REPORT OF CHILD PROTECTION SYSTEM MAPPING AND ASSESSMENT IN FATA
FOREWORD

It is a great pleasure to see that the Child Protection System Mapping and Assessment (CPSM&A) study has been completed and its report is ready for dissemination. For this achievement, I appreciate the role of the Social Welfare Department and the Child Protection Coordination Unit (CPCU) and all other Directorates and Departments of the FATA Secretariat, as well as stakeholders from non-governmental organizations and civil society who have provided their invaluable contributions and inputs to this resourceful product. This report is designed to provide empirical evidence and knowledge sources, not only to the relevant Departments of the FATA Secretariat, but to all other child protection actors working in relevant sectors.

Since the study has been conducted by adapting the global Child Protection System Mapping and Assessment Toolkit, developed by UNICEF and supervised by thematic Working Groups under the overall guidance of the Child Protection Steering Committee, the findings and recommendations are relevant in the context of FATA and pertinent to inform future policies and initiatives under the government’s child protection agenda. Categorizing its recommendations into three major components - i.e. policy and legal frameworks, institutional perspectives and operational requirements, the report provides a comprehensive framework for all concerned stakeholders to follow in their sectoral plans.

The study also provides a brief but comprehensive description of the child protection system and related thematic issues in Pakistan. It informs the context of the assessment by describing new approaches for the effective delivery of the child protection mandate - i.e. from an issue/response approach, to assessing and building an effective system in support of the strengthened realization of the right of the child to protection.

Further, the report contains a clear overview of the current child protection system in FATA and in essence, both maps and reviews critically its strengths and weaknesses, and includes a list of recommendations to inform/guide efforts to develop an effective and responsive child protection system in the territory. The section relating to the extension and/or implementation of applicable federal laws to and in the territory, including challenges relating to the meaningful realization of minimum standards under the United Nations Convention on the Rights of the Child (UNCRC), is thought provoking.

In such a backdrop, the study is a unique document for the region and I am pleased to congratulate the management and entire team of AAN Consultants for their great work. I am also grateful to UNICEF for extending its technical and financial support to the FATA Secretariat generally and to the marginalized children of FATA in particular, who have been living in a complex emergency situation for an entire decade (2007-2017). To bring sustainable change to the lives of children in FATA, particularly those drawn from the most vulnerable sections of society, the situation demands greater commitment from all concerned stakeholders and continued support to all organizations and individuals who are interested to support marginalized children and their caregivers living in backward areas of FATA.

I look forward to my team in the FATA Secretariat making the best use of this report and expediting efforts towards policy and institutional reform in support of establishing an effective, efficient and responsive child protection system in the region.
Additional Chief Secretary,
FATA Secretariat
ACKNOWLEDGEMENTS

The preparation of this Child Protection Mapping and Assessment study report has been a cooperative and consultative effort, involving many players from government and non-governmental sectors. I highly appreciate and acknowledge the technical and financial support of the UNICEF team, especially Ms. Sarah Coleman, Chief Child Protection and Ms. Farzana Yasmin, Child Protection Officer. I also acknowledge the contribution of the consultants (AAN Associates) engaged by UNICEF for their support and facilitation.

Special thanks goes also to the members and Chair of the Steering Committee for their critical review and feedback on the report, resulting in this final refined version. The members of the thematic working groups also played a commendable role in the provision of information and recommendations based on the ground realities of FATA.

Finally, I would like to make special mention of my team members in the Social Welfare Directorate and the Child Protection Coordination Unit, namely - Mr. Zia Ul Haq, Mr. Obaid ur Rehman and Ms. Zeba Yousaf for their assistance and contribution throughout the process.

I hope that the findings of the study will assist all stakeholders in the development of a responsive child protection system in FATA in the near future.

Secretary Social Sector
FATA Secretariat
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<thead>
<tr>
<th>ACRONYMS</th>
<th>Definition</th>
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<tr>
<td>AI&amp;CD</td>
<td>Administration Infrastructure &amp; Coordination Department</td>
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<tr>
<td>BISP</td>
<td>Benazir Income Support Program</td>
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<td>CPS</td>
<td>Child Protection System</td>
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<td>CPM&amp;A</td>
<td>Child Protection Mapping and Assessment</td>
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<td>CPWC</td>
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<td>CPP</td>
<td>Child Protection Policy</td>
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<td>DRR</td>
<td>Disaster Risk Reduction</td>
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<td>Development Finance Institutions</td>
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<td>DSW</td>
<td>Directorate of Social Welfare</td>
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<td>FATA</td>
<td>Federally Administered Tribal Areas</td>
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<tr>
<td>FCR</td>
<td>Frontier Crimes Regulation</td>
</tr>
<tr>
<td>FDMA</td>
<td>FATA Disaster Management Authority</td>
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<tr>
<td>FGDs</td>
<td>Focus Group Discussions</td>
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<tr>
<td>FCPWC</td>
<td>FATA Child Protection Welfare Commission</td>
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<tr>
<td>FR</td>
<td>Frontier Region</td>
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<tr>
<td>FC</td>
<td>Frontier Corps</td>
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<tr>
<td>INGO</td>
<td>International Non-Governmental Organizations</td>
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<td>JJSO</td>
<td>Juvenile Justice Systems Ordinance, 2000</td>
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<tr>
<td>KIIIs</td>
<td>Key Informant Interviews</td>
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<tr>
<td>KPK</td>
<td>Khyber Pakhtunkhwa</td>
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<tr>
<td>LEAs</td>
<td>Law Enforcement Agency</td>
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<td>MICS</td>
<td>Multiple Indicator Cluster Survey</td>
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<td>Management Information System</td>
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<td>Non-Governmental Organization</td>
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<td>National Database and Registration Authority</td>
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<td>No Objection Certificate</td>
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<td>Social Services Department</td>
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<td>SAFRON</td>
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<td>United Nations Convention on the Rights of the Child</td>
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<td>Universal Periodic Review</td>
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<td>United Nations Children's Fund</td>
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EXECUTIVE SUMMARY

With the introduction of the Eighteenth Amendment to the Constitution of Pakistan in 2010, a significant number of thematic governance matters were devolved to provincial administrations, thereby resulting in the fact that provincial governments now lead on matters relevant to the delivery of public child protection services at the sub-national level. Such changes in the larger political environment thus led to UNICEF technically assisting provincial administrations to undertake a system-wide assessment of the child protection landscape in each province/territory of Pakistan, including in FATA.

Accordingly, the assessment in FATA followed a conventional approach, whereby a system-wide assessment was conducted, identifying key protection risks for children as well as existing legal and policy frameworks, institutional architecture, capacity at various levels and coordination mechanisms.

From a thematic perspective, the assessment focuses on priority child protection issues, including birth registration; child labour; harmful cultural practices, including child marriage; physical, sexual and psychological abuse of children; neglected children, including children without adequate family care or being placed in alternative care; child trafficking; commercial sexual exploitation; children in conflict with the law; child protection in emergencies/armed conflict. The assessment also focuses on applicable standards of public child protection service delivery, including a basic mapping of the informal sector as a detailed mapping was beyond the scope of this assignment.

Methodology:
A mixed-method approach was employed for this exercise and an adapted CPMA Toolkit¹ was used for the system-wide assessment. The report however uses a different template than that recommended in the toolkit. Further, this assessment is drawn primarily from secondary sources; however complementary information was gathered by conducting interviews and group discussions.

A Steering Committee, headed by the Additional Chief Secretary (ACS), FATA, provided oversight, whereas technical inputs were solicited through discussions led by three Working Groups i.e. i) Legal, policy and Justice ii) Continuum of Care iii) Resource Mobilization and Fiscal Accountability.

The process also entailed adaptation of the CPMA toolkit to the FATA context, followed by extensive literature reviews. For those segments of the toolkit where reliable and current information (secondary) was not available, primary information was gathered to complement and compensate for the said gaps, comprising Focus Group Discussions (FGDs) and Key Informant Interviews (KIs).

The report has three chapters which are summarised below.

**Chapter One (1)** provides an overview of the child protection system and related thematic issues in Pakistan. It informs the context of the assessment by describing new approaches for the effective delivery of the child protection mandate - i.e. from an issue/response approach, to assessing and building an effective system in support of the strengthened realization of the right of the child to protection. It includes a commentary on the requisite institutional architecture (for

the effective delivery of child protection services) and capacities within government departments at varied levels. The chapter also addresses the contents and application of the toolkit, by explaining its composition, structure and implementation approach. In summary, same is an indicator-based assessment framework comprising 22 tools, divided into five main sections - i.e. general country information, system overview, child protection continuum of care, resource mobilization and fiscal accountability, and summary and strategies. It also proposes the formation of three working groups, whereby inputs might be sought and findings and recommendations validated. The chapter rationalises the need to conduct such an assessment as an integral component of system-building processes.

Chapter Two (2) addresses the socio-economic an administrative context of FATA. This includes a commentary on poverty, access to services and governance matters, from both a formal and informal perspective. The chapter lists critical child protection issues in the region, namely -birth registration; child labour; harmful cultural practices, including child marriage; the physical, sexual and psychological abuse of children and neglected children, including those without adequate family care or living in alternative care; child trafficking; commercial sexual exploitation; juvenile justice and child protection in emergencies/armed conflict. The commentary focuses on mapping the scale and scope of each issue, as well as the underlying reasons and manifestations, both for children and their families.

