Communication recorded 10,125 road crashes in the year 2006, of which 4,193 proved fatal\(^1\). The report stated that road accidents were the 'greatest human tragedy when children are involved' (Ahmad 2007, p. 2). However, at the same time, the report pointed to the fact that 'most children walk to school unaccompanied by adults' (Ahmad 2007, p. 6), and become easy victims of careless and irresponsible driving. The report also noted that most drivers responsible for accidents escape criminal and civil penalties because the victims are not aware of their rights or ability to make claims to compensation (Ahmad 2007). The Fatal Accidents Act 1855 and the Motor Vehicle Ordinance 1965 are out-dated, providing such insignificant damages or compensation costs for injury or death (that is, between 16,000 and 20,000 Pakistani rupees, approximately US $170-212 on 2012 conversion rates) that it is not worth the hassle of bringing cases to court. Only six cases of accidents involving under-age drivers were reported during the review period.

\(^1\)These numbers do not include railway or aeroplane crashes, whereas the numbers in Table 1.2 include those accidents where children were hit by trains when either playing nearby or crossing railway tracks, many of which lie open, without fencing, in the middle of residential areas in many Pakistani cities and towns.
Negligence of public departments and agencies

The above descriptions of crimes against children and of child victims of traffic accidents reflect the performance of public officials and departments. Their negligence appeared as the third most important issue related to the protection of children in Pakistan. For example, DAWN coverage included seven reports of children being mistreated at the hands of law enforcement agencies, including police, whereas Jang reported 11 such cases. Law enforcement agencies not only fail to protect the lives and dignity of children, but also, they are often hostile to those children who come into conflict with them. Police use violence against these children and tend to overstate the latters’ offences.

Other departments, including the health and education departments, were not far behind the police in neglecting children. Rural children especially suffer due to departmental deficiencies. For example, infants were reported to be stolen from public hospitals (Jang reported six such cases) and medical and paramedical staff were found negligent, having caused child death due to the administration of inaccurate medicines or by not attending in time to prevent death (DAWN reported six and Jang nine cases). In the education department, poor or non-available school infrastructure frequently led to the collapse of school buildings, consequently injuring or killing children (DAWN, 11 cases). Further, attitude and discipline issues, such as meting out corporal punishment to children by teachers, were common and sometimes, severe enough to cause permanent damage to the child’s health or even to result in death (DAWN, five and Jang, nine cases).

Some other departments, not directly dealing with children as health or education do, were also found to be negligent with regard to children’s safety. Children died after falling into open manholes or drowned in drains, both of which are the responsibility of the water and sanitation agency, WASA, in all major cities and towns (DAWN reported 20 and Jang 21 cases). In rural areas, reports of children drowning in canals or rivers were common. Further, child deaths were common due to electric shock

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17 For example, on 20 March 1991, DAWN reported an eight-year-old boy being charged with 'rape' under the Hudood Ordinance, sending him to a district jail in Karachi. However, on a later medical examination, he was found 'unfit for such an act'.

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received from a power supply line or electric pole (11 reports each). Despite the fact
that the Electricity Act 1910 provides guidelines on power supply installation and
maintenance and also provides general protective clauses, the power distribution
authority, WAPDA, leaves naked wires hanging on roof tops or fails to attend to poles
requiring maintenance. Only when there is public outcry over the death of a child in
such accidents, do public education messages by WASA and WAPDA appear in
newspapers, appealing to people to help the agencies avoid such accidents. The public
were also informed about the initiation of departmental inquiries against officials
responsible directly or indirectly for such accidents; however, the causes remain.

News relating to the federal social welfare ministry and provincial social welfare
departments, which are directly responsible for child welfare, was rare. When these
departments got press coverage, the news items chiefly described the lack of services
or the poor performance of existing services. For example, on 25 August 1995,
DAWN reported that a fake NGO in the guise of an institution for homeless children
was registered with the Social Welfare Department, and was using children for
begging and was trafficking them overseas. The language of such coverage described
both the failure of the concerned department and a concern with the safety of children.

*Children in difficult circumstances*

In the 1990s, child labour issues were reported and debated frequently in all the
newspapers under review; more so, however, in *DAWN* than in the Urdu language
papers. Almost all Pakistani newspapers, for example, *DAWN* 18 April-22 June 1995,
but also others, gave special coverage to the controversy arising from the murder of
anti-child labour child activist Iqbal Masih, which was followed by comments of an
official from ILO's International Programme on the Elimination of Child Labour
(ILO-IPEC) relating to the under-reporting of the magnitude of the child labour
problem in Pakistan. The mid-1990s FIFA 'Foulball' campaign, which called for a
boycott against soccer balls produced by child labour, also added to this debate as

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18 The case of Iqbal Masih's murder received a lot of media attention in Pakistan and abroad. Most of
this media coverage, however, proved to be sensational and controversial. The Human Rights
Commission of Pakistan (1995), a non-governmental human rights organisation, conducted an
independent investigation into the reasons and circumstances of Masih’s murder, whereas Ali Khan
(2007) conducted a scholarly examination of the media coverage of the issue.
Pakistan’s soccer ball exports decreased significantly due to this push. Incidents of child labour (such as children working in hazardous occupations) were frequently reported. Newspapers covered legislative and practical interventions by the Government of Pakistan as well as those of national and international non-governmental organisations such as the ILO-IPEC.

Newspapers also covered the ongoing debates on the magnitude of the child labour issue, its consequences and proposed solutions. Most debates focused on poverty and the lack of schooling facilities as causes of child labour, and the fact that children in the labour market were missing out on the fun of childhood. While the English language newspaper was more concerned with child welfare, development and rights, Urdu dailies tended to challenge the international standards and reports on child labour in Pakistan as representing a Western agenda aimed at ruining Pakistani exports of carpets and sports goods. The latter tended to give more coverage to local views about child labour, including those expressed by employers, chambers of commerce and individual experts, many of whom had favourable opinions regarding child labour.

News items also appeared relating to children being given up (11), sold (six) and killed (eight) by parents due to circumstances related to poverty. Children were reported to be victims of disputes between parents when an angry father (28 cases) or mother (15 cases) killed a child, especially when a husband suspected a wife of being unfaithful and of the child not being his own. Young girls were killed by fathers, brothers or uncles on suspicion of having a love affair or wishing to marry a person of their choice rather than that of their parents. Abandoned newborn babies, both dead (DAWN, 10 cases) and alive (DAWN two and Jang three cases), were found in public parks, on street corners and on garbage heaps. The language of the coverage was that of the cruel woman abandoning/throwing away an illegitimate child to hide her sins.

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19 For example, the 1 May 1995 news reports appearing in many papers quoted prominent Christian leader and then federal minister J. Saalik declaring that the call for ongoing debate on child labour in the aftermath of Iqbal Masih’s death was Western propaganda.
There were some reports (for both collective and individual cases) related to discrimination against girl children. Children of both sexes became victims of ‘traditional practices’ such as child marriage (DAWN 26, Jang four cases), being devoted to a fake spiritual person/magician or taking part in some peculiar religious ceremony. However, more girls were reported to be victims of karo kari (honour killing) (17) and decisions of jirga (the traditional court) (nine) pertaining to girls being given away to enemies to settle family/tribal feuds. Only DAWN reported these cases. There were rare reports of children being forced into prostitution (one), drugs (four), begging (seven) and petty crime. In the absence of any systematic evidence, it is hard to determine whether these issues are less prevalent or simply less acknowledged by newspapers.

The role of expert individuals/officials

The role of those (such as parents, public office holders, policymakers, politicians, experts and philanthropists) responsible for child protection in either an individual or official capacity was also the focus of newspaper attention. The role of the public sector in child protection was mostly reported in terms of proposed or enacted legislation on the part of federal or provincial governments as it related to health, education, labour and welfare issues. Newspapers also included coverage of speeches delivered by ministers and government officials at children-related functions and celebrations. Child protection interventions by non-governmental organisations were also reported. Newspapers published features and articles written by experts such as educationists, medical doctors, psychologists, lawyers and human rights advocates on child protection issues, including child rights, child neglect, education, health and discrimination against girls. However, child labour remained the most prominent issue to be reported.

Newspapers wrote editorials if a major child protection issue came up, such as kidnapping for ransom, an accident due to the negligence of a government department or the release of a controversial report on figures relating to children’s issues. As noted earlier, the language of reporting and editorials was not always that of child rights or child protection in its own right, but that of responsibility of the concerned adults, children as the nation’s future and societal values relating to children.
However, the newspaper coverage conveys a fair sense of the nature and scale of the violence, abuse and exploitation that children experience in Pakistan. This coverage involves individual incidences, but also, and mainly, abuse and exploitation, due to broader structural and institutional factors. This means child protection issues in Pakistan require a broader policy response rather than narrowly prescribed individualistic policy responses.

Section V: Gaps between Pakistan's child protection legislative and policy frameworks and existing child protection issues

The above discussion of existing laws, policies and plans indicates that there are certain gaps in Pakistan's child protection legislative and policy frameworks. The efforts to develop a legal and institutional base for child protection seem to be issue-based and lack direction and consistency (Save the Children, Sweden 2010). Further, these efforts are affected by popular beliefs, attitudes and practices about who is to be considered a child and how children should be treated (NCCWD & UNICEF 2008).

The following are some of the legislative and policy loopholes— which mainly arise from conceptual ambiguity— that affect child protection in Pakistan.

Definition of the child

As noted earlier, Pakistan inherited some children-related laws from colonial times. Since Independence, some new laws have been enacted and others amended. However, these laws were never synchronised with regard to a definition of the child. As a result, there is a complex range of definitions across legislation for who is considered a child. For example, according to the Majority Act 1875, a minor is a person who has not attained the age of 18 years. However, under the Zina (Enforcement of Hudood) Ordinance 1979, adult or major means a male person who has attained the age of 18 years and a female person who has attained the age of 16 years or who has attained puberty. Similarly, the age of consent for sexual activity and for marriage is 18 years for males and 16 years for females.

While the Pakistan Penal Code fixes the minimum age for criminal responsibility at seven years, the Criminal Procedure Code (Section 497) provides special concessions such as the granting of bail in non-bailable offences when the offender is less than 16
years of age. In a further example, the Juvenile Justice System Ordinance 2000, which overrides all existing laws relating to juveniles, defines the child as a person below 18 years of age. However, in 2004 the Lahore High Court, the highest provincial court, revoked the Juvenile Justice System Ordinance with effect for the whole country on the grounds that this law unduly privileges juveniles but ignores the fact that the Constitution of Pakistan allows special provisions for the protection of women and children without diminishing the rights of others. The court also held that people have made false statements regarding the age of an accused person in order to gain the benefits of protection under the Juvenile Justice System Ordinance; therefore, it found that it was not worthwhile retaining a law that is inconsistent with the national constitution and that was also impractical (Amnesty International 2005). Since this case, an appeal against the Lahore High Court judgement has been pending in the Supreme Court of Pakistan (SPARC 2009).

The issue of the definition of the child is further complicated by the fact that the Constitution of Pakistan does not directly define a child in terms of age except for Article 11(3), which lays down that no child below 14 years shall be engaged in any factory or mine or any other hazardous employment. Arguably, it is reasonable to specify different ages for different activities and responsibilities reflecting the “evolving capacity of the child” as per Article 5 of the UNCRC. Therefore, the question seems to be whether the specified ages are reasonable. In answering this question, it must be noted that there are three dimensions to the concept of “evolving capacity”: 1) a developmental dimension, 2) a participatory or emancipatory dimension and 3) a protective dimension (Lansdown 2005, p.15). This protective concept entitles children to certain levels of protection in recognition of their childhood status. Also, it requires determining a child’s capacity for an activity or liability on certain well-defined principles such as intellect. Pakistani laws not only determine different ages for different activities and liabilities without identifying well-defined guiding principles (NCCWD & UNICEF 2008), but they also discriminate between children for the same purpose, for example, the minimum age for marriage.

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20 Farooq Ahmed versus Federation of Pakistan, PLD 2005, Lahore 15 (6 December 2004)

21 A child is considered a citizen by birth and the constitution promises 'equality of citizens' (Article 25). However, both the issuance of the national identity card and suffrage occur at 18 years of age.
in fact, fixing 16 years as the minimum marriageable age for females instead poses
known maternal and child health risks due to early marriage and pregnancy, and
shows that this age limit is neither reasonable nor well thought out.

To further add to the complexity of the issue of the definition of the child, laws based
on religious, tribal and/or traditional interpretations of justice such as the Sharia
Nizam-e-Adl Regulation 2009, the Zina (Enforcement of Hudood) Ordinance 1979
and the Frontier Crimes Regulation 1901 make no special provisions for children.
Rather, these laws treat children on a par with adults. In short, the complex issue of
the definition of the child in terms of age, which has been raised in Pakistan due to the
arbitrary fixation of age for different purposes (such as marriage) and to
inconsistencies within and between international, national and customary laws, has
serious consequences for child protection policies and programs in Pakistan. Such
arbitrary definitions of the child fundamentally hamper any attempt to legislate and
implement a comprehensive child-related law that takes into account the level of
protection that children are entitled to in recognition of their childhood.

The concept of child protection

While the Constitution of Pakistan promises special provisions for the protection of
women and children, and the country’s legal system anchors the protection of children
in both the Constitution and family codes, it does not explicitly define ‘child
protection’. As is clear from the above discussion of Pakistan’s legislative
frameworks, the country has a number of federal as well as provincial laws related to
children. With the exception of the Punjab Destitute and Neglected Children Act
2004, which is considered to be the first child protection legislation introduced in
Pakistan, no law either applies the language or express the intent of protection. This
Act provided for the establishment of the Child Protection and Welfare Bureau
(Government of Punjab 2004). The Bureau’s stated mission is ‘to work towards an
environment, in which families, communities, organisations and governments ensure
that children’s physical, social and psychological needs are fulfilled, so that they grow
into healthy, contributing members of society’ (Child Protection and Welfare Bureau
2008a, p.17 emphasis mine). Clearly, according to this statement, the mission is the
fulfillment of needs to ensure children’s potential contribution in society rather than
ensuring either child protection in its own right or the protection of the rights of children.

Further, the institutional mechanisms of the Bureau reflect a narrow curative and interventionist concept of child protection. For example, a core function of the Bureau’s Child Protection Unit is to rescue neglected and destitute children – who are living on the streets who are involved in begging, hard manual labour and other exploitative activities – and then re-unify them with their families. The Child Protection Institute of the Bureau provides residential care arrangement for those children whose families cannot be traced (Child Protection and Welfare Bureau 2008b, pp.20-51). Child victims of abuse are thus removed from the abusive situation and either reunified with their poor families (most likely to return to the streets and/or exploitative work) or placed in institutional care (Enterprise for Business Development & Management, 2009). The causes of abuse, especially the structural causes, remain and continue to manifest themselves.

It is these manifestations, rather than root causes of abuse, that have been the focus of policy, planning and intervention in Pakistan. For example, in its 2004 Strategy and Major Lines of Action for creating a protective environment for children in Pakistan, UNICEF noted certain manifestations of child protection issues such as child labour, children without primary caregivers, minors in conflict with the law, sexual exploitation and abuse, harmful traditional practices and discrimination (UNICEF 2004, pp. 4-7). Based on these manifestations, UNICEF provided a conceptual and strategic framework for the attainment of a protective environment. The conceptual framework identifies underlying and structural factors that allow a ‘child’s unobstructed development’ as ‘a protected child’ (UNICEF 2004, p. 3). The underlying factors are identified as government will and capacity; legislation and enforcement of protective laws in line with international treaties and standards; capacity of social service providers; services for recovery and integration following child protection abuses; awareness, attitudes and behaviour within families and communities; children’s life skills; open discussion of child protection issues; and monitoring and reporting of rights violations. The structural factors include poverty,

22 These underlying factors were identified in the Protective Environment Framework, set out in the 2002 UNICEF Operational Guidance Note, as broad elements that are critical to good protection.
democracy and respect for human rights, rule of law and culture (UNICEF 2004, p. 3). While the framework acknowledges that structural factors increase children's vulnerability to different types of abuse and exploitation, the main focus is on the underlying factors as reflected in the proposed child protection program strategies.

The first proposed strategy aims at addressing the gaps in existing child protection legislation and ensuring its implementation through policy development, legal frameworks and law enforcement. The second strategy is the provision of recovery and reintegration services for child victims of abuse and exploitation, while the third includes awareness-raising and community mobilisation around traditional practices and social norms that lead to violations of child rights. The fourth is to empower children with life skills, such as decision-making and problem-solving, coping with stress and pressure, interpersonal communication, self-awareness and empathy. The final strategy aims to open public dialogue and discussion of child protection issues (UNICEF 2004, pp. 15-19). The Government of Pakistan adopted this strategic framework in its 2005 National Plan of Action (NPA) for Children and in its 2009 draft National Child Protection Policy (Ministry of Social Welfare and Special Education 2005, 2009).

This framework suffers from a number of conceptual and practical flaws. First of all, it tends to conceptualise child protection as a set of manifestations seemingly self-contained and independent of each other. Secondly, it fails to explicitly establish a generic causality between manifestations and their root causes and to relate them to sources of response and prevention, that is, the factors that underlie protective environments. Take for example, child labour. In Pakistan, existing research studies of child labour suggest that working children are vulnerable to all kinds of exploitation and abuse including economic exploitation, physical punishment, emotional and sexual abuse and trafficking for labour (Kamal 1999; Working Group Against Child Sexual Abuse and Exploitation & Save the Children, Sweden 2009). Further, empirical research in Pakistan and elsewhere identifies broader structural elements such as poverty, lower budget allocations for the social sector, intensive urbanisation and social beliefs and attitudes towards children and child work as the chief causes of child labour (Burra 1997; Khan 2007; Myers 1991; Weiner 1991).

According to this evidence, child labour emerges as a multidimensional phenomenon.
that is caused by a complex set of individual and structural factors and that generates even more complex and interdependent effects. Such a complex issue cannot be addressed by strategies such as those described above that focus on legislation relating to manifestations of protection issues in specific situations and on recovery and reintegration services, without taking into account the root causes.

Some of these flaws have been addressed in the evolving theoretical conceptions of child protection. While a 1990s study by the then Secretary of the Pakistan Law Commission conceptualised child protection in terms of provisions made under the Pakistan Penal Code and Criminal Procedure Code (Husain n.d.), a 2005 study commissioned by UNICEF conceptualised child protection in five thematic areas: children without primary caregivers; child labour; child trafficking; child sexual exploitation; and violence against children outside of armed conflicts (Raasta Development Consultants 2005). In 2006, Pakistan’s Federal Investigation Agency (FIA) within the Ministry of the Interior commissioned an *Analysis of Enforcement Gaps in Child Related Protection Laws*, from an independent organisation, the Community Uplift Program. Unlike earlier research, which focused on particular child protection issues, this study acknowledged that ‘child protection is a vast subject that encompasses various aspects that we need to take at the societal level as well as at the law enforcement level as part of the larger strategies for prevention of crimes against children’ (Federal Investigation Agency 2006, p. 6).

In 2008, the NCCWD and UNICEF commissioned the *Knowledge, Attitudes, Practices Study on Child Protection Rights and Responsibilities*. This study was also conducted by an independent organisation Raasta Development Consultants. The study identified 18 manifestations of violations of protection rights, ranging from children without primary caregivers, children who are trafficked, and children who are sexually exploited to children subjected to violence (ranging from corporal punishment to sexual abuse) and children involved in various forms of child labour. Although the study examined the societal and structural causes of violations of children’s protection rights, it did not recommend any broad structural changes such as the provision of free education or poverty reduction. Instead, the study proposed a ‘seamless’ service for children in need of protection, emphasising the need for sensitisation and orientation of all those concerned, including children, parents, school
staff and law enforcement agencies and the establishment of child protection services (NCCWD & UNICEF 2008, p. 10). Nevertheless, these studies show a gradual broadening of the concept of child protection in Pakistan.

Recognition of the social and structural causes of violations of children's right to protection is forthcoming among independent researchers and non-state actors. The 2010 Save the Children, Sweden assessment of child protection systems in South Asia, Stepping Up Child Protection, provides the most recent example. The assessment report acknowledges that child protection is an emerging concept in South Asia and, at present, a concept without a comprehensive or common definition. While acknowledging that states across the region tend to include 'many different forms of violence' in their definition of child protection, the report highlights the fact that 'root causes of violence such as poverty, insecurity, power imbalances and harmful traditional attitudes' are not reflected in these definitions (Save the Children, Sweden 2010, p. 6). The report noted that policies across the region fail to offer protection from the root causes of violence, mainly due to a lack of a comprehensive definition of child protection. Therefore, the first and foremost recommendation of the report was that 'regional bodies such as South Asian Association for Regional Cooperation (SAARC) and South Asia Initiative to End Violence Against Children (SAIEVAC) should define violence, abuse, neglect and exploitation and child protection to offer clarity to countries in the region who are developing laws and programs on child protection' (2010, p. 158).

It must be noted, though, that earlier studies and reports of child protection, such as those discussed above, were written by local organisations, while Save the Children is an international organisation that uses an explicit child rights approach to programming as the basis for its work. A child rights approach to programming applies children's rights principles to plan, implement, and monitor programmes intended to improve the position of children so that all children can fully enjoy their rights and live in societies that acknowledge and respect their rights (Save the Children, Sweden 2012). Compared with issue-based or needs-based approaches used by local organisations, this approach has a greater positive impact on the lives of children as it aims to address the underlying causes of violations of children's rights,
and acts to bring about changes in policy and practice to make an enduring difference to children.

UNICEF, too, has made considerable progress in its child protection programming and strategy. In 2007, UNICEF’s East Asia and Pacific office provided a comprehensive conceptual framework for child protection, which addressed some of the flaws of the 2004 framework, especially those relating to the relationship between problems, causes and sources of responses in a given socioeconomic, political and cultural context, a child’s immediate environment and the prevention and response system (Hong & Birdie 2007). In 2008, the UNICEF executive board adopted a child protection strategy to ‘create a protective environment, where girls and boys are free from violence, exploitation, and unnecessary separation from family; and where laws, services, behaviours and practices minimise children’s vulnerability, address known risk factors, and strengthen children’s own resilience’ (United Nations Economic and Social Council 2008, p.1). More recently, UNICEF has been seeking to adopt a ‘system approach to child protection’ that goes beyond particular issues or specific groups of vulnerable children (Wulczyn et al. 2010). Such a system aims at protecting all children by creating a long-term response that is adaptable to new problems.

However, child protection policy and practice in Pakistan is still largely informed by the 2004 framework, as reflected in the 2005 National Plan of Action for Children and the 2009 Draft National Child Protection Policy, both of which tend to address specific manifestations of child protection problems. While child protection conceptualised in terms of the manifestation of an issue may provide immediate scope and justification for practical intervention to address that particular manifestation, it does not create a protective environment. Rather, as the above literature review suggests, it leads to a narrow curative (versus preventive) approach, which aims at any intervention to protect children only when an incident of maltreatment has occurred, that is, when a protection issue is manifested (Calvert 1993; Helfer 1982). Secondly and consequently, and again as noted in the literature review, child protection systems based on a curative approach have been shown to fail in many countries around the world in terms of cost, coverage and prevention of future abuse and exploitation, among other things (Dingwall et al. 1983; Lonne et al. 2009; Melton 2005; Parton 1985, 1996a; Scott 2006). In a country such as Pakistan, where
protection issues are pervasive, widespread and deeply rooted in social structures, and resources very few, a policy aimed at curing manifestations of child protection issues may not be effective, sustainable or, indeed, able to meet the needs of all children as evidence from around the world (literature review above) suggests.

In sum, the above review reveals a situation where existing legislative and policy provisions in Pakistan do not appropriately address some child protection issues and completely disregard others. The clear pattern of kidnapping, sexual abuse and the killing of children is the most glaring omission. Existing legislative provisions, such as the Prevention and Control of Human Trafficking Ordinance 2002, do not effectively respond to this pattern. Similarly, existing child protection legislation and policy do not acknowledge the issue of road safety as it relates to children, which, according to the newspaper review presented earlier in this chapter, turned out to be the second major issue in terms of children’s physical safety and well-being. There was neither any provision of transportation for school children, nor strict enough action against traffic violations that resulted in fatal accidents, especially those involving child victims.

Apparently, the issue of child labour - not only in its own right, but also as a protection issue - has received a good deal of attention in terms of legislation and policy. However, on a deeper analysis, it is not hard to discern that legislating a minimum age for work is no solution to the problem unless poor children and their parents are offered alternatives to child work, such as some social protection allowance, financial assistance and education facilities (as discussed in detail in Chapter Three, which describes the socioeconomic context of child protection policy in Pakistan). In fact, removing children from the streets or from hazardous work may push them to even riskier situations, for example, domestic work, which is beyond state intervention.

Why is there such a gap between existing reality and legislative and policy responses? Explanations for this situation include the presence of both institutional bottlenecks, and individual and societal beliefs and ideologies, each of which require a detailed examination. While the national body responsible for children’s issues, the NCCWD could review and consolidate children-related laws, it does not have statutory powers.
The concerned ministries legislate not holistically but on issues only within their mandate. For example, the Ministry of Labour could only legislate a minimum age for work at 14 years but has no mandate to provide education to all children below 14 years, which is the prerogative of the Ministry of Education. These institutional bottlenecks are discussed in Chapters One and Two, which deal with child protection policy process and institutions. However, more critical issues relate to the individual policy players. These issues are based on policymakers' beliefs, assumptions and ideologies about children, childhood, children's status in society and the necessary elements of child protection in the broader socioeconomic and political context of Pakistan, all of which provide topics for investigation in Part II of the thesis.

Section VI: Research methodology

The relative nature of the concept of child protection recognises the multiple ideas, values and attitudes of those involved in policy and practice. This means that there are likely to be tensions and debates between actors, which translate into the actual formulation and implementation of policy. The complexity of such a situation demands close and careful examination, an examination that is best conducted along interpretive-constructivist lines according to which the world is socially constructed and it is the understanding of social phenomena that affects outcomes of decisions regarding such phenomena (Hendriks 2007; Yanow 2000). In adopting an interpretive-constructivist approach to the examination of social life, the primary focus of this research is policymakers' understanding of the concept of child protection. This thesis begins by examining the broad research question, "How do policymakers in Pakistan conceptualise child protection?" It also asks two interrelated sub-questions to deepen the exploration. Firstly, "Do specific conceptions of child protection matter in policy decisions?" and, secondly, "If they do matter, then in what ways?"

Because these questions allow for concepts and categories of abuse and protection that inhabit the multiple realities of various actors, an interpretive-constructivist methodological approach has been chosen. The interpretive-constructivist approach allows an in-depth study of the concepts employed by policymakers, helps unpack the assumptions, ideas and values underlying the process of specific conceptualisation,
and discerns the ways in which those concepts translate into policy. Because of this, I was able to embark on an in-depth study of the concept of child protection using a mixed methods approach to data gathering.

Scope of the research

The scope of this research was determined by two factors: time frame and administrative jurisdiction. This thesis covers Pakistan's child protection policy over a period of 20 years between 1990 and 2010. The year 1990 was chosen as a starting point because the history of formal child protection policy and practice in Pakistan began in that year with the country's ratification of the UNCRC, which places obligations on member states to ensure children's right to protection. As a result of this ratification, the government of Pakistan established an advisory body at the Federal level, the National Commission for Child Welfare and Development (NCCWD) in the Ministry of Social Welfare, to oversee the country-wide implementation of children's rights including the right to protection as envisaged in the UNCRC. A further practical reason to focus on this period, and not before 1990, was the reasonable expectation that the key actors involved in children-related policy during this period are still around and can be accessed.

The second factor, administrative jurisdiction, is important because Pakistan, being a federation, comprises five provinces that have considerable autonomy in terms of policy and legislation. Provincial legislation and policy nevertheless remain within constitutional boundaries and national legislative frameworks (Jillani & Jillani 2000). Before the 18th Constitutional Amendment in 2010, there were areas of legislation and policy in which both the federation and the provinces could enact legislation, with social welfare being one of those areas. In such areas, provinces generally used to look to the Federal government to take the initiative (Jillani & Jillani 2000), meaning that children's issues were mostly dealt with by the Federal Government through the NCCWD.

In addition, and as discussed earlier, other sources of legislation, such as the UNCRC and shari'a law, both the prerogative of the Federal Government, also prove quite influential. The situation is further complicated by variations in the demographic,
cultural, political and economic contexts of the provinces, which may influence their policy inspirations and priorities. For example, the Punjab tends to be quite urbanised, educated and modern as regards its cultural context. Khyber Pakhtun Khawa, Gilgit-Baltistan and Baluchistan are all tribal provinces and religiously conservative. Sindh is typically a feudal province with a clear urban-rural divide. So, it is the Federal Government's responsibility to monitor and ensure that provincial policies are in line with constitutional provisions, that they are framed in the federal legal frameworks and also to confirm and strengthen the international commitments of the country such as commitment to the UNCRC (Jillani & Jillani 2000).

To ensure consistency between federal and provincial policies, the NCCWD has been acting as the principal body for coordination, policymaking and integrated planning as regards children. Further, the first and the second National Plans of Action for Children were dovetailed into broader national plans such as the Poverty Reduction Strategy. Therefore, studying child protection amongst Federal policy circles offers an opportunity to analyse similarities and variations across various regions of the country. Nevertheless, the Child Protection and Welfare Bureau in Punjab, being the pioneer and only child protection system in the country, was also included in this research (see map of research sites, Appendix I).

**Recruitment strategy**

Major actors in the children/child protection policy include politicians and senior bureaucrats. As there is no ministry for children, different children affairs are a responsibility of a different ministry including social welfare, labor, interior and law ministries with the NCCWD as a coordinating body. Other actors include representatives of various international organizations including UNICEF (main partner in the implementation of the UNCRC), ILO, and the representatives of international and national nongovernment organizations working on child protection such as the Save the Children, SPARC and Sahil among others.

Research participants' recruitment process started with acquiring the lists of ministers and secretaries (administrative/bureaucratic head having powers to make policy decisions as discussed in detail in chapter One) of the concerned ministries and heads of autonomous bodies involved in children's related policy since 1990. It could be
noted from the table 1.3 below, that not all ministries were actively involved in children's policy at all times. For example, the ministry of labour was active during the 1990s when the issue of child labour in Pakistan's sports and carpet industries was highlighted whereas ministry of law had been active since 2000s when the country start developing child specific legislative and policy frameworks.

The representatives of international intergovernmental and non governmental organisations such as the UNICEF, ILO and Save the Children as well as local non governmental organisations are quite influential in the country's child related policy environment (Chapters One, Five). The representatives of the international organisations were selected based on their designation and/or job description available on the organisation's website. If no such information was available, a request was sent to the country director (directly or through the public relations desk if existed) and they decided to sit for an interview by themselves or nominate a person who is closely involved in child protection work. Considering the nature and tenure of appointments in these organisations, only those staff currently working in Pakistan, could be included in the research. In the local non governmental organisations, mostly, organisation heads, almost all founders of the organisation as well, were included amongst research participants.

Thus, the number of potential participants totalled 48. Some of the ministers, secretaries and department heads have retired, settled overseas and/or their contact details were either not available or not update. Those, who were around and some contact information was available regarding them, were contacted through proper channel of their current ministry or department. Those who were retired were contacted personally. All were sent the project information sheet (Appendix IV) with a request for an interview. The initial response was low, so, they were contacted through people whom they would not refuse for reasons discussed below, under the fieldwork. Compared with pubic sector, almost all intergovernmental and non governmental organisations, agreed to participate in research on the first contact. Of the 48 potential participants, a total of 30 actually participated in the research. Others, either could not be traced (10) or refused (8) to participate.
Table 1.3. Mapping the potential research participants

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Fieldwork

Research for this project was conducted following university research ethics guidelines with the approval of the ANU Human Research Ethics Committee. The fieldwork, conducted between January and August 2010, involved two types of activities: namely, a review of official documents and newspapers and interviews with policymakers. However, most of my time and effort was concentrated on getting access and talking to elite policymakers (Marshall 1984; Thomson 2009; Wedel et al. 2005). These included state actors (such as ministers and senior bureaucrats) and non-state actors (such as representatives of the international child rights community in Pakistan).

The process of gaining access to the policy elite involved a good deal of travelling within Pakistan, long negotiations with gatekeepers (in this case, secretaries and personal assistants of the policy elite), accessing elite policymakers through informal networks of family, friends, former colleagues and other acquaintances (especially in a situation where negotiations with the gatekeepers failed), and seeking appointments for interviews23. Ministers and senior bureaucrats were scattered through the national

23 Most Federal and some Provincial Ministries and Departments have websites, URLs and e-mail addresses, but the majority of these are never updated and e-mails often bounce back. On telephone follow-up of letters and e-mails sent during the process of developing the research proposal and
capital (Islamabad), provincial capitals (Lahore, Karachi, Quetta, Peshawar) and the countryside in cases where interviewees had retired and were not available in their offices. They typically did not correspond via e-mail, and communication through gatekeepers was characterised by long delays and/or no responses. This meant I had to actually travel to places, and in many instances more than once, to get appointments and to conduct interviews. Access to representatives of the international child rights community was further constrained by security concerns in Pakistan at the time of the fieldwork. Considering the high profile and busy schedule of the research participants, there was always a chance that another more important task would come up and an interview would be cancelled. Some appointments were cancelled and interviews cut short due to a security emergency.

Along with difficulties of access, I was confronted with a number of other challenges during interviews, challenges that are widely acknowledged and well-documented in disciplines such as anthropology, but are a rare topic of scholarly discussion in policy research. First was the difficulty of applying standardised university ethical codes of ethics in a non-Western context, especially in a country where no national research guidelines or codes of ethics for research exist. The situation was further complicated by Pakistan’s “high-context” culture (Radsch 2009), which is characterised by relationship-building, face-saving, indirect problem-solving and similar communication strategies, where, for example, some potential participants were willing (or felt obliged, due to their relationship with the person who introduced me to them) to talk but were not ready to sign a ‘consent form’, which, as well-informed, educated participants, the university ethical codes expected. Consequently, they could not be included in my data.

A second challenge was the power dynamics between the researcher and the policy elite, that is, people in high positions, who are literate, articulate, and who have the power, resources and expertise to control information and protect their reputation (Marshall 1984; Wedel et al. 2005). The power imbalance in favour of the participants

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before the commencement of the fieldwork, I was informed that I did not need any formal departmental permissions to conduct the research and that people could be accessed individually. This proved to be the case.
was aggravated by the Pakistani context of age-based and gender-based hierarchical social relations (Marshall 1984; Thapar-Bjorkert 1999). Two thirds of all participants in this research were male, in very senior positions towards the end of their careers, in their late fifties or sixties, and had become used to being listened to and not questioned. My efforts to manage the power dynamics were mostly situational, based on common sense and familiarity with the context.

**Data gathering and analysis strategies**

In-depth interviews with key policy players provided access to the ideas of policymakers and the analysis of official documents helped explore the translation of individual ideas into official policy. Data gathering was guided by a set of tentative questions derived from the broader research question (Appendix II), with some changes made according to the nature of the document being examined, the requirement of the mandate of an agency/department/ministry, the position of a policymaker and/or the child protection issue under consideration. This process is detailed as follows.

Relevant official documents were identified and examined. These documents included children-related laws and various national plans of action and policies. They also included official documents related to various child protection initiatives such as the establishment of the provincial child protection bureau as well as reports and materials from international agencies and local non-governmental organisations (NGOs) working on child protection issues. Referring to the established research questions, I searched these documents for official/organisational definitions of the term “child protection” for mention of state and non-state priority issues, for the types of issues addressed under those definitions and for the responses to those issues. These documents were also a good source for determining what is not included in child protection. Fieldnotes were maintained and photocopies of official records made where possible.

The one-on-one in-depth interviews with key actors involved in the child protection policy process remained the main source of data. In all, 30 interviews were conducted both with state and non-state policy actors. All interviewees were in senior relevant
positions but are not named for reasons of confidentiality. However, only 26 could be included as data for the reasons discussed above. Almost all interviews were conducted in English, recorded electronically with the consent of the interviewees and transcribed into Word documents for further processing.

Data analysis involved developing lists of codes and themes and then merging the themes for the purpose of analysis in the upcoming thesis chapters. As detailed in the beginning of methodology section, considering the nature of the research question, I used the interpretive-constructivist approach, which allowed an in-depth study of the concepts employed by policymakers, helped unpack underlying assumptions, ideas and values and the ways in which those concepts translate into policy. In answering the research question, I drew on children’s rights framework. According to this framework, children are recognised as right bearer individuals. These rights are inherent, inalienable, indivisible, interrelated and universal. The UNCRC is the overarching framework for children’s rights comprising three sets of rights, broadly identified as rights to provision, protection and participation. The UNCRC provides policy guideline to all member states and hold them accountable to fulfil children’s rights. However, the UNCRC requires enabling legislation to become part of the Pakistan’s common law regime, therefore, the children’s rights framework used in this analysis also include the national legislative and constitutional provisions relating to human and children’s rights. It also take into account the local, cultural and religious norms and values that recognise children as rights holding human beings.

**Factors influencing the conduct of the study**

At the time of conducting fieldwork for this research, Pakistan was going through a wave of terrorist attacks, especially in the form of suicide bombings. Public offices and buildings of official significance in Islamabad were cordoned off as high security areas, thus making access to the policy elite very difficult. As a consequence, none of the bilateral agencies could be approached as some had limited operations and others had ceased their operations in Pakistan altogether. This could arguably have limited the research, as in the views of other policy players, these agencies can influence national child protection policy and practice through the financial and technical assistance they provide.
The research does not include protection issues of special (disabled, differently abled) children as they are dealt with separately by the Directorate General of Special Education under the Special Citizens Act 2008, the National Plan of Action for Persons with Disabilities 2006, the National Policy for the Persons with Disabilities 2002 and the Disabled Persons (Employment and Rehabilitation) Ordinance 1981.

Lastly, in June 2010, with the enactment of a constitutional amendment (known as the 18th Amendment), the social welfare sector was devolved from the centre to the provinces. This amendment became effective in June 2011, leaving the status of the National Commission for Child Welfare and Development, which already had limited powers, in limbo. Initially, the Commission was placed within the Capital Administration Development Division, and later moved to the Ministry of Human Rights, where it continues its role of providing guidance to the provinces which have little expertise and resources in this new area of their jurisdiction (Government of Pakistan 2011). However, the Ministry’s website does not include any information with regard to the Commission (Ministry of Human Rights 2012) and the Commission’s own website was removed from the Government of Pakistan’s official internet gateway. Therefore, the findings of this research must be considered alongside any current state of children-related affairs in Pakistan.
PART I

THE CHILD PROTECTION POLICY PROCESS IN PAKISTAN

The chapters in this part of the thesis deal with individual policy players and institutional arrangements involved in the child protection policy process in Pakistan. The policy process has been modelled in a variety of ways including those that cover the linear, incremental, rational choice, and classical pluralist to sub-governments and policy communities (Atkinson & Coleman 1992; Dowding 1995; Everett 2003; Nevile 2002a; Rhodes 1990). Some of these, such as the policy community view, focus on the role of individual policy players in the policy process (Dowding 1995; Rhodes 1990). Others are concerned with the role of institutional arrangements in which policies are formulated (March & Olsen 1989). Still others emphasise the interdependent relationship between policy actors and institutional structures (Jordan 1990; March & Olson 1989; Nevile 2002a).

Two chapters in this part of the thesis deal with individual policy actors and institutional structures. The individual actors and policy structures are linked with the view that there is an interdependent relationship between the internal structure of the policy community and the institutional arrangements in which decisions are made (Jordan 1990; March & Olson 1989). As Nevile explains, 'Formal constitutional and institutional structures shape political preferences and the distribution of resources, which in turn affects the power of political actors. Political actors may then change the decision making rules and formal institutional structures so as to entrench their power. These changes may then generate changes in political preferences, and so on' (2002a, p.12). The chapters in this part focus on this interdependent relationship between the policy community and the institutional arrangements involved in Pakistan's child protection policy.

Chapter One aims to do two things. First, it identifies key policy actors and analyses their interests and role in Pakistan's child protection policy process. Second, it maps the institutional arrangements in which various children-related institutions are organised and relate to each other. Chapter Two provides a more in-depth analysis of
the relationship between individual policy players and institutional arrangements. In the specific context of Pakistan's child protection policy, it highlights the influence of powerful individuals on weak institutions through case studies of two key children-related institutions, and in so doing, reemphasises the importance of individual actors in the policy process.
Chapter 1

Pakistan’s child protection policy community and institutional arrangements

In the policymaking process, an interdependent relationship exists between the members of the policy community and the institutional structures in which they make decisions. The importance of interdependent relationships between members of the policy community and the institutional arrangements appear particularly relevant in policymaking on social issues, given the range of actors and agencies involved in policy-making on social issues such as food security, primary education, social care and the protection of vulnerable groups including children (Davies 2000; Mooij 2007; Nevile 2002a). Child protection policy is one such area of social policy. It is characterised by the often contradictory interests of members of the policy community representing different institutional structures including both formal public institutions, such as social welfare, judiciary, health and education, and less formal or informal institutions of civil society and community which are constrained by their own institutional structures (Lonne et al. 2009). The child protection policy process in Pakistan is no exception. Therefore, identification of the members of the policy community, their interests, their relationship with each other and the institutional arrangements in which they make decisions is central to understanding how child protection is addressed in Pakistan.

