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*" Human Rights Dimensions and Madrasa Education- An Overlooked Perspective
The Case of Pakistan"*

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“Right is right, even if everyone is against it, and wrong is wrong,
even if everyone is for it.”

— William Penn

This thesis is dedicated to all the right holders who are denied of their right to education, their parents, and My Mother.

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GLOSSARY OF TERMS

<i>Drasa</i>	<i>To Teach</i>
<i>Aalim</i>	<i>An Islamic Religious Scholar.</i>
<i>Madrasa</i>	<i>School that imparts Islamic knowledge</i>
<i>Nizamiyah</i>	<i>One of the first established madrasa in Baghdad</i>
<i>Maktab</i>	<i>A place to learn Quran</i>
<i>Jamia</i>	<i>Higher level of religious school (university)</i>
<i>Sufism</i>	<i>Branch of mystic islam, focus on the inner wellbeing (conveys flexible message of Islam).</i>
<i>Maslak</i>	<i>Sect</i>
<i>Ulema</i>	<i>The religious leaders or scholars- used interchangeably.</i>
<i>Wifaq</i>	<i>Federation-Union</i>
<i>Deobandi</i>	<i>Deoband- or Deobandi school believe on the reductionist version of Islam. Orthodox in ideology, disregards respect given to shrines, and tombs- only focus is on the religious scriptures in positivist way.</i>
<i>Ahl-e-Hadith</i>	<i>Branch of Sunni 'Islam, believes in frequent reference to the Sayings and life of Prophet Muhammad.</i>
<i>Barelvi</i>	<i>Muslims believe in the presence of Divine on Earth (holy people), sacred places and pays respect to the tombs and shrines.</i>
<i>Shia</i>	<i>Branch of Islamic sect gives priority to the Generation of Prophet Muhammad. Contends Caliphate of Ali (Son in Law of Muhammad) than Abu-bakar (friend)</i>
<i>Sunni</i>	<i>A denomination of Islam that holds and is Pro-Caliphate of Abu Bakr (Father in Law of Muhammad)</i>
<i>Jamaat-E-Islami</i>	<i>A major religious political party in Pakistan</i>
<i>Itehad-e-Islami</i>	<i>Union of Muslims</i>

<i>Mutawassitah</i>	<i>Middle Level Madrasa</i>
<i>Ibtedai</i>	<i>Primary Level in Madrasa</i>
<i>Aalim</i>	<i>Islamic Scholar-(The knowledgeable)</i>
<i>Dars e Nizami</i>	<i>Old Deoband Curriculum from the Mughal Empire-India</i>
<i>Sanviya-e-Khasa</i>	<i>Higher Secondary School Level in Madrasa</i>
<i>Sanviya-e-amah</i>	<i>Secondary School level in Madrasa</i>
<i>Takmeel</i>	<i>Completion</i>
<i>Radd</i>	<i>Refutation</i>
<i>Islamiat</i>	<i>The religious subject(course) offered in Pakistani schools (both private and public)</i>
<i>Islamisation</i>	<i>Islmaisation is referred as General Zia 'ul Haq's Military Dictatorship when he used Sharia to legitimise his government. 'Altering everything according to shaira'</i>
<i>Jihad</i>	<i>Find in the Name of God-Allah (To protect Religion Islam)</i>
<i>Fajr</i>	<i>Morning Prayer-Before sunrise</i>
<i>Ustad</i>	<i>Urdu-Arabic term for Teacher</i>
<i>Duniavi</i>	<i>Worldly</i>
<i>Qari</i>	<i>A local term for religious teacher- who home tuitions students to recite Quran</i>
<i>Darul</i>	<i>House of-Instituion.</i>
<i>Tanzim</i>	<i>Orgnaisation</i>
<i>Kafir</i>	<i>Infidel</i>
<i>Hafiz</i>	<i>A person who has memorised whole Quran</i>
<i>Hifz</i>	<i>To memorise- (Quran,verse by verse)</i>

<i>Hadith</i>	<i>Sayings of Prophet Muhammad, dating as old as 1400 and more years</i>
<i>Tablighi Jamat</i>	<i>Tablighi Jamat is a preaching party, which tries to preach people in groups.</i>
<i>Tabligh</i>	<i>'Tabligh' means to preach-</i>
<i>Sinf-e- Nazuk</i>	<i>A lesser and a weaker human.</i>
<i>Fiqh</i>	<i>Islamic Jurisprudence.</i>
<i>Tafseer</i>	<i>Detailed interpretation and analysis of religious texts</i>
<i>Haram</i>	<i>Prohibited- usually referred under the guidelines of Sharia Law.</i>

ABSTRACT

Madrasas in Pakistan came under the limelight after 9/11 terror attacks. Since then, the scholarly work on the madrasas only focus on the security, while the human rights dimension is overlooked. Filling the gap, this study evaluates the Pakistani madrasas under the guidelines provided by the right to education and especially the Convention on the Rights of the Child (CRC). The first part of this research lays down the international legal framework on the right to education, devise the quality dimension under the CRC and its General Comments, and contends the right to religious freedom is not absolute. The second chapter increases the familiarity with madrasa history, the types of madrasas in Pakistan, provides the example of madrasa in other states and concludes by providing 'scholarly conflict' on madrasa existing in literature. The third chapter is based on the field research observation-both primary and secondary sources have been utilised. The chapter assesses the madrasas under the guidelines of human right to education. The last and fourth chapter concludes this research by assessing if Pakistan has complied to its obligations under the right to education and concludes by providing recommendations.

INTRODUCTION

The madrasas in Pakistan have eloquently taken up the education responsibility along with the presence of state and private schools. Also, these madrasas serve as a shelter for many poor children, who could otherwise be street children. The literary scholarship emerged soon after 9/11 targeted these religious seminaries as either primitive or nurseries of terrorism. Since then, much of the literature, both Pakistani and foreign, deals only on the security aspect. Usually, a connection is made between religious extremism and madrasas, a presence of Islamic threat, and declaring all the madrasas as militant breeding grounds. Accusations of madrasa producing religious extremists initiated a literature defending madrasas. This literature includes the work of Bano, Bukhari and Rehman. In a way, this literature is also misleading because first, it is only a result of limited sample, and comprises a many generalisations. Both point of views creates a scholarly conflict, which I have outlined in Chapter 2.

Providing education to more than two million students, madrasa issue is much more than security. On the issue of madrasas, unfortunately no research has been conducted on the human rights perspective. Although, human rights perspective too cannot disregard the security aspect, however concerns more about the right holders and the conduct of the duty bearers. The human rights perspective-under the right to education-can serve to be a better mitigating factor in the madrasa discourse. Instead of only blaming the religious leaders the reference made to the state obligations, protection and promotion of education quality, rights of the child, and human rights friendly atmosphere. Additionally, the critics ignore to consider if madrasa education is a choice or a compromise for the students, identification of the obstacles in the education sector on the whole.

Filling the research gap, this thesis is an effort to understand and analyse the Madrasa education in Pakistan in the light of both freedom and social aspect of the Right to Education contesting albeit a new approach to the freedom dimension. In the freedom dimension, this study tries to find an answer to the question whether explicit freedom to religious education granted constitutes as absolute or are subject to some limitations. While international law provides an adequate freedom to parents to choose the kind of religious education for their children, it is argued that there should

be some scrutiny of this right or a recognition of limit when it comes to the best interest of the child.

Further, this research is concerned at finding answers of the questions: If the madrasas in Pakistan are enjoying the '*absolute freedom*' and if these seminaries subject to some limitations? to what extent the madrasas reflect the values of the CRC and the right to education? And Is the State of Pakistan complying with its human rights obligations?

This research is important in many aspects because it highlights the plight of the right holders and aims to recall the conduct of the duty bearers. The further assessment should be done on a greater extent and this research although limited in time and space will prove to be a referring point in understanding madrasa and human rights to education. Much focus is done on the quality of education, and its importance is highlighted under the CRC, and other human rights instruments. Due to absence of a General Comment on education quality, inference is frequently made on the CRC General Comment No.1. There is not much about the limits to freedom of religious education-having it to be a complicated issue. A careful assessment is made on the scope of the rights, and the limits are identified. Chapter 3 assess the madrasas according to the framework devised in Chapter 1 and Chapter 4 concludes the research highlighting the violations, and concludes with recommendations.

THE RESEARCH METHODOLOGY

Academic human rights research is not as established as social science, due to the fact the researchers often ignore to explicitly mention their research methods. Premising on the fact scholarship in human rights is lacking attention to methodology, Maastricht Centre for Human Rights published a book, *'Methods of Human Rights Research'*. Following the importance emphasised, this section is dedicated to explain the research methodology used in this research.

As mentioned earlier, the madrasa issue in Pakistan is very sensitised because the affiliation of terrorism and alleged backwardness leaves impressions about their austerity. In order to evaluate madrasas *-according to human rights standards-* assess if there is an absolute freedom (absence of government monitoring for the betterment) a mixed method approach was devised which does not qualify this research to be only legal. A large part of the research relies on secondary sources as well as results of qualitative observational field research. This short term observational study differs from ethnography due to the narrow focus and time constraint, however possess elements of ethnography *-if not completely*. Inclusive to this, interviews with the stakeholders' students-present and graduated-parents and teachers were conducted wherever applicable. Also, the interviews of government officials who are responsible for education monitoring, teacher of public schools, academic scholars and non-governmental officials were conducted.

The choice of madrasas was diverse. I did not want to focus only on one type of madrasa representing only one sect. The choice remained on the sectarian and area segregation. The research data is from Punjab, Sindh, and Northern Areas (Islamabad and Rawalpindi), visiting 23 madrasas [who offered interviews] and 10 for only observation [due to levels of rigidity] along with 10 maktabas [primary Quran learning places]. Students were mostly interviewed inside the madrasas. I interviewed different students from these madrasas total 35 in number and 15 general interviews of persons associated in civil society, government etc. The parents interviewed amounts 20.

Other than madrasa, public school teachers, regular public school students, development sector officials were also selected for interviews basing on their experience with madrasa in some way.

Conducting Field Research 'Under Suspicion'

Worthy to mention are the limitations encountered during this research. Pakistan itself is a closed society and having a female in the religious institutions is a cultural barrier. There were numerous of places where I was not allowed to enter. The suspicion was if I were someone from the U.S government trying to know negative information about them. There is high mistrust and a level of animosity towards the U.S. Speaking of lack of trust I had also faced difficulty in assessing madrasas in the Baluchistan, Khyber Pakhtunhwa (majority parts), Southern Sindh, and FATA (Federally Administered Tribal Areas).

In areas especially Baluchistan, FATA and KP, a native male has to take a responsibility of a female in order to enter. There was no one willing to take my responsibility from the Baluch (*acquaintances*). My affiliation with Punjab served as a barrier too. As Punjab-Baluch population faces grievances, hence the subject itself contains a lot of sensitivity.

I focused more on Punjab and Sindh predominantly due to accessibility and better law enforcement. In the whole process I had to frequently take assistance of my male friends who were able to cover the areas where I was not allowed to get in. Using any mobile or camera was not permitted by most of the madrasa as they tend not to believe the visitors so easily. The most astonishing was witnessing many madrasa custodians asking students before interviewing to give only positive answers to each question. This had altered the perceived reliability of the research so I excluded those madrasas from my observations. Mostly the madrasa students were not allowed to interview in person but under the supervision of their teacher, who himself was also in charge of the madrasa.

Besides all the cultural barriers, I had financial limitations too. Pakistan is comprised on huge landscape and the limited financial and number of days did not allow me to visit each and every city. As the landscape is multi-ethnic, so are the values between each province. The inference is drawn based on the general observations. I relied on the quality standards I drafted in the chapter 1. The interview transcripts are under the custody of the researcher and can be reviewed by permission.

In the end, there is still a lot to research on the madrasas in Pakistan and the effort must now be taken by anthropologists, and human rights defenders (as well as lawyers). The subject lacks a detailed ethnography like Arshad Alam did in India (See Inside the Madrasa book). Massoda Bano in her research has extensively focused on one madrasa however, the reality is mostly portrayed as flawless. This field research was desired due to the amount of conflicted literature on madrasa, as well as absence of field research on principles of human rights. Conclusively, in-group participation research is highly desirable which in my case was difficult.

CHAPTER 1
THE RIGHT TO EDUCATION;
ON QUALITY, FREEDOM AND OBLIGATIONS

1.1 UNDERSTANDING THE RIGHT TO EDUCATION

Education has been dealt significantly by the scholarship of present and past. Numerous views are existing in academia entailing the benefits and signifying the empowering capacity of education. Education has been accorded the status of human right in many national constitutions and also have been recognised as a human right at the international level. International agreements, which protect education as a human right-that is the right to education-have been prepared by the international organisations, for example, the United Nations (UN), and its specialised agencies i.e., United Nations Educational, Scientific, and Cultural Organisation (UNESCO), and International Labour Organisation (ILO). Likewise, by regional organisations such as Council of Europe. Although, the right to education is associated with the economic social and cultural rights, the international human rights agreements protect it like other human rights. Economic, social and cultural rights are considered positive because of their dependence on the state to involve. The state is obliged to take active steps towards the realisation of these rights. Civil and political rights usually do not involve financial expenditure, on the other hand, the implementation of economic, social, and cultural rights require enormous state expenditure. Although how much debated is the nature of ESCR, it is held true that due to the indivisibility and interdependence of human rights, without fulfilment of ESCR, the CPR cannot be fully enjoyed.

Education empowers cognizance and add to self-improvement and the values of integrity, identity, and emancipation. Also, education can be a means of improving both the individual and the society. From the late 1970's research has focused more on the context of education. This includes class interaction, contents of school books, and the role and action of the teacher and pedagogical programs. The 'contents' of education reflect the social organisation of knowledge; the curriculum defines which knowledge is valid and the pedagogy defines what type of transmission of knowledge is valid. These are the very aims this research is inquiring about. This chapter extensively tries to understand the concept of the right to education under the

international legal framework, further draws a framework of quality in education, discusses the state obligations and answers the question whether the freedom associated with the right to education is absolute. It must be made clear here that due to the absence of any substantive regional instrument in South-Asia, the analysis would be based on the international legal framework provided by the United Nations. So to say, the state obligations of Pakistan in respect of the right to education are scrutinized under the human rights instruments of UN.

1.2 THE INTERNATIONAL LEGAL FRAMEWORK ON 'THE RIGHT TO EDUCATION'

1. The United Nations Instruments on the Right to Education:

In this section, the right to education will be analysed mainly in the light of the United Nations Instruments. Albeit, children are considered main recipients, the right to education belongs to everyone. At the international level, a strong commitment to protect human rights was first time protected in the Charter of the United Nations of 1945. That was a time when the world passed the hurtful experiences of the World Wars followed by the extreme human rights violations. “The radical change in the nature of international law is reflected in the Charter of the United Nations to which references to human rights run through the charter like a golden thread¹.” The international bill of rights is an important step towards the realisation of human rights at the international level.

The UN Charter does not guarantee the right to education all alone yet gives a foundation for the following protection by the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the most pertinent, International Covenant on Economic Social and Cultural Rights and other human rights instruments. Principally, the UDHR, the ICCPR, and the ICESCR compose “International Bill of Human Rights”. The International Bill of Human Rights provides an extensive protection to the right to education which will be discussed below.

1.1 *The Universal Declaration of Human Rights (UDHR)*

The Universal Declaration of Human Rights holds the privilege of guaranteeing the Right to Education for the first time at international level. As a resolution of the General Assembly the UDHR is of non-binding nature however it holds a huge importance and acts as a guiding principle². In the Article 26 of the Universal

¹ As quoted in Humphrey, 1976, p.527.

² United Nation’s Audiovisual Library of International Law, Universal Declaration of Human Rights, at <http://untreaty.un.org/cod/avl/ha/udhr/udhr.html>. (Consulted on, 6 March 2016).

Declaration of Human Rights, the right to education is provided as: “(1) *everyone*³ has the Right to Education. Education shall be free, at least in the Elementary and fundamental stages. Elementary education shall be compulsory. Technical and Professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace *and* (3) Parents have a prior right to choose the kind of education that shall be given to their children.”⁴

It should be considered that the provisions of this article needs a detailed analysis. Article 26(1) implies the proportion of equality. The word “everyone” indicates that this right is of universal nature which does not discriminate on any basis. Regarding education, it explicitly proclaims that it should be guaranteed free at the elementary and fundamental stages. Furthermore, it also makes it compulsory. This indicates an inclusive approach of the UDHR on the right to education. Of course, the States accepting this do not have all equal capacities. So by making the education free at the primary level its importance is emphasised.

The second part of the Article 26 (1) states, “Technical and Professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit”⁵ making an obligation on states to make the technical and professional education generally ‘available’. Here I will emphasis on the idea of availability. Not everyone is prone to academic career, and due to the variety of knowledge technical or vocational education is also important. “Article 26(1) reflects the social aspect of the right to education”⁶. Article 26 must be read with the Article

³ [author’s Italic]

⁴ United Nations, Universal Declaration of Human Rights, UN Index: A/RES/217 (III) A, adopted on 10 December 1948, at <http://www.un.org/en/documents/udhr/index.shtml> (consulted on 7th March 2016).

⁵ *Ibidem*, Art 26(1).

⁶ Coomans, 1992, p. 53.

22⁷ which states that “in accordance with the.... resources of each state.” This is an emphasis that leads us to the idea of progressive realisation.⁸

In the context of this research, Article 26 (2) holds a distinctive value because it emphasizes on the development of human personality which basically is the goal of education. The free provision of education in Article 26 (1) was to achieve this end. It is a means to an end so all the humans can develop their personalities by ‘strengthening of respect for human rights and fundamental freedoms’. The education is necessarily an optimal level by which people can co-exist and hence notion of ‘tolerance’ in the article could be directed towards it ‘...*tolerance* and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace’.⁹

In Article 26 (3) the rights are granted to parents in selection of education for their children. This article is important in its context because at that time, world had just gone out of serious traumas of the great wars. The Nazis dictatorship over religious education and the constraints were important variables that were kept in mind while drafting this point. It provides a protection of people from the indoctrination of the state. However, this right is not absolute and it will be discussed in the further section of this chapter in assessing the limitations existing to this right.

⁷ Beiter, 2006, p.91.

⁸Article 2: “Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” United Nations, Universal Declaration of Human Rights, UN Index: A/RES/217 (III) A, adopted on 10 December 1948, at <http://www.un.org/en/documents/udhr/index.shtml> (consulted on 7th March 2016).

⁹ *Ibidem*, Article 26 (2).

1.2 International Covenant on Economic Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights 1966 pays more emphasis on the right to education than UDHR. The ICESCR imposes legally binding obligations on states parties. Article 13 is viewed as the most essential for the formulation of the right to education. In my view, ICESCR has enshrined the concept from the UDHR to a greater level.

The right to education, its value and qualities are described in Article 13 (1): “The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”¹⁰

The provisions does not end here, Article 13(2), the articulation of education system is prescribed for the member states, “The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; and (e) The development of a system of schools at all levels shall be

¹⁰ United Nations, International Covenant on Economic, Social and Cultural Rights, Article 13(1), Index: A/RES/2200 (XXI) A, adopted on 16 December 1966, at <http://www2.ohchr.org/english/law/cescr.htm> (consulted on 8th March 2016).

actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved”¹¹.

Furthermore, Article 13 (3) provides a direction on the relationship between the parents and public authorities : “The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.”¹² In the last part of the Article, the State is prohibited to interfere with the liberties one has in establishing their own educational institutions, Article 13 (4) states: “ No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.”¹³ Furthermore, The United Nations Committee on Economic, Social and Cultural Rights describes education as an “*empowerment right* and as the *primary vehicle* by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities”¹⁴,

Also, the International Covenant on Civil and Political Rights guarantees the protection of the right to education. The Articles 18 and 24 are relevant in this regard. Article 18(4) explicitly safeguards the liberties of the parents to select the type of education for their children. This Article, ensuring the ‘freedom aspect’ of the right to education states: “the States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own

¹¹ *Ibidem*, Article 13 (2).

¹² *Ibidem*, Article 13 (3).

¹³ *Ibidem*, Article 13 (4).

¹⁴ See Paragraph 1 of General Comment No. 13 *The Right to Education*, Committee on Economic, Social and Cultural Rights, E./C.12/1999/10 (8 December 1999).

convictions.”¹⁵ This provision matches closely with the latter part of article 13(3) ICESCR¹⁶. Similar to that part, ICCPR addresses freedom aspect of right to education in article 18(4). Rather than obliging member states to make positive steps, it directs them to forgo acting in a specific way *per se*, interfering¹⁷.

Restating, the fundamental motivation behind Article 18(4) remains empowering the parents to protect their children against the state indoctrination in public schools¹⁸. Following the drafting of this provision many states recalled the abuses of the education system by the national socialist government in Germany in the 1930s and early 1940s¹⁹.

2. Instruments designed to protect against discrimination

2.1 The Declaration on Elimination of Discrimination against Women, and The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Women are targeted and discriminated in many segments of society and education is one of the major segment. The barriers of women’s education are numerous leading to societal stereotypes to discriminatory state practices. *Declaration on the Elimination of Discrimination against Women* proclaimed on 7th November 1967 is important in this regard as it in its Article 9 “...calls for measures to eliminate discrimination against women in the field of education”.²⁰ This further elaborates the role of states stating that “all appropriate means shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels in particular: (a) Equal conditions of access to, and study in, educational institutions of all types, including universities and vocational, teaching and professional schools; (b)

¹⁵ United Nations, International Covenant on Civil and Political Rights, Index: A/RES/2200 (XXI) A, adopted on 16 December 1966, at <http://www2.ohchr.org/english/law/ccpr.htm> (consulted on 8th March 2016).

¹⁶ Beiter, 2006, p.103.

¹⁷ Ibidem

¹⁸ Ibidem

¹⁹ Ibidem

²⁰ UNGA Resolution 2263 (XXII) of 7 November 1967.

the same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, whether the institutions are coeducational or not; (c) equal opportunities to benefit from scholarships and other study grants; and lastly (d) equal opportunities for access to programmes of continuing education, including adult literacy programs; (e) access to educational information to help in ensuring the health and well-being of families.²¹”

Subsequently, in 1979, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) was adopted. Like the Declaration CEDAW devotes an entire article on the right to Education. This article stays in wordings same as the Article 9 of the Declaration, however the new additions are 10 (c), (f) and (g) which adds, 10(c) “The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programs and the adaptation of teaching methods”, 10(f) “The reduction of female student drop-out rates and the organisation of programs for girls and women who have left school prematurely” and 10 (g) “The same opportunities to participate actively in sports and physical education”²².

2.2 The UNESCO Convention against Discrimination in Education 1960

The UNESCO convention against discrimination in education also explicitly prohibits in Article 1 that “discrimination’ includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular: (a) Of depriving any person or group of persons of access to education of any type or at any level; (b) Of limiting any person or group of persons to education of an inferior standard; (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons

²¹ Ibidem

²² UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.html> [accessed 8th March 2016].

or groups of persons; or (d) Of inflicting on any person or group of persons conditions which are in-compatible with the dignity of man. And 2. For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given”²³.

Article 2, and 5 of the same convention are worth mentioning within the context of this research. Article 2 states, “When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention: (a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same *standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study*²⁴; (b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and *if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level* ; (c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided *conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level*”. The frequent emphasis is given to the minimum standards by the competent authorities.