The subsequent chapter (three) comprises three sections, each with a distinct focus; policy and legislative environment, institutional architecture for child protection service delivery and the coordination (mechanisms) of child protection services. These sections inform an overall system-wide assessment of the delivery of child protection services in FATA, as per the priority issues highlighted in the previous chapter. The chapter opens with an overview of the child protection system in FATA and in essence, both maps and reviews critically its strengths and weaknesses. The chapter ends with a list of recommendations to inform/guide the further development of an effective child protection system in FATA.

The section relating to the applicable national/international legal framework lists both Pakistan's international commitments, such as the UNCRC, as well as other relevant constitutional and legislative provisions in Pakistan and FATA, including a commentary on the level of implementation of laws extended to FATA and challenges that people face with regard to the failure to implement child-friendly legislation in the region. Furthermore, it analyses the FATA Child Protection Policy, including a summary of progress made vis-à-vis its implementation.

The following section maps and critically examines systems, procedures and current practices related to the delivery of the child protection mandate by various agencies. The assessment includes a commentary on relevant departments, such as the Social Sector Department; the FATA justice system, including Levies and Khasadar forces and the Law and Order Department, Administration Infrastructure and Coordination departments, including the Planning and Development Department, the FATA Disaster Management Authority and the Directorates of Education and Health. The chapter includes recommendations for the development of a comprehensive and coordinated child protection system in FATA. These recommendations are structured into three major components i.e. policy and legal frameworks, institutional perspectives and operational requirements.
CHAPTER 1: CHILD PROTECTION SYSTEM MAPPING AND ASSESSMENT, METHODS AND APPROACH

1.1 INTRODUCTION
Child protection refers to the protection of children from violence, exploitation, abuse, and neglect. Article 19 of the United Nations Convention on the Rights of Child addresses the right of the child to protection, be it in the public or private sphere. Child protection systems are a set of government-delivered services designed to protect children from harm.

Thematic child protection issues in Pakistan/FATA include the necessity to prevent and respond systematically to violence, exploitation and neglect against children – including commercial sexual exploitation, trafficking, child labour, harmful traditional practices and corporal punishment. Development partners have been working with federal, provincial and territorial governments in order to support technically the effective delivery of the child protection mandate in the country.

In the last few decades, countries throughout the world have begun systematically to reform their child protection systems. This process has involved moving from an issue/response approach towards the creation of a protective environment in order to strengthen child protection mechanisms at all levels.

The systems approach to child protection acknowledges that children face complex problems requiring multi-disciplinary actions to both prevent and respond to child abuse. An individual child may require support at multiple levels and within multiple domains when confronted with protection situations of differing durations and severity, be it during peace times and/or emergencies. For example, a single child might suffer from severe neglect, exploitation, family separation, and sexual violence. Accordingly, exposure to multiple risks may greatly increase the likelihood of harm to the individual child. Because of this, a systematic approach aims to move away from fragmented, ad hoc and single-issue responses and instead aspire to more holistic, comprehensive and sustainable interventions which take into account the multiple protection risks confronted by children in different contexts and at different stages of their lives. Further, the systems approach aims to address a number of factors which may compromise the effective protection of a child, such as: lack of a coherent multi-sectoral policy and programming agenda for the protection of the child, weak national and sub-national coordination and significant under-resourcing and unclear accountabilities for the protection of children. These risks are compounded further in situations involving disaster, displacement, and cross-boundary settings.

Additional challenges arise from low technical capacity among many child protection actors, social norms and practices being harmful to children and overall, inadequate monitoring and evaluation processes to assess the suitability, impact and cost-effectiveness of interventions. Accordingly, the systems approach aims to promote the right of the child to protection by raising knowledge and awareness of and enhanced access to protective measures, to contribute to the prevention of and response to violence, abuse, neglect and exploitation. In this way, early identification and formulation of adequate responsive interventions, including support for the strengthened resilience of families, will contribute to an enhanced protective environment for children.

3UNICEF, 2006, Child Protection Information Sheet, what is Child Protection?
Pakistan is a developing country, where systems are either not yet fully developed, or where developed, are not functioning effectively either to prevent or respond systematically to child protection concerns. Therefore, in order to assess the key risks facing children in Pakistan, respective Child Protection System Assessments (CPMAs) were carried out across four provinces of Pakistan (UNICEF extended technical and financial assistance in conducting same). These assessments were carried out using a UNICEF-developed global toolkit.⁴ This report is the result of the CPMA carried out in the Federally Administered Tribal Areas (FATA). The assessment was carried out with technical assistance from UNICEF and in continuity of provincial assessments.

1.2 Child Protection System
A common theme in the definition of a child protection system comprises a focus on laws and policies, service delivery and social norms and attitudes. UNICEF’s⁵ definition captures all of the above aspects: a child protection system is defined as, ‘a set of laws, policies, regulations and services, capacities, monitoring, and oversight needed across all social sectors – especially social welfare, education, health, security, and justice – to prevent and respond to protection related risks’.

Child protection seeks to guarantee the right of all children to a life free from violence, abuse, exploitation, and neglect in both emergency and non-emergency settings. Multiple stakeholders are engaged in the design and delivery of child protection services, including children and youth, families, communities, government, civil society and private organizations, and others. An effective child protection system depends on the following elements: (i) appropriate policies, legislation and regulations; (ii) well-defined structures and functions and adequate capacities; (iii) supportive social norms; (iv) effective promotion, prevention and response actions; (v) high quality evidence and data for decision-making; and (vi) efficient fiscal management and sufficient resource allocation. When these elements and actors work together, they create a system that is better able to protect all children.

For the most part, the social and human development departments or agencies within the public sector, such as social protection/social welfare, health, education and justice, are the key actors involved in the design and delivery of child protection services. The systems usually operate well if effective coordination mechanisms are in place. Within public sector service delivery architecture, it is often challenging to point to a single public sector department or agency which has the ‘lead’ mandate for child protection. It is observed that relative to other human development sectors, such agencies (those involved directly with child protection services) are commonly under-resourced with limited convening power, lacking both the capacity and adequate legal frameworks to deliver their mandates effectively.

1.3 The Child Protection Mapping and Assessment Toolkit
In June 2008, UNICEF’s Executive Board adopted a new Child Protection Strategy. The Strategy introduced an approach to child protection that went beyond a prior “issue/response” focus, to lead instead towards the creation of a protective environment through the strengthening of child

⁴ For more details refer toolkit http://www.unicef.org/protection/files/Mapping_and_Assessment_users_guide_Toolkit_En.pdf
protection systems. This Mapping and Assessment Toolkit aims to provide a practical and user-friendly method to enable participants in the child protection mapping process to identify the main child protection risks within the rights framework and to examine the scope and capacity of the existing child protection system (ranging from formal to informal) accountability mechanisms, and resource mobilization approaches. Between September 2009 and January 2010, the Toolkit was field-tested in a wide variety of country settings and subsequently modified to reflect the realities encountered in the field and the inputs of UNICEF child protection teams and their governmental and non-governmental counterparts.6

The Toolkit is an indicator-based assessment framework comprising 22 tools divided into five main sections: i.e. general country information, system overview, child protection continuum of care, resource mobilization and fiscal accountability and summary and strategies. The Toolkit draws on the existing secondary data, supplemented with interviews of key informants and focus group discussions. As the system is mapped, the toolkit enables participants to identify system-building priorities (recommendations) required to address identified gaps.

Within these sections, the toolkit addresses questions on various child protection themes evident in the global human rights framework, national policies and laws, government structures, NGO (Non-government Organizations) and civil society projects, and informal practices, including inter alia; i) birth registration; ii) child labour, iii) harmful cultural practices (e.g. child marriage), iv) physical, sexual, and psychological abuse of children; v) neglected children, vi) children without adequate family care or those living in alternative care, vii) child trafficking, viii) commercial sexual exploitation, ix) children and justice x) child protection in emergencies/armed conflict.

1.4 Objectives of Child Protection Mapping and Assessment in FATA

The objectives of the assessment are: to assess the current child protection system (CPS) in FATA and identify the major gaps in the current system and practices; list practical recommendations to strengthen the CPS to address key child protection issues and risks in FATA. Furthermore, the assessment will be used as a tool to sensitize and advocate with relevant stakeholders for increased attention to the protection of children, including strengthened public child protection service delivery and enhanced public sector (fund) allocations.

The assessment shall determine the extent to which services are appropriate for and accessible to children requiring protection, the quality of such services and the extent to which the services are gender sensitive. The said recommendations may assist FATA authorities to increase coverage and improve the quality of child protection service delivery.

1.5 Methodology and Assessment Process in FATA

A mixed method approach was used in carrying out the CPMA. The CPMA Toolkit7 was used as the primary framework for data collection, analyses and reporting (readers may note a departure from the recommended reporting template in support of a more succinct presentation of the findings). The assessment is based mainly on secondary sources, but also draws on selective primary sources and information. The primary information was drawn from Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs), held with variety of stakeholders.