This chapter is divided into two sections. The first section identifies key policy actors, their interests and the mutual relationships in the area of child protection policy. The key actors include individuals such as bureaucrats, experts (in child protection and related fields) and representatives of civil society organisations and those of the international child rights community. The relationships include power relations among state actors from different parts of government and between state and non-state societal actors. Politicians may not always be members of the policy community but they have a legitimating function in the policy process. For this reason, they are also a focus of the analysis in this section. The second section examines the institutional arrangements in Pakistan including sector-specific structures (such as the government
departments or agencies that deal with child protection), formal structures that transcend the specific policy sectors (such as the constitutional division of roles between federal and provincial governments and within federal ministries) and decision-making rules and structures (such as parliament).

Based on the analysis in these two sections, I conclude that, firstly, Pakistan's child protection policy community includes a diverse range of state and non-state actors. While bureaucrats and politicians have ultimate decision-making powers, representatives of civil society and their counterparts in the international child rights community are also influential members of Pakistan's child protection policy community. However, they have a very different perspective from that of elite local politicians and bureaucrats, which adds to the highly contested nature of child protection policy-making in the country. These differences are based not only on varying interests, but also on different worldviews, experiences, assumptions and the ideas that are held by different actors about the existing reality of child protection. These factors are implicit in the analysis that follows in this chapter; however, considering the influence that they appear to have on policy outcomes, they demand detailed examination, which is conducted in Chapters Three, Four and Five. Secondly, the analysis reveals the involvement of an array of institutional structures with different mandates and/or interests relating to the children and child protection, all of which influence policy outcomes. In fact, due mainly to lack of formal children-related institutional arrangements, some political and bureaucratic actors in their individual capacity actually guide child protection policy. The influence of the relationship between individual policy actors and institutions on child protection policy is further examined in the next chapter.

The policy community and politicians

The concept of "policy community" refers to 'the phenomenon of policy-making occurring in distinct subsystems centred around a particular policy issue' (Nevile 2002a, p. 3). Although there is little agreement on any more precise definition of the concept in a range of policy community, policy network, sub-government typologies and schemas (see for example Bressers & O'Toole 1998; Coleman & Skogstad 1990; Marsh & Rhodes 1992), the policy community concept is a useful analytical
framework that recognises that there is a limited group of actors, public and private, distinguished by some legitimate common interests, who participate in the policy-making process in relation to a particular policy issue (Atkinson & Coleman 1992). Amongst this limited group of actors, most prominent are the bureaucrats, whose membership in a policy community is determined by the institutional structures of government.

**Bureaucrats**

In Pakistan's child protection policy process, bureaucrats come from three subgroups. The first group comprises members of the elite civil service of Pakistan (CSP), who are the administrative heads of children-related ministries such as social welfare, labour, interior, health and education ministries. A typical organisational structure of a typical ministry in the Government of Pakistan is set out below.

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Federal Minister
  ↓
Secretary
  ↓
Additional Secretary
  ↓
Joint Secretary
  ↓
Deputy Secretary
  ↓
Under Secretary/Director/Section Officer
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In the above hierarchy, bureaucrats up to the level of Deputy Secretary have powers to make decisions on policy matters (Chowdhury 1988). While they are not actively engaged in drafting policies, they mediate between different interests within their own department and with line departments, political representatives and organised groups of civil society. Bureaucratic relationships within and between departments can generate conflicts of interests (Nevile 2002b). For example, the issue of child domestic labour has been a source of conflict between the Ministry of Social Welfare and the Ministry of Labour and Manpower for years, with the Ministry of Social Welfare considering it a labour issue and the Ministry of Labour arguing that because it happens in the private sphere of home, beyond their regulations, it is a social issue. Similarly, the Ministry of Education has the widest access to children and resources to
deal with corporal punishment within institutions; however, as the issue was initially taken up by the Ministry of Social Welfare under the auspices of the United Nations Convention on the Rights of the Child (UNCRC), the Ministry of Education participated in the legislative process of banning corporal punishment in state institutions including schools only by way of comments on the proposed bill. It did so when the bill was circulated for comments by the Cabinet.

Members of the second group include heads of the specialised agencies concerned with specific children-related issues such as the Federal Investigation Agency (FIA) in the Ministry of Interior dealing with child trafficking and cybercrimes against children and the Child Protection and Welfare Bureau (CPWB) dealing with destitute, abandoned and homeless children. Heads of these agencies may not be career bureaucrats, but rather head the specific agency due to their expertise in the field. They are mostly concerned with the mandate of their own agency and do not readily engage in debates on overall child protection policy, describing such debates as ‘hair splitting’ (Participant A7: interview 23 June 2010). The third group comprises mid-level bureaucrats heading children’s units (directors, section officers) within ministries, who have been promoted from the regular public service, which is considered to be inferior to the CSP (Chowdhury 1988). Members of this group are heavily involved in the actual drafting of policies and plans related to child protection but they do not have decision-making powers in policy matters (Chowdhury 1988; Page & Jenkins 2005). These mid-level bureaucrats prepare draft policies and bills and present them to their superiors for approval. In short, it is the members of the first group, the elite civil servants and top bureaucrats, who have decisive powers in child protection policy. As a result, this group demands some detailed consideration.

Pakistan’s civil service is known to be “elitist” not because of ‘merit, achievement and excellence’ (Shafqat 1999), but because it is the product of a specific historical process; that is, colonisation. The country inherited a strong bureaucratic system from the Indian Civil Service of the colonial British government (Gardezi 1991; Talbot 1998), which cultivated an elite civil and military bureaucracy of “natives” to control the vast Indian empire. As noted by scholars (for example Gardezi 1991; Talbot 1998; Washbrook 1990) most of these “natives” were members of “scribal groups” with administrative skills and expertise, martial traditions and networks of connections
They belonged to the privileged classes of the indigenous stratification systems of the Indian subcontinent, 'whose orientation and interests were deflected from the common concerns of their own people to serve the interests of the Empire' (Gardezi 1991, p. 25). They were trained in the British style of thinking and acting to become 'a class who may be interpreters between us and the millions we govern; a class of persons, Indian in blood and colour, but English in taste, in opinions, in morals and in intellect' (Lord Macaulay 1835, cited in Young 1935, p. 350). In their formal training, they were encouraged to view other groups in society as inferior and to impress upon those groups that the higher administrator was a superior being. They were trained in exclusive academies in the subcontinent and in England and lived in exclusive enclaves that were 'removed from the fret and struggle of the common man’s life' (Gardezi 1991, p. 26). With rare exceptions, the senior civil servants of Pakistan maintain this style of life to this day (Gardezi 1991). Their links to broader society and the masses are almost non-existent as pointed out by one of their own.

Policymakers are only the two per cent English speaking population of this country. Their children go to Berkeley and Oxford. What do they know about the pain of a young child who has to work morning till evening, making bricks, riding camels or to pick cow shit to make dung cakes? (Participant C5: interview 2 July 2010)

In addition to their privileged origin, exclusive training and elitist life style, the Indian and later Pakistani bureaucracy was not oriented towards working with the representative and legislative side of government in the colonial period. In the colonial period, Indian politics were primarily the politics of agitation and legislative functions were performed in London relayed to India through the Viceroy’s Office (Wilber 1964). When representative institutions were introduced into colonial India, they played the role of advisory rather than policymaking bodies as they were designed to help legitimise and strengthen the authority of the bureaucratic state (Wilder 2009). Even today, Pakistan’s bureaucrats hardly ever feel accountable to the representative side of government. In fact, in Pakistan, there is an imbalance in political power between representative and bureaucratic institutions, which favours the bureaucracy (Riggs 1971; Wilder 2009). In Pakistan’s turbulent democratic political process, the bureaucracy is one of the most organised groups, taking advantage of the disorganisation among politicians and assuming a considerable role
in policy formulation (Chowdhury 1988; Shafqat 1999; Wilder 2009). Not only do bureaucrats hold more permanent positions compared with the ‘all too temporary’ political heads of a ministry, they also hold key positions in other policymaking institutions such as the Planning Commission, the Central Secretariat and the National Economic Council (Chowdhury 1988, p. 142), which gives final approval to any plan and its financing.

What was seen as the excessive influence of the bureaucracy in policy formulation became a concern for popularly elected governments that tried to introduce civil service reforms. However, due primarily to ineffective political strategies used to push through reforms, the reforms merely led to the politicisation of the bureaucracy with far-reaching and damaging consequences for the effectiveness and integrity of the civil service (Wilder 2009). In short, the so-called “steel frame” of the civil service became rusty, politicised, corrupt and ineffective (Talbot 1998), with diminishing capacity to serve the citizenry. Some commentators on Pakistan, such as Stephen Cohen, think that the civil service is ‘damaged beyond the point of no return’ (2011, p. 3), especially due to the last military regime’s (1999-2007) poorly conceived and half-implemented devolution of power to the district level (International Crisis Group 2010). It is the bureaucrats who define the legitimacy of broader societal interests and determine which of these interests should participate in policy process (Atkinson & Coleman 1992). In Pakistan’s child protection policy, organised civil society groups claim to represent broader societal interests and values, especially those of children.

Civil society

Local civil society groups include a variety of non-government (NGOs), non-profit, secular, religious and professional organisations working for child welfare, development and rights. Such organisations have existed in the country since Independence; however, the sector as a whole remains small and relatively underdeveloped (Pasha & Iqbal 2002). Little systematic data are available on the numbers and areas of activity of such organisations. By far the most comprehensive attempt to document the size, scope, internal structure, financial and legal position of these organisations representing civil society in Pakistan was made in a 2002 study
conducted by the Social Policy and Development Centre (Pakistan) in collaboration with the Aga Khan Foundation (Pakistan) and the Center for Civil Society, Johns Hopkins University, USA.

In this study, non-profit organisations were described as an ‘important part of civil society, the public space between individual citizens and the state, in which their activities occur collectively and in an organised form’ (Stewart, 1997 cited in Pasha et al. 2002a, p. 1). Forty-five thousand organisations were identified, including the non-governmental, voluntary, community-based, charitable, welfare societies and trusts, as well as many more registered and non-registered organisations (Pasha et al. 2002a), leaving no distinction between non-profit organisations and civil society. Similarly, organisations working for children included advocacy groups on child rights; service delivery organisations providing healthcare to mother and child, shelter to homeless children and legal services to juveniles; a variety of organisations providing religious, secular, formal and non-formal education; and professional associations such as the Pakistan Paediatric Association and various Chambers of Commerce working on the child labour issue.

Local NGOs working specifically on child rights and child protection issues are a post-UNCRC ratification phenomenon as almost all were established in the 1990s. For example, the Society for the Protection of All Rights of the Child (SPARC) was established in 1992 and Sahil (the Urdu word for ‘shore’) in 1996. This phenomenon is not unique to Pakistan, as a similar trend is noted elsewhere, for example in neighbouring Bangladesh (Alston & Tobin 2005; White 2002). These NGOs use the UNCRC as their reference point. For example, a director of one such NGO declared ‘The UNCRC is the yardstick for us’ (Participant D2: interview 4 June 2010). It is worth mentioning here that with the exception of two NGOs, none of the major non-governmental organisations working in the related areas of human rights, women’s development or family welfare have any children-specific programs or have included children as beneficiaries of their services,24 either before or since ratification of the UNCRC.

24 As an analysis of the missions, aims and objectives, programs and activities provided on the websites of the Human Rights Commission of Pakistan, All Pakistan Women Welfare Association (APWA) and Family Planning Association of Pakistan reveal. These three are amongst the largest,
The two exceptions are the Ansar Burney Trust and the Edhi Foundation. The former, established as a non-political, non-governmental and non-profit organisation in 1980, was the first organisation to introduce human rights advocacy in Pakistan (Ansar Burney Trust 2011). In fact, the newspaper review conducted as part of this research reveals that the Ansar Burney Trust was the first to introduce the term ‘child protection’ in Pakistan and to provide services to children in conflict with the law and juveniles, lost, kidnapped and trafficked to Gulf states as camel jockeys. The Edhi Foundation is a non-profit organisation that has been providing social services such as medical care, emergency services, air ambulances, burial, homes for the aged and those with mental illness, child welfare services, safe houses for abused women and training facilities for the disadvantaged since 1951. However, providing cradles for abandoned newborns is the landmark child protection service for which Edhi was initially subjected to a lot of criticism from several quarters (Edhi Foundation 2011). These services from both the Ansar Burney Trust and the Edhi Foundation are quite progressive in the context of the pre-UNCRC child protection and child rights scenario in Pakistan.

In pre-UNCRC era Pakistan, apart from these two unique initiatives, the only known children-specific organisations were orphanages and residential care institutions run by local philanthropists and religious organisations. An analysis of these religious organisations reveals three trends. First, most religious organisations such as Anjuman e Himayat e Islam which provides needs-based services for children, have not been involved in the policy process because of the fact that they were not well organised politically (Iqbal et al. 2004). Some religious leaders including those of the Anjuman had been elected to the national or provincial parliament once in a while in their own individual capacity, but Anjuman, like many other smaller religious parties, did not have a political constituency across the country (Haqqani 2004; Lieven 2011).

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25 In the conservative Islamic context of Pakistan, children born out of wedlock are considered illegitimate and carry a lot of stigma for parents, especially mothers and their children. Therefore, such children are abandoned at birth. Before Edhi started the cradle service, there was no mechanism for the care and protection of such children. In fact, most of the time, they were left on garbage heaps in the dark of night. With the introduction of the baby cradles, mothers or other people were able to leave babies in these cradles, and they were then taken to orphanages run by the Edhi Foundation.
Secondly, the largest active religious political party in Pakistan, *Jamaat e Islami*, has inherently been divided within itself in terms of its religious versus its sociopolitical role in the first place (Nasr 1994). Further, children— unlike women, students, labourers and professionals— are not an entity in their own right according to *Jamaat’s* political and social agenda (Ahmad 1991; *Jamaat e Islami* Pakistan 2012). Thirdly, religious political parties including *Jamaat* do not have an impressive record of taking a position and influencing policy on the issues relating to women and family that also affect children. For example, as discussed in detail in Chapters Three and Four, religious political parties including *Jamaat* were openly alleged to have traded their votes in the Parliament on women and family related legislation (such as the Muslim family laws) on more than one occasion (Participant B3: interview 10 June 2010; Participant C1: interview 21 April 2010).

Therefore, while religious organisations have used the needs-based approach, they have not been very active on the policy front, most of the post-UNCRC children-related NGOs have adopted the rights-based approach. By adopting such an approach, they make advocacy an integral part of their work and are fairly active in the children related policy-making process (Penn 2011; White 2002). Based on the information provided on their respective websites, the typical profile of Pakistani NGOs emerges as follows. Most were founded as a one-person initiative and mostly these individuals are highly qualified professionals, including lawyers, doctors and human rights experts, as are staff. Most NGOs have their head offices in the federal capital, Islamabad, with some regional offices in the provinces. This is especially so if the NGO is involved in service delivery; but the advocacy work largely remains the prerogative of the head office. Most get their funding from international donors and they fully subscribe to the international child rights agenda. Most participate with the Government of Pakistan with regard to some children-related legislation and policy enactment. This participation may range from putting issues onto the agenda through research and campaigning, holding consultations with various stakeholders, and especially making child participation possible in those consultations, to actual drafting of the laws and implementation of policies and plans.

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26 In fact, only one of all the Pakistani NGOs involved in this study raises its funds from local philanthropists.
Membership of these civil society organisations in the policy community and their participation in the policymaking process are largely determined by the bureaucrats and politicians in power. Bureaucrats and ministers decide who, from amongst representatives of various civil society organisations, to invite for consultation and/or participation in policy formulation and on what issues. Government policy in this regard has lacked consistency. There have been periods when the policy can be considered to have been broadly supportive of civil society such as in the increasing references in the Seventh (1988-93) and Eighth (1993-98) Five Year Plan documents to the role of non-government, non-profit organisations and in recognition given to the role of these organisations in major programs of social development such as the Social Action Program (SAP 1992-2001) and the Pakistan Poverty Reduction Strategy Papers (PRSP 2003, 2010).

On children’s issues in particular the Executive Committee of the NCCWD, the body responsible for children’s issues within the Ministry of Social Welfare, includes a representative of national-level NGOs (National Commission for Child Welfare and Development 2011). Since 1991, various district-level Chambers of Commerce have been major partners in Government-of-Pakistan and ILO-IPEC initiatives to eliminate child labour (Kamal 2000; Khan 2007). The second National Plan of Action (NPA) for Children elicited participation of civil society not only in the formulation but also in the implementation of the Plan (Pakistan Ministry of Social Welfare and Special Education 2005). The Pakistan Paediatric Association (PPA) took an active part in drafting the NPA section on “protection issues” and in the drafting and negotiations related to other child protection documents (PPA 2010). Most recently, the NCCWD and the civil society actors joined forces to push the bill to establish an independent and autonomous National Child Rights Commission (Participant A2: interview 2 February 2010; Participant C1: interview 21 April 2010; Participant D2: interview 4 June 2010).

In contrast to this supportive mutual relationship, a number of actions have indicated a hostile attitude on the part of the Pakistani Government towards civil society organisations, especially those involved in child rights advocacy. The prime example is the 1996 NGO Bill, which many considered to be an attempt by the government to bring civil society organisations under its control and regulation (Pasha & Iqbal
On children's issues in particular, in its concluding observations on Pakistan’s second (2002), third and fourth (2007) periodic reports, the UN Committee on the Rights of the Child urged the Government of Pakistan to take all necessary measures to ensure cooperation with children-related non-government organisations (CRC/C/PAK/CO/3-4, Paras. 24, 25). In regard to child protection policy, the roots of this hostility can be traced back to the early 1990s problem of child labour in Pakistan’s carpet industry in particular and to child labour in general, as noted in Chapter Three (Participant A1: interview 29 January 2010; Participant A6: interview 1 June 2010; Khan 2007). Although, this dichotomous government attitude towards civil society has never been systematically studied with special reference to children’s issues, two sets of existing literature provide some explanation for this attitude.

First, according to the literature on policy communities and networks, the relationship between state and societal actors may depend on the level of conflict or consensus within bureaucratic networks in various parts of government (Coleman & Skogstad 1990; Nevile 2002a). For example, tussles between two line departments may push one to seek support from non-state members of the policy community. Current efforts to legislate a higher minimum age for criminal responsibility provide a good example of such behaviour. The Ministry of Social Welfare moved a draft bill to increase the minimum age for criminal responsibility from seven to 12 or 14 years. When this was placed into wider circulation for comment, most line departments supported the move, except for the Ministry of Interior (the Ministry responsible for law and order). The Ministry of Interior rejected the higher minimum age for criminal responsibility on the grounds that children are increasingly being used as suicide bombers in terrorist attacks. This position is in line with the mandate and the focus of the Ministry of

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27 The newspaper review conducted as part of this research (see Introduction) reveals that the issue of child labour in the carpet industry was debated fiercely among representatives of the international community, including ILO & USAID officials and members of the US congress; representatives of local NGOs working on child labour; and representatives of carpet industry and various chambers of commerce in Pakistan. The international community would point to a high prevalence of child labour in the carpet industry and would demand government action to address the problem. In contrast, representatives of the carpet industry would dispute the claim and insist that it was a scam to damage Pakistan’s carpet exports; and the officials from the Pakistan Ministry of Labour who would try to mediate between the two opposing parties.
interior, that is, the maintenance of law and order and control of terrorism, and no part of the government can advocate a policy that seemingly goes against these efforts. The Ministry of Social Welfare sought support from civil society organisations to counter this argument. These organisations conducted research, collected evidence and launched a campaign highlighting other reasons for the use of children as suicide bombers (including poverty and lack of opportunities for education and employment), arguing that the recruitment of children had nothing to do with the proposed higher minimum age for criminal responsibility (SPARC 2009).

Another explanation for the dichotomy in the government’s attitude towards civil society organisations comes from research conducted on the relationship between the state and civil society. Governments are generally supportive of the welfare and service-providing role of the non-profit sector, but hostile with regard to their role in social and political advocacy (Pasha & Iqbal 2002). On child protection issues, the provision of education services in remote rural areas and legal services to juveniles in prisons are good examples of the former, where resource-constrained governments welcome any intervention. The enabling legislation to incorporate the UNCRC in domestic law, to set a minimum age for criminal responsibility and the minimum marriageable age for girls provide examples of the latter. These and similar issues taken up by civil society organisations are considered politically sensitive as they highlight the commitment and will (or lack of it) of the government to take initiatives that seemingly have serious social, cultural and political implications for the government and for society at large (Tandon 1987, 1991, 1992). Civil society organisations advocating children's right to participate in decisions affecting them, for example, are alleged to be working against the societal values of respect for family and elders, and are said to be motivated by the “Western agenda” aimed at destroying the social fabric woven around the Pakistani family unit (Participant A5: interview 30 April 2010; Participant C2: interview 26 April 2010).

Some of these allegations may not be altogether misplaced considering the nature and background of the representatives of civil society in Pakistan. Most organisations are individually centred around their founders, controlled by them and run according to the founder’s ideas and will. Many of the founders of these civil society organisations
are known to be Westernised intelligentsia coming from within the elite. According to Khan, they are 'set apart from both the masses and the ruling elite' (2007, p. 27). Khan notes that they are distant from the masses by virtue of their elite education in foreign universities, high income and status in society. They are also separate from the landed elite due to their urban base and their inability and/or lack of inclination to challenge existing political structures (Khan 2007). Furthermore, most of the non-government, non-profit organisations specifically working on child protection and many of those working for children in general have an urban base, with almost all national-level organisations operating from their central offices in Islamabad or Karachi. Therefore, the reality of their representation of the interests and values of the more than half of Pakistani children and families living in rural areas is not hard to discern. On child protection issues, their strict adherence to the UNCRC and their legalistic approach resonate more with their Western, liberal counterparts in the international human/child rights community rather than the traditional, collectivist ways of Pakistani society as discussed in detail in Chapter Five.

The international child rights community

The international child rights community is also an important member of the child protection policy community in Pakistan. It is comprised of a number of actors, including the inter-governmental child rights actors of UN agencies, especially UNICEF and the ILO, bilateral organisations/donors such as USAID and the Royal Norwegian Embassy, and international non-governmental organisations (INGOs) such as Save the Children and Oxfam. Some of these especially, the UN organisations, have a long presence in the country. For example, Pakistan has been a member of the ILO since 1947, with the ILO setting up its country office for Pakistan in 1970 and IPEC starting in 1994 (ILO-Country Office, Islamabad 2011). Similarly, UNICEF, the most important inter-governmental organisation devoted to children’s issues (Simmons 2009), started its operations in Pakistan in 1948 (UNICEF-Pakistan 2012). These agencies typically work in partnership with other UN agencies, multilateral organisations and a host of international and national NGOs and other stakeholders;

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28 However, unlike the local political and bureaucratic elite, who maintain an appearance of adherence to nationalist, religious and local cultural values (a topic of detailed analysis in Chapter Four), the civil society elite acknowledge their Western liberal, secular orientation and education.
however, the Government of Pakistan remains the major partner to whom they provide technical support and expertise in formulating and implementing children-related policy (ILO Country Office- Islamabad 2011; UNICEF-Pakistan 2012). Due to the security situation in Pakistan at the time of fieldwork for this research, none of the bilateral agencies could be accessed. Therefore, their role in Pakistan’s child protection policy is not explored in this thesis. However, from other participants’ accounts, it appears that the bilateral agencies act more as a financial resource for children-related interventions rather than as advisors on policy issues.

The INGOs work either independently or with the local community and/or civil society (Patey & Macnamara 2003) and can influence the policy process through research, advocacy and the social mobilisation of the masses, though no INGO working in Pakistan has an exclusive focuses on child protection. Most children-related INGOs became active in Pakistan in the 1980s, in the wake of the 1979 International Year of the Child. For example, Save the Children, Sweden started its operations in Pakistan in 1983 (Save the Children, Sweden 2012). It was one of the first international organisations to base its programming on child rights and to use the UNCRC as the normative instrument in guiding its program work (Woll 2001). As Penn (2011) noted, ‘INGOs derive their rationales from research and rhetoric current in the global North’ (pp.95-96). Penn also observed that ‘there is no INGO that does not subscribe to the notion of child rights’ and that these INGOs ‘set the pace for policy in the South’ (2011, p.105). This is true for most INGOs working on children’s issues in Pakistan.

There is a sense of ambiguity surrounding the exact role of the international community in Pakistan’s child protection policy process and with regard to its relationship with other members of the policy community (which is analysed in detail in Chapter Five). Part of this obscurity comes from the composition of the international community itself, which encompasses a range of mandates and interests (Humanitarian Policy Group 2005). For example, the UN agencies are mandated to work with host governments, though they can influence policy direction or introduce

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29 Though one wonders if the bilateral agencies would have seen themselves having a more substantive role?
new initiatives using mechanisms such as observations and recommendations on the periodic country reports and sensitisation and training of local actors (Participant C5: interview 2 July 2010; Participant D2: interview 4 June 2010). With regard to bilateral agencies, there are differences between donors. For example, the Nordic donors tend not to impose 'conditions' (other than observance and promotion of human rights standards in all activities they fund) compared with those who come with agendas based on their foreign policy objectives, such as USAID (Participant D1: interview 31 May 2010; Participant E1: interview 8 June 2010; USAID 2002). Similarly, INGOs vary in their focus, that is, some support research and/or advocacy initiatives, others are involved in service delivery.

In part, this ambiguity is based on the perception and experience of particular actors in their particular position, as noted by various participants in this research (Participant A5: interview 30 April 2010; Participant C5: interview 2 July 2010; Participant D3: interview 24 June 2010; Humanitarian Policy Group 2005). Child protection covers areas as diverse as family, health, education, prisons, orphanages and streets and involves a similarly diverse range of actors. On the one hand, each actor may interact with only a few members of the international community and, on the basis of that particular experience, may label the whole international community in a particular way. On the other hand, international organisations are also known to have preferential attitudes towards different local actors, for example, government departments or NGOs.

To sum up, these subcategories of various members of the child protection policy community and their complex interdependent relationships means policymaking is 'messy' and less than straightforward. Politicians, with their claim to represent the citizenry, further add to this complexity.

**Politicians**

When Richardson and Jordan (1979) first coined the term "policy community", they argued that politicians are not part of the policy community but have delegated policy-making responsibility to members of the policy community. They later modified this, acknowledging the importance of state power in policy-making, based
on their observation in Western Europe, where ‘governments have been more assertive in attacking some of the old distributional coalitions, effectively, policy communities’ (Richardson 2000, p. 1020). Politicians involved in Pakistan’s child protection policy include sitting and former ministers for social welfare (responsible for children’s issues) at the federal level, Members of Parliament involved in children issues as members of the National Assembly (Lower House) Standing Committee on Social Welfare and Special Education and those known publicly as being interested in women’s and children’s issues. They include both elected representatives belonging to different political parties (representing diverse urban and rural constituencies) as well as those who became a Member of Parliament or Minister because of their technocratic expertise. The latter category makes up a significant proportion of the whole, as Pakistan has a long history of military rule and military rulers tend to coopt the best in their field in government to broaden their support and win the confidence of the masses (Pasha et al. 2002b). Like Pakistan’s bureaucracy, Pakistani politics has some unique characteristics of its own, which reflect the way politicians make policy decisions.

Starting from Independence in 1947, the new government of Pakistan inherited what Wilber termed as ‘a successful politics of protest and a familiarity with the administrative and judicial institutions of the colonial government’ (1964, p. 213). However, the legislative function was only poorly understood as the British had provided limited opportunities for Indian-elected representatives to be involved in the legislative process (Wilber 1964). The British ruled colonial India through a complex hierarchy of indirect rule, which built on and deepened the existing bifurcation of society into the masses and the elite (Nasr 2001, p. 42). It was the elite who served as the pillars of British rule, including Indian princes and, more notably in the areas that constitute Pakistan, the tribal leaders, zamindar (landlords) and pir (spiritual leaders) (Alavi 1989; Gardezi 1991). The British ‘superimposed on the indigenous stratification systems’ of the subcontinent, a small group of title holders to landed estates, who were loyal subjects, who ‘maintained custodial armed detachments on behalf of the colonial authority’ and who were ‘ruthless enough to indenture masses of labourers to dig a canal or build a strategic road’ (Gardezi 1991, pp. 25-26). These power structures were reinforced before and following Independence by the
dependence of the Muslim League (Muslim majority party that led the independence movement), on the landed elite in Punjab and Sindh (Alavi 1989).

It was predictable that the early years of Pakistani politics would be characterised by the rule of the Muslim League for two reasons. First, because it was the party that led the independence movement and won freedom and, second, because it was the only political party (with the exception of some small regional parties) that the new nation inherited. However, the Muslim League was most influential in those areas of British India that did not become Pakistan (Wilber 1964); it remained primarily concerned with the achievement of independence and failed to formulate any ideology or program for the building of the new state (Chowdhury 1988). These policy failings, coupled with the person-orientation of the party, led to its rapid decline (Cohen 1986). A number of other political parties did arise but ‘some were vehicles for local leaders and others were never far from their feudal roots’ (Cohen 1986, p. 306). Political parties in Pakistan failed to institutionalise themselves and Pakistani politics continued to be characterised by a large number of leading individuals, with their political dependents, for whom achieving and maintaining power was the highest goal (Chowdhury 1988). The democratic ideas of legitimate opposition and ‘political parties as permanent institutions rather than instruments of individual power’ remained alien (Cohen 1986, p. 307).

As result, throughout Pakistan’s history, landowners and tribal leaders have made up the majority membership of successive Pakistani parliaments both in military-led and democratic governments. This has led to two scenarios, neither of which is conducive to issues such as child protection, for different reasons. In the first scenario (as a senior politician and a former minister pointed out ‘in defence of the system’) many law makers in Pakistan do not have much experience as legislators, mainly due to the repeated disruptions of the democratic process by military interventions. However, the same senior politician also admitted:

You have to know the issues and the solutions, which is a lot of hard work, and no one wants to put the time and patience required into all this. Everybody is in that superficial race to be in newspapers quickly, with nice coverage in headlines that s/he is such a great person…(pause and then in part serious, part ironic tone)...besides, democratic governments in Pakistan are almost always preoccupied with big issues. For example, the present government of the
Pakistan People's Party has to investigate the murder of Benazir Bhutto. With such huge preoccupations, who would pay attention to children’s issues? (Interview 21 April 2010)

In the second scenario, parliamentarians, the landowners and tribal leaders ‘do not hesitate to use their powers to protect their own interests and held onto their authority by blocking the governments’ attempts to foster social and economic development in their areas’ (Jones 2002, p. 244). Clearly, the interests of these landed elite are in direct conflict with solutions to some of the major child protection issues in Pakistan. A chief example of this is child labour, including bonded labour in the agriculture sector, which is hardly ever mentioned in ongoing debates or policy interventions on child labour in Pakistan. In short, in a weak democratic system—where most parliamentarians are elected to their family seats by their tenants, serfs and spiritual followers only to further their own interests—one hardly expects any accountability.

Another dimension of the role of elected and political representatives, concerning child protection policy, is the use of religious idiom in state policy. Politicians, mostly from remote rural, tribal and conservative constituencies, bring a religious perspective to the policy-making process (Participant C1: interview 21 April 2010; Participant C2: interview 26 April 2010). Considering the fact that 96 per cent of the population of Pakistan is Muslim and that Islam is the state religion, concern with the Islamic legitimacy of any state decision is to be expected. However, according to the representatives of civil society, it is not the ‘religious legitimacy’ of ideas that is a policy concern, but, rather, the ‘political use of Islam’, which is common in Pakistani politics (Participant D4: interview 7 July 2010; Participant E1: interview 8 June 2010; Mumtaz & Mitha 1996, p. 35; Syed 1982, p. 63). It is well-documented that most policy debates based on religion are aimed at powerless, vulnerable groups of society such as women and children (An-Naim 1990). Such debates lend further complexity to concepts and ideas relating to child protection due to the fact that Pakistan is not an Islamic society in the strict sense of the term and many children-related practices are not based on the provisions of Islam but on local cultural and traditional practices. This issue is the subject matter of Chapter Four, which examines the role of ideologies, especially those based on religion and culture, in Pakistan’s child protection policy.
In addition, the landed elite not only make up the bulk of parliamentarians, they also dominate other decision-making bodies, including the military and civil bureaucracy. According to Khan (2007), the landed elite, the military and the bureaucracy 'have come closer together through intermarriage and a commonality of economic and political interests' (2007, p. 29). It is questionable whether they represent the interests of the masses or the extent to which the interests of the masses are taken into account in policy formulation. To answer these and related questions, it is important to look into the institutional arrangements in which Pakistan's child protection policy is formulated.

Institutional arrangements

As discussed above, policy formulation occurs in sub-systems (known as policy communities or networks) with limited membership of interdependent actors. These actors work within formal institutional arrangements, including government departments, regulatory bodies and the institutional structures, which include the interdependent relationships between institutions, rules of business and standard operating practices (Hall 1986; Neville 2002a). These institutional arrangements involve not only policies and programs that are explicitly intended to ensure the protection of children, they also refer to political decision-making processes and the will of those involved in legislation and policy formulation. This section focuses on these formal policy-making institutions of the Government of Pakistan.

In Pakistan, children's issues are a part of the social welfare sector, an area in which both federal and provincial governments could legislate until the passage of the 18th Constitutional amendment in 2010 (effective from June 2011), which made children's issues a provincial jurisdiction. In practice, and with rare exceptions, provinces used to look to the federal government for policy, plans and implementation models (Jillani & Jillani 2000). At the federal level, most children's issues fall within the jurisdiction of the federal Ministry of Social Welfare, a low-profile ministry with

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Less formal institutions such as family and society are seen to have an important role in child protection policies (Lonne et al. 2009; Parton 1997). However, as they do not have a direct role in policymaking in Pakistan, they are not discussed separately. Instead, throughout the thesis their role as passive stakeholders or policy recipients is apparent, especially so in Chapters Three and Four.
limited human and financial resources that offers services in the traditional areas of child welfare, for example, institutional care to children without primary caregivers, including orphaned, destitute, lost and kidnapped children. Provinces follow the same arrangement, with the recent exception of the Government of Punjab, which has established a Child Protection and Welfare Bureau in the Home Department—responsible for law and order in the Province—while other children’s issues remain the responsibility of the provincial Department of Social Welfare. The background and reasons for this decision are discussed in detail in Chapter Two.

Within the federal Ministry of Social Welfare, NCCWD—a non-statutory body—was established in 1980 to follow up on the recommendations of the International Year of the Child. The NCCWD was later assigned the task of implementing the UNCRC in Pakistan on ratification in 1991 but without any improvement in its status or any increase in authority. In 2009, the Alternative Report to the United Nations Child Rights Committee by Pakistan’s civil society pointed to the lack of institutional mechanisms and weaknesses inherent in the NCCWD (SPARC 2009, p. 8). One participant in the current research summed up the status of the NCCWD as following:

"Basically, they are the ones who are reporting to the committee in Geneva, they are preparing Pakistan’s report involving all of us...but, they don’t have the type of mandate right now because (emphasising by speaking each word slowly and clearly) if they see any violation of children’s rights in the country, they cannot say anything to anybody. Nobody will take them seriously. (Participant E1: interview 8 June 2010)"

The Committee, while reviewing Pakistan’s third and fourth periodic report, observed that the NCCWD annual budget for 2005-06 (US$ 47,000) was negligible, considering Pakistan’s 70 million children (CRC/C/PAK/CO/3-4, Para. 18).

In relation to the Government of Pakistan’s Rules of Business 1973\(^\text{31}\), along with the NCCWD and the Ministry of Social Welfare, the ministries of Education, Health, Labour and Interior are also involved directly in children’s issues. The Ministry of

\(^{31}\text{Under Articles 90 and 99 of the Constitution of the Islamic Republic of Pakistan, Rules of Business-1973 have been framed for the conduct of business of the Federal Government; provincial governments subsequently framed similar rules.}
Education and the Ministry of Health have set up child rights units within their ministries and the Ministry of Labour has a special child labour unit. The Ministry of Interior does not have a specific children-related unit but rather deals with birth registration as part of its normal business and with child trafficking and cybercrimes against children through the Federal Investigation Agency. Some other parts of government are indirectly involved, for example, the Ministry of Law and Justice and the Planning Commission in the Ministry of Finance. There are autonomous bodies such as the Federal Ombudsperson’s Office and the Council of Islamic Ideology, who also have a stake in children-related policy. For example, the Federal Ombudsperson’s Office has established a children’s complaint unit to receive children’s complaints (or those of adults on behalf of children) against any part of the government, and will investigate the complaints and provide relief to children.

Children’s issues form only a small part of the overall work of these ministries and autonomous bodies. In addition, and due to the weak administrative structure of the NCCWD, which lacks the authority to deal with all children’s issues, it is difficult for each of these ministries to coordinate with others on its own. For example, the Federal Ministry of Labour, in collaboration with the ILO-IPEC, is working to eliminate child labour (Ministry of Labour, Manpower and Overseas Pakistani 2011). However, in the provinces, primary education is only compulsory for children up to 10 or 11 years, so, if a child labourer stops working at 12 and wants to go to school, there is no place for him or her in mainstream public schooling. This is partly due to lack of resources; however, it is also partly due to the lack of a holistic children’s policy formulated and implemented in close collaboration among the Ministries of Social Welfare, Labour and Education.

32 These units were established following the ratification of the UNCRC in 1990 in order to implement it throughout the government departments and ministries. Most are inactive, present only on paper.

33 Three of the five provinces, Federally Administered Areas and the Islamabad Capital Territory have compulsory primary education laws to date —Punjab Compulsory Primary Education Act 1994, NWFP Compulsory Primary Education Act 1996, Sindh Compulsory Primary Education Ordinance 2001, ICT Compulsory Primary Education Ordinance 2002. However, under the 18th Constitutional Amendment 2010, free and compulsory education to all children of the age five to sixteen is declared a constitutional right of the children.
In addition to the lack of children-related institutions, no national child protection policy, comprehensive child protection legislation or system of services exists in the country. As analysed in detail in the Introduction, some scattered pieces of legislation cover certain protection issues, some of which are not compatible with the existing situation or with each other, as is the case, for example, with legislation related to the elimination of child labour and compulsory primary education, as mentioned above. With regard to legislative structures, the bicameral Federal Parliament of Pakistan, comprising the Lower House or the National Assembly and the Upper House or the Senate, can legislate in areas which are the responsibility of the provinces as well as the Federal Government. The bills, except for money bills including the annual national budget (which is the prerogative of the National Assembly), can originate in either House. If one House passes the bill through a majority vote, it is then transmitted to the other House. If the other House passes it without amendment, it is presented to the President for assent. Through its debates, adjournment motions, question hour and Standing Committees, the National Assembly acts as a check on the Executive. Standing Committees receive and consider legislative proposals, policy documents and statements referred to the Committee related to the subject assigned to them and make appropriate recommendations to the Assembly and to related offices, ministries and agencies.

The National Assembly has a Standing Committee on Social Welfare and Special Education that looks closely into and expedites the legislative and policy process related to children’s issues along with other social welfare and special education affairs. In interviews conducted during the fieldwork for this research, parliamentarians pointed to the fact that there has never been resistance in the Parliament to children-related legislation. However, the validity of this claim is brought into question by details of the proposed and passed bills and parliamentary debates as provided on the official websites of both Houses. With the commencement of business from February 2008 to May 2011 (when an analysis of the Assembly’s proceedings related to children was conducted for this thesis), one

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\(^{34}\) I could not access the record of the proceedings of the Standing Committee on Social Welfare and Special Education, which might have been a useful source to assess the nature and frequency of debate on child protection issues.
children-related bill was initiated by the government and was passed, while 13 private members’ bills are pending. No parliamentary debate has been held on children’s issues and only 52 children-related questions (of a total 4,766 questions) were raised in Question Hour, which constitutes barely two per cent of all questions. It must be noted that not all these questions were directly related to child protection but included a diverse range of issues from the provision of education and health facilities to child labour. This situation indicates the low priority that children’s issues receive on the policy agenda.

Policymakers themselves were not reluctant to reveal the priority they attach to children’s issues. As one participant argued:

The Convention defines the child as a person below 18 years of age. But, if we define the child like that, there are many implications for us...to begin with, our constitution recognises a person below 14 as a child. So, if we acknowledge the provision of the convention, we will have to amend the constitution. It is not an easy task, it is also debatable whether the constitution should be amended to settle this small issue. (Participant A1: interview 29 January 2010)

When the sitting Minister for Social Welfare was asked to comment on the prevailing sense that children’s issues are a lower priority than many other policy issues, she responded with a gesture of helplessness (throwing her hands in the air and smiling an embarrassed smile), ‘Being part of the government what should I say?...We ratified the UNCRC 20 years ago and what have we done so far?...Ratification alone is not enough, we should implement our commitments too’ (Interview 3 July 2010).

However, this concern with implementation was not wholly based on the recognition of children’s rights, including the right to protection. As the Minister emphasised: ‘Now we should think of ways to improve the implementation, because it is people from the Ministry who go and attend international forums, and it is embarrassing when we tell them there that we are still working on our policy’ (Interview 3 July 2010). For the Minister, it was the image of the Ministry that was the main concern. This image is not necessarily built on performance. The Member of Parliament who actively participated in drafting and submitting the 2008 Child Protection Bill blamed the delay in passage of the bill on the Ministry of Social Welfare. The Parliamentarian
explained, 'the Ministry fears that the establishment of an independent commission will take a portfolio of child rights-NCCWD away from them' and added, almost angrily, 'I tell you openly, this is all power rift, otherwise, who cares about these wretched things called children' (Interview 21 April 2010). Another participant noted how the proposed legislation to amend the criminal laws to ensure protection of children is lost between various ministries and departments of the government:

The Law and Justice Division commented that by the rules of business of the Government of Pakistan, it is the Ministry of Interior's mandate and not that of the Social Welfare to propose amendments to the criminal laws. So, it is in a kind of limbo. Whether the Ministry of Interior takes it up or not remains to be seen. (Participant D2: interview 4 June 2010)

However, after the 18th Constitutional Amendment in 2010, social welfare, which covers children's issues, was devolved to the provinces. Consequently, most of the aforementioned bills no longer fall into the domain of Federal legislation.