Article 5 of this Convention in Paragraph also make important indications. In paragraph 1: “The States Parties to this Convention agree that: (a) Education shall be directed to the full development of the human personality and to the strengthening of

²³ Convention Against Discrimination in Education, Available at: http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html. [Consulted on 9th March 2016]

²⁴ [Emphasis added-author's Italics]

respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

(b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;

(c) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however: (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty; ***(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and*** (iii) That attendance at such schools is optional. 2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article”²⁵.

²⁵ Ibidem.

3. Instruments on the rights of Children

Children are the vulnerable group of the society, because of their age they are usually not in position to articulate the rights which accrue them and to successfully enforce them. Furthermore, children do not have a lobby which is committed to promoting the rights of children. Considering these issues, the UN has made an effort to work out the particularities of the application of human rights to children. It has adopted the Declaration of the Rights of the Child in 1959 and the Convention on the Rights of the Child in 1989. Both Declaration and Convention contain provisions on the right to education²⁶.

3.1 Convention on the Rights of Child (CRC)

For the first time, the legally binding dispositions were adopted under the Convention on the Rights of the Child which was adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 on November 1989 and entered into force on September 2 1990²⁷. The CRC reasons to set out the rights of the child in a comprehensive manner. Article 1 CRC defines a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”²⁸ “The CRC protects both CPR and ESCR. It protects the right to education in two provisions, namely, articles 28 and 29. Before commenting on these provisions, it should be pointed out that the CRC reflects four general principles, which must guide the interpretation of the CRC’s rights provisions, also those on the right to education: non-discrimination (article 2), the best interest of the child (article 3), the right to life, survival and development (article 6), and the right to express views and have them taken into account (article 12).”²⁹

²⁶ Beiter, 2006, p.114.

²⁷ United Nations Convention on the Rights of the Child, Index: A/RES/44/25, adopted on 20 November 1989, at <http://www2.ohchr.org/english/law/crc.htm> (consulted on 8th March 2016).

²⁸ *Ibidem*, Article 1.

²⁹ Beiter, 2006, p.115.

The Article 28 of the CRC provides direct guidelines on how the educational system should be. More specifically, the first article recognise the right of the child to education with a view to achieve this right progressively and on the basis of equal opportunity³⁰. Binding the member states the Article 28(1) further states: “ (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;(c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children;(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.”³¹ Article 28 (1) is in its terms comparable to article 13(2) (a) to (c) of ICESCR. Compared to article 13(2) (a) to (c) ICESCR, however, article 28(1) (a) to (c) have been framed in weaker terms³².

Article 28(2) gives us provision on novelty in how the child should be respected, take all appropriate measure to ensure that school discipline is “administered in a manner consistent with the child’s human dignity and in conformity with the present convention.”³³ Furthermore the article 28(3) is a call for cooperation among all the states for the provision of education, especially among catering the needs of the developing countries “in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods.”³⁴ This could be linked to the idea if state is incapable of realising the core obligations it should seek help from the international community and nevertheless it limits any kind of passive attitude of the state parties.

³⁰ Article 28 (1),United Nations, Convention on the Rights of the Child 1989

³¹ *Ibidem*

³² See Hodgson, 1998, p.46 (Beiter 2006, p116.)

³³ Article 28 (2),United Nations, Convention on the Rights of the Child 1989.

³⁴ *Ibidem*, Article Hodgson, 1998, p.46 (Beiter 2006, p116.)

³⁴ Article 28 (2),United Nations, Convention on the Rights of the Child 1989.

³⁴ *Ibidem*, Article 28 (3).

Article 29 sets out the ‘aims of education’ in the paragraph (1) and addresses an aspect of classical freedom of education in paragraph (2) i.e., the right to establish the private schools³⁵. State parties agree to “1(a) The development of the child’s personality, talents, and mental and physical abilities to their fullest potential; (b) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the charter of the United Nations; (c) The development of respect for the child’s parents, his or her own cultural identity, language, and values , for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own; (d) the preparation of the child for responsible life in a free society, in the spirit of understanding peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national, and religious groups and persons of indigenous origin; (e) the development of respect for the natural environment.”³⁶ Article 29 (2) “no part of this article or article 28 shall be constructed so as to interfere with the liberty of the individuals and bodies to establish and direct the educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article to the requirements that the education given in such institutions shall conform to such minimum standards laid down by the state”³⁷.

Article 5 directs to consider the “Evolving Capacities of the Child” providing a guideline for parents and guardians, members of the extended family and other persons legally responsible for the child. Education, in essence must be in consistent with the evolving capacities of the Child.

Adding to this the Article 19 is also relevant. According to the Article 19, education, among others, should function as a measure, “to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s),

³⁵ Beiter, 2006, p.119.

³⁶ Article 29(1), United Nations, Convention on the Rights of the Child 1989.

³⁷ *Ibidem*, Article 29(2).

legal guardian(s) or any other person who has the care of the child”.³⁸ The CRC contains a few other provisions concerning the right to education. Article 23(3) obligates states parties to ensure that the disabled child has effective access to education and training³⁹.

In conclusion, a human rights approach, self-improvement, wellbeing, and respect for environment, social, religious and cultural diversity are the primary components for the education that the CRC is ensuring for the children. The General Comment No. 9 on the Rights of the Children with Disabilities under the CRC makes states obligations more concrete in regards to among others the right to education and gives clear rules on the perspectives of self-esteem and self-reliance, quality education, inclusive education, career and vocational training, recreational, cultural activities and sports⁴⁰.

4. Inclusion of the Disabled in Education:

The first three paragraphs of Article 23 of CRC are dedicated to the Article 23 is significant as it is legally binding and it directly deals with the rights of the disabled in education sphere. Paragraph (3) requires the assistance to be provided “free of charge, whenever possible”. The assistance conceded must be designed to guarantee an effective access to education for the disabled⁴¹. On the other hand, the *Convention on the Rights of Persons with Disabilities* contests for the right to education of the disabled. Although the convention is legally non-binding it does include the provisions that protect the right to education of the disabled. Article 24 of CRPD dedicates five provisions which are relevant in this regard which “1(a) the full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; (b) the development by persons with disabilities of their personality, talents, and creativity, as well as their

³⁸ *Ibidem*, Article 19.

³⁹ *Ibidem*, Article 23(3).

⁴⁰ United Nations, Committee on the Rights of the Child, General Comment No. 9 – The Rights of Children with Disabilities, VIII, Index: CRC/C/GC/9, adopted on 27 February 2007, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/407/02/PDF/G0740702.pdf> Open Element [accessed on: 9th March 2016].

⁴¹ Article 23(3), United Nations, Convention on the Rights of the Child 1989.

mental and physical abilities, to their fullest potential; (c) enabling persons with disabilities to participate effectively in a free society.”⁴² The second paragraph of Article 24 emphasis on access to education makes clear the need to ensure access to an inclusive educational system that will not exclude the children from free primary and secondary education, on the basis of their disability⁴³. Also, the General Comment No.2 of CPRD is relevant to mention, and General Comment on Article 6: Women with disabilities CPRD. Draft General Comment for the inclusive education of the disabled can be reviewed as a guideline in making policies.

⁴² United Nations, Convention on the Rights of Persons with Disability, Index: A/RES/61/611, adopted on 6 December 2006, at <http://www.un.org/esa/socdev/enable/rights/convtexte.htm> (consulted on 8 March 2016).

⁴³ *Ibid*, Article 24 (2).

1.3. THE HUMAN RIGHTS DIMENSION 'QUALITY' OF EDUCATION

5. Overview of the Quality Education

Since the 1980s, quality education has transformed into a slogan. The simplified question is; what exactly is the “quality” in education? We may recognize two major approaches: ‘the human capital and the human rights approach’⁴⁴.

The human capital approach to deal with quality education is upheld by the neoliberal philosophy of the school's central goal as a business institution. On the other hand, the human rights approach deals with quality education is enlivened by reflecting human rights values, emphasising beyond quantitative aspects. For example, number of pupils attending school etc. Quality education is a compound concept having both material and non-material scope.

While there is no unified approach to deliver quality education, there are however universally accepted principles, shaping a formal pedagogic legacy of individual rights sufficiently dealing with the ethics given by the right to education. In addition, every state can learn from the most exemplary ones⁴⁵.

The right to education is not only the right to access education but also the right to receive an education of good quality. Education must be available and accessible but also acceptable and adaptable.⁴⁶ Dating back to the origins of the concept in International law, it was first introduced by the United Nations Special Rapporteur on the Right to Education Katarina Tomaševski, (1998–2004). She being the first Special Rapporteur on the Right to Education highlighted the following in her Preliminary Report to the former Commission on Human Rights:

“A definition of people as human capital obviously differs from defining people as subjects of rights. The contrast between the human rights and human-capital approaches is best illustrated by taking children with physical and learning disabilities as an example. The physically disabled may be excluded from

⁴⁴ Reis, p. 7, 2015.

⁴⁵ Ibidem

⁴⁶ The Right to Education Project, available at <http://www.right-to-education.org/issue-page/education-quality#sthash.gBkdvI7c.dpuf> (Consulted on 09th March 2016).

school because providing wheelchair access, for example, might be deemed too expensive; the latter (with learning disability) may be excluded from schooling because meeting their learning needs is deemed not to yield a sufficient marginal return on investment. This type of reasoning obviously challenges the very assumption of human rights, namely the equal worth of all human beings.”⁴⁷

Right to education regarding its quality aspect highlights the variables which are overlooked by the number based approach of human capital⁴⁸. Moreover, quality aspect needs to be realised in this complex world where individuals can face multifaceted obstacles, and a restricted or quantitative approach does not fulfil the gap. This section intends to delineate what a quality education is according to the international human rights framework and how essential it can be.

The concept of ‘quality’ education has been addressed by many scholars and different approaches such as development perspectives (stages of development), analysing the goals of education achievement, context and agency, to the concepts of equity and equality.⁴⁹ The vast majority of the literature has also incorporated the ‘mainstream’ approaches to explain the quality education which is produced by the United Nations and World Bank⁵⁰. However, the dilemma is that while the scholarship deals with the definition of ‘quality of education’ in a broad way to the contrary the most declarations and treaties of the UN provide little or no explanation about it except the General Comment No.1⁵¹.

As this research deals with the human rights law, the main focus will be on the mainstream literature regarding the delineation of the quality standards⁵² with a

⁴⁷ Commission on Human Rights Report: (E/CN.4/1999/49, para. 13).

Available at: <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>

⁴⁸ Reis, 2015, p.7.

⁴⁹ Barrett, Duggan, Lowe, Nickel & Ukpo, p.7, 2006. Note: The quality dimensions in the literature is different than the one human rights to education entails. These dimension are results specific, focuses on context and agency –who teaches for what-quality is also related to concept of equity in education and equality. Different interpretations have been enlisted above)

⁵⁰ Ibidem.

⁵¹ Education for All Global Monitoring Report: UNICEF: Chapter 1 on Understanding Education Quality, Available at http://www.unesco.org/education/gmr_download/chapter1.pdf , (Consulted on 12th March 2016).

⁵² The mainstream literature review will make a legal basis for the analysis which is universal. The vast majority of literature on the education quality is interdisciplinary and does not directly deals with the human rights approach. For the clear human rights approach, it is highly relevant to review and analyse policy prescriptions provided by the UN agencies as these are at least universally acceptable.

special focus on the General Comment No.1 of CRC. The United Nations Economic and Social Council (UNESCO) have also been actively targeting the quality aspect in education and have been taking up the responsibility to carry out ICESCR's education goals. The vast amount of publications targeting this aspect is a positive and helpful notion for the member states.

It should come as no surprise, therefore, that the two most relevant United Nations international conference declarations focusing on education gave some importance to the qualitative dimension. The Jomtien Declaration in 1990⁵³ and, especially, the Dakar Framework for Action in 2000⁵⁴ professed the 'quality education' as a prime determinant in evaluating accomplishment of Education for All. More particularly than prior pledges, the second of the six objectives set out in the Dakar Framework submits countries to the procurement of primary education 'of good quality'. Also, the 6th objective incorporates duties to enhance all parts of quality education so that everybody can accomplish better learning results, 'particularly in literacy, numeracy and fundamental life skills'⁵⁵.

⁵³ "Meeting Basic Learning Needs: A vision for the 1990s": World Conference on Education for All, 1990, Thailand; Available at: <http://unesdoc.unesco.org/images/0009/000975/097552e.pdf>

⁵⁴ World Education Forum, "The Dakar Framework for Action", Available at: http://www.unesco.at/bildung/basisdokumente/dakar_aktionsplan.pdf, Dakar, 2000.

⁵⁵ Understanding Education Quality, p.29. UNICEF. *See, footnote 49.*

6. Pursuit for the Quality Dimension:

Although, as indicated earlier, most human rights legislation focuses on access to education and are comparatively silent about its quality and due to this scarcity of a comprehensive general comment on education, the Convention on the Rights of the Child is an important exception as it expresses strong, and detailed commitments about the aims of education. These commitments, in turn, have implications for the content and quality of education⁵⁶.

CRC holds an importance of being already in force in 194 countries and it serves as a landmark for mainstreaming of education quality required by the right to education. The most significant is Article 29(1) as it underlines the individual and subjective right to a specific quality of education” which multifaceted rights and provides extensive aims of education⁵⁷. The aims require the promotion, support and protection by the state parties, serve the core value of the Convention which is, *the human dignity*⁵⁸ innate in every child and his or her equal and inalienable rights⁵⁹.

The aims are; the holistic development of the full potential of the child (29 (1) (a)), including development of respect for human rights (29 (1) (b)), an enhanced sense of identity and affiliation (29 (1) (c)), and his or her socialization and interaction with others (29 (1) (d)) and with the environment (29 (1) (e))⁶⁰. It should be stressed that the aim of 29(1) (a) can be termed as a ‘principle aim’ because it focuses on the holistic development of the child which can be comprehended and realised extensively. It includes multifaceted variables and different dimensions of quality (both material and non-material) on the other hand, other aims are to be incorporated in fulfilling this very principle aim. These are subject to be part of the principle aim hence a development is not holistic and to the full potential if it ignores the respect

⁵⁶ *Ibidem*, p.30.

⁵⁷ Reis, 2015, p.7.

⁵⁸ The human dignity can be comprehended as, “methods which are either physically or mentally cruel or degrading shall be prohibited”, also, can be seen under Article 7 of ICCPR (Prohibition of Torture), Article 28(2) of CRC, and Article 3. Freedom from Corporal Punishment, inhumane or degrading treatment-violence of any sort- contributes in preserving human dignity.

⁵⁹ UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1, Available at: <http://www.refworld.org/docid/4538834d2.html> [accessed 28 March 2016]

⁶⁰ *Ibidem*.

for human rights, enhanced identification, and socialisation. In the following paragraphs I rely on devising the quality aspects from wordings of the different provisions of this first General Comment.

I. On Maximizing the Potentials:

Starting the discussion of first the aim, the comprehensive objective is to maximise the potential of the child in accordance with the Article 29 (1) which articulates that the development of the child's personality, talents and mental and physical abilities should be done to the fullest potential;⁶¹ Also, in the General Comment it is the foremost aim of Article 29(1)(a) uses the same wordings but adds, ‘holistic development of the full potential of the child⁶²’, directing that the education has to be designed and disseminated in a way which maximizes the potential of the child to the best. The term ‘holistic development’ is quite broad but intends to refer the ongoing physical and mental development of a child leading to the fulfilment of a dignified personality who will also be able to follow the other provisions sets out in 29 (1) (b), (c), (d) and (e), of the article as well as the human rights standards enriched by all the instruments⁶³.

Article 29 (1) incorporating the right to education stipulated in the Article 28 envisions a qualitative dimension which reflects the rights and inherent dignity of the child; and also insists upon the need for education to be *child-centred, child-friendly* and *empowering function*⁶⁴. It highlights the need for educational processes to be based upon the very principles it articulates⁶⁵. It leads us to emphasis all the importance on the subject of the education, which is an individual; a child. There seems nothing greater than the ‘best interest of the child’⁶⁶ in disseminating or designing the education. “The education to which every child has a right is the one designed to provide the child with life skills, to strengthen the child’s capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate

⁶¹ Article 29(1)(a) CRC.

⁶² CRC, General Comment No.1. (2001).

⁶³ As mentioned before, the principle aim needs to be realised.

⁶⁴[Author’s Italics]

⁶⁵ UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001).

⁶⁶ Article 3, CRC.

human rights values. The goal is to empower the child by developing his or her skills, learning, and other capacities, human dignity, self-esteem, and self-confidence.

‘Education’ in all this context goes far beyond the formal schooling and embrace the broad range of life experiences and learning processes which enables the children, individually and collectively, to develop their personalities, talents, abilities and to live a life full and satisfying life within society”⁶⁷.

The particularities mentioned in the second paragraph of the general comment seem straightforward in appearance but extend far beyond the meaning and the implementation. It beholds an element of far-sightedness. Being the first and foremost paragraph defining aims of education, it sets out to the prime concern on the child and his personality. It is quite clear from the wordings that there can be nothing greater than the best interests of the child. The scope of education has been widened beyond formal schooling, and is considered as a ‘whole milestone in developing a personality which carries out throughout the life.’ The emphasis on ‘Life skills’ which signifies that a child cannot be independent without learning the basic life skills which enable him to be self-sufficient and skilful. The aim is to prepare the individuals who have the capacity to deal with the challenges of both social and economic life.

The wordings “child’s capacity to enjoy the full range of human rights” singles out the inter-connected nature of the right to education in realising the other human rights. Through education one gets to reach other human rights as well such as adequate right to health, right to found a family, right to work , right to political participation, and the right to equal opportunities for all genders. Not only one gets to achieve the other human rights but the achievement is made easier and better through a good and quality education. The end result is to make an individual who is capable of respecting the human rights. Education is a means to an end which is a human rights friendly world.

⁶⁷ CRC- General Comment No.1, *para* 2. 2001.

The most crucial aspect in the second paragraph, “to empower the child by developing his or her skills, learning, and other capacities, human dignity, self-esteem, and self-confidence” indicates us that a child’s attainment of life skills cannot be achieved over a compromise of his dignity, self-esteem and self-confidence. The self-confident and high esteemed individual will be able to lead a well-balanced life which is coherent to the standards of human rights. Moreover, in adolescence many complexities could be avoided if a child is having an adequate level of self-esteem, and confidence.

Certainly, there are numerous variables through which the skills, learning, human dignity, self-esteem, and self-confidence of a child or adolescent could be negatively influenced. This General Comment No 1 also guides us in identification of such variables which include, corporal punishment, an inadequate curriculum, sexual abuse, discrimination (based on any reason such as ethnicity, religion, disability or gender), improper and ineffective teaching methods, and violent or bad school environment. The parameters of quality cannot be met if one of the variable is compromised because it will hinder in achieving the foremost goal, the best interests of the child. I will hereby briefly discuss these.

II. On Corporal Punishment:

Compliance with the values recognised in the article 29(1) clearly requires that the schools should be child friendly to the maximum in all respects with the dignity of the child. The education should be ‘child-friendly’, inspiring and motivating the individual child⁶⁸. It is also mentioned that “the education must be provided in a way that respects the strict limits on discipline reflected in article 28(2) and promotes non-violence in school”. The committee constantly recommended in the concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strictness in school discipline⁶⁹.

⁶⁸ *Ibidem*, para 12.

⁶⁹ CRC- General Comment No.1, *para* 3. 2011.

III. On the Content of Education and Teaching Methods:

Repeatedly emphasised that “a child’s right to education is not only a matter of access (art. 28) but also of content”⁷⁰ is of prominence that “an education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that accompany a period of fundamental change driven by globalization, new technologies and related phenomena”.⁷¹

The curriculum must enable every child to acquire the core academic and cognitive skills, together with essential life skills⁷² that equip children to face life challenges, make well-balanced decisions and develop a healthy lifestyle, good social relationships, critical thinking and the capacity for non-violent conflict resolution. There is an element of relativity in the concept of life skills which may differ according to the context of a particular state. However, the content must be human rights friendly as described in the article 29(1)(b) “The development of respect for *human rights and fundamental freedoms*, and for the principles enshrined in the Charter of the United Nations” , on the other hand, it should also be able to fulfil the aims described in 29(1)(a), (c), (d) and (e). The Committee on the Rights of the Child specifies that the curriculum, both in early childhood provision and in school, “must be of direct relevance to the child’s social, cultural, environmental and economic context, and to his or her present and future needs and take full account of the child’s evolving capacities”⁷³. In this way the context of education is not ignored which are associated with the cultural, social and religious value of the child but also the universal agreed principles of human rights are also respected.

⁷⁰ *Ibidem*, para 3.

⁷¹ *Ibidem*, Also note: Any kind of content that makes produce a radical mind should not be allowed. See also, Hodgson on ‘The Role and Purposes of Public Schools and Religious Fundamentalism’.

⁷² According to UNESCO, the term ‘life skills’ can be broadly interpreted, and is often assumed to include such topics as health, hygiene, etiquette, and vocational skills. In UNICEF, however, life skills are defined as “psycho-social and interpersonal skills used in every day interactions...not specific to getting a job or earning an income”. The definition also explains that “a wide range of examples exist under the UNICEF working definition of Life Skills, such as assertion and refusal skills, goal setting, decision making and coping skills”.

⁷³ *Ibidem*, para 9.

The contributing and effective role of the state can be determined by assessing provision of schools, established facilities with an inclusive approach to the quality of education and the affirmative action taken for the disadvantaged individuals of the society. These aspects of the education system should also be evaluated with reference to the human rights ideals of tolerance, equality, world peace, and the development of the personality. The curriculum, the content of the textbooks, and the interaction in the classroom should also promote human rights norms and values⁷⁴.

The curriculum must be inclusive and tailored to the needs of children in different or difficult circumstances. All teaching and learning materials should be free from gender stereotypes and from harmful or negative representations of any ethnic or indigenous groups. To enable all children with disabilities to fulfil their potential, provision must be made to enable them to, for example, learn Braille, orientation or sign language⁷⁵.

Teachers are the important stake-holders in apprehending the aims of education stipulated in Article 29(1). The quality dimension goes beyond the formal teaching standards which are much more than the simple provision of education material to a child. Teachers and their methods could serve as helpful or counter effective way in disseminating the aims of education. First and foremost, the inter-connected nature of rights allows us to provide the best teaching methods which are in coherence with the human rights standards. Rightly mentioned in the paragraph 6, that the complimentary nature of the convention does not allow us to understand and implement the provisions in the isolated ways. Non-discrimination (stipulated in article 2), the best interest of the child (article 3), the right to life, survival, and development (art 6) and the right to express views (art 2) are all relevant to assess the teaching methods.

Teaching methods should accommodate the evolving capacities of the child. The teaching methods must be non-violent as well as according to the advanced learning standards (art 28 (2)). The methods should be tailored and must take evolving

⁷⁴ Halvorsen, 1990, p.362.

⁷⁵ UNESCO, “*A Human Rights-Based Approach*”, p.33, 2007.

capacities of children into account. Not all the students could follow the same methods, it should be customised. Non-violence and non-discrimination are the key for better attainment of aims in the class and beyond. Teachers can act as agents of change in the classroom for promoting and *adopting*⁷⁶ the human rights friendly approach. There should be no dissemination of anti- human rights values such as radicalisation and ethnic divisions as mentioned in the article 29(b), (c), and (d).