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6 http://www.unicef.org/protection/files/Mapping_and_Assessment_users_guide_Toolkit_En.pdf
Management of the assessment process included formation of a ‘Steering Committee’ to steer the process and technical work was led by three working groups i.e. i) Legal, Policy and Justice ii) Continuum of Care iii) Resource Mobilization and Fiscal Accountability. (See annex 1 for Steering Committee composition/notification and Annex 2 for Working Group Composition). The CPMA toolkit was thus adapted to the context of FATA, a process completed in consultation with relevant public stakeholders. This entailed deletion and addition of several indicator and sub-indicators from the toolkit (refer to annex 3 for details). Following consensus on the contextualized version of the toolkit, the consultants undertook an extensive secondary research, during which over 350 documents/sources- comprising websites, research and survey reports, plans, databases, media reports and others -were reviewed. To complement the (secondary) information gaps, primary information was collected. During the study 2 FGDs and 18 KII were conducted (see Annex 4 for the documents reviewed and Annex 5 for list of stakeholders consulted through interviews and focus group discussions).

Secondary sources were consulted to populate the toolkit with current and reliable information. Subsequently, working groups were consulted to validate and cross-check preliminary findings. A draft report, including the completed toolkit, was shared with relevant stakeholders - i.e. working groups- and the feedback was reviewed and incorporated. The key findings were presented to the Steering Committee for endorsement and finalization.

The study faced multiple challenges, first and foremost deriving from limited reliable secondary information. Although a comprehensive review of the available documents/information was conducted, limited relevant information/data was available. To address this limitation, rounds of consultations were held with civil society representatives, academics and thematic working groups, including public agencies, to complement and incorporate missing information.
CHAPTER 2: CHILD PROTECTION CONTEXT IN FEDERALLY ADMINISTERED TRIBAL AREAS (FATA)

This chapter provides an overview of the socio-economic, administrative, and political context of FATA, along with an overview of prevailing child protection issues in the region.

2.1 Administrative & Social Context of FATA

FATA is a semi-autonomous tribal region in north-western Pakistan, bordering Pakistan's provinces of Khyber Pakhtunkhwa and Baluchistan to the east and south, and Afghanistan's provinces of Kunar, Nangarhar, Paktia, Khost and Paktika to the west and north. The Federally Administered Tribal Areas (FATA) comprise seven tribal agencies (districts); Bajaur, Mohmand, Khyber, Orakzai, Kurram, North Waziristan and South Waziristan and six Frontier Regions (FR) namely FR Kohat, FR Peshawar, FR Bannu, FR Dera Ismail Khan, FR Laki Marwat and FR Tank. FATA is excluded from the jurisdiction of the High Court of Khyber Pakhtunkhwa and the Supreme Court of Pakistan, under Article 247. Constitutionally, FATA is included in the territories of Pakistan (Article 1). The region is represented in the Lower and Upper Houses of Parliament; however it comes under the executive authority of the President of Pakistan (Articles 51, 59 and 247). The Governor of Khyber Pakhtunkhwa (KP), in his capacity as representative of the President of Pakistan, under the overall supervision of the Ministry of States and Frontier Regions (SAFRON) in Islamabad, governs the region. Laws framed by Pakistan's National Assembly (Lower House) do not apply here, unless by Order of the President. The region is regulated by the Frontier Crimes Regulation 1901.

Each tribal agency is administered by a Political Agent (PA), assisted by a number of Assistant Political Agents (APA), Tehsildars (administrative head of a tehsil) and NaibTehsildars (deputy tehsildars), as well as members from various local police (Khassadars) and security forces (Levies, Scouts). As part of his administrative functions, the Political Agent oversees the working of line departments and service providers. He is responsible for handling inter-tribal disputes over boundaries or the use of natural resources and for regulating trade in natural resources with other agencies or settled areas. The tribes regulate their own affairs in accordance with customary rules and unwritten codes, characterized by collective responsibility for the actions of individual tribesmen and territorial responsibility for the area under their control. The government functions through local-level tribal intermediaries i.e. Malik’s (representatives of the tribes) and Lungi-holders (representatives of sub-tribes or clans) -being influential members of their respective clan or tribe.

In non-protected areas, cases are resolved through a local Jirga at the agency level. Local mediators first intervene to achieve a truce (tiga) between parties in a criminal case, or to obtain security (muchalaka) in cash or kind for civil disputes. Thereafter, parties must arrive at a consensus concerning the mode of settlement (arbitration), riwaj (customary law) or Shariah (Islamic law). Once the mode of settlement is agreed upon, mediators arrange for the selection of a jirga, with the consent of the parties to the case. While most disputes are settled internally, more serious matters may require the calling of a larger jirga made up of maliks, elders and the

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8https://en.wikipedia.org/wiki/Federally_Administered_Tribal_Areas
Political Agent, members of the National Assembly and Senate, and occasionally even representatives from neighbouring agencies or FRs.

Demographically the FATA region has a significantly higher proportion of young people, as 55% of the total population falls in the age group of 0 – 19 years. Of this total, 11% are in the age bracket of 0 – 4, 17% are 4 – 9 years, while the remaining lie in the age bracket of 10 – 19 years of age.

Only 1% of children below 5 years of age are registered at birth. The incidence of child labour can be commonly observed. 17.1% of all children of 5-14 years of age are child labourers. A gender breakdown of the data shows that 16.4% of male children and 18.1% of female children are child labourers. Similarly harmful practices of child marriage, Swara and Ghag (explained below) are prevalent, but often cases remain un/under-reported due to widespread social acceptance of such practices across FATA. Thousands of families have been displaced to various areas of Khyber Pakhtunkhwa due to insecurity in FATA; and reportedly more than 70% of temporarily displaced people are women and children.

A critical look at the larger development context suggests years of neglect and exclusion resulting in pervasive poverty and under-development across of spectrum of development issues e.g. health, education, access, communication and others. For instance, the region has low literacy rates, with girls’ enrolment and literacy rates being abysmally low. The region manifests deeper poverty and lower levels of coverage (including quality) of public services. Public sector service delivery is weak and in recent times, years of conflict and insecurity have further weakened coverage and the quality of public services. The figures in the table below provide an overview of the development context in FATA.

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<tr>
<th>Indicators</th>
<th>Pakistan</th>
<th>FATA</th>
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<tbody>
<tr>
<td>Population density (per square km)</td>
<td>163&lt;sup&gt;16&lt;/sup&gt;</td>
<td>161</td>
</tr>
<tr>
<td>Irrigated areas as% of cultivated</td>
<td>-</td>
<td>35.56</td>
</tr>
<tr>
<td>Population per irrigated hectare</td>
<td>-</td>
<td>34</td>
</tr>
<tr>
<td>Literacy rate</td>
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<tr>
<td>Male</td>
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<td>Primary enrolment rate (%)</td>
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<td>Population per doctor</td>
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<tr>
<td>Population per hospital bed</td>
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<td>2729</td>
</tr>
<tr>
<td>Road per square Km of area</td>
<td>-</td>
<td>0.26</td>
</tr>
</tbody>
</table>

Source: FATA in Figures 2013 Bureau of Statistics,

<sup>14</sup>https://fata.gov.pk/cp/uploads/downloads/1415188835459fb03e245e.pdf
<sup>15</sup>Ibid.
<sup>16</sup>http://www.pbs.gov.pk/sites/default/files/50_years_statistics/vol1/11.pdf
<sup>17</sup>http://data.worldbank.org/indicator/SE.PRM.NENR
<sup>18</sup>http://tribune.com.pk/story/182053/in-pakistan-health-remains-a-forgotten-priority/
<sup>19</sup>http://tribune.com.pk/story/182053/in-pakistan-health-remains-a-forgotten-priority/
2.2 Overview of Key Child Protection Issues in FATA

This section provides an overview of the key child protection issues identified through the literature review and discussions with key stakeholders.

<table>
<thead>
<tr>
<th>Issue</th>
<th>Quantity/Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Registration</td>
<td>1%[21]</td>
</tr>
<tr>
<td>Street children</td>
<td>Not available</td>
</tr>
<tr>
<td>Child Marriage</td>
<td>Not available</td>
</tr>
<tr>
<td>Child Sexual Abuse</td>
<td>3 cases[22]</td>
</tr>
<tr>
<td>Child Labour</td>
<td>17.1% (Girls 18.1%, Boys 16.4%)[23]</td>
</tr>
<tr>
<td>Children in prisons</td>
<td>Not available</td>
</tr>
<tr>
<td>Harmful Cultural Practices</td>
<td>3 cases[24]</td>
</tr>
</tbody>
</table>

2.2.1 Birth Registration

Article 7 of the United Nations Convention on the Rights of the Child (1989) prescribes birth registration as a fundamental right. It articulates that the child has the right to be registered at birth, the right to a name, the right to acquire a nationality and the right, as far as possible, to know and be cared for by its parents. Nationally, there are no more than 34% of children under

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the age of 5 who are registered in Pakistan a figure reflecting the fact that the births of more than 10 million children under-5 in the country remain unregistered.\(^{25}\)

The situation is even more alarming in FATA, as only 1% of children below 5 years of age are registered at birth. Reportedly, of all children under-5 registered, 5.6% births are registered in urban areas, while 87.3% of the population are wholly unaware of the concept of registering the birth of a child.\(^{26}\) Some of the causes of low birth registration rates in FATA have been identified as illiteracy, limited awareness of the benefits of birth registration and weak birth registration public service delivery, the last of which confers significant ramifications for development planning for children across the territory. However the Directorate of Local Government and Rural Development (LG&RD, FATA has been working on birth registration in collaboration with UNICEF since 2012. Both new born and under 18 years children are registered in four tehsils of FATA i.e. Jamrud, Ekkaghund, Ghallani and Nawagai.