At the provincial level, only one province, Punjab, has a child protection system in place—though, it is not without some major problems, as discussed in Chapter Five. While three provinces, Sindh, Khyber Pakhtun Khwa and Baluchistan, have low profile, under-funded and poorly staffed Social Welfare departments, the newly established Gilgit-Baltistan Province has none. Those who have been involved in children's issues at the federal level and the representatives of civil society organisations were both concerned about the capacity of the provinces—especially Baluchistan, which has had no child protection or children-related legislation since Independence—to take up children's issues. According to some, it may take as many as five years for some provinces to establish any children-related system at all.

That children's issues are not a priority is an unfortunate truth. Even more unfortunate is the fact that whatever issues do manage to find their way onto the policy agenda are viewed not for their impact on children's well-being or the rights of children. The

\[\text{According to chapter two of the proposed bill, within 60 days of the passage of the bill an autonomous commission must be set up to take on all responsibility for the implementation of the provisions of the bill.}\]

\[\text{Views expressed in the National Consultation on Child Rights in Pakistan: Impact and Implication of 18th Constitutional Amendment, 22 July 2010, organised by SPARC and Save the Children, Sweden, which I attended by invitation of the organisers.}\]
issue of child labour in Pakistan’s soccer ball manufacturing industry\textsuperscript{37} provides a good example of this situation, and is recalled by a senior bureaucrat from the Ministry of Labour and Manpower:

Prior to the 1998 FIFA World Cup, an international campaign, the ‘foul ball campaign’, was launched boycotting Pakistani balls due to child labour in the industry... (pause)... well, it is a separate issue whether production of export quality soccer balls involved child labour or was it only in the production of soccer balls for local consumption... anyways, there was a lot of international pressure... our exports damaged and we have to act, so, it was a deciding factor in bringing the issue on board. (Interview 29 January 2010)

It was not the child, her safety and well-being or the realisation of her right to leisure, education or a work-free childhood, but other factors (including pressure from the consumers, exporters, and the industry, as well as from the family in the form of pressure on family income) which first pushed the issue of a ban on child labour, in certain occupations, onto policy agendas. The resulting policy outcomes were determined in line with those considerations rather than children’s rights, including the right to protection.

The lack of priority to children on the part of the government has immediate implications in the form of low financial allocations for children-related matters. As one participant pointed out, ‘Resource allocation is linked with the political will of the government. If there is political will to do something, resources can be provided easily’ (Participant A4: interview 30 March 2010). The issue of poor budgetary allocations for health and education, two areas that affect children’s well-being the most, is examined in detail in Chapter Three, whereas the limited social welfare budget with no specified amount for the NCCWD and/or implementation of policies and plans relating to children such as the National Plan of Action for Children is the focus of the next chapter.

\textsuperscript{37}The issue has been very well-researched and documented. For a review of this research and documentation see, for example, Khan 2007.
Conclusion

From the above discussion on the child protection policy community in Pakistan, it is clear that, on most policy issues, there has always been an explicit and direct power struggle between Pakistani politicians and bureaucrats. However, surprisingly, both consider children and child protection in the same terms, which reflects the separation of the policy elites from larger society. For example, in interviews, politicians and bureaucrats refer to our children and their children. When parliamentarians and bureaucrats ask, 'Aren’t our children well protected? Rather, they are protected too long', representatives of civil society are quick to point out that politicians and bureaucrats are talking about “their own” children who study at Oxford and Berkley, not the vast majority of Pakistani children who are educated in poorly resourced public schools (Participant C1: interview 21 April 2010; Participant D2: interview 4 June 2010). However, while pointing to the double standards of the politicians and bureaucrats, civil society representatives seem to have completely forgotten that they earned their educational degrees from the same or similar universities and their jobs with international donor organisations.

The elitist nature of the policy community and their elitist ideas appear to be the most striking feature of the child protection policy process in Pakistan. In one sense, all policy communities are elitist, as the Italian elite theorist and political scientist Gaetano Mosca pointed out long ago:

> In all societies— from societies that are very underdeveloped and have largely attained the dawns of civilization, down to the most advanced and powerful societies— two classes of people appear— a class that rules and a class that is ruled. The first class, always the less numerous, performs all of the political functions, monopolizes power and enjoys the advantages that power brings, whereas the second, the more numerous class, is directed and controlled by the first, in a manner that is now more or less legal, now more or less arbitrary and violent (Mosca 1939, cited in Dye & Zeigler 2009, pp. 1-2)

In Pakistan, it is a handful of urban rich, Western-educated, highly-paid professionals who dominate civil society, or the oligarchy of the landed elite in politics and bureaucracy, neither of which seem to be accountable to the masses (their tenants, serfs and spiritual followers) and who make decisions in a manner which is more arbitrary. What does this oligarchy of political, bureaucratic and civil society elites mean in terms of child protection in particular and child rights in general?
The answer to this question, based on the earlier discussion in the chapter, has two aspects. First, Pakistan’s child protection policy community is comprised of a diverse range of state and non-state actors. While bureaucrats and politicians hold the ultimate decision-making powers, representatives of civil society and their counterparts in the international child rights community are also influential members of Pakistan’s child protection policy community. The former belong mainly to the rural landed aristocracy and the latter to an urban rich and educated elite. Both claim to represent the illiterate and poor citizenry and to protect disadvantaged children; however, each has a very different perspective on child protection problems, which adds to the highly contested nature of child protection policy in the country. The bureaucrats and the politicians bring perspectives based on the country’s socioeconomic conditions, religion, culture and traditional practices, whereas the standpoint of the representatives of civil society and the international child rights community is secular and liberal, embedded in international human rights instruments such as the UNCRC. The situation that emerges is one in which sources of inspiration are many, differences of thought are wide and points of agreement relatively few. Clearly, these differences are based not only on varying backgrounds and interests, but also on different worldviews, experiences, assumptions and ideas about the existing reality of child protection. Considering the influence that these factors appear to have on policy outcomes, they demand detailed examination, which is the focus of Chapters Three, Four and Five in Part II.

The second aspect itself has two dimensions. One, the above analysis reveals the involvement of an array of institutional structures with different mandates and/or interests relating to children and child protection that influence policy outcomes. In fact, in the Government of Pakistan, no single ministry, department or agency is responsible for children’s issues. Different child protection issues are dealt with by various ministries, departments or agencies as per the ‘rules of business’ and/or mandate of the agency. For example, centres for the protection of abandoned and destitute children have been established and function under the Home Department in Punjab and under the Social Welfare Department at the federal level. Both departments have very different mandates. To fulfil their respective mandates, each uses a very different approach in their operations with serious implications for children in need of protection, as discussed in detail in the next chapter.
The decision to establish protection centres in different departments has been person-driven, as are many other decisions related to children, which is the other dimension of child protection policy in Pakistan. Such decisions reflect the significant role of certain actors in the policy process, where influence depends upon their individual position in society, their individual position in the policy community and their influence over other actors. These actors are so influential that they can easily ignore or bypass whatever weak institutional arrangements are in place. The National Commission for Child Welfare and Development (NCCWD) is a glaring example of a weak institutional arrangement without proper authority and resources to fulfil its mandate. The influence of this relationship between individual policy actors and institutions on child protection policy is further examined, using two case studies of the NCCWD and the Child Protection and Welfare Bureau (CPWB), in the next chapter.
Chapter 2

The relationship between individual and institutional actors in Pakistan's child protection policy

Ours is a personalised system of self-interest. There are no strong institutions, we make policies keeping in view certain personalities and their benefits and not to strengthen the institutions...(all this) is 'adhocism', revolving around personalities. (Participant A4: interview 30 March 2010)

One person can make a lot of difference. God forbid, I am not trying to boost my personal achievements, but, I must tell you that I presented the idea to the Chief Minister and then I spent a year working on it...it did not happen the first day...I mean you have to have a commitment, sincerity...you have to keep pushing. You have to stand against all odds. (Interview 3 April 2010)

Chapter One provided an analysis of the child protection policy process in Pakistan in terms of identification of the members of the policy community, their relationships with each other and the institutional arrangements that influence their decisions. Among other things, this analysis revealed the involvement of an array of individual and institutional actors with different interests and/or mandates relating to children and child protection which influence policy outcomes. The analysis in Chapter One indicated an interdependent relationship between the policy community and institutional arrangements, demanding an in-depth examination. Such an examination is not entirely new. To ascertain the factors that influence the policy process, Peter Hall started his analysis of British and French economic policy formulation in the 1980s by asking, 'How are we to explain why nations choose different policy paths and divergent political strategies to deal with similar economic problems?' (1986, p. 4). In fact, such inquiry goes to the heart of the basic question of the social sciences, that is, "How do we explain the things that people do? Does structure, culture or individual action best explain the social phenomenon?" (Taylor 1989, pp. 116-18). To better understand the policy process and its outcomes, it is important to understand the role that larger social context, institutions and individual choices based on rational or utility calculations play in decision-making.
In the public policy literature, the interaction between various policy factors is modelled in contextual, reductionist, utilitarian, instrumentalist, functionalist and institutional analyses (March & Olsen 1989) based on theories of public choice, group conflict, cultural analysis and state-society relations, among others (Hall 1986). These models are by no means consistent, but rather offer competing explanations of the role of individuals, institutions and social context, favouring either one or the other as the most influential factor in the policy process. As each model has its advantages and disadvantages and each can be criticised from the perspective of the other (Koelble 1995), they are best used as theoretical bases for understanding policy decisions in different contexts.

Building on this literature on the role of various factors influencing policy, this chapter attempts to explain the interdependent relationship between individual policy actors and the institutional arrangements in the context of the child protection policy process in Pakistan. The argument put forward is that due mainly to weak institutional arrangements certain members of the policy community, in their individual capacity, may have a significant influence on the policy process. This weak institutional and rather 'personalistic' character of the child protection policy process is demonstrated by using case studies of two children-related initiatives in Pakistan. The first case study is that of the National Commission of Child Welfare and Development (NCCWD), the body responsible for overseeing child rights issues in Pakistan. The second case study is that of the Child Protection and Welfare Bureau (CPWB), the first child protection system in the country.

The National Commission of Child Welfare and Development case study is analysed in the light of theories of the role of institutions in the policy process. It is demonstrated that the National Commission of Child Welfare and Development, as a non-statutory body, does not have the authority and resources to undertake children-related legislation and policy. Its weaker institutional status leaves it in a poor bargaining position with other government and non-government agencies, whose mandates are different from, sometimes even contradictory to, the protection of children rights. The Child Protection and Welfare Bureau case study completes the picture by demonstrating the influence of individual actors when relevant institutional arrangements are either weak or non-existent. The argument is that the interest, will,
preference or ambition of powerful actors can influence and change the direction of child protection policy considerably and, in doing so, they can deviate from, bypass or ignore the rules of the organisation, institutional mechanisms or formal structures of authority.

On the basis of the analyses in these two cases, it is concluded that Pakistan's child protection policy process is characterised by weaker institutional influence and personalistic decision-making. These characteristics result, on the one hand, in the failure of the concerned institution to influence the policy process, causing long delays and in some cases the withdrawal of proposed legislation and policy relating to child protection. On the other hand, the exercise of personal influence and ignoring the rules does not allow relevant decisions to be institutionalised, leaving the said policy inherently unstable, less efficient and, in some cases, ineffective.

Case study I: National Commission of Child Welfare and Development

Chapter One detailed the institutional arrangements involved in Pakistan’s child protection policy. It discussed various ministries and departments, parliamentary committees, autonomous bodies and public sector rules of business, laws and policies that govern children-related issues including child protection in Pakistan. It identified the centrality of the National Commission of Child Welfare and Development (the Commission from here on) within the Federal Ministry of Social Welfare and Special Education in children-related institutional arrangements. Institutions matter in the policy process, as a major line of argument in public policy suggests, because they provide order and influence change (March & Olsen 1989, p. 16). Further, institutional capacity is a greater concern in developing countries such as Pakistan characterised by issues of regime legitimacy, with limited participation, less-established channels of participation and scarce information all having an influence on policy processes and outcomes (Horowitz 1989). However, does the Commission, as the main children-related institution have the capacity to provide order and influence change? The following section attempts to find the answer through a detailed examination of the status and role of the Commission.
The Commission was established in 1980 through Resolution F1-1/80 (NCCWD) of the President of Pakistan. Following Pakistan's ratification of the United Nations Convention on the Rights of the Child (UNCRC) in 1991, resolution F1-1/80 as F1-1/86 (NCCWD) was revised and the Commission assigned the task of coordinating the implementation of the UNCRC. The Commission is an advisory body to the Government of Pakistan and has its counterparts in the provinces and regions. Two other bodies, the National Core Committee and the National Expert Committees on priority children-related areas were also formed to focus on the implementation of the UNCRC (Ministry of Social Welfare and Special Education & NCCWD 2002). However, it is the responsibility of the Commission mainly to coordinate the implementation of the UNCRC in the country and to report to the United Nations Child Rights Committee.

Although the President of Pakistan is the Patron-in-Chief, the Minister for Social Welfare is the patron and the Secretary Social Welfare is the chairman of the Commission, and the Executive Committee of the Commission is the principal administrative body responsible for executing all policies and decisions of the Commission. The Executive Committee includes the additional and joint secretaries of the Social Welfare Division, representatives of various line ministries or divisions at the level of Joint Secretary, a representative of national level NGOs invited according to the subject under consideration and a secretary of the Executive Committee who is also the Director of the Commission. In fact, it is the Director, along with half a dozen junior support staff, who do the work and report to the Executive Committee for formal approval.

In terms of budgetary provisions, the official website of the Commission is up-to-date only to 2003, when the Commission was allocated Pakistani rupees 2.3 million

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38 The Commission was not established by adopting the standard procedures of the Government of Pakistan to establish a public sector institution; therefore, it is not a statutory body and as such depends upon the Ministry of Social Welfare for all its decisions and action.
39 Both committees have representation of line ministries and departments of federal and provincial governments, NGOs and independent experts.
40 The website was removed from the official web gateway to the government of Pakistan www.pakistan.gov.pk in June 2011 with the dissolution of the federal Ministry of Social Welfare following the 18th constitutional amendment as noted in the introductory chapter of this thesis.
(approximately US$39,650 at the 2003 exchange rate) non-development budget and Rs.9.2 million (approximately US$1,58,600 at the 2003 exchange rate) for the National Plan of Activities to implement the UNCRC. The United Nations Child Rights Committee, while reviewing Pakistan’s third and fourth periodic reports, observed that the Commission’s annual budget for 2005-06, US$47,000, was negligible considering Pakistan’s 70 million children (CRC/C/PAK/CO/3-4, Para. 18). The latest exact budget figures for the Commission are not available, as the national and provincial budgets do not indicate separate funds for children (Ministry of Social Welfare and Special Education & NCCWD 2002). However, the fact that out of 55 Public Sector Development Program allocations in the 2010-11 national budget, Social Welfare received the sixth lowest allocation (Pakistani rupees 107 million, approximately US$1,24,419 at the 2011 exchange rate) reflects the share of the Commission within the larger Ministry of Social Welfare and Special Education.

The Commission has a limited mandate as an advisory body, with limited human and financial resources to carry out its advisory functions. At the same time, in practice the Commission has assumed the role of the central, ultimate body that oversees all children’s issues - ‘a centre without necessary powers, though’ as described by a participant in this research (Participant E1: interview 8 May 2010). It coordinates with other parts of the government, both at the federal and provincial levels and with non-state actors such as local NGOs and UN agencies. It not only advises (a role, ironically, acknowledged neither by its own Director nor by any other actor interviewed for this research), but also initiates and formulates bills, policies and plans, implements “pilot projects” with support from international organisations and facilitates these organisations in disbursement of aid in the form of technical and financial assistance to local NGOs.

There is an ambivalence in terms of the role and effectiveness of the Commission. Some, especially the state actors, declare it to be the only hope of the child rights cause in the country (Participant A2: interview 2 February 2010; Participant A4: interview 30 March 2010; Participant A5: interview 30 May 2010; Participant C1: interview 21 April 2010). Others, mainly non-state actors, consider it part of the problem, ‘toothless’, even a ‘scapegoat’ to blame all ills, inabilities and failures of children-related policy and practice (Participant B4: interview 26 July 2010;
problems that some critics of the Commission observed more than a decade ago still abound. Fayyazuddin et al. in *The State of Pakistan's Children*, the first account of its kind in Pakistan and by far, the most comprehensive one, note:

The NCCWD has a long list of objectives and activities. It is, however, not surprising that it has failed to achieve any of them. It is partly due to the fact that it lack resources, including personnel, and also because it is not given recognition by the other branches of the government, both at the federal and the provincial levels. (1998, p. 16)

The Commission not only lacks resources, authority and recognition: the Ministry of Social Welfare in which it is situated, is itself a low-profile ministry. A civil society representative, who works on child protection issues with the Ministry of Social Welfare and the Commission, commented, ‘You visit a ministry’s offices and you will know who they are and what is their status. I have seen them on the fourth floor of a commercial building—Social Welfare, a ministry which is supposed to be open to the public, accessible because they are the ones I need most in my life. It appears that our Ministry of Social Welfare itself needs some welfare’ (Participant D1: interview 31 May 2010). These and similar comments made throughout the research, echo the scholarly work on social welfare systems in developing countries of the global South. According to Boyden (1997), social welfare and social policy in many developing countries is an inheritance from colonial times, which reflected the ruler’s concern with public order and a very narrow interpretation of social welfare. For example, the countries once controlled by the British tend to focus on personal social services for, on the one hand, those in need of supervision and delinquents and, on the other, the dependent or neglected (Boyden 1997; Stein 1981).

This colonial influence remains intact in many developing countries—including Pakistan—under the subsequent influence of the United Nations (Boyden 1997). In fact, in Pakistan’s first-ever social work graduate teaching program in the University of the Punjab, Lahore, was started and headed for many years by Arthur Livingstone, the UN special representative on Social Welfare (Elliott & Segal 2008). Since this was a pioneer program and for quite some time, the only program for social work education, its graduates dominated social welfare thinking and administration in the country. Although the broader national five-year plans took into account the
preventive, curative and developmental aspects of social welfare, nevertheless the
focus remained on the handicapped, the neglected, the delinquent, the vagrant and
destitute, and the specially disadvantaged groups of children, women and old persons
without family support (Rashid 1966). As Peters (2001) notes, most social agencies
tend to see and act on social problems in terms of their own expertise; therefore, it is
no surprise that the policies and programs of the Ministry of Social Welfare and
Special Education are narrowly based on the traditional concept in social welfare of
fulfilment of the needs of the most vulnerable and excluded in the form of cash
payments or institutionalisation.

Further, because of the budgetary constraints, social welfare provisions are limited.
They respond only to the most public and extreme cases, such as abandoned,
homeless or street children, and this too is limited to urban populations (Boyden
1997). Most officials of the Ministry do not consider their work as prestigious and
relevant to the mass population as the work of their peers and counterparts in other
parts of the government. As one former Secretary for Social Welfare put it, ‘When
you get transferred from the Social Welfare to some other part of the government,
colleagues congratulate you on going back to the mainstream, no (CSP) officer of any
calibre wants a posting in that Ministry’ (Interview 30 March 2010). So, senior
bureaucrats from the elite civil service are not interested in a posting in the Ministry
of Social Welfare in the first place and if they do get such a posting, they ‘view the
world through their own particular lenses shaped by their own privileges’ (Wharf &
McKenzie 1998). For example, another former Secretary for Social Welfare argued
that, by taking child domestics, people of their (well-to-do) class are actually doing a
favour to those children of the poorest of the poor (Interview 1 June 2010), implying
that there is no need for the Ministry of Social Welfare or Ministry of Labour to
regard this form of child labour as a problem, let alone a child protection issue.

In addition, the Ministry of Social Welfare is not given due recognition by other
ministries, partly because of the nature of its work with needy, vulnerable and
excluded segments of population and partly because of its poor human and financial
capacity. Due to this lack of recognition, the Ministry often loses on the bargaining
and negotiation front. Building on Riggs’ (1971) concept of “double talk” – a rule that
provides for one policy in rhetoric while in practice a different policy prevails, Peters
(2001) notes that a formal rule constitutes merely a place to begin the bargaining in many developing countries, such as those of the Indian subcontinent. With respect to the bargaining position of the Ministry of Social Welfare, a senior bureaucrat, heading an autonomous body with a children-related section in it, observed, ‘The difficulty is that the Ministry does not have the clout to compel or persuade other ministries to get things done’ (Interview 26 July 2010). Similarly, a representative of a multilateral organisation working on children’s issues in Pakistan, noted, ‘The NCCWD secretariat is within the Ministry of Social Welfare. It is not powerful enough, not at the same level as other stakeholders such as the Ministry of Education, the Ministry of Health, the Ministry of Justice and the Ministry of Interior and when you talk about child protection, you have to have all these stakeholders’ (Interview 3 August 2010).

The Ministry of Social Welfare’s lack of influence is reflected in the status of proposed children-related legislation. For example, 13 children-related bills pending in the National Assembly were all tabled by private members even when initiated by the Commission and the Ministry of Social Welfare (Pakistan National Assembly 2011). The Ministry is not able to negotiate and bargain as equals with other ministries and line departments on its proposed legislation, such as the Protection of Children (Criminal Laws Amendment) Bill. As a result, the Commission not only seeks cooperation outside the government, such as from civil society organisations (SPARC 2009) who have parliamentarians on their governing boards, parliamentarians, in turn, take up such bills. Also, the Commission has to compromise on the contents of its proposals (for example, to increase the minimum age for criminal responsibility from seven to ten instead of the proposed 12 or 14 years) in the face of opposition from the all-too-powerful Ministry of Interior (Participant C1: interview 21 April 2010; Participant D2: interview 4 June 2010).

Finally, the fact that both the federal and provincial governments can enact social welfare and children-related legislation affects the sector negatively. As Nevile (2002b) noted, decision-making rules and structures regulating the wider political arena can affect sector-specific policy-making, and both the federal and provincial governments leave children-related policy to the other party. This struggle between various levels of state institutions is not uncommon, as demonstrated in many studies of policy formulation and change in neighbouring India, and includes tussles over
social policies such as food and primary education policy (Mooij 2007). Similarly, those in the Commission and the federal Ministry of Social Welfare argue that in Pakistan's structure of government, the responsibility and resourcing for the social sector rest mainly with the provincial governments; therefore, they should take a proactive role in addressing children's issues (Fayyazuddin et al. 1998; Participant A2: interview 2 February 2010). In contrast, the provincial governments take the view that, being responsible for the implementation of the UNCRC, the Commission is responsible for all children-related legislation, policy and plans and they look towards the Commission and the federal Ministry of Social Welfare for any initiative (Jillani & Jillani 2000), which has neither capacity nor resources to act appropriately.

In the low-profile Ministry of Social Welfare, which is constrained by its limited capacity and welfarist ideology, the Commission is further marginalised. The Executive Committee of the Commission is headed by the additional secretary of the Social Welfare and not the secretary—which many interpret as an indication of lack of government priority. Further, as noted by a representative of a multilateral organisation working with the Commission, 'This arrangement of inter-ministerial committee practices of countries which have gone through reform of child protection system has shown that these management bodies were the least effective decision-making bodies' (Interview 3 August 2010). Existing evidence supports this observation as individuals and organisations working for child rights consider the quality of children-related institutions as the real test of accountability to ensure the rights of children (Alston & Tobin 2005; UNICEF 2001; Woll 1999). Coupled with the fact that the Commission has no statutory powers, there can hardly be any hope regarding the efficiency and effectiveness of the Executive Committee, which is comprised of representatives of different ministries and departments with varying interests and mandates.

The Director of the Commission holds a grade 19 post\(^{41}\), filled from the regular Public Services rather than from the elite Civil Superior Service of Pakistan. As explained in

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\(^{41}\)In Pakistani civil bureaucracy, there are 22 Basic Pay Scales with Grade 22 being the highest. The officers from Grades 17 to 22 come from the Civil Superior Service or, on rare occasions, from the regular Public Service. However, the latter are only appointed to 'not so important' posts in low profile ministries and departments. The director of NCCWD holds one such posting.
Chapter One, the ranks of director, section officer or under-secretary occupy the lowest tier of the policy hierarchy in the Government of Pakistan. The Director works with a small team of junior staff (six at the time of fieldwork for this research); most of them, including the Director, have spent a long time in the Commission. Further, unlike middle-ranking officials in other parts of the government in Pakistan and elsewhere in the world—who are not generally subject specialists (Page & Jenkins 2005) – almost half the team, including the Director, have formal degrees in social work. In addition, they have acquired considerable on-the-job experience along with formal training in dealing with children’s issues (Page & Jenkins 2005). As noted by a civil society representative, ‘UNICEF has spent almost billions in sending them on trainings, and sensitising them’ (Interview 4 June 2010).

The jobs of this team of middle- and junior-ranking officials include both policy and non-policy work. This work includes drafting children-related bills, policies and plans, answering parliamentary questions, tending to the routine aspects of running existing programs and, for the Director, managing the team (Page & Jenkins 2005). However, drafting bills, policies and plans is the main responsibility of the team. With their on-the-job training and sensitisation towards child rights, they adhere strictly to the rights discourse in whatever they do in their official capacity. One reason that could explain this strict adherence could be the fact that the team works closely with UNICEF and, at times, may also seek support and facilitation from the international and domestic non-governmental organisations working on children’s issues.

Therefore, the National Plan of Action for Children (2005), the periodic reports to the United Nations Child Rights Committee and various draft bills and policies are all written in rights language or at least contain frequent references to the UNCRC. In a one-on-one interview, and when asked about the concept of child protection as used in the Commission, the Director defined child protection as ‘the protection of all rights of children’ (Interview 2 February 2010). This view is quite common among members of international and domestic non-governmental organisations involved in children’s issues in Pakistan. However, the Director of child protection, UNICEF-Pakistan, interviewed for this research, defined child protection as ‘protection from violence, abuse and exploitation as per the provisions of Article 19 of the UNCRC’ (Interview 3 August 2010).
However, the task of devising policies that deal with human rights issues is by no means simple, for reasons such as their likelihood of being challenged in a court of law. These policies are likely to be challenged, if, for example, in guaranteeing the rights of a specific group of population, they infringe upon the freedoms of another group. Policies aimed at ensuring children’s right to protection have been noted to be stepping on the rights of parents (Lonne et al. 2009). Such policies should also be consistent with a country’s regional and international human rights commitments, for example, a commitment to a minimum age for all work—Pakistan being party to ILO Convention 138. Therefore, it is an important function of the policy official to draft such policies in a way unlikely to be challenged in the courts (Page & Jenkins 2005).

In Pakistan’s child protection policy process, drafting policies is further complicated by setting the standards of child welfare in the rights framework, which implies a contractual obligation (Alston 1987) on the part of the state where a ‘right’ is far more powerful than a ‘need’ – a concept that dominates thinking in the Ministry of Social Welfare (Bessell 2007; Boyden 1997). In the Ministry, senior bureaucrats, including secretaries, deputy, additional and joint secretaries and politicians, do not necessarily conform to the rhetoric used by mid-ranking officials responsible for drafting children-related policies and plans, thus making the drafters’ task even more difficult.

The struggle between the traditional concept of welfare in terms of ‘needs’ as used in the Ministry and the Commission’s mandate of ensuring children’s ‘rights’ has practical implications regarding the Commission’s institutional capacity to ensure children’s right to protection. The ‘rights’ concerns can have a fundamental impact on the character of policy measures, cutting across a range of core measures (Page & Jenkins 2005). For example, in the Protection of Children (Criminal Laws Amendment) Bill, because of opposition from various stakeholders, including the Ministry of Education, the Ministry of Social Welfare has had to drop the proposal to repeal Section 89 of the Pakistan Penal Code, which provides general exception to parents and teachers to punish their children in order to discipline them (SPARC 2009). This occurred even though it is well-documented that physical violence against children is a major issue in Pakistan (Annemarie 2007) and a violation of children’s right to protection as provided in the UNCRC.
Senior bureaucrats in the Ministry of Social Welfare view the UNCRC— the Commission’s foundation stone and ultimate aim — as providing ‘mere policy guidelines to which some countries comply fully, while others fall a bit short’, depending on many other factors such as compatibility of the treaty with local values and the level of socioeconomic development of the country (Participant A3: interview 4 February 2010). It is worth noting that in 1990 Pakistan ratified the UNCRC with a general reservation that was withdrawn five years later. However, many policymakers still conceptualise child protection in ways different from the UNCRC concept as a privilege and a basic right of every child. Their concepts include:

- Pakistani children being safe in their extended families (Participant A6: interview 1 June 2010)
- Overall socioeconomic development in the country ensuring children’s well-being by provision of social services such as health and education (Participant A1: interview 29 January 2010; Participant A4: interview 30 March 2010; Participant A5: interview 30 April 2010)
- Parents having a right to discipline their children in ways they see as reasonable, including by using physical punishment (Participant A2: interview 2 February 2010)
- Early marriage as a form of protection (Participant C2: interview 26 April 2010)

With such concepts, they do not necessarily consider child protection a child rights issue that the Commission should be pursuing, but, rather, either a macro-economic development issue requiring a broader response from other parts of the government, or a cultural issue to be dealt with by family and society without state intervention.

Politicians, on the other hand, and even some bureaucrats outside the Ministry, blame the failures of the Commission on the incompetency of the whole Ministry of Social Welfare. For example, commenting on the long-pending draft Child Protection Bill, one parliamentarian declared that ‘the Ministry was never keen on this bill. Even if they were, there are not enough intellectual resources in the Ministry to properly draft, interpret or implement it’. On the general perception that the bill was not well-drafted, this parliamentarian responded, ‘How could it be a well-drafted document when it is not well thought through, even considered seriously. Some section officers, who
would have been ordered to prepare it in an emergency, might have copied stuff from here and there', a process that another parliamentarian-turned-civil-society-representative bluntly described as ‘CCP: cut, copy, paste policies and plans of the Government of Pakistan' (Participant C1: interview 21 April 2010; Participant C5: interview 2 July 2010).

However, recognition of the poor status of the Commission as an institution and of the weak position of its Director as a key actor drafting and implementing children-related policies is rare among the official hierarchy. As one sitting senior official from the Ministry of Social Welfare reflected, ‘We want to reshape the Commission, it is at a very low level, we don’t want its boss to be a poor Grade 19 officer but rather a person from the civil society, who has a status, a profile, who would have rather easier access to the Prime Minister and other Ministers of the government’ (Participant A3: interview 4 February 2010 emphasis mine). The proposed Child Rights Commission Bill, which aims to reconstitute the Commission as an autonomous body with full authority and resources to ensure the implementation of child rights, was first initiated in 1995, and in its revised form has been pending since 2009 (Fayyazuddin et al. 1998; SPARC 2009). This reflects a lack of commitment and the low capacity of the Ministry to strengthen the Commission as the main institution responsible for children-related policy.

In the meanwhile, it is the Director, the human face of the existing Commission, who bears the brunt of the blame game between various policy actors. In fact, most participants interviewed for this research referred to the Director when meaning the Commission, whether in a positive or negative sense. The ‘Director’s dilemma’ was summed up by one participant in the following way:

First, s/he was heading a department and was bashed all the time, right! Then s/he got some support from UNICEF and strengthened a bit. Now s/he has become a confused government officer and what could be an NGO person, crushed between these two states. I think s/he is, as they say, promoted to her/his level of incompetence... (in a reflective tone)...nobody is saying anything about somebody’s competency or incompetency. I mean if your facilitation is not right, your processes are not functional, why should I blame an individual? (Participant D1: interview 31 May 2010)

S/he is used for reasons of confidentiality.
The Director seems clearly over-worked and frustrated as reported above, partly because the Commission lacks the necessary human and financial resources to carry out its huge mandate and partly due to running between and negotiating with a wide range of stakeholders both in and outside the government, without much of a positive outcome in the form of better implementation of child rights. According to Page and Jenkins (2005), as a subordinate within an organisation, policy-making is a highly constrained activity, especially for the Director of the Commission, who does not have a statutory status, whose superiors have very different ideas of child rights and who himself does not have final decision-making powers.

Moreover, it is common in the public policy literature to assume that bureaucrats exercise some discretionary powers following their personal preferences. Such preferences may be based on a bureaucrat's personal background or socialisation (Sowa & Selden 2003), on some perception of desired organisational or pragmatic objectives (Dunleavy 1991) or on rational self-interest (Niskanen 1971). In the first place, administrative discretion is constrained by the volume of instructions contained in formal regulations (Huber & Shipan 2002). Secondly and more importantly, the work of middle-ranking policy officials is guided and supervised by clear instructions from superiors or by indicators of what is likely to be acceptable to senior officials and ministers (Page & Jenkins 2005). Therefore, while the Director's whole official emphasis is on the enforcement of the UNCRC guided legislation, s/he, would nevertheless hold some personal beliefs based on years of experience of dealing with various, often opposing, stakeholders.

For example, talking officially, the Director sticks to the concept of the child as defined in the UNCRC: any person below 18 years of age. S/he uses this concept compared with varying definitions of 'child' in Pakistan's constitutional and legislative policy framework, as discussed in the Introduction (which hamper any meaningful child protection legislation in many sensitive protection areas such as child labour and minimum marriageable age). However, in private, s/he reflects on the option that Pakistan should review this definition of child as a person below the age of 18 years and adopt whatever age most stakeholders agree upon (Participant D3: interview 24 June 2010), even though this definition has long been decided and universally accepted. S/he thinks so in a sincere effort to resolve various legislative
and policy deadlocks revolving around the age of the child (Participant D2: interview 4 June 2010). In fact, the Director realises that one reason behind these deadlocks is the Commission’s lack of bargaining power due to its weak institutional status. To make up for this weakness, s/he tries to win the support of the non-state actors versus state actors in other parts of the government outside the Commission. Most non-state actors, especially those in the international child rights community and the local civil society organisations involved in the policy process, as identified in Chapter Four, support and facilitate the Commission. However, as most of these organisations fully subscribe to the UNCRC, they find the Director’s proposal to reconsider the definition of the child in terms of age fundamentally opposed to the UNCRC and are not willing to even discuss this radical proposition.

In short, the Commission as an institution fails to matter in policy process. It has not been able to influence change as suggested by March and Olsen (1989). As the above analysis reveals, part of the problem is its non-statutory status. Partly the problem relates to the positions and attitudes of the key policy actors. Due to the lack of both interest and participation of the Chairman of the Commission (that is, the Secretary of Social Welfare) and the head of the Executive Committee of the Commission (that is, the Joint Secretary of Social Welfare), the Director has become the de facto head of the Commission, though without any real authority. As noted earlier, the Director belongs to the lowest tier of the policy hierarchy, where s/he can only propose policy solutions but cannot take decisions. Therefore, even if the international and local non-governmental actors involved in children-related policy support and facilitate her/him, the Director has limited, to no, authority to influence policy decisions. In addition, her/his non-elite Civil Superior Services background is an added disadvantage, especially in dealing with policymakers from other parts of the government who see her/him not as equal. In this situation, one wonders were the key individual actors interested and/or influential, would the Commission be a more efficient and effective institution? The next section attempts to present such a scenario. In this section, I focus on the influence of the individual actors in Pakistan’s children-related policy process by using the case study of the Child Protection and Welfare Bureau, which is claimed to be the country’s first-ever child protection system.
Case study II: Child Protection and Welfare Bureau

The eminent economist the late Dr. Mahbub ul Haq once noted that Pakistan is 'a country of weak institutions and strong individuals' (1997, p.37). This observation holds true yet again. From the analysis of the members of the policy community, institutional arrangements and their relationships with each other, the "personalistic" nature of Pakistan's politics and policy-making emerged as an important theme in Chapter One. In the broader political science literature, the term "personalistic" is used to describe the characteristics of political leadership or regime type; a regime in which a single leader has consolidated his/her grip on power and personnel recruitment, marginalised the influence of other rivals and attained a high degree of freedom with policies (Geddes 1999; Handelman 2000; van de Walle 2001). Adapting this usage, by "personalistic" I mean a decision-making process that is determined mainly by the interests, will, preference, influence or ambition of individual actors, as opposed to decision-making prescribed by role or position in the organisation or through institutions or formal structures of authority. In such a process, an individual actor can deviate from, bypass or ignore the rules of the organisation, institutional mechanisms or formal structures of authority.

This personalistic political administration is not uncommon in developing countries such as Pakistan. According to Handelman (2000), the phenomenon is likely to occur in underdeveloped nations that possess several particular characteristics such as limited citizen participation, extensive political corruption, and little semblance of representative government. Pakistan's politics and policy process are characterised by many of these elements and the personalistic nature of the country's decision-making does not go unnoticed (for example Chowdhury 1988; Haq 1997; Jones 2002). However, this type of decision-making is inherently unsteady in that it may result in positive policy outcomes but without ensuring institutionalisation and policy continuity. The policy is successful only as long as the individual influence lasts (Bream 2004). The following case study demonstrates this.

The Child Protection and Welfare Bureau ("the Bureau" from here on) was established in 2004 in pursuance of Article 5 of the Punjab Destitute and Neglected
Children's Act 2004 (the Act) as an autonomous organisation in the Home Department (the department responsible for police, prisons, law and order) of the Punjab province of Pakistan. The Bureau is claimed to be 'the first of its kind in the Asian continent' (Child Protection and Welfare Bureau 2007, p. 14) and the 'first ever child protection system in the country' (Ministry of Social Welfare and Special Education 2005). The Bureau provides a range of services for destitute and neglected children, from rescue, legal and protective custody, and rehabilitation to reintegration.

The Bureau is comprised of 10 components, including the Child Protection Unit (Rescue Operation and Family Tracing); Child Protection Institutions (residential institutions); Child Protection Courts; the Child Help Line; the Psychological Section; the Medical Section; the Open Reception Centre; the Juvenile Section; the Camel Jockey Section; and the Detoxification Centre for drug addicted children (Child Protection and Welfare Bureau 2008b, pp. 8-10). The Bureau has set up offices in seven major districts of the province and the National Commission of Child Welfare and Development has replicated the model by setting up the Child Protection Centre in the Islamabad Capital Territory. Other provinces are at various stages of replicating the model, though in modified form, enacting legislation and establishing child protection services.

From the conception of the idea to its establishment and functioning, the Bureau has remained a one-person initiative, that is, the initiative of the founder and first chairperson of the Bureau, “Dr. A”. Policymakers in various parts of the government may wish to share the credit in that they consider the Act and the Bureau as long overdue responses of the government to the 1999 serial killings of 100 children in Lahore43, the provincial capital of Punjab (Participant A4: interview 30 March 2010; Participant A6: interview 1 June 2010). Apparently, it is a successful case of policy entrepreneurship as there are certain parallels between Dr. A and policy entrepreneurs. Policy entrepreneurs are ‘advocates for proposals or for the prominence of ideas’ and can be found ‘in or out of government, in elected or

43 All leading English and Urdu daily newspapers in Pakistan including DAWN, Jang and Nawa-i-Waqt, covered the story from December 1999 to 2001, when the case was decided by the court of law. See also Tufail (2005).
appointed positions, in interest groups or research organisations' and are characterised by ‘their willingness to invest their resources—time, energy, reputation and sometimes money—in the hope of a future return' (Kingdon 2003, p. 122).

Dr. A fits these criteria as a practising paediatrician, who returned to Pakistan in the early 2000s after some 20 years of paediatric practice in the United States of America, with no involvement in politics or any affiliation with government, interest groups or research organisations in Pakistan. Dr. A revealed, in a one-on-one interview, that 'having been exposed to child protection issues on a regular basis in the United States, I was quick to observe the children in the streets of Lahore at all hours of day and night, being exploited and abused as labourers and beggars' (Interview 3 April 2010). Dr. A initiated the idea of the protection of destitute and neglected children, which reflects her personal values as a practising paediatrician, which, as Kingdon (2003, p. 123) pointed out, is one reason. Other reasons include promotion of personal interests, such as promoting one’s personal career, policies that reflect and promote one’s values or satisfaction gleaned from participation in the policy process, given for why policy entrepreneurs choose to advocate. However, parallels between the “policy entrepreneur” and Dr. A end here.

Dr. A chose a very different strategy from those generally used by policy entrepreneurs to accomplish the goals they advocate. According to Kingdon (2003, pp. 127-130), one such strategy is “softening up” or educating both policy communities and the larger public, in order to get them used to new ideas and to convince them of the merits of the proposal. Another is “coupling”, which refers to an entrepreneur’s ability to join solutions to problems and to take advantage of favourable political circumstances (Kingdon 2003, p. 181). Mintrom (1997, p. 739) classified these strategies as identifying problems, networking in policy circles, shaping the terms of policy debate and building coalitions. Dr. A conceived the idea of the Bureau and shared it with the then-Chief Minister of the province, with whom she has family relations (Participant D1: interview 31 May 2010; Participant D3: interview 24 June 2010; Participant C5: interview 2 July 2010). The Chief Minister provided direct patronage (UNICEF 2004), appointed Dr. A as his advisor on child rights issues and, to implement her idea, directed her to the provincial Department of
Social Welfare as children's issues fall in the domain of the Department of Social Welfare in the provinces.

