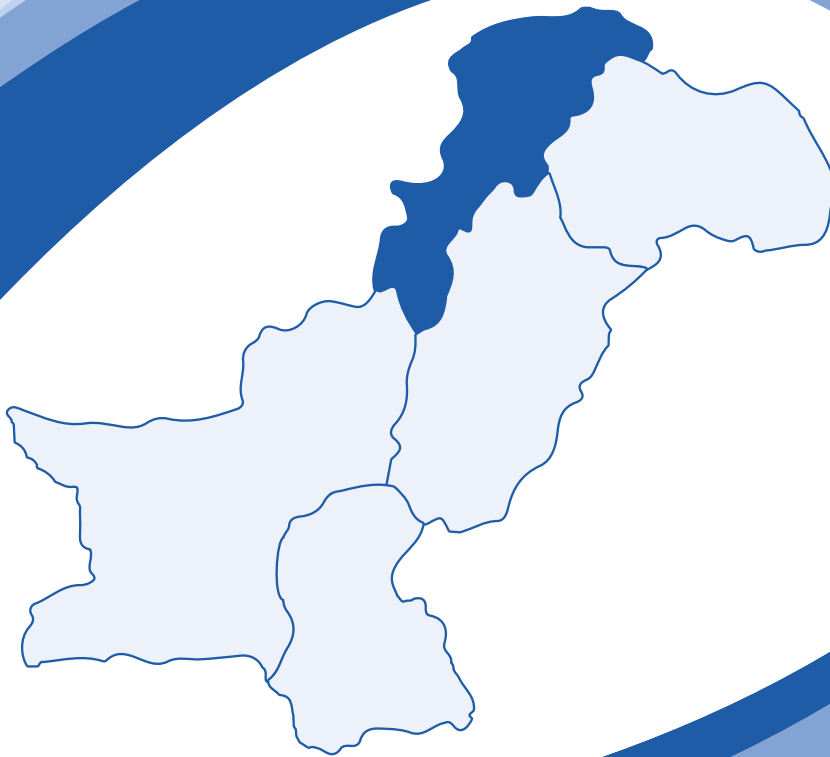


Sustainable Development Goal 16: A Legislative and Policy Gap Analysis for Khyber Pakhtunkhwa



16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



Sustainable Development Goal 16: A Legislative and Policy Gap Analysis for Khyber Pakhtunkhwa

OCTOBER 2017





Sustainable Development Goal 16

Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Disclaimer:

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

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Executive Summary

This study outlines some of the legislative and policy gaps to be overcome for successful implementation of Sustainable Development Goal 16 (Peace, Justice and Strong Institutions) in Khyber Pakhtunkhwa. The particular targets of SDG 16 being looked at include:

- i. Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all
- ii. Target 16.5: Substantially reduce corruption and bribery in all their forms
- iii. Target 16.6: Develop effective, accountable and transparent institutions at all levels
- iv. Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels
- v. Target 16.9: By 2030, provide legal identity for all, including birth registration
- vi. Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
- vii. Target 16.b: Promote and enforce non-discriminatory laws and policies for sustainable development

According to a Public Opinion Poll conducted by PILDAT in August 2016, the respondents from Khyber Pakhtunkhwa identified terrorism and corruption as the third and fourth biggest current issues.¹ Since both of these are encompassed by the targets of SDG 16, appetite for its implementation, even if not exactly imagined in the context of the SDGs, remains high.

Since 2013, Khyber Pakhtunkhwa has seen new laws on right to information, anti-corruption and police, etc. reflecting that for Targets 16.3, 16.5, and 16.10, legal and policy architecture is in place in the Province. A focus on implementation results of these laws and policies, is therefore, now required.

Target 16.3: Rule of Law. With regards to Target 16.3, although the Provincial Government has been able to institute reforms in policing, the judicial system remains clogged with pendency. This is coupled with the Prosecution Services being encumbered by constraints due to not having status of an independent department. In addition there is a need to devise specific indices that take into account the concerns of the non-Muslim minorities and marginalized sections of the society with regards to establishment of rule of law.

Target 16.5: Reducing Corruption and Bribery. With regards to Target 16.5, the Ehtesab Commission lacks a fully dedicated Director General and the Provincial Government has yet to form rules for the Commission. The report also questions the utility of having three dedicated anti-corruption agencies working in the Province. More so, the overlapping jurisdictions and function of the Ehtesab Commission, Anti Corruption Establishment Khyber Pakhtunkhwa and National Accountability Bureau need to be sorted, accompanied by formalized coordination between them.²

1. For details, please see the PILDAT publication titled Public Opinion Poll on the Quality of Governance in Pakistan, June 2015-May 2016, which may be accessed at: http://www.pildat.org/Publications/publication/GovernanceAssessment/PublicOpiniononQualityofGovernanceinPakistan_June2015toMay2016.pdf

2. This overlapping jurisdiction was pointed out by senior officials of the Anti-Corruption Establishment Khyber Pakhtunkhwa and the Peshawar Chapter of the National Accountability Bureau during a consultation held by PILDAT in Pearl Continental Peshawar on January 05, 2017. The complete minutes of the consultation are reproduced in the Annex of the Report.

Target 16.6: Effective, Transparent and Accountable Institutions. With regards to Target 16.6, the workings of the Peshawar High Court lie outside the ambit of the Khyber Pakhtunkhwa Right to Information Act, 2013. Similarly, the RTI law is still to be extended to the Malakand division because of security concerns on divulging information in the region.³ The KP Information Commission also does not have the authority to take action against Government Officials who provide wrong information in response to the public complaints. In addition, the Honourable Speaker himself chairs the Public Accounts Committee in the Provincial Assembly of Khyber Pakhtunkhwa contrary to the global good practice of opposition member chairing PAC.

Target 16.7: Responsive, Inclusive, Participatory and Representative Decision-making. With regards to Target 16.7, KP's Local Government Act provides more autonomy, financial powers and resources to the lower tiers compared to Local Government laws elsewhere in Pakistan. The Provincial Cabinet failed to meet as regularly as required by the Rule of Business of the Provincial Government, with only 9 meetings held in 2016. The Budget Session of the Provincial Assembly was also found to be largely ineffective, spanning only a total of 7 sittings in 2016, as compared to at least 90 days in developed legislatures such as in India and the United Kingdom. There is also a need to make available online the attendance records, not only for the plenary session, but also for the Committee meetings of the Assembly. This will give a chance to the voters to gauge whether their elected representatives have been attending the Assembly sessions regularly and effectively representing their concerns.

Target 16.9: Legal Identity & Birth Registration. For Target 16.9, the Khyber Pakhtunkhwa Local Government Act, 2013 not listing the failure to register a birth beyond a certain time as an offence was noted as gap. In addition, the process of registration of birth is cumbersome, with duplicity of tasks between the Union Councils and the National Database and Registration Authority (NADRA). Instead of parents first going to the Union Council to get the birth registered, and then to the NADRA office to get details uploaded in the national database, the whole process should be a one-window operation.

Target 16.10: Public Access to Information. With regards to Target 16.10, which focuses on ensuring public access to information and protecting fundamental freedoms, it was noted that there is no policy of maintenance and indexation of Government records by the Government of Khyber Pakhtunkhwa. Government officials identified the lack of legal or rule provisions that require Government departments to have storage rooms and of cataloguing all official documents. In addition, the ambit of KP's RTI law should be increased to include the Malakand Division and the Peshawar High Court. If there are concerns regarding the security situation in Malakand, some ground may be conceded. However, information regarding decisions taken in sectors like forest, health, education, water supply and issues affecting gender, etc., must be brought within the ambit of the RTI law in Malakand.

Target 16.b: Non-Discriminatory Policies and Sustainable Development. With regards to Target 16.b it was noted that the passage of Domestic Violence Bill had faced a roadblock after the input on it was sought from the Council of Islamic Ideology. The appointment of Ombudspersons under the Protection Against Harassment of Women at Workplace Act 2010 is also pending. Another hurdle is that of the Provincially Administered Tribal Areas, where laws and policies of the Government of Khyber Pakhtunkhwa do not extend and the area is administered instead through a parallel system run by the Governor of the Province.

3. This was pointed out by various members of the civil society of Khyber Pakhtunkhwa and officials of the Right to Information Commission Khyber Pakhtunkhwa during a consultation held by PILDAT in Pearl Continental Peshawar on January 05, 2017. The complete minutes of the consultation are reproduced in the Annex of the Report.

Recommendations to Improve Implementation of SDGs

Some of the recommendations that may be considered to improve implementation and oversight of SDGs in Pakistan include:

- i. Worldwide, it is the job of the Legislatures to oversee implementation of policies while policy making and implementation firmly remains the domain of Executive. In addition, creation of new committees when there already exist departmental committees in each legislature is also a waste of public resources and energy. Instead of Task Forces, the existing committees in each legislature, relevant to various SDGs, should be asked to oversee executive's implementation of the initiative. In this regard, the capacity of the relevant committees should be built.
- ii. There should be efforts to raise awareness regarding implementation of SDGs with the Local Governments, and coordination with the Provincial Governments to institute a reporting and coordination mechanism in this regard.
- iii. The Federal and Provincial Governments must prioritize key goals of the SDGs, and develop indicators along the lines of the Key Performance Indicators that must be devised by them for the purpose.
- iv. Successful implementation of SDGs also requires public ownership in addition to Governments' ownership. Governments, in coordination with the UNDP, therefore, must develop robust communication strategies on the SDG, so that SDGs become people's agenda.

Summary of Study Tools & Acknowledgments

PILDAT constituted a Panel of Experts for the study, consisting of three people, including Dr. Shoaib Suddle, Mr. Muhammad Ali Nekokara, and Mr. Abdul Matin. Their brief profiles are included in Appendix A.

After an initial exercise mapping out the relevant laws and policies in place at the Federal and Provincial level for the concerned targets of SDG 16, a series of consultations were held in Peshawar, Khyber Pakhtunkhwa with relevant stakeholders to map out the relevant legislative and policy gaps. These included

- i. Meeting with the Honourable Chief Minister of Khyber Pakhtunkhwa, Mr. Pervaiz Khattak, MPA.
- ii. Consultation with Senior Representatives of the Government of Khyber Pakhtunkhwa.
- iii. Consultation with Members of the Provincial Assembly of Khyber Pakhtunkhwa including members of the Provincial Task Force on SDGs.
- iv. Consultation with Members of the Civil Society, Media and Academia of Khyber Pakhtunkhwa.

Based upon consultations, and the data shared by the Provincial Government, and benefitting from the expertise of its Panel, PILDAT outlined the relevant gaps and required reforms for implementation of concerned targets of SDG 16 in Khyber Pakhtunkhwa.

Acknowledgments

PILDAT is thankful to its partner for the study, UNDP Pakistan, for the assistance extended in its execution. The Panel of Experts' guidance for the consultations, and the invaluable expertise lent in developing the drafts are recognised with deep gratitude. PILDAT also appreciates the time taken out by all the participants of the consultations for their input and guidance on the subject matter.

A special note of thanks is extended to the Honourable Chief Minister of Khyber Pakhtunkhwa, Mr. Pervaiz Khattak, MPA, and the Honourable Speaker of the Provincial Assembly of Khyber Pakhtunkhwa, Mr. Asad Qaiser, MPA, and their good offices in facilitating PILDAT's queries, along with their valuable guidance.