IV. On Sexual Abuse

There can be no quality education unless the vital delinquent of sexual abuse is not tackled. The protections and entitlements in the CRC are as important for adolescents as for younger children⁷⁷. Article 34 of the CRC, which focuses on prevention of all forms of sexual exploitation and abuse, including specific reference to prostitution and pornography, has greater relevance for the rights of adolescents than for younger children⁷⁸. One of the greatest challenges to addressing children's and adolescents' right to be free from sexual abuse and sexual exploitation is the lack of systematic, repeated, population-based monitoring of sexual abuse and sexual exploitation among children and youth. The level of research on sexual exploitation of children and adolescents is even more limited than for sexual abuse generally⁷⁹. It is foremost responsibility of the State party to eliminate the sexual exploitation of students in the educational institutions, and enhance the protective measures. The state's role is protective⁸⁰.

⁷⁶ [Author's Italics]

⁷⁷ Ruck, Saewyc, Keating, Earls, & Areih, 2014, p.16.

⁷⁸ *Ibidem*, p.20.

⁷⁹ Jabeen, 2009, pp.405-409.

V. On Discrimination and Tolerance: Following a balanced and diverse approach

29(1) (c) is a very essential provision when it comes to ‘diversity’ and ‘tolerance’ within a society which is quite related to 29(1) (d). It aims to raise individuals who do not only possess the respect for their own culture and values but also for the cultures and values different than their own. Definitely the world has faced more tensions on the cultural relativism after the Cold War. This article seems to accommodate the racial, cultural and religious relativism to a greater extent. On discrimination in the schools, 29(1) (c), and (d) provides us a vision of what a tolerance is meant linking it to education. Diverse classrooms with students of different racial, ethnic and religious backgrounds should be fostered with the spirit of understanding and respect for each other, and so should be done by the school authorities especially the teachers. The accommodation of the disabled and the views on gender equality are essential in the non-discrimination aspect.

VI. On the School Environment

Following the principles of all the arguments above, the school environment must reflect a spirit of understanding, peace, tolerance among different cultural groups and individuals and equality of sexes. The school environments must accommodate the disabled, should have good sanitary conditions, encouraging and safe all the children irrespective of their genders. At the end, the school environment should be positive for a child’s mental and physical growth by providing safe environment.

1.4. THE NATURE OF STATE OBLIGATIONS UNDER THE RIGHT TO EDUCATION

The Right to Education is generally associated with the Economic Social and Cultural Rights and is embraced under the mixed nature of it. As Coomans writes, “realisation of this right requires an effort on the part of the state to make education available and accessible implying the positive obligations”⁸¹ as clarified in the previous sections of the chapter. This positive obligation could be categorised as a social dimension of the right to education. On the other hand, there is a freedom dimension which principally embraces the ideals of negative state obligations, for example, non-interference in the right of parents to choose the education for their children may it be moral or religious and so to form private educational entities.

Both these obligations are important in the fulfilment of the right to education however, it is comparatively easier to identify violations on the freedom dimensions because they generally imply any interference on the freedom of individuals by the state. On the contrary, the social dimension makes it harder to identify violations by the state party because the state has a lot of discretion in this matter. It should also be noted that the social dimension also implies the minimum core obligations from which a state cannot derogate. There is a complicated distinction between a failure to meet the obligations (due to uncontrollable variables) and a wilful failure to meet generally accepted international standards (in case a state is capable of meeting the obligations but willfully ignores).

As the nature of ESCR rights are quite broad, the justiciability encompasses challenges however, the minimum standards for the right to education are comparatively concrete and comprehensive efforts to realise this right must be taken by the state parties. The identification of the state obligations in respect to right to education will be based on the principles enriched by the Committee on Economic Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC) in the lieu of their relevant instruments; ICESCR, and CRC, and the recommendations outlined in the Committees’ Concluding Observations quoted and

⁸¹ Coomans, 1994, p.125.

analysed by different scholars. As a framework for the identification of the violations on the right to education, a decent piece of research by a scholar, focused on the Maastricht Guidelines. The clear and concise framework is appreciative to analyse in this research under the Maastricht Guidelines. Also, it should be made clear as this research has focused on the quality dimension of education to a greater extent, the reference to most of the articles of the CRC will be also done in order to identify the state obligations and later, failures or violations if any.

Obligations of the State Parties: Under the Right to Education

Starting by assessing the obligations of the states, the foremost obligation is under the ICESCR Article 13 under which the realisation of this right requires an effort on the part of the State to make education available and accessible; implying the positive State obligations⁸². Especially the Article 13 (2) (a) is a right directed to fulfil regardless the economic constraints of the state party. It also constitutes as one of the core obligations under the Article 2(1) of the covenant⁸³. Also, the CESCR has emphasised that the article 2(1) implies that each State party must begin to take steps within a reasonable short period of time after the Covenant's entry into force for the State Concerned: 'Such steps should be deliberate, concrete and targeted as early as possible towards meeting the obligations under the covenant⁸⁴'.

It is worth stating that under the Article 14 of the Covenant a State Party has to draft a plan of action within the 'two years' time period ensuring the progressive implantation of the free and compulsory education. So to say a state is under an obligation to draft a comprehensive plan of action as soon as the time frame of two years. Under the Limburg Principle no 72 a state party is in violation if it fails to take step which it is required to under the covenant. It should be emphasised that the Committee on the rights of the child has followed a comparatively 'soft approach' in the realisation of the same right⁸⁵. This soft approach should not be disregarded

⁸² Coomans, 1994, p.125.

⁸³ See CESCR General Comment no 3.

⁸⁴ Ibidem.

⁸⁵ Coomans, 1994, p 143.

because it is an only instrument which guides on the aims of education which are very essential. As they go further than the availability of this right.

Moving forward from the obligations for the availability of education, there are numerous to follow after achieving this free and compulsory education. The removal of the obstacles in the realisation of this right is inevitable duty on the state party. This has to be done side by side in provision of the free and primary education. There cannot be any concrete provision without the removals and in my view correct assessment of the obstacles. The structural factors have a greater role to play here and state has to device a contextual analysis and concrete policies in order to tackle these structural problems especially in reference to religion. The first and foremost obstacle to realise this right is Discrimination in Education. This discrimination can occur in both in access the education and in the full realisation of it. Acts of ‘active discrimination’ implies discriminatory practices from a policy evidently intend to originate, maintain or aggravate such practices in education.⁸⁶The Article 1 of the UNESCO Convention against Discrimination in Education lays down a concept of discrimination within the context of education:

In assessing cases, the Committee on Economic Social and Cultural Rights has identified the discrimination on the religious grounds⁸⁷ happening especially in the countries where establishment of one religion was common. So religious and other forms of discrimination highly backlog an individual’s access to education.

The timely and immediate realisation of the obligations are highly essential. Referring to the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, it is also emphasised that a state party is in violation if it fails to implement without delay a right which it is required to fulfil immediately. The article 13(2)(a) of the Covenant provides the realisation of free and compulsory education on immediate basis. This obligation is compulsory, unconditional and without any reference to progressiveness⁸⁸. This obligation is in coherence with the Article 14 of the Covenant and relative to Article 28(1) (a) of the Convention which is rather ‘soft’ in implementation than the covenant. The primary and free education, is accorded as

⁸⁶ *Ibidem*, p 129.

⁸⁷ *Ibidem*, p.130.

⁸⁸ *Ibidem*, p.132.

meeting the minimum essential standard which is also embraced by the CESCR General Comment no 3⁸⁹.

The Convention on the Rights of the Child includes several economic social and cultural rights in one document⁹⁰. The first sentence of the article 4 provides '[S]tate Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present convention. This is largely similar to the Article 2(2) of the CCPR. The mention of 'other measures indicate that a state party has to take the obligations in CRC along with the other conventions. It is closely related to the other instruments. Regarding the right to education it imposes several obligations under the article 28 and 29 about the right to education however, the other articles and general comments are of high relevance and must be taken into account while assessing obligations. The regard should be paid to the general principles ascribed in article, 3(1) 'best interest of the child', article 6 'the right to life and maximum possible survival and development', article 12, 'opportunity to be heard'. The possible state obligations can be best analysed by the Article 4 and 2.

CEDAW in the Article 2 and 10 obligate state parties to 'condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay', adding to it it obligates states to guarantee the equality under the law, by adoption of appropriate legislature and establish the legal protection which guarantees the equal protection of women. Article 10 explicitly obligates the state parties 'to take all the appropriate measure to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education'⁹¹. Guaranteeing the protection to the women 'without delay' can also be analysed under the General Comment no 3 of CESCR and Limburg Principle no 7.

⁸⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, available at: <http://www.refworld.org/docid/4538838e10.html> [accessed 7 April 2016]

⁹⁰ Rishwami, pp.3-13, 2006.

⁹¹ Article 10 CEDAW.

The state obligations are concluded with the discussion of the ‘Wilful Failure’ to meet generally accepted international minimum standards. Again referring to the Maastricht Guidelines , a state is in violation of the Covenant if it ‘wilfully’ fails to meet a generally accepted international minimum standards if it is already in a capacity to meet. ‘With respect to the right to education, some norms may be characterised as minimum standards. The first and foremost is the right to access public educational institutions in a non-discriminatory way, another minimum standard is the free choice of education, the third is the right of individuals to establish their own educational institutions, a final minimum standard entails that the educational policy in a given state must be in accordance with the principles of pluralism and respect for the human rights as laid down by the Article 13(1) of the Covenant’⁹².

⁹² Coomans, 1994, p.135.

1.5. ON 'ABSOLUTE' FREEDOM

7. *Is Right to Education, and Religious Education 'Absolute'?*

It will be recalled from the previous section that one of the principal aims of the child's right to education is the strengthening of respect for human rights. As stated before, the States have assumed a legal obligation under international conventional human rights law to take appropriate measures to promote human rights education at all levels and in all types of education. Although, primary responsibility is conferred on States, parents, teachers and private education managing actors have a significant role in the delivery of human rights education and values.

While the Right to education, and particularly religious education, including parents autonomy to select the education type for their children is guaranteed by all the international legal and regional instruments, however the question is whether it is *absolute* or not? In this part of the chapter, it will be analysed how far the limitations are drawn and how it constitutes further.

Permissible Scope of Legal Limitations on the Freedom of Religion or Religious Education In The International Human Rights Law

Starting from the UDHR, Article 26 (3) gives direction on the freedom aspect to the right to education granted to the parents in provision "the parents have a prior right to choose the kind of education given to their children". On the other hand, before this provision it clarifies the essential elements of education in part (2) of the Article 26. According to which "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace." All the necessary elements in this provision such as, 'full development of the human personality, strengthen the respect of human rights and fundamental freedom, understanding and promotion of tolerance , friendship among all nations, racial and religious groups' and maintenance of peace' are in my view the

limitations to the freedom aspect granted in 26(3). So to infer that the education should be consistent with what article 26(2) outlines for all. It clearly means that any sort of education that promotes violence in the society, hinders in the full development of human personality, incites racial or religious intolerance and discrimination, and is in contradicting with the human rights values should not be prohibited.

Similarly, where in ICESCR Article 13 (3) and 13 (4) provides extensive rights and freedom to the parents in the selection of school it also explicitly makes these freedoms and rights subject to the minimum standards laid down by the state, "...in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State" hence constituting it with certain limitations and not qualifying the freedom granted to be absolute.

Further, in ICCPR Articles 18 (1), (4) and 24 a loud and clear freedom to parents to the contrary in Article 18(3) "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." Freedom to manifest religion or believe are subject to limitations. It means such a religious education should not be tolerated which propagates the violence and is threat to the fundamental human rights. The limitations clause 18(3) clarifies that the freedom is given albeit subject to the protection of of public safety, health, orals, fundamental rights and freedoms of others.

The Convention on the Right of the Child 1989 also indicates provisions that could limit 'absolute' freedom of any sort of education stating in Article 29(1)(d), "[t]he preparation of child for responsible life in a free society, in the spirit of understanding, peace, tolerance...and friendship among all peoples, ethnic, national and religious groups...". The convention with the worth mentioned article above have set aims of education that in many ways limits the idea of 'absolute' freedom. Any nature of education which contradicts with the guiding principles; the best interest of the child and the evolving capacities of the child are beyond acceptance and of course the human rights dimension is crucial to follow.

The conclusion which may be drawn from these provisions is that parents do, in fact, have a right as regards the education of their children, but that this right is not absolute. The right of parents is one of providing guidance and it must be exercised in the best interests of the child. Furthermore, the right to provide guidance becomes “weaker” as the child’s capacities evolve.

The limitations can also be in the form and type of content taught. While there is an adequate provision of freedom of information, in the right to education aspect it has to observe the ‘quality’ notion. The content standards prescribed by international human rights law has already been discussed in the previous sections. The state has an important role in this regard to make sure that the quality standards of human rights perspective are met by effective monitoring and evaluation of educational institutes. As a rule, the private educational institutions have to follow ‘minimum standards’ set by the State, so ensuring human rights is the primary responsibility of the State.

The present position on these issues under universal human rights law appears the following; both adults and children enjoy the human right to freedom of religion and this right might be practiced as per their autonomy, either alone or in group with others, however, disrespect towards other’s convictions, intimidation and an undermining of the freedom of the other to adopt a religion or belief results in the violation and is subject to limitations⁹³.

In the light of the laws explained above it is quite clear that even if the freedom to education and religious education is given its subject to certain reservations and hence not an absolute right. These limits are not only on the parents, but all the actors involved in the provision and dissemination of education. The owners of seminaries, public and private school managers and each and every actor contributing to the fulfilment of the right are bound by the notion of quality in education. The state’s role is positive in this all and justiciable negative obligation in place where any of the rights of the right bearers are in threat to violation. Under no law, the misuse of the given freedom of religious education is granted.

⁹³ Hodgson, 2012, p.406.

CHAPTER 2
UNDERSTANDING THE MADRASAS

2.1 A Brief Historical Account of Madrasa

This chapter is aimed to increase the familiarity with the madrasas. Locating its origin from the Arabic word “*darasa*” (to study), “madrasa” in contemporary South Asia alludes to a school that imparts Islamic knowledge⁹⁴. Madrasas, trace their traditions back through nearly a thousand years of Islamic teaching⁹⁵. One of the first madrasa was *Nizamiyah* which was established in Baghdad amid eleventh century A.D⁹⁶ however, the accounts differ as to where the madrasas actually begun. Some tracing back to Baghdad, Fez, Morocco, and other rich cultural hubs in the Middle East⁹⁷. In the South Asian context, madrasas have played a greater role in the past. The present day India, Pakistan and Bangladesh have been the host of huge number of madrasas in the past while the legacy still continues⁹⁸.

There are various who could be the forerunners of madrasas in the South-Asia and elsewhere. The reference can start from Ottoman Reformers of the Tanzimat or Nizam-e-Cedid periods, colonial representatives such as Lyuatey in Morocco and Macaulay in India, or the Cromer in Egypt, the Islamists and nationalist intellectuals naming Aflaq or Husri. These figures have seen education as subject to modification of any ideological sword they exerted. Ottomans used education to resist the intrusion of European power and to shape a promising future of the Empire⁹⁹. Madrasas proved to be their ideological counterparts which helped them unify people in the name of religion.

Dating from the eleventh century, Muslims began to establish their institutions exclusively for the transmission and support of religious knowledge. Over the centuries the madrasas and the similar schools such as *maktabs* or *jamia* became one of the most common features of pre-modern Islamic cities. Due to a huge disposition of scholarship emerged in the last three decades there is a better sense of the historical account of madrasas. Madrasas established as the transmitters of Islamic knowledge

⁹⁴ Bano, 2007, p. 49.

⁹⁵ Singer. 2001. p. 1.

⁹⁶ Malbouisson, 2007, p.63.

⁹⁷ *Ibidem*, p.8.

⁹⁸ Bano, 2007, p. 50.

⁹⁹ Berkey, 1995, p 4.

especially *fiqh*, often carried out by act of private charity¹⁰⁰ and served as central establishments of religious life in medieval Islamic World¹⁰¹.

Madrassa established in Baghdad in the late eleventh century by Nizam al-Mulk, the Persian subordinate to the Saljuq Sultans is remembered today as the quintessential. Historically, the madrasa in eastern Iran contends its position. Although madrasa became the leading institution of higher education throughout most of the medieval Islamic world, it was overlooked by the contesting school of thought '*sufism*'¹⁰², in Syria and Egypt¹⁰³.

According to Berkey, there is an unavoidable direct institutional continuity between the contemporary madrasas and the ones in medieval life¹⁰⁴. Since at least the end of the eighteenth century, the field of education has been in focus of the Muslim World, especially in the reformation of governments and leading movements¹⁰⁵. Battles over politics, Muslim modernity and identities were fought in the field of education, which still continues¹⁰⁶. These battles constituted the absence of a unified curricula is nothing new but as old as the Abbasids and Caliphates¹⁰⁷. With the time different *maslaks* have emerged teaching different points of view for disseminating the self-contested 'true' Islamic knowledge.

In the medieval madrasas, social and religious knowledge had significance and was penetrable in the lives of the students. As there was no one authority-like a church- there were different forms of interpretations of religious scriptures. The medieval world gave basic pedagogical methods for example a class of jurisprudence might be guided by a particular treatise which was memorised by the students and used in discussion, however that discussion was not dependent on texts. Teaching methods included reading materials loud and discussed afterwards¹⁰⁸. Although the

¹⁰⁰ Ibidem.

¹⁰¹ Ibidem., pp, 1-2.

¹⁰² Sufism is a contemporary and leftist form of Islam which emphasis on establishing a spiritual connection with God beyond the material gain. Most of the time, the orthodox who believe in full implementation of Shaira finds sufism anarchic.

¹⁰³ Berkey, 1995, pp.1-2.

¹⁰⁴ Berkey, 1995, p.2.

¹⁰⁵ Ibidem.

¹⁰⁶ Ibidem.

¹⁰⁷ Ibidem.

¹⁰⁸ Ibidem, p. 11.

madrastas today cannot be totally linked with their predecessors, they do depict a lot of resemblance in their methods and the authority of *ulema*¹⁰⁹.

2.2 The Types and Classification of Madrasas in Pakistan:

Pakistan inherited a fair share of madrasas after partition with India in 1947¹¹⁰. Currently, there are five official seminary boards (wifaq) which are in charge of regulation and representation of the madrasas belonging to the Deobandi, Ahl-e-Hadith, Barelvi, Shia, and Jamaat-e-Islami schools of thought. These madrasa boards are further organised under the organisation 'Itehad-e-Islami. According to all accounts, the majority of Pakistan's madrasas belong to the *Deobandi* school of thought¹¹¹.

Most madrasas in Pakistan are associated with the mainstream religious political parties. Jamaat-e-Islami, one of the most influential religious parties in the country, has a separate madrasa board in a considerable number that wins them seats in the National Assembly. The two divisions of Jamiat-e-Ulema-e-Islam headed by Maulana Fazlur Rehman (JUI-F) and Maulana Samiul Haq (JUI-S) run more than 65 per cent of madrasas in Pakistan. The relationship of madrasas and political parties is of significance as a considerable number of madrasa graduates go on to assume important positions in these parties¹¹².

2.2.1 How many Madrasas?

The aggregate number of existing madrasas-both registered and non-registered-stays to be clashed. Various sources indicate different numbers. The *Wafaq Al Madaris* website shows a total number of 19,504 whereas these are only affiliated with the board¹¹³. Often these numbers ignore the *Makatibs* (preliminary places to

¹⁰⁹ *Ibidem*, p.29

¹¹⁰ Bano, p.7. 2007.

¹¹¹ Khalil, 2016. p.6., Note that the Deobandi school of thought is 'reductionist' in its theory which focuses on following the scripts in its absolute sense. That is why the concept of jihad is fuelled in Deobandi school of thought because the quranic verses on jihad are not taken in its past circumstances rather adopted as a command.

¹¹² *Ibidem*.

¹¹³ 'Wafaq al Madaris' is translated as 'The Department of Madrasas', Wafaq al Madaris is a Government led body which was formed after 2001 9/11 attacks keeps a record of 'registered' madrasas.

learn Quran) which can be located in anywhere, even from a neighbourhood to a small room in anyone's house. According to a report Madrasa Conundrum, there are about 3.5 million students enrolled in 35,337 madrasas affiliated with ITMB but the figure remains to be uncertain. These figures are based on the data provided by the provincial departments to the ministry of religious affairs on 30th December 2014¹¹⁴. It is also acknowledged that the data provided by the provincial departments contradicts that of ministry of religious affairs which claims that there are 26,131 madrasas in its records¹¹⁵.

In Punjab alone, three different government sources provide three different figures regarding the number of madrasas in the province. Punjab Police says that there are 140,000 seminaries in the province whereas the provincial department and ministry of religious affairs place figures of 16,000 and 14,768 respectively¹¹⁶. On the other hand, the primary source (the union of madrasa board) indicates more than two million students registered only at Deobandi madrasas¹¹⁷-which leads to higher figures if other madrasa enrolments are also taken into account.

2.2.2 Madrasa Enrolments:

On the subject of madrasa enrolment as a percentage of total school enrolment, there is a widespread scholarly disagreement¹¹⁸. The varied calculations for madrasa enrolment crosswise over Pakistan range from less than half million to more than two million students¹¹⁹. In addition to the contradictory nature of the reports, there are several other problems with the publically available data. These include lack of documentation and information regarding the methodology of such surveys¹²⁰.

If there are 3.5 million children in Pakistani madrasas, then these institutes account for 9.3percent of the total school enrolment in the country¹²¹. This is a stark contrast with the claim by the authors of the World Bank study that less than 1 percent of the

¹¹⁴ *Ibidem*, p. 10.

¹¹⁵ Khalil, 2016, p.10.

¹¹⁶ *Ibidem*.

¹¹⁷ Wifaq Ul Madaris Website: <http://www.wifaqulmadaris.org/pages/introduction.php>

¹¹⁸ Park & Niyozov, 2008. p.333.

¹¹⁹ Andrabi, Das , Khwaja, Zajonc, 2005, pp.1-3.

¹²⁰ *Ibidem*, pp.11-12.

¹²¹ Park & Niyozov, 2008. p.333.

secondary school going population attends a madrasa¹²². The numbers provided by the study are controversial in scholarly circles. One of the critics of the report is Candland, who states that the attempt to ground the widely ranging estimates of madrasa enrolments in a verifiable data is laudable, but some scholars have found prate assumptions used for those estimates¹²³. The report is based in part on a national census and a national household survey, neither of which is designed to gauge madrasa enrolment. Indeed, the national census do not ask about the children's school or madrasa attendance. It only asks about adults' field of education¹²⁴.

One of the crucial considerations regarding the madrasa enrolment estimates is the distinction between part-time, full time resident, and non-resident students. There is no evidence that the established-based surveys take into account these considerations while estimating the madrasa enrolment. Generally, in Pakistan the madrasas of boys outnumber the madrasas of girls. Adding to it, a reliable data on the funding for the madrasas aside from general government allocations is unavailable¹²⁵.

2.2.3 Stages of Madrasa Education:

In the madrasa, first level is called *Ibtedai* where only Quran is taught. This level covers the early seven to eight-year timeframe of schooling. *Mutawassitiah* is the second stage or intermediary. It is usually three years long and comparable to the middle level in government schools. It may include the elements of intensive and specialised curriculum aimed to produce religious scholars or '*aalim*'. Students who complete their basic quranic education, and *Mustawassitiah* can go further for aalim course.