Dr. A could not generate the necessary support in the Department of Social Welfare. On the one hand, she did not try to "soften up" the policy community or the larger public on the issue of protection of destitute and neglected children. Dr. A was not a politician or a lobbyist and, therefore, it is understandable that she could not reach the larger public. Many members of the children-related policy community, including a representative of the Pakistan Paediatric Association (Participant D3: interview 24 June 2010), who is actively engaged in the child protection initiatives of the Association, a former provincial minister for Social Welfare (Participant C5: interview 2 July 2010) and senior bureaucrats (Participant A5: interview 30 April 2010; Participant B4: interview 26 July 2010) noted that Dr. A failed to network in policy circles and build coalitions.

On the other hand, the Department of Social Welfare does not consider child protection an issue in the first place. For example, more than one participant in this research argued, 'Pakistani children are well protected as our family system is intact' (Participant C1: interview 21 April 2010; Participant A6: interview 1 June 2010). Secondly, if child protection is recognised as an issue at all, for example, as in the case of the aforementioned serial killings, it is considered a law and order or a security issue and not a child welfare or child rights matter. Thirdly, the Department informed Dr. A that no national or provincial legislation provides for the child protection system that she proposed. This legal caveat came into focus during the proceedings of the serial killings case in 1999-2000 (Tufail 2005), though some, including Dr. A, argue that the Department used it as one of its bureaucratic non-cooperation tactics. Last but not least, having the provincial Commission for Child Welfare and Development, state-run or supervised orphanages and Negheban (services for lost, kidnapped and runaway children) the Department of Social Welfare might not be convinced about the need for another institution.

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44The newspaper coverage review conducted as part of this research reveals that the case of serial killings was debated among government departments, media, child rights advocates and experts and the general public as a failure of the police and the Home Department.
Faced with such resistance from the Department of Social Welfare, Dr. A resorted to her personal contacts and influence rather than trying to convince the policy community on the merits of her proposal (Kingdon 2003). Again, her personal contacts and privileged position helped in Pakistan's elite-dominated system, as discussed in Chapter Four. This time, the Chief Minister assigned the Home Department, his most trusted department (Participant B2: interview 3 April 2010; Participant D3: interview 24 June 2010), to facilitate Dr. A. The decision also reflects the tendency that Boyden noted, that ‘many of the functions of social work in the South are left to the police, the army and the juvenile courts—the control and correctional element being better funded than the promotional or preventive’ (1997, p. 210). The Home Department provided Dr. A necessary support and assistance initially in drafting the required legislation and, later, in the functioning of the Bureau.

The required legislation, the Punjab Destitute and Neglected Children’s Act drafted by Dr. A, which she constantly referred to as *my law* in her interview for this research, was enacted by the Provincial Parliament in 2004. The provisions of the Act and the practices at the Bureau established under the Act, reflect the punitive approach of the Home Department. Children who work or live on the street are seen as abandoned, vagrants or perpetrators of anti-social acts (Boyden 1997). During a “rescue mission”\(^{45}\), the Bureau’s Child Protection Officers could remove such children from the street forcefully, take them into custody, produce them before the Child Protection Court and place them in the Child Protection Institution (Child Protection and Welfare Bureau 2007, pp.24-37). These provisions and practices also reflect Dr. A’s personal views of child protection based on the idea of a benevolent adult acting in the best interest of the child, as she herself explained:

> My law, actually gives me/my specific officers the ability and the authority to pick up a child who is on the street without any supervision… and bring him into a safe environment, which is our own Child Protection and Welfare Bureau. When we started, an international organisation XYZ objected that children have rights and if they want to do something, it is their right to do so and no one can force them to do otherwise. I argued, if their child was sitting in the middle of a street at three o’clock in the night, would they say, ‘alright child! It’s your prerogative to do so or would they pick him up and bring home?’...I mean behaving like a parent, we have to put our foot down and tell the child what is not good for him. Sometimes, we literally have to pick them up and remove from the situation. (Interview 3 April 2010)

\(^{45}\)During a ‘rescue mission’ a Child Protection Officer, accompanied by a uniformed police officer from the Home Department, can ‘pick up’ a child from the street by force.
The child is then institutionalised or reunited with the family if the family can be traced. This concept of child protection as provided in the Act and practised in the Bureau is worth further analysis.

In theory, the Bureau recognises child protection as a structural and ecological issue\(^\text{46}\). The first-ever published annual report of the Bureau states that child abuse and neglect is multidimensional in Pakistani society and that traditional sociocultural practices contribute to the rampant spread of violence against children. Further, factors such as a broken family system, poverty, illiteracy, lack of opportunities, ethnic unrest, inadequate legal support, prevalence of organised crime and urbanisation have increased the child’s vulnerability to abuse at all levels and in all quarters (Child Protection and Welfare Bureau 2007, p. 12). However, the strategy used to address such abuse and neglect is ‘identification, investigation, rescue, recovery, protective custody, family tracing/institutional care, rehabilitation and reintegration’ (Child Protection and Welfare Bureau 2007, p. 14) as used in the individualistic medico-legal models of child protection and analysed in Chapter Two (Parton 1985). The only difference in this case is that state intervention is limited to destitute and neglected children in the streets rather than in families. Boyden has analysed some of the reasons for the state’s focus on destitute and neglected children in streets in the global South (1997). These include the aforementioned perception of these children as abandoned vagrants and delinquents, along with the fact that, in developing countries, usually control and correctional elements of state are better funded than are the promotional and welfare ones; thus, the police, the army and juvenile courts all deal with children in need of help.

Within the Pakistani context, while specific circumstances of the Bureau’s inception and establishment in the Home Department have already been examined, a detailed analysis of the state’s reluctance to interfere in family is conducted in Chapter Four. What is relevant here is that with reference to financial allocation to the Bureau, Dr. A

\(^{46}\)A detailed analysis of the structural and ecological conception of child protection (Bronfenbrenner 1977; Gelles 1973; Gil 1970) is conducted as part of the literature review in the introductory chapter and in the Pakistani context in Chapter Three.
could secure sufficient finance, Pakistani rupees three billion\textsuperscript{47} (approximately US$50 million based on the 2005-07 exchange rate), to build a lofty building\textsuperscript{48} in Lahore in expensive red brick with marble floors and extended grounds, which raised concerns:

For a population of 80 million, you have created a facility for 300, if your conscience is satisfied with that, good! you have done a wonderful job. But, is it cost effective? What about other cities, children elsewhere? Even in Lahore, it is not meeting the requirement of the whole population. (Participant B4: interview 26 July 2010)

Similarly, in Society for Protection of Rights of Children (SPARC) Alternative Report to the United Nations Child Rights Committee, this lavish spending on the physical infrastructure and day-to-day expenditure was criticised as ‘helping few at the cost of many’ (SPARC& Save the Children, UK 2009). It must be noted, though, that such an allocation might not have been possible within the Department of Social Welfare, which has historically been a low-profile department with a much smaller budget.

In fact, from introducing the idea to the actual establishment and running of the Bureau, Dr. A won both admirers and critics from amongst the children-related policy community and general public. There are those who appreciate the initiative, effort and contribution made by Dr. A in establishing a proper system of child protection and, in doing so, they defend her use of political contacts and influence as well as her decision to place the Bureau in the Home Department and her “forceful benevolent” approach (Participant C1: interview 21 April 2010; Participant A4: interview 30 March 2010; Participant D4: interview 7 July 2010). As the only available model, this initiative is being replicated in other provinces with smaller changes. The draft National Child Protection Policy 2008 endorses the same system with further

\textsuperscript{47}The documents provided by the Bureau for this research in the form of draft project documents and annual reports do not include any mention of the Bureau’s finance. The 2007-08 Annual Report of the Bureau includes a clipping from September 9, 2007 from the daily DAWN on the occasion of the Bureau’s building inauguration, which mentions a construction cost of Pakistani rupees 191.3 million over an area of 22,770 square meters in the heart of Lahore city, which is worth more than two hundred million rupees. However, the three billion figure was quoted widely by senior bureaucrats who participated in this research.

\textsuperscript{48}For images, visit http://cpwb.punjab.gov.pk the official website of the Bureau. This building houses the head office of the Bureau, Child Protection Court, and separate male and female residential institutions with education and training facilities.
expansion at the local level of districts and tehsils (the second-lowest administrative unit after the Union Council).

Critics are also quick to point out the flaws. Most important is the institutional weakness both inherent in the Bureau due to its personalistic nature and that inflicted by the Bureau on other institutions. An independent child protection practitioner and lobbyist commented on the damage that the Bureau as well as other institutions suffered due to the personalistic nature of the whole decision-making process involving the establishment of the Bureau:

The constant fights between the Department of Social Welfare and the Bureau have led them both nowhere. UNICEF was supporting the Social Welfare Department till 2004, it withdrew the support from the Department and gave it to the Bureau, the Department collapsed. Then UNICEF shifted back from the Bureau to the Department, the Bureau collapsed, not because of that withdrawal of support, it has to be collapsed anyways, because of the Bureau’s high headedness, it was not ready to take advice from those having experience in the field of child protection. (Interview 24 June 2010)

Yet other criticisms include the ‘strong-handed handling of children’ (Participant D1: interview 31 May 2010; Participant D3: interview 24 June 2010). In fact, a former Minister for Social Welfare argued, ‘a child needs protection and not thanederi (policing)...there is a difference there between facilitation and policing...you cannot do it like this (CPWB), child rights is a very soft issue’ (interview 2 July 2010).

Above all is the ‘politicised nature of the institution’ (Participant D1: interview 31 May 2010; Participant D3: interview 24 June 2010; Participant C5: interview 2 July 2010).

With regard to this last criticism on the politicised nature of the Bureau, it must be noted that the reversal of decisions taken by the preceding government is quite common in Pakistani politics (Husain 2009). In 2008, the incumbent party, which was the source of Dr. A’s political influence, lost the election and their opponents formed the new government in the province. With this change, the then-government now being the opposition and vice versa, the Bureau is already experiencing non-cooperation of the current government and resultant administrative constraints. For example, Dr. A during her interview for this research, shared constraints such as halted budgetary allocations and bans on staff recruitment. More recently, the provincial government has decided to merge Social Welfare, Women’s Development,
Baitul Maal, Zakat and Ushr (social safety nets) as well as the Child Protection Bureau of the Home Department into a single department named Social Protection and Zakat Department (DAWN January 21, 2011a). Apparently, the decision was taken by the government in an austerity move; however, its origin can be traced back to the particular history of the establishment of the Bureau. A senior civil society representative put it well:

The Bureau is a big intervention. But, that has been only in that province and because of this person knowing the Chief Minister. I don’t have a complaint about who do you know because that’s the way you thrust in and move forward, but, then, systemise it, so that it does not fall apart because today it’s party A in government, which is opposed to the former Chief Minister’s party and not giving you the funds, tomorrow it would be another party, say, party B and that will respond to you yet in a different manner. (Interview 31 May 2010)

The Bureau's troubles are now well-known. The media reports that Punjab province, which took the initiative a decade ago, is lagging behind other provinces in child protection (DAWN 2011b; Tribune 2011). The exercise of personal influence by Dr. A might have helped the Bureau in the short run, but it has negative consequences in the long run, as it did not allow relevant decisions to be institutionalised.

Conclusion

The two case studies discussed above demonstrate that Pakistan’s child protection policy process is characterised by weak institutions that create the conditions for powerful individuals to dominate decision-making and policy outcomes. The National Commission of Child Welfare and Development, as the main institution in child protection policy lacks the authority to fulfil its mandate. Its institutional capacity is further weakened by the lack of human and financial resources. The legitimacy of the Commission is challenged from within the institution in that the ultimate decision-makers have their own ideas and beliefs, which are different from the Commission’s organisational ideology. Further, key individuals within the Commission who draft policies, plans and legislative bills do not possess official powers to negotiate with other stakeholders and to make ultimate decisions.

In comparison, the Child Protection and Welfare Bureau is a one-person institution. Banking on her political connections, Dr. A was able to actually shape the whole child protection system according to her personal wishes, beliefs and expertise. In doing so,
she bypassed the broader policy community—rather than convincing them—and ignored existing rules, institutional mechanisms and organisational structures. However, this left the whole system lacking institutionalisation and continuity. The history of the Bureau not only highlights the problems with personalistic decision-making; it further demonstrates the importance of institutional arrangements within the policy process to ensure coherent, realistic, relevant and stable policy outcomes.

In sum, Pakistan's child protection policy process is characterised by weak institutions and a decision-making process influenced by individual actors who may or may not possess legitimate powers to make the policy. These characteristics result, on the one hand, in the failure of the concerned institution to influence the policy process, causing long delays and in some cases the withdrawal of proposed legislation and policy relating to child protection. On the other hand, the exercise of personal influence does not allow the relevant decisions to be institutionalised and leaves the said policy inherently unstable, less efficient and in some cases ineffective. Another related conclusion deals with the critical role of individual ideologies in the policy process, characterised by weaker institutional influence and personalistic decision-making. Considering the limited focus of this chapter, that is, the influence of the individual policy actors, especially in weak institutional arrangements, the role of ideologies in Pakistan's child protection policy process is discussed in detail in chapters in the next section.
PART II

IDEOLOGIES IN PAKISTANI POLICYMAKERS’ CONCEPTION OF CHILD PROTECTION

Building on the role and influence of individual policymakers on the policy process as examined in the chapters in Part II, chapters in this part of the thesis specifically deal with the broader research question of how these policymakers conceptualise child protection. As noted earlier in this thesis, child protection, by nature, is a relative concept that is ‘informed by quite different assumptions, values and attitudes’ on the part of those who are involved in policy and practice (Parton 1997, p. 14).

Conceptualising child protection for policy and practice encompasses the fundamental notions that policymakers carry in their minds (for example, about the nature of the child, the nature of the parent-child relationship, the nature of the state and the relationship between state, society and family). They use these notions throughout the policy process from identifying and defining a problem considering alternative policy proposals to making decisions and implementing them.

From interviews with key policy players in child protection policy in Pakistan, three major conceptions of child protection emerged based on the country’s socioeconomic development situation, religious interpretations and cultural norms and values, and international human rights standards. Chapters in this section deal with each conception separately.

Chapter Three deals with child protection as conceptualised by Pakistani policymakers in terms of the socioeconomic situation of the country. The interplay of demographic and socioeconomic environmental factors such as poverty, overpopulation, natural disasters and the security situation, the centrality of the institution of family in societal structures and its existence beyond the public sphere forms the context of various protection issues including child labour, child trafficking and early marriage. This socioeconomic concept of child protection issues is not translated into
legislative and policy responses, which are mostly formed on the borrowed models of child protection based on an individualistic concept, as noted in the Introduction. Next, Chapter Four deals with the conceptual and definitional debates stemming from the key actors' differing religious and cultural beliefs, values and attitudes as they relate to childhood and child protection. These religious and cultural conceptions of child protection issues are not always in line with the official policy commitment to children's rights as provided for in the United Nations Convention on the Rights of the Child (UNCRC), and thus give rise to a resistance among policymakers in formulating and implementing policies that would ensure children's right to protection. This resistance is shown both in reluctance to place certain child protection issues on the policy agenda and/or in formulating vague, irrelevant and ineffective responses.

While state actors, despite their official rhetoric of child rights, endorse the ideology of Islam and Pakistani culture, non-state actors, including the members of international child rights organisations and local civil society, subscribe to the ideology of the international human rights of children. Chapter Five examines the perspective of these non-state actors, because, as noted in Chapter One, they are an important part of Pakistan's child protection policy community. Their understanding, attitude and professional beliefs towards child protection are influenced by the broader international child rights standards and practices in the global North. They could influence the national child protection policy process at various stages from agenda setting, actual formulation of policy and legislation and policy implementation to monitoring and assessment. State actors might not challenge their adherence to international child rights standards; however, they express concern about the relevance and practicality of such standards of child protection in the local context.

Considering the extent and intensity of child exploitation, abuse and neglect in the country, Pakistani policymakers' continuing debates about conceptions of child protection are highly deleterious. Given that children are not voters and they cannot push their interests, one wonders if these ideological differences are too great for the parties to reach some consensus, or if child protection policy is a priority at all. Debates about differing concepts of child protection based on ideologies of socioeconomic considerations, religion, culture and international child rights
standards, have serious implications for any child protection policy, and need settling before the actual formulation of a comprehensive child protection policy can take place.
Chapter 3

The larger context of Pakistan’s child protection policy: demographic and socioeconomic factors

Yes, there is a set of children’s rights, but if parents cannot afford, how can they ensure provision of all these rights? The UNCRC provides children the right to schooling, but, what if/when parents do not have money to send children to school, to buy clothes and so forth. How would parents supervise children if they both are working to make ends meet? Everything ends at the economic situation. (Participant B2: interview 3 April 2010)

These are the views of a children-related specialised agency head with regard to children’s right to protection in Pakistan. As described by this participant, socioeconomic factors are considered important in conceptualising child rights and child protection. These factors manifest as over-population, poverty and illiteracy, and are considered to be the main causes of various protection issues such as the exploitation and abuse of children in hazardous work, child homelessness and trafficking. They also form the context in which decisions are made and policies formulated to ensure the protection of children.

The study of the role of the broader context in decision-making structures and processes is mainly credited to organisational sociology\(^49\) and the sociology of economics\(^50\). Nevertheless, within the broader public policy literature, the importance of the fact that policies are formulated and implemented in particular demographic, socioeconomic and cultural contexts is also well established. Work by Grindle and Thomas (1991) on the political economy of reform in developing countries provides a good example of how the societal, historical and economic context of reform is a key factor in understanding the emergence, discussion, implementation and sustainability of policy reform in developing countries. The role of the broader socioeconomic context is also widely studied in other areas of public policy such as health, redistributive and social policy (Arts & Gelissen 2001; Blekesaune 2007; Kawachi et al. 1999; Mooij 2007; Walt & Gilson 1994). However, the area of scholarship most relevant to the present analysis is the body of research in the area of child abuse and


\(^{50}\)See for example Granovetter 1985, 2005; Granovetter & Swedberg 2001; Keizer 2005.
maltreatment based on the ecological theory of Urie Bronfenbrenner (1974, 1977), which was first introduced in the 1970s.

Scholars in the field of child abuse and child protection have almost always been wary of narrowly focused, individualistic concepts of child protection. Various scholars including Gü (1970), Gelles (1973), Pelton (1981), Parton (1985, 1996a), Melton (2005), Scott (2006) and Lonne and colleagues (2009) have emphasised the importance of social and environmental factors in child protection policy and practice in the United Kingdom, the United States, Australia and other parts of the world. Nevertheless, it was research in the tradition of ecological theory that paid special attention to contextual factors, both in terms of causes of abuse and the child protection policy response (for example Brooks-Gunn et al. 1997; Duncan & Raudenbush 1999; Finkelhor & Dziuba-Leatherman 1994, 1995; Garbarino 1977, 1981; Garbarino et al. 1993; Gough & Lynch 2002). Context mattered even more to researchers examining the problem from a non-Western, developing country’s perspective (Bhera 2007; de Silva 2007; Lachman et al. 2002). Ecological theory thus helped situate child protection within the developing country context of family poverty, lack of informal support from the community and the constraints of state institutions (Mulinge 2002, 2010). The situation in these countries did increase the realisation that certain demographic and socioeconomic factors impact upon the lives of children and their families.

Therefore, child protection researchers and practitioners started to emphasise the fact that children must be considered in their broader context (Bissell et al. 2007; O’ Kane et al. 2006). Context matters in decisions relating not only to which issues find their way on to policy agendas but also to how these issues are defined, and to how policy responses are developed and implemented. In recognition of this, the UNICEF Child Protection Conceptual Framework identifies ‘the socioeconomic, political and cultural context’ as one of its three elements\(^\text{51}\) (2007, p. 6). The conceptual framework includes a society’s level of tolerance for violence and corruption; its attitude,

\(^{51}\)The other two elements are a child’s immediate environment and the prevention and response system.
traditions, customs and practices towards children; the degree to which children’s rights are respected; the role of the media; and economic conditions, as some of the factors that contribute to child protection situations both as causes of harm/risk and as resources for its mitigation and prevention (2007, p. 8). In Pakistan, too, this broader socioeconomic context is a key factor in policymakers’ conceptualisation of child protection.

This chapter is divided into three sections. The first section examines the Pakistani demographic context, and how the nation’s population characteristics affect child protection. The next section deals with broader socioeconomic forces in Pakistan, especially poverty, illiteracy, child labour and the provision of public social services including health, education and social protection for children. In the third and final section, it is concluded that Pakistani policymakers have a legitimate basis for conceptualising child protection in socioeconomic terms, as the country is faced with huge demographic and socioeconomic challenges that not only pose serious risks to children’s safety and well-being but also hamper efforts to mitigate and prevent these risks. However, it is noted that policy responses to various child protection issues do not take into account the interdependent relationship between the child and his/her specific environment, but, rather, are generalised and prescriptive based on models borrowed from elsewhere.

The demographic context

Various demographic factors contribute to the risks and the coping and preventive strategies relating to child protection. Population size, age structure and gender composition contribute to determine the resources allocated to children as a group and various groups of children. Research on child maltreatment conducted in the ecological tradition has studied the impact of some of these factors on child protection (including gender, family size and composition, family forms and dynamics, increasing urbanisation, neighbourhood safety and overall population composition) (Brooks-Gunn 1995; Caldwell 1996; Desai 1991; Drukker et al. 2003; Engle et al. 1996; Kostelny & Garbarino 1994; Maggi et al. 2005). As noted in the introductory chapter, the demographic context of Pakistan’s child protection policy is characterised by a fast-growing population with a high proportion of younger-age population and a
low proportion of working-age population. It was also noted that such an age structure has built-in implications for child survival, health and quality of life.

However, the most salient feature of Pakistani demographics is the proportion of children in low income groups. One participant highlighted the situation in the following manner, ‘poor have more children, because they believe that the more the number of children the more the earning hands in a family. On the contrary, well educated and well off city dwellers, who can actually afford a better upbringing for their children, follow the national family planning program slogan, *kam bache, khushhal ghrana* (smaller family is a happy/well off family52)’ (Participant A4: interview 30 March 2010). In fact, the mean number of children in the lowest quintile is three times higher than in the highest-income group (Asian Development Bank 2006). Such a demographic context has a significant impact in terms of ensuring children’s right to survival in the short run and child development and the formation of human capital in the long run (Kabeer 2000; Scheper-Hughes 1992; Strulik 2004a, b). Many participants in this research acknowledged that due to poor nutrition and lack of sanitation facilities, poor children suffer more from disease and ill-health than do children from high income groups (Participant A4: interview 30 March 2010; Participant C3: interview 12 May 2010; Participant C 4: interview 9 June 2010). At the same time, the poor lack access to proper health services in the public sector. In fact, low expenditure on health services is identified as a major reason for the slow reduction in child mortality in Pakistan (Asian Development Bank 2006). Private health services are not only expensive but also of poor quality, in rural areas in particular (Asian Development Bank 2006). This disadvantage, however, is not limited to health services.

Almost two thirds of the population of Pakistan live in rural areas. These areas lack basic facilities such as birth registration, sanitation, and maternal and child health care and education (Pakistan Bureau of Statistics 2011b). This is partly because resources often fail to reach remote rural populations. But it is also partly because of the bias of

52 Official translation as provided in 'The inventory of information, education and communication materials related to population welfare' (1991), National Institute of Population Studies, Islamabad, Pakistan.
policymakers, which is based on stereotypes and prejudices that they hold against rural populations. For example, many policymakers declared corporal punishment, child labour, child trafficking and early marriage to be four important child protection issues, as problems of the 'ignorant, poor rural folks', who have 'too many children', who are not aware that 'children have rights', who have not learnt the 'modern techniques of child rearing and alternate methods of discipline' and who do not realise 'what happens to their children at work' (Participant A1: interview 29 January 2010; Participant A2: interview 2 February 2010; Participant A4: interview 30 March 2010; Participant C3: interview 12 May 2010; Participant C4: interview 9 June 2010).

In reality it is not only parents—especially the rural parents, as policymakers suggest—who lack a realisation of the vulnerable situation of their children. Current children-related state policies and practices also lack recognition of the complexity of the situations where parents knowingly or unknowingly make decisions that are detrimental to the safety and well-being of their children. The relationship between a lack of education facilities for females, early marriage and maternal and child mortality in rural areas provides a classic example, for it is well documented that many rural girls are married off at an early age due mainly to the paucity of education opportunities for females (Lloyd & Grant 2005; Plan UK 2011). Girls, who start bearing children at an early age in rural Pakistan, need more maternal and child health care services due to their physical and emotional immaturity (Khan 2000). The scarcity of these services means infant mortality is high, leading to repeated pregnancies at short intervals among young mothers, which in turn results in maternal mortality (Midhet et al. 1998). In Pakistan, infant and maternal mortality rates, 71 per 1000 live births and 260 per 100,000 live births respectively, are some of the highest in south Asia (UNICEF 2011a; The World Bank 2011a). It was a rare exception when politicians and bureaucrats acknowledged that the government, especially at the federal level, had not properly served the rural poor and that existing social services neither meet local needs nor match local on-the-ground realities (Participant A5: interview 30 April 2010; Participant C5: interview 2 July 2010).

One participant summed up this demographic context and its consequences for children very well:
More than half the population is below 25 years of age, a very young population. Where should this young population be? In schools! But, we don't have enough schools...then, there is the issue of the affordability of schooling...Parents too, think that if a child is not in school for whatever reasons, s/he should go to work. S/he will earn something, learn some skill and become independent in future. (Participant A1: interview 29 January 2010)

Therefore, policymakers argue that, 'if economic conditions improve, society improves overall' (Participant C3: interview 12 May 2010), so, 'Let the country achieve a certain level of development and it would ensure protection of all our children' (Participant A3: interview 4 February 2010). In fact, many referred back to the history of child labour in the United Kingdom and the United States (Zelizer 1985) and pointed out that it was economic development and the accompanying social changes that resulted in an increase in the well-being of most of the population, including children (Participant A6: interview 1 June 2010; Participant A7: interview 23 June 2010; Participant C3: interview 12 May 2010; Participant C4: interview 9 June 2010). Further, some participants pointed to the fact that Pakistan has made international commitments such as a commitment to meeting the Millennium Development Goals 2000, which is not a human rights treaty but human rights practices and these goals are considered interdependent and mutually reinforcing commitments (Participant A2: interview 2 February 2010; Participant B4: interview 26 July 2010; Participant C5: interview 2 July 2010; Jeffrey Sachs cited in Gooneseckere & de Silva-De Alwis 2005, p. 10). The next section examines the impact of this socioeconomic development context on the protection of children.

**The socioeconomic context**

In the early 1970s, scholars started to recognise the limitations of focusing on the child or parent alone in regard to issues relating to child abuse and protection and started instead to focus on the environment in which children live and experience abuse. For example, Gil (1970) documented the impact of poverty on rates of child abuse whilst Garbarino and others in the ecological tradition of research extensively studied the environmental risk factors associated with the socioeconomic status of various groups of children and considered the policy implications of such factors (Brooks-Gunn et al. 1997; Garbarino et al. 1993; Garbarino & Kostelny 1992; Jack 1997, 1998; Jencks & Mayer 1990). This body of scholarship has identified differences in the social ecology of parenting as well as risk factors associated with
parenting capacity, support networks and protection outcomes for children living in socioeconomic disadvantage such as can be found in Pakistan.

In socioeconomic terms, Pakistan is a low-middle income country. Per capita national income (Purchasing Power Parity) is US$2,710 (The World Bank 2011a). Poverty, especially in rural areas, is highly prevalent as 22.6 per cent of the population lives below $1.25 a day and 60 per cent live below $2 a day (The World Bank 2011a). Considering the age composition of Pakistan's population, children make up the largest proportion of the poorest of the poor (UNICEF 2009). Poverty reduction efforts are undermined by various socioeconomic, environmental and political factors.

First and foremost among these factors is economic policy. Pakistan's overall economic performance between 1961 and 1990 was seen as adequate, although most of the 1990s and the latter 2000s were marked by macroeconomic instability (Asian Development Bank 2006; The World Bank 2010). However, economic growth had not always translated into social development (Candland 2001; Haq 1997). While many public sector participants in this research highlighted the value of state policies aimed at improving child well-being (such as immunisation campaigns, in-kind and cash transfers to the poorest of the poor and provision of state protection services for destitute children (Participant A 2: interview 2 February 2010; Participant C4: interview 9 June 2010; Participant C6: interview 3 July 2010)), they rarely acknowledged the negative consequences of the country's overall economic policy and practice for children (Participant A5: interview 30 April 2010). Some of these consequences are well documented. For example, evidence shows a considerable increase in child mortality, school drop-out rates and child labour during and after the 1990s structural adjustments in Pakistan (Haq 2005; Jamil 1995; Khan & Kazmi 1998; Wagstaff 2000). Similarly, Pakistan's ongoing Poverty Reduction Strategy Paper (PRSP) has been criticised for ignoring pro-poor strategies such as the equitable distribution of income, employment generation and a greater focus on social sector development (Social Policy and Development Centre 2004). For children, this means repetition of the previous structural adjustments experience.

Further, there are no children-specific expenditures in national financial allocations. As a matter of policy, the second National Plan of Action (NPA) for children is
“dovetailed” into the PRSP (Ministry of Social Welfare and Special Education 2005). In practice, the Ministry of Social Welfare was unable to secure a budget allocation for the implementation of the NPA in 2005-06. The federal Ministry of Finance refused such allocation with the observation, that in the absence of any national child policy, funding cannot be provided for the implementation of the action plan (Participant C1: interview 21 April 2010). Ever since, the formulation of a national child protection policy has been in process, as noted earlier, in the Introduction. Leaving aside the non-existence of a national policy, the low priority that existing policies such as the SAP and the PRSP allocate to children is now well established (Cornia et al. 1987; Delamonica et al. 2006; Espy et al. 2010; Ortiz et al. 2011; UNICEF1997). The situation resulting from the economic policy choices of the state (such as growth-led PRSPs) poses serious protection challenges to children (Grootaert & Patrinos 1999). These challenges are prevalent not only within the micro-system of the family (and include such things as the threat to survival due to hunger) but also in macro-systems such as the labour market where children are exploited and abused physically, psychologically and economically.

A second important factor that seriously undermines the overall economic situation in Pakistan is related to frequently occurring natural disasters. Natural disasters, including a major earthquake and floods, caused 75,582 deaths between 2005 and 2010 (The World Bank 2011a). In the 2005 earthquake, of over 70,000 deaths more than 17,000 were those of students53 who were attending school when poorly constructed school buildings collapsed as the earthquake hit (Mortensen 2009; Save the Children, Sweden 2006b). The earthquake also caused direct damage to assets worth approximately US$2.3 billion (Asian Development Bank & The World Bank 2005). Similarly, the damage caused by the 2010 floods is estimated at US$6.5 billion (Asian Development Bank, Government of Pakistan & The World Bank 2010), while 20 million people were affected and 1985 human lives lost (Oxfam 2011). The 2010 floods pattern was repeated in Sindh province again in 2011.

53 According to Greg Mortenson, more girls died than did boys due to their cultural orientation of purdah (staying covered and/or inside the walls), as they did not run out of collapsing buildings but rather tried to take shelter under furniture (2009, p.156).
The impacts of these natural disasters on children are manifold and include both direct effects such as loss of life, carers, homes, school and healthcare and indirect impacts such as early marriage and child labour. Children, who lose family livelihoods due to natural disasters, are pushed into dangerous occupations such as prostitution, drug trafficking and armed conflict (Krishnamurthy 2009; Save the Children, Sweden 2006b) and female children are noted to be more vulnerable to sexual abuse and/or early marriage during and after natural disasters (Felten-Biermann 2006; North 2009). In the aftermath of the 2005 earthquake, an increase in child labour in Pakistan was noted (Integrated Regional Information Networks 2010). More importantly, the arrangements for the protection, ongoing care and rehabilitation of orphaned children became a huge issue as the government of Pakistan did not allow adoption (adoption being un-Islamic) even though existing residential care facilities were not sufficient to accommodate parentless children. As a result, after five years some of these children were still living in makeshift institutions with poor health and education facilities (Participant A8: interview 6 July 2010; Participant C1: interview 21 April 2010; Participant D 3: 24 June 2010).

Similarly, during the 2010 floods, UNICEF noted ‘a confluence of protection concerns’: children experienced profound stress, were forced to deal with hunger, disease and the destruction that surrounded them, and became more at risk of violence, abuse, exploitation and discrimination (2011b, p. 9). Young girls were particularly vulnerable. On the one hand, they were ‘at risk of being married off so that there would be fewer mouths to feed, or recruited as servants’ and, on the other hand, ‘cultural taboos further impeded them from accessing provisions and services’ (UNICEF 2011b, p. 9). In fact, the research and documentation of children’s experience of natural disasters in Pakistan and elsewhere has further reinforced the ecological theory’s emphasis on the interconnection between children and their environment (Krishnamurthy 2009; UNICEF 2011b). Pakistan’s proposed national child protection policy and the current national disaster management policies and systems54 – as well as most policymakers from the public sector – are yet to take into account this interconnection.

Pakistan's internal and external security situation is another factor affecting children’s well-being in the broader socioeconomic context. In terms of internal security, the law and order situation is not only poor but also deteriorating. One reason for this has been a wave of terrorist attacks, mainly in the form of suicide bombings, as a result of Pakistan's involvement in the United States' "War on Terror" in Afghanistan since 2001 (Rashid 2008). Widespread terrorist attacks carried out by suicide bombers not only indiscriminately claim the lives of civilian adults and children, they also have far-reaching and damaging consequences for children-related policies such as those relating to juvenile justice. In terms of juvenile justice, claims have repeatedly been made that children were being used as suicide bombers by terrorists (SPARC 2009, p. x); however, independent researchers have not found any evidence to support these claims (Lanche 2009). Nevertheless, as Alston and Tobin have noted, in many countries post-September 11, 2001, the focus on 'security concerns, often at the expense of human rights' might put pressure on children's rights proponents on issues such as maintaining a reasonable minimum age for criminal responsibility (2005, p. 7). This is exactly what happened in Pakistan, as the Ministry of the Interior rejected a bill proposing an increase in the minimum age for criminal responsibility from seven to 12 years on the grounds that it encourages terrorists to use children as suicide bombers (Participant C1: interview 21 April 2010; Participant D2: interview 4 June 2010). This is but one example of how the security situation affects children.

In fact, children and adolescents are the most severely affected populations in conflict situations and they are affected in multiple ways. Research from both the ecological and human rights perspectives shows that death, injury, displacement and temporary or permanent loss of carers are some of the most direct and apparent impacts on children (Boyden et al. 2002; Kostelny & Garbarino 1994; Machel 1996). Less obvious but with just as serious consequences are economic impoverishment, hazardous labour, early marriage, abduction, trafficking and loss of opportunities for good health and education (Boyden et al. 2002; Cairns 1994; Kottegoda et al. 2008; Machel 1996; Plan UK 2011; UNICEF 2011b). Further, the Government of Pakistan's

55 According to the South Asia Terrorism Portal (2011), a total of 34,122 fatalities occurred in terrorist violence in the country during the 2003-2010 period; 10,086 were civilians, including men, women and children.
military action against the Taliban militants, mainly in Swat, Bajaur, upper and lower Dir, Shangla and Mohmandh has resulted in the internal displacement of an estimated two million people and in the direct damage of assets worth US$38 million (Asian Development Bank & The World Bank 2009). This situation is a paradox in which, on the one hand, the security risks contravene the mandate for the protection of children provided by the UNCRC and the national constitution and, on the other, these children return, on repatriation, to an environment of economic impoverishment, and damaged schools and health facilities with severe shortages of medical equipment, medicine and other supplies, all of which is detrimental to their safety and well-being.

Recognition of this interdependence at a policy level between children and their broader environment is limited to the role that these factors play in causing child protection problems. Children’s chances of survival at birth, lack of fulfilment of their basic needs (such as nutrition, health and education) and the actual and potential risks that children face in a country struggling with economic hardship, natural hazards and security threats were considered as necessary elements of poor child protection situations (Participant A4: interview 30 March 2010; Participant A7: interview 23 June 2010; Participant C1: interview 21 April 2010; Participant C3: interview 12 May 2010; Participant C5: interview 2 July 2010; Participant C6: interview 3 July 2010).

In the words of a former Secretary of Social Welfare, ‘There are social environmental and family conditions in which parents are forced to leave their children unguarded and unprotected to fall into the trap of exploiters...these things lead to child abuse’ (Interview 30 March 2010).

In terms of policy responses and implications, most policymakers are yet to acknowledge two important points. The first is a realisation that children’s experience of adverse socioeconomic conditions, such as poverty, is different from that of adults. In the Bristol Study, Gordon and colleagues found that a third of all children in all developing countries and 59 per cent in South Asia are living in absolute poverty, that is, they experience two or more forms of severe deprivation (Chen & Ravallion 2008; 56

56The Bristol Study measures child poverty as deprivation of their basic rights to adequate nutrition, safe drinking water, decent sanitation facilities, good health, shelter, education and information (Gordon et al. 2003).
These ratios are much higher when compared with the one quarter of the total number of people living in developing countries who are living in absolute poverty and the 40 per cent in South Asia that lives in absolute poverty (Gordon et al. 2003). Child poverty differs from adult poverty in that it is highly likely to have serious adverse consequences for children in both the short term and the long term, as extreme poverty can cause children permanent damage, distort their development and destroy opportunities for fulfilment (Gordon et al. 2003). Thus, children who grow up in poverty experience a double disadvantage. Their present experience of socioeconomic hardship results not only in poor health outcomes and low academic achievements but also in the potential loss of capacity, productivity and fulfilment of the roles they are expected to play in the future (Duncan & Brooks-Gunn 1997; UNICEF 2009). Of all the participants in this research, only one former minister acknowledged, ‘We have to give them their childhood, their laughter back’ (Interview 2 July 2010). The majority did not recognise children’s right to childhood and the lifetime disadvantage that children living in poverty experience.

Secondly, policymakers in Pakistan are yet to realise how socioeconomic context defines the terms of debate on children’s issues. The very definition of a child furnishes a good example. Pakistan is party to the UNCRC, which defines any person below 18 years as a child. However, as Boyden, Ling and Myers (1998) note, perceptions of childhood and children’s social and economic roles vary across cultures and socioeconomic contexts. During the current research, the definition of the child came up repeatedly with regard to the issues of child labour and early marriage, both of which were identified as child protection issues by many policymakers. On the issue of child labour, the argument regarding the definition of the child is explicit and straightforward. As one participant put it, ‘What is the use of having definition of the child as a person under 18 years, if you cannot enrol her/him in school if s/he is out of school, say at 14 years of age?’ (Participant A2: interview 2 February 2010). Many others supported this view and argued that assumptions about childhood stem not only from cultural and religious interpretations but also from practical reasons, for example, people under 18, who have no school to go; why should they be banned from work? (Participant A1: interview 29 January 2010; Participant A4: interview 30 March 2010; Participant A6: interview 1 June 2010).
With regard to early marriage, many participants started with the claim that early marriage is not the same as child marriage. Policymakers argued that a child is someone who has not achieved puberty while early marriages are arranged at the onset of puberty in accordance with religious and cultural norms (Participant A4: interview 30 March 2010; Participant B3: interview 10 June 2010; Participant C3: interview 12 May 2010). Later, the argument turned to poor parents marrying young girls off so that they have ‘one less mouth to feed’ and that ‘young girls are taken without dowry’ thus relieving parents from a financial burden. Young girls are not considered ‘one more earning hand’ but rather a financial burden and a liability for two reasons. One, they cannot be sent out of home to work because of the perceived threat to family honour in the form of either immorality or sexual abuse. Two, they should be provided with a “dowry” at the time of marriage (Jenson & Thornton 2003; Plan UK 2011; UNICEF 2005b). Amongst the better off, another argument was that ‘young girls and potential bridegrooms do not demand the girl’s due share in family property, especially in terms of agricultural land’ (Participant A2: interview 2 February 2010; Participant A4: interview 30 March 2010; Participant C1: interview 21 April 2010; Participant C2: interview 26 April 2010). Therefore, although it may not be acknowledged consciously and formally, it is every bit as much a socioeconomic and financial consideration as it is the Islamic understanding and social meaning of puberty that leads to a definition of the child as being different from a person below 18 years of age for the purpose of early marriage.

Putting the above two points together, policymakers in Pakistan lack a realisation of the extent and intensity of children’s economic hardships on the one hand and how they shape the policy response on the other. Many seem to be oblivious when they say, ‘Aren’t our children well-protected? Parents are responsible for their education up to the university level, arrange their marriages and spend money on their...

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57 According to the Islamic law of inheritance, a female child is entitled to half the share of a male child in her father’s property, and the constitution of Pakistan provides for ownership of property by both men and women. However, big landowning families do not approve of the division of land, especially when there is a chance that it would go out of the immediate family. Either a woman’s dowry is considered compensation for landed property or women forgo their share in favour of their brother as insurance for the future because, in the absence of formal protective measures, women generally turn to their parental home in time of need, for example, in the case of a bad marriage (Mumtaz & Nosherwani 2006).
marriages. They are protected rather too long' (Participant A6: interview 1 June 2010; Participant B4: interview 26 July 2010; Participant C1: interview 21 April 2010). Policymakers lack recognition of the impact that the poor socioeconomic situations of mothers, fathers, families and the immediate environment of children have on their well-being (Delamonica et al. 2006). Severe deprivation, such as hunger and absolute poverty, in families and communities, carries serious implications for children-related policy responses; for example, decisions relating to the age at which children can work and to the type of work they can undertake both have serious consequences for the protection of children. Child labour in Pakistan provides a classic example.