This study benefits from research managed by Mr. Muhammad Saad, Projects Manager, PILDAT under the review of Ms. Aasiya Riaz, Joint Director, PILDAT and overall leadership and guidance by Mr. Ahmed Bilal Mehboob, President, PILDAT.

Findings and Recommendations

Targets 16.3

'Promote the rule of law at the national and international levels and ensure equal access to justice for all'

Findings in Khyber Pakhtunkhwa

In the meeting with Chief Minister of Khyber Pakhtunkhwa (KP), PILDAT experts were given an overview of the major steps taken by the Provincial Government to improve the rule of law situation in the Province.⁴ Referring to KP's reform measures, the Chief Minister expressed the decision to soon enact KP Police Act 2017 in a much-improved form (which the Assembly did on January 24, 2017).⁵

The Police Department in particular highlighted new initiatives taken to improve the working of KP Police. KP Police Ordinance 2016, seeking de-politicisation of police, and giving police greater organisational autonomy, was presented as a leap forward. Several new schools set up to develop and enhance professionalism of police were also mentioned.⁶

Importantly, the conviction rate for heinous crimes in Khyber Pakhtunkhwa has seen a steady increase during current tenure of the Government. It stood at 16% in 2014, reached 19% in 2015 and currently stands at 21 % for 2016. In comparison, the conviction rate for petty crimes stood at 73% in 2014, reached 85% in 2015 and currently stands at 78% in 2016.⁷

In 2014, KP Police also established 15 Dispute Resolution Councils (DRCs) to resolve minor disputes between parties. Each DRC consisted of 21 members divided into 7 panels of 3 eminent apolitical citizens each. Finding the experiment efficacious, Section 73 of KP Police Ordinance 2016/ Police Act 2017 not only provided statutory basis to existing DRCs, but also empowers the Provincial Police Officer to establish DRCs for out of court settlement of 'petty' cases at district, sub division or police station level.

However, the judicial system in Khyber Pakhtunkhwa continues to suffer from pendency of cases. According to Judicial Statistics of Pakistan, Annual Report 2014, there were about 1.8 million cases pending in courts, including about 150,000 in Peshawar High Court and KP District Courts. Generally, the institution of cases on a yearly basis has exceeded their disposal.

The Prosecution Service in Khyber Pakhtunkhwa unlike sister Provinces (Punjab, Balochistan & Sindh) is not an independent service; initially it was attached with the Law Department and since 2005 it is attached with the Home and Tribal Affairs Department. There exists a Prosecutor General Office in the three remaining Provinces except in Khyber Pakhtunkhwa. Thus the prosecution of criminal cases by Prosecution Services in Khyber Pakhtunkhwa is restricted only to the Sessions Courts.

4. This included passage of the KP Arms Act 2013, KP Restriction of Rented Buildings (Security) Act 2014, KP Surrender of Illicit Arms Act 2014, KP Hotels Restriction (Security) Act 2014, and KP Sensitive and Vulnerable Establishment and Places (Security) Act 2015.

5. These developments were pointed out by the Honourable Chief Minister Mr. Pervez Khattak, MPA during a call on by PILDAT and its Panel of Experts on him on January 04, 2017 at the Chief Minister House, Peshawar. The complete minutes of the meeting are reproduced in the Annex of the Report.

6. These included: School of Investigation, School of Intelligence, School of Explosive Handling, School of Public Disorder and Riot Management, School of Tactics, and School of Information Technology.

7. Data received by the Khyber Pakhtunkhwa Police.

Recommendations for Khyber Pakhtunkhwa

The following recommendations may be considered in the case of Khyber Pakhtunkhwa:

- i. Amending Section 154 of Cr. P. C. to ensure that after registration of FIR, subsequent actions by police must be on the basis of solid reasons/evidence to be brought on the record by police officer(s) concerned. This would lead to more effective prosecution of cases.
- ii. All FIRs should be recorded in simple language, available online and computerized and be simultaneously sent to the prosecution service so as to involve the latter in the case from its very inception.
- iii. The existing forums provided for under the present legal framework have not been able to fulfil the requirements for free legal aid as per the constitutional mandate. There was a need for Legal Aid Authorities both at the Federal and Provincial levels to monitor and supervise the work of public defender services.
- iv. The Prosecution Branch may be made a separate department, not falling under the Home and Tribal Affairs Department.
- v. The draft Standard Operating Procedure for coordination between the Prosecution Branch and the Police Service of Khyber Pakhtunkhwa must be notified as early as possible for better cooperation and concerted implementation.
- vi. These efforts need to be complemented by building police operational strength through working simultaneously on:
 - a. Incremental increase in existing training budget over 4 years from 2% to 10% of total police budget.
 - b. Strategic interventions in the police station such as security of tenure; increase in police strength annually by at least 10 % to meet international standards; performance management; infrastructure and equipment support; reducing disconnect between police managers and frontline officers.
 - c. Replacing static stop and search pickets with well equipped Specialized Mobile Patrols; introducing 'stop and search form'
 - d. Organised professional engagement within police to effectively pursue its legitimate organisational interests.

Target 16.5

'Substantially reduce corruption and bribery in all their forms'

As of 2016, Pakistan ranks at 116 (decreasing from 126th in 2014 and 117th in 2015) in least corrupt nation out of 175 countries in Transparency International's (TI) Corruption Perceptions Index (CPI).⁸

Corruption is also publicly perceived as a significant problem. According to PILDAT's Public Opinion Poll, 2016, for nation-wide respondents, corruption was the fourth biggest issue the country faced, following terrorism, inflation and the energy crisis.⁹

For a detailed listing of the national and provincial legislation governing anti-corruption, please see Appendix B. Appendix C contains findings and recommendations in relation to the National Accountability Bureau (NAB).

8. Corruption Perceptions Index 2016 reported by Transparency International

9. For details, please see PILDAT's Public Opinion Poll on the Quality of Governance in Pakistan, June 2015-May 2016, which may be accessed at: http://www.pildat.org/Publications/publication/governanceassessment/publicopiniononqualityofgovernanceinpakistan_june2015tomay2016.pdf

Findings for Khyber Pakhtunkhwa

Anti-corruption efforts have seen numerous vicissitudes for current tenure of the Government of Khyber Pakhtunkhwa. The formation of the Khyber Pakhtunkhwa Ehtesab Commission (KPEC) in 2014, accompanied by institutional mechanisms such as the Search and Scrutiny Committee for independent appointment of Commissioners and other important office holders such as the Director General (DG), was a step in the right direction.

The efforts lost steam when the DG KPEC, Lt. Gen. (Retd.) Hamid Khan resigned on February 10, 2016 for various concerns. This included passage of the controversial Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Ordinance 2016, regarding which the Commission's Annual Report for 2016 concluded that 'it led to uncertainty and unrest amongst employees about their future and affected their motivation levels.'¹⁰ Although the Government rolled back the Ordinance, along with addressing some of the lacunas in the law with passage of two amendments (once in 2016 and again in 2017) KP's anti-corruption efforts still face legislative and policy hurdles.

The most obvious one is that there are currently three dedicated anti-corruption agencies operating in the Province: the National Accountability Bureau; the Khyber Pakhtunkhwa Ehtesab Commission and the Anti-Corruption Establishment Khyber Pakhtunkhwa (ACEKP). Although corruption is a pressing issue, duplication of functions, and squandering of resources are questions that need to be addressed.

Through the Khyber Pakhtunkhwa (Amendment) Act 2016, some clarity was attained when it was decided that KPEC would only take up cases with worth more than PKR 50 million, and transfer the remaining to the Anti Corruption Establishment Khyber Pakhtunkhwa. However, it needs to be noted that according to the original law, the Anti Corruption Establishment was to be merged with KPEC, but was later changed.¹¹

This is accompanied by a dip in the performance of the Anti Corruption Establishment. The total amount of money recovered by ACE declined by 69% from PKR 1.26 billion in 2014-2015 to PKR 390.99 million in 2015-2016. In addition, the number of people the ACE arrested declined from 372 individuals in 2014-2015 to 171 individuals in 2015-2016.¹²

Although the Sindh High Court in November 2016 stated in its judgment that the NAB should investigate corruption cases involving an amount of more than PKR 100 million (NAB since the beginning of 2017 has drafted Standard Operating Procedure-SOP to the effect), the agency maintains that there was no settled pecuniary jurisdiction identified for the agency in the National Accountability Ordinance 1999. Lastly, NAB's SOPs do not have a retrospective effect and inquiries authorized and references filed prior to the SOP formation are legitimate to be carried out by the NAB, according to the agency.

Government of Khyber Pakhtunkhwa also recently enacted the Khyber Pakhtunkhwa Prevention of Conflict of Interest Act, 2016, which regulates conflict of interests, through establishing a Prevention of Conflict of Interest and Ethics Commission. However, in the said Act the punishment for frivolous or mala fide complaint is made so rigorous that it would discourage citizens from coming forward and making public interest disclosure. In addition, it would be responsibility of a whistleblower to provide evidence of a wrongdoing and not that of any Government agency.

10. The Commission's Annual Report for 2016 may be accessed at: http://www.ehtesabcommissionkp.gov.pk/public/annualreport/data/KPEC_AR_2016.pdf

11. The legislation may be accessed at: <http://www.pakp.gov.pk/2013/bills/the-khyber-pakhtunkhwa-ehtesab-commission-amendment-bill-2016-2/>

12. For details, please see PILDAT Score Card on the Assessment of the Quality of Governance in Khyber Pakhtunkhwa, 2015-2016, which may be accessed at: http://www.pildat.org/Publications/publication/GovernanceAssessment/ScoreCardonQualityofGovernance-ThirdYearoftheGovernmentofKP_2015-2016.pdf

Recommendations for Khyber Pakhtunkhwa

The following recommendations may be considered in the case of Khyber Pakhtunkhwa:

- i. A full-time Director General of the KPEC may be appointed as soon as possible. Currently the KPEC has an Acting Director General.
- ii. The Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016 stipulates that the Provincial Government will have to make rules for the Commission's functioning within 15 days of the legislation's enactment. However, no rules have been formed till the time of the compilation of this report.
- iii. Subsection 1(a) of Section 35 of the amended KPEC Act may be revisited, since it apparently curbs the powers of the office of the Director General.¹³
- iv. Merger of the Anti Corruption Establishment of Khyber Pakhtunkhwa with KPEC may be considered.
- v. There is a need to revisit the overlapping jurisdictions of NAB and KPEC. It is recommended that through necessary amendments in the NAO 1999, the jurisdiction of NAB may only be restricted to 'mega-corruption cases', with the remaining forwarded to the KPEC. In addition, NAB's jurisdiction may only be restricted to Federal agencies.
- vi. There is need for greater institutionalized consultation between the anti-corruption agencies for efficient functioning.