Usually Pakistani madrasas use the old '*Dars-e-Nizami*¹²⁶' syllabus. However, it is modified according to the sectarian affiliations¹²⁷. Sometimes an *alim* course requires 4 or 8 years of learning in order to get the degree. In summary, the four stages are first two: '*Sanviya-e-amah*, followed by '*Sanviya-e-Khasa*'. Later (final two), *Aalia* and *Alimia* are considered advanced. Completion of all these four courses

¹²² Khalil, 2016, p.10.

¹²³ Ibidem.

¹²⁴ Ibidem, pp 12-13.

¹²⁵ Fair, 2008, p. 41.

¹²⁶ Ibidem.

¹²⁷ Ibidem.

means a student has mastered Dars-e-Nizami which is equalling to 16 years of education. The final stage of religious study is ‘*takmeel*’. Comparable to post graduate studies, it can be one year or more long and comprises various specialized fields of study¹²⁸. These levels and ages of students are not related and sometimes a child of primary level can also be enrolled at the higher level such as *Mustawassitiah* in which he learns the interpretations of religious texts.

2.3 The Madrasas in Other States:

As mentioned above, the madrasas have been a legacy of an Islamic world. In this section the immediate analysis would be made by the neighbouring countries Bangladesh and India who had shared the same history in the evolution of these madrasas which are often considered to have better model than Pakistani madrasa. It is extremely important to analyse how they have managed their structures and exemplified the madrasa-state relationship before mapping the structure of Pakistani Madrasas in the next chapter.

2.3.1 Madrasas in India:

In the recent decade, Indian madrasas confronted dynamic changes to engage their graduates-both males and females-so as to match pace with India's rapidly developing economy and meet the necessities of the nation¹²⁹. Incorporating modern subjects in madrasas enfold various perspectives¹³⁰. Modernisation is considered as a restoration of the “true” “Islamic understanding of knowledge as inclusive that involves worship, societal relations and worldly interests¹³¹. It is also considered important for clergy to incorporate these changes in order to save their falling authority, power, and privilege as advocates of Islam¹³². Moreover, change is likewise viewed as vital for Muslims to thrive in the modern world¹³³. The religious elite is expected to approach the Quran without blind dependence on traditional interpretations and pursue facts which are relevant to the present conditions¹³⁴.

¹²⁸ *Ibidem*, p. 47.

¹²⁹ *Ibidem*.

¹³⁰ Sikand, 2005, p.159.

¹³¹ Paul, 2014, pp 3-8.

¹³² *Ibidem*.

¹³³ *Ibidem*.

¹³⁴ Park & Niyozov, 2008. pp. 341-342.

Lately, numerous madrasas in India, including the conservative ‘*Deoband*’, started incorporating vocational training into their curriculum, hence delivering their students “alternative sources of employment”, while some larger madrasas have managed to secure recognition of their degrees by certain public universities¹³⁵.

In India, the madrasa modernisation program received higher levels of acceptance within the madrasas compared to Pakistan¹³⁶. The madrasas are dedicated to change and modernize instruction for Muslim youth, and started to have a huge impact¹³⁷. There is a substantial level of trust between the government and madrasas in India because of the inclusive government policies and consensus on reforms among the students and clergy¹³⁸. The activist understanding about clergy is being formalised in which they are not restricted to work in madrasas only rather embrace the important role as the leaders in the community.

In India, the Quran is not used to restrict the knowledge dynamics but is taught in a rational way¹³⁹. Knowledge of the creation is said to be the means for acquiring knowledge of God¹⁴⁰. Madrasas in Pakistan were militated for waging proxy wars, contrary to it, in India the madrasas have never had such access to funding and armed training¹⁴¹.

2.3.2 *Madrasas in Bangladesh:*

Madrasa education is an integral part of the Bangladesh education system dating its origin back to the colonial period¹⁴². It has continued to operate alongside the general education system since the birth of Bangladesh. Having an important prominence in the education sphere, the madrasas in Bangladesh were subject to scrutiny as well. One of the most important critique was of the backwardness of the madrasas compared to the contemporary challenges of the world, on the other hand

¹³⁵ *Ibidem*, p. 15.

¹³⁶ Bano, 2010, p. 558.

¹³⁷ *Ibidem*, p. 21.

¹³⁸ *Ibidem*, p.9.

¹³⁹ Noor, 2007, p.41.

¹⁴⁰ *Ibidem*, pp.9-10.

¹⁴¹ *Ibidem*, p.27.

¹⁴² Ahmad, 2009, p.31.

there was a turn in these arguments per se after 9/11 which accused some ‘link’ between madrasas to breeding terrorism¹⁴³.

Madrasas in contemporary Bangladesh can be classified into three types: government, semi-government, or government-aided and private madrasas. The first two categories are known as Aliya while the third as Khariza or Qoumi¹⁴⁴. The government have a direct control on the Aliya madrasas in terms of funding, prescribed syllabi, and management. Aliya madrasas teach the same general curriculum as that of other government or government-approved general educational institutions. Unlike the general schools however, the alia madrasas provide Islamic education extensively alongside the general curriculum¹⁴⁵. For example, students who graduate from the primary level of an Aliya are able to transfer to schools at the secondary level. Many former graduates of an Aliya are integrated into the public sector.

Throughout Bangladesh, these madrasas have continued to increase since 1976. Under certain conditions, if the government recognizes these madrasas, the teachers of these institutions are provided full payment of their salaries, otherwise known as MPO (monthly payment order)¹⁴⁶. On the other hand, Quomi madrasas adopt their own syllabus which follows a predominantly religious content that greatly emphasizes Arabic, Persian and Urdu language studies¹⁴⁷. In Bangladesh, the religious elite has demonstrated a high level of adaptability to the evolving social, economic, and political conditions¹⁴⁸.

In the 1980s, the government attempted a plan to modernize the Alia madrasa framework whereby modern courses, for example, English, Bengali, Science, and Arithmetic were incorporated with religious courses. Lately, the Alia madrasas increased the employment of female teachers and opened admissions to female students. Regardless of the endeavours to modernize the Alia madrasa framework, the

¹⁴³*Ibidem*.

¹⁴⁴ Kusakabe, n.d, p.141.

¹⁴⁵ *Ibidem*.

¹⁴⁶ Yusuf, 2014, p.2.

¹⁴⁷ *Ibidem*.

¹⁴⁸ *Ibidem*, p. 112.

prospect for social transmission of customary dispositions inside these schools stays high, since majority of instructors are old and “traditionalists”¹⁴⁹.

Besides Qoumi madrasas enjoying more autonomy in selecting their curriculums compared to the Alia madrasas, these too underwent some important changes which are worth mentioning. Bangla has replaced Urdu as medium of instruction. It is an important step in the process of ‘indigenisation’ of Islam and its scholarship delinking the north Indian Islamic wellspring. Bangla is made compulsory to learn until the secondary level and it is interesting to highlight that qoumi madrasa did not teach Bangla before 1972.

Contemporary subjects such as economics, politics, and history of Islam in the Indian sub-continent up to the independence of Bangladesh have been added including English as a compulsory at primary level. Now several madrasas provide facilities for English learning at higher levels. The elementary school education has now been integrated within the *Quomi* madrasa curricula incorporating all the courses of general education along with the usual Islamic education taught in the madrasa. Most importantly, comparative religion has been added in the curricula so now students can also have a better understanding of other religions¹⁵⁰. These changes were brought because the religious body remained active in supporting the reform program¹⁵¹.

The government monitoring over these madrasas have been commendable. There has been a standardisation of academic performance evaluation by initiating a centralised system of curricula, examinations and syllabi under the auspices of two major federations of qoumi madrasas: Wafaqul Madaaris, which more than one thousand affiliated madrasas and Anjuman Ittehadul Maadaris which has more than five hundred madrasas affiliated to it¹⁵². Admission and administrative procedures, and efficient management practices, especially in the large madrasas are being undertaken¹⁵³. Computer literacy will serve to be productive, in managing the madrasa

¹⁴⁹Park & Niyozov, 2008. p.342.

¹⁵⁰ *Ibidem*, pp.333-334.

¹⁵¹ Bano, 2010, p. 560.

¹⁵² *Ibidem*.

¹⁵³ *Ibidem*.

website and creating jobs within the madrasas¹⁵⁴. In conclusion, Bangladesh offers an interesting case study for other Muslim nations that would like to initiate a modernisation plan to cross over any barrier amongst religious and mainstream schools¹⁵⁵. Also, the example of Bangladesh signifies how the trust between the state and madrasa authorities can be established, nevertheless madrasas are not in the perfect order however, they are on a road to progress.

¹⁵⁴ *Ibidem*, p.113.

¹⁵⁵ Ahmad, 2004, pp.101-110.

2.4 Scholarly Conflict: A Literature Review on Problems and Criticisms of Pakistani Madrasas

Over the years' Pakistani madrasas have attracted much criticism especially from the West. In the following section, the general criticism will be described and also a brief account of the problems outlined in the literature existing on the madrasas. Jamal proclaims that the madrasas in Pakistan are vital in four courses, as a major aspect of the educational policy, in propagation of islamisation, as recruitment of clergy and for their social effect¹⁵⁶. It is useful to inspect the issues of such an essential establishment.

Distressingly, Pakistan education statistics shows that only 40% of 70 million children are literate¹⁵⁷. The marginalised groups face worst circumstances and the madrasas remains their only viable choice as the private schools do not cater the poor. Furthermore, huge learning gaps exist between the students of private and public schools¹⁵⁸. The private school students perform much better in academics and enjoy greater returns on education¹⁵⁹.

Khalid and Khan contends that the education system in Pakistan spreads social differences¹⁶⁰, while Hetland places madrasas at the centre with the public and private schools and warns against forsaking their educational contribution and commitment¹⁶¹. Bukhari and Rahman comparatively encourage that educational role of madrasas should be recognised¹⁶². But, huge instability in madrasa numbers serves as an obstacle when incorporating them into policies¹⁶³.

¹⁵⁶ Sajjad, 2009. p.4.

¹⁵⁷ Zaidi, 2009. As quoted by Sajjad, p 4.

¹⁵⁸ Dal, 2009, ibidem.

¹⁵⁹ Asadullah, 2009, pp.77-86.

¹⁶⁰ Khalid and Khan, 2009, pp. 305-322.

¹⁶¹ Hertland, 2009. pp.40-42.

¹⁶² Bukhari and Rehman, 2006, pp.324-329.

¹⁶³ Sajjad, 2009, p.5.

Singer acclaims that the madrasas are sufficiently famous to debilitate removal of public education¹⁶⁴, while Andrabi in a persuasive World Bank study cites very low figures of one percent students attending madrasas¹⁶⁵. The enrolment estimates quoted by Andrabi et al, are much less compared to the exaggerated 33 percent reported by the International Crisis Group, which they later amended as a mathematical mistake¹⁶⁶. These statistics by ICG were also highly criticised¹⁶⁷.

Riaz demonstrates that recently cited figures have gone from 5,000 to 20,000 for the total madrasa numbers and 700,000 to 1.8 million for the number of students¹⁶⁸. This uncertainty is appalling yet unavoidable since records only exist for the registered madrasas at the district level and even those are distressingly obsolete. As the madrasa boards are not monitored, their record-keeping is also questionable. Scholars believe that the much awaited madrasa estimation will only start now¹⁶⁹.

Often depicted as traditionalist schools, madrasas are likewise held to be biased towards women. Recent studies quote a high estimate of 30% female students in madrasas¹⁷⁰. Madrasas in Pakistan are now providing education to almost a quarter of million women. Bano contends that the enrolment of female in the madrasas in Pakistan are more 'choice-based' and not only related to the poverty. She also adds that these madrasas charge nominal fee¹⁷¹ from the female students which rules out the poverty as a reason of enrolment. On the other hand, scholars criticise the madrasas for projecting gender disparities being single sex schools, which Qasmi stresses is important due to religious rulings as well as social and educational norms of the country¹⁷².

¹⁶⁴ Singer, 2001, p.6

¹⁶⁵ Andrabi et al, 2005, p.18.

¹⁶⁶ Fair, 2007. pp. 45-50.

¹⁶⁷ Candland, 2005, p20. and Riaz, 2008, pp, 162-190.

¹⁶⁸ Riaz, 2008, p.197.

¹⁶⁹ Sajjad, 2009. pp.18-20.

¹⁷⁰ Anderson et al., 2009, p 20; Butt, 2009, The Guardian. and Hetland as quoted in Sajjad.

¹⁷¹ Ebrahim, 2008.

¹⁷² Qasmi, 2005, pp.129-135.

The madrasa curriculum is also scrutinised for lacking the secular subject and approach. Ali and Farooq says that it tries to impart the patriarchal values to control women, hence disempowering them¹⁷³. Scholars like Denuelin and Bano projects the events of red mosque and female participation in protests as empowering¹⁷⁴. Female education is an essential part of madrasa legacy, however different than male madrasa and requires more research. The difference in male and female madrasa pedagogy and curriculum however leaves a question for the clergy and policymakers¹⁷⁵.

Contradictory views on life during and after madrasa education construct further divide on the issue. Hussain considers them to be strict establishments with inhumane conditions¹⁷⁶, while Ebrahim censures even the huge madrasas for absence of leisurely activities¹⁷⁷. Other critiques report of torture and sex abuse¹⁷⁸, also being reproachful of the clergy who trap poor families for their self-interest¹⁷⁹.

Besides, the curriculum is also criticised with charges of dismissing advancement and continuing on with a syllabus that prompts no economic prospects¹⁸⁰. Tavernise asserts that madrasas focus much on the memorisation of Quran¹⁸¹. Such analysis is common and depicts the confusion between ‘*maktabs*’ and ‘*madrasas*’- in which the former only focuses on the Qur’anic reading¹⁸². Sajjad contends that the curriculum ‘*dars-e-nizami*’ holds a rich history and is widespread taught by Pakistani madrasas¹⁸³.

Academically vast and structurally organized, it has eight or 16 years’ programs divided into six levels, each being equivalent to corresponding levels in mainstream education¹⁸⁴. Ahmad contradicts Sajjad and states that only eight out of 20 subjects are all religious, as facilities are limited, only some large madrasas are able to teach

¹⁷³ Ali and Farooq, 2007, pp. 49-50.

¹⁷⁴ Denuelin and Bano, 2009, pp. 2-8.

¹⁷⁵ Sajjad, 2009, pp. 16-18.

¹⁷⁶ Hussain, 2007, “The Trouble with Militant Islam”, Frontline Pakistan.

¹⁷⁷ Ebrahim, 2008,

¹⁷⁸ Murphy, 2005, “Sex Abuse in Islamic Schools”, Available at :
<http://www.frontpagemag.com/readArticle.aspx?ARTID=7220>

¹⁷⁹ Das, 2008, pp.2-15.

¹⁸⁰ Chaudhry 2005, p.26, Jalal 2008,p.239 , Hussain 2007, “The Trouble with Militant Islam”, Frontline Pakistan.

¹⁸¹ Tavernise, 2009, “Turkish Schools Offer Pakistan a Gentler Version of Islam”. *New York Times*: Available at: http://www.nytimes.com/2008/05/04/world/asia/04islam.html?_r=0

¹⁸² Sajjad, 2009. pp.18-19.

¹⁸³ Metcalf, 1982, p.705.

¹⁸⁴ Sajjad, 2009, p.19.

these subjects completely. When it comes to secular subjects, these are scarified over religious¹⁸⁵. As a result, the economic prospects are limited in the religious sector. However, this might be a deliberate strategy since otherwise religious inclination would decrease and madrasas might end up being overcrowded¹⁸⁶.

The contrasting views also exist on the Militancy, while Bano is a great proponent of madrasas and defends no affiliation with extremism on the other hand, Singer have a very hard approach in declaring madrasas as breeding grounds of terrorism¹⁸⁷.

¹⁸⁵ Ahmad, 2004, pp.101-116.

¹⁸⁶ Sajjad, 2009, pp.14-19.

¹⁸⁷ Bano, 2009, p.8, Singer, 2001, pp1-7.

CHAPTER 3
MAPPING THE STRUCTURE;
CONTESTING THE RIGHT TO QUALITY EDUCATION

1.1. 'ABSOLUTE' FREEDOM IN PRACTICE

The previous chapter gives an overview of the problems associated with the madrasas. These problems in a very certain way indicate the presence of absolute freedom in the madrasas which is an answer to one of the fundamental questions of this research. The field research conducted also implies that the greater number of madrasas does enjoy absolute freedom. Meaning that they choose their curriculums, teaching methods, ideology, and regulate their budget. As indicated before, there is no actual count of the number of madrasas, and there are distinct numbers of madrasas which cannot be accessed by anyone, even the government and military officials. An account of registrations and government reforms will be discussed extensively in the next chapter.

In the first chapter, the scope of legal limits to absolute freedom was outlined and in this section, an overview of the concept of absolute freedom in philosophical dimension is given now. An absolute freedom can be defined as a freedom enjoyed without any limitation. Morazain in 1972 published a work on this subject which philosophically defined and delineated the concept of absolute freedom¹⁸⁸. He quotes Desan's work entitled in "the theory of absolute freedom", he paradoxically writes: "there is only one limit to freedom, and that is freedom itself."¹⁸⁹ He further writes that "absolute freedom" and its "limit" is the only a little other than freedom itself could make freedom relative. In this sense, freedom could be both absolute and limited by itself, where "itself" can also refer to the freedom of other¹⁹⁰. It signifies to a general meaning that freedom cannot be enjoyed further if it interferes or limits the freedom of the other. Any deed which can be harmful dissociates the "absolute" from "freedom"¹⁹¹.

¹⁸⁸ Morazain, 1972. pp. 37-38.

¹⁸⁹ Desan, p.97, as cited in Morazain, 1972. p.37.

¹⁹⁰ Ibidem.

¹⁹¹ Ibidem.

Following the results of the field research conducted, the madrasas told that there were checks on them after the recently passed National Action Plan.¹⁹² However, the checks only intended to identify if some terrorists had sought refuge in the madrasa or not. There was no initiative of the government assessing the educational practices, on the other hand, the Military initiated these checks and not the Government¹⁹³. Unfortunately, the scholarship does not deal with the "absolute freedom" of madrasas in the given terms. However, there is laudable amount of literature indicating extensive freedom enjoyed by madrasas.

The enjoyment of this absolute freedom by the Pakistani madrasa requires the monitoring of the private education sector. So far there is no practice of holding private educational institutions accountable for their teaching methods Raza Rumi a famous researcher and journalist in Pakistan when interviewed said that the subject of religion is very sensitive to politicians and policy makers in Pakistan¹⁹⁴. He further acknowledges the absolute freedom enjoyed by the Madrasas in Pakistan. Tahir ul Qadri¹⁹⁵, underlining the security aspect quotes that the struggle to end terrorism is solely taken up by the Military, whereas the government do not want to formulate any monitoring for the madrasas¹⁹⁶. Dr Khalid Zaheer also agreed on no monitoring of madrasas in any way¹⁹⁷. Shad Begum¹⁹⁸ also quotes that madrasas remain their own caretakers, and they were never approached (even for security considerations) before National Action Plan¹⁹⁹.

¹⁹² National Security Policy was formulated after the Peshawar Attacks in 2014 when militants killed more than 140 students in a School.

¹⁹³ Madrasa Deoband, Wahdat Colony, Lahore.

¹⁹⁴ Raza Rumi, Interview Conducted , 20th April 2016.

¹⁹⁵ A political head and President of Minhaj Al Quran Pakistan. Renowned in progressive religious scholarship.

¹⁹⁶ The president of Minhaj al Quran, Tahir-ul Qadri Interview. Available At:

<https://www.youtube.com/watch?v=116p9DHyrFU>

¹⁹⁷ Dr Khalid Zaheer, Interview Conducted on 19th April 2016.

¹⁹⁸ Founder of Association for Behaviour and Knowledge Transformation (ABKT)-Women of Courage Award Winner 2012.

¹⁹⁹ Shad Begum, Interview Conducted on April 19th 2016.

3.2. WHY MADRASA? ASSESSING THE RATIONALE BEHIND MADRASA ENROLMENT

This section finds an answer to the question whether a madrasa education is a choice or a compromise for the parents and students because there are also divergent views on madrasa enrolment in the scholarship. Some contends madrasas are chosen due to religiosity while others consider as the last resort due to poverty and unavailability of good public education. Basing on the contradiction, this section will try to analyse if public education is accessible and available to the masses. In essence, the question of madrasa being a choice or a compromise cannot be answered alone without having a sound assessment of the public education sector. This section basically answering the question, ‘why madrasa?’.

The structure of education sector in Pakistan comprises of differing instructive institutions. These institutions are various relying on the financial, cultural and religious inclinations of the general population. The three most important and prominent education sectors are, public, private and religious. Madrasas fall in the religious sector²⁰⁰.

3.2.1 The Public Schools:

The public schools known commonly as ‘government schools’ in Pakistan are often referred to be sub-standard medium to attain education. It is a general conception in Pakistan that masses from the lower income strata tend to send their children to these schools. People from the middle-income strata opt for the private schools as their first choice²⁰¹. There is a great deal of truth behind it, which will be discussed further.

²⁰⁰ Sattar, Yasin, & Afzal, 2011. pp.55-56

²⁰¹ Saleem Safi, Interview (April 19th 2016)

3.2.2 Private Schools in Pakistan:

The private schools are now archetype in Pakistan. The private schools in Pakistan come in different types and market on different needs of the parents. Some run as religion-private entities such as Iqrah and Al-Huda schools. These schools promise a religious grooming along with the worldly knowledge, others such as Atchison, St. Anthony's and Convents are the remains of British legacy²⁰². There are also schools which are owned by the Christian missionaries, and some run by the military such as Army Public Schools providing low-cost and good education for the children of Army officers.

The private schools can be categorised as two further subtypes, the most popular among the majority are low-cost private schools, and other most popular are elite private schools usually cater to the needs of the rich and upper-middle strata²⁰³. The schools can also be easily accessed by the people and available in each and every locale. In scholarship it was noticed that many authors call these schools 'secular' however it does not hold truth in my view. The religion is also dominant in these private schools and 'Islamiyat' is taught as a compulsory course till the 12th standard²⁰⁴. Nonetheless, the textbooks on general education, English literature, Urdu Literature, and Social Sciences have excessive amount of Islamic content hence not qualifying it to be 'secular'.

3.2.3 The Dichotomy of Public Vs Private Education in Pakistan:

While the state remains responsible for free and compulsory education, it is private sector including madrasas which is catering to the needs of the students. A vast market for private education has developed over years. The growth of private education is directly correlated to the sub-standard and low-quality education provided in the public schools. It is a matter of past when the private schools were only located in the urban areas, and rural areas only had no choice other than opting for public schools or madrasa.

²⁰² Sattar, Yasin, & Afzal, 2011. pp.55-56.

²⁰³ Ibidem.

²⁰⁴ National Education Policy, 2009 Directive, *Also* included in The Constitution of Pakistan.

Save the Children Pakistan found that there is an increasing number of private schools undertaking education of lower income groups both in the rural and urban areas. The low-cost private education schools' branches opened in the rural areas have attracted excessive number of students. In Pakistan, the tuition fee in rural areas is usually low-less than the average day wage of unskilled worker²⁰⁵. Furthermore, nearly 10 percent of country's poorest household children are enrolled in the private schools.²⁰⁶

Andarabi et al. found that the tuition based schools situate in better-off villages and wealthier settlements inside villages restricting access to poor families²⁰⁷. The argument provided by Andrabi's study co-insides with my field research. In order to know the preference of education I conducted a field visit in the rural areas of Punjab, and Sindh. I visited the private schools which were popular among the wealthier settlements of the villages.