Table 2: FATA Birth Registration Statistics

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Value</th>
<th>Male</th>
<th>Female</th>
<th>Source/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth registration, total</td>
<td>1.0%</td>
<td></td>
<td></td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Birth registration, urban</td>
<td>5.6%</td>
<td></td>
<td></td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Missing Information</td>
<td></td>
<td></td>
<td></td>
<td>Information on birth registration under 18 and birth registration rural is not available.</td>
</tr>
</tbody>
</table>

Source: MICS FATA 2008

2.2-2 Child Labour

The term “child labour” is often defined as work which deprives children of their childhood, their potential and their dignity, and which is harmful to their physical and mental development.\(^{27}\) Child labour implies, ‘any economic activity carried out by someone under the age of 14 (as per present law ECA 1991) regardless of their occupational status.’ Child domestic labour is quite common and a large number of both male and female children are involved in same. This is partly due to deeper poverty levels and poor education service provision in FATA. Reportedly, 17.1% of the child population from 5 to 14 years age is involved in child labour. Of the total figures (in the same age group), 16.4% are male and 18.1% are female. The majority of working children reside in rural households (17.2%) and only 5.7% of children work in urban areas. 85.8% of children involved in child labour are not attending school.

ILO Convention 138 indicates that the minimum age for admission to employment should not be less than the statutory age of completion of compulsory education in any country. In Pakistan, as per Article 25-A of the Constitution, the maximum age limit for compulsory education stands at 16 years, whereas the minimum age for admission to employment currently stands at 14 years. It should be noted however that with regard to less developed countries, the said Convention recognizes the aspirational nature of its primary commitment, thereby affording countries time to strengthen common economic indicators before raising the minimum age for admission to employment.

\(^{25}\)http://www.unicef.org/pakistan/Birthregistration_LR.pdf
\(^{26}\)Multiple Indicator Cluster Survey (MICS) FATA
Table 3: FATA Child Labour Statistics

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Value</th>
<th>Male</th>
<th>Female</th>
<th>Source/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child labour (5-14 years) total</td>
<td></td>
<td>16.4%</td>
<td>18.1%</td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Children in labour force not attending school</td>
<td>85.8%</td>
<td></td>
<td></td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Among working children, % in services sector</td>
<td>21.9%</td>
<td></td>
<td></td>
<td>FATA Development Authority²⁸</td>
</tr>
<tr>
<td>Among children who work, % unpaid</td>
<td>3.4%</td>
<td></td>
<td></td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Working outside the household</td>
<td>5.1%</td>
<td></td>
<td></td>
<td>MICS FATA</td>
</tr>
<tr>
<td>Household chores for 28+hours/week</td>
<td>4.1%</td>
<td>3.1%</td>
<td>5.4%</td>
<td>MICS FATA</td>
</tr>
</tbody>
</table>

Missing Information: Information on children working in agriculture, industrial sector, children working on streets and domestic workers could not be found in any of the secondary information sources.

Source: MICS FATA

2.2.3 Harmful Cultural Practices

FATA represents a deeply religious and traditional society. The secondary review and interaction with stakeholders point to the presence of multiple practices which may be categorized as harmful to children. These include child marriage, honour killing, Swara/Vani, and others which are generally accepted at the societal level, hence remain un/under-reported. Swara is a child marriage custom tied to blood feuds between different tribes and clans where young girls are forcibly married to members of the opposing clan in order to resolve a feud.

Honour killing and associated cultural practices such as Swara/Vani and Ghag are commonly practiced.²⁹ Swara/Vani is the exchange of woman as compensation to settle a dispute - mostly in murder cases, while Ghag is a custom in which a man makes his claim on a girl for marriage with or without her consent. In 2013 however, only three cases of such violence against female children under 18 year of age were reported.³⁰ Further, it is a commonly recognized fact that an informal conflict resolution mechanism, such as the Jirga system (local assembly of elders - widely practiced in Khyber Pakhtunkhwa and in FATA particularly) provides the only platform in the territory for dispute resolution, the formal legal system not having been extended to these areas).³¹

²⁹ https://en.wikipedia.org/wiki/Honour_killing_in_Pakistan
2.2-4 Child Marriage
Child marriage is a culturally acceptable practice in FATA. Child marriage is common for both boys and girls; however incidences of same are relatively higher for girls (CRC Article 2: non-discrimination and Article 3: best interests of the child). The underlying reasons include an unresponsive regulatory environment, weak capacity of law enforcement officers, religious beliefs, limited awareness (amongst parents) of the risks associated with child marriage and inadequate education and employment opportunities.

Child marriage deprives children of their basic right to health (CRC Article 24), education (CRC Article 28) and protection (CRC Article 36). Girls who marry as children are at risk of early and often complicated pregnancies (CRC Article 24) which may also endanger the lives of young mothers. Limited access to adequate healthcare and domestic violence (CRC Article 19, 36, 37) are additional harms commonly experienced by child brides, which fact contributes significantly to continued deprivations and exclusion experienced by girls, denying them also their right to rest, leisure, play and recreation (CRC Article 31). Moreover, the CEDAW Committee recommends that Pakistan amend its existing law and raise the minimum age of marriage for girls’ to 18 from 16 years of age.32

2.2-5 Corporal Punishment
‘A punishment in which physical force is used and intended to cause some degree of pain or discomfort, mostly for the purpose of disciplining a child. It is usually inflicted in settings with a substantial disparity of power between the partakers.’33 In its manual, ”Educate, Don’t Punish!”34, UNICEF defines corporal punishment as: “the use of physical force causing pain, but not wounds, as a means of discipline.”

Children are exposed to corporal punishment not only at school, but also at home, in madrassas and in work places. The implications are both short and long-term. Physical violence (CRC Article 19 & 37) affects a child’s cognitive development (CRC Article 27) and leaves negative psychic imprints. It may contribute to resentment, substance abuse (CRC Article 33), runaways (from the family home) (CRC Article 9), there by exposing children to further risks such as abduction, trafficking (CRC Article 35) and beggary (CRC Article 3, 15, 24, 27, 28, 31, 36).

It is considered that the prevalence of corporal punishment is high in schools in FATA, yet such claims remain unsubstantiated due to a lack of data, no formal or informal data collection mechanism currently in existence in this regard.35

2.2-6 Child Protection in Emergencies / Armed Conflict
Conflicts and emergencies place the affected population, particularly girls, boys, and women, at further risk, same being disproportionately impacted by the effects of crisis. For the most part, such categories of individuals experience violence and exploitation and their access to relief and rehabilitation services is often limited and non-tailored.

[33]https://en.wikipedia.org/wiki/Corporal_punishment
Insecurity in FATA has also contributed to greater exposure and risk to injury from landmines, whereby a victim may be rendered permanently disabled. Children are comparatively at greater risk due to a limited understanding of the dangers and subsequent ability to mitigate the risk. Furthermore, insecurity has displaced thousands of families from FATA to Khyber Pakhtunkhwa; with reportedly more than 70% of temporarily displaced people being women and children.\textsuperscript{36} The on-going conflict and displacements have exposed children to psychological disorders and trauma. Reports also exist relating to children being recruited by militants, which has emerged as a significant risk for the children of FATA. Furthermore, conflict-related deaths have compelled a number of children to take responsibility for the material needs of their families, especially those where earning members have been lost. Displacements and insecurity have also increased the incidences and risks of family separation, thereby depriving children of the care and support required.

2.2.7 Child Sexual Abuse
The United Nations defines child sexual abuse as ‘contacts or interactions between a child and an older or more knowledgeable child or adult (a stranger, sibling or person in position of authority, a parent or a caretaker) when the child is being used as an object of gratification for the older child’s or adult’s sexual needs. These contacts or interactions are carried out against the child using force, trickery, bribes, threats or pressure (UNICEF, 2003).\textsuperscript{37}

Though often denied, the practice of sodomy or child sex (male to male) is practiced in these regions. Such cases, even if recognized, commonly remain un-reported due to stigma and concern for family honour and at times, may even lead to conflict and feuds. Reporting mechanisms are weak and trust in formal systems for effective remedies is low. Such denials are often rooted in the fact that perpetrators are commonly family members. Due to strong cultural and traditional values, there are hardly any reported cases of child sexual abuse, particularly for girls in FATA.\textsuperscript{38} Reportedly, incidences of sexual abuse and exposure to risk of children (both boys and girls) increase during disasters and disaster/conflict-driven displacements. Article 34 of the UNCRC states that the State should take all appropriate measures to protect children from sexual abuse and exploitation.\textsuperscript{39} A number of incidents of child sexual abuse have come to light however, including in schools, but unfortunately most of these cases are brushed under the carpet by the family/parents because of social taboo and concerns for family honour.\textsuperscript{40} However, post-displacement and camp-based assessments point to a significant increase in incidences and risks around the sexual abuse of children. As per the 2016 Recommendation of the Committee on the Rights of the Child (No.37) the state shall adopt appropriate laws that clearly and explicitly define and prohibit child sexual abuse and exploitation.\textsuperscript{41} No such laws have been extended to FATA to date.