Target 16.6

'Develop effective, accountable and transparent institutions at all levels'

Findings for Khyber Pakhtunkhwa

Khyber Pakhtunkhwa has a reasonably functional RTI Commission. However the provincial RTI law lacks clearly outlined procedures, which lead to delay in getting information from the office of the Information Commissioner despite its obligation of responding to media and general public requests within 20 days. In addition, the Commission does not have authority to take action against Government officials who provide wrong information in response to the public complaints. Moreover, neither the Peshawar High Court nor the Malakand Division fall within the ambit of the RTI law.¹⁴

Similarly, there are challenges in the accountability mechanisms as:

- i. Ehtesab Commission and NAB have the same function, therefore overlapping jurisdiction. This issue could be resolved by limiting NAB to Federal subjects and letting Ehtesab Bureau deal with accountability on Provincial subjects.
- ii. Some of the main issues faced with AGP office are lack of timely accountability by the Public Accounts Committee. According to Auditor General of Pakistan Annual Report 2015-16, in KP, AGP audit reports of past 13 years are pending for scrutiny with Public Accounts Committee of the Provincial Assembly.¹⁵ The Speaker of the Provincial Assembly of Khyber Pakhtunkhwa is the Chairperson of the Public Accounts Committee instead of any opposition MPA.

13. The relevant provision states that 'The Director General shall not take action in matters involving pure procedural lapses in any ongoing project. It shall only monitor the ongoing schemes of Government and intimate the Department about any procedural lapses and recommend and recommend corrective measures in such a manner that it shall not affect running of ongoing projects'

14. This was pointed out by members of the civil society and officials of the Right to Information Commission of Khyber Pakhtunkhwa during a consultation held by PILDAT at Pearl Continental Peshawar on January 05, 2017. The complete minutes for the consultation are reproduced in the Annex of the Report.

15. Auditor General of Pakistan Annual Report 2015-16, p. 59.

- iii. Provincial Inspection Team (PIT) of KP Government has following challenges;
- Scarcity of staff and resources including transport facilities as the team has to inspect all Government institutions/organizations throughout the Province.
 - PIT Officers are not protected under the law from litigation issues as other autonomous are protected that include NAB and FIA.¹⁶

Recommendations for Khyber Pakhtunkhwa

The following recommendations may be considered for the case of Khyber Pakhtunkhwa:

- i. Strengthen internal accountability of the Government Departments to complement the efforts of the external accountability institutions.
- ii. Appoint a member of the Opposition as Chairman of the Provincial Public Accounts Committee, and extend assistance to the committee to scrutinize the AGP Annual Reports in a timely manner.
- iii. Bring the Peshawar High Court and Malakand Division under the jurisdiction of the Khyber Pakhtunkhwa Right to Information Act, 2013.

Target 16.7

'Ensuring responsive, Inclusive, Participatory and Representative Decision making at all levels'

For the purpose of this study, implementation of Target 16.7 of SDG 16 may possibly be understood and interpreted at three tiers:

- i. At the level of the Provincial Government
- ii. At the level of the Provincial Assembly
- iii. At the level of the Local Governments

Findings for Khyber Pakhtunkhwa

With regards to representative decision-making, Provincial Cabinet does not meet regularly. Although Rule of Business of the Government of Khyber Pakhtunkhwa stipulate that a meeting of the Cabinet must be held once every fortnight, the Cabinet of the Government of Khyber Pakhtunkhwa has met for a total of 9 times in 2016, compared to 8 times in 2015. The Chief Minister of Khyber Pakhtunkhwa also showed no significant interest in the proceedings of the Assembly, as he only managed to attend 41% of the Legislature's sittings in 2016.

With regards to the Provincial Assembly of Khyber Pakhtunkhwa, although its Standing Committees possess suo moto powers, these are subject to the Speaker's approval. Till now, for the current tenure of the Assembly, not a single suo moto notice has been issued by any of the Standing Committees. However, it is commendable that out of the 21 Bills passed by the Assembly in 2016, 85% were routed through the Standing and Select Committees, as KP navigates its way through challenging legislations.¹⁷

Another example of a lack of representative and participatory decision-making process is the ineffective budgetary review process at the Provincial Assembly of Khyber Pakhtunkhwa. For example, for 2016, the total

16. For details, please see: <http://pit.kp.gov.pk/page/challenges>

17. For details, please see PILDAT's Assessment of the Quality of Democracy in Pakistan, 2016, which may be accessed at: http://www.pildat.org/Publications/publication/DemocracyAndLegStr/AssessmentoftheQualityofDemocracyinPakistan_2016.pdf

number of sittings of the Assembly of the Budget Session was a mere total of 7. With limited time available to scrutinize the Provincial Budgets and no adequate powers with Standing Committees to undertake in-depth reviews of the Provincial Budgets, year after year, Budget Sessions see mere rubber-stamping of the budget by the Provincial Legislatures. PILDAT has been making recommendations to strengthen the Budget process in the Parliament and Provincial Assemblies of Pakistan, which include increasing the duration of the Budget process to at least 30 – 45 days and changes in the Rules of Procedure of the Provincial Assemblies to allow Standing Committees both power and time to review the Budget both before and after its introduction.

With regards to Local Governments, it is important to note that Khyber Pakhtunkhwa Local Government system distinguishes itself from those in place across the other three Provinces with regards to its representativeness and administrative and financial autonomy in the following key ways:

- i. According to Section 53 of the Khyber Pakhtunkhwa Local Government Act, 2013 the development grant for Local Governments in a year cannot be less than 30% of the year's total Annual Development Program (ADP) of the Province.
- ii. The Act also mandates the creation of Accounts Committees – which hold public hearings on audits and address objections to statements of accounts – on all tiers of Local Governments, i.e., district, tehsil and village/ neighborhood.

KP's Provincial Finance Commission was notified in October 2015. Among the Commission's members are four representatives, i.e., 33% of the Commission's membership, from Local Governments (two Nazims elected from district councils and two Nazims elected from tehsil councils). Section 55 of the Local Government Act, 2013 states that its functions shall be to conduct annual and special inspections of Local Governments and submit reports to the Government.

With regards to budget allocation, the Provincial Government allocated PKR 42,030 million for District Development Programme in 2015-2016, which is 35.52% of the PKR 113,000 million ADP for 2015-2016. Out of this, an amount of PKR 11, 756 Million has been allocated for ongoing devolved projects while an amount of PKR 30,274 million was allocated to Village/Neighborhood Councils, Tehsils and Districts.¹⁸

Recommendations for Khyber Pakhtunkhwa

Following recommendations may be considered in the case of Khyber Pakhtunkhwa:

- i. Meeting of the Provincial Cabinet of the Government of Khyber Pakhtunkhwa may be held at least once every fortnight.
- ii. Extending suo moto powers to the Standing Committees of Provincial Assembly of Khyber Pakhtunkhwa, without making them subject to the Speaker's approval.
- iii. Regularly updating the attendance of the members of the Assembly, not only for the plenary session, but also Committee meetings, on the Assembly website.
- iv. The Provincial Assembly of Khyber Pakhtunkhwa may also consider starting a Public Petitions Portal, as introduced in the Pakistan Senate website, on the Assembly website.
- v. Instituting an effective budget review process, which lasts for at least a month, and requires scrutiny by the respective Standing Committees before the budget is discussed in the Assembly.

18. For details, please see PILDAT's Scorecard on the Quality of Governance, Khyber Pakhtunkhwa, Third Year of the Elected Governments, 2015-2016 which may be accessed at: http://www.pildat.org/Publications/publication/GovernanceAssessment/ScoreCardonQualityofGovernance-ThirdYearoftheGovernmentofKP_2015-2016.pdf

Target 16.9

'By 2030, provide legal identity for all, including birth registration'

To date, at least 96 million Pakistanis, both in the country and abroad have been issued tamper resistant, ISO standard identification cards.¹⁹ This biometric computerized national identity card (CNIC) is a prerequisite for opening a bank account, receiving a mobile SIM card, securing a passport and driver's license, and other social and economic services. However, population estimates for 2016 show that Pakistan's current population, which has been growing at the rate of 1.45% per year, currently stands at least at 201 million.²⁰ Out of this, estimates suggest that 128 million are of age 18 and above. This means that roughly 75% of the country's adult population possesses legal identity, and is registered with NADRA.

When it comes to birth registration for children, the statistics paint a grim picture. According to UNICEF's A State of World's Children report for 2016, the birth of almost 33.6% of the country's children under the age of 5 is registered.²¹

The worrying state of birth registration not only poses inherent problems, but is also in violation of international conventions Pakistan is a signatory to. For example, Articles 7 and 8 of the UN Convention on the Rights of the Child (CRC) declare that national Governments must register children immediately after birth and children enjoy the right from birth to acquire a nationality.

Findings for Khyber Pakhtunkhwa

According to UNICEF's Progress Report 2013-2015: Birth Registration, the birth registration rate in Khyber Pakhtunkhwa is the second lowest for all provinces of the country and stands at 10%.²²

It is important to note that there is a legal obligation to register children in Pakistan. The National Registration Act 1973 (Act VI of 30 July 1973) stipulates the obligation to register the births of newly born citizens. In addition, in accordance with section 6 of the Births Deaths and Marriages Registration Act 1886 (Birth Registration Act) each Provincial Government is required to establish a general registry office in order to maintain the register of births. However, after the institution of Local Governments, the responsibility for registering births falls upon various tiers of the Local Governments, as enunciated by each Province's laws.

In the case of the Khyber Pakhtunkhwa, this is the responsibility of the Village Council or the Neighborhood Council. The relevant legal provision is the Section 29 of the Khyber Pakhtunkhwa Local Government Act, 2013. More specifically, Section 29 (c) states that the registration of births and deaths is the responsibility of the Neighborhood and Village Councils.²³ Part V of the Third Schedule of the law provides that the fees for the registration and certification of births, marriages and deaths will be accrued as taxes by the Village and Neighborhood Councils.

Part 1 of the Seventh Schedule of the Khyber Pakhtunkhwa Local Government Act, 2013 states that the Provincial Government may, by notification in the official gazette, make rules governing registration of births and deaths. It is important to note that the Khyber Pakhtunkhwa Local Government Act, 2013 does not list the failure to register a birth beyond a certain time as an offence under the legislation.

19. For details, please see: <http://www.worldbank.org/en/news/feature/2016/02/04/pakistan-building-equality-for-women-on-a-foundation-of-identity>

20. For details, please see: http://www.indexmundi.com/pakistan/demographics_profile.html

21. For details, please see: <https://data.unicef.org/country/pak>

22. The complete text of the Report can be accessed at: https://www.unicef.org/pakistan/Birthregistration_LR.pdf

23. The complete text of the Law may be accessed at: <http://www.cdltda.pk/downloads/publications/Khyber%20Pakhtunkhwa%20Local%20Government%20Act%202013.pdf>

The complete process of birth registration in Khyber Pakhtunkhwa is listed in Appendix D.