As an example a private school in Bhowana-a small town in the southern Punjab-named '*Anwar Jannat Memorial School*' was providing better education compared to the public school in the area. The school is an initiative of a landlord, and it stayed to be the parents first choice to send their children to Anwar Jannat²⁰⁸. Like Anwar Jannat, several such as Beaconhouse, Alied school, Educators [and many] had opened their school outlets in the better off parts of these rural areas. As well as in small cities namely Jhang, Sahiwal, Jacobabad, Kasur etc.

The families sending their children to these school possess some land and do not qualify to be very poor. Their agricultural capacities are "better" in the villages. Also These individuals live in the "wealthier settlements" as Andrabi's study suggested. These private school in such areas charge a fee of Rs.2000 per child a month excluding other expenses²⁰⁹. Interview with the parents affirms that their preference for private schools is due to the poor quality of public schools²¹⁰. The range of schools available

²⁰⁵ Andrabi et al, 2006. p.21-24.

²⁰⁶ Heyneman & Stern, 2014, p5.

²⁰⁷ Ibidem.

²⁰⁸ Field Visit to Bhowana, Pakistan, on 15th April, 2016.

²⁰⁹ According to the Conversion Rate, it is around 20\$.

²¹⁰ Field Visit to Bhowana and Jhang Pakistan on 15th April 2016.

can be found in the appendix.

3.2.4 The Right to Education Denied: Obstacles and Problems Associated with the Public-Schools:

Recently there have been studies conducted to assess the role of public schools demonstrating horrifying disclosures. Pakistan spends lowest of the GDP on education. Having less than 2% spending on education have serious repercussions. Pakistan has a literacy rate of only 58 percent, which has improved from 35 percent in 1990-91, however short of the Millennium Development Goals (MDG) target of 88 percent, which was to be achieved by the end of 2015²¹¹. There are around 24 million out-of-school children in Pakistan, the second highest figure in the World after Nigeria²¹².

Pakistan's social and living standards confirmed Punjab having only 64 percent enrolment rate at the primary level, having a greater literacy rate among males with 71 percent dwarfing 52 percent female literacy rate²¹³. Punjab is the wealthiest province in Pakistan comparatively having better law enforcement and number of schools which gives a dreadful prediction of other provinces' education. Overall, the estimated number of out-of-school children are aged between five and 16 is 13.1 million, which constitutes 47percent of the total population of children of school-going age again having majority of 52percent of girls.²¹⁴ Private school students in Pakistan outperform their government contemporaries²¹⁵. This effect persists even after the account is taken of other variables such as the child, household and schools. Also, the lowest fee private schools outperform the government school students²¹⁶.

²¹¹ Pakistan's Education Spending Lowest in South Asia, April 28, 2016, Downloaded From: <http://www.dawn.com/news/1254909>

²¹² Ibidem.

²¹³ Ibidem.

²¹⁴ Ibidem.

²¹⁵ Amjad & MacLeod, 2014, p.22.

²¹⁶ Ibidem.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) has warned that if the present trend continues then almost 16 million young girls between ages six and 11 will never find the opportunity to attend primary school, contrasted with around eight million boys deprived of primary education²¹⁷. Other UNESCO report states that in Pakistan girls are still the first to be denied the right to education despite all the efforts and progress made over the past 20 years²¹⁸. Hereby the identification of the obstacles is important to understand the reason behind such a brutal situation.

3.2.4.1 Obstacles:

Various obstacles severely impact the education sector of Pakista and are structural in nature. These include distinctive social, cultural and financial variables, for instance, the preference towards male education over female education, harmful and rigid social and cultural practices, direct and indirect school costs, for example, tuition fees, school accessories such as uniforms, books, bags and shoes and lack of transportation facilities²¹⁹. Additional obstacles are opportunity costs verses lower rate of returns for instance, child labor, domestication of girls in household works, child marriages, illiteracy of parents, female-headed households, wrong insight about female education and lack of awareness on the benefits of education²²⁰. Due to insignificant education in public schools, afterschool evening tuition is supplemented which incurs an additional cost for the parents.

²¹⁷ “16 Million girls will not get basic education, fears UNESCO”, March 03, 2016. Downloaded from: <http://www.dawn.com/news/1243153/16m-girls-will-not-get-basic-education-fears-unesco>

²¹⁸ Ibidem.

²¹⁹ Sattar, Yasin, & Afzal, 2011. pp.55-56.

²²⁰ Ibidem.

3.2.4.2 On Facilities:

On one hand, when harmful cultural beliefs and practices deprive the girls to acquire education, on the other hand, the absence of basic facilities in public schools, such as toilets and boundary walls results in a higher female drop out from schools²²¹. According to a recent report by Alif Ailan,-an organisation in Pakistan promoting the right to education- the basic school facilities are in the huge disparity between the public and private schools. Even though only 3% of the private primary schools receive funds from the government (as compared to 69% of public primary schools), the private sector provides better facilities. For example, 95% of the private primary schools have boundary-walls as compared to 89% of the government primary schools. Functional toilets are still not available in approximately 60% of public schools in rural areas²²².

The report further shows that the electricity remained mostly unavailable in the public schools, adding to it, the non-availability of toilet, drinking water, boundary walls are also main challenges. Drinking water remained at 64% availability compared to 79% of private schools. Electricity in the public schools remained to be at 49% compared to 71% in private schools. Boundary walls remained to be at 44% compared to 65% in private schools and toilets remained to be at 58% compared to 75% in private schools²²³.

In addition to this teachers are deprived of the basic employment benefits that contribute to their weak performance²²⁴. Insufficient teachers' salaries, weak monitoring system, low-quality interpersonal relationships of teachers with their students, fragmented teachers training, dissatisfaction of teachers on the issues of

²²¹“Why are Children Out of School”, Alif Ailan Report, 2016. Downloaded from: https://d3n8a8pro7vhmx.cloudfront.net/alifailaan/pages/1046/attachments/original/1446208658/why_are_children_out_of_school.pdf?1446208658. and Why So Many Children Drop out of Pakistani Schools?, Downloaded from: <http://www.dawn.com/news/1241630/why-do-so-many-children-drop-out-of-pakistanischools>.

²²²“ASER 2015: Public Schools Improve Enrolment”, 04th March 2016. Downloaded From: <http://www.dawn.com/news/1243495>.

²²³ Ibidem.

²²⁴ Ibidem.

school discipline and inadequacy in delivery of knowledge²²⁵. Due to the low wages of teachers they tend to bribe students and exploit them on various accounts²²⁶.

3.2.4.3 Hidden costs in public schools.

Besides the recent claims of free primary education provisions by the government the students continue to pay fees in many public schools²²⁷. In various schools such as government owned Queen Marry school a fee of Rs.20 per month is charged by students, also including various expenses and hidden costs²²⁸. According to interviews with various students, it was revealed that the public education at primary level includes many “hidden costs”²²⁹. One of the dropped out student from primary school stated that the teachers were corrupt and used to ask for money on various occasions. He used to work after school-*selling balloons*-to fulfil the additional costs on his education. The practice reached to a point where he was no longer able to afford it and discontinued his education²³⁰. The school never provided him anything for free, but regular teacher absenteeism wasted his time and vigor for education. In an interview with the Additional Director, Punjab Education Reforms it was revealed that no provision for free uniforms or any transportation facility is being planned-even for the disabled²³¹.

Musharraf Government provided the free textbooks at primary level which to date is continued but there is no provision of special transportation, or new public buses, and many schools are at far-flung distances- due to fact girls often discontinue education²³². Adding to it, there is no inclusion of the disabled in the public education sector with no provision of wheelchairs or disability friendly reading material²³³. Whereas the public schools do not cater the needs of the disabled but also are reluctant in admitting them, the disabled are asked to join special schools which are not enough in number, ill-equipped and also not free.

²²⁵ *Ibidem*, p.99.

²²⁶ M.Qasim, Interview Conducted on 6th April 2016. *Also*, Teacher of Queen Marry School.

²²⁷ Constitution of Pakistan, Available at : <http://www.pakistani.org/pakistan/constitution/>

²²⁸ F.M Interview Conducted on April 2016.

²²⁹ Interviews conducted, 6th April 2016.

²³⁰ M.Qasim, Interview, 2016.

²³¹ Ch. Muhammad Asif, Interview Conducted on 18th April 2016.

²³² *Ibidem*, Interview.

²³³ *Ibidem*.

3.2.4.4 Madrasa Enrolments-Beyond 'Choice':

More than 70% of the people in Pakistan have an income less than 1\$ a day²³⁴. Having severe poverty makes it hard for them to afford both public and private schools for their children. In the above mentioned stark situation of public schools, it could be inferred that there is also something beyond the religious reasons that parents choose madrasa education for their children, and that is poverty. It is such an imperative variable, to the point that ought not be disregarded. Most of the madrasas provide free boarding and lodging facilities. Families find it better to send their children for the education in a madrasa. Mostly parents said they wanted to send his children to a good worldly school but due to the financial barriers they could not afford to do so. The compromise settles for a better hereafter attending madrasa²³⁵. Madrasas turned out to be hugely famous by focusing on the lower classes and prevalently Afghan refugees, whom the Pakistani state has ignored to provide legitimate and inclusive access to education²³⁶.

A World Bank report suggests that madrasas do not form an important part of the decision-making of the average of Pakistani households. Their preference stays to be high for the private schools²³⁷. In Pakistan, the evident incline towards madrasas compared to the public schools is a result of the variables highlighted previously. This is also supported by argument made by Saleem Safi, a renowned Pakistani defence policy analyst and journalist. He says that if it's about choice people will send their children only to high quality English medium schools. He further quotes that the education in madrasas are in practice last resort of the parents as the madrasa bears all the financial responsibility of a child, they tend to compromise due to their inability to afford the most desired English medium private schools²³⁸. He concludes that, all the islamist politicians have given worldly knowledge to their children but when it

²³⁴ Poverty: The Official Numbers, Available at: <http://www.un.org/esa/socdev/rwss/docs/2010/chapter2.pdf>

²³⁵ Interview, M. Rafiq, Conducted on 5th April, 2016.

²³⁶ Singer, 2001, p.1-4.

²³⁷ Andrabi et al. 2006.p. 23.

²³⁸ Saleem Safi Interview Conducted on 19th April 2016. *Similar Opinion by Shad, Rumi, Jappa, F.M.*, See Appendix for Detail Reference.

comes to masses, they only promote the attainment of religious education and considers it unalterable²³⁹.

Besides poverty, is 'religiosity' is an important variable which should not be discarded. For some, madrasa education is beyond the basic necessity. There are some parents who do it solely for religious purposes that promises a greater place in the hereafter. Shahbaz works as part time driver in Lahore and possess a wish if he is blessed with a male child he will send him on the path of jihad to seek blessing of Allah²⁴⁰. For him, the best choice is to restrict his son's access to a worldly school²⁴¹. Based on interviews and field observation it is stated that religious reasoning behind madrasa enrolment is driven by influence of parent's religiosity (religious sentiments and way of life). They find it necessary to forerun this jihad however, a willful sacrifice of a male child for jihad is a very complex and a personal choice, and there is not much empirical evidence to support it. Mostly people do not disclose this wish and usually parents who are already in the Jihad training makes this choice²⁴².

The decision of enrolling a child to madrasa comes with many compromises. It is a trade-off in which both, parents and the madrasa authorities attain something. It is not allowed for parents to visit their children frequently²⁴³. Some get to meet their parents 15 days each even residing in the same city, and some wait for the occasions such as Eid (religious holiday) after six or more months to see their parents. It was also revealed that most parents are bonded labour and cannot afford to come, or they tend not to care²⁴⁴. This isolation from the immediate family is challenging for most of the madrasa students. However, they are given a training that their *Ustad* (teacher) now possess all the rights on him and should be respected as a father²⁴⁵.

According to an interview, a former public school dropout revealed that he was better off in attending madrasa because sometimes he never had breakfast and continued his day, in madrasa he eats three times²⁴⁶. Being at madrasa he had to forget

²³⁹ Ibidem.

²⁴⁰ Shahbaz Ahmed, Interview Conducted 5th April, 2016.

²⁴¹ Ibidem.

²⁴² Riaz khan, Interview Conducted, 6th April, 2016.

²⁴³ Field Visit Interviews, Madrasa Imdad ul Aloom, D Block, Wahdat Colony. Lahore.

²⁴⁴ M. Danish Ali, Muhammad Nazeer, Muhammad Shabbir, Interview Conducted 6th April, 2016.

²⁴⁵ Ibidem.

²⁴⁶ Field Research April 2016. See Also, Bano on "The Rational Believer, Choices and Decisions of Pakistani Madrasas", 2012.

the dream of becoming a doctor because he is not acquiring any worldly education as the madrasa do not have an modernised system to ensure it²⁴⁷. Not to disregard, the middle class families also sends their children however only for part-time Quran learning or memorizing. In conclusion, enrolling a student at a madrasa is not a compromise for everyone, for some parents it is a choice based on their religious preference however, poverty stays a predominant factor²⁴⁸.

²⁴⁷ Interview of a madrasa Student conducted April 2016.

²⁴⁸ Allah Ditta, and 10 other Parents of Madrasa Students Accepted that Public Education was very difficult for him due to many expenses, whereas madrasa is free of cost. Interviewed on.

3.3. INSIDE MADRASAS-TRACING THE QUALITY EDUCATION

This section attempts to describe the locale-trying to capture the ethos of the madrasas and describes the results of the field research including the interviews conducted. The list of madrasas visited and their locations can be found in the Appendix. Despite the fact that there is no unified structure of the madrasas, and the localities contrast to each other hugely, it will be plausible to draw inference.

3.3.1 *On Physical Structure:*

The madrasas situated in the urban areas varies much in any basic attributes, the size depends on the economic abilities of the madrasa, and the residing number of students relies on the hosting capacity of each madrasa. The madrasas in the developed part of Punjab and Sindh have restrictive premises, with as a rule usually a boundary wall and the main gate. Crossing it without the consent of madrasa authorities is difficult²⁴⁹. The madrasas have their designated representative who inquiries about guests and purpose of their visits²⁵⁰. Mostly, there were no gunmen for the security, besides Karachi and Interior Sindh and particularly outside the Shia madrasas due to the security threats they face²⁵¹.

A madrasa typically has one common toilet for the use, one bathroom, and a common room for the students to sleep. There can be up to 15 students residing in one room without age segregation²⁵². There are some students responsible for cooking and also to serve the teachers²⁵³. The cooks have the practise only to eat after others²⁵⁴. The students board and lodge in a majority, while others have their homes close by and visit their families after fifteen days²⁵⁵.

²⁴⁹ Field Research Observation, April 2016.

²⁵⁰ Ibidem

²⁵¹ *Ibidem*, also note that the increased security in Shia Madrasas is a result of the sectarian target killing. The Shia Madrasas and mosques are always under a threat of sectarian violence.

²⁵² Ibidem

²⁵³ Ibidem

²⁵⁴ Ibidem

²⁵⁵ Ibidem

There were no playing zones inside the madrasas; in any case, a few madrasas have the practice to permit their students to play close-by the madrasa veneers. Most of the students enjoy playing cricket in their play-time which usually between 3-5pm. However, not all madrasas allow their students to engage in sports due to huge class load and a restrictive approach to extra-curricular activities²⁵⁶. Likewise, there are no means of communication available to the students, for example, a phone booth, computers or mobile phones. The students if necessary communicate with their families only through the madrasa authorities and thus are not permitted to keep their own electronic devices once they live in madrasa premises.

There were no desks and chairs like a standard public, or private schools would have. During the lessons, the students sit on Dari (traditional floor mats) and recite their classwork. They have small Quran holding desks because it is not permissible to place the Quran on the floor. There was no practice of note-taking but focus was on memorisation²⁵⁷. Usually in the public and private schools' students display their artwork on the classroom walls. The madrasa walls stay plain and henceforth nothing colourful is ever advised to post.

There is no facility for psychological counselling for the children and adolescents and its significance is unknown to the authorities²⁵⁸. Most madrasas were so small that there were only one or two rooms²⁵⁹. Students are cluttered, and when it is summer, many had no cooling facilities. The life constitutes to be simple inside a madrasa. It is important to clarify that the structure of madrasas described above has been accessible, and there are uncountable madrasas situated on the north-western side of Pakistan which are not accessible, and cannot be visited by any outsider especially a woman.

²⁵⁶ Ibidem.

²⁵⁷ Ibidem

²⁵⁸ Interviews Conducted April 2016.

²⁵⁹ Madrasa located at Bedian Road, Lahore.

3.3.1 *On School Violence:*

Besides claims of madrasas providing the lifelong learning to their students²⁶⁰, there are several human rights violations associated with their practices. One of them is the practice of corporal punishment. The corporal punishment holds a very positive connotation inside a madrasa setting. It was remarkably strange to observe even children consider this practice as an inevitable part of the madrasa education which they have to accept and all the students verified about this practice²⁶¹.

The madrasa authorities, when asked, accepted having this practice and consider it the best way to train their students²⁶². The practice happens when a student fails to memorise the '*sabak*' lesson of Quran, or there are any other violations of madrasa discipline code. The code is not written anywhere but if there is a violation of the 'code of conduct' such as any practice which includes possession of cell phone, giving extra information to anyone, saying 'no' or being rude to the teacher, or any interaction with outsider and vice versa²⁶³.

As the methods of corporal punishment vary in each madrasa there are no standards set. There can be beating carried out with the stick (caning), lasing, denial of food as a punishment and flogging²⁶⁴. One of the interviewees, former madrasa graduate, told that the practice of corporal punishment was subject to the teacher's authority. There was a fixed time to wake up in the morning, before *fajr* prayers and if there was someone who could not get up on time, he was punished heavily in front of everyone. That person would be beaten and cry for mercy. He further quotes, "it happened to me, I used to face the same punishment with other students and it had left scars on my body. When my mother was dressing me for madrasa she saw the marks on my back and complained to *Ustad*; however, it never stopped because it was an inevitable part of the madrasa discipline"²⁶⁵. He also says that the beating never required serious

²⁶⁰ See, Chapter 2 [For Pro-Madrasa Writers].

²⁶¹ Student Interviews; Field Research 1st April-20th April 2016.

²⁶² Field Research Observation, 1-20th April 2016.

²⁶³ Interview with M.Ajmal, 4th April, 2016.

²⁶⁴ Also, the verbal assault is common.

²⁶⁵ Ibidem.

mistakes, even on wrong pronunciation of any Arabic word²⁶⁶ was enough for the punishment²⁶⁷. The former madrasa student acknowledges that the psychological trauma he encountered in his childhood madrasa experience still haunts him²⁶⁸. On the other hand, some students consider corporal punishment religiously allowed²⁶⁹

Usually, the practices go unreported but due to recent freedom of press, there are now cases taken up by the media. Abdul Sattar Edhi, a well-known philanthropist and social worker in Pakistan runs many shelter houses acknowledge that many students from Madrasas manage to runaway due to extensive corporal punishment and seek refuge in his shelters²⁷⁰. These students seek no hope from their families because of extreme poverty and sometimes end up being the street children. Madrasa Usmania in Ali Akbar Goth area of Karachi is well known for the perennial violence on children²⁷¹. There were also reports of children found dead in the madrasas. In 2015, a nine-year-old student was found dead in his hostel room in Sujawal town after extreme violence²⁷². In Vehari, a boy died due to extensive torture by his teacher²⁷³ whereas students were repeatedly tortured in the madrasas of Sahiwal²⁷⁴.

It is vital to highlight that the corporal punishments are also practiced in the public schools, however there is better monitoring and it easier to approach the public schools in the case of reported violence. On the contrary, the madrasa students can neither report to anyone, nor they have any protection by anyone. The situation undoubtedly stays severe in the madrasa context.

²⁶⁶ Mostly during elementary *nahw*- under the direct supervision of the teacher- mispronunciation can cause trouble [See appendix]

²⁶⁷ Ibidem. *Also*, all the ongoing madrasa students quoted the same practice.

²⁶⁸ Ibidem.

²⁶⁹ Hafiz Aslam Ansari, Interview Conducted on 13th April 2016.

²⁷⁰ Ali, 2009, "Corporal Punishment in Pakistan", Available at:

https://www.youtube.com/watch?v=E5bV_ydOBpk.

²⁷¹ "IG Sindh Orders Action Against Cleric for Torturing Seminary Student", June 16, 2016.

Available at: <http://www.dawn.com/news/1265249>

²⁷² "Nine Year Boy Found Dead in His Seminary Hostel Room", 23rd February 2016. Available at:

<http://www.dawn.com/news/1241231/nine-year-old-boy-found-dead-in-his-seminary-hostel-room>

²⁷³ "Autopsy Confirms Torture Caused Student's Death", 21st May 2008, Available at:

<http://www.dawn.com/news/305324>

²⁷⁴ "Student Tortured By Cleric", 29th June 2015, Available at: <http://www.dawn.com/news/1191111>,

3.3.2 Curriculum and the Teaching Methods

As mentioned earlier in this research that the madrasas continue their sectarian legacies. Each interpretative school naturally modifies the curriculum according to its sectarian requirements for example Deobandi School of thought in Pakistan have their “*Wafaq ul Madaris*” board propagating same ideology in their curriculum²⁷⁵. A sample Deobandi curricula is attached in Appendix, evidences that no inclusion of modern subject as per the madrasa reform agreement. As described the curriculum is subject to the madrasas' discretion. It means that individual madrasas decide autonomously what to teach and preach²⁷⁶. Even there are outlined curricula by each board, the practical use of the curriculum seldom exists²⁷⁷.

On madrasa visit a madrasa head notified that they do not believe in printing a curriculum or syllabi on a piece of paper because the teacher is expert in what we intend to teach. In his words, “our teacher have everything in his head”²⁷⁸. The teacher further emphasised that they did not have or need any written *duniavi* curriculum because what they teach doesn't require any worldly curriculum and it is beyond any addition²⁷⁹. According to them, the religion is the ‘key’ to all the problems a student would encounter in his life²⁸⁰. Religious leaders who decide the curricular content in the madrasas regularly fight that each part of knowledge that a Muslim needs to know was uncovered to the Prophet and is preserved in the Qur'an and the hadith which albeit was referred as the ‘key’²⁸¹.

Examination of the syllabi and curriculum of the Pakistani madrasas shows that in the name of refutation, potent criticism of other sects and religious minorities, hatred towards other sects, and a restrictive mentality is imparted, from the very beginning of the madrasa schooling²⁸². It is additionally an argument that if much

²⁷⁵ Fair, 2008, p.73, *See Also*, p.76.

²⁷⁶ Ahmed, 2009, p. 6.

²⁷⁷ Hafiz Zaheer, Interview Conducted on 14th April 2016 at Madrasa Usmaniya Tul Quran

²⁷⁸ Ibidem.

²⁷⁹ Interviews with Madrasa Clergy, Field Research April 2016. *See Appendix*.

²⁸⁰ Zaheer, Interview Conducted on 14th April 2016.

²⁸¹ Madrasas usually do not follow the written curricula at primary level. The madaris visited did not have a written outline of what they are teaching-whereas on the *wifaq-ul-madaris* website they have posted curricula also excluding primary level. [See Appendix-for the curricula].