2.2.8 Children in conflict with the law
The term ‘children in conflict with the law’ refers to anyone under the age of 18 suspected of, or accused/convicted of committing a criminal offence, including those children engaging in criminal

\textsuperscript{37}http://www.childlineindia.org.in/understanding-child-sexual-abuse.htm
\textsuperscript{38}http://www.dawn.com/news/1108459
\textsuperscript{39}http://ohchr.org/en/professionalinterest/pages/crc.aspx
\textsuperscript{40}http://frc.com.pk/articles/education-fatas-crying-need/
\textsuperscript{41}http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/PKIndex.aspx
behaviour who may have been used or coerced by adults. Too often, prejudice related to race, ethnicity and/or social and economic status may bring a child into conflict with the law, commonly resulting in harsh treatment by law enforcement officials.\(^4\) Due to the absence of a formal legal system and also a lack of available data relating to juveniles in FATA detained in formal/informal prisons, it is difficult to assess ground realities. Although the arrests of women and children under the collective responsibility clause was a common practice until 2011, long-awaited amendments were introduced to the FCR, including an amendment to the collective responsibility clause restricting the arrest of children under the age of 16 years.\(^4\)

Reports from civil society actors suggest that a significant number of children are detained in political lockups, primarily due to the incompatibility of the criminal justice framework (primarily the JJSO 2000) with the current administrative structure. Children in conflict with the law in FATA are also disadvantaged by limited access to legal advice and support, same being a basic right for such children (CRC Article 40).

\(^4\)\text{http://www.unicef.org/chinese/protection/files/Conflict_with_the_Law.pdf}
CHAPTER 3: ASSESSMENT OF THE CHILD PROTECTION SYSTEM IN FATA

This chapter maps the existing child protection system in FATA and critically analyses its strengths, gaps and constraints. The discussion is structured into three components: i.e. policy and legislative environment, institutional architecture for child protection service delivery and finally, coordination of child protection services. The chapter ends with a list of critical recommendations for child protection system development and strengthening in FATA.

3.1 Legislative and Policy Environment

Pakistan is signatory to the core international human rights conventions (annex 6 on Country Status on International Conventions) addressing child rights directly and/or indirectly. The country signed and ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990.44 By committing to the obligations of the Convention, Pakistan has committed itself to protecting and ensuring children’s rights, being obliged to develop and undertake all necessary and required actions and policies for the strengthened promotion and protection of the rights of the child.

3.1-1 Legislation

Pakistan has made significant strides in implementing the UNCRC following ratification. There are areas, however, which require further attention, as identified in the Concluding Observations and Recommendations of the UN Committee on the Rights of the Child and UPR recommendations.45

The Constitution of Pakistan (1973) provides for the protection of children either directly or indirectly. Section 35 of the Constitution exclaims, "the state shall protect the marriage; the family, the mother and the child". Although the Constitution guarantees fundamental rights to children, their realization remains a critical challenge. Article 11(3) which relates to child labour in hazardous environments; Article 25-A guarantees free and compulsory education for children between 5 and 16 years of age; Article 25(3) and various sections of the Pakistan Penal Code, recognize the right to protection for children. Pursuant to the 18th Constitutional amendment, the subject of child protection has been devolved to the provinces, except FATA, it being under federal jurisdiction.

According to Article 247(7) of the Constitution, FATA is excluded from the jurisdiction of the Supreme Court of Pakistan and the High Court of Khyber Pakhtunkhwa. FATA is administered under the Frontier Crimes Regulation (FCR), through which civil and criminal disputes are resolved.

Many provisions under national legislation relating to the right of the child to protection have been extended to FATA. These include the Juvenile Justice System Ordinance (JJSO 2000) extended in 2004, the Employment of Children Act, 1991 (V of 1991) extended in 1998, the National Registration Regulation 1989, the Extension of National Database and Registration Authority


Table 4: Child Protection Legislations Extended to FATA

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Date Passed (extended to FATA)</th>
<th>Child Protection Areas Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juvenile Justice System Ordinance (2000)</td>
<td>2004</td>
<td>Children in conflict with law,</td>
</tr>
<tr>
<td>Frontier Crimes (amendment) Regulation</td>
<td>27th August, 2011</td>
<td>Children in conflict with law</td>
</tr>
<tr>
<td>Pakistan Penal Code 1860</td>
<td>3rd September 1939</td>
<td>Sexual Abuse, children in conflict with law</td>
</tr>
<tr>
<td>National Registration Regulation 1989, Extension of National Database and Registration Authority 2000</td>
<td></td>
<td>Birth registration</td>
</tr>
<tr>
<td>Right to Free and Compulsory Education Act 2012</td>
<td>2012</td>
<td>Right to education</td>
</tr>
</tbody>
</table>

Other relevant legislative provisions not extended to FATA include:

Table 5: Legislations yet to be extended to FATA

<table>
<thead>
<tr>
<th>S#</th>
<th>Legislation</th>
<th>S#</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Child Marriage Restraint Act 1929</td>
<td>2</td>
<td>Prevention and Control of Human Trafficking Ordinance 2000</td>
</tr>
<tr>
<td>3</td>
<td>Prisoners Act 1900</td>
<td>4</td>
<td>Probation of Offenders Ordinance 1960</td>
</tr>
<tr>
<td>5</td>
<td>Reformatory Schools Act 1897</td>
<td>6</td>
<td>Bonded Labour System (Abolition) Act 1992</td>
</tr>
<tr>
<td>7</td>
<td>Shops and Establishment Ordinance 1969</td>
<td>8</td>
<td>Workers Children (Education) Ordinance 1972</td>
</tr>
<tr>
<td>9</td>
<td>Vaccination Ordinance 1958</td>
<td>10</td>
<td>Protection of Breast Feeding Ordinance 2002</td>
</tr>
<tr>
<td>11</td>
<td>Prohibition of Smoking Ordinance 2002</td>
<td>12</td>
<td>Guardians and Wards Act 1890</td>
</tr>
<tr>
<td>13</td>
<td>Birth, Death and Marriage Registration Act 1886</td>
<td>14</td>
<td>West Pakistan Control of Orphanage Act 1958</td>
</tr>
</tbody>
</table>

I. Juvenile Justice System Ordinance 2000

The Juvenile Justice System Ordinance (JJSO) was extended to FATA in 2004; however challenges exist with regard to its implementation. Since its extension, it appears that children are not receiving the prescribed support or services, such as bail and probation, trial by juvenile courts, free legal aid, and rehabilitation through borstal institutions etc. Despite its extension, it is observed that the FATA Administration needs to do much more to ensure the meaningful implementation of the JJSO.
Despite the extension of the Juvenile Justice System Ordinance (JJSO) 2000 to FATA in 2004, not a single juvenile has been reported to enjoy the procedural rights provided in the Ordinance, including release on bail and probation, trial by a Juvenile Court, free legal aid and rehabilitation through Borstal institutions etc. Unfortunately, over the last thirteen years, no structures as identified in the JJSO have been established.\textsuperscript{46}

\textbf{II. Employment of Children Act 1991}

In 1998, FATA benefited from the extension of the 'Employment of Children Act 1991'. Once again, evident gaps exist with regard to the actual implementation of the law. Children continue to work in exploitative and hazardous environments and occupations. Amongst others, the key reasons cited for inaction are the absence of an independent Labour Department in FATA. As highlighted above, child labour is widespread and children are seen working in shops and establishments and factories, including in the marble industry and mining.

\textbf{III. Frontier Crimes Regulations 1901}

The Frontier Crimes Regulation (FCR) came into force on April 24, 1901 as a legal, judicial, administrative and governance framework for the predominantly Pakhtun-inhabited North West Frontier area of British India, bordering Afghanistan. According to the provisions of the FCR, despite the presence of elected tribal representatives, the Parliament of Pakistan plays no role in the affairs of FATA. Article 247 of the Pakistan Constitution (1973) provides that no Act of Parliament applies to FATA, unless first consented to by the President of Pakistan. It also repeals the jurisdiction of Pakistan's courts over FATA. By inference, this also limits the extension of fundamental rights to FATA's inhabitants.

In August 2011, the President of Pakistan signed and enacted the first-ever substantive amendments to the FCR. Some of the more substantive reforms are referenced below, (only those relevant to children):

- Protection of women, children below 16 and citizens above 65 from collective responsibility arrest or detention -Section 21 c (3) and Section 22 (d)
- Prohibition against arresting an entire tribe under the collective responsibility section - Section 55 (A) (4)
- Provision for independent appeals process - Sections 45 & 48
- Strengthening the FATA Tribunal\textsuperscript{9}
- Concept of bail -Section 11(a)
- Introduction of jail inspections - Section 58 (A)
- Punishment and compensation for false prosecutions -Section 55 AAA

Limited progress has been made with respect to implementing these reforms. Given appropriate implementation, same carry the potential to impact significantly the strengthened realization of civil and human rights in FATA.