Child labour

In the developing country context of Pakistan, child labour is the most important facet of children’s relationship with the larger socioeconomic environment, not least because this interrelationship impacts heavily on children’s safety and well-being. The majority of the policymakers interviewed identify child labour as one of the most important child protection issues (Participant A1: interview 29 January 2010; Participant A4: interview 30 March 2010; Participant A7: interview 23 June 2010; Participant C5: interview 2 July 2010). They do so rightly. According to Pakistan Bureau of Statistics (2011c), children aged 10-14 years make up 18.48 per cent of the Pakistani population, and 13.08 per cent of the labour force participation rate, making this group 2.42 per cent of the entire civilian labour force. Another 16.21 per cent of the population makes up the 15-19 years age group, with a 37.02 per cent labour force participation rate, making this group 6 per cent of the overall civilian labour force. In both age groups, the male labour force participation rate is almost double the female rate and rural population participation is almost three times that of the urban population (Pakistan Bureau of Statistics 2011c). These figures should come as no surprise as child labour has long been a serious issue in Pakistan.

According to the 1996 National Child Labour Survey, 3.3 million of the 40 million children in the 5-14 years age group were economically active on a full-time basis. Of these 3.3 million working children, 73 per cent were boys and 27 per cent girls. Almost half the working children (46 per cent) were working more than the normal working hours as prescribed in the Employment of Children Act 1991, that is, 35-42 hours per week, with 13 per cent working 56 hours or more per week. About 70 per
cent were working as unpaid family helpers (Labour and Manpower Department 1999; ILO 2011). Not only parents but also many scholars are convinced that in the face of widespread poverty in many parts of the world, child labour is a way to survive extreme hunger and starvation (Andersen & Taylor 2007; Basu & Van 1998). That said, however, there is usually an accompanying argument that such labour be regulated, but this is not easy or realistic in a country such as Pakistan where most employers of child labour belong to the informal economy or the agricultural sector, neither of which is regulated by labour laws (Biggeri & Mehrotra 2007; Grootaert & Patrinos 1999; Pakistan Bureau of Statistics 1996). Thus, both the demand side (that is, informal sector employment) and the supply side (that is, poverty) conspire to create a situation that is conducive to child labour.

In such an environment, many children are forced to work or to take an apprenticeship. This may start at as early an age as seven or eight years (Kamal 2000). At work, children not only labour long hours and beyond their physical capacity, they are also often abused physically, sexually and emotionally (Kamal 2000). Within child labour, domestic labour is, by some estimates, the largest mode of employment for children in the South Asian region. Most child domestics live with their employer’s family, and work independently of their parents’ or guardians’ supervision and beyond any state regulation (Akhtar & Razzaq 2005). Many others are forced to work in seriously hazardous situations such as in bonded labour on brick kilns or as jockeys in camel races in the Gulf States, these being the only available employment opportunities in their environment (Save the Children, Sweden 2005).

In fact, the case of camel jockey children explains well the link between children and their socio-economic environment. Most of these children are trafficked to Gulf States from the Rahimyar Khan district in Southern Punjab. A senior bureaucrat from the Federal Investigation Agency who worked with UNICEF and the Child Protection Bureau on a project for the recovery and reintegration of camel jockey children explained:
It was difficult to understand why so many people from this particular area sent their children to the Gulf. We found that the Arab Sheikhs used to come there for holidays and the game and they captivated these poor desert people by the force of money... they would ask people, 'How many children do you have?'. If one answers 'five', they will say, 'OK, send three with me, I will pay you'. And they will lie when asked for what purpose these children are used. (Interview 24 February 2010)

The participant further disclosed that videos of camel races resulting in injury and/or death of children were shown to parents to make them fully aware of the consequences. Even then, some parents still decided 'to sacrifice one of their too many children to save the whole family from death due to starvation' (Interview 24 February 2010). The specific intervention for the recovery and reintegration of jockey children by UNICEF and the Child Protection Bureau included some financial assistance to families of camel jockey children; however, current child protection policy and practice lacks recognition of the complexity of this and similar situations where parents knowingly risk the life of a child to save the rest of the family, because, seemingly, that is perhaps the only option available in their immediate environment.

Some argue that the relationship between poverty and child labour, and consequently child protection, is exaggerated. In one of the earliest works on child labour in the South Asian region, The Child and the State in India (1991), Myron Weiner argued that poverty is not the reason why child labour has not been eradicated in India.

Rather, in pointing to the gap between official rhetoric and policy, Weiner found an explanation in the elitist nature of the Indian state and the class-based belief systems of the state bureaucracy towards the relationship between the state and the children of the poor (1991, p. 155). According to Weiner, the elitist Indian bureaucracy denies education to the children of the poor, ensuring that there is little upward mobility for the masses (Weiner 1991). Weiner's argument is taken forward by others. For example, Lloyd (1994) argues that parents' assessment of potential returns on investment in education will partly depend on the quality of education services available to them and partly on the opportunities in the labour market. These arguments clarify and further establish the nexus between the child and his/her

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58Rahimyar Khan is one of the poorest district adjacent to Cholistan desert in southern Punjab, Pakistan. For a detailed account of district Rahimyar Khan as a source of camel jockeys, see, 'Camel jockeys of Rahimyar Khan: findings of a participatory research on the life and situation of child camel jockeys', Save the Children, Sweden (2005).
environment, especially in the macro context of socioeconomic and political institutions.

Both Weiner's and Lloyd's arguments are equally applicable to Pakistan, with the only difference being that the Indian caste system is replaced by the feudalistic social structures of Pakistan. The overwhelming majority of policymakers themselves belong to the oligarchy of feudal politicians, bureaucrats and industrialists discussed in Chapter Four and, as pointed out by one of their own, 'policymaker' children go to Berkeley and Oxford. Why would they be concerned with poor education services in Pakistan? (Participant CS: interview 2 July 2010). In fact, this feudal mindset, which dominates decision-making bodies including the national parliament (Jones 2002), leads to the creation of an education system and a set of labour laws (two popular solutions to the child labour issue) that offer little to the children of the poor, and especially little to the female and the rural child.

Pakistan's poor education indicators are a clear reflection of the failure of its education system. Primary school net attendance during 2005-09 was 71 per cent (UNICEF 2011a). For every 100 boys, only 80 girls are enrolled in primary school and the secondary school and primary school completion rate for both is 60 per cent (The World Bank 2011a). Both literacy and primary enrolment are higher among male (versus female) and urban (versus rural) populations (Pakistan Bureau of Statistics 2011b). There are 158,000 primary schools in the country, with 2.8 teachers per school and 56.1 students per teacher. Public expenditure on education in Pakistan as a percentage of GDP (2.7 percent) is the second lowest in South Asia when compared with 2.6 percent in Bangladesh, 3.3 percent in India, 3.8 percent in Nepal, and 8.3 percent in the Maldives (UNESCO 2009). However, poor financial allocation is not the only problem.

In fact, the problems of Pakistan's existing education system are well documented, both at the state level and by individual scholars. State initiatives aimed at appraisal and improvement of the system have been ongoing, starting with the 1947 All Pakistan Education Conference and continuing with the 2009 National Education Policy. Aly (2007, pp. 2-3) notes that most of these initiatives were 'driven by politico-ideological considerations' of the 'self-styled elite' rather than the pursuit of education in its own
right for a person's development as an individual, a citizen and/or a participant in an economic activity. As well as these state initiatives, considerable scholarly work on Pakistan's education system has also been conducted. In a comprehensive and unique collection, *Education and the State: Fifty Years of Pakistan* (1998), Hoodbhoy declared a 'crisis of quantity as well as quality' in Pakistan's education system (1998, pp. 2,8). Based on a diverse range of scholarly contributions from leading educationists, academics and researchers, Hoodbhoy presented the pieces of the puzzle of the Pakistani education system, from its colonial heritage, lack of priority among ruling elite, lack of community participation and unclear/irrelevant educational goals to structural and institutional bottlenecks. From this, he proposed an agenda for reform to address the problems in the Pakistani education system (1998, pp. 1-22).

While Hoodbhoy's analysis still holds true after more than 15 years, the education reforms agenda has become lost in the intervening years.

The state's continuous failure to provide quality education to all has given rise to the inequitable distribution of education among various regions, income groups and genders. Two issues stand out for their relevance to child protection. First is the gender gap in Pakistan's education attainments as noted earlier in this analysis. Low or no female education not only violates girls' right to education, it also leads to serious harm to their physical, emotional and economic development, such as can occur in the case of early marriage (Holmes 2003; Lloyd et al. 2007). The gender gap in educational attainment is partly due to cultural constraints (examined in detail in Chapter Four). However, part of the problem also lies on the supply side of education in Pakistan. The number of primary schools for girls is less than half the number for boys, that is, 64,000 out of 158,000 primary schools (Pakistan Bureau of Statistics 2011b). As a representative of a civil society organisation revealed:

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We had consultations in far flung areas of Khurram, Para Chinar, Bajaur and Mohmand and basically discussed with people in general and with parents about child rights, and about not sending their children, particularly girl children, to school. And I was surprised with the response as they said, 'Who told you, that we don't want to send our children to school? Where are schools? We don't have schools.' (Interview 4 June 2010)

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59 Since General Zia's Islamisation policy in the 1970s, there are separate schools for boys and girls in public sector education in Pakistan.
In fact, evidence suggests that it was never the policy of the government of Pakistan to provide equal access to education. According to some, the Pakistani government follows a ‘rough rule of thumb’, building one girls’ primary school for every two boys’ primary schools (Lloyd et al. 2007, p. 103; Warwick & Riemers 1995). As the above extract indicates, along with girls it is rural children in far-flung areas who lack access to education, which brings into light the second issue, that is, the role of madrasah (religious schools) in Pakistan.

As touched upon earlier in this analysis, since 2001, and with the US intervention in Afghanistan, Pakistan has been hit by terrorist attacks. This terrorism, among other things, has directly impacted upon the educational opportunities for many of the poorest of the poor children. On one hand, public schools in the North Western parts of Pakistan bordering Afghanistan have been attacked by terrorists (SPARC 2009). On the other, Pakistani madrasah are suffering from a legitimacy crisis due to their alleged involvement with the Taliban. These madrasah were, historically, the boarding schools of the poor and were established to help them learn the Qur’an. To poor children, especially those from far-flung rural areas where there are hardly any employment opportunities for adults and no schools for children, madrasah offer free lodging, food and a cheap Islamic education, ‘probably the only education they may ever get’ (Noor 2009, p. 28). It was the Americans, Pakistanis and their allied military forces and intelligence agencies who first used madrasah in Afghan refugee camps and along the Afghan-Pakistan border to train the Mujahdeen to fight the Russians in Afghanistan (Noor 2009; Participant E1: interview 8 June 2010; Rashid 2008). However, after the Afghan conflict, madrasah were not only abandoned by the American and Pakistani officials, they were also discredited (due to this involvement in militant activities) among many sections of the masses.

Later, many independent researchers studied the madrasah and demonstrated that their role in training militants was exaggerated (see for example volumes edited by

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60 I must acknowledge that despite the recent incident of shooting of Malala Yousafzai (which is controversial in itself) the popular rhetoric that these schools are attacked by Islamic fundamentalist Taliban in an attempt to stop girls from getting education, is worth some serious consideration for at least two obvious reasons. One, Islam does not forbid female education. Two, terrorists have targeted both boys’ and girls’ schools. However, such a debate is beyond the scope of this research.
Hefner & Zaman 2007; Malik 2008). However, the damage was done. Parents were reluctant to send their children to madrasah, but there was hardly any expansion or improvement in public sector education (SPARC & Save the Children, UK 2009). Madrasah are now one less option for poor children and their parents, and so these children are left to wander the streets often becoming victims of child abduction and trafficking, joining the labour force as cheap labour, even being recruited as suicide bombers as feared by some participants in this research (Participant B1: interview 24 February 2010; Participant C1: interview 21 April 2010; Participant E1: interview 8 June 2010). As research in the ecological tradition suggests, such environments are potentially risky and may be conducive to the abuse and exploitation of children. In short, Pakistan’s education system is continuously failing to provide learning opportunities to its children, which could keep protect them from many forms of abuse and exploitation including child labour.

Along with education, legislation is considered a key factor in protecting children in and/or against labour. The existing labour laws61 in Pakistan, 77 in all, cover the formal sectors of the economy only. These laws are applicable to “work places”, that is, establishments with ten or more workers that are notified by the provincial governments and can be inspected by labour inspectors62. As one participant from the Ministry of Labour and Manpower pointed out, ‘Why labour inspectors would not inspect places with less than ten workers is a very controversial issue in itself in Pakistan’s labour legislation, for example, there are arguments on the cost of record keeping for such small establishments, on the self-employed status of such people, where someone has one or two apprentices with a small stipend and the skill training’ (Interview 29 January 2010). However, with regard to domestic child labour the same participant argued that it could not be brought into the ambit of labour laws because it is carried out in the set-up of a home/household, and a household is not a workplace with ten or more people employed in gainful employment and is not declared a workplace by the provincial government; it is therefore beyond the enforcement of labour laws. The participant argued further:

61For a detailed review of labour laws in Pakistan, see Shafi & Shafi (2007).
62The Pakistan Labour Protection Policy 2005 and Labour Inspection Policy 2006 propose to introduce a ‘labour extension service’ to provide a range of advisory and information services to persons in the informal economy that, traditionally, have fallen outside the coverage of labour protection. However, this proposal is yet to be implemented.
While respecting the sanctity of home, a labour inspector cannot check how a domestic child worker is faring in a household. And if a labour inspector does so even out of necessity, considering our culture of respect for chadar (veil) and chardiwari (four walls of home), along with the national and international provisions on sanctity of the home, it would lead to unnecessary litigation and will further mess up the problem. (Interview 29 January 2010)

Such a line of argument provides room for doubting the state's intention to regulate and/or eliminate child labour. Ironically, the 2000 National Policy and Action Plan for Elimination of Child Labour is silent on the issue of domestic child labour. When asked to comment on this exclusion, a participant from the Ministry of Labour and Manpower responded, 'Basically, policy will cover only those issues which law allows. Policy and action plan is formulated within the existing labour laws and the mandate of the Ministry'. However, after a moment's reflection, he added, 'but the loophole is covered, the flexibility is there in the first policy principle, which demands gradual elimination of all forms of child labour, and this includes child domestic labour' (Interview 29 January 2010).

The doubts relating to state intentions increase with the debate on hazardous and non-hazardous or "acceptable" and "unacceptable" forms of child labour. For example, one participant shared her/his own experience of delivering newspapers early in the morning in the English winter, during her/his school years in England (Participant A6: interview 1 June 2010). At the same time, though, this participant acknowledged that s/he used to do it as an "adventure" and not out of a need to earn money. Similarly, some pointed to the "unchallenged acceptance"63 of children in some occupations, for example, competitive sport, which according to them is worse than working on a farm (Participant A6: interview 1 June 2010; Participant C3: interview 12 May 2010). However, a senior bureaucrat formerly from the Ministry of Labour and Manpower, who is widely acknowledged and respected for both a personal commitment to and official efforts against child labour considered the hazardous and non-hazardous classification as a mere escape clause that ILO Convention 182 has provided for governments. In fact, this person pointed out that Pakistan has not done much since its ratification of Convention 182 in 2001 and concluded in a terribly disappointed tone:

63But it is not that 'unchallenged': see for example Brackenridge 1994; Donnelly 1997 and UNICEF 2010, among others.
Child labour is a dead issue in Pakistan right now [emphasising each word by uttering it separately and clearly]. For the last many years, if I can recall, I have not heard any federal secretary talking about child labour. I have never heard any provincial secretary even mentioning the word child labour. I don’t think even the NGOs talk about child labour any more’. (Interview 23 June 2010)

Above all, state intentions are betrayed by a tendency amongst policymakers to accept the status quo, mostly by shifting responsibility and blaming others. For example, a senior bureaucrat pointed to the undue pressure that some members of the international child rights community exert on domestic child labour policy and practice. According to this participant, ‘We wanted a child labour policy that allows children to work and to go to school as well’ and s/he added bitterly:

But the pressure was that no child should work. We were not allowed to go softly and gently. We have to go all the way out and ban child labour, which means depriving a family from a portion of its already meagre income and destroying first the soccer ball and then the carpet industry of Pakistan. (Interview 1 June 2010)

This participant concluded that such a policy could not result in any positive change in the child labour situation as it did not take into account the local ground realities. Another participant commented, ‘What is the use of getting children out of labour, if you cannot enrol them in a school? Your labour laws prohibit child labour below 14 years but the compulsory primary education legislation covers children aged 10 to 12 years only’. (Participant A2: interview 2 February 2010). Given that almost all vocational training in Pakistan requires a secondary school certificate, children between 12 years (16 years, once the provisions of the 18th Amendment are implemented) and 18 years who could not attend school are virtually excluded from any education or training. Nevertheless, the National Labour Policy 2010, provides for ‘mobile training units and trade-tests through the National Training Board Skills Standard and Certification System for those who are trained through the informal ustad-shagird system’ (Ministry of Labour, Manpower and Overseas Pakistanis2010, p.13). This ustad-shagird system or apprenticeship is mostly prevalent in small-scale

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64 After the 18th constitutional Amendment in 2010, free and compulsory education has become a constitutional right of all children between 5 and 16 years of age. However, the provinces responsible for education up to the secondary level are yet to legislate the procedures and allocate resources to do this.

65 Not mentioned in education and/or labour policy, but, an examination of the requirements for admission to courses of technical training offered at national and provincial levels reveals the minimum requirement as a secondary school certificate (Janjua & Naveed 2009).
establishments in the informal sector beyond the labour inspection system, which, in fact, may increase the vulnerability of working children. In short, while children and parents who experience a socioeconomic context of absolute poverty seem to have hardly any option but to have these children go to work, state education policy and labour legislation do not offer much either.

**Formal social protection**

In addition, state provision of social protection or lack of it in a given society is another important factor impacting on the socioeconomic context of child protection. Garbarino (1977) noted that isolation from social support systems was a significant contributory factor to child maltreatment. These social support systems include both informal community networks and formal state institutions, as noted by Handa, Devereux and Webb (2011). Handa and colleagues examine African social protection policy and practice, which presents many similarities, (including child poverty and traditional support structures) to the Pakistani context. The central tenet of their argument is that existing social protection ‘demands recognition of the specific needs of children (and indeed of their caregivers)’, as a ‘precondition for a holistic policy response’, which is ‘informed and even driven by child-specific interventions and considerations’ (Handa et al. 2011, p. 5-6). With particular reference to child protection, Goonesekere (2006) notes, ‘countries that have supported law reform on child marriage and child labour coupled with social policies that provide access to health and education, have achieved a higher degree of progress than those that have simply put “child protection” legislation in place’ (2006, p.25). Pakistan’s evolving child protection system lacks this broader social protection support. In fact, there is no clearly articulated government social protection framework in Pakistan.

As in many developing countries, Pakistan’s social security system was introduced by the colonial authorities and it includes benefits such as healthcare, maternity leave, disability allowance and pensions for relatively small groups of population, that is, civil servants and workers in the formal economy (Ahmad et al. 1991; Jamal 2010). Some social assistance schemes of cash or in-kind transfer to needy and destitute individuals and the poorest households are administered through institutions of zakat (a religious tax) and Pakistan Bait ul Mal (a public sector social safety net) (Jamal 2010). Many of these social protection schemes have been developed as a series of
adhoc responses to problems arising through particular circumstances such as drought or flood, that were recommended by international donor agencies or that were politically motivated and, thus, poorly targeted (Jamal 2010). Such a limited and flawed system of social protection leaves a great majority of the population to cope on its own with mass poverty and its resulting socioeconomic contingencies.

In their coping strategies, people tend to rely on traditional social structures and arrangements. Mostly this takes the shape of the ‘inter-generational contract’ within the family in which ‘children are perceived as a form of social insurance’ and ‘parents look after their children when they are young and expect to be looked after by them in their old age’ (Crawford 2001, p. 506; Kabeer 2000, p. 465). However, as Kabeer (2000) further points out, in honouring such contracts, power lies with the elderly. Many policymakers quoted Qur’anic verses regarding children’s obligation to their parents, which, according to some, also means that parents have a right to send their children to work rather than to school, especially when parents cannot find work and children’s earnings can keep them— and in many cases the whole family— from starving (Participant A1: interview 29 January 2010; Participant C2: interview 26 May 2010).

In such a situation, children-focused financial support could make a difference. As an example, many from the Ministry of Social Welfare, Ministry of Labour and the Pakistan ILO-IPEC took satisfaction in reporting the success of a working children schooling project, namely, the implementation of the National Centres for Rehabilitation of Child Labour project (Participant A1: interview 29 January 2010; Participant A2: interview 2 February 2010; Participant A8: interview 6 July 2010; Participant C6: interview 3 July 2010; Participant E2: interview 23 July 2010). In this project, parents of labour children were provided financial compensation through the Pakistan Bait ul Mal for sending their children to school rather than to work. However, as a matter of policy, none considered a child grant or some form of social assistance as a means to protect children from the many forms of exploitation and abuse including child labour, child marriage and child trafficking (issues with socioeconomic root causes).
In short, the larger socioeconomic context of a country is important in ensuring the safety and well-being of its children. The focus on socioeconomic context helps conceptualise child protection issues in terms of the interrelationship between a child and her/his environment. It also indicates the need for a broader and more holistic policy response to child protection issues. Such a response is not limited to issue-based and/or symptoms-focused protection intervention; rather it expands to relate child protection policy with other children-related policies such as those pertaining to education, health and labour policy. It also highlights the need for alteration in other policies and practices (such as macroeconomic policy and practice) having direct and indirect impacts on children.

Conclusion

As the above analysis has revealed, a complex cause-and-effect relationship exists between the Pakistani demographic and socioeconomic environments and child protection policy that has the UNCRC as its guiding principle. This complex interdependent relationship is hardly acknowledged by policymakers in Pakistan. While some recognise the impact of the broader socioeconomic and environmental challenges that face the protection and well-being of children, they tend to ignore the fact that the impacts these have on children are different from those on adults. Children who grow up in conditions of socioeconomic disadvantage are not only more at risk of neglect, abuse and exploitation in their childhood, they also tend to be vulnerable in adult life as well, due mainly to the potential loss of capacity and productivity. Further, policymakers lack recognition of how a poor socioeconomic context determines the terms of policy debates relating to children’s issues as discussed in relation to the definition of the child and to the child labour issue. As a result, children-related policies, especially those aimed at child protection, tend to be generalised. They either take the form of formalised institutional interventions or those policies that allow priority of other interests -- including of parents, community and economy-- over children’s.

Such a situation poses serious questions for the policy rhetoric of the UNCRC as the official guiding principle on children’s issues. Under question are not only the status of children as right-bearing human beings but also the relevance of the UNCRC
within the specific local context. On the latter in particular, questions include those regarding the universality of the UNCRC, in that many of the rights provided in the Convention – such as the freedom from work – do not relate to the reality of life for many poor working children in the developing world (Boyden 1997). Questions also include those regarding the universalised and overly prescriptive child protection policies and systems with the UNCRC orientation, which governments tend to adopt in trying to fulfil their UNCRC-related commitments (Bissell et al. 2007). These questions have been widely discussed by child rights scholars and such a debate is, unfortunately, beyond the scope of this research. However, even if unconditionally accepted as legitimate, these questions do not offer much support to the “socioeconomic development ensuring child protection” line of argument as adopted by Pakistani policymakers.

Most of the state actors who participated in this research suggested that Pakistani children require mass welfare and not individual rights. Although they did not use the terms rights and welfare as such, their conceptualisation of child protection issues as regards a lack of maternal and child care, malnutrition, illiteracy and child labour due to poverty, reflects this stance. Similarly, they blame individual or mass incidences of neglect, abuse and exploitation on ‘conditions in which parents are forced to leave their children unguarded and unprotected to fall into the trap of exploiters’ rather than children lacking rights. In a way, this approach carries some practical worth in terms of child protection in Pakistan. In the broader child protection literature, especially that from the ecological tradition and as referred to throughout this chapter, there have always been those who emphasise the interrelationship between children and the social, structural and environmental factors, such as poverty, that give rise to child protection issues. Such an approach to child protection requires some fundamental changes in social and economic institutions and policies.

This is, however, exactly where Pakistani policymakers’ arguments become self-defeating. This is because in terms of child protection policy in Pakistan, child protection as a broader socioeconomic environment issue, would require, among other things, changes in institutions and policies, including the provision of compulsory, universal education for all children below 18 years of age, social security in the face of economic hardship and a formal, functional labour market, both to provide
employment to adults/parents and to eliminate child labour. So far, there has been no
discussion of such fundamental changes either in the existing legislation, policy and
programs or amongst those who formulate and enact children-related policies. Instead,
there is a tendency to adapt the basic concepts and definitions in such a way as to fit
the existing provisions. In addition, it is almost impossible to find out and/or calculate
child-specific government expenditure. It is clear that social sector public expenditure,
for example, on health and education, and which is directly related to children, has
been continuously decreasing, while children's vulnerabilities have increased in the
face of poverty, natural disasters and internal and external security threats.

This situation cast doubt on whether or not Pakistani policymakers can actually
understand and appreciate the ecological context of child protection. Policymakers
seem to act on the basis of ideological positions, for example, that overall
socioeconomic development would ensure child protection, or that children have
rights but obligations too. Policies are driven by false assumptions, for example, that
Pakistani children are well-protected within their strongly knit family and kinship ties.
These assumptions need to be tested against the backdrop of continuous natural,
economic, social and political upheavals in the past decade. Above all, interventions
are based on imported models of child protection, for example, an outright ban on
child labour without offering any alternative options to children and families. These
responses do not fit the situation as they ignore the local context, especially as
experienced by children. An in-depth analysis of the policymakers' ideas, ideologies
and policy orientation relating to children and children's rights including the right to
protection might help provide some insight. This is the topic of the next chapter.
Chapter 4

The role of policymakers' ideologies in Pakistan's child protection policy

Analysis in Chapter One revealed a lack of proper policy formulation and implementation structures in Pakistan's child protection policy sphere. With the help of two case studies, it was demonstrated that children's issues, in the absence of institutions mandated with responsibility for child protection, are mostly played out at the personal level. Individual ideas, understandings and attitudes stemming from overarching belief systems, that is, the ideology of the policymakers, play a distinct role in how policy issues are conceptualised, defined and addressed. Like most social science concepts, the term "ideology" has been controversial from the beginning: contested, defined and redefined by the likes of Marx, Gramsci and Mannheim among others (McLellan 1995). However, as Hamilton (1987) noted, there are certain common elements in most definitions of ideology, two of which form the basis for the following analysis.

The first common element in the definition of ideologies is that pertaining to ideas, beliefs, understandings and attitudes prevalent among a group or collective. According to Hamilton, 'the ideas and beliefs need not be explicitly formulated or stated in the form of an "ism" but may be discernible only in the views, attitudes and opinions' of actors (1987, p.21). The second element, related to the first, is a system or pattern (of an interconnected set of ideas) which is more or less coherent. This need not imply, Hamilton notes, that there must be complete consistency or a relationship between every component of the system, but, rather 'these ideas may be loosely structured, ambiguous and even contradictory as long as they are in some way, and to some minimal degree, interrelated' (1987, p.22). It is this usage of ideology as ideas and beliefs discernible in the views and attitudes of actors, which could be loosely structured and even contradictory, which policymakers bring to Pakistan's child protection policy.
These ideas and beliefs stem from two sources in the Pakistani context: religion and culture. Considering the fact that 96 per cent of the population of Pakistan is Muslim and Islam is the state religion, concern with the Islamic legitimacy of any ideology is to be expected. State actors in Pakistan's child protection policy—politicians in particular and bureaucrats in general—bring a religious perspective to the child protection policymaking process, which is officially guided by the United Nations Convention on the Rights of the Child (UNCRC). This gives rise to fierce debates regarding the universality of the UNCRC and/or the supremacy of religion in state policy. Such debates lend further complexity to ideas, concepts and definitions due to the fact that Pakistan is not an 'Islamic society' in the strict sense of the term for various ethnic, linguistic and cultural differentiations do exist (Mumtaz & Mitha 1996; Syed 1982). In fact, Pakistani culture has a set of customs, values and cultural practices whose origin is hard to trace. ‘State-driven Pakistan ideology’, which is presented as a system of beliefs based on and derived from Islamic teachings, guides policy and legislation, especially personal and family policy(Mumtaz & Mitha 1996; Syed 1982, p. 63). However, it is neither legitimated by religious scholars nor found relevant by the masses (Yilmaz 2005). Therefore, analysis in this chapter treats ideologies based on religion and culture separately.

The role of ideas and ideologies in policymaking and policy change has been a topic of the policy learning literature since the 1970s. In challenging the orthodoxy of the time that public policies were driven by social pressure, Jack Walker (1974, p. 3) pointed to the ability of civil servants and other policy specialists to shape the intellectual premises employed by policymakers. More recently, Peter Hall's (1993) analysis of the changes in British macroeconomic policy during the 1970-89 period (which is associated with a movement from a Keynesian ideology to one based on monetarist economic theory) provides an excellent example of the role of ideologies in policymaking. Ideologies play a role in state policies, but some questions with regard to the role of ideologies in policy-making remain. How do policymakers' systems of belief relate to those of the broader public? Do policymakers shape policies according to the ideological claims they make about the issue under consideration or is ideology an instrument of politics used to win over the ordinary public and/or serve as a justification for decisions reached on other grounds?
In this chapter, the role of ideologies in Pakistan's child protection policy is examined to find answers to these questions. Because child protection is a recent addition to the policy agenda, policymakers are in the process of debates about various aspects of this newly recognised area. Such debates are dominated by individual actors’ ideology, that is, their ideas, beliefs and attitudes towards children, the concept of childhood, the role of family and the changing social construction of children in need of protection. The main reason for the dominant role of individual ideologies in the current child protection policy process in Pakistan is the very nature and place of the issue in state policy. Firstly, child protection is, by nature, a contested area of social policy (Scourfield 2003). It is so because of the socially constructed nature of the concepts involved, for example, abuse, neglect and protection (Cooper 1993; Zuravin 1991), the competing interests of state versus family (Cooper 1993; Scourfield 2003) and of adults and/or family versus children (Chisholm 1979; Mason 1993; Smith 2005). These and similar issues are being debated along ideological lines in Pakistan's evolving child protection policy.

Secondly, social welfare, of which child protection is considered a part, is an area of state policy and practice with a strong value orientation. A significant body of scholarly work in this field draws links between particular traditions in social and political thought on the role of state, society and family as well as on specific value positions in the field of child welfare (see for example Esping-Andersen 1990; George & Wilding 1985, 1994; Harding 1997). These links generate distinctive approaches to child welfare policy and practice (Smith 2005). In Pakistan's child protection policy, the struggle to link particular traditions in social and political thought to specific value positions on child protection is quite explicit both in the conceptual debates relating to children's issues and in practical attempts to alternatively place child protection in the Health, Social Welfare and Home Departments (as shown in Chapter One). Fierce ideological debates are going on with regard to the very concept of children's human rights, including the right to protection, and the relevance of child rights to Islam, the state religion and the local culture. Mostly, these debates are held outside the national legislature, as noted in Chapter One, but usually involve, and are often led by, the state actors. Further, Chapter One revealed an ideological divide between state (politicians, bureaucrats) and non-state (civil society and the international child rights
community) actors. This chapter focuses on the state actors. The ideologies of non-state actors will be covered in the next chapter.

The structure of the current chapter is such that it is divided into three sections followed by a conclusion. Section One comprises an analysis of the ideas involving international human rights standards as guidelines for official policy, especially those found in the UNCRC. I will show that in the actual child protection policy process, policymakers struggle to comply with international child rights standards, as these standards appear to be in conflict with local societal values based on Islam and local culture. Section Two deals with the concept of children's right to protection in Islam and the role of Islam in state policy. Section Three comprises a review of Pakistani policymakers' understandings of child protection as experienced in local culture and traditional practices.

On the basis of this, it is concluded that child protection policy in Pakistan is still very much in its early stages. At present, state actors acknowledge that child protection issues are manifold and serious. However, there are also many and wide ideological differences among policymakers regarding conceptualising, defining and responding to these issues in the policy process. The most important difference is between the ideologies of international human rights, Islam and local culture. Policymakers recognise the UNCRC as providing the official policy guideline; however, in the actual formulation of the policy, they are struggling between the individualistic concept of rights as conceived in the international standards, such as the UNCRC, on the one hand and the Islamic and local cultural conception of collective rights and communal obligations on the other.

The evidence suggests that while some of these struggles might be genuine, others are a reflection of the desire of the political and administrative oligarchy to maintain the status quo. In doing so, Pakistan's policymakers have a track record of the political use of the "Islamic" and "cultural relevance" arguments, especially in the areas of family law and women's issues, both of which are closely related to child protection issues. The politicisation of children's issues is further reflected in the lack of effort to conclude the ongoing debates and to reach some pragmatic solutions. The concluding
section attempts to theorise this divided policy scenario in terms of a possible way out.

The ideology of the international human rights of children

The concept of child rights is a recent addition to Pakistan's official policy discourse. Until the 1980s, the state goals of child welfare and development used to be part of education, health and social welfare policies, as noted in Chapters One and Two. Children's issues became a policy concern in their own right in 1990 when Pakistan accessed the UNCRC. At the time of ratification, Pakistan entered a general religious-based reservation (that the provisions of the UNCRC shall be interpreted according to the principles of Islamic laws and values) but withdrew it in 1995 (UN Doc CRC/C/2/Rev.5 1996). Pakistan submitted its initial report to the United Nations Child Rights Committee in 1992, the second periodic report in 2002 and the third and fourth consolidated report in 2009 (United Nations Child Rights Committee 2009). Also, as detailed in Chapter Two the National Commission for Child Welfare and Development (NCCWD) within the Ministry of Social Welfare is the body responsible for children's policy with the UNCRC providing the official guidelines.

Among policymakers, parliamentarians acknowledge the international human rights agenda (including that set out by the UNCRC) because 'It offers more to our children, for example, better education' (Participant C3: interview 12 May 2010). Parliamentarians also appreciate the efforts of the international community, especially those of UN agencies such as UNICEF and the ILO, for broadening their vision of children's issues. For example, a senior Pakistani parliamentarian, who runs an NGO dealing with the child labour issue, admitted, 'We have been taking child domestics as part of a done thing. They (the ILO) have made us at least uneasy enough that no one in my organisation has a servant below the age of 14 years' (Participant C5: interview 2 July 2010). Similarly, when asked what do they mean by child protection, both parliamentarians and bureaucrats overwhelmingly responded, 'the protection of all rights of children' (Participant A2: interview 2 February 2010, Participant A3: interview 4 February 2010; Participant B3: interview 10 June 2010; Participant B4: interview 26 July 2010; Participant C6: interview 3 July 2010).
Based on this broader concept of protection, policymakers considered a wide range of issues—from infant mortality, poverty, and lack of education, health and leisure to children’s physical, emotional and economic exploitation and abuse—as child protection issues (Participant A4: interview 30 March 2010; Participant A7: interview 23 June 2010; Participant B2: interview 3 April 2010; Participant C1: interview 21 April 2010; Participant C3: interview 12 May 2010). Many not only viewed Pakistan’s ratification of the UNCRC as its acknowledgement of the importance of the international child rights agenda, but also realised the obligations that come with this ratification: ‘When we sign and ratify an international treaty, we have to mould our policy, otherwise, going there, at international forums, wiring, dining and signing is of no use’ (Participant A3: interview 4 February 2010). This acknowledgement and appreciation comes as no surprise considering the secular and liberal education of the Pakistani policy elite (Khan 2007). However, as Merry has pointed out, there is a gap between ‘the global sites where these ideas are formulated and the specific situations in which they apply’ (2006a, p. 57). When it comes to actual policy formulation and intervention, the broader conceptualisation of child protection becomes largely rhetorical.

According to some policymakers, this broader concept of child protection issues—issues including those such as poverty—demands a macro policy response rather than the establishment and implementation of a formal child protection system as required by the UNCRC (Participant C3: interview 12 May 2010). In fact, some declared the UNCRC (or any such instrument) as mere guiding principles that do not necessarily need to be implemented fully in a country (Participant A3: interview 4 February 2010) and which may, in fact, be ‘lacking in the manner appropriate to the cultural requirements and sensitivities of the young Pakistanis’ (Participant C1: interview 21 April 2010). Although considerable scholarly work has been done on human rights practice, which reveals the contradictions and ambiguities of human rights approaches when put into practice, it also shows that this is not a failure of international human rights as a coherent legal or ethical framework but is rather an essential element in the development of human rights ideas in context (see for example, the collection edited by Goodale & Merry 2007). Nevertheless, Pakistani policymakers are not reluctant to point out these problems, especially with reference to the particular orientation and
select use of the international human rights standards; what is more, they are not alone in holding such views.

These views echo those of scholars such as An-Nairn who regard the universality of the UNCRC—like many other international human rights standards—as the 'universalisation of a certain culturally specific, "Western", model' (An-Nairn 1994, p. 121, 1992). With special reference to the protection of human rights in the Muslim world, An-Nairn has long been arguing that 'human rights violations reflect the lack or weakness of cultural legitimacy of international human standards in a society' and as long as 'these standards are perceived to be alien or at variance with the values and institutions of a people, they are unlikely to elicit commitment or compliance' (1990, p. 15). Similarly, scholars working specifically on the human rights of children (for example, Boyden 1997; Ennew 2003, 1998; Feeny & Boyden 2004) have been critical of the "Western" orientation of the UNCRC. Melton (2009) made this point with special reference to children’s right to protection by noting that the "Anglophone" approach66 to child protection is 'embedded in the letter but not the spirit of international human rights law', which is 'unfortunately being emulated' by many other countries that 'look to the United States and the United Kingdom for model policies' (2009, p. xi). However, evidence based on evaluations of child protection policy and practice in many of these countries suggests a failure of such emulation (Lachman et al. 2002; Schmid 2007). The lesson from this failure is to ensure children’s right to protection, and such protection needs to be contextualised locally.

In Pakistan, the local context is determined both by religion and by local cultural beliefs and practices. Both parliamentarians and bureaucrats try to bring local perspectives to any discussion of children’s rights, including the right to protection. According to one parliamentarian:

Your concern with policy is fine, I agree, government should play its role, but, being Muslims, aren’t we told to respect the elders and love the children?...the universal primary education is a big thing, not because the West is telling us, but it comes from iqra (read/learn), the first Qur’anic revelation...I guess, what I am doing is moving to a rights agenda, but, rights not

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66 Gary Melton describes this approach as the ‘identification, reporting, referral and investigation of suspected child abuse and neglect’ based on systems developed in the English-speaking industrialised countries of Oceania (meaning the antipodes), North America and Europe (2009 xi).
from the Western perspective... You see, people get wary of the Western idea of rights. I look towards the khutba (the last address of the Prophet), the first pronouncement of human rights, which is our own. It looks at the race issue, the status of women and so forth, what better can the Universal Declaration of Human Rights give than this? (Interview 21 April 2010)

This is but one example of many similar views expressed in interviews conducted for this research. I selected this particular quote because it comes from a former minister, a seasoned parliamentarian and experienced legislator who was educated in one of the elite (English speaking and usually associated with Britain or American certification systems) schools in the country and who is a highly qualified social scientist known for a personal commitment to women's and children's causes. This person is not involved in “constituency politics” (that one might assume such a statement was intended to satisfy the conservative voters); rather the person is a technocrat. This parliamentarian has led the Pakistani delegation to the United Nations during the drafting of the UNCRC, has represented Pakistan in the International Women’s Conference in Beijing and at other international forums, and is on the board of directors of the country's largest child rights organisation, which is known for its strict adherence to the UNCRC.

Similarly, despite their Western education in the civil services academy and in the secular universities of the developed world (as noted in Chapter One), bureaucrats frequently quoted verses from the Qur'an as well as practices of the Prophet as they related to children's issues, such as the care of orphans. This strong religious bearing raises an obvious question, and that is, is there a real disconnect between Islam and the international concept of human rights of children? The next section analyses the concept of children’s rights in Islam: shari'a (the Muslim legal tradition as a basis of law in Muslim states), Islam as the state religion of Pakistan and the politics of Islamisation in the country with special reference to children’s right to protection.

The ideology of Islam, human rights and children’s right to protection

We have our own child rights package, the Holy Qur'an, which declares children Allah's amanat (trust from God), which should be treated with utmost care. They should be loved and provided for when they are small and brought up as pious Muslims. (Participant C2: interview 26 April 2010)

As the above quote reflects, for Muslims, the Qur'an is the word of God. However, the Muslim legal tradition, commonly known as shari'a (which deals with rights and
responsibilities of the followers of Islam) is derived from various sources along with the Qur’an. Therefore, understanding children’s rights from an Islamic perspective necessitates an understanding of the origin and development of Islamic shari’a.

Islam, shari’a and human rights

Islam encompasses a diverse body of essential principles, moral values and practices of worship. In this body, spiritual, ethical, theological and philosophical elements run parallel to human elements, including history, politics, law, culture and customs and the traditions of different communities of its followers (Hashmi 2008a). Therefore, an Islamic perspective on any issue, including the human rights of children, is specific to the understanding and practice of Islam by each society in its particular context of time and place rather than to the religion as an abstract notion that is independent of the human agency of its believers (An-Nairn 2008). This understanding in its formal shape is referred to as Islamic shari’a, which translates as ‘the path’ to be followed (Bielefeldt 1995, p. 607).

A sizeable body of scholarly work exists on some generally shared arguments on the relationship between Islamic shari’a and human rights67. In this scholarship, at least, three different tendencies can be discerned with regard to the fundamental attitude towards the relationship between Islam and human rights. Eva Brems classifies these three tendencies into: apologist (that human rights and Islam are perfectly compatible); interpretative (that incompatibilities exist between Islam and human rights, yet these can be cured68); and, secularist (that Islam and human rights are irreconcilable) (2001, pp. 184-201). As noted by Hashmi (2008b), children’s rights, so far, have not had a prominent place in this debate. It is interesting to note in the following analysis how the arguments from state actors in Pakistan’s child protection policy fit into Brems’ three broader tendencies.