Recommendations for Khyber Pakhtunkhwa

The following may be considered in the case of KP:

- i. The Government of Khyber Pakhtunkhwa must establish late registration of birth as an offence, with prescribed penalties under the Khyber Pakhtunkhwa Local Government Act, 2013.
- ii. Currently, birth registration in Khyber Pakhtunkhwa can be done for any child under the age of 18, without any prescribed penalties. Rather, an age of 1 year should be prescribed as the maximum limit within which birth should be registered.
- iii. The Federal Government may coordinate with the Provincial Governments to introduce a uniform form for birth registration. The form must be developed in such a way so that the details are easy to computerize. This would greatly facilitate the work of NADRA in developing a national computerized database.
- iv. In order to eliminate the duplication of tasks by the Local Government Councils and NADRA, the latter must provide for field staff to train the Local Government officials in the process of birth registration and computerization of details. Although NADRA is bound to provide field staff at the Union Council Level, the number of staff depends upon how big the area is. On average, one supervisor looks after 10-12 UCs. According to data obtained from NADRA, there are a total of 6,645 Union Councils (or Operational Sites) across the country out of which 6,197 are operational. It must be ensured that all the relevant Local Government Councils either have NADRA staff present, or must be trained by them, along with having the required IT support so that NADRA's database can also be updated at one site.
- v. The Local Governments, in consultation with the respective Provincial Government may consider waiving off any fee for registration of birth. Instead a nominal penalty may be introduced in case of late registration.
- vi. A proposal may also be considered to integrate education and health services being offered by the Local and Provincial Government with birth registration. This may entail that a child can only be registered at a Government school if he or she has a birth certificate. Tying identity registration with benefits is proven to be beneficial in Pakistan's case. For example, within four years of the launch of BISP, there was an overall increase of 72% in issuance of CNICs to the adult population in the country and a 94% in women enrolment in 2012.
- vii. Officials should also be trained to perceive birth registration as a fundamental right as opposed to a mere administrative task.
- viii. Paid female and male mobilisers, acting as a bridge between the Union Council and parents, should inform parents about registration and undertake the registration process on their behalf.
- ix. There should be an online link between the Union Council and NADRA on the district level, automatically entering Union Council data into the NADRA database to make the process more accessible. Parents will only have to go to the Union Council making it cheaper and less time consuming.

Target 16.10

'Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements'

While processing the Eighteenth amendment in the Constitution of the Islamic Republic of Pakistan, the committee of the Parliamentarians was conscious of the existence of the 'Right to Information' as a basic human right in the charter of United Nations Organization since 1948. Hence the said Committee proposed to insert

Article 19A in the Constitution, making the Right to Information a fundamental right available to every citizen of Pakistan enforceable through courts.²⁴ When this amendment was processed by the Parliament, it placed an obligation on both the Federation and the Provinces to pass laws guaranteeing this right in respect of the subjects upon which each Government, Federal or Provincial, was legally competent to legislate.

Apart from the provision in the country's own Constitution, and it being signatory to the Universal Declaration on Human Rights, Pakistan is also a signatory to the International Covenant on Civil and Political Rights, adopted by the UN General Assembly in 1966, and to which Pakistan became a signatory in 2008 and ratified it in 2010.

Therefore, the right to information, as now embodied under Target 16.10 of the Sustainable Development Goal 16, is an internationally protected human right, regarding which the State of Pakistan and its various administrative units needed to make arrangements for its provision.

Findings for Khyber Pakhtunkhwa

The Province of Khyber Pakhtunkhwa took lead in this field and promulgated the RTI Act 2013, giving the Right to Information a formal legal shape. It also created a specific legal structure to implement the law in the shape of an independent Information Commission.

Originally, one of the greatest challenges identified in Khyber Pakhtunkhwa with regards to right to information was the exclusion of the KP Assembly and its Secretariat from the ambit of the law through an amendment passed in 2015. On September 10, 2015, this was corrected as Members of the Provincial Assembly voted to bring the Assembly back under the ambit of the law.

The number of information requests increased in KP from 1,767 in 2014-2015 to 3,512 in 2015-2016: an increase of 98.75%. However, the percentage of requests decided in the mandated time of the law declined by 30 percentage points from 67.74% in 2014-2015 to 37.33% in 2015-2016. The number of complaints received by the RTI Commission on adherence to the RTI law more than doubled from 516 in 2014-2015 to 1,771 in 2015-2016.²⁵

Some of the major gaps identified in Khyber Pakhtunkhwa's right to information landscape include the following:

No Policy on Maintenance of Records²⁶

Nothing concrete came to the fore regarding the existence of any law/rule/instructions or policy as to how to go about maintenance of Government records, which is a pre-requisite to the implementation of the fundamental right of access to information. Unless the record is available in a particular shape, it cannot be supplied when demanded by a citizen.

24. Article 19A of the Constitution of Pakistan states that 'Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law'.

25. For details, please see PILDAT publication titled Score Card on Assessment of the Quality of Governance in Khyber Pakhtunkhwa, 2015-2016, which may be accessed at: http://www.pildat.org/Publications/publication/GovernanceAssessment/ScoreCardonQualityofGovernance-ThirdYearoftheGovernmentofKP_2015-2016.pdf

26. This was shared by officials of the Government of Khyber Pakhtunkhwa during a consultation held by PILDAT at Pearl Continental, Peshawar on January 05, 2017. The complete minutes of the consultation are reproduced in the Annex of the Report.

Blackout of Malakand Division

Malakand division consists of more than six districts and is about one-third of the Province area-wise and about one-fourth population wise. The area has suffered from the worst kind of terrorism for more than one decade. In the aftermath of the operation to clear the area from the terrorism, the entire Malakand division is enshrouded in a cloak of ambiguity as far as provision of basic human rights is concerned. In this situation the authorities have time and again blocked the process of extension of the RTI law to the said area because Malakand is a Provincially Administered Tribal Area (PATA) and any law extending there must be with the approval of the Federal Government on the request of the Governor of the Province.

Proceedings of Peshawar High Court

In the current form of KP's RTI law, Peshawar High Court lies outside its ambit, even though it is a public body.

Decreasing Number of Public Information Officers

Regretfully, the number of Public Information Officers (PIOs) in the KP Government declined by 0.49%, from 612 PIOs in 2014-2015 to 609 PIOs in 2015-2016.²⁷

Recommendations for Khyber Pakhtunkhwa

The following recommendations may be considered to improve Khyber Pakhtunkhwa's right to information landscape:

- i. All the public bodies should be given a clear policy in respect of indexation and maintenance of Government record. This will help both the public bodies and the citizens seeking information. The Government should also establish record rooms for this purpose manned by trained officials. In this connection the Information Commission should take the lead by highlighting the issue with the higher authorities.
- ii. If a small portion of a chapter in school textbooks is allocated to the importance of transparency the future generation can be trained for the challenge. The KP RTI Commission has already taken up this issue with the education authorities.
- iii. Public bodies should start proactive publication within the spirit of Section 5 of the RTI Act 2013. If the process is initiated in respect of the future record, it can further the cause of RTI to a great extent.
- iv. The citizens should know that a law by the name of Freedom of Information exists. In this field the civil society, print and electronic media should play its part. The absence of those organizations working for the right to know in the Province was felt during consultations by PILDAT.
- v. The ambit of the KP's RTI law should be increased to include the Malakand Division and the Peshawar High Court. If there are concerns regarding the security situation in Malakand and disclosure of information on this subject, some ground may be conceded. However, information regarding decision taken in sectors like forest, health, education, water supply and issues affecting the gender, etc. must be brought within the ambit of the RTI law.

Target 16.b

'Promote and enforce non-discriminatory laws and policies for sustainable development'

27. Ibid

Findings for Khyber Pakhtunkhwa

With regards to Target 16.b in Khyber Pakhtunkhwa, it is important to note that the Domestic Violence Bill was not tabled in the Provincial Assembly of Khyber Pakhtunkhwa as the Council of Islamic Ideology expressed reservations on it. As a result, in 2015-2016, KP became the only Province without a domestic violence bill.

In addition, Khyber Pakhtunkhwa is yet to appoint Ombudspersons to receive and decide on complaints against harassment as prescribed under the Protection Against Harassment of Women at Workplace Act 2010, a Federal law. The website for the Provincial Commission for the Status of Women has been dysfunctional and, therefore, cannot provide key information, a detriment to the Commission's ability to engage its target audience.

With regards to gender gap within the Province during 2014-2015, the unemployment rate for females was 15.78% compared to 5.75% for males; the unemployment disparity between the genders was greater in urban areas, with a 30.16% female unemployment rate compared to a 6.92% male unemployment rate.²⁸ The gender gap in literacy rates (i.e., the difference between the male and female literacy rates) has narrowed in Khyber Pakhtunkhwa. It declined from 37% in 2013-2014 to 35.30% in 2014-2015. However, the gender gap in unemployment rates (i.e., the difference between male and female employment rates) increased from 9.34% in 2013-2014 to 10.03% in 2014-2015.²⁹

The biggest hurdle however is the Provincially Administered Tribal Areas, where laws and policies of the Provincial Government of Khyber Pakhtunkhwa do not extend. This comprises 9 districts of Khyber Pakhtunkhwa, and is administered instead through a parallel system run by the Governor of the Province.

Another challenge in terms of sustainable development is that the urban population in the Province continues to grow by 3.7%, which is far more than population growth in rural areas (2.6%).³⁰ However, the formation of the Khyber Pakhtunkhwa Population Welfare Policy is the step in the right direction in this regard.

Recommendations for Khyber Pakhtunkhwa

The following recommendations may be considered in the case of Khyber Pakhtunkhwa:

- i. The Provincial Assembly of Khyber Pakhtunkhwa, after making the necessary amendments, must pass the Domestic Violence Bill pending since 2015.
- ii. The head of the Ombudsman of the Khyber Pakhtunkhwa Commission for Protection of Women must be made as early as possible, on non-political considerations.
- iii. Extension of all the important legislation enacted by the Provincial Assembly of Khyber Pakhtunkhwa to the Provincially Administered Tribal Areas (PATA).
- iv. Hindu Marriage Law, as enacted in Sindh in 2016 may also be enacted in Khyber Pakhtunkhwa.

28. For details, please see PILDAT's Scorecard on the Assessment of the Quality of Governance in Khyber Pakhtunkhwa, 2015-2016, which may be accessed at: http://www.pildat.org/Publications/publication/GovernanceAssessment/ScoreCardonQualityofGovernance-ThirdYearoftheGovernmentofKP_2015-2016.pdf

29. Ibid.

30. Ibid.

Appendices

Appendix A: Profiles of PILDAT's Panel of Experts

Dr. Shoaib Suddle

Former DG IB; former IG Police; former Federal Ombudsman brought within the ambit of the RTI law.