²⁸² Sikand, 2004, p. 272 As quoted in Park and Niyozov, 2008, p.7.

consideration is to introduce modern or worldly subjects in the madrasas than the workload for the students will be an excessive amount to manage. Because they would not be able to master any of the two areas of knowledge²⁸³.

Teaching Methods are redundant and follow the centuries old tradition of *Dars-e-Nizami*²⁸⁴. A teacher is the head of the class and follows a strict discipline in his presence. The teacher as well has to belong from the same sect as the madrasa follows. One teacher usually takes up the class of at least 40 students. The students are of different age groups mixed-up together²⁸⁵. The teacher also has discretion of giving punishments without seeking permission to the higher authority²⁸⁶. There are also references being made to the student's background in a derogatory way²⁸⁷. The essence is to make religious experts however subject to their own terms²⁸⁸.

In the Quran memorisation classes, during 'hifz' the teacher assigns students to memorise the verses and takes oral test every other day. Failure to remember a verse or mispronunciation results in punishment²⁸⁹. Most of the students only memorise the Arabic verses of Quran without knowing the meaning²⁹⁰. Moreover, in the higher classes the 'tafseer' is also done by imam which is interpreted subjectively. The curricula are ambiguous on the worldly courses having no directive of which textbook followed and syllabus. Also, the teachers themselves are not familiar with any modern course but included in published curricula.

3.3.3 Practices of Child Sexual Abuse and Madrasa

While contenders find madrasas as 'contributing' and safe environments, it was quite opposite to my observation. Teachers in the madrasas are often in the news for the child sexual abuse. It is however not alleged that all the madrasas are exploiting children. However, a substantial number of madrasas are involved in such practices.

²⁸³ *Ibidem*, p.18.

²⁸⁴ See Appendix- Syllabus of Dars e Nizami uses books from 9th to 17th Century, no modern courses included. Also, only *Deoband and Bareilvi* have published their curricula for public, however in practice they differ to the published curricula in a greater extent.

²⁸⁵ Field Research Observation, April 2016.

²⁸⁶ Interviews with Madrasa Clergy and Students, April 2016.

²⁸⁷ *Ibidem*.

²⁸⁸ *Ibidem*.

²⁸⁹ M.Ajmal, Interview Conducted on April 4th 2016.

²⁹⁰ Field Research April, 2016.

Upon interview, it was noticed that the madrasa students have no awareness regarding child sexual abuse and the dangers associated with it²⁹¹. It is one of the problems with the whole society where this is never discussed with the students and considers it a ‘taboo’. Children cannot communicate with their parents and the ones living far away are more disadvantaged. Only the newspapers and NGOs highlight it, while there is no government report on the practices of child sexual abuse in madrassas.

The madrasas do not encourage their students to have awareness about sexual abuse. One of the NGO named Sahil working for the rights of children wanted to conduct a liaison with the madrassas to educate children about dangers of child sexual abuse. Besides many efforts, this NGO was denied entrance and cooperation with the madrasa authorities²⁹². As a result, of ignorance, there is a huge problem of under-reporting²⁹³. In 2015, there were at least 13 cases of sexual abuse in madrassas which made their way to the newspapers²⁹⁴. Children are constantly barred from any awareness regarding the protection of their physical integrity. Not only inside madrasas, the graduates who after this practice serve as *qaris-home tutor for recitation of Quran*- have also been the abusers²⁹⁵. In Bahawalpur, a young boy was raped by his teacher last year and his parents still seek justice²⁹⁶. It should be made clear that the sexual abuse itself is high in the Pakistan, while most cases happen in child’s own house or at acquaintance’s²⁹⁷. The problem with madrasa is again its ‘closeness’ and inability of children to retaliate as they scared of going back to their poor families and being a burden on them.

²⁹¹ Ibidem.

²⁹² Sameera Nazir, Lahore Office head, Sahil NGO, Date Visited, 20th April 2016.

²⁹³ Bari, 2012, “Child Sexual Abuse: Paedophiles in holy grabs molest kids, betraying parents trust”. Available at: <http://tribune.com.pk/story/342191/child-sexual-abuse-paedophiles-in-holy-garbs-molest-kids-betraying-parents-trust/>

²⁹⁴ “Cruel Numbers 2015” by Sahil, p.20. Available at: <http://www.southtyneside.gov.uk/CHttpHandler.ashx?id=14397&p=0>,

²⁹⁵ Interview deductions from Ali, Hamid, Qaiser and Farrukh.

²⁹⁶ “Cleric Arrested for Raping Student”, 19th October, 2015. Available at:

<http://www.dawn.com/news/1214065/cleric-arrested-for-raping-seminary-student>

²⁹⁷ Sahil NGO’s Cruel Number on Child Sexual Abuses shows highest number of abuses are in Immediate family and friend’s house.

3.3.4 Militancy and Madrasahs

The studies associating militancy with madrasahs are excessive, on the other hand, there are studies published deny the alleged arguments²⁹⁸. In the scholarship, Taliban leadership was linked to the madrasahs such as *Darul Haqqania* in the Northern Pakistan has served as an alma mater to Mullah Muhammad Omar, and other terrorists²⁹⁹. The head of seminary, Maulana Sami Ul-Haq openly quotes Osama Bin Laden and Mullah Omar as heroes³⁰⁰. Saeeda from Institute of Peace and Secular Studies have recently conducted a study on the madrasa and militancy problem indicates that the madrasahs have been associated in militancy significantly and enjoy enormous monetary grants³⁰¹. She further quotes that the militants are produced by taking the vulnerable children mostly under the 18 years of age and are being trained for the jihad³⁰².

Contrary to it, all the interviewed madrasa teachers denied the allegation of being associated with any terrorism activity. However, they also accepted presence of militant madrasahs in the country. Also, the madrasa teacher's narrative indicates a positive approach towards the ones who stand against the state and commit terrorism³⁰³. Having this attitude within madrasa is alarming because large number of students are children. It is important to mention that the madrasahs are not only the breeding ground for the terrorists, also they are the owners of several *tanzims-(militant groups)*³⁰⁴. Madrasahs like Haqqania do not train anyone on the military edge inside however prepare them to take the responsibility of Jihad in their life³⁰⁵.

From the field study it was observed that almost all the students knew about jihad irrespective of their age. Not only knowledge but there is also a will to someday they will be able to make jihad as they seems to consider it a golden opportunity which

²⁹⁸ See, Bano., Please provide the names of the authors.

²⁹⁹ "Hardline Schooling", Bensemra, 20th September 2013, Available at:

<https://widerimage.reuters.com/story/hardline-schooling>, Reuters [Accessed on]

³⁰⁰ Ibidem, See also, Jihad 101, Taliban Basic Training In Pakistan, Available at: <https://www.youtube.com/watch?v=zIGbglprvGo>

³⁰¹ Diep Saeeda, Interview Conducted on 10th April 2016.

³⁰² Hafiz Zaheer, Interview Conducted on 14^h April, 2016.

³⁰³ Ibidem

³⁰⁴ Fair, 2008, pp 90-92.

³⁰⁵ As quoted in: Jihad 101, Taliban Basic Training In Pakistan, Available at : <https://www.youtube.com/watch?v=zIGbglprvGo>

will unlock the key to heaven and mark their contribution in preserving Islamic values³⁰⁶. Appallingly all the students have a negative approach towards non-Muslims and considered '*kafir*'. They find it legitimate to kill someone who is a threat to the Islam. The identification of 'threat' is also subject to the *ulema's* discretion. Arguments defending madrasas of not being militant can be reproached in the literature however, the madrasas are producing easy and vulnerable targets for militancy.

³⁰⁶ Student Interviews, Field Research, April 2016. [Transcripts available only on request].

3.4. DURING AND AFTER THE MADRASA GRADUATION

This section aims to provide an overview of madrasa students' life during and after graduation. It is an insight to understand how madrasa students are trained and if necessary skills are attained or not.

3.4.1 *On Confinement*

Life amid madrasa course is very different from the regular students who stay with their families and attend local schools. During the madrasa education life of a student is confined to the madrasa and the activities associated with it. As mentioned in the previous sections that students only join the madrasas for '*hifz*', and they reside with their families. These students attend the worldly schools after the completion of *hifz*. Being day scholars, they are comparatively more exposed to the outside world because of the proximity to the family environment and an aim to attend the worldly schooling afterwards. On the other hand, the students who reside in madrasa having a poor socio-economic background stays more restricted than their other counterparts. This confinement could also be defined as having a total isolation from the outside world.

The students are not allowed to step outside the madrasas without the permission of madrasa authorities, and also parents are not authorised to visit them often³⁰⁷. Moreover, there are no recreational tours to museums, sports, parks, or historical sights while musical training or association with arts is considered *haram*³⁰⁸. Madrasas in India have started vocational training for their students however in Pakistan they do not get any additional learning besides madrasa course³⁰⁹. Out of all the madrasas, the ones affiliated with the madrasa board and guided by the elite are having some programs for extra-religious learning. However, it remains limited to very few³¹⁰.

³⁰⁷ Field Research, April 2016.

³⁰⁸ Ibidem.

³⁰⁹ Anzar & Carter, 2006, pp.1-12.

³¹⁰ Saleem Safi Interview Conducted on 19th April 2016.

As indicated in the previous section, the communication with the parents is dependent on the authorization of madrasa head. Having confiscated means of communication, the madrasa head decides when a student can his parents. Those residing in cities had access to their families in times when they were sick, on the other hand, the children from poor families remain deprived of family environment³¹¹.

3.4.2 *Serving the Religious Industry*

Most madrasa students find themselves incompatible with the demands of outside world so they tend to remain in the religious industry. Students are trained to find work in mosques, madrassas, or other educational institutions as Imams, teachers, and researchers in religion³¹². It should be also emphasized that not all the students have a mental capacity to go further for the *Alim* course (religious scholar course). Few madrasa students also opt for matric exams however, they are the ones having the financial support from parents and unfortunately they are found seldom. A madrasa graduate always holds up to his madrasa ideology. The ‘*tablighi jamat* (preaching party)’ is a new trend for the madrasas who hold up sermons and chanting to praise Muhammad in order to spread the message of Islam to the alleged “lost and deprived”. On certain occasions they tend to take a tour of this *tabligh* to other cities. Also, madrasa students are hired to recite ‘Quran’ at various occasions. In order to take up the teaching in madrasas the graduates only will be able to get a job in the madrasas of their own *maslaks* (sects)³¹³.

³¹¹ Field Research, April 2016.

³¹² Dr Khalid Zaheer, Interview Conducted on 19th April, 2016.

³¹³ See also, Fair, 2008, p. 82.

3.4.3 *Limited Learning or No Skills*

The learning skills in madrasa comprise on the ability to do a better recitation, recite naats, or have an ability to think and pursue life according to the guiding principles of the institution. As discussed earlier that the focus is mostly on repetitive memorization of Arabic texts on the cost of completely excluding basic subjects' math, geography, or science. Resulting to this, the madrasas madrasa graduates acquire skills that do not fit well with the job market. Upon interview, it was accepted by the madrasa authority that they do not need to have a skill of any other profession as they are the 'experts' of their own field, religion.³¹⁴ So it is the 'ultimate' knowledge for them which does not need any modification.

3.4.4 *Participation in Political Groups and Parties.*

Previously, it was argued that the life of madrasa students is confined *however*, in this section it is argued that many madrasas also go beyond theory and involve youngsters in action, such as protests, lectures and sermons- only extra-activity that madrasa allows³¹⁵. Involvement in these parties serve to be counter-productive because the political actors continue to manipulate these students³¹⁶. The political parties have owned their madrasa resulting an unprecedented vote bank³¹⁷. To extend the traditional influence the local power circles, some madrasas have joined the support of political parties contesting same ideologies³¹⁸. In 2002 general elections most madrasas from all school of thought backed the electoral alliance of the six main religious parties namely the Mutahida Majlis-e-Amal (MMA) which secured six seats in the national assembly, mainly in Karachi. The victory was a result of the extensive madrasa support³¹⁹.

³¹⁴ Hafiz Interview Conducted on 6th April 2016.

³¹⁵ Ahmed, 2009, p.7.

³¹⁶ Ibidem.

³¹⁷ Fiar, 2007. pp.82-85

³¹⁸ Rehman, 2015, "Madrasas eye a Shot at Greater Political Power". Available At: <http://www.thenews.com.pk/print/72869-in-karachi-madrasas-eye-a-shot-at-greater-political-power>

The News International.

³¹⁹ Ibidem.

Also, the ideologies and funding have been alleged to find the roots in Saudi Arab and Iran, the two rival countries propagating different ideologies. It is common knowledge that the Saudi Arab's *Wahabhiism* is backed by the Madrasas in Pakistan to a greater extent³²⁰. Joining such trend the Shia madrasas have gained popular support by the shite school of thought³²¹. The political struggle of the students involved takes another form of defence for their ideology and takes a form of sectarian violence explained in the next section. Indian Sub-Continent (India, Pakistan and Bangladesh), is perhaps the only region where during the last twenty years, politicians from different parts of the world have found a platform in Madrasas to advance their political agendas³²².

3.4.5 The Enemy Within: *Sectarian Activism and Madrasa*

Madrasas are sectarian in content and manner of delivery; meaning that it inclines students to blindly follow the point of view of their teachers³²³. Students taught in radical madrassas in Pakistan have additionally been part of sectarian violence over the decade amid which several Shias and Sunnis lost their lives³²⁴.

The link between sectarian violence and madrasa is empirically backed. In the scholarship, even if authors disagree with militancy argument, they have a consensus on madrasa and sectarian violence. Rehman quotes, madrasa students have a greater taste for *jihad* compared to the public and private school counterparts³²⁵. *Jihad* in its essence is not aimed against *infidels* only, rather the other sects are perceived to be on a wrong track and hence taken as non-Muslims. The *deoband* and *wahabi* madrasas consider Shia and Ahmadi as *kafir*³²⁶. Ahl-e-Sunnat or Barelvis, show extreme relevance to the Prophet Muhammad and the Saints, but when it comes to attacking

³²⁰ Ibidem.

³²¹ Noor et al., "The Madrasa in Asia: Political Activism and Transnational Linkages", p. 123.

³²² Anzar, 2003, pp.1-17, Downloaded From

http://siteresources.worldbank.org/EDUCATION/Resources/278200-1121703274255/1439264-1126807073059/Islamic_Education_Paper.pdf, [Accessed on:

³²³ Dr Khalid Zaheer, Interview Conducted On: 19th April 2016. .

³²⁴ Ahmed, 2009, p 6.

³²⁵ Fair, 2007. pp.73-74.

³²⁶ Students Interview Conducted, Field Research April 2016.

Shia, the opposing parties seem to unite.³²⁷ Many madrasa students opt to join sectarian parties to spread and defend their sect and values albeit any violent act if required. All the primary anti-Shia militant groups are Deobandi in orientation and take their cues from Deobandi *ulema*³²⁸.

The connection between Deoband Madaris and the anti-Shia militant group, *Sipah-e-Sahaba Pakistan* (SSP) are well known. The SSP founded by a Deobandi Cleric named Haq Nawaz Jhangvi from the city of Jhang in the Punjab. SSP cadres emerged from the Deobandi madrasas throughout the Punjab and Sindh³²⁹. Saleem Ali, in his study, marshalled evidence to support his argument that the strongest link between Madaris and violence is in the arena of sectarian activities³³⁰. He found out a positive correlation between the sectarian activity and madrasa density³³¹. Shah writes that madrasas contributed in the ‘sectarian-split’ and served as training centers for sectarian militants³³². The Gilgit-Baltistan incidents of 2012, where many Shias were killed jolted the communities in the area and demanded the decisive action from the government³³³. Beyond the state's purview, madrassas also collect funds on behalf of sectarian militant groups under the guise of charitable donations and provide key venues for sectarian militants to network and coordinate attacks³³⁴.

³²⁷ Ramzan, 2015. p. 421. See also page 12, Khateeb Fanning Sectarianism.

³²⁸ Fair, 2009, p.99.

³²⁹ Ibidem. See also, Shah, 2014, “Evolution of Sectarianism in Pakistan”. pp.441-459.

³³⁰ Ibidem. See also, Rana, 2004, p.415, and Reetz, 2009, ‘From Madrasa to University’.

³³¹ Ibidem.

³³² Shah, 2014. p.453.

³³³ Hunzai, 2013, p. 2.

³³⁴ Yusuf, 2012, p.7.

3.5. A VICIOUS CIRCLE- BLOCKING THE CHANGE

In the mediaeval Muslim world, education was conceived as a pillar of stability rather than a force for change³³⁵. For the proponents of medieval Islamic culture, the idea that education and transmission of knowledge could be an instrument of change is nonetheless clashing³³⁶. What makes it so is the dominant grain of medieval Islamic discourse. The language of discourse in effect, its 'ideology', although of course medieval Muslims would not have used that term- its tone/language or ideology explicitly conservative- again in the literal sense of that term. "Every new thing is an innovation, and every innovation is an error, and every error leads to hell"- a dictum which, like many other ideological expressions, was cast in the form of saying of Muhammad and is propagated today as the final word by madrasas³³⁷. In the madrasa environment education was seen as a force of stability rather than "change"³³⁸.

The 'change' can be controversial in the discourse of madrasah. First of all, it is desirable to know which change is referred here. A change that incorporates the values of Human Rights and Quality Education guidelines as provided in chapter 1 and the one embracing modernity to equip students with all the necessary skills to progress. History evidences, in the Indian sub-continent and Malay Archipelago, there was much antagonistic vibe towards British, Spanish, American principles and Christian Missionaries. Subsequently, the madrasas started to close their entryways and distant themselves from modern western knowledge, which was seen as somehow "un-Islamic"³³⁹.

In today's world, the very change referred before is considered "un-Islamic" and a western propaganda to tarnish Islamic values. There is a great level of rigidity among

³³⁵ Berkey, 1995, p 11.

³³⁶ *Ibidem*.

³³⁷ Ibn Al Hajj as quoted in Berkey, 1995, 42. p.13

³³⁸ *Ibidem*, p. 14.

³³⁹ As quoted in Park & Sarfaro, 2008, p.14.

the madrasa administration. In the next chapter, I will discuss in detail about the reforms brought by the government and evaluate why these reforms never met success identifying if there was unwillingness. In this section, it will be analysed why there is no change formalised in the madrasas and at what level this rigidity is present. First and foremost, it is important to discuss the madrasa and women issue as stressed by many authors.

3.5.1 *The Objectification of Women*

Many authors criticise madrasas for projecting women as a weaker being in their educational discourse. According to the field research observation, the madrasa environment does project women as weaker being³⁴⁰. A madrasa student constantly learns of women being ‘*na mahram*’³⁴¹ and is guided to maintain a distance. Diep explains that a madrasa student could not communicate with her because they are not confident enough to do so³⁴². The gender biased approach entails men being the chief and women being a lesser one. As quoted by that women are taught in the most orthodox and rigid manner³⁴³. The education also disseminates that a woman can be beaten up by her husband³⁴⁴ which is also recently announced by the Haqqani as the general sharia permission³⁴⁵. Also limiting their right to education and work.

In the women madrasas, a major focus of the teaching imparted at the madrasa has to do with the internalisation of appropriate gender norms as defined in their ideologies³⁴⁶. A practice of strict veil is rightly enforced. Female students are not allowed to step outside the madrasas for any purpose (purchasing or strolling). They can only leave the madrasas when their male guardians come to pick them either in the case of emergency or any religious holiday. Having a male relative for security is a rule that cannot be ignored³⁴⁷. Some women madrasas (quote name) teach basic vocational skills, however very few in number.

³⁴⁰ Sinf e nazuk means a “weaker human”.

³⁴¹ Na-mahram means “unrelated”, and “unlawful” under the Sharia.

³⁴² Diep Saeeda Interview Conducted on 10th April 2016.

³⁴³ Common view in the Madrasa Discourse. A recently passed fatwa can be accessed at: <http://tribune.com.pk/story/1110571/name-protection-cii-bill-proposes-curbs-women/>

³⁴⁴ Qari Saeed, Interview Conducted on 16th April 2016.

³⁴⁵ <http://www.bbc.com/news/world-asia-36542008>

³⁴⁶ Al Huda, Haqqania, and Jamia Hafza.

³⁴⁷ Field Research Observation: Madrassa Al Madina, April 2016, *See Also*: Sikand: “The Role of Girls Madrasa in India” Available at: http://www.irfi.org/articles/articles_401_450/role_of_girls.htm

3.5.2 The ‘Othering’ in Madrasa Discourse: *An Ideological Jihad of ‘Poor We’ and ‘Tyrant They’*

There is a constant projection of ‘we’ and ‘them’ in these seminaries. The “we” constitutes Muslims having religious ideals to project in the form of sharia, and “they” are the infidels who try to conspire against Muslims precisely the west. Any effort to change can be projected as the western agenda design to target the existence of Islam. Radical madrasas have neglected pluralism and, sow the seeds of extremism and intolerance in the young minds on these ideas³⁴⁸. Other than entailing a superiority complex they are on the pejorative side and have an ethical obligation to revise the wrongdoings in the World³⁴⁹.

In the 1960s and 70s, there was much discussion among Pakistani clergy and especially on government-appointed commissions, about re-evaluating the character of education in the madrasas³⁵⁰. Those discussions disclose a fundamental tension which reflects the radically different circumstances facing the modern, and opposed to the less rigid character of the medieval clergy. On the one hand, there was an effort to preserve and protect the ‘religious’ character of madrasa education, which a 1962 Pakistani commission suggest could be accomplished by reducing or eliminating such ‘non-religious’ subjects as logic and philosophy denying the fact that these disciplines formed an important component in the education of many medieval clergy.³⁵¹ The new madrassas and everything they represent is not simply a reaction against modernity, but also has an identity approach to it³⁵².

Today, there are others who progressively advocate for comprehensive madrasa reforms. The reforms eliminating educational segregation, incorporating madrasas in the national education system-*shift from non-formal to formal education sector*-the

³⁴⁸ Ahmed, 2009, p.6.

³⁴⁹ *Ibidem*.

³⁵⁰ Berkey, 1995, p.20.

³⁵¹ *Ibidem*, p.21.

³⁵² *Ibidem*, p.27.

islamisation of public schools, and the registration of madrasas. This effort towards a pluralistic and unified education system faced significant resistance from the Muslim religious elite of Pakistan³⁵³.

Whereas Badawi (1979) did not see Islam and Science conflicted but intertwined where Islam gave a moral restorative to science. On the other hand, conservative scholars take science as an “ideological apparatus” in which Western civilisation augments its supervision over Muslim social orders³⁵⁴. The Islam-Science paradox has additionally been recognized by liberal Muslims. As indicated by Talbani and Hoodbhoy, the *basic* and *visionary* aspect of science is incommensurable with conventional Islamic teaching and is taken under specific level of suspicion³⁵⁵.

The argument of changing madrasa curriculum may be inferred as the Islamic texts having any shortcoming, whereas the Islamic scriptures have taken an uncontested position from centuries. This leads to a theological conflict, and at times attracts controversy³⁵⁶. Due to the reactionary and defensive position taken by most of Islamic leaders the Islam has been ghettoized and isolated from the modern knowledge³⁵⁷.

It also intends monopolisation of Islamisation discourse by these leaders obtain and maintain power and privilege, and to silent, any alternative voice as apostate and anti-Islamic³⁵⁸. It is also backed up by my research in which the madrasa head acknowledged that they want to produce the religious experts disregarding any value of learning worldly discourse.