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67 Though it must be acknowledged that there are serious debates within the human rights discourse on the secular versus religious nature of human rights, for example, An-Naim 1994, 2008; Donnelly 1989; Freeman 2004; Howard 1995; Ignatieff 2001; Shestack 1998, among others. However, such a debate is beyond the scope of this research.

68 Brems further distinguishes between “moderate Muslim proposal”, “radical Muslim proposal” and “Non-Muslim Western voices” within the interpretative stream.
Child rights in Islam

The concept of children's rights has always been present in Islamic law. As proudly pointed out by a participant in this research, 'According to the Qur'an, a child is a trust from Allah bestowed upon parents, and not parents’ property which these Westerners believed to this day. You know it is there in the US law!' (Participant C2: interview 26 April 2010). The Chairman of the Pakistan Council of Islamic Ideology (CII) explained:

It is a confusion of modern and old concepts. In all medieval societies, the child was considered to be a part of the parents’ body and/or life. Therefore, if a father while physically punishing his child, inflicted injury, even death, there was no liability on the father because he did it to discipline part of his body-- the child. In a way, it is still the same in our society. In modern interpretation, this would be called possession because we, modern people emphasise one’s individuality. (Interview 10 June 2010)

Therefore, in that sense, the Islamic concept of the child as a trust from Allah (rather than as the property of her parents) and the modern concept of the child as an individual bearer of rights carry similarities. The Chairman further noted that there are no specific verses in the Qur'an on children’s rights or the right to protection because ‘this (term) is new, a modern day usage. However, it is ensured in various instances, for example, Qur’anic instructions relating to feeding and maintenance stand for a child’s protection’ (Interview 10 June 2010).

In fact, the Islamic discourse on the rights of the child starts with the right to life and the prohibition of infanticide (the Qur’an 6:151; 17:31; 60:12) and goes on with the right to parentage, name, breast-feeding, proper upbringing and care, education, maintenance, custody, guardianship and inheritance (Participant B3: interview 10 June 2010; Hashmi 2008b; Olowu 2008; Rajabi-Ardeshiri 2009). Not all these rights are ensured in the Islamic Republic of Pakistan. Therefore, among the state actors in Pakistan’s child protection policy, the most prominent were, in Brems’ (2001) classification, the apologists. For example, on the issue of the protection against child labour, one bureaucrat from the Ministry of Labour contested in an emotional tone, ‘If we were a true Islamic society, there would not have been so much exploitation, you know, Omer (the companion of the Prophet and the second pious caliph of Islam) was the one who introduced child allowance for the first time in known human history’ and went on to argue, ‘This (child labour) has nothing to do with Islam. But, in the
West, there is a perception that we are an Islamic society, and whatever faults we have, are because of Islam. Neither they studied Islam, nor we tried to demonstrate the true injunctions of Islam’ (Interview 29 January 2010).

Others acknowledged that certain conflicts exist between Islamic and international provisions of children’s rights, especially the right to protection. For example, Islam prohibits the conception of children outside wedlock and does not acknowledge the rights of illegitimate children, nor does it recognise the concept of adoption (Baderin 2008b; Hashmi 2008b; Syed 2008). Yet another area of difference with special reference to the UNCRC is defining the child in terms of age. This has particular impact on issues such as child marriage, the penalising of premarital sex and the capital punishment of juveniles (Hashmi 2008b). All these issues have serious implications for child protection policy and it is in these conflicting areas that policymakers are clearly divided into Brems’ (2001) classification of interpretative and irreconcilable tendencies.

The bureaucrats and parliamentarians with interpretative tendencies acknowledge the incompatibilities between Islam and child rights, especially as they relate to issues identified earlier in this analysis and they are willing to explore ways to reconcile the two (Participant A3: interview 4 February 2010; Participant A4: interview 30 March 2010; Participant B3: interview 10 June 2010; Participant C1: interview 21 April 2010: Participant C5: interview 2 July 2010). Mostly, differences are acknowledged on an issue-by-issue basis. For example, the Chairman of the Council of Islamic Ideology explained that, in Islamic jurisprudence, the definition of the child comes up when dealing with the issues of abortion, child custody, maintenance, consent, and social and religious obligations and a child is defined differently for different purposes:

Islamic jurists define a child in two different ways. One concept is adulthood and the other is the ability to discern --sin e tameez. According to Islamic fiqh, adulthood is biological and starts with the onset of puberty and it is same for both male and female child. Sin e tameez is intellectual and jurists try to give it a ‘date’, for example, 12, 13 years. The Malikis jurists further differentiate between male and female in terms of rashd (maturity). A female gains

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69 One of the five schools of Islamic jurisprudence, of which Sunni Muslims follow four; Hanafi, Maliki, Shafi'i and Hanbali and Shi'a Muslims follow one – the Ja'fari school (An-Nairn 1990, p. 20).
maturity after one year of married life, when she becomes able to look after her family and property. So, there are differences. (Interview 10 June 2010)

As a next step, policymakers attempt to find some middle ground, especially in terms of the scope of different and/or new interpretations of Islamic provisions. For example, policymakers highlighted with reference to the issue of child marriage that Islam does not fix the marriageable age at 9, 12 or 14 years. Rather, marriage can occur when, among other things, a person can differentiate right from wrong and can afford to fulfil his/her responsibilities of naan wa nafqa (bread and clothing, maintenance allowance) (Participant A1: interview 29 January 2010; Participant B3: interview 10 June 2010). Such a reinterpretation is a necessary prerequisite for the full implementation of international child rights standards.

Not all policymakers in Pakistan are willing to look for reinterpretations of Islamic provisions. In fact, the tendency to consider Islam and child rights as irreconcilable was notable especially among parliamentarians, though not absent among bureaucrats. Both parliamentarians and bureaucrats in this category oppose child rights on the grounds that human rights is a Western impost as opposed to an Eastern and Islamic value. Without much consideration for the particularities of potential or actual conflict between Islam and child rights, sweeping statements such as ‘nothing against the spirit and teachings of Islam could be legislated and implemented in the Islamic Republic of Pakistan’ were all too common among policymakers with irreconcilable tendencies (Participant A6: interview 1 June 2010; Participant C1: interview 21 April 2010; Participant C2: interview 26 April 2010). One senior bureaucrat, who was educated in England from her/his early school years until attending university, contested the idea of a universal definition of the child:

There cannot be (a universal definition). In fact, there should not be. To explain this, let me give you the example of ‘family’. In our religion, family is defined as the married couple, their children and parents of the mother/father. In the West, the concept of family has changed altogether, especially in recent years. There, father and mother are not necessarily married to each other, two men (gays) or two women (lesbians) living together can be a family. God knows what else counts as family. So, if we start following their definitions based on their values, we will end up nowhere. (Interview 1 June 2010)

Similarly, a parliamentarian (who also runs an NGO) fiercely criticised an NGO initiative of providing sex education to some 80 male and female adolescents ‘from
posh English medium schools in big cities, in a five star hotel, behind closed doors’ where a foreigner facilitator imparted information ‘not even adapted to Pakistani cultural conditions’ which ‘might have been suitable for the free society of the donor country but not for Pakistani children’ and concluded:

There is no single ‘cookie cutter’ message on any issue. But the West is pushing it like that... So, one has to be...mindful...(thoughtfully)... I don’t know what is the end of this and where do we go, because then they say we are obscurants, Taliban in the closet...(Interview 21 April 2010)

It was stated by many participants with satisfaction that civil society (which is considered “Western” in orientation) and parliamentarians alike opposed adoption and/or foster placement of orphan children in the aftermath of the 2005 earthquake in Pakistan (Participant C1: interview 21 April 2010; Participant C5: interview 2 July 2010). They were able to win their point on the basis that Islam does not acknowledge adoption, despite the existing need and the pressure from international organisations to set up adoption and fostering mechanisms. Pakistani policymakers are not alone in their varying, sometimes contradictory, responses related to Islam and child rights. Marked disparities exist in the attitude of present-day Muslim states towards areas of conflict between Islam and child rights\(^7\). Various explanations have been offered regarding these disparities. Bielefeldt (1995, p. 615) explains them in terms of the insecurity that many Muslims feel about ‘the relationship between traditional religious norms on the one hand and modern legal standards on the other’, thus, they ‘assert the validity of the traditional Islamic shari’a in principle and, at the same time, seem prepared to accommodate pragmatically some political and legal reforms\(^5\). While this explanation holds true with regard to the attitude of Muslim states towards international law, another factor dominates the domestic front, that is, the role of religion in state policy and legislation related to marriage and family, women and children, which is the topic of the next section.

\(^7\)For a detailed analysis of the attitude of Muslim states towards areas of conflict between Islam and international human rights, especially children’s rights, see Baderin (2008a, b), Brems (2001), Hashmi (2008a, b) and Syed (2008).
Islam as state religion, ideology and leading policy principle in Pakistan

The debate about the relationship between the religion and state in Pakistan, which started immediately after Independence, has been well researched and documented (for example Binder 1963; Cohen 1986; Esposito 1980, 1986; Kennedy 1988, 1992, 1996; Maududi 1960; Nasr 1994, 2000, 2001; Syed 1982; Weiner & Banuazizi 1994; Weiss 1986). In this debate, three distinct, yet related, points are worth considering. The first point is the unquestioned centrality of Islam to the people and politics of Pakistan (Esposito & Mogahed 2008). The second is the political use of Islam (An-Naim 1990; Cohen 1986; Nasr 1994, 2001; Syed 1982; Weiner & Banuazizi 1994), that is, Islam's use by unpopular governments as a legitimizing tool for their actions and to attract mass appeal. The third, Islam as an ordering principle of state structure, is fostered by those who are themselves a product of Western secular institutions (Cohen 1986; Kozlowski 1998; Yilmaz 2005) and not by the inspirations, understanding and beliefs of common Muslim citizens (Esposito & Mogahed 2008; Yilmaz 2005). These three points together reveal the nature of efforts to Islamise the country. The place of Islam in Pakistan’s state policy is less ideological as propagated by some and more political (Kennedy 1992; Lieven 2011; Syed 1982) in that bureaucratic and political elites use Islam to advance their own vested interests, without taking into account the religious aspirations of ordinary Muslim citizens.

Muslim family law, which is closely related to children's issues, provides an example of the political use of Islam in state policy. Jurists, religious scholars and social scientists have extensively examined religion, policy and legislation in Pakistan’s family law (An-Naim 1990; Esposito 1980, 1986; Mahmood 1996; Pearl 1969, 1976, 1990; Tanzilur-Rahman 1997; Weiss 1994; Yilmaz 2005). These scholars tend to conclude that Muslim family law reforms have not been successful in the Islamic Republic of Pakistan. It is often said that the reason for this failure was that the reform was not able to gain legitimacy in the eyes of the traditionalists or at the grassroots level (Yilmaz 2005). A further reason given is that governments adopted the selective use of policy for restricting the rights of vulnerable groups such as women and minorities who have little voice in society, rather than challenging the status quo or affecting vested interests (An-Naim 1990, p. 26). There is no empirical evidence so far as regards the applicability of these arguments in children’s rights in Pakistan.
However, if the status of women and children in the policy debate and the direction and pace of policy and legislation are any indicators, these arguments seem fully applicable in Pakistan’s child protection policy.

Ample evidence exists to suggest that Pakistani policymakers have never been as keen on the Islamisation of any other policy area as they have been in the area of family law (for example An-Naim 1990; Esposito 1980; Patel 1979, 1986, 1991; Tanzilur-Rahman 1997; Weiss 1986). Participants in this research asked, for example, ‘Does not the Constitution declare Pakistan an Islamic republic and that all legislation should be done in accordance with the teachings of Islam?’; ‘Does not the Constitution of the Islamic Republic provide for the special protection of women, children, marriage and family?’ and ‘Can anyone dare even proposing legislation on gay marriage in Pakistan?’ (Participant C1: interview 21 April 2010; Participant C2: interview 26 April 2010). Religious sentiment has not, however, attached similar importance to other areas such as land or taxation – both are as badly in need of reform. As one participant put it lightly, ‘Because, all said and done, our priority is still our religion. For example, we pay our zakat (a religious obligation), without being asked by an authority, but do not pay income tax and bypass customs laws (a secular legislation)’ (Participant A6: interview 1 June 2010). One major cause of such contradiction remains the select and political use of Islam by the political elite in Pakistan, which is analysed in the following section.

*Politicisation of Islam and children’s right to protection in Pakistan’s elitist politics*

While parliamentarians are wary of the use of the Western concept of rights, or see Islam and human rights as irreconcilable, religious scholars (for example, those on the Council of Islamic Ideology) warn about expanding the conflict between Islam and the human rights of children by the “political use of Islam” and “select application of human rights standards”. To clarify their point, they quote real-world examples rather than theoretical perspectives.

The most cited example that relates specifically to child rights was the behind-the-scene politics of Pakistan’s hasty ratification of the UNCRC with a general *shari‘a*-based reservation compared with the general and specific *shari‘a*-based reservations.
of other Muslim countries, as well as its hasty withdrawal of the reservation some years later. Sait (2000) notes that often, the issue of ensuring children’s rights is not a question of religion, but of political dynamics and will. This holds true in Pakistan. Since ratification of the UNCRC in 1990, the Council of Islamic Ideology—an advisory body that provides advice to the Government of Pakistan on Islamic concepts and principles of policy—deliberated for almost five years and then declared that there is nothing un-Islamic in it. Pakistan withdrew its reservation in 1995, making its ratification full and unconditional. Hashmi (2008b) observed that Pakistan is the only Muslim state party to withdraw its general shari’a-based reservation. Based on the analysis of Pakistan’s reports to the United Nations Child Rights Committee and the Committee’s concluding observations, Hashmi further noted that Pakistan’s reservation and withdrawal did not improve its performance with regard to the implementation of the Convention (2008b). This leads to questions regarding the basis of Pakistan’s decision to first enter and then withdraw the reservation.

On entering the reservation, the insider view is that the then Prime Minister of Pakistan was to co-chair the United Nations World Summit for Children 1990 and she could not do so without Pakistan having signed and ratified the Convention. Therefore, Pakistan did ratify in haste, unlike some other Muslim countries, who deliberated and entered specific reservations related to various articles discussed earlier in this chapter (Participant C2: interview 26 April 2010; Participant D3: interview 24 June 2010). Similarly, on the decision to withdraw the reservation, the real reason was the conditionality of international children-related funding, which demanded the full ratification of the UNCRC, coupled with budgetary cuts on social sector spending in the wake of structural adjustments, rather than deliberations of the Council of Islamic Ideology, which is often quoted as the reason for this withdrawal (Participant A6: 1 June 2010; Participant D3: interview 24 June 2010).

The above example sheds light on the political dynamics and the will of the policymakers with regard to the protection of child rights in Pakistan. Politicians ratify international human rights treaties in order to be in line with the international community so that ‘we are not singled out in the fraternity of nations’ (Participant C2: interview 26 April 2010). They nevertheless use Islamic rhetoric on the domestic front because, as Syed (1982, p. 7) observes ‘few at the public platform wish to
appear less dedicated to Islam than their political rivals and few, therefore, would risk assigning it anything less than a panacean role’. A more direct and frank admission was based on the existing situation in that Pakistani society is divided between ‘religious groups whose numbers are small but they have clout, the ruling elite with their own vested interests, civil society organisations that are urban in nature and highly educated, and the general population which is conservative’ and that ‘politicians have to get votes’ from the conservative population influenced mostly by religious groups (Participant B4: interview 26 July 2010). Votes are important for politicians.

Similarly, the bureaucrats have their own interests. Most important is the power struggle between the existing ruling elite and the ulema (religious scholars and leaders). As noted by Syed, ‘an Islamic state of the ulema’s conception would open to them many hundreds of positions in the legislatures, the judiciary, educational institutions and even the executive branch of the government’ (1982, p. 68), whereas the present ruling elite have been evasive, ‘probably because of their own concern that their own title to rule would be dubious in an Islamic state’ (1982, p. 63). Charles Kennedy (1992), an expert on Pakistani politics, seems to agree with the bureaucracy’s perceived threat of the ulema’s powers as interpreters of shari’a. Kennedy (1992) notes further that to manage this threat, Pakistani policymakers intentionally designed weak, vague or ill-defined mechanisms for the implementation of Islamic policy principles.

The argument that the bureaucracy sees ulema as a “career threat” seems superficial in the face of Pakistani policymakers’ use of Islamic idiom despite their Western and secular educational background (a fact that most concerns scholars and analysts of Pakistan and Pakistani politics) (Cohen 1986; Kozlowski 1998; Yilmaz 2005). Many participants in this research studied at elite English schools in Pakistan and elite Western universities including Oxford, Cambridge, Berkeley and Harvard. However, they continue to insist on the centrality of Islam in Pakistani society and the Islamic Republic status of Pakistan (Participant A6: interview 1 June 2010; Participant B2: interview 3 April 2010). In fact, in interviews they demonstrate an extensive understanding and appreciation of Islamic provisions as they relate to various aspects of life including children’s rights.
A more convincing argument comes in the form of the bureaucracy’s ability to gauge the popular aspirations of the common people of Pakistan. Mostly, it is the military bureaucracy or military-led government and not the elected politician who make policies in Pakistan (Chowdhury 1988; Cohen 2011). In an extensive study on the Muslim worldview, Esposito and Mogahed (2008) found that, for the majority of Muslims, Islam is an important part of their daily lives and a primary marker of their identity. Further, the majority of Muslims wanted a model of government that is democratic and yet embraces religious values (Esposito & Mogahed 2008). Therefore, it seems reasonable that policymakers in Pakistan, willingly or unwillingly, at least in the public sphere, consider Islam as their main point of reference in the development of child rights policy.

The Western and/or secular orientation of policymakers and that of state policy and legislation in most areas led many to wonder whether the policymakers’ concern with Islamic provisions of child rights is genuine. Is it a confirmation of popular desire and constitutional commitment that state policy should be guided by Islamic principles? Or is it mere rhetoric? (Hashmi 2008b). The little research available in the area of child rights in Pakistan tends not to support a genuine concern. For example, in a study of child labour in the football manufacturing industry of Pakistan, Khan (2007) noted that Pakistani politicians, industrialists and civil and military bureaucrats have a common interest in maintaining the status quo because they have shared social, economic and political interests that make them collude against the “masses”. Therefore, the conclusion tends to be the use of Islam as a tool for legitimatising unpopular decisions and attracting ordinary citizens.

At the same time, however, some participants in this research, including moderate state actors and representatives of civil society, warned against “blaming it all on Islam”. According to them, not all societal values and cultural practices in Pakistan, especially those related to women and children are Islamic in origin, but rather have roots in the Indian sub-continent and/or in South Asian culture (Participant A2: interview 2 February 2010; Participant B4: interview 26 July 2010; Participant C5:

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21 The study is based on a six-year Gallup survey comprising more than 50,000 interviews with Muslims residing in 35 Muslim countries
interview 2 July 2010; Participant D4: interview 7 July 2010; Participant E1: interview 8 June 2010). This raises fundamental questions about the nature of Pakistani society and culture and the role of cultural beliefs and practices in child protection policy in Pakistan.

These questions are important in any debate regarding child protection policy because religious and cultural arguments are used almost interchangeably in state policy. Further, these arguments play a decisive role in policy areas that are related to family, women and children. Therefore, the subject matter of the respective arguments should be made clear. It should also be clarified what place each has in the lives of the people whom the policy effects. The centrality of Islam in the lives of Pakistani people and the politicised nature of the role of religion in state child protection policy has already been dealt with in Section Two. The following section deals with the concept of culture, cultural constructs in Pakistani society and the role of culture in child protection policy.

The ideology of Pakistani culture and children's right to protection

Culture

Culture has been a central concept in the social sciences. It has also been a focus of the debate concerning the universality of human rights (American Anthropological Association 1947; An-Naim 1992; Donnelly 1989; Renteln 1985, 1990; Wilson 1997). Brems (2001) has examined the particularist (as opposed to the universal) human rights discourses in East and Southeast Asia, in sub-Saharan Africa and in the Islamic world. In Brems' analysis, the main claims of the Asian and the African human rights critiques relate to the balance of power in international politics, economics, the relationship between the individual, the community and the state, and the interpretation and implementation of human rights (2001, pp. 83, 179). Some of these claims, such as the one relating to the relationship between the individual, the community and the state, are especially relevant in child rights debates.
These scholarly debates on a global concept of childhood and child rights are as old as the formulation (between 1979-89) and adoption of the United Nations Convention on the Rights of the Child (in 1989) (Alanen 2000; Boyden 1997; Nieuwenhuys 2009, 2010). With special reference to child protection, culture is one of the most fundamental social and political constructs because it forms the context in which children live. It also provides the basis for the definitions of relevant concepts such as abuse, neglect, exploitation and protection, as well as the practical responses to protect children (Abney 1996; Archard 2004; Gough & Lynch 2002). To fully appreciate the culturally relative nature of child protection definitions and interventions, it is important to first recognise that culture in itself is not an easy-to-define concept. Indeed, it has been defined in many ways and to enter into definitional debates is beyond the scope of this study. Suffice it to say that I am using the term *culture* to describe a ‘code of conduct embedded in or constitutive of social life’ (Peterson 1990, p. 498). In other words, I am examining policymakers’ beliefs, morals, customs and values, which they have acquired as members of Pakistani society.

*Pakistani culture*

The country that is now Pakistan has been a “passage” for invaders from the Greeks to central Asians to Arabs and Iranians, all of whom left many of their cultural practices behind (Mumtaz & Mitha 1996). The majority of Pakistanis are descendants of Hindu converts to Islam who adhere, if inadvertently, to certain beliefs, customs and practices of their ancestors (Ahmad 1982; Kozlowski 1998). A sizeable Pakistani population migrated at Partition in 1947 from Hindu-majority provinces of the Indian sub-continent to the Muslim-majority provinces that made up Pakistan (Jones 2002). They brought, and continue to carry on, the ways of life they had while living with a Hindu majority. Therefore, many consider Pakistani culture to be moulded by both Islam and South Asian heritage (Stewart et al. 2000). It is worth noting that South Asia is considered a “geographical area” and a “cultural region” because of a significant number of historical and cultural continuities that give it a distinct identity (Mines & Lamb 2002, p. 3). Thus, many of the cultural practices, held dear by predominantly Muslim Pakistani people are not in fact Islamic in their origin or in their present form, but, rather, inherited from the region. In addition, the “native” rural
population is diverse in both ethnicity and culture (Rahman 1997). Many participants in this research made frequent references to "South Asian", "sub-continental" and "tribal" values as regards wide-ranging practices from the use of force to discipline children, to discrimination against female children to the centrality of family in child rearing. It included both positive references (for example family and communal obligations) and negative references (for example discrimination against the female child) that are worth consideration for their implications for child protection policy in Pakistan.

Cultural arguments in child protection in Pakistan

Policymakers in Pakistan are clearly divided into two opposing groups with regard to the place and importance of cultural arguments in child protection policy. One group sees Pakistani society as a holistic, more or less homogenous group, possessing shared cultural values including those related to family and children. In this view of Pakistani society and culture, family is the central social institution offering life-long protection to its members, where belonging to a family whole is more important than pursuing individual aspirations, where children are highly valued and loved, where conformity is valued, where family honour (which equates with female modesty) is a central construct and where age and gender hierarchies are a prominent feature of familial and societal relationships (Lyon 2002; Mines & Lamb 2002; Stewart et al. 2000). Policymakers frequently highlighted these values with respect to child protection. For example, a head of a specialised agency related to children observed:

An average Pakistani is far more devoted to children traditionally than a Western parent. Parents are responsible for the education of their children up to the university level, arrange their marriage and spend money on it. There cannot be more sacrificing parents, and, interestingly, the poorer the people the more they have been doing for their family and that includes extended family. Western society, on the other hand, developed formal institutions of protection in the wake of the breakdown of the family institution. So, where there is a failure of children, and there are many failures, for example, family break down and visiting rights, the state comes in and children are taken care of. (Participant B4; interview 26 July 2010)

As reflected in the above quote, many consider local family-oriented and communal values as superior compared to other value sets, for example, those based on individual rights espoused in the UNCRC. Policymakers not only adhere to (as they demonstrate by quoting examples from their personal lives) but also want to protect and preserve these values. Parliamentarians who represent conservative and rural
constituencies often go to extremes in challenging the relevance of the concept of child rights within their local culture and the utility of the concept of child rights for Pakistani children. As one such former Minister of Social Welfare declared in regard to Pakistan’s ratification of the UNCRC, ‘It was not in my time. I am a son of the soil, I would not have done that’ (Interview 26 April 2010). This might be considered an extreme view and yet many policymakers see many local customs such as child marriage as carrying wisdom in the specific local context (Merry 2006b) and thus they come up with pragmatic arguments. For example, early marriage is considered a protection from sexual immorality and abuse (Participant C2: interview 26 April 2010). This comes as no surprise in a culture where female chastity equals family honour, izzat (Yilmaz 2005, p. 134). Derived from the concept of izzat, a slightly different view of child abuse and protection was put forward in these words:

We are a society in which a woman’s rape may result in bloodshed for generations: how can we let go abuse of innocent children? I live in a village and if anything happens to a child, whole village stands up that it is wrong. The offender is punished, many times, at the spot, whereas in the Western world, even the next door neighbour is not concerned what is happening to a child. (Participant C3: interview 12 May 2010)

Underlying such arguments are assumptions about the family system in Pakistan. It is assumed that the family system is intact in Pakistan and that the extended family and/or community that generally constitutes the same lineage also takes care of children (Lieven 2011; Lyon 2002; Participant A6: interview 1 June 2010; Participant C1: interview 21 April 2010). This may be true to an extent; however, it implies an essentialised concept of culture as a static, homogeneous entity whose rules evoke universal compliance (Merry 2006a). In reality, like all others, Pakistani culture is fluid and open to change: it is hard to refute the socioeconomic and cultural changes that Pakistan has gone through since independence. These changes include, but are not confined to, the widening gap between the rich and the poor due to unsound economic policies, a fractured democratic process, low ethnic, religious and cultural tolerance and increased violence (Nadvi & Robinson 2004). Multiple factors have caused these changes and contributed to this situation. Some of these factors, especially those having direct impact on protection of children, have been detailed in the previous chapter.
One example is particularly relevant. Child domestics were the topic of a heated public debate due to the death of a 12-year old child domestic\textsuperscript{73} in 2010. A senior bureaucrat argued that poor children and their families need their labour:

Call it exploitation but nobody pays for nothing. Usually, people treat children well. In my own household, we employ young maids to babysit toddlers. We are answerable to their parents who visit regularly to receive salaries. We provide these girls pocket money, give them Qur'anic education, arrange their marriages. We are marrying off the sixth such maid. My daughter-in-law is preparing her dowry, and I assure you, a very high standard dowry. There are so many good people like that. (Interview 1 June 2010)

In sum, this participant declared abuse and death of the child domestic Shazia Masih, probably at the hands of her employers, an exception and not a reflection of the whole of Pakistani society, which is, generally, God-fearing and caring about their servants including children in need of labour.

Similarly, another participant with a strong feudal background pleaded in an earnest tone, ‘We owe it to their (child domestics’) parents, their forefathers served our forefathers, we are expected to keep them, even if their services are not needed, who else would they go to?’ (Participant C3: interview 12 May 2010). It does not require much imagination to link this thinking to child protection policy and its consequences for children in Pakistan. As one former Secretary of Social Welfare put it, ‘Do you think a policymaker would form a policy for child protection if he has child domestics working at his home or on his land or in his factory?’ (Interview 30 April 2010). This honest reflection and frank admission is rare and comes from the second group of policymakers.

This second group, as opposed to the first group which sees Pakistani society as a holistic, more or less homogenous group, disaggregates Pakistani society and child

\textsuperscript{73} In January 2010, just at the beginning of my fieldwork, the case of a girl child domestic, Shazia Masih, from Lahore, received a lot of attention in the media. Shazia was employed with an influential lawyer's family. She was brought to the emergency ward of a public hospital with serious injuries claimed to have been caused by falling down the stairs. She was left there, unattended, to die. Doctors found that her injuries were inflicted by torture and a police case was registered and the employer charged; however, he was acquitted in December 2010 by the Court of Law (The News on Sunday 2010). Many times, participants in this research used to start talking about this case, even before my asking a question in this regard.
protection issues into various strata based on characteristics such as urban/rural background, class, age and gender:

Pakistan is holistic but then you have to get it disaggregated...[i]n terms of upper and middle class children, whose parents protect them rather too long for their own emotive satisfaction, poor children who are seen as an additional earning hand and rural rather feudal and/or tribal children, especially the girl child. In tribal society, vani/swara (exchange of female for settlement of disputes) and wata sata (exchange marriage) are common because a female’s only value is her sex. All tribal conflicts are based on ‘zan, zar, zameen’ (female, money and land). Yes, there is some change in big cities and fortunately in the rural Punjab, otherwise, it’s a nightmare to be a girl. (Participant C1: interview 21 April 2010)

Policymakers highlighted the class differences in Pakistan, especially among the rural population, which makes up 70 per cent of Pakistan. The class distinction of chaudhory (feudal lords)\(^7^4\) and kammi (tenant/serf) is very clear in rural Pakistan, where 44 per cent of the land area is owned by two per cent of households (The World Bank 2002). The consequences for this highly uneven land ownership are not only economic but social and political too. According to some, including Jones (2002) and Leiven (2011), it is not about land ownership anymore because many influential feudal lords do not own big landholdings due to generation after generation of distributions and land reforms, as well as a feudal mind set (Participant C5: interview 2 July 2010). With this feudal mind set, chaudhory assumes that kammi’s son will work on his land and kammi’s daughter at his home. The feudal lord does not allow these children to go to school, which some believe to be the best way to protect these children from many forms of abuse and exploitation (Participant A5: interview 30 April 2010; Participant C5: interview 2 July 2010). Little is known about these children.

Even less is the will to know about them, as the overwhelming majority of policymakers themselves belong to the oligarchy of feudal lords, bureaucrats and industrialists discussed in Chapter Four, and as pointed out by one of their own:

You and I, policymakers do not see the Pakistani child. We have not done our homework in rural areas. Children’s issues are decided in conventions in Islamabad, where you hardly see any poverty. There is a joke among Western diplomats in Islamabad that if you drive 10 minutes past the capital, that’s where the real Pakistan is. (Participant C5: interview 2 July 2010)

\(^7^4\)Chaudhory is the term used in Punjab mainly; its equivalents in other provinces include vadera, malik and khan (Leiven 2011).
It is not only that policymakers have not done their homework in rural areas. They have their prejudices too, mostly originating from their elite status, which biases their policy decisions and subsequently impacts policy outcomes. For example, many were of the view that the situation of child protection is not that bad in urban areas, but nevertheless declared 'poor, illiterate, ignorant and orthodox rural folks' as responsible for many child protection issues such as early marriage or gender 
discrimination against female children (Participant A2: interview 2 February 2010; Participant A4: interview 30 March 2010; Participant C4: 9 June 2010). This reflects their biased view of rural people as discussed in detail in Chapters Two and Three; in reality, these issues are as prevalent in urban areas.

Some policymakers try to move beyond their prejudices. They trace the roots of practices such as discrimination against female children in the class/caste, patriarchal and hierarchical traits of South Asian culture (Mines & Lamb 2002). Such relationships are common between elders and youth, superiors and subordinates, upper and lower classes and the state apparatus and the general citizenry in Pakistan (Leiven 2011; Lyon 2002). What policymakers do not appreciate, however, is the impact that hierarchical and paternalistic social relationships can have on policy decisions, especially those relating to children.

In these age-and-status hierarchies, just as in paternalistic relationships, children are perceived as needy, vulnerable and dependant and consequently child protection is considered an act of adult benevolence and not as an entitlement of all children. This perception endorses prevailing hierarchical and paternalistic relationships rather than ensuring a protective environment for all children. Using Minow's relational model for children's rights (1995), Bessell and Gal argue that even quite entrenched forms of relationships can be changed (2009). They propose that 'by recognising the socially constructed nature of power, rights discourse provides a means by which members of a society, regardless of age, can negotiate relationships and enhance equality' (Bessell & Gal 2009, p. 288). However, lack of this recognition is exactly what is problematic in Pakistan's child protection policy process. Although acknowledged officially in its ratification of international treaties, the state is nevertheless reluctant to formulate and implement policies that challenge the status quo and/or that are based on equal human rights for all members of society including children, women and religious and ethnic
minorities (Participant A5: interview 30 April 2010; Participant A7: interview 23 June 2010; Participant C4: interview 9 June 2010; Participant C5: interview 2 July 2010).

However, social status and age are not the only markers of discrimination.

Gender discrimination against female children is another shared characteristic of South Asian/Pakistani culture. Policymakers acknowledge this discrimination as being the origin of many harmful practices, such as child marriage and honour killings, which pose a serious threat to protection of female children in their view (Participant C1: interview 21 April 2010; Participant C5: interview 2 July 2010). Even though such cultural practices are seen as harmful, and not even considered sacred (as religious beliefs and practices), changing them is not an option on the policy agenda. One reason for this is the fact that the same feudal lords who make up the legislature also head the tribal courts (jirga) that decide on honour killings and child marriages as a means for dispute settlements. Policymakers do not lead policymakers to find and implement pragmatic solutions to child protection problems in Pakistan.

In fact, the most often cited solution to these problems was the provision of universal, free, compulsory education; however, this was usually presented more in the way of rhetoric. There is hardly any effort to increase budgetary allocation or reforms to be made to the education system, especially in the fields of the development of physical infrastructure, curriculum design, teacher training and motivation, which are seen as sacred (as religious beliefs and practices).

751 September 2008, Senator Israrullah Zehri from Baluchistan province defended the tribesmen from his province who shot and buried alive five women, three of whom were aged between 16 and 18 years. The Senator told the Upper House that 'These are centuries-old traditions and I will continue to defend them' and 'only those who indulge in immoral acts should be afraid', (viewed 17 September 2011, http://www.thenews.com.pk/print/159817/Pakistan-women-buried-alive-for-choosing-husbands.html).

76In the 18th Constitutional Amendment in April 2010, universal, free education is made a constitutional right of children. However, education is a provincial responsibility and only three out of five provinces have enacted compulsory education legislation. At the same time, the June 2010 national budget total allocation (Pakistani rupees 34,500 million) for education was around two percent of GDP, (viewed September 7, 2011 http://www.finance.gov.pk/budget/Budget_in_Brief_2010_11.pdf). According to the Ministry of Finance, the total public spending on education in Pakistan has historically been poor, 2.1 per cent of GDP, (viewed September 7, 2011 http://www.finance.gov.pk/survey/chapter_10/10_education.pdf).
the major reasons for the high drop-out rates among girls in primary schools in Pakistan (Lloyd et al. 2007; UNESCO/IBE 2011). In addition, and in whatever poor form the current education system exists, it targets children under 12 years with a wide gender gap in girls’ enrolment (Lloyd 2004; Lloyd et al. 2007). Further, more than half (55%) of the adult female population is illiterate (Pakistan Bureau of Statistics 2011b) even though a mother’s education is documented as mattering most in decisions about the education of her daughters in Pakistan (Holmes 2003). This would mean that any hope for improvement in terms of a protective environment for children should only be expected after at least a generation, when present-day children, especially girls, become educated adults. The education sector policy response has failed so far to achieve the goal of 100 per cent primary education and to improve girls’ enrolment in school, especially among the rural poor (Lloyd et al. 2007). Therefore, the likelihood of this hope for improvement in the child protection environment is small.

Following on from this, emphasis on protective legislation was only second to education as a means of child protection. However, many policymakers seem to miss the link between local culture and state-imposed legislation (Merry 1995). As one bureaucrat from a children-related agency argued, ‘Cultural set-up is an entirely different issue from the academic, constitutional and legal sort of things. By establishing legal requirements, you are setting certain standards in any kind of society and now it is the society’s turn to act according to the legal provisions’ (Participant A2; interview 2 February 2010). This argument might be in line with Roscoe Pound’s (1965) ‘law as a tool for social engineering’ approach (cited in Moore 1973, p. 719). What policymakers in Pakistan tend to ignore are the essential conditions for bringing about such change and, in the context of Pakistan’s child protection policy, two such conditions are especially relevant.

According to Stoddard, proposed change should, on the one hand, be perceived as legitimate whilst on the other government should be able to effectively enforce the change (1997, p. 978). In Pakistan, the first condition is challenged not only by

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77 Compulsory primary education legislation in various provinces and territories of Pakistan is discussed in the Introduction and Chapter Three.
ordinary citizens, but also from within the policy community. In terms of the second condition, Pakistan has a poor law enforcement record, as acknowledged by many participants in this research (Participant B1: interview 24 February 2010; Participant C3: interview 12 May 2010). Policymakers' emphasis on protective legislation also runs counter to the growing body of empirical evidence on "legal pluralism", which examines the relationship between culture and state law and establishes that for international and/or state law to be successful it needs to be contextualised within local culture (Goodale & Merry 2007; Merry 1988, 2000, 2006a; Moore 1973, 1986; Yilmaz 2005). Ironically, this "legislation to bring changes in the child protection situation" argument is put forward despite the widely acknowledged failure of legal reforms in Pakistan's family law on cultural grounds.

From the above analysis, it appears that these debates, based on one group's emphasis on the superiority and relevance of Islam and local culture and the other group's lack of imagination and/or will to change, despite their appreciation for the limitations of the current approaches in ensuring children's right to protection, will not be settled any time soon. However, the most intriguing and concerning response came from the mid-to-low level bureaucrats, directors and officer incharge of 'children's units' within various ministries. Most have spent a long time in their present positions, and have become experts on child rights in their own way. As noted in Chapter Two, they are the people who do the actual drafting of policies and plans that are written in the appropriate "rights language" and that acknowledge the UNCRC as the ultimate policy guidelines. One particular officer maintained an "official" stance throughout the interview, which lasted more than an hour. However, once the tape recorder was switched off, they shared that they, personally, believe in "marriage at puberty" and believe that some "corporal punishment is inevitable" in disciplining children. However, as this person put it, 'Being an educated, responsible officer who is sensitised to child rights, I have to be objective and not bring in my personal views'.

Confessions like these leave one wondering how "official" and "objective" one could be throughout a long process such as discussing and drafting a national plan of action, which may take months even years to complete.

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78 Interview details not provided to maintain confidentiality.
Similarly, it is not hard to understand what “package of ideas” policymakers subscribe to when they say, ‘before I am a parliamentarian/bureaucrat, I am a father, how can I not appreciate the importance of child protection?’ and it shows in their reluctance to accept children as bearers of rights in their own individual capacity. Pakistan has not enacted enabling legislation to incorporate the UNCRC into domestic law, which would allow children or their representatives to demand their rights – including right to protection – in a court of law. Many pieces of legislation which seemingly challenge “traditional wisdom” are delayed or gotten around for long periods of time. Introducing legislation for a minimum marriageable age for girls at 18 years (as it is for boys) took 21 years from the ratification of the UNCRC, and yet the winning argument was the constitutional promise of ‘non-discrimination’ and not the status of all girls under 18 years as a child. These examples only further underscore the importance of the ideologies of the policymakers in the policy process.

Conclusion

On the basis of the analysis above, it can be concluded that child protection policy in Pakistan is in its early stages, and at a point where the fundamental concepts of the child and child protection are being contested. At this stage, state actors involved in child protection policy acknowledge that child protection issues are manifold and serious. However, there are many and wide ideological differences among policymakers regarding how to conceptualise, define and respond to these issues in the policy process. Policymakers recognise children’s rights, especially the right to protection, as part of official policy guidelines. In the actual formulation and implementation of policy, either they believe that Pakistani children are better protected by Islamic and local cultural provisions related to family and children or they are struggling between conflicting ideas relating to international child rights, Islam and local culture.

Most obvious are the ideological and conceptual divides between concepts of child/childhood; concepts of individual rights, including the right to protection as conceived in the international standards versus Islamic and local cultural conceptions of collective rights; the mutuality of rights and responsibilities between children and families; and the relationship between individual, community and the state. These
differences have policy implications for the protection of children on a wide range of issues including age limits for school enrolment, minimum age for marriage and criminal responsibility, corporal punishment, child labour and freedom of thought and conscience. The importance of these ideological and conceptual struggles in terms of policy cannot be ignored considering the centrality of Islam in the lives of Pakistani citizens, the fact that Pakistan is an Islamic state and the role of religion in state policy, especially a role related to family, marriage, women and children.

Similarly, considering the cultural composition of Pakistani society and people's adherence to traditional practices, mass illiteracy (which hinders change) and the state's inability to enforce laws make local culture an important determinant of children's position in Pakistani society and in children-related policy. The cultural characteristics that favour the interests of certain groups and classes have serious child protection implications; these include child marriage for family honour and child work as a family obligation. Further, the religious and cultural debates in Pakistan's child protection policy, when placed in existing theoretical child protection perspectives, are closer to social, structural and ecological (rather than individualist) models of child protection. However, when it comes to policy intervention, the only available model, mostly based on instrumental learning, is the individualistic one, which treats only the symptoms of abuse, neglect and exploitation rather than addressing the root causes, for example, poverty. This mismatch between the conception of child protection and the practical response compels us to examine the worth of all these debates.