Dr. Muhammad Shoaib Suddle currently heads Safer Communities Foundation (SCF), a Not-For-Profit civil society organization registered with the Securities and Exchange Commission of Pakistan. The SCF's purpose is to promote rule of law and democratic policing in Pakistan through higher education and research in criminological and juridical sciences. Dr. Suddle is also a Senior Fellow of Global Think Tank Network, NUST; Member Steering Committee for the Assessment of Quality of Governance in Pakistan, PILDAT; President, International Police Association Pakistan; International Director, Asia Crime Prevention Foundation, Tokyo; and Executive Director, Asia Crime Prevention Foundation Pakistan. Dr. Suddle is a veteran public servant, who has served Pakistan with distinction for over forty years. He began his career in 1973 as Assistant Superintendent of Police and has held various key positions both at operational and strategic levels. He is highly regarded for effectively taming the dinosaur of terrorism as Police Chief of Karachi (1995-1996). As consultant in the National Reconstruction Bureau, he co-authored the Police Order 2002, which replaced the 141-year-old police law in Pakistan. Three days after 9/11, he was appointed Inspector General Police, Balochistan. He ably met the challenge, and, during his three-year stint, the Balochistan Police underwent historic transformation, not least its exceptional extension in jurisdiction from just 5 percent to entire Balochistan. In 2004, he was appointed Director General, National Police Bureau, Ministry of Interior. In this key strategic position, he contributed extensively to reshaping policing and counterterrorism policy in Pakistan. In 2008, following his stint as Inspector General Police, Sindh, he was appointed Director General, Intelligence Bureau (Pakistan's premiere civilian intelligence agency). The last public service appointment he held was the constitutional post of Federal Tax Ombudsman of Pakistan (2009-13). In a 2011 independent report card study published by Transparency International Pakistan, the Office of Tax Ombudsman received an exceptionally high approval rating of over 90%, declaring it the cleanest and the most efficient public sector organization in Pakistan. Dr. Suddle is regarded as a leading police reform and counterterrorism expert in South Asia. He is a visiting criminal justice expert at the United Nations Asia and Far East Institute on Crime Prevention and Treatment of Offenders (UNAFEI), Tokyo, and a resource person with many national and international organisations, including United Nations Office on Drugs and Crime. Dr. Suddle has an M.Sc (Econ.) in criminology and a Ph.D in white-collar crime from Cardiff University (Wales), an M.Sc in Physics from Government College University, Lahore, and an L.L.B from University of Punjab. He is author of several publications and articles, published both in Pakistan and abroad. Dr. Suddle is most highly decorated public servant in Pakistan. His civil awards include Hilal-e-Shuja't (HSt), top national award for gallantry and service beyond the call of duty, 1996; Hilal-e-Imtiaz (HI), top national award for performance excellence, 2008; Quaid-e-Azam Police Medal (QPM), 1993; and President's Police Medal (PPM), 1981.

Mr. Abdul Matin

Former Information Commissioner, Ehtesaab Commission, KP

Mr. Abdul Matin has worked as Commissioner Right To Information KP, from March 2014 to Oct 2016. He has been Advocate High Court from October 2011 to February 2014 and District and session Judge from October

2011 to February 2014. Mr. Matin served as Additional Secretary Legislation/Legal Draftsman in the Law Department, Government of KP.

Mr. Muhammad Ali Nekokara
Former SSP, Pakistan Police

Mr. Muhammad Ali Nekokara served the Civil and Police Service of Pakistan for almost 19 years (1995-2014). He has performed various challenging police field assignments in Lahore and rural areas of Punjab since 1999. In addition to his fieldwork, Mr. Nekokara has performed staff assignments, most notably as Personal Staff Officer to the Chief Minister of Punjab and also with the Inspector General of Police, Punjab. Mr. Nekokara holds a Master's degree in Public Administration from the Harvard Kennedy School of Government, USA and a Master's degree in Criminal Justice Policy from the London School of Economics, UK.

Appendix B: National and Provincial Laws and Institutions for Anti Corruption

KP Provincial legislation against bribery and corruption

- i. Khyber Pakhtunkhwa Right to Information Act, 2013 (“KP RTI Act”): grants every citizen of KP, except for 'clearly and narrowly drawn' exempted information, the right to access any information or record held by a public body information needed to protect the life or liberty of any individual will be provided within two working days. “Public body” includes Secretariats of Chief Minister and Governor; Members of the Assembly and the Assembly itself, any office, board, commission, council or any other body established by, or under, any law, subordinate judiciary, Tribunals, anybody which is owned, controlled or substantially funded by the foregoing or which undertakes public functions. It also includes the harm test and specifically mentions that even if the requested information belongs to categories of exempted information, it will be provided if the public interest outweighs the harm. The KP RTI Act, in providing speedy access to information, obligates public bodies to respond request for information within a maximum of twenty (20) days and if the information is needed to protect life or liberty of an individual within two (2) days.
- ii. Khyber Pakhtunkhwa Ehtesaab Commission Act, 2014 (“KPECA 2014”): provides for prevention, detection and investigation of corruption against public servants through establishing an Ehtesab Commission. Under this law, a 5 member Search and Scrutiny Committee (nominated by KP Government and confirmed by KP Provincial Assembly Legislative Committee) in turn nominates 5 member Ehtesab Commission which is also confirmed by KP Provincial Assembly Legislative Committee. The Legislative Committee, constituting of 10 members of KP Provincial Assembly nominated by the Provincial Assembly in consultation with the KP Government, also reviews the reports of the Ehtesab Commission; thus providing for legislative oversight.
- iii. Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission Act 2016 (the “KP Whistleblower Act”): enables the citizens to make public interest disclosures relating to the irregular, illegal or corrupt practices, and protect them from disadvantageous measures through establishing a Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission. It defines “public interest disclosure” as “any declaration of information by any individual or by an agency who reasonably believes that such information may prevent an action that of corruption or corrupt practices”. Upon receipt of the public interest disclosure and after concealing the identity of the whistleblower, the commission would make a preliminary inquiry within a period of thirty days in such a manner as may be prescribed.
- iv. Khyber Pakhtunkhwa Prevention of Conflict of Interest Act, 2016 (“KP Conflict of interest Act”): regulates conflict of interests, through establishing a Prevention of Conflict of Interest and Ethics Commission, of certain public office holders including governor, chief minister and provincial cabinet and provincial ministers and secretaries. “Conflict of interest” is defined as “the unlawful financial benefit or a liability accruing to the public office holder or his family due to his official position”. “Family” means the “spouse, dependent children, dependent children of spouse and dependent parents of the public office holder”.

Anti-Corruption Institutions:

The relevant KP anti-corruption institutions and the applicable laws have been summarized in Figure 1 below.

Table 1: Anti-corruption Institutions and relevant Legislation: KP

Anti-corruption Agencies	Federal or Provincial	Functions	Relevant legislation	Oversight
National Accountability Bureau	Federal	Three main functions are: awareness, prevention and enforcement for curbing corruption	-Prevention of Corruption Act, 1947 -Pakistan Penal Code, 1899 -National Accountability Ordinance of 1999 -National Anti-corruption Strategy, 2002 -Anti-Money Laundering Act, 2010 and Anti-Money Laundering Regulations, 2015	- Headed by a Chairman who is appointed by, and reports directly to, the President with consent of the Leader of the House and the Leader of the Opposition in the National Assembly - There is no known external supervision nor are there advisory bodies responsible for supervision or oversight
Federal Investigation Agency	Federal	Investigation and enforcement of laws relating to corruption	Federal Investigation Authority Act, 1974	-Headed by a Director General who is appointed by the Federal Government
KP Anti-Corruption Establishment	Provincial	Inquiries and investigation against public servants	-West Pakistan Anti-Corruption Ordinance, 1961 -KP Anti-corruption Establishment Rules, 1999 -Government Servants (Efficiency and Discipline) Rules, 1973 -Removal from Service (Special Powers) Ordinance, 2000	-Headed by a Director General appointed by the Provincial Government -No external supervision
Ehtesaab Commission	Provincial	Provides for prevention, detection and investigation against public servants	Ehtesaab Commission Act, 2014	- 5 member Search and Scrutiny Committee (nominated by KP Government and confirmed by KP Provincial Assembly Legislative Committee) in turn nominates 5 member Ehtesab Commission which is also confirmed by KP Provincial Assembly Legislative Committee. The Legislative Committee, constituting of 10 members of KP Provincial Assembly nominated by the Provincial Assembly in consultation with the KP Government, also reviews the reports of the Ehtesab Commission

Anti-corruption Agencies	Federal or Provincial	Functions	Relevant legislation	Oversight
KP Information Commission	Provincial	Receives, conducts inquires and decides on complaints relating to right to information and ensures that the requests of the citizens are processed in time by the public bodies	Khyber Pakhtunkhwa Right to Information Act, 2013	<ul style="list-style-type: none"> - Headed by the Chief Information Commissioner, a retired Senior Government Servant not below the rank of BPS-20 and appointed by Provincial Government and the commission includes two other Commissioners for a term of 3 years and ineligible for reappointment -Reports to Provincial Assembly re the implementation of KP RTI Act by the public bodies
KP Prevention of Conflict of Interest and Ethics Commission	Provincial	Regulates conflict of interests of certain public office holders including governor, chief minister and provincial cabinet and provincial ministers and secretaries.	Khyber Pakhtunkhwa Prevention of Conflict of Interest Act, 2016	<ul style="list-style-type: none"> - The Commission comprises of a Chairman appointed by the Government on the recommendation of the Selection Committee and two members to be appointed by Government on the recommendation of selection committee provided that one member of the Commission is a retired civil servant in BPS-20 or above and the other member is a person having expertise in financial management. Selection Committee comprises of two members, one from the Treasury Benches to be nominated by the Speaker Provincial Assembly and one from Opposition Benches to be nominated by the Leader of Opposition. The Commission is required to submit its annual report to the Provincial Assembly for review.
Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission	Provincial	Enables the citizens to make public interest disclosures relating to the irregular, illegal or corrupt practices, and protect them from disadvantageous measures	Khyber Pakhtunkhwa Whistleblower Protection and Vigilance Commission Act, 2016	<ul style="list-style-type: none"> - Three commissioners are appointed by the Provincial Government for a period of three years and are ineligible for reappointment.

Anti-corruption Agencies	Federal or Provincial	Functions	Relevant legislation	Oversight
KP Public Procurement Regulatory Authority	Federal and Provincial	Implements the public procurement rules	-Khyber Pakhtunkhwa Public Regulatory Authority Act, 2012 -Public Procurement Regulatory Authority Ordinance, 2002 -Public Procurement Rules, 2010	- The Board of Directors comprising of various Secretaries of KP Government, three persons from the private sector and the Managing Director appointed by the KP Provincial Government manage the Authority and are regulated by the KP PPRA 2012 and advises the Provincial Government on public procurement matters.
Khyber Pakhtunkhwa Provincial Ombudsmen	Federal and Provincial	Provides relief to the citizens against maladministration	-Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010	- KP Provincial Ombudsmen is appointed by, and reports to, the Governor KP
Auditor-General of Pakistan	Federal	Inspects official accounts and reports failure to audit accounts to the Public Accounts Committees.	-Constitution of Pakistan, 1973 (Articles 168-171) -Auditor General's (Functions, Powers and Terms and Conditions of Service) Ordinance, 2001	- Auditor General reports to the President - Reports of the AG are reviewed by Public Accounts Committees (at Federal and Provincial levels) involving detailed examination of the expenditures, administration, delegated legislation, public petitions and policies of the ministry concerned.

International Conventions

- i. UN Convention against Corruption, 2003 (signed and ratified by Pakistan) ("UNCAC"): UNCAC tries to combat corruption in all its forms. This Convention was adopted by the General Assembly by resolution 58/4 of 31 October 2003. Pakistan has signed and ratified the UNCAC, thus, Pakistan is obliged to align its national laws, institutions, policies, procedures, and programmes with the convention, and report periodically on their anti-corruption initiatives and impact.
- ii. UN Convention against Transnational Organized Crime, 2000 (signed and ratified by Pakistan)
- iii. UN International Convention for the Suppression of the Financing of Terrorism, 1999 (signed and ratified by Pakistan)

Appendix C: Gaps and Reforms Required for National Accountability Bureau

The Global Integrity Report, 2010, in evaluating both anti-corruption legal frameworks and the practical implementation and enforcement of those frameworks on a scale 0-100, gives a relatively high score of 91 (very strong) to Pakistan for anti-corruption legal framework; the actual implementation, however, remains very weak scoring 47.