Reportedly, in Pakistan only a minimal faction of madrasas supplement religious education with secular subjects, “the mission remains one of preparing students for religious duties in the community”³⁵⁹. Anzar argue that the inclusion of non-classical and secular subjects may be seen as a major threat to the religious reproductionist

³⁵³ Ibidem. See Also, Hefner and Zaman (2007), p.15.

³⁵⁴ Daun & Walford, 2004, p. 105.

³⁵⁵ Ibidem, p. 16. Note that Islamic “teaching” is referred as methods and not the Scripture.

³⁵⁶ Ibidem.

³⁵⁷ Anzar, 2003. p.15.

³⁵⁸ Anwar 2003, quoted in Fair, 2007, p.15.

³⁵⁹ Anzar, 2003, p. 14

agenda³⁶⁰. Such an un-receptive approach to the progressive trends and ideas in Islamic education is apparent in a portion of the literature accessible today³⁶¹. As discussed earlier that these religious leaders have given worldly education to their children but chooses to oppress others in the name of religious education.

Also, certain books are produced and circulated that criticise the western concepts of capitalism and secularism. These books emphasize on the unjust Western dominance and the exploitative capability of Western political and economic forces, with the disrupting and problematic impact of Western freedom and independence on Muslim social orders³⁶². A considerable amount of these writings are given as additional lesson and are regularly translated to the students' native language so that such data can be grasped instead of just memorising by the students as in the case of Quran³⁶³. Talibani (1966) asserts that the Pakistani education system has faced damaging effects by the 'islamisation'. The emphasis on ideological superiority in education has ignited grave communal conflicts and deepened the cultural, religious and ethnic differences³⁶⁴.

³⁶⁰ *Ibidem*, p. 15.

³⁶¹ Ahmed, 2009, p. 6.

³⁶² Rahman, 2004 as quoted in Park & Niyozov, 2008.

³⁶³ *Ibidem*.

³⁶⁴ *Ibidem*, p. 19.

CHAPTER 4
MADRASAS AND PAKISTAN'S
SYSTEMATIC VIOLATION OF RIGHT TO EDUCATION

DETAILED ANALYSIS OF THE VIOLATIONS

The legal scope of the right to education was first outlined in the chapter one, in chapter two the overview of the madrasas was given in the light of existing literature, third chapter was an attempt to analyse the structure and quality of madrasa education, and in this chapter the research will conclude highlighting the breach of obligations by the Pakistani state. Here I enlist the obligations under the heading of violations because “the failure of a state party to comply with an obligation contained in an international treaty is a violation of that treaty”³⁶⁵.

4.1.1 Obligation to Respect, Protect and Fulfil the Right to Education

The State of Pakistan systematically violated the obligation to Respect, Protect and Fulfil the Right to Education in the context of the topic.

4.1.2 Failure to Protect:

According to Maastricht Guidelines, “Obligation to protect requires States to prevent violations of such rights by third parties. For example, the failure to ensure that private employers comply with basic labor standards may amount to a violation of the right to work or the right to just and favorable conditions of work”³⁶⁶. In this case the failure to protect the rights of students from the private actors who are providing the education. The scope of the protection will remain the education sector where the violations have happened. The following to categories are devised in order to explain how and when the Pakistani state failed to protect.

On failure to Enact and Implement Laws:

Pakistan has *failed to enact laws* for the protection of the right holders. First and foremost, it is important to know that the madrasa reforms were willingly not enacted and implemented by the Pakistani state. There were loopholes in the education policies and the failure to implementation such reforms had many reasons which are now analysed further:

³⁶⁵Supúlveda, 2003, p.21.

³⁶⁶ Maastricht Guidelines: Available at:
<https://www1.umh.edu/humanrts/instree/Maastrichtguidelines.html>

1.1 The National Education Policy and Madrasas:

The National Education Policy of Pakistan 2009 which is still active has numerous loopholes when contextualised in the madrasa situation. The Policy in Chapter 6 intends to raise the quality of education in schools, and it completely ignores the madrasa education. This exclusion has made it hard to mainstream the quality standards. Also in the Gender, and in the Structural dimensions it excludes the madrasas. The National Education policy has ignored the discrepancies present in the education sector of Pakistan. Pakistani State wilfully ignored the miseries of students by not making it part of Formal Sector³⁶⁷ while madrasas stayed under ‘non-formal’ institutions. The provisions are ambiguous and do not provide any time frame or concrete goals and the umbrella term non-formal has repercussions in monitoring the madrasas³⁶⁸.

1.2 The Madrasa Reforms, Beyond Theory?

In order to trace the failures behind the madrasa reforms, it is important to go back to the historical context. In the 69 years after independence the madrasa reform issue was only brought two times. During the rule of Genreal Ayub Khan madrasas were demanded to modernise according to the challenges of the present time, however the suggestions were not welcomed by the religious elite. In order to please them, the Ayub led military government did not interfere in their autonomous area (madrasas).

Later, during the 1980s under General Zia’s military dictatorship madrasas were given enormous freedom and monetary support and recognition of their degrees was taken place³⁶⁹. The ‘islamisation’ of General Zia brought changes in the name of Islam and hence the religious seminaries and leaders were the prime beneficiaries promising a support to his illegitimate reign.

³⁶⁷ “Revisions also ignored Madrasas”: 26th January, 2015. Available at: <http://www.dawn.com/news/1190476>, [Accessed On]

³⁶⁸ National Education Policy of Pakistan, 2009, pp 33-34. Available at: <http://unesco.org.pk/education/teachereducation/files/National%20Education%20Policy.pdf>.

³⁶⁹ Wifaq-Al-Madaris Website Acknowledges the contribution of Zia: <http://www.wifaqulmadaris.org/pages/introduction.php>

During the cold war, Pakistan's served as a U.S ally opposing Soviets explicitly. It was during the Afghan war, the General a lot of funding flowed in Pakistan in the promise to fight the soviet in Afghanistan. Madrasas were given a responsibility to produce efficient jihadists who could fight in Afghanistan. The jihad came forefront of the madrasa teaching and illegitimate military government continued to get funding for initiating this. Later, the same continued to fight the Indian forces in the northern-frontiers for Kashmir liberation.

The succeeding governments never discussed madrasa in policymaking or brought any limits to their freedoms because by that time madrasas were a greater political force and no one wanted to upset them. Saleem Safi rightly says that the madrasas were used as 'tools' by the governments and in this case they were used to produce the fighters³⁷⁰.

Post 9/11 climate affected the security policies of Pakistan as it pledged to be the forerunner in the US's war against terrorism. It was the same time the international journalists, security analysts and especially the U.S scrutinised issue of madrasas and associated its role to militancy. It initiated by the Musharraf government to review the policies of madrasa regulation and since independence, madrasas were asked to get registered with the government. The madrasas considered registration as a government's propaganda to enhance the control over them³⁷¹. (no trust between Musharraf and madrasas) Only when the government withdrew the demand for disclosing 'funding sources', the madrasas opted for registration and the process increased after 2004³⁷².

The madrasa reform and regulation policies never succeeded because of (they were only meant to be on papers). The government remained passive with no real efforts, evidently until now there are countless unregistered madrasas enjoying funding from the unidentified sources. The previous Zardari government after taking over Musharraf in 2008, shifted the madrasa reform from the Ministry of Religious Affairs to the Ministry of Interior. The shift focused attention on the security rather

³⁷⁰ Saleem Safi Interview Conducted on 19th April 2016.

³⁷¹ Borchgrevink, 2011, p.9.

³⁷² Ibidem.

than the education rationale of the reform³⁷³. ITMB believes that the government clamps down on non-militant madrasas to manipulate the results and blame the police for attacking the peaceful madrasas because the government is reluctant to face hardliners³⁷⁴.

1.3 Registration remains problematic:

Appallingly, even the government is unaware of the exact number of madrasas existing in Pakistan³⁷⁵. Outlined in the second chapter, this research showed the contested numbers of madrasas. In an effort to verify the madrasa registration a research team opted for an empirical analysis and found out that in Ahmedpur, Punjab having writ of government-only 39 out of 363 surveyed madrasas were registered.³⁷⁶ The situation casts a dark picture of the registration status of madrasas in the areas where even the government officers cannot approach without security.

In 2006, government data showed that there were 11,346 registered madrasas, 9,415 for males and 1,931 for females, although estimates of the number of madrasas and students enrolled vary. Nonetheless, there are no reliable estimates of the number of unregistered madrasas. Including *maktabs* which focus only on reading and memorization of the Quran-which are estimated more than 100,000.³⁷⁷

1.4 One Sidedness of the Reforms and Political Motives:

The reform policies have only focused on the militancy after National Action Plan and it is in principle done by the military and not by the government. Much is talked about the madrasas being stubborn, on the other hand there is no doubt that the State never tried to find a balance in order to achieve the reforms. Even when some madrasas tried to register themselves and waited for the government support to improve quality they never received serious response. The president of Tanzeemul

³⁷³ Ibidem.

³⁷⁴ Ibidem, p.12.

³⁷⁵ Jihad 101, Taliban Basic Training In Pakistan, Available at : <https://www.youtube.com/watch?v=zIGbglprvGo> and: Education Officer. Ch. Muhammad Asif, Interview Conducted on 18th April 2016.

³⁷⁶ Ali, 2009, p.3.

³⁷⁷ "Rethinking Madrasa Reform in Pakistan", 2009, Policy Brief, Available At: <http://www.birmingham.ac.uk/Documents/college-social-sciences/government-society/rad/policy-briefs/pb-01.pdf>

Madaris Ahle Sunnat Mufti Muneebur Rehman said that the government had never been serious about reforms. He cited the example of 2002 when funds worth Rs5,759 million went to waste because the education ministry was unable to utilise them for madrassa reforms. He mentioned: “I still remember that former minister for education Zubaida Jalal had promised to provide us with 100 computers for our madrassas back in 2002. I am yet to receive those,”³⁷⁸. Abdul Aziz succeeded in spreading hate and threat of suicide attacks by the Red Mosque’s students, amidst government capital, then what about far-flung territories where the state's writ is feeble and law enforcement is subordinate to powerful madrassas with all way of state and non-state associations³⁷⁹.

Thus far, a year after the government pronounced plans to register and reform madrassas as part of the National Action Plan (NAP), the government is unwilling to take action against the madrassas with ties to militants while the issue of reforms is yet to be introduced³⁸⁰. Even if the issue of reform was launched soon after 9/11, but the dull efforts had no impact. Also, there is not much evidence for significant madrassa reforms having taken place within the context of the more recent National Action Plan³⁸¹.

1.5 Failure to Monitor and Regulate

The Government of Pakistan have not unified a monitoring system for the schools. The education is also decentralised so it is quite complicated to give one picture of different policies. The Punjab government have advanced the monitoring system compared to the other provinces where monitoring seems outdated and old fashioned with in-depth corruption. In the Punjab, the monitoring has been digitized however, there are only once a month that one person visits the schools. The visits are predictable and teachers in advance are aware of that³⁸². One of the government school

³⁷⁸ Gishkori, “Reforming Madrassa, the Revolution within”, 25th January 2015. *Express Tribune*, Available at: <http://tribune.com.pk/story/825216/the-revolution-within/>

³⁷⁹ “Madrasah Reform”, December 23, 2014, Available at: <http://www.dawn.com/news/1152549>

³⁸⁰ “Madrasah Reforms: Punjab Only Shut Two Suspected Seminaries”, January 18, 2016. Available At: <http://tribune.com.pk/story/1029585/madrassa-reforms-punjab-shut-only-two-suspected-seminaries-back-page/>.

³⁸¹ Ali, “Examining Reasons for Extremist Support”, 19th May 2016.

<http://tribune.com.pk/story/1106547/examining-reasons-for-extremist-support/>

³⁸² Ch. Muhammad Asif, Interview Conducted on 18th April 2016.

teacher revealed that they have kept two separate registers of attendance. They usually show the fake attendance register to the monitoring in charge who only visits once a month. The Government is not receptive of the problems faced by the teachers³⁸³. Teachers also tend to pass students because if they fail they are afraid of their bad evaluation which can make them unemployed³⁸⁴.

In 2002, the Musharraf government explicitly acknowledged the association of madrasa to Islamic extremism and sectarianism and initiated the curriculum and pedagogical reforms as the core of its modernization effort. Regrettably, the government failed to follow and implement the reforms and repeatedly surrendered to the religious right over educational reform³⁸⁵. Till date the government fails to monitor the pedagogical practices, incitement of jihad and sectarian violence, regulate child protection laws for sexual abuse and corporal punishment³⁸⁶.

1.6 Failure to Protect from School Violence:

Article 89 of The Pakistan Penal Code 1860 states that “nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause that person...”³⁸⁷ legitimises the corporal punishment for children³⁸⁸. CRC have recommended Pakistan to abolish the flogging in the first time in 1994³⁸⁹. In 2003 the Committee had recommended the abolition of whipping and changing of the section 89 of the Pakistan Penal Code with explicit prohibitions on corporal punishments³⁹⁰.

2009 concluding observations by the committee also contained recommendations abolish the corporal punishments³⁹¹. Even after all these recommendations Pakistan continued to enforce Section 89. Recently, in the Concluding Observations 2016, the

³⁸³ Interview Conducted: F.M teacher at Queen Marry School, Lahore.

³⁸⁴ Ibidem.

³⁸⁵ Park & Niyozov, 2008.

³⁸⁶ Ibidem

³⁸⁷ Pakistan Penal Code 1850 <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

³⁸⁸ CRC Professional Working Group Report, 2015.

³⁸⁹ Paras. 12 and 23. 25, CRC/C/15/Add.18, Cos on Initial Report, 1994.

³⁹⁰ Paras. 42, 43, 60 and 63 in CRC/C/15/Add.217, Concluding Observations in 2nd Periodic Reports.

³⁹¹ Paras, 47, 48, 80, and 81. In CRC/C/PAK/CO/3-4, Concluding observations in 3rd and 4th Periodic Reports. 2009.

committee again recommended Pakistan to eradicate the corporal punishments by raising awareness among public, in the light of General Comment No.8³⁹².

Corporal Punishment directly and indirectly violates many provisions first and foremost is Article 2, Article 3(1), Article 28(2) and Article 4 of the CRC, keeping in few the failure to have enact a strict legislation against it. Furthermore, this practice is also connected to the violation of Article 27 (1), Article 29 (1), and Article 13 (1). Having said that it's not in the best interest of the child neither he can reach his best potential with such practice. It is interdependent on other human rights of the child. Best Interest of the Child is unambiguous as no one knows who will have the responsibility to decide, parents, religious clergy or the state. The answer is simplified that any value that impeaches the values of human rights of the right holder are not in his or her best interest.” Also, according to the Article 41 of the Convention, the provision guaranteeing the highest degree of child protection will prevail³⁹³ meaning that child protection is subject to state's interference against the perpetrators. Under the General Comment no 13, a child should also be protected from any violence including sexual abuse. In this case, the contradiction of the provisions of General Comment no 13 has also happened.

1.7 Failure to Provide 'Quality Education';

A State has to ensure that a child receives adequate education, which is according to the Article 29(1) of CRC. The aims of education were outlined in chapter 1 already and in lieu of those provisions Pakistan has failed to provide an education according to the Aims laid down in the General Comment No. 1 of CRC. Moreover Article 29 (1), provisions (a),(b),(c), and (d) were violated. As the madrasa education and the public education (especially in the tribal belt), does not develop the child's personality, talents and mental and physical abilities to their 'fullest potential'. Failure to enact right laws on public education are also directly correlated as after the deprivation of public education a child is vulnerable to many threats. The lack of regulation on the madrasa is a threat to the development of respect for human rights and fundamental freedoms, and for the principles enriched in the charter of the United

³⁹² Paras 34-35. CRC/C/PAK/CO/5, Concluding Observations [V Periodic Report] 2016.

³⁹³ Coomans, 2007, p.8.

Nations. Madrasas also do not prepare the children for a responsible life inject the anti-understanding, intolerance, and religious discrimination. Moreover, the public textbooks also have hate discourse towards the west and the ‘enemies’ of Islam and shows the degrading image of minorities.

1.8 Failure to ensure ‘Neutral’ and Human Rights Friendly Education:

In the religious seminaries the education was provided under the militancy and sectarian ideals of the ruling elite hence contrary to the idea that instruction to the child should be given in a neutral and objective way. Also, the instruction imparted was not human rights friendly violating the principles underlying in CRC General Comment No.1. Besides all the above mentioned provisions on the rights of the child, additionally minimum standards of human rights laws were not followed. The following violations, Article 26(2) of the UDHR stating that the education shall be directed to the full development of human personality.... strengthening the respect for human rights and fundamental freedoms, Article 13 paragraph (1) (3) and (4) of the ICESCR are violated, also, Article 18(3) of ICCPR. Human rights friendly and neutral education is not provided which is in contradiction with all the above mentioned provisions.

Unwillingness to tackle the Obstacles in order to Permit the Immediate Fulfilment of a Right

As per discussion in Chapter 3 it is evident that the government is unwilling to reform the education standard and remove the obstacles. Corporal punishment remains to be allowed in the national law, and besides repeated considerations by the

CESCR it is not abolished and regulated³⁹⁴. The continued practice of corporal punishment is also a violation of Article 28(2) of the Convention. The right to be free from degrading treatment or punishment is also denied. Article 1 of the UNESCO Convention against Discrimination in Education was also violated in many instances. The exclusion of Hazara Minorities from the education sector based on their ethnicity is an evidence to the failure of adoption a non-discriminatory policy³⁹⁵. Reduction of educational budget is also considered to be contrary to the Covenant.

1. Failure to Fulfil:

Pakistan also **failed to fulfil** the core obligations such as free and compulsory primary education. The condition of government schools continued to worsen resulting in a higher drop out. As indicated in the previous section, the failure to provide free and compulsory in its essence resulted in making parents turn to the private sector including madrasas. The government did not try to facilitate the poor by having a good incentive. In this regard the state stands violating the CESR Article 2(1)³⁹⁶ and Article 14 of the Covenant³⁹⁷. The provision of free and compulsory primary education is *raison d'être* meaning that the financial condition cannot be used as an excuse for non-availability of primary education. Underlying violations under the Article 13(2)(a) of the Covenant which provides free and compulsory education under immediate terms. Also the budget was spent on the non-urgent matters and corruption remained endemic leaving education sector on lowest GDP share.

The General Comment No.3 of the CESCR also stresses that each State Party to the covenant has a 'minimum obligation' to ensure the satisfaction of minimum essential levels of each right. The Committee also adds that if a significant number of people is deprived of, inter alia, the most basic forms of education, the state in question *prima facie* has failed to fulfil its obligations under the Covenant³⁹⁸. In conclusion Pakistan's failure to provide and secure free education is in the

³⁹⁴ CRC concluding observations *as quoted* in Coomans 2007 .

³⁹⁵ CRC session.

³⁹⁶ The Nature of States Parties Obligations (Article2(1)), General Comment no 3 of the CESCR. See also Maastricht Guidelines No 16.

³⁹⁷ International Covenant on Economic Social and Cultural Rights.

³⁹⁸ *Ibidem*, pp.8-9.

contravention of the Articles 13 and 14 of the Covenant³⁹⁹, Article 28(2) and of the CRC.

2. *Failure to Tackle:*

Pakistani state also *failed to tackle* the substandard school issue and gross disparities in the education environment. The disparities are remaining due to structural and economic reasons. Identified in Chapter 3, the number of out of school children are mostly girls whereas parents are withholding their children just because of the corrupt and failed education system. The availability of school remained problem for the communities and a large number of ghost schools kept on increasing in Sindh, Baluchistan and KP. The education material tends to incite ethnic and sectarian division in public schools and madrasas whereas the disabled remained excluded from mainstream education. Disparities between the standards followed in each province leaving Baluchistan, FATA, Sindh and KP doing worst. The non-availability of toilets and boundary walls resulted in the dropout of girls creating more gender disparity in the education.

³⁹⁹ Ibidem.

IN LIEU OF CONCLUSION: A NEED TO INTERFERE

Legal norms and instruments, including human rights standards, have their inconceivable limitations and it is essential to know about these limitations to understand human rights. The language of law is not existential. Instead, what human rights law can and should accomplish is the establishment of practical safeguards designed to protect everyone's equal freedom of choice against undue infringements from the state or non-state actors⁴⁰⁰. In the context where private actors are a threat to human rights, the states should bear in mind they retain the primary responsibility for human rights⁴⁰¹.

States bear a burden of justification as a precondition for restricting certain external manifestations of freedom of religion or belief. Any limitation must be in accordance with the criteria set out in Article 18, Paragraph 3 of the ICCPR. Also, the arguments must be subject to public discussions and if applicable in the court proceedings. States might be enticed to bypass this onus of justification by prohibiting certain religious groups from the ambit of freedom of religion or belief, however this will be illegitimate under the Article 18 of ICCPR. Also, it is against the spirit of the normative universalism⁴⁰². In this context, an education provided be it religious or other if it does not follow the criteria laid down by the scope of legal limitation are subject to scrutiny and requires immediate state attention to 'protect'.

Evaluation remains exceptionally difficult in this issue and requires high level of alert and diligence⁴⁰³. As Bielefeldt writes, a society respectful of freedom or religion or belief for everyone will constitute as a 'religiously diverse society' lessening differences between communities. The society which respects the believes and freedoms will be "open to peaceful competition and intellectual controversies on religious and belief oriented questions and issues"⁴⁰⁴.

⁴⁰⁰Bielefeldt, 2013, p. 46.

⁴⁰¹Sepúlveda, 2003, p. 23.

⁴⁰² Bielefeldt, 2012, p.39.

⁴⁰³ *Ibidem*, p.40.

⁴⁰⁴ *Ibidem*, p. 47.

Recently, there have been an inclination of pro-madrasa analysts suggesting that madrasas can simply be ignored because they are relatively few in number compared to the public and private schools. Such an approach is also misleading on twofold, first because it works under the false premise that merely building a better school system will opt students out of madrasa⁴⁰⁵, and second, assumes an absolute percentage of madrasas having relationship to conflict expansion. The efforts and investment to improve education is required for all types of Pakistani schools, including madrasas⁴⁰⁶.

The limited employment options for the madrasa graduates merely because of their limited skills shout out for the reforms in the outdated curriculum⁴⁰⁷. Not only their limited capabilities, their anti-pluralist approaches make them vulnerable to the recruitment of any militant sort. As Safi says that a madrasa is not a militant ground in itself however it fulfils the preliminary requirements needed for a terrorist in where the madrasas serve as ‘tools’ of the political actors⁴⁰⁸. Clans and Elites used madrasas to control territories and local society in order to gain influence⁴⁰⁹. Even if the large faction of madrasas cannot be said to directly having a link with the national or international terrorist organisations, they tend to perpetuate an exclusionary worldview within Islamic sects and with repeated derogatory reference to other faiths as⁴¹⁰.

Whereas the absolute number of madrasa is a lesser fraction of total amount of schools in Pakistan, their impact cannot be disregarded in the ‘isolated’ and ‘conflicted’ areas of Pakistan having great potential for the radicalisation and instability which is against the principles of human rights⁴¹¹. Pakistani madrasa reform only focuses on introducing modernise subjects ‘science and English, however the basic change has to emphasis on the ‘content’.

⁴⁰⁵ Ali, 2009, p.1.

⁴⁰⁶ *Ibidem*.

⁴⁰⁷ *Ibidem*, p. 2.

⁴⁰⁸ Saleem Safi Interview, (19th April, 2016).