Evidence suggests that some of these religious and cultural values may actually contribute to the better protection of children; for example, close family ties and communal obligations serve as a form of social security in the absence of a formal system of social protection. Evidence also suggests that some of the religious and cultural concerns of policymakers might be genuine, for example, resistance to donor pressure to introduce adoption, which is perceived as contrary to Islamic provisions, in the aftermath of the 2005 earthquake. However, others, for instance, use the "sanctity of the four walls of the home" argument to avoid child labour legislation that covers domestic labour to reflect the desire of the political and administrative oligarchy to maintain the status quo. The linking of children's issues with the highly
politicised issue of family law in the presence of formally acknowledged children-specific policy guidelines in the form of the UNCRC also reflects the lack of genuine political will to improve the situation of children. A lack of effort to conclude the prolonged debates and to reach some pragmatic solutions to child protection issues requiring immediate attention is in itself an indicator of the lack of determination of policy makers. The usual course that policymakers adopt in the face of a controversy is avoidance, delay and adhocism, which only further prolongs and complicates the debate.

Can consensus be built especially in a society that is divided in all possible ways, from the division between the aristocratic ruling elite and the poor masses, from religious interpretations to regional, ethnic, and age- and gender-based divisions? Two theories of "parallel conversation" and "double consciousness" can help find an answer. The first comes from legal scholar Sally Engle Merry's work on the power of culture in the legal pluralism in the international system of human rights law, with special reference to women's rights (Merry 1988, 2000, 2006a). Using du Bois's concept of "double consciousness" (1994) in the analysis of the roles of transnational elites, local actors and intermediaries of human rights, Merry (2006a, b) allocates this double consciousness to the intermediary social activists and finds them in a "parallel conversation" with the transnational elite on one hand and with local actors on the other in an attempt to vernacularise international human rights into the local context.

In Pakistan, however, social activists, themselves, are considered "Westernized intelligentsia", as discussed briefly in Chapter Three. In comparison, state actors' elitist status in society, their Western secular education and the world exposure that they get through studying abroad, travel and access to information (Khan 2007) gives them one "self" that appreciates and acknowledges the international human rights of children such as Merry's social activists. At the same time, unlike the social activists, their "public role" in rather conservative Muslim Pakistan—in which federal policymakers are expected to be "nationalists" and "dedicated Muslims" (Merry 2006a, b; Syed 1982)—gives them this second "self" which makes them ponder the issues of religious and cultural relevance of international human rights treaties in the local context. This concept of the parallel conversation not only explains the ideological divide in Pakistan's child protection policy process but also puts this...
divide in a more positive and pragmatic perspective. Such a perspective indicates the hope for consensus as the same policymakers who are engaged in a parallel conversation at the international and the local level thus become navigators and interpreters of the differing understandings of children's right to protection. Also, as key policy players, they are the ones who negotiate policy issues and proposed solutions with the non-state actors. The next chapter examines the role of these non-state actors and their relationship with state actors in child protection policy in Pakistan.
Chapter 5

International child rights standards and non-state actors in Pakistan's child protection policy

The analysis in Chapters One and Four revealed that the politicians (interviewed as part of the fieldwork conducted for this research) who generally represented conservative constituencies tended to argue on the ideological front that child rights and child protection policy in Pakistan are not based on local realities and needs. Rather, they said, they are driven by the international human rights agenda as adopted and advocated by various non-state actors, including multilateral, bilateral and international and local non-governmental organisations. Many bureaucrats agreed with this line of argument. Further, as analysis in Chapter Three revealed, on the practical side both politicians and bureaucrats argued that in the implementation of international child rights standards in Pakistan, the context of the country's poor socioeconomic situation—in which government is expected to act on child protection issues such as child labour—should be taken into account.

In addition, although the state is the primary focus of international human rights law, this same law also imposes human rights obligations on individuals and non-state actors. For example, the Universal Declaration of Human Rights states that "every individual and every organ of society, in keeping with this Declaration constantly in mind, shall strive by teaching and education, to promote respect for these rights and freedoms" (Preamble to the Declaration 1948). The recognition of the role of non-state actors comes from the very expression of children’s rights as an entitlement to be respected by all (Dhliwayo 2007; Freeman 1996). It also comes from practical necessity whereby the state relies on non-state actors to deliver social services such as health, education, water and sanitation in the era of globalisation and economic liberalisation (Clapham 1993, 2006). These arguments highlight the

79 The UNCRC requires states to ‘undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention’ (Article 4, UNCRC).
significance of the international human rights agenda and the role of various non-state actors in conceptualising child protection issues and formulating national child protection policy, which is the focus of the present chapter.

This chapter is guided by the broader theoretical work relating to the ratification of and compliance with international human rights treaties including the UNCRC (see for example Risse et al. 1999; Simmons 2009; van Bueren 1998) and on the role of non-state actors in designing and implementing international human rights standards (see for example, Clapham 1993, 2006; Price 1990; Price 2003; Keck & Sikkink 1998; Merry 2006a, b). The international system of human rights consists of nation-states, international organisations, and private actors. At the outset of the analysis in this chapter it is acknowledged that a wide variety of terminology (including ‘transnational networks’, ‘international intermediaries’, and ‘international intergovernmental’ and ‘non-governmental organisations’) is used to describe these actors (Brown 1995; Keck & Sikkink 1998; Merry 2006a, b; Miller 1994; Pevehouse et al. 2005; Shanks et al. 1996; Union of International Associations 2012; Wallace & Singer 1970). Without entering into the details of these terminologies, for the purpose of clarity and consistency throughout the chapter these actors are termed as “non-state actors”. This term is also in keeping with the focus of this research being the state—the principle actor in the public policy process. These actors can be further identified into the two broader categories of inter-governmental and non-governmental organisations.

The first group, inter-governmental organisations, consists of those non-state actors that are created by nation-states. These are voluntary associations of sovereign states established to pursue many objectives for which states want to cooperate through the formulation of formal structures that states are unable to realise by themselves (Miller 1994). The United Nations and its various organisations are an example. Within the larger system, the United Nations Children’s Fund (UNICEF) and the United Nation’s Committee on the Rights of the Child are considered to be the two principle bodies that specifically deal with the human rights of children. The second group of non-state actors, that is non-governmental organisations (NGOs), is typically established by certain groups of individuals and businessmen, by civil society and by other societal forces. These organisations are independent of government representation and have
become 'crucial participants in the international policy process' (Brown 1995, p. 268). With regard to children's issues, the role of non-governmental organisations in drafting the UN CRC is well-documented (Detrick 1992; Price 1990). In fact, the international system of human rights involving non-state actors has become a field of scholarship in its own right.

This scholarship on international human rights activities covers the evolution and the impact of international human rights law and the UN human rights machinery (see for example Alston & Crawford 2000; Donnelly 1998; Hafner-Burton & Tsutsui 2005; Hathaway 2002; Simmons 2009). It also examines the role of non-state actors such as international non-governmental organisations and multinational corporations (see for example Alston 2005; Burgerman 2001; Clapham 2006; Keck & Sikkink 1998; Khagram et al. 2002; Neumayer 2005; Merry 2006a, b). With some exceptions, for example Alston and Tobin (2005), Brems (2001), Price (1990) and van Bueren (1995), the role of non-state actors in the realisation of child rights has received little attention in the broader transnational human rights scholarship (Dhliwayo 2007). This includes the research and documentation of children-related treaties, state obligations and the role of non-state actors (especially NGOs) in the UNCRC drafting process and its implementation.

Building on this scholarship, the remainder of this chapter examines the international human rights context of Pakistan’s child protection policy. The chapter is divided into three sections. The first explains the international human rights regime. It includes a sub-section outlining (reiterating from Introduction) Pakistan's international commitments as they relate to child rights/protection, and another identifying (reiterating from Chapter One) major non-state actors including the UN and other multilateral agencies and the international as well as local non-governmental organisations that play a role in the country’s children-related policy. The second section covers the perspectives of the non-state actors in Pakistan’s child protection policy. It is again divided into sub-sections, each dealing with the ways that the conceptualisation of child protection by the non-state actors influences the agenda setting, actual formulation of policy and legislation, implementation and monitoring and assessment of child protection policy and practice in Pakistan. The third section examines the relationship between the state and non-state actors involved in child
protection policy in Pakistan. This chapter concludes by stating that the non-state actors in Pakistan’s child protection policy fully subscribe to the international human rights norms enshrined in the UNCRC in all their activities – from advocacy on child rights issues to providing services for children. However, in their strict adherence to the UNCRC, the non-state actors miss the opportunity to play the intermediary role of translators between international standards and local concepts and practices. This hinders improvement in the domestic situation of child rights including the right to protection.

International commitments and non-state actors in Pakistan’s child protection policy

In her seminal work *Mobilizing for Human Rights: International Law in Domestic Politics* (2009), Beth Simmons argues that ‘treaties reflect politics, but treaties also alter politics’, as they set ‘visible goals for public policy’ (2009, p. 12, emphasis in original). In contrast with many critics of international law (including Chibundu 1999, Kennedy 2004 & Anghie 2005) Simmons notes that ‘once made, formal commitments to treaties can have noticeably positive consequences’ (2009, pp. 4-6). In Simmons’ rigorous quantitative analysis of the overall treaty impact, ratification of the UNCRC appears to be strongly associated with a reduction in the rate of child labour in the following year; however, the weakest effects are found in low-income and rich countries and the strongest effects in middle-income countries (2009, pp. 326-28). In line with Simmons’ argument, for many participants in this research the country’s ratification of various international children-related treaties in itself is a reflection of its commitment to the children of Pakistan.

Pakistan’s international commitments

Pakistan is party to various international and regional human rights treaties, as identified and discussed in detail in the Introduction. Some of these treaties relate specifically to the rights of the child and to child protection, as shown in Table 1.1 in the Introduction (p. 29). According to participants in the current research, the range of treaties ratified by Pakistan is a reflection of the country’s concern and commitment towards a variety of human rights issues, including those relating to its children’s right to protection.
Countries can ratify treaties strategically for reasons other than their commitment to human rights values. In fact, in the absence of a strong value commitment, the strongest motive for ratification is to avoid the social and political pressure of remaining aloof from a multilateral agreement (Participant C2: interview 26 April 2010; Simmons 2009). Even when ratified with genuine commitment, treaties can have impacts other than improved human rights outcomes, for example, a preoccupation with “reporting”, which is a prominent feature of the UN human rights system. Doek (2006) noted that the importance of the CRC reporting requirement should not be underestimated as it creates momentum at the national level. However, in the case of Pakistan this momentum is observed only just before reports are submitted (Participant D2: interview 4 June 2010; Participant E1: interview 8 June 2010; SPARC 2009). The Government of Pakistan does not even publish the recommendations, let alone the follow-up actions, both of which the Committee almost always bemoan on the occasion of the review of the next report (Concluding Observations Pakistan Periodic Reports Two, Combined Report Three, Four). Lothar Krappmann, the Committee expert serving as co-rapporteur for the third and fourth periodic report of Pakistan, notes, “It is striking how often the report recorded that a law, a policy, a program “was being considered”, “is planned”, “was under way”, “has been sent to the Cabinet” or “has been drafted” and wondered if those would be realised within a year (SPARC 2009, p. 13). Most of these laws, policies and programs are yet to be finalised after more than three years since the submission of the last report.

Further, various other factors can influence the impact of international treaties on rights outcomes. One such factor is the channel of social mobilisation, where actors demand the implementation of international commitments in actual policy and practice (Simmons 2009). In particular, children as rights holders and beneficiaries differ from adults in that children require advocates willing to articulate their concerns and mobilise on their behalf (Simmons 2009; van Bueren 1995). The ratification of the treaty empowers these advocates, especially those outside the state apparatus, by providing a clear statement of a state’s obligation to its children, which helps them make states accountable (Grugal & Peruzzotti 2007). In fact, various UN committees responsible for monitoring of major human rights treaties recognise the role of the non-state actors under the international system of human rights.
inter-governmental and non-governmental actors

With regard to the role of non-state actors, UNCRC Article 45 entitles specialised agencies, UNICEF and other UN organs to be represented when the implementation of provisions of the UNCRC falling within their mandate is being considered. It also allows the United Nations Child Rights Committee to seek expert advice from specialised agencies, UNICEF and other competent bodies about the implementation of the UNCRC. In a more recent development, the two Optional Protocols of the UNCRC address the direct obligations of non-state actors with regard to child soldiers, child pornography and sexual exploitation of children (Preamble, Para. 11, Article 4 of the first Protocol; Preamble, Paras. 3 and 4, Article 2 lit (b) and Article 3, Paras. 4 and 7 of the second Protocol). These entitlements and obligations make the list of non-state actors involved in protection of child rights a long one. As identified in Chapter Four, these non-state actors include both the representatives of international organisations (including multilateral organisations such as UNICEF and the ILO, bilateral agencies such as USAID and the Royal Norwegian Embassy and international non-governmental organisations such as Save the Children) and local civil society (including both advocacy and service delivery organisations). It was also noted in Chapter Four that both international organisations and local civil society are heterogeneous entities with varying interests and differing normative and programming frameworks.

While international organisations such as UNICEF and Save the Children use a rights-based approach to their programming, local NGOs use the UNCRC as a normative framework. As a director of one local organisation declared, ‘We have a mission of working on the UNCRC principles’ (Participant D3: interview 24 June 2010). These non-state actors conceptualise child protection in terms of the provisions of the UNCRC, especially Article 19. Many participate on an ongoing basis with the Government of Pakistan in children-related legislation and policy enactment. This participation may range from bringing issues to the child rights agenda, through research and campaigning and holding consultations with various stakeholders (especially making child participation possible in those consultations), to actual drafting of the laws and the implementation of policies and plans. The next section analyses this role and examines the influence of these actors on state policy.
The role and influence of non-state actors

There is a growing scepticism with regard to the effectiveness of international law in solving human rights problems. Research shows a persistent gap between what states promise internationally by signing treaties and what they do domestically (Hafner-Burton & Ron 2007). At the same time, however, many believe that international treaties influence human rights standards. According to this latter school of thought, the change is primarily driven by transnational mobilisation in order to achieve treaty compliance (Burgerman 2001; Keck & Sikkink 1998; Okafor 2007; Risse et al. 1999). In particular, children are viewed as a group around whom most societies can mobilise, not least because protective measures for children are fairly uncontroversial in principle (Simmons 2009, p. 358). However, in reality, there is a tendency for an 'under-utilisation of child rights in global mobilisation' of human rights (Boyle & Nyseth 2011, p. 91), and abuse, neglect and exploitation of children are all too common around the globe (ISPCAN 2008). Therefore, questions arise with regard to the role and influence of non-state actors in child protection policy in Pakistan.

For example, a senior politician, who is a former Minister for Social Welfare and presently a Member of Parliament, observed with regard to the role of the international child rights community:

They want to run our society according to their own wishes and values and they may be thinking it is welfare. But when you want to run a human society on ways different from their own, it gives rise to resistance. You have to find ways of development from within the concerned society... that bring change for better, otherwise, all your effort is wasted. (Interview 12 May 2010)

While this politician was concerned with "sincere" yet "wasted" effort because of the differing concepts and values relating to human rights, a senior bureaucrat pointed to the “vested interests” of various actors and challenged the very intentions of others including multilateral and bilateral donors, international non-governmental organisations (INGOs) and Pakistani civil society:

The donors want 50 per cent of their money back in the form of pay to the consultants. You agree to that and tell them to adjust your requirements... if nice vehicles and a trip to, say, Washington in the project document... If the US$52 billion debt that Pakistan owes was spent on development of this country, would it look like this, with manholes having no covers (in sad and angry tone)... The civil society is only interested in money and they are very afraid of getting through the audit stage... Very very fake NGOs. (Interview 30 April 2010)
And yet another accused non-state actors of ‘misrepresenting’ issues for their ‘small interests’ thus ‘tarnishing’ Pakistan’s image and ‘demoralising’ government (Participant A1: interview 29 January 2010). Responding to such criticism, various non-state actors define their role, and thus influence, at various phases of the policy process differently.

Bringing international norms to the domestic agenda

The first and foremost role of non-state actors relates to developing and promoting new norms to change the domestic policies and practice. Scholars tend to agree that the influence of non-state actors is greatest during the agenda-setting or norm-emergence phase of policy-making (Carlsnaes et al. 2002; Finnemore & Sikkink 1998). However, when it comes to the adoption of these norms at the domestic level, differences emerge in the roles played by inter-governmental and non-governmental organisations. Those from inter-governmental organisations, especially the UN agencies, point to Pakistan’s obligations as a member of the United Nations and as party to various treaties such as the UNCRC and the ILO conventions. They recognise their own mandate to help facilitate the Government of Pakistan in meeting these obligations and emphasise that they work ‘with the government and/or through the government’ (Participant E2: 23 July 2010; Participant E3: 3 August 2010). While the broader UN system sets standards for the prevention of violations and for the protection of human rights through treaties such as the UNCRC, its various agencies help member states find ways to translate the normative standards into practice (Alston 1992; Alston & Crawford 2000). UNICEF is a case in point.

According to its mission statement, UNICEF is ‘mandated by the United Nations General Assembly to advocate for the protection of children’s rights’ and is ‘guided by the Convention on the Rights of the Child’ (UNICEF 2012). It claims to have ‘the global authority to influence decision-makers’ (UNICEF 2012). UNICEF-Pakistan ‘works in partnership’ with the Government of Pakistan (UNICEF-Pakistan 2012) and its work in that country reveals a mix of both the ‘global authority to influence’ and ‘work in partnership’. There have been occasions when it could push the government to take certain steps and others when it might not exercise enough
influence, as analysed with reference to the national action plans in the following
discussion on how issues get adopted.

Compared with the mix of persuasion and pressure strategies adopted by the UN
agencies, the I/NGOs were more focused in pushing for new norms on the domestic
public policy agenda:

The government officials and bureaucracy, they sit there and close their eyes and refuse to
acknowledge the issues. I give you a simple example. We started work on child sexual abuse
in 1996, and at that particular time, we were told by the government officials that this is an
Islamic society, and child sexual abuse is something that we are totally alien to, this is not
happening in our society. We conducted researches, started getting data and putting it together
every year. Only then government realised that this is something very wrong happening in our
society and then child sexual abuse became one of the priority issues for the government.
(Participant E1: interview 8 June 2010)

This experience supports existing research with regard to the impact of these actors on
state policies through the diffusion of international norms into the domestic human
rights agenda (Keck & Sikkink 1998; Risse 2002). The main source of this influence
is these actors’ status as experts and as providers of objective knowledge (Clark 2001;
Haas 1992). As one participant from an INGO explained, ‘Without research, we
cannot talk about an issue and we don’t. So, whatever we do normally, we do
investigation first, and based on that we talk, plan programs and do interventions...
and obviously talk to policymakers to change the things’ (Interview 8 June 2010).

Therefore, Save the Children, Sweden and the Child Rights Committee of the
Pakistan Paediatric Association assisted the National Commission of Child Welfare
and Development (CCWD) in drafting the National Plan of Action against Child
Sexual Abuse and Exploitation (Working Group Against Child Sexual Abuse and
Exploitation & Save the Children, Sweden 2005). Both these organisations were
involved due mainly to their expert knowledge and experience in handling the issue of
child sexual abuse (Participant E1: interview 8 June 2010; Participant D2: interview 4
June 2010; Participant D4: interview 7 July 2010). They have each accumulated
knowledge and expertise through sharing of experiences and by actually seeking to
provide solutions to these problems. As one participant explained, ‘We learn from our
colleagues all over the world and specifically from the developing countries...this is
how we create our intelligence. We work with our own children and take their
experiences into account’ (Participant D 3: interview 24 June 2010). Both shared intelligence and hands-on experience have provided them the status of expert authority on child rights issues.

A second source of influence is the moral authority of non-governmental actors. This moral authority takes the shape of the belief on the part of decision-makers and citizens alike that non-governmental actors are morally right about the purpose for which they are campaigning (Sikkink 2002). This belief stems mainly from non-governmental actors’ claims to represent affected communities (Nelson 2002). This moral authority of non-governmental actors in the field of child rights, however, faces some serious challenges in Pakistan. The most important is the depiction of these actors as ‘tools of Western cultural imperialism’ (Participant A6: interview 1 June 2010; Participant C1: interview 21 April 2010; Participant C2: interview 26 April 2010). The same was noted with regard to child rights advocacy elsewhere, for example, in Bangladesh (White 2002). Some participants in this research from the I/NGOs were well aware of and sensitive to this challenge (Participant D1: interview 31 May 2010; Participant D4: interview 7 July 2010; Participant E2: interview 23 July 2010). For example, one participant contended:

I am not saying that you become someone else. They (the West) have gone through this cycle of change. They did not sit around…they are thinking all the time in terms of cause and effect. So, they learn and move forward. Here, we just go with the swing. Either we reject everything new or we borrow blindly without any examination of implications and consequences. (Interview 31 May 2010)

Others do not see it as ‘cultural imperialism’ but as a way of ‘getting things done’, that is, ‘there is no system by which they (in government) understand what is important. This is where that “donor-driven” thing comes in. You know that international pressure on governments to show something being done!’ (Participant D1: interview 31 May 2010).

At the same time, there were those who were either dismissive of these concerns or who believed that they were unfounded. One participant noted (with an ironic smile),

89Moral principles such as respect for human rights are seen as a form of authority, as enactment of these principles empowers some actors with certain persuasive powers (as opposed to the mostly coercive powers of the state actors stemming from their legal authority) (Khagram et al. 2002).
‘They declare everything Western agenda, they term even polio drops a Western agenda. Our children are our children. Of course, from the rights perspective, Westerners are ahead of us, so, there is no harm in looking for learning from their experience. If that is called Western agenda, I don’t mind’ (Participant D4: interview 7 July 2010). Some not only denied that it was cultural imperialism, but, rather, accused their challengers of using “cultural relativism” as an excuse for not doing anything:

They are very stupid, talking about all these things (voice raised in anger and with emotions)... we are talking about this age of criminal responsibility in Pakistan, a 7 years old child can be put in jail and he can get any punishment. Can you believe in your heart that a 7 year old can commit a crime? People may use him. He is not that developed, scientifically speaking, to understand what he is doing. This hot weather, spicy food and children becoming mature is all nonsense... if you don’t want to do anything you can take easy refuge behind all these things, using religion is the foremost, that ends everything then and there, who dares challenge ‘Islam’? (Participant E1: interview 8 June 2010)

These passionate advocates saw their role as ‘challenging misbeliefs and stereotypes’ and ‘fighting against the disinterest’ of both the masses and of policymakers regarding children’s rights – including the right to protection (Participant D4: interview 7 July 2010; Participant E1: interview 8 June 2010). In doing so, they are willing to use all possible strategies, from ‘naming and shaming’ the government (Participant D3: interview 24 June 2010), campaigning, lobbying and rallying (Participant D2: interview 4 June 2010) to collecting and disseminating information, establishing model projects and engaging with public policymakers (Participant E1: interview 8 June 2010). But how do these non-state actors decide which issues to fight for to put on the domestic agenda?

In responding to the question ‘How do issues get adopted or not?’, scholars tend to agree that the attributes of an issue are a deciding factor. The most helpful attributes include causes that can be assigned to the deliberate actions of identifiable individuals and issues involving legal equality of opportunity (Carpenter 2007; Keck & Sikkink 1998; Price 2003). However, most important are the issues involving the infliction of bodily harm on vulnerable individuals (Keck & Sikkink 1998). These issues are highly likely to be adopted because they ‘speak to aspects of belief systems or life experiences that transcend a specific cultural or political context’ (Keck & Sikkink 1998, p. 204). This line of thinking is echoed in one participant’s response to this
same question: 'Somehow we started working on two specificities, that is, children who were abused and their management, and on street children. These are the hardcore child protection areas that any organisation could work' (Participant D3: interview 24 June 2010). However, not all non-state actors in Pakistan's child protection policy lend such clear support to the "nature of the issue" theory of issue adoption.

While some actors are guided by their clear mandate, that is, a clear mandate as formulated and endorsed by the organisation (for example ILO work on protection of working children or Sahil on the protection against sexual abuse), others might be described as "keep learning and evolving" at best and as "going with fads" at worst. Even in the case of the ILO, where the organisation has a clear mandate of work to fight against child labour, the focus of its activities keeps shifting. The Director of the Child Labour Unit in the ILO's country office in Islamabad (interview 23 July 2010) and those who work with the ILO in Pakistan explained this shift in terms of "learning, replicating and expanding" (Participant A1: interview 29 January 2010; Participant C 5: interview 2 July 2010). However, the critics had other views. While some expressed a general sense of dissatisfaction with the type and level of intervention such as, 'What have ILO done over 20 years for child labour except for saying this is wrong and that is not acceptable?' (Participant D1: interview 31 May 2010), others had a sheer distrust of the motives and strategies of the organisation. In the words of a senior bureaucrat, 'They started with the football industry in Sialkot and then the carpet industry...it was such a big movement to destroy our export industry by taking the aspect of child labour and making it an issue...and now there is this long list (of hazardous occupations)' (Participant A6: interview 1 June 2010). The ILO case can be put in perspective in that child labour is long-acknowledged to be a politicised issue (Bessell 1999; Toor 2001). However, UNICEF makes a much more elaborate case in point.

UNICEF has been noted to have a 'longstanding (but largely unconscious) policy of avoiding the human rights dimension of issues' (Alston & Tobin 2005, p. 6). In fact, it showed a 'total lack of initial interest in the exercise' of the drafting of the UNCRC (Cantwell 1992, p. 21). Nevertheless, as stated in the official history of the organisation, 'In 1987, recognising the potential convergence of the child survival and
development revolution with the movement for children's rights, UNICEF threw its weight into the children's rights ring' (UNICEF 2006, p. 21). In practice, however, UNICEF's adoption of the CRC principles has been gradual (Woll 2001). One explanation for this gradual adoption might be the difference between UNICEF's global policy and its implementation by various country offices. For example, UNICEF-Pakistan has a mixed record of the adoption of a child rights-based approach. An overview of its activities provided on the UNICEF-Pakistan official website clearly shows that the emphasis is still on survival and development. Of eleven 'activities and results' highlighted on the site, many relate to vaccination, provision of amenities such as drinking water and sanitation and primary school enrolment, among others. Two relate to child protection specifically, that is, UNICEF's role in drafting the Child Protection Bill and in providing protective services to 38,000 children since 2005 (UNICEF-Pakistan 2012).

In fact, UNICEF supported the establishment of the first child protection system, the Child Protection and Welfare Bureau, in the Punjab in 2004-05 (Child Protection and Welfare Bureau 2007). Participants in this research, who work in the field of child protection and who have been close witnesses of the development of the said system, criticised UNICEF for its role in the establishment of the Bureau at the cost of the Department of Social Welfare, as detailed in Chapter Four (Participant D3: interview 24 June 2010). In contrast to this, the Director of Child Protection, UNICEF-Pakistan, commented on the situation as a 'story of power relationships' within the Government of Punjab. The Director further observed with regard to the placement of the Bureau in the Home Department rather than in the Department of Social Welfare or the Department of Justice that, 'Just because Punjab has done it, no: the Home Department is not an institution mandated to do protection, and protection of children, no way!' The Director found even the terminology "destitute and neglected children" of the child protection law in the Punjab as 'out-dated and obsolete, probably left by the British from the colonial era' and expressed satisfaction that Punjab is in the process of revision of the whole system (interview 3 July 2010). The rise and fall of the Bureau is not the focus of this research and with available data appraised in Chapter Two, it is hard to reach a conclusion regarding the exact role of UNICEF in the establishment of the Bureau. But another initiative, the National Plan of Action
(NPA) for children provides a more explicit example of how UNICEF does or does not adopt issues.

Pakistan prepared its NPA for children in 2004-05 in consultation with major stakeholders, including UNICEF. In the words of one participant, ‘Because action plans were “in” those days, UNICEF “forced” the country’ (Participant D4: interview 7 July 2010) into preparing the NPA, only to realise some five years later, in the words of the Director Child Protection, UNICEF, Pakistan:

The plan, that is another discussion...unfortunately (pause), UNICEF, somehow accepted (pause)...a different approach...In 2005, it was seen as a priority to have these national action plans...it was hoped that there will be more commitment (through NPA). Unfortunately, most of the action plans are not implemented and it really remained a document lagging on different shelves or desks...since 2007, at UNICEF, we moved, I will say, drastically, towards assisting the governments to come up with relevant policies and strategies based on evidence. (Interview 3 August 2010)

In a way, this reminds us of the unheeded message that was sent by some prominent scholars as early as in 1978 to the UN with regard to the UN’s human rights work on the thirtieth anniversary of the Universal Declaration of Human Rights. Bertrand Ramcharan, editor of the commemorative volume *Human Rights: Thirty Years After the Universal Declaration* (1979), asked the UN to ‘draw a clear distinction between fashionable fads and critical causes, and to clean the human rights programme of all cants and pretence’ (1979, p. 14). It might be regarded as satisfactory progress for UNICEF-Pakistan to have moved from action plans (“fashionable” in the early 2000s) to policy based on evidence (apparently the “fad” of the late 2000s). However, it is not hard to appreciate the actual impact of this progress on the children of Pakistan, who were faced with increased protection challenges during these years.

While UNICEF seemed to be “setting and/or going with the fads”, other non-state actors were not very clear in their response to the question as to why they adopt certain issues and not others. For example, juvenile justice has been an important child protection issue in Pakistan and the focus of attention of non-state actors since the early 1990s (Save the Children, Sweden 2005). The representatives of most INGOs interviewed for this research were keen to highlight their activities and achievements as they related to juvenile justice (Participant D2: interview 4 June
Reforms in the juvenile justice system that have been guided by the UNCRC include

- The enactment of the 2000 Juvenile Justice System Ordinance considering all persons under 18 as juveniles compared with the provisions in old laws (for example 16 years as under the Sindh Children Act 1955)
- Strengthening the probation system by increasing the number of probation officers to help keep child offenders away from detention
- The establishment of the Child Rights Desks in the Sindh Police Department
- The introduction of the 2009 Juvenile Justice Reforms in the Pakistan Project (SPARC 2009).

Due partly to these reforms and partly to the activities of the I/NGOs, the number of juveniles in Pakistani prisons declined from 4,979 in 2002 to 1,357 in 2009, of which 403 were in rehabilitation centres for juveniles (SPARC 2009). In short, juvenile justice appears to be an issue being fittingly picked up and successfully dealt with, mainly by non-state actors, at least when compared with some other issues, for example, child labour.

As noted elsewhere, various participants from among both state and non-state actors, observed that the exploitation and abuse of working children is a major protection issue in Pakistan. Some participants further noted that child labour is on the rise and showed a degree of scepticism with regard to the efforts of the Government of Pakistan, the ILO and the I/NGOs to deal with the issue. This scepticism is reflected in the following response, which was not particularly blunt, although it might appear to be, because many participants talked about child labour in a similar tone:

I don’t know if I want to use the word “disgusted” but any debate on this issue is extremely hopeless and helpless... I actually have started saying what have the ILO and the government of Pakistan done?... Your intervention will end their earnings, both of children and employers, they will be out of business, sent to jails and so forth. What sort of intervention is this? Useless! (Participant D1: interview 31 May 2010)

Within two years of the launching of the first-ever Children in Conflict with the Law Project in 1994 by both Save the Children, Sweden and the Pakistan Paediatric Association, it was already known that more than three million children were economically active in Pakistan (Pakistan Bureau of Statistics 1996). Many of them
were engaged in the worst forms of labour including bonded labour (UNICEF 1997). It is not to relegate concern with the protection of those in conflict with the law, but one wonders how could the activists be so preoccupied with a juvenile population of around five thousand as to risk ignoring the plight of millions? Especially since both populations are those of children and at the heart of both issues is children's right to protection (Alston & Tobin 2005). Is it about the motives of non-state actors because the 'intensity of their work on a given issue or country may not reflect its real-world prevalence' as, in Pakistan, the prevalence of child labour is much higher and intense than is the juvenile justice issue (Ron et al. 2005, p. 575)? After all, other factors such as donor funding and media coverage (Bob 2005; Carpenter 2005; Finnemore 1996), both of which influence issue adoption, are not unknown.

In fact, responses given by participants to the above questions and to the specific question of the non-adoption of child labour by most non-state actors were not very clear. For example, one participant from a national-level NGO observed, 'We feel, our efforts in the area of child labour, though we did a lot, but, they are not that effective as our efforts yielded results in (the field of) juvenile justice. But, again, on bonded labour, we did exceptionally well' (Participant D2: interview 4 June 2010). Another explained:

> Well, I don't think we can do much because there is no interest, nobody wants to change that situation, simply, because of the "mafia" the industrialist, the feudal who have money and who are using these children for their own benefit; they have to pay less to these children. (Participant E 1: interview 8 June 2010)

This explanation makes sense, especially since 'politically acceptable perpetrators may be as or more important than politically acceptable victims' (Carpenter 2007, p. 661). As noted throughout this research, and especially in Chapters One, Three and Four, these industrialists and feudal lords are the ultimate power holders and lawmakers and non-state actors may benefit more by 'having a dialogue' with them than by 'breaking away' (Participant D 3: interview 24 June 2010). On the downside, however, such explanations challenge some of the widely acknowledged strengths of non-state actors.
Non-state actors are known for their reputation as providers of objective knowledge, as representative of affected communities and as actors able to challenge states, states' repressive actions and those of other agents of repression (Clark 2001; Grugal & Peruzzotti 2007; Keck & Sikkink 1998; Okafor 2007). Despite this, the above explanation supports the criticism that non-state actors receive for their systemic biases in selecting causes based on potential media exposure rather than on principle and need (Participant A5: interview 30 April 2010; Ron et al. 2005). This is especially true with regard to child labour in Pakistan. However, child labour is not the only issue that is not an "issue of choice" for most non-state actors: there are others, such as the issue of the rights of children born out of wedlock. As noted in Chapter One, children born out of wedlock are abandoned, even left on garbage heaps to die, which would be a classic demonstration of "bodily harm to vulnerable individuals". Further, such children form a special constituency within the larger child population that benefits from the UNCRC. However, these children do not gain the attention of most non-governamental actors in Pakistan despite the latter's claims of conceptualising children's right to protection in line with the UNCRC provisions. Further, to be effectively resolved, the issues which are adopted by non-state actors and successfully put onto the public policy agenda, need to be transformed into concrete rules and policies.

**Transforming norms into concrete rules: policy formulation**

Non-state actors are dependent on state actors during the actual formulation of policies, laws and rules. State actors have higher stakes in these rules because the rules prescribe appropriate behaviour for national governments and hold them accountable (Risse 2002). State actors would not enact rules, for example, that would compromise state authority and/or sovereignty as opposed to any other constituency including inter-governmental and non-governmental organisation. Therefore, non-state actors might dominate the agenda-setting phase, but they are required to build "coalitions" with and among state actors during policy formulation (Kingdon 2003; Risse 2002). In Pakistan, some non-state actors accept the government's invitation to participate in policy formulation in order to benefit from their expertise in certain

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81 Ali Khan (2007) provides a detailed analysis of the media coverage of child labour in Pakistan's soccer ball industry.
areas and they take this opportunity to influence policy and legislation. For example, Society for Protection of All Rights of Children (SPARC), with its strong legal orientation, has been actively involved with the Ministry of Social Welfare in drafting children-related legislation such as the Protection of Children (Amendment) Bill 2009 (SPARC 2009).

Further, some local non-governmental organisations have placed parliamentarians who have an interest in children’s issues on their boards of directors. These parliamentarians then take the proposed legislation to the parliament as a ‘private member’s bill’; the Child Marriage Restraint (Amendment) Bill 2009 furnishes an example of this (Participant C1: interview 21 April 2010; Participant D2: interview 4 June 2010). Other organisations try to liaise with politicians and bureaucrats by inviting them to training workshops and seminars on the relevant issues, hoping that they will then facilitate related legislation (Participant D1: interview 31 May 2010; Participant D3: interview 24 June 2010; Participant D4: interview 7 July 2010). Thus, the impact of non-state actors appears to be less pronounced during policy formulation as compared to the agenda-setting stage, as noted in the preceding section. However, these actors once again assume centre stage in the process of the implementation of policies and laws.

Policy implementation

In the policy implementation stage, two roles played by the non-state actors are crucial. First is delivering basic social services such as health and education that protect and promote general safety and well-being of children, especially in resource-constrained developing countries such as Pakistan. The second and perhaps the most important role played by non-state actors is to educate the citizenry on child protection issues by reporting actual abuses and by imparting knowledge to the various stakeholders that relates to child rights norms as enshrined in the UNCRC. In fact, Articles 10 and 11 of the United Nations’ Declaration on Human Rights Education and Training identifies non-state actors as having a role to play in public education and training for improved human rights practice. This makes non-state actors not only ‘namers and shamers’ of governments with poor human rights records, but also ‘makers and shapers’ of public opinion towards human rights practice (Welch
The information provided by these actors serves as a check-and-balance mechanism for the state’s human rights practice.

In Pakistan, various actors including UNICEF, Save the Children and local NGOs (such as SPARC and Sahil) have been performing this role. They publish and distribute child-friendly versions of the UNCRC, hold child rights awareness campaigns, develop information and training materials relating to child protection, organise training workshops for those involved in children’s issues and conduct research and compile data on various child protection issues (Participant D1: interview 31 May 2010; Participant D2: interview 4 June 2010; Participant E1: interview 8 June 2010; Participant E3: interview 3 August 2010). In their efforts to disseminate information regarding child rights, the role of the inter-governmental organisation is especially important. The way the inter-governmental organisations use the UNCRC (as a normative guide – an advocacy tool confirming, prescribing norms of international human rights of children and/or a programming framework – a practical instrument in program design, implementation, monitoring and evaluation) directly influences the Government of Pakistan’s approach to children’s issues.

Such influence comes in two ways. First, it comes through sensitisation and training of the staff working in children-related departments and ministries of the Government of Pakistan (Participant C5: interview 2 July 2010; Participant D2: interview 4 June 2010; Participant E2: interview 23 July 2010; Participant E3: interview 3 August 2010). This can be seen in the way the NCCWD staff have internalised the child rights language through their on-the-job training, mostly conducted by UNICEF (as noted in Chapter Two). Secondly, such influence comes through the technical assistance provided by inter-governmental organisations to various departments of the government in formulating policy and designing programs related to children. For example, the ILO has provided assistance to the Center for Improvement of Work Conditions and Environment, Punjab, in improving carpet-weaving technology that does not involve child labour (Participant E2: interview 23 July 2010; Participant E3: interview 3 August 2010). However, considering that the dominant orientation of government departments involving social services has long been needs-based (Boyden 1997), inter-governmental organisations acknowledge the constraints faced
by the government in uniformly applying a rights-based approach across the board (Participant E2: interview 23 July 2010).

Compared with the intergovernmental organisations, the INGOs in Pakistan have an uncompromising stance on UNCRC guided rights-based approach in all their work from advocacy to practical intervention (Participant E1: interview 8 June 2010). Local NGOs on the other hand make use of the UNCRC more as a normative guide and basis for advocacy for children’s rights rather than a practical instrument for programming (Participant D2: interview 4 June 2010; Participant D3: interview 24 June 2010; Participant D4: interview 7 July 2010). It must be noted, though, that, unlike the state institutions, which have a responsibility for providing bulk services to all children, the INGOs establish model projects, as one participant put it, ‘to show them (government) how to do things’ (Participant E1: interview 8 June 2010).

However, in the progress from ‘bringing to scale the pilot projects’ to ‘best practice’, it is well established that setting up model projects is different, and perhaps easier, than replicating them or undertaking similar interventions on a large scale (Bebbington et al. 2008; Biemann & Tomlinson 1992; Myers 1992, 2000; van Oudenhoven & Wazir 2001). Some participants reflected on a similar experience of their own:

I remember the time when we published this book for primary school teachers on protection of children against sexual abuse and nobody was letting us in (school)... Now we are covering 800 schools... We talked to the Textbook Boards82 to include it in the primary school syllabus... It has been 15 years and we are still talking. (Participant D1: interview 31 May 2010)

To include a book in the syllabus, the Textbook Boards have all kinds of problems to deal with, from approval by the Ministry of Education, decision-making regarding placement of the book in the existing syllabus and resultant increases in the price of course books to negotiating teachers’ training requirements with the Ministry and the district education offices across the country.

82 The Textbook Board is the body responsible for the regulation and control of printing, publication and sale of textbooks in all provinces and other administrative units of Pakistan.
It should be further noted that UNCRC-based advocacy and programming by non-governmental organisations have not always been successful. For example, there are issues such as the definition of the child around which non-state actors have long been campaigning in Pakistan without much success. The non-state actors insist that, being party to the UNCRC, the Government of Pakistan should comply with the UNCRC definition in all legislation. One participant argued:

Let me take you back. Historically, 1979 was the year of the child and in 1989, the UNCRC was adopted. For ten years, in social, legal, medical and UN circles this dialogue took place who is a child and after this ten years dialogue, the consensus was developed that it is a person under 18 years of age... as a state we ratified and that's it. (Participant D4: interview 7 July 2010)

Clearly the legitimacy of this position is derived from the legalisation of international norms into the UNCRC and from Pakistan’s commitment to the treaty. However, is this position as legitimate in domestic practice? Pakistan’s children-related legislation and programming lend little support to such a position. In fact, the Member of Parliament who tabled the Child Marriage Restraint (Amendment) Bill shared with me the thought that, ‘the issue with the Act is the age limit, that is, 16 years for girls and 18 years for boys. What we have done is that we did not refer to the UNCRC, UNICEF, ILO or any other authority. I just commented that it is discriminatory, as the Constitution of Pakistan does not allow discrimination on the basis of sex, so let us make it 18 for both’ (Interview 21 April 2010). This gap between the commitment of the non-state actors to international child rights norms and the actual policy and practice of child rights in Pakistan demands further explanation.