\textbf{IV. Jirga (Local Justice System)}

In the absence of a conventional court system in FATA, the Jirga (council of elders) system, being historically a part of the Pakhtun and FATA way of life, acts as both a formal and informal dispute

resolution mechanism. Jirga’s are of two types (based on official recognition) i.e. formal Jirga and informal Jirga.

A formal Jirga, commonly known as Sarkari Jirga is established under the conceptual and legal framework of the FCR. A formal Jirga is typically led by the Political Administration, including Political Agents and assisted by the Assistant Political Agents. The political administration engages the formal Jirga in accordance with the local traditions and the consent of all parties. The Jirga then examines all the evidences in the light of Riwaj (customary practices) and then within the framework of the issues presented, submits its recommendations to the Political Administration. The Political Administration, in turn, enforces the recommendations through Khassadars and Levies (the local law enforcement machinery). In most cases, the decision by the Jirga is unanimous; however parties may still contest and appeal against any decision in the Appellate Tribunal of the Commissioner.

An informal Jirga, commonly known as Olasi Jirga, is a council of elders comprising notables from the community, convened in an attempt to resolve civil disputes with compensation as appropriate. If a situation arises, elders approach each party to set up a Teega (truce) until the formation of the Jirga. The Jirga then meet as many times as deemed necessary to gather evidences, listen to both parties and take Waak (authority from the disputants). The decisions by the Olasi Jirga are rarely challenged. The Political Administration does not usually intervene in the proceedings and verdict of Olasi Jirga.

Likelihood exists that Jirgas may make decisions which are non-responsive to the special needs of children - such as Swara, Vani and Ghag (especially for girl child).

3.1-2 Child Protection Policy FATA

In January 2012, the Governor of Khyber Pakhtunkhwa approved the ‘FATA Child Protection Policy (CPP)’ with a vision ‘to promote and create a protective environment for all children, which ensures their protection against all forms of violence, abuse, discrimination, neglect and exploitation’.

The FATA CPP proposes the establishment of the ‘FATA Child Protection Welfare Commission FCPWC’. The policy envisions FCPWC to function as an autonomous body and regulator, providing technical advice on standardization, coordination, monitoring, evaluation and accountabilities, as well as oversight of child protection programmes and plans. It also aims to strengthen the institutional capacities of government functionaries responsible for the protection of children at secretariat and local/agency levels. The policy also proposes to make coherent legal and administrative reforms within the conceptual framework of child rights and child protection and envisions efforts for institutionalized co-operation with key sectors involved in efforts to prevent and respond to child abuse namely, health, education, child-care services, NGOs and INGO networks. No action has yet been taken in this regard. However, UNICEF has recently provided technical assistance to the Government for the development of appropriate legislation at the federal level in order to frame the establishment of a CP case management and referral mechanism. Should the draft Bill be enacted, efforts shall be made to advocate its extension to FATA. Moreover, the CPP advises on the creation of a monitoring and reporting system, however,

it is silent on integrated case referral and management. Similarly, capacity development forms an integral part of the CPP, however with limited focus on developing and strengthening coordination systems. Furthermore, the CPP prioritizes child labour issues; yet fails to identify the key public sector stakeholder to lead in this regard.

The CPP also provides several strategic objectives to guide the FATA Social Welfare Department in its delivery of the CP mandate in the territory, where in it is proposed that a system be developed to ensure the registration of every child at or shortly after birth in order to fulfil his or her right to acquire a legal identity. As part of its continued support, UNICEF extended assistance for the formulation and pilot implementation of the FATA Birth Registration Strategy in 2014-19.

### 3.2 Institutional Architecture for Child Protection Services

Multiple organizations exist both at central (FATA Secretariat) and Agency levels, being tasked with the planning and delivery of child protection services. It is noted that relevant organizations, despite delivering such services, do not in fact view same as being part of a child protection service package. The following agencies have been identified as key stakeholders responsible for the provision of protection services (primarily centred on identification, assessment, referral, follow-up, and information management).

#### 3.2-1 Social Sector Department (SSD)

The Social Sector Department (SSD) is the lead department in FATA dealing with the welfare and protection of children. The SSD comprises 6 constituent units or departments, with responsibilities for the provision of social services in FATA. The services are rendered through Directorates of: (1) Health, (2) Education, (3) Population Welfare, (4) Social Welfare, (5) Zakat and Ushar. The SSD also registers civil society organizations, including local community-based organizations. Currently over 217 organizations are registered across FATA.\(^{48}\) In addition to registration, the SSD also oversees the functions and performance of these organizations.

The SSD has a very broad mandate for children, which covers child rights and protection both in emergency situations, as well as in non-emergency situations. Despite a broad mandate for child protection, the Department lacks tailored service delivery mechanisms or apparatus (for identification, assessment, referrals and follow-ups) to operationalize the effective and coordinated delivery of the child protection mandate in the territory. The Department also lacks adequate human resource provision responsible for the protection of children.

Child Protection is the mandate of the Social Welfare\(^{49}\) (sub-unit) responsible for:

- Child protection through registration, monitoring, rapid response in crises, placement and after-care;
- Promotion of non-formal justice and treatment of children in conflict with the law;

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\(^{48}\)Information provided by FATA Secretariat

Within the Directorate of Social Welfare (DSW), a UNICEF-supported Child Protection Coordination Unit (CPCU) was established in September 2014 to provide technical assistance and coordination support among relevant departments to implement UNICEF-assisted child protection interventions. The Directorate of Social Welfare (DSW) has a presence at the Agency level, where subsidiary Social Welfare Agency Offices exist, excepting only South Waziristan Agency (as of May 2015). However, the Department does not currently benefit from an institutional presence at both the sub-agency and community levels.

A Child Protection Coordination Unit (CPCU) was also established within the Social Sectors Department Secretariat as a ‘technical-hub’ for the Government and associated stakeholders, addressing specific initiatives and interventions related to the protection of children in FATA. The major aim of the CPCU was to establish an inter-sectoral coordination mechanism in FATA, in support of advocacy and technical assistance efforts of the SSD and other relevant departments and stakeholders for mainstreaming critical child protection initiatives and interventions within their policies, action plans and programs. Another purpose was to develop a legislative framework for the establishment of an autonomous public child protection institution, informed by context-specific research and the results of the mapping of the child protection system in FATA.

The current structural arrangements and practices demonstrate a serious effort on the part of SSD/DSW to establish a cohesive and coordinated CPS and put in place operational mechanisms for the delivery of requisite services. Within the SSD, the DSW is an appropriate lead for CPS,
particularly with regard to case identification, assessment, referral, coordination and follow-up (including information management) with external agencies.

Overall, the introduction of the CPCU and associated child protection services (predominantly delivered in response to humanitarian needs) has proven useful in terms of introducing and sensitizing relevant public sector agencies to child protection issues and requisite services.

3.2-2 FATA Justice System (Institutional Arrangement)
The assessment identifies that the region has a ‘FATA Tribunal’, which is the supreme body for justice delivery in pursuance of proposed reforms for FATA (2011). The FATA Tribunal began functioning on February 20, 2012, along with the Court of the Divisional Commissioner. At these fora, citizens may report and challenge the decisions of Political Agents. This new quasi-legal appellate forum is, however, not empowered to take up cases _somite_, but has the power to take up _habeas corpus_ petitions, which provide relief to the tribesmen against arbitrary arrest.\footnote{FGD with Working group on Legal, Policy and Justice}

The assessment suggests that the Law and Order Department does not currently benefit from child-centric (for children in conflict with law) policies, nor does it have a designated office or structure (including staff) to handle legal issues relating to children in conflict with the law. Nor does FATA’s criminal justice system benefit from separate courts and judges for children, in order to deal appropriately with cases involving children in conflict with the law.

3.2-3 Administration Infrastructure & Coordination Department (AI&C)
The Administration Infrastructure and Coordination Department (AI&C)\footnote{https://fata.gov.pk/Global-fac.php?id=340&fid=38&pld=33&mld=137} manages matters relating to the coordination, administration, and establishment of the FATA Secretariat. The Department also attends to matters related to the creation of administrative rules for the disposal of business by the FATA Secretariat and its line departments. The Department is responsible for the creation of new departments/sections/units, changes in allocation of business, constitution of individual departments; health facilities for employees, staff welfare, computerization of offices, correspondence with provincial governments on policy matters, correspondence with SAFRON, vehicles, maintenance, records, PERs etc. At present, the Department does not have any role in coordinating the delivery of child protection services.

3.2-4 Levies and Khasadar Forces (Law Enforcement Agencies)
The Levies are part of the security apparatus existing in both the Federally Administered Tribal Areas (FATA) and settled areas, known as the Frontier Region (FR). The Khasadars, referred to as ‘tribal police’, are appointed by the tribal authorities. However, the Levies are appointed by the Political Administration on a merit basis. The role of both Levies and Khasadar forces include the protection of roads, government buildings and vital installations, arrest and detention of outlaws, escort, anti-smuggling and poppy eradication. Levies and Khasadar forces are important, as they act as a local police force and deal with any illegal activity in the region.