NAO 1999 is the most important piece of anti-corruption legislation in Pakistan, as it creates and outlines the authority the NAB, the primary anti-corruption body in the country. The NAO 1999 and the NAB have jurisdiction that extends to the whole of Pakistan including Balochistan and Khyber Pakhtunkhwa and overrides all other corruption related laws. The other (provincial) anti-corruption bodies operative in Khyber Pakhtunkhwa are the Khyber Pakhtunkhwa Ehtesab Commission and the ACEB.

In accordance with international best practices also reflected in the UNCAC, anti-corruption legislations must, among other, cover both the payment as well as the receipt of bribes and apply to the public and private sectors alike. The law should provide for adequate sanctions and penalties and all persons should be equal under the criminal laws, which should be applied fairly to all. NAB has wide powers and imposes harsh punishments and NAO 1999 is applicable to both the public or private. Its special investigative powers include power to access information about bank accounts. Its jurisdiction extends to all public office holders, politicians and government officials, sitting and former. It does not, however, extend to the military personnel and the judiciary.

In line with UNCAC, NAB has provisions enabling the recovery of the proceeds of corruption; it provides for the tracing, seizure, freezing and forfeiture of illicit earning from corruption, regardless of the jurisdiction in which they are located. Further, international best practices require specific legal provisions to encourage parties to offences to come forward and offer evidence. NAB offers some minor protections for whistleblowers under section 33A of NAO, 1999. However, whistleblowers are reluctant to disclose public corruption due to lack of sufficient protection and implementation of protective provisions under section 33A of NAO, 1999.

NAO 1999 further shifts the onus of proof on the accused making the accused testify against himself. Provisions are also made in NAO 1999 for mutual legal assistance through bilateral or multilateral arrangements for dealing with extraditions, illicit transfers of assets and repatriation of illicit gains. NAB can seek information from any organization/department during investigations and has extra ordinary powers to seize assets of an accused even at the inquiry stage.

For effective accountability, NAB ensures dissemination of adequate information regarding its functioning through publication of its annual reports and quarterly updates and its official website has a complaint mechanism with anonymity to the complainant and informer.

For effective accountability, NAB ensures dissemination of adequate information regarding its functioning through publication of its annual reports and quarterly updates and its official website has a complaint mechanism with anonymity to the complainant and informer.

In 2002, NAB initiated the three-pronged National Anti-Corruption Strategy ("NACS") with the aim to eradicate

corruption not only through enforcement but also through awareness and prevention. NACS has been commended for its 'analysis and diagnosis of the Pakistani corruption situation and the detailed program of reforms it recommends' by a U4 report which points out the following hurdles that have hampered the effective implementation of the NACS to date:

- Lack of political leadership;
- Structural constraints as a result of NAB's contested authority;
- Weak positioning of the NACS within the NAB itself;
- Lack of demand for reform from external actors;
- Poor communication with the public; and
- Expectations are not matched with supply of reforms.³¹

31. For details, please see: <https://www.cmi.no/publications/file/2914-anti-corruption-policy-making-in-practice.pdf#page=147>

Appendix D: Process of Birth Registration in Khyber Pakhtunkhwa

It is important to note that the laws that govern citizenship in Pakistan, and hence the provision of legal identity are primarily the following two:

- i. The Pakistan Citizenship Act, 1951³²
- ii. The Pakistan Citizenship Rules, 1952³³

The organization that is mandated to manage and facilitate the registration of legal identity of all citizens is the National Database and Registration Authority (NADRA), whose working is governed by the National Database and Registration Authority Ordinance, 2009.³⁴

For the purpose of the particular indicator, Section 9 of the Ordinance has the greatest relevance, which states that 'Every citizen in or out of Pakistan who has attained the age of eighteen years shall get himself and a parent or guardian of every citizen who has not attained that age shall, not later than one month after the birth of such citizen, get such citizen registered in accordance with the provisions of ordinance'.

Why Aim for Legal Identity for All and Universal Child Birth Registration?

It is universally recognized that birth registration is the first step in ensuring all children have certified legal existence in the eyes of the State and they can enjoy basic rights such as education and health care. Identity and nationality are a birth right of every child. Without a birth certificate to prove their age, many children also fall victim to early marriage, child labour and trafficking.

With regards to legal identity for all, provision of Government services depend on the accurate assessment of needs based on the number of individuals in a given population/area. For example, to qualify for establishing a health facility, the Government requires a catchment population of 20,000 individuals. In the absence of an accurate count, many communities are left without a health facility.

Most importantly, since the National Action Plan has been enacted, and legislation like Protection of Pakistan Act, 2014 (POPA) have been put in place, it is incumbent upon every citizen to not only have a CNIC, but also to be in possession of it all the time. For example, consider the preamble of the POPA, which defines an 'enemy alien' as a militant 'whose identity is unascertainable as a Pakistani, in the locality where he has been arrested, or in the locality where he claims to be residing'.³⁵

Anecdotally, it may also be mentioned that the traffic police officials have now stopped issuing a challan on the basis of a CNIC, as used to be the practice previously. This is because they have been instructed not to confiscate an identity document in such a case.

32. A complete copy of the Law may be accessed at: <http://www.refworld.org/pdfid/3ae6b4ffa.pdf>

33. A complete copy of the Rules may be accessed at: <http://www.refworld.org/docid/3ae6b4fc1c.html>

34. A complete copy of the Law may be accessed at: <http://nasirlawsite.com/laws/nadra.htm>

35. The complete text of the Law may be accessed at: http://www.na.gov.pk/uploads/documents/1404714927_922.pdf

Process of Birth Registration in Khyber Pakhtunkhwa

The process of birth registration in Khyber Pakhtunkhwa involves the following:

- i. Getting a birth form from secretary of concerned union council office.
- ii. Filling up the form, which includes details such as the child and parents' name, the place of birth and the date of birth. The documents to be attached include one copy of parent's CNIC and an affidavit certificate on Stamp Paper of worth Rs.30 duly attested by Oath Commissioner for uneducated person. In case of an educated person, one requires a school certificate.
- iii. Application is submitted with worth Rs.100 to the Secretary of the concerned district Union Council across Khyber Pakhtunkhwa.
- iv. Importantly, not all the Local Government Councils have a uniform form for registering births, and it varies from region to region.

It is important to note that in Khyber Pakhtunkhwa, this process can be used for any child beyond the age of 18. However, simply obtaining birth registration certification from the concerned local government council does not end the process. After a child has been registered with the Union Council the data still has to be entered in the national database in order to obtain a child registration certificate (more commonly known as the 'B' Form) at the National Database and Registration Authority (NADRA) offices, for a fee of PKR 50. Births are then recorded to the Civil Registration Management System computerized database (CRMS) managed by NADRA.

This means that parents must first go to the Union Council and afterwards are required to carry out further formalities at the NADRA offices on a district level.

It is important to note that NADRA's major role in birth registration is to provide the local Government with:

- i. IT related training
- ii. Trouble shooting
- iii. Assistance in data transfer
- iv. Provide security sheets to the Union Councils to input data
- v. Providing local staff for data input

NADRA has no role in the decision making process nor they can intervene in the Local Government's way of working or order them to initiate a particular project in a particular area or division of Pakistan.

Appendix E: Institutional Arrangements for Implementation and Oversight of SDGs in Pakistan

Institutional Mechanism within the Governments

For institutionalization of SDGs at the national level, the Ministry of Planning, Development & Reform, in partnership with UNDP, has set up a SDG Support Unit within the Planning Commission. In PILDAT's meeting with the head of the Unit, it emerged that the necessary budgeting and staffing arrangements for it has commenced but not been finalized yet.

Given that the 18th Amendment devolved a lot of the subjects forming different goals of the SDGs to the Provinces, their implementation also has to be conducted at the provincial level. However, for reporting, data gathering, coordinating between the provincial units responsible, and aligning the Federal Government's policies with the SDGs, the SDG Unit at the Planning Commission will primarily be responsible.

Through consultations in Khyber Pakhtunkhwa, PILDAT also found out that each Provincial Government has set up a Sustainable Development Unit within the Planning and Development Department to coordinate implementation of SDGs. These units will provide technical support to the mainstreaming of SDGs in public policies and acceleration of their implementation in partnership with concerned institutions as well as national and international non-public institutions.

However, it has emerged that only the Government of the Punjab has made an effort till now, through holding consultations with various stakeholders for SDGs' implementation to identify areas in its Medium Term Development Framework 2016-2019 that may align with the SDGs, and consequently prioritize areas of work and accelerate their implementation.

Since the SDGs are to be reported at the Federal level, and a significant number of the SDGs pertain to subjects that have been devolved to the Provinces, the Federal and Provincial Governments are working on a mechanism for standardized reporting across the Provinces. Reportedly, regular meetings are held of the development ministers of all Provinces, along with the Federal Minister for the portfolio.

It is important to note that apart from a recent Local Government Summit on Sustainable Development Goals held by the Federal Ministry of Planning, Development and Reforms, on March 10, 2017 in Islamabad, no effort has been made by either the Federal Government or the Provincial Governments to integrate the Local Governments in the institutional arrangements for implementation of SDGs.

Finances for SDGs' Implementation

PILDAT was also told that the Provinces had agreed upon a funding mechanism for the implementation of SDGs. This would include an amount of PKR 300 million pledged by each Provincial Government, which would be matched by the UNDP. The Provincial Government of Khyber Pakhtunkhwa is in the process of raising their PC-1 for the purpose. In addition, the Prime Minister Office is also considering a summary that even for devolved subjects, the Federal Government will pledge a proportion of the finances for the SDGs.

Oversight Mechanisms Within the Provincial Assemblies

On February 16 2016, the Speaker of the National Assembly inaugurated Parliament's Secretariat on SDGs, along with constituting a Task Force within the National Assembly for the purpose.

In addition, similar Task Forces have also been formed within the Provincial Assembly of Khyber Pakhtunkhwa and Balochistan. The former is led by the Mr. Arif Yousaf, MPA; the latter by the Honourable Speaker, Ms. Rahila Durrani, MPA herself. However, as PILDAT found out through its consultations, there seems to be little or no ownership within the Provincial Assemblies with regards to the SDGs.

Therefore, the Task Forces remain more of an anomaly, rather than well functioning units, within the Provincial Assemblies, and seem to have no real direction regarding what is to be achieved.

Localization of Targets

Through consultations, it has emerged that localization of targets remains a problematic area for implementation and interpretation of SDGs. To the extent of Vision 2025, there have been initial attempts to link the 7 Pillars of the development strategy to the SDGs. For example, Pillar 3 of Vision 2025, which pertains to Governance (Democratic Governance, institutional reform and modernization of the public sector) is roughly aligned by the Planning Commission with SDG 16.

It is important to note that on February 10, 2017, the Planning Commission launched the National Initiative on SDGs. The project builds on Mainstreaming, Acceleration and Policy Support (MAPS) for SDGs in Pakistan and intends to provide policy support to localize and prioritize SDGs at national and sub-national levels. Therefore, work in this regard has only just started.