⁴⁰⁹ Chamberlain, 1994, as quoted in Reetz, 2009, p.109.

⁴¹⁰ *Ibidem*.

⁴¹¹ *Ibidem*.

Due to the limited regulatory oversight of the madrasas, there are serious human rights violations such as, a non-human rights based content of education, incitement of violent attacks on the opposite sect, practices of corporal punishment, unreported sexual abuse cases, no formative approach towards quality education, and use of children and adolescents to the armed conflicts as outlined in this research. This implies many human rights violations of the right holders having them deprived of their economic prospects as well as developing to the full capacity. Having the practice of corporal punishments-school violence- unable a child to reach his evolving capacities, and also it is against the best interest of the child. A religiously conservative population, obscured in poverty, and deprived of basic human rights implies that madrasas will proceed to exist and even thrive, much the same as the private sector education expanded over the decade⁴¹².

This study has highlighted various problems in Pakistani education sector and indicated certain violations in the Right to education. Any State that ignores the oversight on private education (be it religious or secular) sow the seeds of differences and ignorance. There is a lot to be done in the provision of the education in Pakistan. A holistic human right approach needs to be followed in the provision of education, with a special focus on quality aspect. Answers of research questions constitute as: the madrasas in Pakistan enjoy ‘absolute freedom’ and they are subject to the limits under the scope of international human rights law. Madrasas do not reflect the values of the CRC and other human rights instruments whereas the State of Pakistan is not complying with its human rights obligations willfully ignoring the plight of the right holders.

More research is needed on the topic in human rights perspective. With this thesis, I call upon human right lawyers to focus on this area. The madrasa case is compelling and suggests that the states like Pakistan must reproach their education policies because nothing is greater than the best interest of the child, his life-long learning and a full development of Human Personality.

⁴¹²“Madressah Reform”, December 23, 2014, Available at: <http://www.dawn.com/news/1152549>

RECOMMENDATIONS:

The following are the recommendations upon which a sincere effort from the State is required⁴¹³:

- Pakistani State has to ensure a unified system of education- also set minimum quality standards.
- The madrasa clergy needs to be taken into confidence for mitigating reforms.
- Pakistani State should immediately provide free and compulsory primary education for the children meeting its core obligations under the Right to Education.
- There should be an immediate ban on the practices of corporal punishment in all the education sectors. Awareness of sexual abuse and its threats must be provided to all the students.
- Madrasas should be moved to formal education sector in National Education Policy, having better monitoring system ensured by the State.
- There should be a regulatory oversight on child sexual abuse within the ambit of madrasa.
- The inclusion of the disabled in mainstream education, provision of transportation, and special equipment for learning must be initiated.
- Introduction of vocational training in Madrasas.
- A higher level of state budget on Education, madrasas should be offered monetary support.
- Madrasas Students should be able to interact with the other members of society- Isolation should be tackled. –there should be no brain washing-as well as extra-curricular activities should be introduced. Also, their right to enjoy family atmosphere should be restored providing them scholarships to join public schools.
- Physical obstacles should be immediately dealt with the provision of toilets, electricity, boundary walls, and safe drinking water in public schools.
- Introduction of law against hate speech and anti-sectarian education.

⁴¹³ Due to the limited space and scope of this thesis, a lot of recommendations are not included.

- More research on madrasa in human rights dimension.

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APPENDIX

The List of Madrasas, Sects and Cities: Field Research 1st-20th April 2016.

Hyderabad Sindh, Pakistan

1. Madrasa Dar ul uloom
Address : unit no 9 , Latifabad, Pakistan.
Summary of Observation: Over 1000 students, having 800 accommodated within the madrasa. Not willing to give interviews easily and taking pictures was problematic. Provide adequate food and sleeping facility to the students. Funding Source remains anonymous. It is following Sunni Sect. Different level of studies are offered according to their own discretion. Pro-Corporal Punishment
2. Madrassa-tul-Ghausia
Address: Unit no 6, D Block, Latifabad, Pakistan.
Summary of Observation: Approximately 500 students, separate wing for girls, No hostel facility. Classroom conditions were usual. Friendly towards outsiders. Follows their schedules divided on different terms, i.e, Spring, Summer and Winter. Pro-Corporal Punishment

Karachi City:

3. Jamia Masjid Imam Abu Hanifa
Block no 15, Gulistan-e-Jauhar Karachi.
Summary of Observation: This madrasa had a very tight security which closely monitors who enters because of previous sectarian attack threats. It is impossible to enter without the security clearance. Also have cameras installed. The area is huge with more than 300 students accommodated. They found it hard to trust and give answers to the questions, however a general observation was drawn. Pro-Corporal Punishment
4. Masjid Salam Farsi,
Block 12, Gulistan-e-Jauhar Karachi.
Summary of Observation: Students and Teachers Accomodated in the Mosque.
Total Number of Students: 500
Total Number of Students Accommodated Permanently in the Madrasa: 50.
Did not allow to take pictures as well. Level of torturing students is said to be lesser here.
5. Masjid Bait ul Mukarram
Sector 15/A-5 Block 16, Gulshan-e-Iqbal
Summary of Observation: More than 200 students. Peak hours of lesson 5-7 and 4-6.
Teachers did not have any formal education, mostly focus on Arabic recitation of Quran but no emphasis in urdu meaning. Pro-Corporal Punishment
6. Danish Gah-Imam-e Khumaini
Marana Center Bulevard, Gulistan-e-Jauhar.
Summary of Observation: Funding Source hidden, however nearby people witnessed the links with Irani Government. Strict Security with gunmen. Wired walled protection. Targets of Sectarian threats because this Madrasa is following Shia Sect. Students also learn 'Persian' in the madrasa. Majority of the students lived on Campus having never visited public schools. Procedure admission of students. More than 150-200 estimated on campus students. Pro-Corporal Punishment
7. Masjid Jamia Dur Al-Khair (Al Jannat)
Block no 15, Gulistan-E-Jauhar.
Summary of Observation: according to a local, heavy arsenal stored in madrasa however no access is given. Anti-Shia Sentiments, Strict Monitoring on the boundaries and checks if students are not going outside. 300 Students live on campus. They go back only after 6 months. Students come from the lower and undeveloped parts of Sindh. Extremist approach in education, pro-taliban. Pro-Corporal Punishment

Jacob-Abad (A very small town in the Interior Sindh with the Feudal Culture, however a multi religious city with almost 20% Hindu population having many temples)

8. Jamia Al Uloom
Darkhan Mohallah Jacob Abad
Summary of Observation: A very old building. Islamic Architecture having a big space accommodating 200 students permnantly living on campus. Also had a great number of day scholars. The facilities of sanitation were poor, having no running water available and the water taps smell bad. One small toilet in bad condition, having poor hygiene in every way. No air conditioning facilities for students also the town is considered to be the hottest city in Pakistan with increased death toll of people dying due to heat wave. Students sleep in big hall under one fan. No generator available. Also, the food facility is not hygienic and simpler food such as lentils and rice. Pro-Corporal Punishment
9. Jamia-tul -Faizan E Madina,
Old cinema road Jacobabad
Summary of Observation: A mosque-based madrasa in the middle of market. Shops nearby are owned by madrasa and rented for the revenue. Students get basic learning of Quran, i.e pronunciation and recitation of Arabic. Administration was reluctant and asked to leave. There were no class-room facilities and mostly students studied in the courtyard of the mosque with no-roof on top. Pro-Corporal Punishment
10. Madrassa Al Madina (Women only)
Malang Shah Baba Road, Near Gopand House, Jacobabad.
Summary of Observation: Women madrasa with very restrictive entrance. Students not allowed to Step outside but only in case if their 'mehram' come to pick them in case of emergency. More than 400 women reside and study there. Alleged to have extremist mindset like 'Jamia Hafza, Lal Masjid Alumni'. Funding sources are not available.

Sahiwal

A city in Punjab about 180 Km South of Lahore. First and famous city in the Southern Punjab Belt. It is a small town with mostly educated and working class people living there.

11. Jamia Faridiya , Near freed park Sahiwal. Pro-Corporal Punishment
Summary of Observation: Mosque built for praying for locals , 500 students were studying there during afternoon and evening sessions. most of them were day scholars only, they had a structural education system, the administration was kind a friendly . the facilities were good and the mosque was kept in good shape.
12. Jamia Rasheediya , GT Road Sahiwal. Pro-Corporal Punishment
Summary of Observations: It was a big Sunni Maslak Madrasa with over 1000 students living on Campus. Located on the suburbs of the city. Kitchen etc are all managed by the students. Students also have prospect to work here after completion of madrasa course. Funding source is not available however the madrasa is in a good condition. One of the local explained that this madrasa was "hunting ground for terrorists" however this does not have any evidence.
13. AL-Badar Foundation-GT Road Sahiwal: Pro-Corporal Punishment
Summary of Observation: It was a mosque-madrasa with about 700 students living on campus. Student run kitchen. Funding by donations and local rich people. Reasonably fine conditions for the bathroom and classrooms. Students do not share a bed here.
City: Khanewal a small town 50 kms away from Multan – A very pro-ISIS and TTP (Tehrik ai Taliban Pakistan) Town.General observations: Pro-ISIS and TTP wall chalking and ISIS flags outside mosques.

14. Madrassa Rizwiya,
Colony no 2 Khanewel Pro-Corporal Punishment
Summary of Observations: Huge mosque and academy for Quranic Knowledge incorporated. Construction work in progress, upgradation. Extremist Approach and rigid training given to students. Most of the students are from very poor background with strict checking on the main gates.

15. Madrassa Ghousia
Markezi Eid Gah People's colony Khanewel .
Summary of Observation: Over a thousand students and mostly lived on campus. System of Public Donations, also funded by government in some occasions. Registered. Students enjoy Cricket in their Play time. Pro-Corporal Punishment

Lahore:

The biggest and the most developed 3rd City of Pakistan, Also the Capital of Punjab.

16. Madrasa Imdad ul Aloom, D Block Wahdat Colony
Summary of Observation: Very Rigid, Not open for Interviews, Very bad facilities, Students face corporal punishment extensively, Students are not allowed to tell truth to the visitors, Impossible to enter without the help of a native, No curricular activities besides cricket. Hosts around 50 students permanently.
17. Madrasa Usmaniyatul Quran, H block Wahdat Colony
Summary of Observation: A warm welcome given. Comparatively open approach towards all the questions asked. Pro extremism approach however, the funding is by the society. No direct link to militancy. Use of Corporal Punishment is given with pride-Considered an essential part of madrasa discipline.

Other Madrasas also having no Computer or any new way of Knowledge:

1. MMADRASA-TUL-BANAT Pro-Corporal Punishment
2. HUMAIRA CAMPUS, 428-R BLOCK, MODEL TOWN, LAHORE Pro-Corporal Punishment
3. Madrasa-Tul-Madina
Ghazan Rd, Lahore, Pro-Corporal Punishment
4. HUMAIRA CAMPUS MADRASA-TUL-BANAT, 428-R BLOCK MODEL TOWN LAHORE, Pro-Corporal Punishment
5. Madrasa Tul Rehmat , Astana Alia Ghang Shareef Stop, Kahna, Qasoor Road, Lahore
6. Jamia Ashrafia, 72- Ferozpur Road Lahore
6. Sout ul Quran Diobandi-M block sabzazar multan road Lahore Pro-Corporal Punishment
7. Madrasa -tul Noor -Liaqt Chowk Sabzazar Multan Road Lahore. Pro-Corporal Punishment

Figure 1.1



نصاب تعلیم وفاق المدارس العربیہ پاکستان للبنین

(منظور شدہ ۲۳ شعبان ۱۴۲۲ھ بمطابق ۱۲ اکتوبر ۲۰۰۳ء) (بچہ نمبر کے نصاب میں نصاب کئی کے اجلاس مستندہ الامااری الاشرافی ۱۳۳۶ھ مطابق ۲۰ اپریل ۲۰۱۵ء ماہرین نظر ثانی کی گئی تیز موقوف علیہ میں، بلحاظ کاروباری سرچ اور مسلکی مزاج کو ملحوظ رکھا گیا ہے)

متوسطہ		ثانویہ عامہ			ثانویہ خاصہ			عالیہ		عالمیہ	
سال سوئم	سال دوئم	سال اول	سال سوئم	سال دوئم	سال اول	سال دوئم	سال اول	سال دوئم	سال دہم	سال اول (موقوف علیہ)	
تفسیر کبیر (سولہ ماہ شریف علی قاضی) سیرت رسول (مرتبہ ذوق المدارس)	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	ترجمہ تفسیر یارم ۳۳ مفقولات آیت یارم ۳۳ فوائد کبیر ۳۳	مفقولات آیت یارم ریح (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) عجال القرآن	اسلامیات چہارم	ترجمہ تفسیر روح الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) ریاض الصالحین کتاب الجہاد تا آخر کتاب الدعوات	تفسیر و حدیث الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) ریاض الصالحین کتاب الادب کتاب الدعوات	تفسیر و حدیث الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء)	حدیث سنتان مع جمل (کامل)	احسان فی علوم القرآن شرح مختصر الفکر آئینہ کتب دینیات	
کتاب اردو جماعت ششم مشارفین علوم (مرتبہ ذوق المدارس)	سیرت خاتم الانبیاء الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) مشارفین علوم جماعت ششم	تعلیم الاسلام صمیم جمہور مشارفین علوم جماعت ششم	حدیث الفکر الصریح الاقلام زاد اللامین کمال القراءۃ المشرقیہ بیراؤل: نظم الاقلام بیراؤل	الفکر الصریح اطرفہ اصغریت حصار دوم	اردو چہارم	الفکر شرح وقایع تخرین	الفکر کوزالہ آق باسوائے کتاب الفرائض	۱۔ مسلمانم شرم ۲۔ تخریر الاصول ۳۔ سرائی	حدیث مجلس علم (کامل)	بیادری ریح یارم اول	
ریاضی جماعت ششم (مرتبہ ذوق المدارس)	کتاب اردو جماعت ششم الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء)	کتاب اردو جماعت ششم الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء)	الفکر قدوسی کمال	الاصول شرح جگہ یادگان صرف باطم العرفین حسن	انگلش چہارم	اصول فقہ نور الاقوال تالیف	اصول فقہ آسان اصول الفقہ اصول الفیاضی	الفکر جامعہ علمانی	حدیث جامع ترمذی (کامل)	مکتوبہ اصناف جلد اول	
گنتان باب ۱ تا ۱۰											
انگریزی جماعت ششم (مرتبہ ذوق المدارس) سائنس (مرتبہ ذوق المدارس)	ریاضی جماعت ششم سائنس جماعت ششم	ریاضی جماعت ششم سائنس جماعت ششم	(ظہیر صیغہ فارسی) عربی تاریخ تالیفات اصحاب ال فصول: کبریٰ علم العرفین صریح	ظہیر صیغہ فارسی عربی شرح تالیفات اصحاب ال فصول: کبریٰ علم العرفین صریح	ریاضی چہارم	انگریزی شرح تالیفات اصحاب ال فصول: کبریٰ علم العرفین صریح	انگریزی کامپلٹ	اصول فقہ توضیح تالیفات اصحاب ال فصول: کبریٰ علم العرفین صریح	حدیث مجلس بخاری شریف	مکتوبہ اصناف جلد دوم	
حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث اربعہ (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) الاصول (۲۰۰۲ء تا ۲۰۰۴ء تا ۲۰۰۶ء تا ۲۰۰۸ء) تاریخ طوابع حروف	حدیث سنن ابی داؤد	جامعہ علمانی	
گنتان باب ۱ تا ۱۰											
انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	انگریزی جماعت ششم	

Translation:

Almia or Almiyah (Masters Level)

Time of Completion: 2 years

Courses:

1. Tafseer-e-Quran (Exegesis of Quran)
2. Asool-al-Tafseer (Principles of Exegesis)
3. Islm-e-Hadis(th) (The knowledge of Prophet Muhammad's Sayings and Life)
4. Asool-e-Hadith (Principles of Hadis)
5. Fiqh (Islamic Law)
6. Principles of Islamic Law
7. Knowledge of Quran (Scholastics)
8. Knowledge of Life
9. Modern Economy and Business [in curricula, but not in practice]

Alia or Aliyah (Bachelors Level)

Time of Completion: 2 years

Legend*

Courses:

1. Tafseer-e-Quran (Exegesis)
2. Hadis-Nabvi (Sayings of Prophet Muhammad)
3. Ibn-al-Faraid (Science of Inheritance)
4. Usul-ul-Fiqh (The principles of Islamic Jurisprudence)
5. Ibn-al-Balagh-ah (Rhetoric)
6. Literature (Arabic)
7. Logic
8. Philosophy
9. Composition of Arabic Language
10. Ibn-al-Fadi (Debate)
11. Ibn-al-Kalam (Scholastics)
12. Ibn-al-Arud (Prosody)

Sanviyah Khasa [Higher Secondary Level]

Time of Completion:

2 years

1. Tafseer-e-Quran [Exegesis]
2. Hadis of Prophet Muhammad [Sayings of Prophet]
3. Islamic Jurisprudence
4. Principles of Islamic Jurisprudence
5. Syntax
6. Morphology of Islam
7. Logic [Islamic view]
8. Arabic Literature

Sanviyah-e-Amma [Secondary School Level]

3 Years

1. Recitation of Quran in Specific Tone [Qirat]
2. Tafseer-e-Quran
3. Hadis e Nabvi [Sayings of Prophet Muhammad]
4. Syntax
5. Morphology of Islam
6. Arabic Literature
7. Islamic Jurisprudence
8. Logic [Islamic Perspective]
9. Dars-e-Nizami

Mutavassita [Middle School Level]

3 years

1. Practice of Reciting Holy Quran
2. Rapid Recitation of Quran [Fast pace]
3. Knowledge of Phonetics in Quran
4. Persian Language [Basic]
5. Principles of Islam
6. Knowledge of Types of Worshipping in Islam
7. Knowledge of transactions in Islam [Sharia on Business terms]
8. Morality and Character [in view of Islam]
9. Social Studies, Urdu, and inclusion of Mathematics [per government's agreement on registered madrasa, however only stays in Curriculum for Majority of Madrasas in Pakistan.]

Note that the Primary Level is Excluded from Madrasa Curriculum here, On the field visit the madrasas catering to 'Ibtidai' did not believe in having a curriculum and hence it is not included in the general curricula above.

Dars-I-Nizami Course: An Overview of Syllabus (Translated).

The Dars-e-Nizami is a syllabus of books taught in all traditional madrasas. The madrasas are associated with the religious center of Deoband (India). The outstanding feature of this syllabus is that by a thorough study of the most difficult classical texts in each field of the classical Islamic sciences, the student develops the ability to read the remaining material on his own. This is an overview of the books used, and most of the books remain the same there are differences in style of teaching and in books taught from one instructor to the next. The main language is Arabic-[translations also happen].

1. Arabic Conjugation [Sarf]
 - Sarf-e-Mir, Author: Syed Sharif (d.1413). Elementary *nahw*[*Arabic sentence structure*], in Persian Language.
 - 'Ilm-al-Sigah', Author: Mufti Inayat Ahmad (d.1279 a.h). Intermediate Level, in Persian Language.
 - Fusal-e-Akbari, Author: Syed Ali Akbarabadi (d.before 1826). Advanced Level, also in Persian Language.
 - Al-Shafiyah, Author: Ibn-Hajib (d.1249). Advanced Level.
2. Nahw [Arabic Sentence Structure]
 - Syed Sharif-Al-Jurani (d.1413), "*Nawh-e-Mir*", Elementary nahw, [In Persian Language].
 - Abdul Qahir Jurani, "*Sharah u Mitai Amil*", Elementary nahw [The student phrases and reads the whole book, line by line, passage by passage under the direct supervision of teacher- The strictness is most common –a wrong pronunciation leading to punishments].
 - Abu Hayan al Andalusi (d.1344), "*Hidayatun-Nahw*", Intermediate Level.
 - Ibn Hajib (n.d), *Al-Kafiyah*, -Taught with extensive commentary by teacher.
 - LIL jami (n.d), "*Shrh al Kafiyah*"-Also Taught with excessive commentary by the teacher.

3. Logic (Mantaq)
 - Athir-al-din-alAbhari (d.1344), “*Isa Ghoji*”, Elementary Level.
 - Abdullah Al-Yazdi (d.1829). “*Sharh Tahzib*”, Intermediate Level
 - Hasan Mullah, (d.1789), “*Sharh Sullam*”, Advanced.
 (Note: there are multiple of choices in books, all dating back to 17, 18 and 19 Century, A teacher can select combination).
4. Natural Philosophy (Falsifah)
 - Fazal Haq Al-Khairabadi (d.1861), “*Al-Hdiyah al Sadiyah*”, Elementary.
 - Qari Kamal Hussain (d.1684), “*Maybazi*”, Advance Level.
5. Arabic Rhetoric (Maani’)
 - Jalal-al-din-ibn Abdul Rehman (d.1389). “*Talkhis-al-Miftah*”. Elementary.
 - *Muttawal al-Maani (Advanced. (d.1389). by Tftazani.*
6. Arabic Belles Literatures (Adab)
 - Aizaz Ali of Deoban, (d.1954) “*Nafhat-al-Arab*”, Elementary
 - Shaykh Ahmad, (d.1840), “*Nafhat-al-Yaman*”, Elementary.
 - Abu Tamam Habib Ibn-e-Aus (d.840), “*Divan-al-Himasah*”, Advanced (Only Selections).
 - “Al Mulaqaat al Sab”- By different authors.
7. Theological Disputation (Kalam)
 - Nadm Al Din Nafasi (d.1142). “*Sharah-Al-Aqaid-Al-Nasafi*”. Intermediate.
 - Ahmad Ibne Musa Al Khiyali (d.1465). “*Al-Khiyali’aala Sharhil’Aqaid*”. Advanced.
8. Islamic Jurisprudence (FIQH)
 - Sanaullah Al Panipati. “*Malabudminhu*”, in Persian Language [Elementary]
 - Hassan ibn-e-Ammar al Shurubulali (d.1358). “*Nur-al-Idah*”. Elementary.
 - Muhammad al-Nasafi (d.1310), “*Kanz al-Daqaiq*”, Intermediate.
 - Burhan-al-Din-Al-Murghanni (d.1197), “*Al Hidayah*”, Advanced.
9. Tafseer [Explanation of the Quran and Hadis, - a discourse and contextual analysis-subject to each sectarian point of view]
 - Tafsir Anwar Il Tanzil By Qari Baydavi (d.1285).
 - Biyan-al-Quran by Ali Al Thanvi
 - Tafsir-al-Jalalyn, by Jalalud din Mahili, and Al suyuti.
10. Hadis Principles [Subject to Different sectarian alternates-this is only for Deobandi group]
11. Principles of Jurisprudence
12. And Hadis (Sayings of Prophet) Shahi Bukhari for Sunni Sect, Mishkaat and Msabih.

Note: After the successful completion of the 8 years, the graduate degree can be attained in many madrasas. The post graduate major can be done in, mastery in Tafseer (explanation of Quran and Hadis), Theology, Islamic Jurisprudence, Literature-Arabic till date and Advanced Jurisprudence. Usually, the madrasas choose their own field and as mentioned earlier, their courses.

Some Madrasa Photographs © Sumeera Hassan: April 2016.



Source: Herald Dawn-Pakistan (A Typical Madrasa Classroom and Lunch Time Setting)



Map of Pakistan with the Identification of accessible and non-accessible areas (for this field research)