3.2-5 Law and Order Department
This Department is responsible for maintaining peace and law and order in FATA. It leads on dispute resolution matters and coordinates with LEAs such as Levies, Khasadars, the Frontier Constabulary and the Political Administration. It also deals with narcotics control, border disputes,
political disputes, fire-arm ammunition policies, internal security of FATA, issuance of ‘No Objection Certificates’ to NGOs, liaison between law enforcement agencies, intelligence, and matters related to the Frontier Crime Regulations. The Department has yet to develop defined systems and procedures in support of effectively managing child protection cases, despite the fact that numerous laws have been extended to FATA, warranting the Department to issue directives and guidelines for the handling of child protection cases or victims in a child-sensitive manner.

3.2-6 Planning and Development Department
The Planning and Development Department (P&DD) FATA plays a critical role in development planning, donor coordination, implementation oversight and technical assistance where required. In the absence of an appropriate legislative framework and allied institutional arrangements, the Department has a limited role to play in the planning and delivery of child protection services in the territory. However, the Department may play an effective role in the future in developing and implementing a child protection coordination mechanism and including CPS into development planning. The Department may also play a significant role in prioritising child protection response in future FATA strategic and development plans. Moreover, it may advocate and set guidelines for numerous relevant operational departments to prioritise (within mandated spheres) and integrate child protection services into new development plans and schemes. In addition, it may also guide and backstop the SSD for formulation of an effective child protection system, including a comprehensive case management and referral mechanism.

3.2-7 FATA Disaster Management Authority (FDMA)
The FATA Disaster Management Authority (FDMA) is the lead entity mandated to coordinate the provision of humanitarian assistance and/or public service delivery during natural and human-induced disasters, including the coordination of delivery of the child protection in emergency mandate. The delivery of current protective services for children and women are coordinated by the Gender and Child Protection Cell, operational since 2013. Limited human resources are available to oversee the coordination of child protection in emergency services, including those for preparedness planning.

The FDMA does not benefit from subsidiary units at the Agency or village level. The Gender and Child Cell has the following objectives:\(^{52}\)

- To increase understanding of child protection concerns and needs within the context of disaster risk reduction (DRR).
- To enhance institutional capacity to address child protection issues in disaster risk management (DRM).
- To encourage the Government to take action to integrate child protection perspectives into DRR policies and programmes, for sustainable development.
- To contribute to policy guidelines to support the mainstreaming of the child protection mandate and to the development of practical guidelines for the strengthened institutionalization of gender-sensitive risk assessments;

To mainstream child protection perspectives into all disaster management initiatives and apply gender-sensitive indicators to monitor gender mainstreaming progress.

The FDMA recently approved and launched its Child Protection in Emergencies Strategy 2015. The entity has produced a number of guidelines for the protection of children during emergencies.

3.2-8 Directorate of Education (DOE)
The Directorate of Education (DOE) is responsible for the establishment of primary, secondary, higher-secondary, undergraduate and postgraduate educational institutes in each tribal agency, regulation of teachers at all levels and imparting quality education through the use of advanced skills/knowledge. The DOE provides infrastructure and services to encourage the attainment of education up to the postgraduate level. It has outreach in all agencies through offices of the Agency Education Officer. The region represents a population with the highest illiteracy rates (compared to other regions); hence access to education is increasingly becoming a focus of attention, not only of the Government, but of donors. This resulted in the DOE receiving a significant increase in funds allocation under the Annual Development Plan.  

As per available records (FATA Secretariat), 5,620 educational institutions exist in FATA, including 196 mosque schools. Of this number, 3,271 education institutions are provided for boys, while the remaining 2,349 are for girls. The number of sanctioned teachers is 22,045, of which 14,974 are males and another 7,071 are females, demonstrating a significant tilt towards male education.

The assessment of the DOE suggests that it lacks formal regulations and guidelines for teachers and administrators’ vis-à-vis the treatment of children in schools e.g. corporal punishment. The practice of corporal punishment is rampant as a measure to discipline children. The DOE has not yet defined guidelines and procedures for complaint registration and redressal for corporal punishment, and/or sexual abuse, including assessment, referral and information management. Children and parents are generally unaware of any remedies available, including processes to obtain support in situations where children experience physical and/or sexual violence.

3.2-9 Directorate of Health (DOH)
The Directorate of Health (DOH) is responsible for the planning and delivery of health services, including surveillance of health services through his representatives in each Agency. It plans, executes, operates and maintains a network of agency/tehsil headquarter hospitals, rural health centres, basic health units, dispensaries, clinics and health centres. Administrative outreach is available in each Agency through the presence of an Agency Health Officer.

One hospital bed exists for every -2,656 people in FATA, compared to a national average of one for every 1,341 people. Similarly, one doctor exists for every 15,780 people, compared to a national average of one doctor per 1,226 people. A significant proportion of the population in FATA is suspicious of modern health and medicinal practices, where militant groups are found to be openly hostile to child vaccinations.

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54http://frc.com.pk/articles/education-fatas-crying-need/  
56https://en.wikipedia.org/wiki/Federally_Administered_Tribal_Areas#Health
The assessment suggests that standard (non-discriminatory) Child Protection protocols are not extended to FATA, to guide the Department on the treatment of child victims of sexual and/or physical violence. Such cases are likely recorded in the health facility records, but a formal referral mechanism is absent, leading in turn to cases of sexual and physical violence against children remaining unreported for the most part. The DOH itself does not maintain any MIS particularly for recording and analysing cases of sexual and/or physical abuse against children.

3.3 Coordination of Child Protection Services

In FATA, the literature review, as well as interaction with stakeholders, suggests that no formal child protection coordination system operates in the region. This implies that neither the SSD, nor other departments, have defined an effective institutional approach on how to assess, refer (to other relevant departments), and provide monitoring/follow-up to support child abuse victims. A functioning coordination system is built on multiple components, such as case registration (of any child victim) and assessment guidelines (for entities and departments providing relevant protection response services), a referral system with defined roles for public sector (and other) entities, including maintenance of requisite documentation and record keeping of the case and its follow-up. Normally, a well-functioning system includes a centralized data management, or CPMIS, system, enabling the tracking of cases and subsequent analysis of trends and patterns. In routine practices, governmental departments do not normally share information with other stakeholders at the Agency and/or other administrative levels.

To enable enhanced coordination, a Child Protection Coordination Unit (CPCU) was established in SSD (FATA Secretariat) with support from UNICEF. The CPCU has not succeeded as yet, to establish and implement a formal coordination system. Nevertheless, it did succeed in coordinating with different departments for several interventions such as trainings (of public officials).

On occasion, child protection cases are referred to the relevant public agencies, where the case is initially reported, such as within health or education sectors, however such referrals are made for the most part on an ad hoc and informal basis. Such actions are usually undertaken either on the insistence of the victim’s family and/or if the victim is related to a public official. As such matters often occur at an informal level, same have not been assessed in detail.

3.4 Recommendations

See below key policy, legislative, institutional and operational recommendations for a functioning child protection system in FATA. These include:

Legislative and policy:

1. FATA Child Protection Law/Act should be approved and enacted to provide a legislative framework for the delivery of child protection services in FATA. 57
2. Related child protection laws, (some of those referenced above) may also be extended to FATA for adequate legal coverage and support to children in conflict with law.

57. A ‘Child Protection Response Bill (for Islamabad Capital Territory)’ has been presented to the Ministry of Human Rights with the technical assistance from UNICEF and that is going to be tabled in the parliament after due processes and approvals. Therefore, it is recommended that once legislation is enacted in the federal capital territory, the authorities may be advocated/asked to extend it to FATA while following requisite procedure).
3. The FATA Child Protection Policy should be reviewed and revised. The policy should set broader directions for the scope and institutionalization of child protection services.

4. Child labour-related laws, such as the Employment of Children Act 1991 and the Bonded Labour System Abolition Act 1992 and its 1995 rules should be implemented in FATA.

Institutional:

5. The FATA Child Protection Commission (FCPC) should be established as a semi-autonomous body in order to lead CP Policy formulation/revision; implementation oversight of CP policies; strategic planning, partnerships promotion and support technically the coordinated delivery of CP responses; standard setting; advocacy; custodianship of CPMIS and promote and conduct CP-related researches.

6. Agency Child Protection service delivery: the Government should establish within the Agency Social Welfare Office a Child Protection Desk, headed by a qualified Child Protection Officer, holding full and comprehensive responsibility for case management and referral of all reported cases of child abuse in the Agency.

7. A Labour Department should be established in FATA, not only to protect children from exploitative labour, but also to ensure the implementation of labour laws in general.

Operational:

8. The Federal Government to allocate an adequate budget for the effective functioning of the Commission. The Commission must also ensure effective monitoring of implementation of the child protection referral mechanism.

9. Child Protection Desks at the Agency level may formulate a ‘Child Protection Plan’ - a tool to identify details of services to be offered to a child requiring protection, based on a comprehensive assessment.

10. The Directorate of Social Welfare FATA should be assigned a lead role for the assessment and coordination of child protection functions. The Department should thus lead on the delivery of the child protection mandate including: (1) develop and implement a comprehensive and coordinated child protection case management and referral system, including the collation of data on reported cases of child abuse; (2) establish and maintain a helpline for direct complaints; (3) appoint, train, supervise, control, monitor and review the performance and duties of Child Protection Officers in each Agency; (4) regulate all providers of child protection services in the territory, including alternative care providers, to ensure compliance with applicable minimum standards; and (5) the commission shall act as custodian of the Child Protection Referral Management Information System (MIS) in support of referral processes while ensuring its confidentiality and security.