However, as per PILDAT's findings, the Planning Commission has circulated a list of indicators for each goal, and its respective targets, to the provincial Sustainable Development Units. However, rather than interpreting SDGs in a localized context, and developing Pakistan's own set of indicators, these are the same indicators, verbatim, that are contained in the United Nations Sustainable Developments Solutions Network's publication titled Indicators and a Monitoring Framework for the Sustainable Development Goals.³⁶

Rather than localizing the targets, and developing indigenous indicators, the effort being made right now is to gauge whether data gathering can be initiated for the indicators shared by the UNDP, in collaboration with the Pakistan Bureau of Statistics.

36. The complete text of the publication may be accessed at: <http://unsdsn.org/wp-content/uploads/2015/05/FINAL-SDSN-Indicator-Report-WEB.pdf>

Appendix F: Minutes of Meeting with the Chief Minister of Khyber Pakhtunkhwa

Day & Date: Wednesday, January 04, 2017

Venue: Chief Minister House, Peshawar, Khyber Pakhtunkhwa

Participants

Government of Khyber Pakhtunkhwa

1. Mr. Pervaiz Khattak, MPA, Honourable Chief Minister of Khyber Pakhtunkhwa
2. Mr. Abid Saeed, Chief Secretary, Government of Khyber Pakhtunkhwa
3. Sahibzada Saeed Ahmed, Head, Strategic Support Unit, Government of Khyber Pakhtunkhwa
4. Mr. Muhammad Azam Khan, Additional Chief Secretary, Planning and Development Department
5. Mr. Shahab Ali Shah, Secretary Planning & Development Department, Government of Khyber Pakhtunkhwa
6. Mr. Shakeel Qadir Khan, Secretary Home Department, Government of Khyber Pakhtunkhwa
7. Mr. Muhammad Abid Majeed, Secretary Health Department, Government of Khyber Pakhtunkhwa
8. Syed Zafar Ali Shah, Secretary Higher Education Department, Government of Khyber Pakhtunkhwa
9. Mr. Muhammad Arifeen, Secretary Law Department, Government of Khyber Pakhtunkhwa
10. Engineer Muhammad Naeem Khan, Secretary Energy and Power Department, Government of Khyber Pakhtunkhwa

PILDAT's Panel of Experts

1. Mr. Abdul Matin, Former Information Commission, Information Commission of Khyber Pakhtunkhwa
2. Dr. Shoaib Suddle, Former IG Police; Former DG FIA; Former Federal Ombudsman

PILDAT Representatives

1. Mr. Ahmed Bilal Mehboob, President PILDAT
2. Ms. Aasiya Riaz, Joint Director, PILDAT
3. Mr. Muhammad Saad, Projects Manager, PILDAT

Major Points of Discussion

Sr.	Items	Follow Up
1.	PILDAT and its Panel of Experts thanked the Chief Minister for responding to their request of a call-on. The Honourable Chief Minister was apprised of the objectives behind PILDAT's Study on SDG 16 funded by UNDP that it aims at identifying the legislative and policy gaps for implementation of SDG 16 in KP and to present recommendations in this regard.	

Sr.	Items	Follow Up
	<p>Honourable Chief Minister apprised PILDAT representatives and its Panel of Experts of the various reform initiatives undertaken by the PTI Government primarily targeted to achieve the following three main objectives:</p> <ol style="list-style-type: none"> i. Aiming for institutional reform ii. Providing social security iii. Achieving economic improvement <p>Through this agenda, the following reforms had been achieved:</p> <ol style="list-style-type: none"> i. Establishment of Ehtesaab Commission and the Information Commission. ii. Introduction of law on conflict of interest iii. Establishment of a unique Local Government system, under which 30% of the Province's development budget had been devolved to the Local Governments iv. De-politicization and professional autonomy of the Police, which had been institutionalized through the Police Ordinance 2016. v. Reforms to improve the health and education infrastructure of the Province vi. Improving the mass transit infrastructure of KP vii. Improvement in revenue generation viii. Better electricity production and management ix. Environmental sustainability through the Billion Tree Tsunami project <p>PILDAT representatives and its Panel of Experts were also apprised of the Independent Monitoring Unit and the Strategic Support Unit functional within the KP Government to provide support and monitoring on the various reform initiatives of the KP Government.</p>	
3.	<p>The Chief Minister was of the opinion that the legal architecture was already in place for implementation of SDGs in the Province. However, the one problem the KP Government continued to face was that it had not been able to showcase its achievements to the public, especially of other Provinces. Therefore, starting from January 05, 2017, the Government of KP has launched a marketing campaign to showcase the various reforms it has undertaken, and the results they have achieved.</p>	
4.	<p>Representatives of PILDAT requested the Chief Minister that as Federal Ministries and Departments are required to do so, Provincial Departments of the Government of Khyber Pakhtunkhwa should also be required to present their Year Books containing performance to the Provincial Assembly of KP. Both the CM & Chief Secretary agreed to consider the reform proposal.</p>	
5.	<p>The Chief Minister informed that the representatives of the various departments of the Government of Khyber Pakhtunkhwa would also be attending the Consultative Session on SDG 16 on January 06, 2017, and any specific queries may be forwarded to them</p>	

Appendix G: Minutes of the Consultation with Representatives of the Government of Khyber Pakhtunkhwa

Day & Date: Thursday, January 05, 2017

Venue: Khushal-A Hall, Pearl Continental Hotel, Peshawar

Participants

Representatives of the Government of Khyber Pakhtunkhwa

1. Mr. Suhail Afzal, Assistant Director Investigation, Anti-Corruption Establishment, KP
2. Mr. Muhammad Asghar, Deputy Secretary, Social Welfare Department, Government of Khyber Pakhtunkhwa
3. Mr. Azizullah Jan, Deputy Director, Sustainable Development Unit, Government of Khyber Pakhtunkhwa
4. Mr. Atta-ur-Rehman, Assistant Secretary, Home Department, Government of Khyber Pakhtunkhwa
5. Mr. Ali Jan, ADPG Khyber Pakhtunkhwa Ehtesaab Commission
6. Mr. Dawood Khan, Assistant Secretary, Law Department, Government of Khyber Pakhtunkhwa
7. Mr. Fazal Nabi Khan, Secretary Population Welfare Department, Government of Khyber Pakhtunkhwa
8. Mr. Jawad Khan, Project Director, Sustainable Development Unit, Government of Khyber Pakhtunkhwa
9. Mr. Salahuddin Khan, Additional Inspector General, Investigation, Police Service of Khyber Pakhtunkhwa
10. Mr. Shakeel Qadir Khan, Secretary Home, Government of Khyber Pakhtunkhwa
11. Mr. Muhammad Luqman, Director General Sustainable Development Unit, Government of Khyber Pakhtunkhwa
12. Mr. Zafar Abbas Mirza, Deputy Director Prosecution, Khyber Pakhtunkhwa
13. Mr. Azmat Hanif Orakzai, Chief Information Commission, Information Commission of Khyber Pakhtunkhwa
14. Mr. Muhammad Nawaz Qaiser, Director Investigation, NAB Khyber Pakhtunkhwa
15. Mr. Said Rehman, Deputy Director, Local Government Department, Government of Khyber Pakhtunkhwa
16. Mr. Umer Sadique, Director Anti-Corruption Establishment, KP
17. Mr. Shahab Ali Shah, Secretary Planning & Development Department, Government of Khyber Pakhtunkhwa
18. Maj. (Retd.) Saleem Shahzad, Director General NAB, Khyber Pakhtunkhwa
19. Mr. Alam Shinwari, Deputy Inspector General, Head Quarter, Police Service of Khyber Pakhtunkhwa
20. Professor Kaleem Ullah, Information Commissioner, Information Commission of Khyber Pakhtunkhwa

PILDAT's Panel of Experts

1. Mr. Abdul Matin, Former Information Commission, Information Commission of Khyber Pakhtunkhwa
2. Dr. Shoaib Suddle, Former IG Police; Former DG FIA; Former Federal Ombudsman

PILDAT Representatives

1. Ms. Aasiya Riaz, Joint Director, PILDAT
2. Mr. Muhammad Saad, Projects Manager, PILDAT

UNDP Representative

1. Mr. Karim Gabol, Project Officer, UNDP

Major Points of Discussion

Sr.	Items	Follow Up
1.	<p>In providing a background and purpose of the consultation, PILDAT informed Government representatives that the study funded by UNDP was to consider the Legislative and Policy Gaps in the legal, policy and implementation architecture of Khyber Pakhtunkhwa for the implementation Sustainable Development Goal 16.</p> <p>They were also informed of the concerned 7 targets of the study, out of a total of 12, of the SDG 16.</p>	
2.	<p>PILDAT was informed that the Province's Strategic Development Unit had been renamed as the Sustainable Development Unit (SDU), and will serve as the focal agency for implementation of SDGs in the Province.</p> <p>KP's SDU has initiated its sensitization in this regard, and will be holding its first workshop with all the stakeholders on January 12, 2017. In addition, a Sustainable Development Goal Unit is also being established within the Planning & Development Department of the Government of Khyber Pakhtunkhwa.</p> <p>PILDAT was also informed that the Provinces had agreed upon a funding mechanism for the implementation of SDGs. This would include an amount of PKR 300 million pledged by each Provincial Government, which would be matched by the UNDP.</p>	
3.	<p>Specifically discussing Target 16.3, which pertains to 'establishing rule of law and ensuring equal justice for all', PILDAT was informed of the recently promulgated Police Ordinance 2016, which was an accumulation of all the reforms pursued by the current KP Government with regards to policing.</p> <p>Some of the major reforms implemented in this regard include:</p> <ol style="list-style-type: none"> i. IG Police having powers of appointment from constable to AIG, as opposed to the Chief Minister in the other Provinces. This ensures operation autonomy of the KP Police, free from political considerations. ii. Establishment of Safety Commissions, which constitute of representatives of political parties, CSOs, etc., to ensure accountability of the police. This would be done through production of annual or quarterly performance reports of the police in each district. iii. KP Police has also established public liaison officers, which are notables of an area who interact with the police department to ensure security of their areas, as part of its community outreach initiative. 	