This explanation is important, especially since the gap between the commitment and its translation into practice challenges the well-established role of the non-state actors in the implementation of human rights. In this role, Merry (2006a, p. 55) observes that these actors move ‘between local and global sets of cultural understandings, interpreting each to the other’. This intermediary role is crucial because ‘human rights ideas, embedded in cultural assumptions about the nature of person, the community and the state, do not translate simply from one setting to another’, and, to be effective, ‘they need to become part of the consciousness of ordinary people’ in the local context (Merry 2006a, p. 57). The intermediaries – mostly non-governmental actors – translate international human rights discourses into the vernacular. This is exactly the
case with regard to child rights in Pakistan. On the one hand, there are strong assumptions about children and childhood that are based on religion, culture and socioeconomic conditions, as seen in Chapters Three and Four. On the other, the policy rhetoric is all based on the UNCRC. The two positions are not always in agreement with each other and can even be rather contradictory at times (again, as noted in Chapters Three and Four). The non-governmental actors, according to Merry (2006a), could play the crucial role of intermediaries between the two positions. However, the majority of these actors opted to align themselves with one position rather than mediating between the two.

That position can be found in the child rights rhetoric based on the UNCRC. As one NGO representative declared, 'The UNCRC is the yardstick for us and other international conventions, then the Constitution of Pakistan and then national laws. But, frankly speaking, we mostly look towards the UNCRC for definitions and then general comments of the UNCR Committee and its concluding observations on the Pakistan report. So, mostly, we take our guidance from there' (Participant D2: interview 4 June 2010). Very few representatives of NGOs were willing to negotiate or try to appropriate the UNCRC provisions in the local context (Participant D3: 24 June 2010). Further, the efforts to make the UNCRC part of the consciousness of ordinary people were almost non-existent, as public education efforts are limited to the urban, educated few.

The reluctance to play the intermediary role can partly be attributed to a self-acclaimed sense of knowing and representing children on the part of non-state actors; this is frequently done by seeking child participation in their work. Apparently, accessing children and parents in remote rural communities on the one hand and organising seminars, training and consultations with children in big cities on the other, give these organisations a fairly legitimate claim of representing children and knowing their issues (Participant D1: interview 31 May 2010; Participant D2: interview 4 June 2010; Participant D3: interview 24 June 2010; participant E1: interview 8 June 2010). However, such a claim does not go unchallenged. For example, some state actors see the visits of non-governmental actors to remote areas as 'a one time show-off to donors' (Participant A7: interview 23 June 2010). State actors also question the motives and strategies that non-state actors use in the process
of child participation: ‘What do they try to achieve by getting together some children from posh English schools of big cities in ‘five-star’ hotels and imparting them information totally alien to our culture?’ (Participant C1: interview 21 April 2010). However, such criticism is not made public: rather, officially, these efforts at child participation are acknowledged primarily as the domain of non-governmental actors (Participant A2: interview 2 February 2010; Participant A4: interview 30 March 2010). This gives non-state actors the confidence to proceed by the book, and to legitimise their uncompromised stance of applying the UNCRC literally.

Partly, the reluctance to act as translators of the UNCRC into the local context can be attributed to the conscious or unconscious belief of the non-governmental actors in the correctness and/or superiority of international human rights norms. The profiles of many of these actors, as found on the websites of their respective organisations, support Simmons’ ‘ideational power’ argument (2009, p. 370). Simmons notes that a good majority of the members of various oversight committees associated with international human rights treaties did ‘substantial graduate studies, often relating to human rights, in Western Europe and/or North America’ and are ‘torchbearers for Western rights notions’ (2009, p. 370). Similarly, Harris-Short (2003) notes that the elite in the UNCRC-ratifying states in non-Western countries tend to be “Westernised” and Pakistani civil society is known to be very elitist, urban and Westernised (especially when compared with the state actors who, despite their Western education, maintain a strong religious and local cultural stance on children’s rights).

In addition, non-governmental actors in Pakistan might have a stake in maintaining the status quo rather than in changing it through implementing the UNCRC because the current power structures benefit them (Harris-Short 2003). Donor money, an illiterate population lacking awareness of their rights and submissive to the ruling elite, and cheap child labour are some examples of these benefits (Participant A5: interview 30 April 2010; Participant A7: interview 23 June 2010; Participant C5: interview 2 July 2010). Therefore, they slow down implementation through their uncompromising stance and do not try to mediate between international and domestic values. Ironically, this strategy is similar to the use of Islamic and cultural idiom by policymakers in the public sector, discussed in Chapter Four, of which these non-
governmental actors are so critical. Nevertheless, this uncompromising stance of non-state actors hampers an honest engagement between them and the state actors in order to find ways of translating international child rights norms into policy and practice in the local context, as is explicitly shown in the following analysis.

The relationship between state and non-state actors

In a broader state-non-state binary, a general dissatisfaction exists among non-state actors with regard to children-related state policy and institutions. As one participant noted, to have a system of child protection there must be pre-requisites, including an updated and relevant legislative framework and an administrative structure (a functional institution having authority) if the provisions of the legislative framework are to be implemented (Participant E3: interview 3 August 2010). Most non-state actors were critical of the existing administrative structure, the NCCWD, as noted in Chapter Two. However, this dissatisfaction is not limited to the NCCWD. Many participants felt the same throughout the various government departments and ministries when it comes to children issues.

For example, one participant noted, ‘We have hardly any idea, and I say “hardly” because I talk to educated persons, in fact, some parliamentarians; they had no idea of child protection, no idea of any laws, no idea of what is currently happening’ (Participant D1: interview 31 May 2010). Another observed, ‘Other (than Social Welfare) government departments don’t do anything, simple. If you talk about the education ministry, they are interested only in curriculum and syllabus, what is happening to a child, that is not their interest’ (Participant E1: interview 8 June 2010). Yet another expressed regret that ‘Police officials, even judiciary, they are not aware of a number of children-related laws and policies’ (Participant D2: interview 4 June 2010). However, while there is a general dissatisfaction among non-state actors towards the existing situation and performance of various actors and institutions, sharp differences emerged with regard to the reasons for this poor performance and the lack of willingness and commitment of the state actors towards improvement.

During interviews, representatives from inter-governmental organisations, and multilateral and UN agencies either restrained from commenting or tended towards
analysing the situation of state actors in purely institutional terms or within the broader socioeconomic context (Participant E3: interview 3 August 2010; Alston & Tobin 2005). Others acknowledged specific constraints including the security situation, natural disasters and internal displacement (resulting from both) faced by the country over the last decade (Participant E2: interview 23 July 2010; Participant E3: interview 3 August 2010). This seemingly neutral stance on behalf of these organisations is guided by their mandate, by international diplomatic etiquette and by sovereignty concerns, among other things (Albright 2003; Kennedy 2007; Weiss et al. 2009). Therefore, representatives of the inter-governmental organisations decide to ‘wait and see and then compliment or criticise positively and constructively’ (Participant E3: interview 3 August 2010) on various issues (for example, the post-18th Constitutional Amendment situation relating to children).

In contrast, the majority of the children-related non-governmental organisations, especially the INGOs and local NGOs involved in advocacy, were much more critical of their counterparts in government. One participant observed, ‘It all comes to the political will and commitment of the government. Government does not seem serious’, and reflected in a sad tone, ‘Is it not sad that policymakers, who should be in the driving seat, do not know (the situation of child protection)? (Participant D2: interview 4 June 2010). Another was almost contemptuous: ‘It is easy for them to say “children our future” in speeches, but what steps have they taken? You go to their villages even today and see the situation there’ and argued:

We are talking about around 52 per cent of the population of Pakistan under 18 years of age. We have a women ministry, a youth ministry and all other ministries, but, we do not have one for children, can’t we have a ministry of children’s affairs? (Participant E1: interview 8 June 2010)

Compared with advocacy-focused I/NGOs, NGOs involved in service delivery and/or advocacy demonstrated a better working relationship with the government. One participant from an organisation involved in service delivery and advocacy on child protection against abuse and neglect was very pragmatic:

We feel no matter how much we do, we can do only a percentage of the work. So, we have to create models, and to give then to the government for them to implement on a larger scale. For that, we always need government support... We feel that an NGO should be a supporting wheel to the government and not a breakaway... We want to share (our experience) and want
them to implement it in the larger interest of the child. (Participant D3; interview 24 June 2010)

This "working relationship" between service delivery/advocacy NGOs and the state is in line with the evidence established in the earlier scholarship on the non-profit sector in Pakistan. For example, Pasha and colleagues (2002b, p. 2) note that governments in Pakistan are 'generally supportive of the welfare and service-providing role of the non-profit sector'. This relationship is different from the one that exists between government and advocacy organisations.

The difference in the type of relationship that various non-governmental actors have with the state comes mainly from the nature of these organisations and the target of their activities. In nature, the I/NGOs that focus on advocacy for children's rights are independent of the government, especially with regard to finances, as almost all their funding comes from international sources. In addition, and as noted earlier, advocacy for child rights is more an elite affair in Pakistan, with such organisations having access to an international audience. Because of this, they hold governments accountable for their human rights practices at the international level, for example, by submitting "alternative reports" to the United Nations Child Rights Committee and thus pressuring the state to do something to improve the situation of children in the country (Korey 1998). In contrast, NGOs focusing on service delivery have a mutually interdependent relationship with government departments in fields such as health and education. Further, service delivery organisations mostly work with poor people in the majority-population rural areas. These populations are not only much less familiar with the concept of child rights as used in the policy rhetoric, but are also represented by those, that is, the feudal lords, who hardly ever consult them in policy decisions. It should be noted, though, that while I/NGOs that focus on advocacy are often critical of the state policy and practice, they are well aware of the decisive power of state actors in policy decisions. This awareness keeps them from entering into a too-adversarial relationship with the state. Rather, as noted earlier, many adopt more cooperative strategies of accepting government invitations for consultation and/or expert advice and by making parliamentarians members of their organisations' boards of directors. Such strategies allow them to exercise considerable influence in children-related policy.
Conclusion

As the above analysis reveals, the international context of Pakistan’s child protection policy is comprised of commitments that the country has made by signing and ratifying various international treaties as well as conventions relating to human rights, child rights and the protection of specific groups of children. Another salient feature of this context is the variety of international and local non-state actors from both inter-governmental and non-governmental organisations that are working on children’s issues. These actors play a significant role at various stages of the child protection policy process, from introducing new ideas and norms relating to children’s rights and transforming these norms into actual policy and legislation, to implementing child protection policy. These roles include raising of awareness about and advocating for child rights, expert advice in legislation and policy formulation and model interventions. Above all, these actors continuously monitor the state’s evolving child protection policy and practice and, in doing so, they have been often times very critical of the state.

However, most of these actors agree that although the country is clearly struggling in terms of compliance with many of its international children-related commitments, it may not be categorised as a “false positive”, that is, a state ratifying international treaties with no intention to comply, in Simmons’ classification of treaty ratification and compliance (2009). Apparently, it is on the basis of this belief that the non-state actors engage themselves in the state policy process. On further analysis though, both state and non-state actors alike appear to have their own agendas. On one level, each criticises the other and doubts the other party’s motivation and commitment to children. However, on another level, it all appears to be a ‘politics of territory’, as is apparent in the above appraisal of how issues are adopted and how the relevant actors choose potential fields of intervention. There seems to be a silent agreement that the state, with its inter-governmental allies in the UN and other multilateral organisations, will keep itself to “big yet accepted in routine” issues in fields such as health and education and the non-governmental actors of I/NGOs will take up “small yet controversial” causes such as child sexual abuse and juvenile justice. Admittedly, the attention given to the child labour issue in the 1990s by I/NGOs was unprecedented. However, as the non-state actors who participated in this research acknowledged, the
real difference was small compared with the number of organisations involved in the child labour issue.

Optimistically, it could be considered as natural for different actors to have different foci and priorities rather than seeing things as based in a "politics of territory". Also, these differing priorities could be interpreted as a simple "division of labour" due mainly to the nature, organisational structure and capacity of each of these actors. For example, it is clearly an established domain of the non-state actors to advocate for the human rights of specific groups of population, especially of those such as children, who earlier were not seen as rights holders. Further, this can also be seen in the wider theoretical perspective of the 'division of rights' into negative and positive categories. It would only be practical for the state to attempt to provide health and education services to millions of children, both in a protective environment. It would be equally practical for the non-governmental actors advocate and campaign for the civil and political rights of children. But then, most protection issues faced by Pakistani children present an anomaly in this division. Take for example juvenile justice, where prohibition of the death penalty for juveniles (that is, a negative right of children advocated by non-state actors) requires states to make simple decisions to enact laws, with relatively minor financial implications. Setting up juvenile courts and borstal institutions with adequate provisions for food, clothing, health care and education (that is, positive rights of children), on the other hand, demands allocation of significant financial and human resources on the part of the state.

In fact, a closer look at the nature of the issues adopted (such as protection against child sexual abuse or juvenile justice), reluctantly adopted (such as bonded labour versus child labour) and not adopted (such as protection of children born out of wedlock) reveals an implicit assumption. The issues adopted – including those reluctantly adopted – belong directly or indirectly to the public sphere, for example, juvenile justice. Similarly, the adoption of and success in dealing with bonded labour compared with child labour can be explained in terms of the established "public-private" and "child-family" division. Of course, child labour is so rampant in Pakistan that no one can deny its existence. However, while individual state actors, as noted in Chapter Six, openly discussed the situation where parents decide to send their children to work and not to school and tried to make it a private or family issue where
the state could not interfere, most non-state actors simply avoided addressing the child labour issue altogether. However, they could intervene with bonded labour with some success because mostly the whole family was in bondage, as opposed to the "family versus child" situation. Finally, there is the classic example of "illegitimate" children who are known to be abandoned on garbage heaps and left to die. The issue of the rights of these children is widely acknowledged and quite well researched in scholarly debates relating both to reservations to the UNCRC and to cultural relativism. However, neither on-the-ground reality nor the ideological debate seems to help the issue in terms of its adoption by non-state actors because the existence of children born out of wedlock is not publicly acknowledged.

These examples show that despite their rhetoric of international child rights norms and standards which they believe to be "universal" and even "superior", non-state actors are as reluctant as their state counterparts to intervene in the private sphere of the family, confront established societal norms and standards and/or challenge the status quo to ensure those rights. However, a more positive explanation might be that these non-state actors genuinely believe in the human rights of children as a public issue. The fact that amongst all participants of this research only one analysed the corporal punishment of children from the perspective of the perpetuation and general acceptance of violence in hierarchic and gendered power relationships in society and family compared with the rest, who demand a ban on corporal punishment in institutions such as schools and prisons, could be a reflection of such a belief. However, this explanation does not seem plausible in terms of the lack of interest among the non-state actors, both in terms of advocacy and service delivery, on "public" issues such as school enrolment and/or universal education.

Therefore, while public policymakers openly acknowledge their discomfort with the UNCRC concept of child rights, including the right to protection, and try to reconceptualise child protection issues in local religious, cultural, socioeconomic and political contexts, the non-state actors fully subscribe to the international concept of child rights and demand the same from the state. However, with this uncompromising stance they lose opportunities to engage with the state as well as society on many issues and miss their role as translators between the global and local realities and ideologies. In the long run, with continuous awareness-raising, both on child
protection issues and children's rights, the non-state actors might win; but how long
the long run is, is another question. In the short run, children in Pakistan continue to
face all kinds of abuse and exploitation.
Conclusion

This thesis has explored the concept of child protection from a policy perspective. It has argued against the currently dominant, generalised child protection policies that are based on either “too narrow” or “all inclusive” concepts of child protection. This research concludes that child protection is not a mere technical activity but rather a social construction of an issue. This issue involves a wide range of locally specific situations, from individual incidents of injury or bodily harm, emotional abuse and exploitation, neglect, involvement in hazardous work and trafficking, to children’s adverse experiences of natural disasters and armed conflicts. Further, the thesis has strongly contended that the social construction of child protection is informed by varying assumptions, beliefs, values, experiences and attitudes of those who are involved in child protection, especially of those who are involved in the formulation and implementation of policy. In advancing this argument this thesis has examined constructs of childhood and of the care and protection of children in Pakistan and how such constructs influence policymakers’ conceptualisation of the child protection issue. The work has also revealed how well (or otherwise) these constructs correspond with the reality of children’s experiences of adversity, and has unmasked the ways in which specific concepts translate into policy. By doing so, this thesis has sought to establish that to have a relevant and effective policy, it is critical that we conceptualise child protection in a way that relates to specific adverse conditions as experienced by children in their local context.

This study started with a relatively broad research question, that is, “How do policymakers in Pakistan conceptualise child protection?” From this, it then went on to ask two interrelated sub-questions to deepen the exploration. Firstly, “Do specific concepts matter in policy decisions?” and, secondly, “If they do matter, then in what ways?”

Data for this research were gathered in Pakistan and, thus, the findings will directly contribute to the child protection policy and practice both in that country and in other developing countries of the global South that share a similar context. However, the analysis was conducted within the broader theoretical frameworks of the international
human rights of children, of contemporary child protection policy and of public policy processes, allowing also for a contribution to the international debates on child protection theory, policy and practice.

Key findings

To answer the research questions, there were two pre-requisites. Firstly, to develop an understanding of the issues, this research mapped out the nature and intensity of existing child protection problems and current legislative and policy responses in Pakistan. Secondly, it identified the individual and institutional policy players to determine their roles in the child protection policy process in Pakistan. Based on these insights, this research then examined Pakistani policymakers’ concepts of child protection and the ways these concepts matter in policy decisions.

Current child protection issues and legislative and policy responses

Child protection issues in Pakistan include incidents of individual abuse and exploitation, but, more commonly, collective abuse and exploitation caused by broader socioeconomic and structural factors. The analysis of twenty years’ worth of newspaper coverage of child protection issues revealed that Pakistani children frequently become victims of serious crimes such as kidnapping, sexual abuse, murder and traffic violations that result in injury or death of a child. Further, public departments, including law enforcement agencies and the health and education departments, were found to be negligent towards children, even causing them serious harm. In addition, children were found to be living in seriously difficult circumstances including situations involving extreme poverty, hazardous work, abandonment and homelessness. However, the analysis of the official documents (as opposed to newspaper coverage) showed that the existing legislative and policy provisions do not appropriately address some of these issues, such as child labour, and completely disregard others, such as the abandonment of children born out of wedlock.

Child protection policy process

From the analysis it became apparent that policymaking on children’s issues involves a wide range of individual and institutional actors. This can be largely explained by the absence of a specialised national institution with powers and resources to cater to
all children-related issues. Thus, Pakistan’s child protection policy community includes a diverse range of state and non-state actors. While bureaucrats and politicians hold the ultimate decision-making power, representatives of civil society and their counterparts in the international child rights community are also influential members of the policy community. However, the latter have a very different perspective from that of elite Pakistani politicians and bureaucrats, which only adds to the highly contested nature of child protection problems and policy responses. The non-state actors consider child protection issues from the perspective of the international human rights of children as enshrined in the United Nations Convention on the Rights of the Child (UNCRC). In contrast, state actors are sceptical about the relevance of the UNCRC in the local socioeconomic and cultural contexts. This situation is further complicated by the involvement of an array of institutional structures with different mandates and/or interests relating to children and child protection, all of which influence policy outcomes.

For example, among these institutional structures, the National Commission for Child Welfare and Development (NCCWD) (the body that has oversight of children’s issues) is a non-statutory body, without sufficient legal authority, powers and resources to negotiate with the powerful ministries and other government departments such as the Ministry of Interior, the Ministry of Labour and Manpower and the Ministry of Education. In fact, due mainly to the lack of proper children-related institutional arrangements, some political and bureaucratic actors take it upon themselves to steer child protection policy in their individual capacity. Thus, the whole policy process is characterised by personalistic decision-making and weak institutional influence. These characteristics result, on the one hand, in the failure of the concerned institution to influence the policy process, causing long delays and, in some cases, the withdrawal of proposed legislation and policy related to child protection. On the other hand, the exercise of personal influence and the ignoring of rules does not allow important decisions to be institutionalised, leaving policies inherently unstable, less efficient and in some cases ineffective. Above all, this "personalistic" decision-making process highlights the importance and the impact that individual policymakers’ conceptions of child protection have on child protection policy.
Individual policymakers’ conceptualisation of child protection and the ways these concepts matter in policy decisions

The analysis in this thesis has revealed three major concepts of child protection among Pakistani policymakers: they are child protection as a socioeconomic development issue, as a religious and cultural issue and as a human rights issue. The analysis has further revealed that these specific conceptions do matter in policy decisions, leading to legislative and policy frameworks that fail to address some issues, overlook others or offer solutions that are not relevant to the local contexts of child protection problems. Key findings relating to policymakers’ varying concepts of child protection and the way these concepts translate into decisions are as follows.

Child protection as a socioeconomic development issue: Against the backdrop of extreme poverty, over-population, natural disasters, security issues, poor economic growth and a lack of public social services, Pakistani policymakers have a legitimate basis for conceptualising child protection in socioeconomic terms. These broader socioeconomic challenges not only pose serious risks to children’s safety and well-being (for example, in the form of child labour in hazardous occupations in order to avoid hunger and starvation) but also hamper efforts to mitigate and prevent these risks (for example, lack of social services such as education). Therefore, when policymakers conceptualise child protection as a socioeconomic issue, the policy response tends to be one that focuses on overall socioeconomic development of the country to indirectly ensure safety and well-being of children, rather than one directly aimed at child protection in its own right. The two responses are different in that the former excludes any child-specific interventions and children’s issues are lost in other national priorities such as achieving higher economic growth.

For example, Pakistan’s Poverty Reduction Strategy, which forms the basis of national development policy and planning, is a case in point (as analysed in detail in Chapter Three). Other than education and health, the strategy does not include any children-related provisions. Even child labour, which the majority of the participants in this research considered a serious child protection issue in Pakistan, has been dealt with as a labour market issue, thereby leaving child labourers without any special protections they might be entitled to due to their vulnerability as children. Ironically,
the fact that the National Plan of Action for Children (which identifies socioeconomic and structural issues such as poverty as a main cause of many of the child protection issues including child labour) is “dovetailed” to the Poverty Reduction Strategy does not put child protection issues on a par with other national development priorities.

Even policy responses to specific child protection issues do not take into account the interdependent relationship between the child and socioeconomic environment. For example, camel jockey children recovered from the Gulf states have been sent back by their parents because these children and their families have no alternatives in the form of economic and/or educational opportunities in their local area.

Child protection as a religious and cultural issue: Child protection policy in Pakistan is still very much in its early stages and there are many and wide ideological differences among policymakers regarding conceptualising, defining and responding to child protection problems. The most important difference can be found between the ideologies of the international human rights of children and those of Islam and local culture. Policymakers recognise the UNCRC as providing official policy guidelines, however; in the actual formulation of the policy, they are struggling between the individualistic concept of rights as conceived in the international standards, such as the UNCRC, on the one hand, and the Islamic and local cultural conception of collective rights and familial and communal obligations on the other. The evidence suggests that, while some of these struggles might be genuine, others are a reflection of the desire of the political and administrative elite to maintain the status quo — as they have been successfully doing in the areas of family law and women’s issues.

Thus, religious and cultural conceptions of child protection, such as children, being a “trust” from Allah, should be loved and protected by their parents, or children being safe and well taken care of in their well-knit extended families, lead to specific policy decisions. These decisions include, among other things, the nature and extent of the state response against child protection issues. Religious and cultural conceptions of child protection have led Pakistani policymakers to believe that children belong in the home where the state could/should not interfere, thereby limiting state intervention to child protection issues that emerge only in the public sphere; for example, interventions for care and protection of homeless and destitute children. In its focus on the public sphere, the state overlooks some serious child protection issues such
corporal punishment, child domestic labour and child marriage, which take place or have roots in the private sphere of the home.

Child protection as a human rights issue: As noted earlier, child protection as a human right of children is acknowledged in official policy rhetoric; however, in practice, child rights principles are rarely translated into concrete policies and practices. The status of the UNCRC in Pakistani law itself is an example of rhetorical commitment. As a common law regime, international treaties require enabling legislation to become part of the domestic legal system in Pakistan. However, even after 22 years of ratification, Pakistan is yet to enact such legislation and policymakers have hardly expressed any commitment to do so. In fact, many are sceptical about the relevance and applicability of some of the UNCRC principles, such as freedom from work, in the local context. This scepticism clearly affects policy decisions such as the state legislation against child labour that does not cover the agriculture sector, or domestic labour, the two main occupations involving child labour in Pakistan.

Further, when faced with pressure from the international and local child rights community to fulfil its treaty ratification obligations state efforts to implement the UNCRC principles are limited to satisfying the literal provisions. Such attempts lack innovation, that is, an interpretation of the child rights principles that makes UNCRC provisions relevant in the local context. For example, in line with Article 19(2), Pakistan has established a system of identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment in the form of the Child Protection and Welfare Bureau. Yet, the Bureau can only intervene to protect at-risk children in the public sphere and not inside the home or other institutions. Considering the large number of working, homeless and street children in Pakistan, the Bureau is able to protect only a minimal proportion of these children, leaving questions as regards the effectiveness and efficiency of its services in the local context.

Compared with public policymakers, most non-state actors fully subscribe to the international human rights norms enshrined in the UNCRC in all their activities, from advocacy on child rights issues and providing services for children to advising state actors on the enactment of child protection legislation and policy. However, their
interventions too, like the state's, are limited to the child protection issues that fall mostly in the public sphere. Moreover, they are reluctant to take up issues involving religious and cultural overtones, for example, the issue of care and protection of children born out of wedlock, who are considered illegitimate in Pakistani society and who carry a strong social stigma.

In short, the analysis suggests that the three conceptualisations of child protection as a socioeconomic, religious and cultural and/or child rights issue, are not always compatible and, at times, contradict each other. Individual and institutional policy players, who subscribe to a specific conception of child protection, try to influence policy decisions accordingly, leading to a legislative and policy framework that fails to respond to some issues, overlooks others and, at times, offers solutions that are not relevant to the local contexts of child protection problems. The implications of these findings for child protection policy in Pakistan in particular and for other similar socioeconomic and cultural contexts in the global South in general—as well as for global child protection policy and practice and for child protection theory—are profound.

Implications

*Child protection policy in Pakistan and other similar country contexts in the global South*

The privileged educational, socioeconomic and cultural position held by policymakers in Pakistan, the separation of the policy elite from larger Pakistani society and the unrepresentative nature of these elite have serious implications for child protection policy in Pakistan, not least because children cannot articulate their concerns and mobilise for themselves (Simmons 2009; van Bueren 1995). The majority of policymakers, especially politicians, are tribal leaders, feudal lords or spiritual leaders who are elected to their family seats by their tenants, serfs or spiritual followers and feel little or no accountability to their constituencies (Alavi 1989; Jones 2002). In fact, there is a direct conflict between the interests of these politicians and children’s needs and rights to protection. For example, legislating against child labour, given the extent of children’s work in the agriculture sector in Pakistan, is not in the interest of the landed elite.
Further, the religious and cultural discourse of child protection as espoused by Pakistani policymakers is not always based on justified assumptions. For example, policymakers’ belief that Pakistani children are well protected within the strong institution of the family leads policymakers to dismiss incidences of abuse and exploitation of children as either exceptions or the result of poor choices by parents and families, choices themselves that result from ignorance and/or lack of resources. In doing so, policymakers ignore the extent of both poverty and the lack of choice that parents and children face in making decisions that affect children’s, as well as the family’s, well-being. Similarly, the finding that the idea of child protection as a largely socioeconomic issue is not reflected in the child protection frameworks and/or national development policies such as the Poverty Reduction Strategy Paper (Harper & Jones 2009) relates to policymakers’ ideas about children as being dependent on adults and an extension of their parents/families. Thus, children’s issues are not seen to be worthy of consideration in their own right, but rather seen as something that is part of broader national development policies and plans. This view results in situations such as no financial allocation in the national budget for the implementation of the National Plan of Action for Children, which is dovetailed to the Poverty Reduction Strategy.

Based on conventional beliefs (such as the belief that Pakistani children are well-protected within the strong institution of the family) and unjustified assumptions (for example, that parents have a choice to either send their children to work or to school), ill-informed policy responses are formulated. These responses, such as the Child Protection and Welfare Bureau’s strategy to remove unsupervised children (many of whom are employed in labour or apprenticeships by their families) from the streets (Chapter Two), come with negative unintended consequences, thereby rendering the intervention ultimately ineffective (Chapters Two and Three). This itself implies that elite policymakers cannot appreciate the complexity of the challenges faced by poor children and their parents and that they have not done their homework in terms of gathering evidence. This highlights the need for robust data to be gathered on child protection issues, not only so it can inform specific policy decisions, but, also, so it can test and, if necessary, confront policymakers’ assumptions and beliefs.
The significance of the availability of data or lack of it becomes more evident in situations where policy makers appear to be in a “parallel conversation” with the international child rights community and domestic constituencies. With the former, they express a rhetorical commitment to the UNCRC; with the latter, they use religious and cultural arguments. Such usage is more defensive than pragmatic. Data on child protection issues can help policymakers clarify their own conceptions and sort out the differences and contradictions that exist between the UNCRC and local religious and cultural provisions related to child protection. In this process, Pakistani policymakers can use their own unique position in possessing Western education and exposure alongside the traditional Muslim practices and beliefs to successfully navigate and negotiate between the competing ideas of the international human rights of children, Islam and local culture (Merry 2006a). This has been done successfully in many parts of the world on women’s rights issues (Merry 2006a, b), issues that involve beliefs and values similar to those surrounding children’s rights.

Pakistani policymakers’ conception of child protection as a religious and cultural issue has deeper implications than those that characterise a mere lack of data and/or conceptual clarity. Rather such conceptions imply that the state is reluctant to make child protection a rights issue that would be binding on the state. This is reflected in Pakistan’s reluctance to enact enabling legislation to make the UNCRC a part of its common law legal regime (SPARC 2009). It is also apparent in the weaker (and non-existent, after the 18th Amendment) institutional arrangements that deal with children’s issues (Alston & Tobin 2005). Further, attempts to justify abusive practices, whether on socioeconomic, religious or cultural grounds, are in direct contrast with official child policy that aims both at ‘bringing domestic legislation into conformity with the Convention’ and ‘abolishing such practices and customs’ as stated in Pakistan Third and Fourth Periodic Report (Ministry of Social Welfare and Special Education & NCCWD 2008, pp. 15,28). Such a contrast means that translating the official rhetoric into concrete policy can never be successful, as policy and practice are continually at odds with each other, not least because those responsible for the formulation and implementation of policy say one thing but do another. This is exemplified in the exclusion of domestic child labour from the National Policy and Action Plan for Elimination of Child Labour. Secondly, given such open opposition, which is apparently based on deep-rooted beliefs, even if Pakistan could formulate a policy, it
would be hard to implement. The mass disobedience of the 1961 Muslim Family Laws (as discussed in Chapter Four) provide an example (An-Nairn 1990; Yilmaz 2005). In short, to reach some agreed-upon concept of child protection as a basis for a relevant and effective policy, Pakistan's policymakers have to cross much bigger barriers. In particular, they need to confront and test their own beliefs and commitments, rather than merely expressing a rhetorical commitment to children's rights in official policy and/or data collection to help better understand child protection issues. However, there is the other side to the issue to which findings of the present study relate; that is, to the global child protection policy based on the UNCRC.

Global child protection policy

The findings of this research resonate with the international debates on the universality of the concepts of the child, childhood and child protection as embedded in the UNCRC (Bissell et al. 2007; Boyden 1997; Melton 2009). For example, freedom from work as provided in the UNCRC does not relate to the reality of life for many poor working children in the developing world, and neither are the family-arranged fostering arrangements common in many developing countries "detrimental to children" as they are often labelled according to international child rights standards (Bissell et al. 2007; Boyden 1997). This implies that to have a relevant and effective child protection policy and practice, local norms and cultural values must be taken into account. This might require an effort to change local perceptions, revise international standards (which are based on specific assumptions relating to children and child protection) or both.

This study suggests two concerns relating to such efforts. At the national level, enacting laws and/or formulating policies in line with the international standards would not be sufficient to change local perceptions and improve the situation of children. Policymakers, especially non-state actors from the international child rights community, need to find ways to locally contextualise international standards. This leads to the second concern that, at the international level, the provisions of the UNCRC must be interpreted beyond the literal text (Bissell et al. 2007; Melton 2009). For example, Pakistani policymakers frequently bring religious and cultural
arguments into debates on children's issues, but tend to ignore the role of social institutions such as the family and community that sustain, practice and transfer religious and cultural values, leaving much to be done in acknowledging the role of the family in child protection. Such an acknowledgement would only increase the relevance of the UNCRC to many cultures around the world.

Pakistani policymakers' conceptualisation of child protection issues in socioeconomic terms has implications for international development agendas, including those described in the Poverty Reduction Strategy Papers, the Millennium Development Goals and in bilateral and multilateral aid arrangements. It means that these agendas need to acknowledge children's issues beyond funding for education and health. In acknowledging children's vulnerability, children's rights, including the right to protection, can be mainstreamed in the international development agendas as have been gender issues, HIV/AIDS or environment (Harper & Jones 2009). A stronger focus on children's issues, especially protection issues, could influence the ways in which various actors, including donors and government ministries, cater to these issues in their broader strategies, including budgeting.

In addition, the relative nature of child protection demands a deeper engagement with policy and practice on the part of international children-related agencies such as UNICEF. These agencies need to move beyond national action plans and strategic frameworks, which tend to unnecessarily limit concepts such as child protection, by suggesting standardised and/or formalised approaches to the issue. These agencies need to acknowledge the locally specific characteristics of various child protection issues in their own programming and to be able to facilitate policy responses based on these characteristics through the technical assistance that they provide to national governments.

Child protection theoretical debates

Because child protection is a relative, socially constructed concept, as has been argued throughout this thesis, then it must be acknowledged that the definitional debates around child protection should continue, and that they should adjust both to changing times and to changing and/or different contexts. For example, we have seen shifts
from child abuse in the "battered baby syndrome" approach to child protection as children's right. This study shows that child protection theory is not, or should not be, as much about finding an absolute definition or reaching definitional consensus as it is about the ongoing process of finding a balance between children's need and right to protection, the role of those responsible for the protection of children, children's specific contexts, and policy responses over time and across countries.

**Agenda for future research**

This research has been informed by the critical theoretical debate on the very concept of child protection. Mostly these debates have occurred in the context of child protection policy and practice in the developed countries of the global North. Their relevance in the context of the South is under scrutiny. This examination of concepts and conceptual assumptions has raised important questions that will move the debate forward by providing an agenda for future research. In particular, such research needs to address the first and foremost issues relating to the definition and status of the child. Secondly, further research needs to be done regarding the nature of child protection. For example, the risks or actual harms to children/specific groups of children in their families, communities and in the larger social environment need to be identified and children's needs and rights with regard to their protection need to be understood. Thirdly, future research would benefit from exploring both agreed and contentious values about child protection. Fourthly, the nature of state intervention in child protection issues needs further exploration and analysis. Finally, future research also needs to consider policy and practice concerns as to who would address which issues and how, that is, there needs to be a recognition of the roles and responsibilities of various stakeholders, including not only state and non-state policy players but also children, families, communities and society. While the present research has raised important questions and offers an agenda for future research, it has also provided an empirical basis for future research by answering the research questions that it set out to examine.

Reiterating the argument: The analysis has shown that policymakers do conceptualise child protection in a variety of ways, based on children's need and right to protection, on the specific socioeconomic context in which child protection problems arise and
policies are formulated, and on local religious and cultural values relating to the care and protection of children. The analysis has shown that these varying conceptions matter in the child protection policy process as individual actors attempt to influence decisions according to their own specific concept of a child protection problem. In Pakistan, such attempts are reflected in a child protection legislative and policy framework, but which fails to respond to some issues, overlooks others and responds to still others in ways not relevant to the local context of those issues.

The present research has established that child protection is not a neutral and/or technical activity. The central tenet of this research has been the relative and contextual nature of the concept of child protection and the way that this relative concept matters in policy decisions and is consequently translated into concrete policy and practice. While identifying some of the limitations of current conceptions, and with special reference to the relevance and utility of such conceptions in the developing countries of the global South such as Pakistan, this thesis has argued that the theoretical principles that can best guide policy and practice are those that consider children in their local context and that take into account the socioeconomic situation and the norms and values of the culture concerned. It suggests a conceptualisation of child protection that explicitly acknowledges children's right to protection and that, in ensuring this right, views children as a part of a larger socioeconomic and cultural environment. Such a conceptualisation involves the participation of families and communities alongside the state and other formal institutions in formulating and implementing child protection policies. This implies that formal child protection policy and practice must become more inclusive and relevant, thereby bridging the gap between the ideologies and experiences of those who develop these policies and those who are supposed to benefit from them.
Appendix I: Map of research sites

Encircled areas referred to in the thesis
Appendix II: Interview guide

The following set of questions guided the data gathering, with some changes as per the requirement of the mandate of an agency/department/ministry, position of a policymaker and child protection issue under consideration.

1. What are the priority child protection issues for Pakistan?
2. What are the priority issues for the ministry/department/organisation?
3. How are these issues decided?
4. How are these issues defined and interpreted?
5. What are the assumptions about childhood and child protection behind these definitions?
6. What are the existing responses by types of issues?
7. How are these responses negotiated?
8. What issues are missing?
9. What, if any, explanation is there for exclusion of any issues?
## Appendix III: Research participants

<table>
<thead>
<tr>
<th></th>
<th>Ministers</th>
<th>Bureaucrats</th>
<th>Heads of Autonomous Bodies/Specialised Agencies</th>
<th>International Children-Related Organisations</th>
<th>Domestic Non-Governmental Organisations</th>
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<tr>
<td>1990-2008 (former)</td>
<td>4</td>
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<td>2008-2010 (current)</td>
<td>2</td>
<td>4</td>
<td>4</td>
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Appendix IV: Information sheet

Title of Project
Child Protection Policy in Pakistan

Period of Research (Fieldwork)
January 2010 - July 2010

Researcher
Tahira Jabeen, Policy and Governance Program, Crawford School of Economics and Government, Australian National University, Canberra, Australia. This research is being conducted towards a Doctor of Philosophy degree.

Supervisor
Dr. Sharon Bessell, Senior Lecturer, Policy and Governance Program, Crawford School of Economics and Government, Australian National University, Canberra, Australia.

The goal of this research study is to gain a better understanding of how child protection is defined and understood by policymakers in Pakistan. It is hoped that this research will make a contribution to the conceptual and policy discussions on child protection in Pakistan and internationally, particularly in developing countries.

You have been selected as a potential participant because you work in an area directly or indirectly related to the child protection issue. Participation in the project is voluntary, and there will be no adverse consequences if you decide not to participate.

If you participate in this research project, I will ask you for a one-on-one interview, which may take one to two hours. This will involve signing a consent form and an in-depth conversation on child protection in Pakistan. We can hold the interview at your office or a place of mutual convenience at a time that suits you. If you agree, I will record the interview on audiotape.

The results of this study will be reported in a PhD dissertation and may be published in academic journals and books. I do not seek any information in interviews which is particularly sensitive or confidential within government/your organisation. However, it is possible that because the policy community involved in child protection is relatively small, others may be able to guess the source of information, even though it will not be attributed. Accordingly, it is important that you do not tell me information which is of confidential status or is sensitive or defamatory.

You may contact the following in case you have questions or concerns about the study:
Local Contact
Tahira Jabeen, Researcher-PhD Scholar, Policy and Governance Program, Crawford School of Economics and Government, Australian National University, Canberra, Australia, Local Telephone# 92-333-6537528. E-mail tahira.jabeen@anu.edu.au

Supervisor
Dr. Sharon Bessell, Senior Lecturer, Policy and Governance Program, Crawford School of Economics and Government, Australian National University, ACTON, 0200, Canberra, ACT, Australia. Phone: 61-2-61256562, E-mail Sharon.bessell@anu.edu.au

If you have concerns regarding the way the research was conducted you can also contact the ANU Human Research Ethics Committee:
Human Ethics Officer, Human Research Ethics Committee, Australian National University. Telephone # 61-2- 61257945. E-mail <Human.Ethics.officer@anu.edu.au>
Appendix V: Consent form

1. I........................................(please print) consent to take part in the Child Protection Policy in Pakistan Research Project. I have read the information sheet for this project and understand its contents. I have had the nature and purpose of the research project, so far as it affects me, fully explained to my satisfaction by the researcher. My consent is freely given.

2. I understand that if I agree to participate in the research project I will be asked to attend an interview. This will last between one and two hours and will involve questions about the conceptualisation of child protection in the Pakistan policy framework.

3. I understand that while information gained during the research project may be published in academic journals and books, my name and position title will not be used in relation to any of the information I have provided, unless, I explicitly indicate that I am willing to be identified when quoted.

4. I understand that any personal, sensitive or potentially incriminating information is not being sought in this research. Should I reveal such information during the interview, it will be kept confidential so far as the law allows. All information provided during the interview will be stored separately in a locked office at the Australian National University. Data entered onto a computer will be kept in a computer accessible only by password by the researcher.

5. I understand that although any comments I make will not be attributed to me in any publication, unless I explicitly indicate that I am willing to be attributed, it is possible that others may guess the source of information, and I should avoid disclosing information which is of confidential status or which is defamatory of any person or organisation.

6. I understand that I may withdraw from the research project at any stage, without providing any reason and that this will not have any adverse consequences for me. If I withdraw, the information I provide will not be used by the project without my explicit consent.

7. I consent to have my interview recorded by the interviewer. I understand that the recordings will be stored securely at the Australian National University and will be erased at the end of designated period.

Signed........................................Date.................................

Researcher to Complete

I, Tahira Jabeen, certify that I have explained the nature and procedures of the research project to........................................and consider that s/he understands what is involved.

Signed........................................Date.................................
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