11. The functions of the child protection case management and referral service should include: (a) to receive and register report(s) of alleged child abuse, including maintaining all relevant data in the Child Protection Referral MIS; (b) based on a report of alleged child abuse, to assess (perform initial assessment and if required undertake comprehensive assessment) whether the child requires protection; (c) pursuant to a formal determination that a child requires protection, to develop and maintain a child protection plan; (d) in accordance with the child protection plan, to refer the child to relevant departments/agencies at the Agency level (obligatory to comply with requests) for the provision of applicable child protective services; (e) to manage reported cases of child abuse, including maintaining a record of reports, monitoring cases and follow-up until case
12. A Probation and parole system should be introduced in FATA, in light of the related laws and the JJSO 2000 and Probation and Parole Officer should be appointed in each Agency of FATA.

Figure 2: Illustrative Composition of Suggested Child Protection Referral System (FATA)

Figure 3: Illustrative Composition of Proposed Agency Level Child Protection Referral System
13. Identify focal points in associated departments (at the FATA Secretariat and Agency levels), train, and enable establishing standards and systems (for child protection services) for delivery of consistent and quality services. This shall also feature inclusion into the Child Protection Case Management and Referral System.

14. Establish FATA Labour Department including agency level apparatus.

15. Involve civil society organizations to educate and raise awareness of communities and children on prevention and response to child protection issues.
Annex 1: FATA Steering Committee Notification

FATA Secretariat
(Administration Infrastructure & Coordination Department)

Notification:

No. DSW(FATA)/306/12, 918/26
In continuation of this office earlier notification No. FS/C/Coord/898-934 dated 17-07-2014, the competent authority (Additional Chief Secretary FATA) is pleased to re-notify with immediate effect, "Steering Committee on Child Protection" as follows:

Composition

1. Additional Chief Secretary (ACS) FATA
   Chair
2. Secretary Social Sectors Department, FATA
   Secretary (Member:
3. Secretary Finance Department, FATA
   Member
4. Secretary Law & Order, FATA
   Member
5. Secretary P&D Department FATA
   Member
6. Secretary A, I & C Depart, FATA
   Member
7. Secretary Production Department FATA
   Member

Terms of Reference

1. To provide a platform for high level coordination and think-tank for the public institutions and non-governmental organizations on issues of policy related to the protection of children in the province, and play a gate keeping role on critical issues affecting children.
2. To contextualize the child protection system mapping and assessment toolkit, take charge of the processes and facilitation of implementation of the exercise and further endorse the findings for policy development; indicating a process for costing and mobilizing the resources required to implement the programs.
3. To identify a range of thematic areas for which technical Working Groups shall be notified with described terms of reference and provided facilitation for submitting recommendations and tasks to the Steering Committee to endorse.
4. To convene coordination meetings with members of the Steering Committee and, as required, technical Working Groups.
5. To facilitate the work of consultant(s) provided by UNICEF, for the agreed tasks with the Steering Committee, for the Child Protection System Mapping and Assessment and for any other task if agreed jointly.
6. To hold reviews of the accomplishments against agreed benchmarks and tasks for every six months with plans scheduled for the next six months.

Secretary A, I & C FATA

P.T.O.
Copy to
1. Principal Secretary to Governor Khyber Pakhtunkhwa.
2. All Secretaries FATA
3. All Commissioners FATA
4. DG Projects FATA
5. All Political Agents/DCOs FRs
6. All Directors, FATA
7. UNICEF Peshawar.
9. PS to Chief Secretary Khyber Pakhtunkhwa.
10. PS to ACS FATA
In line with the feedback provided by the steering committee, following is the revised composition of the three Working Groups.

- **Group I: Legal Policy and Justice: Law & Order Department (lead)**
  - NADRA
  - FATA Disaster Management Authority (FDMA)
  - Directorate of Local Government and Rural Development
  - Directorate of Social Welfare
  - A.D. Industries
  - D.D. Minerals
  - Deputy Legal Advisor FATA

- **Group II: Continuum of Care: Social Sector Dept. (Lead)**
  - Administration, Infrastructure and Coordination Department
  - Department of Law and Order
  - Directorate of Education
  - Directorate of Health
  - Directorate of Social Welfare
  - Directorate of Information
  - Directorate of Projects (Relevant bodies)

- **Group III: Resource Mobilization and Fiscal accountability: Finance Department (Lead)**
  - P&D Department
  - Administration, Infrastructure and Coordination Department
  - Directorate of Social Welfare
  - Directorate of Health
  - Directorate of Education
  - Directorate of Projects
  - District/Agency accounts office
Annex 3: Adapted Toolkit Indicators

Attached separately (refer Excel file)
Annex 4: Documents Reviewed

- “Children in FATA: How to stop the making of child soldiers”, *The Express Tribune*, 13 March 2015.
- “Child rights in Pakistan: An unfinished agenda” *The Express Tribune*, 20 November 2014
• Government of Pakistan, FATA Disaster Management Authority (FDMA), Monsoon Contingency Plan for FATA 2012, FATA Secretariat Peshawar.
• Human Right Commission of Pakistan (HRCP) 2005, FCR A bad law nobody can defend.
• Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (NRC), Still at Risk: Internally displaced children’s rights in north-west Pakistan, Geneva, May 2010.
• International Crisis Group, Pakistan: Countering Militancy in FATA, Asia Report No. 178, 21 October 2009
• IVAP Comprehensive Report 2011, a Detailed Analysis of Data from the IDP Vulnerability & Profiling Assessment.
• IVAP Multi-Cluster Overview Bulletin 2014.
• “KP government plans to vaccinate more than 300,000 displaced children”, Dawn, 9 July 2014.
• “Militancy, Poverty: Drop out in FATA schools reaches 69%”, Dawn, 24 October 2010.
• “Over 10.8m kids vaccinated against polio”, The Nation, 10 December 2014
• Relief Web, Release of cash to IDPs by SIMs begins, 10 July 2014
• Sahil, Annual Report, 2014.
• Sahil, Cruel Numbers Report 2014: A Compilation of statistics on child sexual abuse cases in Pakistan.
• Society for Protection of the Rights of the Child (SPARC), Juvenile Justice.
• Sustainable Peace and Development Organization (SPADO), Factsheet 2014.
• Save the Children, Child Soldiers: CRC Country Briefs, Pakistan.
• UNICEF 2006, Child Protection Information Sheet, What is Child Protection?
• UNDP-Pakistan, Sustainable Development through Peace Building, Governance and Economic Recovery in Khyber Pakhtunkhwa/FATA, Project Brief.
• WHO, Preventing violence by developing life skills in children and adolescents, 2009.
• “99% Registered NWA IDPs Families Receive Financial Assistance: FDMA”, Pakistan States Times.
Annex 5: List of Stakeholder Consulted

Key Informants
Report, Child Protection System Mapping and Assessment, FATA

<table>
<thead>
<tr>
<th>Sr. #</th>
<th>Name</th>
<th>Designation/ Department</th>
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<tbody>
<tr>
<td>1.</td>
<td>Mr. Ahmed Khan</td>
<td>Deputy Secretary Law and Order Department</td>
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<td>2.</td>
<td>Mr. Abid Majeed</td>
<td>Secretary, AI&amp;C</td>
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<td>3.</td>
<td>Mr. Salman Liaqat</td>
<td>Deputy Director (General) Finance, Asst. Chief P&amp;D, FATA Secretariat</td>
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<td>4.</td>
<td>Mr. Syed Yasir Hayat</td>
<td>Coordinator, Child Protection Coordination Unit</td>
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<td>5.</td>
<td>Mr. Noor Mohammad</td>
<td>Secretary AI&amp;C</td>
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<td>6.</td>
<td>Ms. Hina Tillat</td>
<td>Social Sector Specialist, PCNA FATA</td>
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<td>7.</td>
<td>Mr. Muhammad Ali Khan</td>
<td>PRO, AI&amp;C</td>
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<td>8.</td>
<td>Mr. Umer Nawaz</td>
<td>FDMA</td>
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<th>Community Society Organization</th>
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<tr>
<td>9. Mr. Shakeel Ahmed</td>
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<td>10. Mr. Zar Ali Khan</td>
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<td>11. Mr. Iftikhar</td>
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<td>12. Mr. Farooq</td>
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<tr>
<td>13. Mr. Jehanzeb</td>
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<td>14. Mr. Arshad Mehmood</td>
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<td>15. Dr. Shahzad Shahabuddin Mithani</td>
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## Annex 6: Country Status on International Conventions

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<td>Optional CRC Protocol on Involvement of Children in Armed Conflict</td>
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<td>Optional Protocol to CEDAW (1999)</td>
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<td>Convention Against Discrimination in Education (1960)</td>
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<td>Minimum Age Convention (ILO Convention #138, 1973)</td>
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<td>Worst Forms of Child Labour Convention (ILO #182, 1999)</td>
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<td>International Covenant on Civil and Political Rights (1966)</td>
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<td>International Covenant on Economic, Social and Cultural Rights (1966)</td>
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<td>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)</td>
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<td>Indigenous and Tribal Populations Convention (1957)</td>
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<td>Convention Relating to the Status of Refugees (1951)</td>
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