Sr.	Items	Follow Up
	<ul style="list-style-type: none"> iv. The introduction of Dispute Resolution Councils, which are already in place, but need to be expanded. The Dispute Resolution Councils have already started arbitrating regard civil complaints and seem to reducing the crime along with ensuring speedy and short-term justice. v. For better public service delivery in terms of law and order, the establishment of public assistance systems and public assistance lines. <p>While highlighting some of the achievement of Khyber Pakhtunkhwa with regards to establishment of law and order, PILDAT was informed that:</p> <ul style="list-style-type: none"> i. There had been a reduction in terrorism related incidents in KP every year from 2013, by almost 40%-50% every year. ii. The apprehension of the almost 1,100 terrorists by the Counter Terrorism Department in the Province since the initiation of Operation Zarb-e-Azb. 	
4.	<p>Representatives of the KP Police highlighted that one major problem that the police service faced was of outdated training of its personnel, which was not commensurate with the evolving challenges posed by terrorism in the Province.</p> <p>For the purpose, 8 training schools had been established in the school, which dealt with a range of areas including intelligence, counter terrorism, forensics, physical training, etc.</p> <p>However, the KP Police still faced challenges with regards to funding, as only 9%-10% of the annual budget could be spent upon development of the force, with the remaining dedicated to maintenance of the force, including salaries, etc.</p>	
4.	<p>During the consultation, it emerged that weak prosecution remains a critical problem for the establishment of rule of law in the Province.</p> <p>Representatives of the Prosecution Department, attached with the Home Department of KP, informed that there was worrying trend of lawyers leaving the Prosecution Department in the search for greener pastures.</p> <p>For example, in the last three months, the Prosecution Department lost 35 senior public prosecutors, who joined other services because of better perks and privileges. The prosecution department's work is constrained by a critically low allocation of resources, which is exemplified by the fact that the department does not have even a single vehicle of its own.</p> <p>Two major gaps identified with regards ensuring speedy and better prosecution were:</p> <ul style="list-style-type: none"> i. Currently, the Prosecution Department can only operate with regards to cases being heard in the district and subordinate judiciary. The office of the Advocate General of Khyber Pakhtunkhwa takes up the appeals in the High Court and Supreme Court. Therefore, there is an urgent need to establish the office of a Prosecutor General to also operate in appellate courts. ii. Initially, the Prosecution Department was attached to the Law Department in 2005 and was later attached to the Home Department. There is a need to establish a separate Prosecution Department in order to ensure operational autonomy and better resource allocation. 	
5.	<p>While talking about Target 16.5, representatives of the Provincial Office of the National Accountability Bureau in KP weighed in on the current debate regarding the plea bargain, and the criticism that was directed towards NAB.</p> <p>Representatives of NAB said that the performance of the institution should solely be based on evidence, rather than rhetoric.</p> <p>PILDAT was informed that since its formation almost 17 years ago, NAB had helped the national exchequer recover almost PKR 285 billion. Most of this sum had been recovered through the plea bargain and voluntary return system. This was in comparison to the institution's total expenditure of PKR 12 billion since its formation.</p>	

Sr.	Items	Follow Up
6.	<p>While asked to identify some of the legislative and policy gaps for implementation of Target 16.5, PILDAT was informed that the biggest problem remained the overlapping jurisdiction of NAB, KP's Anti-Corruption Establishment and the Ehtesaab Commission in the Province. More often than not, duplication has been observed specifically with regards to the cases being pursued by the Ehtesaab Commission and the NAB.</p> <p>The 18th Amendment required every Province to establish its own anti-corruption agency, which was duly established by the KP Government. Ideally after that, the work of NAB should have only been restricted to Federal subjects and institutions in the Province. However, this is not the case. In addition, the United Nation's Convention against Corruption (UNCAC) requires the establishment of a sole anti-corruption agency at the Federal level. It was for this purpose that dealing with corruption was phased out of the responsibilities of the Federal Investigation Agency in 2005.</p> <p>The overlap also comes into play because more often than not, the geographical limits of a corruption case are not just restricted to Khyber Pakhtunkhwa, and stretch beyond. That is where the role of the NAB comes into play.</p> <p>Into to remedy the overlap, the agencies had taken the following remedial measures in KP:</p> <ol style="list-style-type: none"> i. Each agency has appointed a focal person in the other, in order to coordinate on any cases that might fall within the overlapping jurisdiction. ii. With regards to coordination between KP's Anti-Corruption Bureau and the Ehtesaab Commission, the former will only take up cases that are less than PKR 50 million. <p>The participants recommended that amendments need to be made to Article 270AA, 142 & 143 of the Constitution of Pakistan so that the only the Provinces may be able to legislate upon criminal subjects.</p>	
7.	<p>While talking about Target 16.10 and the freedom of information landscape of KP, representatives of the Information Commission of Khyber Pakhtunkhwa informed of the following reforms that had been achieved since the Commission was formed:</p> <ol style="list-style-type: none"> i. 75% of complaints received by the KP Information Commission till now have been disposed off. ii. Since the KP Information Commission has started playing a proactive role, the various Government departments have actually started carrying out indexation of public records. iii. A proactive display by each department of information such as the officials' organogram, budget, etc., has started taking place on the relevant online portals of the Government. iv. Every public body in KP has appointed a Public Information Officer, which coordinates with the Information Commission. <p>When asked about what was the level of awareness in KP with regards to Right to Information, PILDAT was informed that Information Commission was raising awareness regarding the provision within the Province, but specifically with the Government servants and public representatives so that they know that the law is not essentially against Government servants. In addition, the aim was to establish the ethos that information regarding various operations of the Government was public property. For the purpose, the Information Commission was carrying out awareness campaigns with the almost 43,000 elected Local Government representatives in KP. Additionally, RTI had also been made part of the syllabus in the Provincial Services Academy. However, the level of awareness was not the same as in India. That is because in India, RTI was a movement, rather than a Government initiative.</p>	
8.	<p>While talking about Target 16.9, which talks about providing legal identity for all, especially birth registration, by 2030, PILDAT was informed that registration of birth was a responsibility of the Village Councils, after the new Local Government scheme was devised.</p> <p>However, the reason why there is such low birth registration in KP is because people do not have enough incentive to get birth of their children registered.</p> <p>The Government has taken several initiatives in this regard, such as omission of any fee for birth registration.</p>	

Sr.	Items	Follow Up
9.	<p>While talking about Target 16.b, which talks about promoting an enforcing non-discriminatory laws and policies, PILDAT was informed by representatives of the Home, Social Welfare and Population Departments that the biggest challenge to sustainable development remained family planning.</p> <p>The biggest challenges specifically faced in this regard include:</p> <ol style="list-style-type: none"> 1. High population growth rate 2. High fertility rate (second to Punjab) 3. Lack of availability of services to pregnant women 4. No effective post-natal services 5. Low Contraceptive Prevalence Rate (CPR) 6. Low female education with regards to family planning <p>It was in this regard that the KP Government launched its Population Policy in 2016. The required reforms in this regarding are also being instituted through the Khyber Pakhtunkhwa Family Health and Protection Bill, 2017, a copy of which has been shared with PILDAT.</p>	
10.	<p>The representatives of KP Government's various department were informed that PILDAT will continue to coordinate with them in case any data or information is required for the implementation of SDG 16 in the Province.</p>	

Appendix H: Minutes of the Consultation with MPAs, Members of Civil Society and Academia in Khyber Pakhtunkhwa

Day & Date: Thursday, January 05, 2017

Venue: Khushal-A Hall, Pearl Continental Hotel, Peshawar

Participants

Members of the Provincial Assembly of Khyber Pakhtunkhwa

1. Mr. Asad Qaiser, MPA, Honourable Speaker Provincial Assembly of Khyber Pakhtunkhwa
2. Dr. Mehr Taj Roghani, MPA, Honourable Deputy Speaker, Provincial Assembly of Khyber Pakhtunkhwa
3. Mr. Fazl Elahi, MPA
4. Ms. Nasim Hayat, MPA
5. Mr. Sultan Muhammad, MPA
6. Syed Muhammad Ali Rizvi, MPA
7. Mr. Jaffar Shah, MPA
8. Mr. Muhammad Tariq, MPA
9. Mr. Arif Yousaf, MPA

Representatives of the Media

1. Mr. Ismail Khan, Editor (North) Daily Dawn
2. Mr. Said Alam Khan, Senior Correspondent, The Nation
3. Mr. Rahimullah Yousafzai, Senior Correspondent, The News

Representatives of CSOs

1. Mr. Irshad Ahmad, HRCP Coordinator, Peshawar
2. Mr. Muhammad Anwar, CGPA
3. Ms. Maryam Bibi, CE Award
4. Ms. Sana Ejaz, Regional Manager Shirkat Gah
5. Mr. Arshad Haroon, SPO
6. Mr. Mehmood Masood, Award M. O.
7. Ms. Maimoona Noor, CE Award
8. Ms. Amina Sheikh, CGPA
9. Mr. Fazal Swati, Advocate, Peshawar High Court

PILDAT's Panel of Experts

1. Mr. Abdul Matin, Former Information Commission, Information Commission of Khyber Pakhtunkhwa
2. Dr. Shoaib Suddle, Former IG Police; Former DG FIA; Former Federal Ombudsman

PILDAT Representatives

1. Ms. Aasiya Riaz, Joint Director, PILDAT
2. Mr. Muhammad Saad, Projects Manager, PILDAT

Major Points of Discussion

Sr.	Items	Follow Up
1.	In providing a background and purpose of the consultation, PILDAT informed Government representatives that the study funded by UNDP was to consider the Legislative and Policy Gaps in the legal, policy and implementation architecture of Khyber Pakhtunkhwa for the implementation Sustainable Development Goal 16. They were also informed of the concerned 7 targets of the study, out of a total of 12, of the SDG 16.	
2.	The Honourable Speaker of the Provincial Assembly of Khyber Pakhtunkhwa, Mr. Asad Qaiser, MPA and the Honourable Deputy Speaker, Dr. Mehr Taj Roghani, MPA agreed to chair the consultation session with Members of the Provincial Assembly and representatives of Civil Society Organisations, Media, etc.	
3.	Mr. Arif Yousaf, MPA, the Convener of the Provincial Task Force on SDGs informed PILDAT that initially the Task Force had 10 members. Now this has increased to 30. UNDP is technically supporting the implementation of the SDGs and has received funding for all 4 Provinces and from the federation in this regard. The Assembly has also asked the Planning and Development Department of the KP Government to be a part of this initiative.	
4.	The Speaker of the Provincial Assembly informed that with regards to SDG 16, which pertained to Peace, Security and Strong Institutions, the current KP Assembly had passed almost 120 laws.	
5.	While talking about Target 16.7, which talks about ensuring responsive, inclusive, participatory and representative decision-making at all levels, the MPAs said that the Provincial Assembly remains woefully sidelined when it comes to the budget making process. There is no people's participation in the budget making process as it is finalized by the Finance Department that is the bureaucracy, rather than the people's representative. The Speaker agree that there is a need to strengthen the role played by the Standing Committees in this regard by especially introducing pre and post budget consultations. Another problem identified was most of KP's budget was dependent upon Federal receipts, giving very room for the Province's representatives to make any recommendations.	
6.	Representatives of the CSOs highlighted that SDGs should be made a crosscutting theme in all the relevant policies and documents of the Government, including the Budget. A specific proposal floated in this regard was the Province's PC1 should have another column that highlights the particular SDG a development scheme correlates to. This would not only help in reporting purposes, but also lend to greater clarity on part of the Government.	
7.	Another representative of a CSO highlighted that it has often been observed that a lot of laws are made, but the rules of business to govern them are often not formulated. In addition, for judicious implementation of law, there is a need to strengthen bodies such as the Provincial Commission on Status of Women.	
8.	It was also highlighted the some of the laws passed by the KP Assembly did not extend to the Malakand Division. The Speaker responded that the Provincial Assembly of KP passed a resolution in 2016 asking the President to promulgate all the laws passed in the Assembly in the Malakand Division as well.	
8.	With regards to Right to Information, a concern was raised that the Peshawar High Court remained outside of the RTI law. A representative of the Information Commission responded that a set of amendments in this regard have already been forwarded to the Law Department, and will be introduced in the Assembly soon.	



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